

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

MEGHAN BRIGHT, as Curator of the
Estate of LEONARD FOOTE, and PAUL PLATTE,
as Personal Representative of the Estate of DAVID
G. ADAMS, on their own behalf
and all others similarly situated,

Plaintiffs,

v.

BROOKDALE SENIOR LIVING INC.,

Defendant.

Case No. 3:19-cv-00374

Consolidated with
Case No. 3:20-cv-00353

District Judge Campbell
Magistrate Judge Holmes

Estate of GEORGE GUNZA, by and through its
Administrator STEVEN B. FOX,
and MARK JEFFREY HARRIS, as Executor of the
Estate of HATTIE JEANNETTE WRIGHT
SMITH, on their own behalf and all others
similarly situated,

Plaintiffs,

v.

BROOKDALE SENIOR LIVING INC.,

Defendant.

**ORDER GRANTING PLAINTIFFS' MOTION FOR
PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT AND
CONDITIONAL CERTIFICATION OF SETTLEMENT CLASSES**

This matter comes before the Court on Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and Conditional Certification of Settlement Classes. The Court having

considered the Motion, Memorandum of Law, Declarations of Class Counsel and the Plaintiffs supporting materials, finds good cause to grant the Motion on the following terms.

1. The Court preliminarily approves the Settlement between Plaintiffs Meghan Bright, as Curator of the Estate of Leonard Foote, Paul Platte, as Personal Representative of the Estate of David G. Adams, the Estate of George Gunza, by and through its Administrator Steven B. Fox, and Mark Jeffrey Harris, as Executor of the Estate of Hattie Jeannette Wright Smith, on their own behalf and all Settlement Class Members as defined herein (“Plaintiffs”), and Brookdale Senior Living Inc. (“Brookdale”) (collectively the “Parties”), in the consolidated lawsuits captioned *Bright, et al. v. Brookdale Senior Living Inc.*, Case No. 3:19-cv-00374 (“*Bright*”) and *Gunza, et al. v. Brookdale Senior Living Inc.*, Case No. 3:20-cv-00353 (“*Gunza*”), in the United States District Court for the Middle District of Tennessee.

2. The Court finds that the named Plaintiffs have fairly and adequately protected the interests of the Classes as well as fulfilled their duties throughout the litigation, including participating in discovery, sitting for depositions and staying apprised of the issues and progress of the case. The Court therefore appoints named Plaintiffs as the Class Representatives for the Settlement Classes.

3. Plaintiffs request the appointment of Christa L. Collins of Collins Law, PL, as Lead Class Counsel, and Kelly Bagby of AARP Foundation, Bryan Gowdy of Creed & Gowdy, P.A., and Michael Kelley of Kennerly, Montgomery & Finley, P.C. as Class Counsel for the settlement classes. The Court may appoint class counsel if it determines the attorneys are adequate under Rule 23(g)(1) and (4). Fed. R. Civ. P. 23(g)(2). In appointing class counsel, the Court must consider:

(i) the work counsel has done in identifying or investigating potential claims in the action;

- (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action;
- (iii) counsel's knowledge of the applicable law; and
- (iv) the resources that counsel will commit to representing the class[.]

Fed. R. Civ. P. 23(g)(1)(A). The Court may also consider any other matter pertinent to counsel's ability to represent the interests of the class fairly and adequately. Fed. R. Civ. P. 23(g)(1)(B). The Court finds that class counsel meets the standard of Rule 23(g). The Court hereby appoints Christa L. Collins of Collins Law, PL, as Lead Class Counsel, and Kelly Bagby of AARP Foundation, Bryan Gowdy of Creed & Gowdy, P.A., and Michael Kelley of Kennerly, Montgomery & Finley, P.C. as Class Counsel for the settlement classes. For purposes of effecting the Settlement, Class Counsel are authorized to act on behalf of Plaintiffs and all Settlement Class Members, including all acts that are required to consummate the Settlement.

4. Pursuant to Rule 23, the Court conditionally certifies the following Settlement Class defined as follows:

For each of the North Carolina and Florida Subclasses defined below, membership is limited to residents for whom, on the face of the contractual documents, an enforceable arbitration agreement does not exist for either of the following reasons:

- (1) The residency agreement was signed by a third party, and the third-party instrument, by its terms, excludes from the third party's authority the power to consent to arbitration or waive the right to a jury trial; or,
- (2) The arbitration provision within the residency agreement is stricken or declined in writing.

North Carolina-Specific Subclasses and Class Periods

Community Fee Subclass (represented by Plaintiff Smith): All persons who moved into a Brookdale assisted living facility (ALF) in North Carolina between April 24, 2016, and the date of preliminary approval, and who paid a Community Fee.

Non-Community Fee Subclass (represented by Plaintiff Gunza): All persons who moved into a Brookdale ALF in North Carolina between September 23, 2014, and the date of preliminary approval, and who did not pay a Community Fee.

Florida-Specific Subclasses and Class Periods

Runton Subclass (represented by Plaintiff Bright): All persons who moved into a Brookdale ALF in Florida between May 3, 2015, and November 9, 2019, and who either opted out of the *Runton* Settlement or filed a claim in the *Runton* Settlement that was denied by the Settlement Administrator.

Community Fee Subclass (represented by Plaintiff Adams): All persons who moved into a Brookdale ALF in Florida between November 10, 2019, and the date of preliminary approval, and who paid a Community Fee.

Excluded from the Settlement Classes are: (a) Brookdale and its employees, principals, affiliated entities, legal representatives, successors, and assigns; (b) any Claimant who files a valid, timely Request for Exclusion; (c) federal, state, and local governments (including all agencies and subdivisions thereof, but excluding employees thereof); (d) the judges to whom the action is assigned and any members of their immediate families, and (e) residents of a Brookdale ALF who previously executed a general release releasing all claims against Brookdale and/or a Brookdale Affiliate pertaining to their residence at a Brookdale ALF.

5. The prerequisites to conditionally certifying the above Settlement Classes under Rule 23(a) are satisfied in that:

- a. Members of the Settlement Classes are so numerous and geographically dispersed as to make joinder impracticable. Specifically, there are at least 94 Settlement Class Members in North Carolina and 90 in Florida.
- b. There are questions of law or fact common to the Settlement Classes.
- c. The claims or defenses of Plaintiffs are typical of the claims or defenses of the Settlement Class Members.
- d. The Class Representatives and Class Counsel will adequately protect the interests of Settlement Class Members.
- e. The Court finds that for purposes of Rule 23(e)(1) the prerequisites to class certification under Rule 23(b)(3) for purposes of settlement are likely satisfied

because common issues predominate over individual issues and a class action is superior to other available means for the fair and efficient adjudication of the litigation.

6. The Court retains jurisdiction over this case to consider all other matters arising from the Settlement Agreement.

7. The Court appoints BrownGreer PLC as the Settlement Administrator selected by the Parties to help implement and effectuate the terms of this Settlement Agreement. The Settlement Administrator shall administer the notice procedures, establish and operate the website referenced in the Settlement Agreement, issue the class notice and claim form, execute the plan of distribution, and perform all other duties necessary in the Settlement Agreement.

8. Brookdale shall pay for all reasonable costs and expenses of the Settlement Administrator.

9. The Court approves the form and content of the Notice and Notice program, including proposed Long Form Notice and Short Notice and Claim Form submitted for approval and finds that their dissemination, via First-Class Mail and website, to all Class Members is appropriate upon entry of this Order granting preliminary approval of the Settlement. The Court concludes that the proposed Class Notice satisfies the requirements set forth in Fed. R. Civ. P. 23(C)(2)(B) and due process, constitutes the best notice practicable under the circumstances, and shall constitute due and sufficient notice to all persons entitled thereto of the pendency of the action.

10. The Settlement Administrator shall complete dissemination of the Notice within sixty (60) days following the entry of this Preliminary Approval Order (the "Notice Date"). On or before the Notice Date, the Settlement Administrator shall complete the distribution of the Short

Form Notice and Claim Form (via First-Class Mail), and establish the Settlement Website which shall contain relevant documents relating to the Settlement, including the Long Form Notice and Claim Form, Settlement Agreement, the Amended Complaints in *Bright* and *Gunza*, Plaintiffs' Motion for Preliminary Approval of Class Action Settlement and Conditional Certification of Settlement Classes and supporting documents.

11. Any Settlement Class Member who wishes to object to any aspect of the Settlement Agreement must submit a written statement of the objection(s) no later than sixty (60) days following dissemination of the Notice (Objection Deadline). This written statement of the objection(s) must be submitted by serving the statement on Class Counsel and Defendant's Counsel via email and first-class mail and by filing the statement with the Court. The statement of the objection(s) must include (a) a detailed statement of the Settlement Class Member's objection(s), as well as the specific reasons, if any, for each objection, including any evidence and legal authority the Settlement Class Member wishes to bring to the Court's attention and any evidence the Settlement Class Member wishes to introduce in support of his/her objection(s); (b) whether the objection applies only to the objector, to a specific subset of the Settlement Class, or to the entirety of the Settlement Class; (c) the Settlement Class Member's name, address and telephone number; and (d) any other supporting papers, materials or briefs the Settlement Class Member wishes the Court to consider when reviewing the objection. Each objection must: (e) be in writing and signed by the objector; (f) clearly identify the case name and number (i.e. *Bright, et al. v. Brookdale Senior Living Inc.*, Case No. 3:19-cv-00374); (g) be mailed to the Court (or filed with the Court in person) at the following address, and; (h) filed or postmarked on or before the Objection Deadline of sixty (60) days after the dissemination of the Notice. Objections that are mailed to the Court should be addressed as follows:

U.S. District Court
Middle District of Tennessee, Nashville Division
Fred D. Thompson U.S. Courthouse
719 Church Street, Suite 1300
Nashville, TN 37203

12. Any Class Member who does not submit a valid and timely written objection in accordance with these procedures shall be deemed to have waived any objection and shall forever be foreclosed from making any objection to the fairness, adequacy, or reasonableness of the proposed Settlement, this Order, and the proposed Final Approval Order and Judgment to be entered upon a ruling of this Court finally approving the Settlement with Brookdale.

13. Any Class Member who wishes to be excluded from the conditionally certified Settlement Classes may request exclusion from the Settlement by sending a written request to the Settlement Administrator at the address designated in the Notice no later than sixty (60) days following dissemination of the Notice (Opt-Out/Request for Exclusion Deadline). A Request for Exclusion shall include the Class Member's full name, address and telephone number and a statement that he or she wishes to be excluded from the Settlement Class in a form that substantially complies with Section V.F. of the Settlement Agreement. A Request for Exclusion shall waive a Class Member's right to object to the Settlement and to otherwise receive the benefits of the Settlement as set forth in the Settlement Agreement. Any Class Member who does not submit a valid and timely Request for Exclusion specifying that he or she is opting out of the Settlement shall be considered a member of the Settlement Class as defined in the Settlement Agreement and bound by its terms upon the entry of a Final Approval Order and Judgment finally approving the Settlement.

14. The Final Approval Hearing shall be held by the Court on October 26, 2026, at 2:30 p.m., in Courtroom 6B of the Fred D. Thompson United States Courthouse and Federal Building, located at 719 Church Street, Nashville, TN 37203.

15. At the Final Approval Hearing, the Court will determine whether: (1) the requirements for certification of the Settlement Classes have been met; (2) the proposed Class Settlement on the terms set forth in the Settlement Agreement should be approved as fair, reasonable, adequate, and in the best interest of the Settlement Class Members; (3) a Final Approval Order and Judgment approving the Settlement Agreement and dismissing Plaintiffs' claims against Brookdale with prejudice should be entered; (4) the amount to be awarded to Class Counsel for attorney's fees and costs; and (5) the amount to be awarded to the Class Representatives as Service Awards.

16. On or before sixty (60) days after dissemination of the Notice, members of the Settlement Class shall submit any Objections in accordance with Paragraph 11 of this Order (Objection Deadline).

17. On or before sixty (60) days after dissemination of the Notice, members of the Settlement Class shall submit any Requests for Exclusion in accordance with Paragraph 13 of this Order (Opt-Out/Request for Exclusion Deadline).

18. On or before sixty (60) days after entry of the Preliminary Approval Order, Class Counsel shall file all papers in support of Plaintiffs' Motion to Determine Attorneys' Fees and Expenses and Service Awards. Brookdale shall file its Response opposing the amount of fees and costs requested by Plaintiffs thirty (30) days thereafter. Plaintiffs shall file their Reply to Brookdale's Response fourteen (14) days thereafter.

19. On or before fifteen (15) days prior to the Final Approval Hearing, Class Counsel shall file all papers in support of a Motion for Final Approval of the Class Settlement and Certification of Settlement Classes.

20. On or before fifteen (15) days prior to the Final Approval Hearing, Class Counsel shall file any responses to any objections to Final Approval of the Class Settlement.

21. Objections by any Class Member to Final Approval of the Class Settlement shall be considered by the Court at the Final Approval Hearing if such Class Member files with the Court a notice of his or her objections in accordance with Paragraph 11 of this Order and states the basis for such objections, by the Objection Deadline, or as otherwise permitted by the Court. Settlement Class Members may raise an objection either on their own or through an attorney hired at their own expense. If a Settlement Class Member hires an attorney to represent him or her, the attorney must (a) file a notice of appearance with the Clerk of Court no later than sixty (60) days following dissemination of Notice (Objection Deadline) or as the Court otherwise may direct; and (b) serve a copy of the objection on Class Counsel and Defendant's Counsel, by email and first-class mail, no later than the Objection Deadline.

22. The following timeline summarizes the deadlines set by the Court:

EVENT	DEADLINE
Settlement Administrator to Disseminate Notice	60 days after entry of Preliminary Approval Order
Deadline for Class Members to Submit Objections (Objection Deadline)	60 days after dissemination of Notice
Deadline for Class Members to Submit Requests for Exclusion (Opt-Out Deadline)	60 days after dissemination of Notice

Deadline to File Motion to Determine Attorneys' Fees, Costs and Service Awards	60 days after entry of Preliminary Approval Order
Deadline to File Opposition to Motion to Determine Attorneys' Fees, Costs and Service Awards	30 days after filing of Motion to Determine Attorneys' Fees, Costs and Service Awards
Deadline to File Reply to Opposition to Motion to Determine Attorneys' Fees, Costs and Service Awards	14 days after filing of opposition to Motion to Determine Attorneys' Fees, Costs and Service Awards
Deadline to File Motion for Final Approval of the Class Settlement	15 days prior to Final Approval Hearing
Final Approval Hearing at the Fred D. Thompson U.S. Courthouse and Federal Building, 719 Church Street, Nashville, TN 37203, in Courtroom 6B	October 26, 2026, at 2:30 p.m.

The Court finds that the Rule 23 standard for preliminary approval of the settlement is met. Therefore, Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement Agreement and Conditional Certification of Settlement Classes is **GRANTED**.

IT IS SO ORDERED.

DATED: May 13, 2026


 WILLIAM L. CAMPBELL
 CHIEF UNITED STATES DISTRICT JUDGE