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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

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11 PAUL GOIS, *et al.*, on behalf of
12 themselves and all others similarly situated,

13 Plaintiffs,

14 v.

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16 KISCO SENIOR LIVING, LLC,

17 Defendant.
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Case No.: 24-cv-751-BJC-AHG

**ORDER GRANTING
REPRESENTATIVE PLAINTIFFS’
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
CLASS ACTION SETTLEMENT AND
TO DIRECT NOTICE OF PROPOSED
SETTLEMENT TO THE CLASS**

[ECF Nos. 60-61]

22 Before the Court is Representative Plaintiffs’ Unopposed Motion for Preliminary
23 Approval and to Direct Notice of Proposed Settlement to the Settlement Class (ECF No.
24 60). The terms of the proposed settlement (the “Proposed Settlement”) are set forth in a
25 separately filed Settlement Agreement with accompanying exhibits (ECF No. 61-1) (the
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1 “Settlement Agreement”).¹ Having fully considered the issue, the Court hereby GRANTS
2 the motion and orders as follows:

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4 1. **Class Certification for Settlement Purposes Only.** The Settlement
5 Agreement provides for: (i) a Settlement Class consisting of individuals to whom
6 Defendant Kisco Senior Living, LLC (“Kisco”) sent notice of the Data Incident that Kisco
7 announced in April 2024, defined as follows:

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9 Settlement Class: All individual U.S. residents to whom Kisco sent written
10 notification of the Data Incident

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12 Excluded from the Settlement Class are: (1) the Judge and Magistrate Judge
13 presiding over the Lawsuits, any members of the Judges’ respective staffs, and immediate
14 members of the Judges’ respective families; (2) officers, directors, members and
15 shareholders of Defendant; (3) persons who timely and validly request exclusion from
16 and/or optout of the Settlement Class and the successors and assigns of any such excluded
17 persons; and (4) any person found by a court of competent jurisdiction to be guilty under
18 criminal law of initiating, causing, aiding or abetting the criminal activity or occurrence of
19 the Data Incident or who pleads nolo contendere to any such charge. Several officers of
20 Kisco were sent written notification of the Data Incident but are specifically excluded from
21 the Settlement Class. Defendant represents that the Settlement Class contains 26,663
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28 ¹ All capitalized terms herein have the same definitions as set forth in the Settlement Agreement.

1 individuals.

2 Pursuant to Federal Rules of Civil Procedure 23(e)(1), the Court finds that giving
3 notice is justified. The Court finds that it will likely be able to approve the Proposed
4 Settlement as fair, reasonable, and adequate. The Court also finds that it will likely be able
5 to certify the Settlement Class for purposes of judgment on the Proposed Settlement
6 because it meets all of the requirements of Rule 23(a) and the requirements of Rule
7 23(b)(3). Specifically, the Court finds for settlement purposes that: a) the Settlement Class
8 is so numerous that joinder of all Settlement Class Members would be impracticable; b)
9 there are issues of law and fact that are common to the Settlement Class; c) the claims of
10 the Representative Plaintiffs are typical of and arise from the same operative facts and seek
11 similar relief as the claims of the Settlement Class Members; d) the Representative
12 Plaintiffs will fairly and adequately protect the interests of the Settlement Class as the
13 Representative Plaintiffs have no interests antagonistic to or in conflict with the Settlement
14 Class and has retained experienced and competent counsel to prosecute this matter on
15 behalf of the Settlement Class; e) questions of law or fact common to Settlement Class
16 Members predominate over any questions affecting only individual members; and f) a class
17 action and class settlement is superior to other methods available for a fair and efficient
18 resolution of this controversy.

19 The Court further finds that, at the preliminary approval stage, the Proposed
20 Settlement satisfies the criteria set forth in Rule 23(e) and *Staton v. Boeing Co.*, 327 F.3d
21 938 (9th Cir. 2003)). Specifically, the Court finds for settlement purposes that: the

1 Proposed Settlement (i) appears to be the result of serious, informed, and non-collusive
2 negotiations, (ii) has no obvious deficiencies, (iii) does not improperly grant preferential
3 treatment to class representatives or segments of the class, and (iv) falls within the range
4 of possible approval.
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6 2. **Class Representative and Class Counsel.** The Court finds for settlement
7 purposes only that the Representative Plaintiffs will likely satisfy the requirements of Rule
8 23(e)(2)(A) and be appointed as the Class Representatives. Additionally, the Court finds
9 that Proposed Class Counsel, Patrick A. Barthle II of Morgan & Morgan, Ryan D. Maxey
10 of Maxey Law Firm, P.A, and John J. Nelson of Milberg, PLLC, will likely satisfy the
11 requirements of Rule 23(e)(2)(A) and for settlement purposes are appointed as Class
12 Counsel pursuant to Rule 23(g)(1).
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15 3. **Preliminary Settlement Approval.** Upon preliminary review, the Court
16 finds the Proposed Settlement is fair, reasonable, and adequate to warrant providing notice
17 of the Proposed Settlement to the Settlement Class and accordingly it is preliminarily
18 approved. In making this determination, the Court has considered the benefits to the
19 Settlement Class, the specific risks faced by the Settlement Class in prevailing on
20 Representative Plaintiffs' claims, the stage of the proceedings at which the Proposed
21 Settlement was reached, the effectiveness of the proposed method for distributing relief to
22 the Settlement Class, the proposed manner of allocating benefits to Settlement Class
23 Members, and all of the other factors required by Rule 23.
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28 4. **Jurisdiction.** The Court has subject matter jurisdiction pursuant to 28 U.S.C.

1 § 1332(d)(2), and personal jurisdiction over the Parties before it. Additionally, venue is
2 proper in this District pursuant to 28 U.S.C. § 1391(b)(1).

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4 5. **Final Fairness Hearing.** A Final Fairness Hearing shall be held on March
5 18, 2027 in-person at the United States District Court, Southern District of California, 333
6 West Broadway, Courtroom 3A, San Diego, CA 92101, to determine, among other things,
7 whether: (a) this matter should be finally certified as a class action for settlement purposes
8 pursuant to Fed. R. Civ. P. 23(a) and (b)(3); (b) the Proposed Settlement should be
9 approved as fair, reasonable and adequate, and finally approved pursuant to Fed. R. Civ.
10 P. 23(e); (c) this action should be dismissed with prejudice pursuant to the terms of the
11 Settlement Agreement; (d) Settlement Class Members should be bound by the releases set
12 forth in the Settlement Agreement; (e) the application of Class Counsel for an award of
13 attorneys' fees, costs, and expenses should be approved pursuant to Fed. R. Civ. P. 23(h);
14 and (e) the application of the Class Representative for a service award should be approved.

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18 6. **Claims Administrator.** The Court appoints CPT Group, Inc. as the Claims
19 Administrator, with responsibility for class notice and claims administration. The Claims
20 Administrator is directed to perform all tasks the Settlement Agreement reasonably
21 requires in effectuating the Notice, Notice Program, and Claims Administration. The
22 Claims Administrator's fees will be paid out of the Settlement Fund pursuant to the
23 Settlement Agreement.

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26 7. **Notice.** The proposed method for providing notice set forth in the Settlement
27 Agreement and the Claim Form and Class Notice attached to the Settlement Agreement as
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1 Exhibits A, B, and C, respectively, are hereby approved. Non-material modifications to
2 these Exhibits may be made with approval by the Parties but without further order of the
3 Court.
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5 8. **Findings Concerning Notice.** The Court finds that the proposed form,
6 content, and method of giving notice to the Settlement Class as described in the Settlement
7 Agreement and exhibits: (a) will constitute the best practicable notice to the Settlement
8 Class; (b) are reasonably calculated, under the circumstances, to apprise Settlement Class
9 Members of the pendency of the action, the terms of the Proposed Settlement, and their
10 rights under the Proposed Settlement, including but not limited to their rights to object to
11 or exclude themselves from the Proposed Settlement and other rights under the terms of
12 the Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient
13 notice to all Settlement Class Members and other persons entitled to receive notice; and (d)
14 meet all applicable requirements of law, including Federal Rule of Civil Procedure 23(c)
15 and (e), and the Due Process Clause of the United States Constitution. The Court further
16 finds that the Notice is written in plain language, uses simple terminology, and is designed
17 to be readily understandable by class members.
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22 The Claims Administrator is directed to carry out the Notice Program in
23 conformance with the Settlement Agreement.
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25 **Exclusion from Class.** Any Settlement Class Member who wishes to be excluded
26 from the Settlement Class must mail a written request for exclusion to the Claims
27 Administrator at the address and in the manner and within the time provided in the Notice.
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1 Such requests for exclusion must meet the opt-out deadline established by this Order and
2 stated in the Notice. Any member of the Settlement Class who does not properly and timely
3 opt-out of the Proposed Settlement shall, upon entry of the Final Approval Order and
4 Judgment, be bound by all the terms and provisions of the Settlement Agreement, whether
5 or not such Settlement Class Member objected to the Proposed Settlement and whether or
6 not such Settlement Class Member received consideration under the Settlement
7 Agreement.
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10 A request for exclusion must be in writing and: (a) state the name of this proceeding
11 (*Gois et al. v. Kisco Senior Living, LLC*, in the United States District Court for the Southern
12 District of California, Case No. 24-cv-751-BJC-AHG, or similar identifying words such as
13 “Kisco Senior Living Data Incident”); (b) state the name and address of the Settlement
14 Class Member seeking exclusion; (c) state “Request for Exclusion” or words
15 communicating the person’s request for exclusion from the Settlement Class; and (d) must
16 be signed by the Settlement Class Member.
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20 A request for exclusion that does not include the foregoing information, or that is
21 sent to an address other than the one designated in the Notice, or that is not postmarked by
22 the Opt-Out Date shall be invalid and the Settlement Class Member serving such a request
23 shall, if the Final Approval Order and Judgment is entered, be considered a Settlement
24 Class Member and shall be bound by any judgment entered herein with respect to the
25 Settlement Class.
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28 The Claims Administrator shall forward a list of all requests for exclusion to Class

1 Counsel and to Kisco's Counsel within 7 days of the Opt-Out Date.

2 If the Final Approval Order and Judgment is entered, any Settlement Class Member
3 who has not submitted a timely, valid written request for exclusion from the Settlement
4 Class shall be bound by all subsequent proceedings, orders, and judgments in this action,
5 including but not limited to the Release set forth in the Final Approval Order and Judgment.
6 Settlement Class Members who submit valid and timely requests for exclusion shall not be
7 entitled to receive any benefits from the Proposed Settlement.
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10 Upon entry of the Final Approval Order and Judgment all members of the Settlement
11 Class who have not personally, validly, and timely requested to be excluded from the
12 Settlement Class will be enjoined from proceeding against the Released Persons under the
13 Settlement Agreement with respect to the Release Claims.
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16 9. **Objections and Appearances.** Any Settlement Class Member who does not
17 elect to be excluded from the Settlement Class may object to the Proposed Settlement,
18 Class Counsel's request for fees and expenses, and/or the request for a service award
19 payment to the Representative Plaintiffs; provided, however, that no Settlement Class
20 Member shall be heard or entitled to contest such matters, unless the objection is: (a)
21 electronically filed by the Objection Date; or (b) mailed first-class postage prepaid to the
22 Clerk of Court, at the address listed in the Notice, and postmarked by no later than the
23 Objection Date, as specified in the Notice. For the objection to be considered by the Court,
24 the objection must be in writing and include:
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27 (a) the name or caption of this Litigation;
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- (b) the objector's full name, address, telephone number, and e-mail address (if any);
- (c) information identifying the objector as a Settlement Class Member, including proof that the objector is a member of the Settlement Class;
- (d) a written statement of all grounds for the objection, accompanied by any legal support for the objection that the objector believes is applicable;
- (e) the identity of all counsel representing the objector;
- (f) a statement whether the objector and/or his or her counsel will appear at the Final Fairness Hearing;
- (g) a statement identifying all class action settlements objected to by the objector in the previous 5 years; and
- (h) the objector's signature or the signature of the objector's duly authorized attorney or other duly authorized representative, if any.

The Parties will have the same right to seek discovery from any objecting Settlement Class Member as they would if the objector was a party in the Litigation, including the right to take the objector's deposition. Such discovery will be conducted on an expedited basis, and the objecting Settlement Class Member is required to respond to any written discovery within fourteen (14) days and must appear for deposition within fourteen (14) days after a deposition is noticed. Any Settlement Class Member who fails to comply with the provisions in this Order and/or fails to timely file and serve an objection in writing in accordance with this Order and the Settlement Agreement will waive and forfeit any and all rights they may have to object, will have their objection stricken from the record, and will lose their rights to appeal from approval of the Proposed Settlement. Any such Settlement Class Member also shall be bound by all subsequent proceedings, orders, and judgments in this action, including but not limited to the Release set forth in the Final

1 Approval Order and Judgment if entered.

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3 10. **Claims Process.** The Settlement Agreement contemplates the establishment
4 of a claims process. As set forth in the Settlement Agreement, Defendant's sole monetary
5 obligation pursuant to the settlement will be to fund a non-reversionary cash settlement
6 fund in the amount of \$1,800,000.00 for the benefit of Settlement Class Members (the
7 "Settlement Fund"). Within forty-five (45) days of preliminary settlement approval or
8 receipt of an invoice, Form W-9, and payment instructions from the Claims Administrator,
9 whichever is later, Defendant will cause to be deposited into the Settlement Fund the
10 anticipated Costs of Claims Administration. Defendant will cause to be deposited into the
11 same account the awarded attorney's fees, costs, and service awards within five (5) days
12 of the Effective Date. Defendant will cause to be deposited into the same account the
13 balance of the Settlement Fund within forty-five (45) days of the Effective Date. The
14 Settlement Fund will be used to pay for: (1) Approved Claims for Credit Monitoring
15 Services; (2) Approved Claims for Ordinary Out-of-Pocket Losses; (3) Approved Claims
16 for Extraordinary Out-of-Pocket Losses and Attested Time; (4) Approved Claims for
17 California Statutory Payments; (5) Residual Cash Payments; (6) notice and administration
18 costs; (7) service awards approved by the Court; and (8) attorneys' fees and expenses
19 approved by the Court. The Court preliminarily approves this process and directs the
20 Claims Administrator to make the Claim Forms or its substantial equivalent available to
21 Settlement Class Members in the manner specified in the Notice. The Claims
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1 Administrator will be responsible for effectuating the claims process.

2 Settlement Class Members who qualify for and wish to submit a Claim Form shall
3 do so in accordance with the requirement and procedures specified in the Notice and the
4 Claim Form. If the Final Approval Order and Judgment is entered, all Settlement Class
5 Members who qualify for any benefit under the Proposed Settlement but fail to submit a
6 claim in accordance with the requirements and procedures specified in the Notice and the
7 Claim Form shall be forever barred from receiving any such benefit, but will in all other
8 respects be subject to and bound by the provisions in the Final Approval Order and
9 Judgment, including the release.
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13 11. **Termination of Settlement.** This Order, the Settlement Agreement, the
14 Proposed Settlement, and all related proceedings shall become null and void, shall have no
15 further force or effect, and shall be without prejudice to the rights of the Parties, all of
16 whom shall be restored to their respective positions existing immediately before the
17 Settlement Agreement was signed, if: (a) the Proposed Settlement is not finally approved
18 by the Court; (b) the Settlement Agreement and the Proposed Settlement are terminated in
19 accordance with the applicable provisions of the Settlement Agreement; or (c) there is no
20 Effective Date. In such event, the Proposed Settlement and Settlement Agreement shall
21 become null and void and be of no further force and effect, and neither the Settlement
22 Agreement nor the Court's orders, including this Order, relating to the Proposed Settlement
23 shall be used or referred to for any purpose whatsoever, including but not limited to
24 arguments that the requirements of Fed. R. Civ. P. 23(a) and (b)(3) are or ever were
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1 satisfied for purposes of this litigation. The Litigation shall thereupon revert forthwith to
2 its respective procedural and substantive status prior to the date of execution of the
3 Settlement Agreement and shall proceed as if the Settlement Agreement and all other
4 related orders and papers had not been executed.
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6 12. **Use of Order.** This Order shall be of no force or effect if the Final Approval
7 Order and Judgment is not entered or there is no Effective Date. Neither this Order nor the
8 Settlement Agreement nor any other settlement-related document nor anything contained
9 herein or therein or contemplated hereby or thereby nor any proceedings undertaken in
10 accordance with the terms set forth in the Settlement Agreement or herein or in any other
11 settlement-related document, shall constitute, be construed or used as an admission,
12 concession, or declaration by or against Order Express of any fault, wrongdoing, breach,
13 or liability for any claim that has been or could have been asserted against it or as to any
14 liability by it as to any matter set forth in this Order, or as to the propriety of class
15 certification for any purposes other than for purposes of the current Proposed Settlement.
16 Nor shall this Order be construed or used as an admission, concession, or declaration by or
17 against any Representative Plaintiff or any other Settlement Class Member that his or her
18 claims lack merit or that the relief requested is inappropriate, improper, or unavailable, or
19 as a waiver by any Party of any defense or claims they may have in this Litigation or in
20 any other lawsuit.
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26 13. **Continuance of Hearing.** The Court reserves the right to adjourn or continue
27 the Final Fairness Hearing and related deadlines without further written notice to the
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Settlement Class. If the Court alters any of those dates or times, the revised dates and times shall be posted on the website maintained by the Claims Administrator. The Court may approve the Proposed Settlement, with such modifications as may be agreed upon by the Parties, if appropriate, without further notice to the Settlement Class.

14. **Schedule and Deadlines**. The Court orders the following schedule of dates for the specified actions/further proceedings:

ACTION	DATE
Defendant Provides Class Member List	Within 14 days of this Order
Class Notice Date	30 days after entry of this Order
Motion for Attorneys' Fees, Expenses,	14 days prior to the Objection Deadline
Exclusion / Opt-Out Deadline	60 days from the Class Notice Date
Objection Deadline	60 days from the Class Notice Date
Deadline to Submit Claims	90 days after the Class Notice Date
Final Approval Brief and Response to	At least 14 days prior to the Final
Final Approval Hearing	March 18, 2027 at 10:30 a.m. P.T.

IT IS SO ORDERED in San Diego, California on the 17th day of September 2026.

HONORABLE BENJAMIN J. CHEEKS
UNITED STATES DISTRICT JUDGE