

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ONONDAGA

MICHAEL FARRUGGIO, as Executor of the Estate of
THERESA FARRUGGIO, and SUSAN KARPEN,
individually and on behalf of all others similarly
situated,

Plaintiffs,

v.

918 JAMES RECEIVER, LLC; RIVER MEADOWS,
LLC; JAMES SQUARE NURSING HOME, INC.;
CLINTON SQUARE OPERATIONS, LLC; LIBERTY
SENIOR HOLDINGS, LLC; EXCELERATE
HEALTHCARE SERVICES, LLC; JUDY KUSHNER;
ABRAHAM GUTNICKI; ELIEZER FRIEDMAN;
AND DOES 1-25,

Defendants.

Index No. 003831/2017

**ORDER GRANTING
PLAINTIFFS' UNOPPOSED
MOTION FOR FINAL
APPROVAL OF CLASS
ACTION SETTLEMENT**

Plaintiffs MICHAEL FARRUGGIO and SUSAN KARPEN (“Plaintiffs”), by their attorneys, FINKELSTEIN, BLANKINSHIP, FREI-PEARSON & GARBER, LLP, having moved for an order finally approving their class action settlement (the “Settlement”) with Defendants; and

WHEREAS, the parties vigorously engaged in extensive negotiations at arm’s-length to reach agreement; and

WHEREAS, the case is complex and continued litigation would be protracted; and

WHEREAS, Justice Paris found that the action satisfied the requirements of CPLR 901 and 902 and that because PHL § 2801-d(4) “contemplates class actions in nursing home cases such as this matter, a class action is the most efficient and expedient manner of adjudication of these issues” (NYSCEF Doc. No. 257); and

WHEREAS, the settlement with defendant CLINTON SQUARE OPERATIONS, LLC (NYSCEF Doc. No. 340) improved conditions in the nursing home; and

WHEREAS, this Settlement provides fair compensation to Class Members; and

WHEREAS, Class Counsel has provided excellent representation that more than adequately represents the interests of the Class Members; and

WHEREAS, Class Counsel's fees and hourly rates are reasonable and fair, especially in light of the complexity of this litigation; and

WHEREAS, the Class Members are happy with the Settlement;

WHEREAS, public policy considerations, including the public policy in favor of resolving numerous potential individual nursing home cases in one class action case, favor approval of the Settlement;

WHEREAS, the Settlement Agreement shall be modified to include Simone Lechuk as an additional Settlement Master;

WHEREAS, the Settlement Agreement shall be modified to require payments to be issued during the time period dictated by the Settlement terms or as soon as practicable while complying with all applicable laws, rules and regulations; and

WHEREAS, the Settlement Agreement shall be modified such that any Class Member that submitted a form before April 21, 2021 will be able to participate in the Settlement;

NOW, upon the reading of Plaintiffs' notice of motion for final approval of class action settlement; Plaintiffs' memorandum of law in support thereof; and the affirmation of Jeremiah Frei-Pearson (the "Frei-Pearson Aff."), with exhibits, on behalf of Plaintiffs in support thereof; and

After due deliberation having been held thereon, and it appearing that the Joint Stipulation and Settlement Agreement (the "Settlement Agreement"), attached as Exhibit 1 to the Frei-Pearson Aff., merits final approval, it is hereby

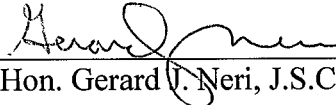
ORDERED that the Settlement Agreement is finally approved; and it is further

ORDERED, consistent with the Settlement Agreement, the case of *Scott, by and through Barr v. Liberty Senior Holdings, LLC* (Sup. Ct. Onondaga Cnty. Ind. No. 008035/2019) shall be consolidated into the above-captioned litigation for all of the reasons that the related cases were previously consolidated by order dated December 3, 2020 (NYSCEF Doc. No. 607); and it is further

ORDERED that the above-captioned litigation, including all consolidated individual actions, as set forth in the consolidation order dated December 3, 2020 (NYSCEF Doc. No. 607), and this Order, is hereby closed and discontinued with prejudice; and is further

ORDERED that this Order may be filed without further notice with the Clerk of the Court.

Dated: 4-22-2021
Syracuse, New York


Hon. Gerard J. Neri, J.S.C.

ENTER: