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12 NEREIDA BARELA

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
14 **FOR THE COUNTY OF TULARE**

16 NEREIDA BARELA, individually, and on
17 behalf of other members of the general
18 public similarly situated;

19 Plaintiff,

20 vs.

21 QUAIL PARK RETIREMENT VILLAGE,
22 LLC, an unknown business entity; LIVING
23 CARE, an unknown business entity;
24 MORRISON COMMUNITY LIVING, an
25 unknown business entity; and DOES 1
26 through 100, inclusive,

27 Defendants.

Case No.: VCU282224

*Assigned for All Purposes to: Hon. David
Mathias, Dept. 1*

**~~[PROPOSED]~~ FINAL ORDER AND
JUDGMENT**

Hearing Date: July 14, 2022
Hearing Time: 8:30 a.m.
Dept: 1

Complaint Filed: February 25, 2020
Trial Date: None Set

1 **TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:**

2 The above-referenced Class Action (“Action”) having come before the Court on July 14,
3 2022, for a hearing and Final Order Approving Class Action Settlement and Judgment (“Final
4 Order”), consistent with the Court’s Preliminary Approval Order (“Preliminary Approval
5 Order”), and as set forth in the Joint Stipulation of Class Action Settlement (hereinafter
6 “Settlement Agreement” or “Settlement”), and due and adequate notice having been given to all
7 Class Members as required in the Preliminary Approval Order, and the Court having considered
8 all papers filed and proceedings had herein and otherwise being fully informed and good cause
9 appearing therefore, it is hereby **ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

10 1. All terms used herein shall have the same meaning as defined in the Settlement
11 Agreement.

12 2. Consistent with the definitions provided in the Settlement Agreement, the term
13 “Class” and “Class Members” shall mean the following: “non-exempt employees who were
14 employed by Quail Park Retirement Village, LLC and/or Morrison Management Specialist, Inc.
15 dba Morrison Community Living who worked at a Quail Park Retirement Village, LLC facility
16 within the State of California at any time from February 25, 2016, to May 31, 2020”.

17 3. This Court has jurisdiction over the subject matter of this Action and over all
18 Parties to this Action, including all Class Members.

19 4. Distribution of the Class Notice directed to the Class Members as set forth in the
20 Settlement Agreement and the other matters set forth therein has been completed in conformity
21 with the Preliminary Approval Order, including individual notice to all Class Members who could
22 be identified through reasonable effort, and the best notice practicable under the circumstances.
23 The Class Notice provided due and adequate notice of the proceedings and of the matters set forth
24 therein, including the proposed Settlement set forth in the Settlement Agreement, to all persons
25 entitled to such Class Notice, and the Class Notice fully satisfied the requirements of due process.
26 All Class Members and all Released Claims are covered by and included within the Settlement
27 and this Final Order.

28 5. The Court hereby finds the Settlement Agreement was entered into in good faith

1 pursuant to and within the meaning of California Code of Civil Procedure section 877.6. The
2 Court further finds that the Settlement is fair, adequate, and reasonable and that Plaintiff has
3 satisfied the standards and applicable requirements for final approval of this class action
4 settlement under California law, including the provisions of California Code of Civil Procedure
5 section 382 and Federal Rule of Civil Procedure 23, approved for use by the California state
6 courts in *Vasquez v. Superior Court*, 4 Cal.3d 800, 821 (1971).

7 6. The Court hereby approves the Settlement set forth in the Settlement Agreement
8 and finds that the Settlement is, in all respects, fair, adequate and reasonable, and directs the
9 Parties to effectuate the Settlement according to its terms. The Court finds that the Settlement
10 has been reached as a result of intensive, serious and non-collusive arms-length negotiations. The
11 Court further finds that the Parties have conducted extensive investigation and research, and
12 counsel for the Parties are able to reasonably evaluate their respective positions. The Court also
13 finds that Settlement at this time will avoid additional substantial costs, as well as avoid the delay
14 and risks that would be presented by the further prosecution of the Action. The Court has
15 reviewed the benefits that are being granted as part of the Settlement and recognizes the
16 significant value to the Class Members. The Court also finds that the Class is properly certified
17 as a class for settlement purposes only.

18 7. According to the terms of the Settlement Agreement, all Participating Class
19 Members shall fully release and discharge Defendants Quail Park Retirement Village, LLC,
20 Millennium Advisors, Inc. dba Living Care (erroneously sued as “Living Care”), and Morrison
21 Management Specialist, Inc. dba Morrison Community Living (erroneously sued as “Morrison
22 Community Living”) (collectively “Defendants”) and their respective present and former parents,
23 members, owners, subsidiaries, and any affiliated or related persons or entities or divisions and
24 each of their respective officers, members, directors, current and former employees, partners,
25 shareholders, attorneys, and agents, and any other successors, insurers, assigns or legal
26 representatives (the “Released Parties”) from any and all federal, state, and local demands, rights,
27 liabilities, claims and/or causes of action, that are alleged in the Action, or could have been alleged
28 in the Action based on Defendants’ alleged failure to provide meal and rest breaks or pay premium

1 pay in lieu thereof, pay overtime wages, pay minimum wages, timely pay all wages during
2 employment, timely pay all final wages due to discharged employees upon separation from
3 employment, furnish accurate itemized wage statements, maintain required employee records,
4 and indemnify employees for business expenses, or violation of (among other laws) Cal. Labor
5 Code §§ 201-204, 210, 226, 226.3, 226.7, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1197.1, 1198,
6 2800, 2802, and IWC Wage Order No. 5-2001, and (Cal. Bus. & Prof. Code § 17200, *et seq.*)
7 (collectively the “Released Claims”). The release of the Released Claims shall be applicable for
8 the period between February 25, 2016 and May 31, 2020 (the “Class Period”).

9 8. Named Plaintiff Nereida Barela, for herself only, also fully releases the Released
10 Parties from any and all Released Claims and also generally releases and discharges the Released
11 Parties from all claims related to her employment or alleged employment with Defendants
12 including all claims alleged in the Action, and all claims known and unknown, without exception,
13 except as may be prohibited by law. Specifically, Plaintiff waives all rights and benefits afforded
14 by California Civil Code Section. Specifically, Plaintiff Nereida Barela waives all rights and
15 benefits afforded by California Civil Code Section 1542, which provides:

16 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE
17 CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO
18 EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE
19 RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE
20 MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE
21 DEBTOR OR RELEASED PARTY.

22 9. No Class Member objected to the terms of the Settlement.

23 10. Two Class Members, Alicia Arevalos and Aurora Contreras, requested to be
24 excluded from the terms of the Settlement. Accordingly, 365 out of 367 Class Members are bound
25 by this Judgment (a 99.46% participation rate).

26 11. The Court finds the settlement payments provided for under the Settlement
27 Agreement to be fair and reasonable in light of all of the circumstances. Pursuant to the terms of
28 the Settlement Agreement, the Court orders Defendants to fund the Total Settlement Amount of

1 \$795,000.00 within thirty (30) calendar days after the Effective Date as set forth in the Settlement
2 Agreement (Defendants Quail Park Retirement Village, LLC and Millennium Advisors, Inc. will
3 deposit \$715,500.00 and Defendant Morrison Management Specialist, Inc. will deposit
4 \$79,500.00) to provide payments for Settlement Checks to all Participating Class Members, the
5 Class Representative Incentive Payment to Plaintiff, Class Counsel's Fees and Costs, and the
6 Settlement Administrator's Costs. The calculations and the payments shall be made administered
7 in accordance with the terms of the Settlement Agreement.

8 12. Pursuant to the terms of the Settlement Agreement, and the authorities, evidence
9 and argument submitted by Class Counsel, the Court hereby awards Class Counsel attorneys' fees
10 in the amount of thirty-five percent (35%) from the Total Settlement Amount (\$278,250.00) and
11 attorneys' costs in the amount of \$16,608.33 from the Total Settlement Amount as final payment
12 for and complete satisfaction of any and all attorneys' fees and costs incurred by and/or owed to
13 Class Counsel and any other person or entity related to the Action. The Court further orders that
14 the award of attorneys' fees and costs set forth in this Paragraph shall be administered pursuant
15 to the terms of the Settlement Agreement.

16 13. The Court hereby approves and orders a Class Representative Incentive Payment
17 of \$7,500.00 to named Plaintiff Nereida Barela from the Total Settlement Amount in accordance
18 with the terms of the Settlement Agreement.

19 14. The Court also hereby approves and orders payment from the Total Settlement
20 Amount for actual settlement administration expenses incurred by the Settlement Administrator,
21 Phoenix Settlement Administrators in the amount of \$9,500.00.

22 15. The Court hereby approves and orders payment of individual settlement payments
23 from the Net Settlement Amount to the Participating Class Members on a *pro rata* basis as set
24 forth in the Settlement Agreement.

25 16. The Court also hereby approves and orders that any checks distributed from the
26 Total Settlement Amount yet remaining un-cashed after one hundred and eighty (180) calendar
27 days after being issued shall be distributed to the Central California Legal Services, pursuant to
28 California Civil Procedure Code § 384.

1 17. Provided the Settlement becomes effective under the terms of the Settlement
2 Agreement, the Court also hereby orders that the deadline for mailing the Court-approved
3 individual settlement payments, attorneys' fees and costs, and Class Representative Incentive
4 Payment to Plaintiff is as set forth in the Settlement Agreement.

5 18. Neither the Settlement nor any of the terms set forth in the Settlement Agreement
6 is an admission by Defendants, or any of the other Released Parties, nor is this Final Order a
7 finding of the validity of any claims in the Action or of any wrongdoing by Defendants, or any of
8 the other Released Parties. In entering into the Settlement Agreement, Defendants do not admit,
9 and specifically deny they have violated any federal, state, or local law; violated any regulations
10 or guidelines promulgated pursuant to any statute or any other applicable laws, regulations or
11 legal requirements; breached any contract; violated or breached any duty; engaged in any
12 misrepresentation or deception; or engaged in any other unlawful conduct with respect to its
13 employees. Neither the Settlement or the Settlement Agreement, nor any of its terms or
14 provisions, nor any of the negotiations connected with it, shall be construed as an admission or
15 concession by Defendants of any such violations or failure to comply with any applicable law.
16 Except as necessary in a proceeding to enforce the terms of the Settlement Agreement, the
17 Settlement Agreement and its terms and provisions shall not be offered or received as evidence
18 in any action or proceeding to establish any liability or admission on the part of Defendants or to
19 establish the existence of any condition constituting a violation of, or a non-compliance with,
20 federal, state, local or other applicable law.

21 19. Without affecting the finality of this Judgment, the Court shall retain continuing
22 jurisdiction over this Action and the Parties, including all Class Members, and over all matters
23 pertaining to the implementation and enforcement of the terms of the Settlement Agreement
24 pursuant to California Rule of Court 3.769(h) and California Code of Civil Procedure section
25 664.6. Except as provided to the contrary herein, any disputes or controversies arising with or
26 with respect to the interpretation, enforcement, or implementation of the Settlement Agreement
27 shall be presented to the Court for resolution.

28 20. The Court sets a compliance hearing for _____ at

1 11:00 a.m./1 p.m. in this department. Plaintiff shall file the Settlement Administrator's report
2 at least five (5) court days before the compliance hearing.

3 21. Plaintiff shall file and serve formal Notice of Entry of Judgment including Notice
4 to the California Labor and Workforce Development Agency (LWDA).

5 **IT IS SO ORDERED. LET JUDGMENT BE ENTERED ACCORDINGLY.**

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7 DATED: 07/14/2022

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9 _____
10 HON. DAVID MATHIAS
11 JUDGE OF THE SUPERIOR COURT
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