

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

RECEIVED

Carmen T. Mullen, Circuit Court Judge

MAY 16 2014

Appellate Case No. 2011-199666
(consolidated cases)

S.C. SUPREME COURT

Case No. 2011-CP-07-1610

Elizabeth O'Meara,.....Respondent,

v.

Brookdale Senior Living, Inc., Southern Assisted Living, LLC, d/b/a Carolina
House of Hilton Head, and Sonia S. King,.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC, d/b/a
Carolina House of Hilton Head are theAppellants.

Case No. 2011-CP-07-1700

Samuel H. Pruett, as Personal Representative for the Estate of
Yvonne Carrie Pruett,.....Respondent,

v.

Brookdale Senior Living, Inc., Southern Assisted Living, LLC, d/b/a Carolina
House of Hilton Head, and Sonia S. King,.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC, d/b/a
Carolina House of Hilton Head are theAppellants.

Case No. 2011-CP-07-2654

Janet Sue Scheerle,.....Respondent,

v.

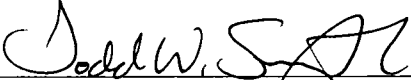
Brookdale Senior Living, Inc., Southern Assisted Living, LLC, d/b/a Carolina House of Hilton Head, and Sonia S. King,.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC, d/b/a Carolina House of Hilton Head are theAppellants.

JOINT MOTION TO DISMISS APPEAL OF CONSOLIDATED CASES

THIS MATTER COMES before the Court on motion of Todd W. Smyth of Smyth Whitley, LLC, on behalf of Appellants Brookdale Senior Living, Inc. and Southern Assisted Living, LLC d/b/a Carolina House of Hilton Head, and Susan Taylor Wall of McNair Law Firm, P.A., on behalf of Respondents. Pursuant to the Order of the Supreme Court dated May 1, 2014, the Circuit Court approved the settlements of the three individual cases, as evidenced by the Orders Approving Settlement attached hereto as Exhibits 1, 2, and 3. Under Rule 260(b), SCACR, the parties respectfully request that the Court dismiss the appeal of the above-styled consolidated cases and remand the cases to the Circuit Court to allow dismissal of the underlying actions.

Respectfully Submitted,



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And

Jodd W. Smith (with permission)

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Attorneys for the Appellants Brookdale Senior
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d/b/a Carolina House of Hilton Head

And

Susan Taylor Wall

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5/13/14

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Attorneys for Respondents Elizabeth O'Meara, Samuel H.
Pruett, as Personal Representative for the Estate of Yvonne
Carrie Pruett, and Janet Sue Scheerle

May 14, 2014
Charleston, South Carolina

THE STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

APPEAL FROM BEAUFORT COUNTY
Court of Common Pleas

Carmen T. Mullen, Circuit Court Judge

Appellate Case No. 2011-199666
(consolidated cases)

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Elizabeth O'Meara,.....Respondent,

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Case No. 2011-CP-07-2654

Janet Sue Scheerle,.....Respondent,

v.

Brookdale Senior Living, Inc., Southern Assisted Living, LLC, d/b/a Carolina House of Hilton Head, and Sonia S. King,.....Defendants,

Of whom Brookdale Senior Living, Inc. and Southern Assisted Living, LLC, d/b/a Carolina House of Hilton Head are theAppellants.

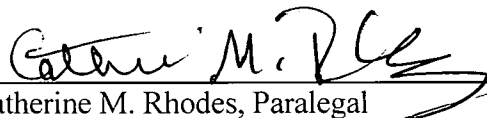
PROOF OF SERVICE

The undersigned certifies that a copy of the Joint Motion to Dismiss Consolidated Cases, has been served upon counsel of record by depositing a copy of same, first-class postage prepaid in the United States Mail, on the 14th day of May, 2014, to the addresses shown below and via email to the email addresses shown:

Susan Taylor Wall, Esquire
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Catherine M. Rhodes, Paralegal
Smyth Whitley, LLC

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

IN THE COURT OF COMMON PLEAS
FOURTEENTH JUDICIAL CIRCUIT
CASE NO.: 2011-CP-07-2654

JANET SUE SCHEERLE,)
)
Plaintiff,)

vs.)

BROOKDALE SENIOR LIVING, INC.,)
SOUTHERN ASSISTED LIVING,)
LLC, d/b/a CAROLINA HOUSE OF)
HILTON HEAD, and SONIA S. KING,)
)
Defendants.)

ORDER APPROVING SETTLEMENT OF
SURVIVAL ACTION

2014 MAY 12 AM 10:24
BEAUFORT COUNTY, S.C.
CLERK OF COURT

This matter comes before the Court on Petition of Julie A. Jones, Special Administrator of the Estate of Janet Sue Scheerle ("Petitioner"), who requests this Court approve the settlement reached with the Defendants Brookdale Senior Living, Inc. ("Brookdale") and Southern Assisted Living, LLC, d/b/a Carolina House of Hilton Head ("Carolina House").

Petitioner's mother, Janet Sue Scheerle, was a resident at Carolina House assisted living facility when she allegedly suffered injuries on December 31, 2010. As a result of the alleged injuries, Mrs. Scheerle asserted claims against Defendants in an Amended Complaint filed on June 27, 2012. After the Circuit Court denied Defendants Brookdale and Carolina House's Motion to Compel Arbitration, Defendants filed a Notice of Appeal on September 7, 2012. Mrs. Scheerle passed away on February 13, 2013, during the pendency of the appeal. Her claims survived as claims of The Estate of Janet Sue Scheerle pursuant to S.C. Code Ann. § 15-5-90 (1976), the Survival Statute.

On February 21, 2014, Petitioner and Defendants Brookdale and Carolina House reached a settlement of this action. The parties subsequently notified the Supreme Court of the



settlement and submitted a copy of the proposed settlement agreement and release to the Court, pursuant to Rule 261, SCACR. On May 1, 2014, the Supreme Court issued an Order remanding this case to the Circuit Court to determine if the settlement should be approved.

This Court has considered the petition and exhibits presented to the Court, as well as the presentations of counsel and the testimony of Petitioner. The Court finds that Petitioner understands that the settlement payment is made in exchange for the release of all claims as stated in the settlement document. The Court finds that Petitioner and counsel have fully investigated this matter, given careful consideration to all aspects of the incident, lawsuit, and settlement, and have concluded that the settlement offer is fair, reasonable, and in the best interests of the Estate of Janet Sue Scheerle, and have asked this Court to approve the settlement.

Petitioner and Defendants Brookdale and Carolina House have agreed to a settlement of all claims in the present action, the terms of which are outlined in the Petition for Approval of Settlement of Survival Action and exhibits attached and incorporated by reference, in exchange for a full and final release of any and all claims which might be asserted by the Personal Representative of the Estate of Janet Sue Scheerle, or on behalf of the heirs at law, Julie A. Jones, Jacqueline E. Lynn, and Jeanne M. Meara, against Defendants as stated in the settlement document because of the alleged injuries to Janet Sue Scheerle. Upon full consideration of this matter, it appears to the Court that the settlement outlined in the Petition is fair and just and in the best interest of the parties.


IT IS ORDERED, ADJUDGED AND DECREED that Petitioner's Petition is approved, including the settlement set forth therein, and that upon payment of the amount set forth therein, the Petitioner, as Special Administrator of the Estate of Janet Sue Scheerle, is hereby authorized



and directed to execute such documents and to dismiss this action against Defendants, with prejudice.

IT IS ORDERED, ADJUDGED AND DECREED that the Court approves the payment of attorneys' fees and costs and the distribution of settlement proceeds as set forth in the Petition and Distribution Schedule.

This 12 day of May, 2014
Brewer, South Carolina



The Honorable Brooks P. Goldsmith
Fourteenth Judicial Circuit

SCACR. On May 1, 2014, the Supreme Court issued an Order remanding this case to the Circuit Court to determine if the settlement should be approved.

This Court has considered the petition and exhibits presented to the Court, as well as the presentations of counsel and the testimony of Petitioner. The Court finds that Petitioner understands that the settlement payment is made in exchange for the release of all claims as stated in the settlement document. The Court finds that Petitioner and counsel have fully investigated this matter, given careful consideration to all aspects of the incident, lawsuit, and settlement, and have concluded that the settlement offer is fair, reasonable, and in the best interests of Elizabeth O'Meara, and have asked this Court to approve the settlement.

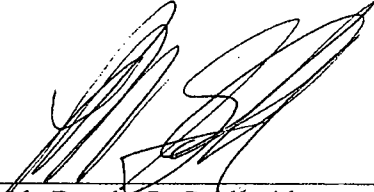
Petitioner and Defendants Brookdale and Carolina House have agreed to a settlement of all claims in the present action, the terms of which are outlined in the Petition for Approval of Settlement and exhibits attached and incorporated by reference, in exchange for a full and final release of any and all claims which might be asserted by or on behalf of Elizabeth O'Meara, against Defendants as stated in the settlement document because of the alleged injuries to Elizabeth O'Meara. Upon full consideration of this matter, it appears to the Court that the settlement outlined in the Petition is fair and just and in the best interest of the parties.

IT IS ORDERED, ADJUDGED AND DECREED that Petitioner's Petition is approved, including the settlement set forth therein, and that upon payment of the amount set forth therein, the Petitioner, as Attorney in Fact for Elizabeth O'Meara, is hereby authorized and directed to execute such documents and to dismiss any action against Defendants, with prejudice.

IT IS ORDERED, ADJUDGED AND DECREED that the Court hereby approves the payment of attorneys' fees and costs and the distribution of settlement proceeds as set forth in the Petition and Distribution Schedule.

A handwritten signature in black ink, appearing to be a stylized name, located in the bottom right corner of the page.

This 12 day of May, 2014
Beaufort, South Carolina

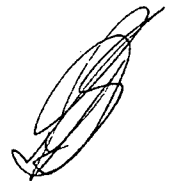


The Honorable Brooks P. Goldsmith
Fourteenth Judicial Circuit

On February 21, 2014, Petitioner and Defendants Brookdale and Carolina House reached a settlement of this action. The parties subsequently notified the Supreme Court of the settlement and submitted a copy of the proposed settlement agreement and release to the Court, pursuant to Rule 261, SCACR. On May 1, 2014, the Supreme Court issued an Order remanding this case to the Circuit Court to determine if the settlement should be approved.

This Court has considered the petition and exhibits presented to the Court, as well as the presentations of counsel and the testimony of Petitioner. The Court finds that Petitioner understands that the settlement payment is made in exchange for the release of all claims as stated in the settlement document. The Court finds that Petitioner and counsel have fully investigated this matter, given careful consideration to all aspects of the incident, lawsuit, and settlement, and have concluded that the settlement offer is fair, reasonable, and in the best interests of the Estate of Yvonne Carrie Pruett, and have asked this Court to approve the settlement.

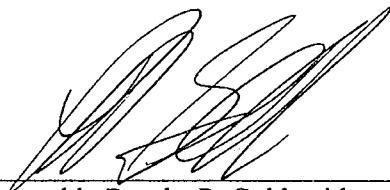
Petitioner and⁴ Defendants Brookdale and Carolina House have agreed to a settlement of the wrongful death and survival claims in the present action, the terms of which are outlined in the Petition for Approval of Wrongful Death and Survival Action and exhibits attached and incorporated by reference, in exchange for a full and final release of any and all claims which might be asserted by the Personal Representative of the Estate of Yvonne Carrie Pruett, or on behalf of the statutory beneficiaries, and the heirs at law, Samuel H. Pruett, Carrie P. Greene, and Steven S. Pruett, against Defendants as stated in the settlement documents because of the alleged injuries to and death of Yvonne Carrie Pruett. Upon full consideration of this matter, it appears to the Court that the settlement outlined in the Petition is fair and just and in the best interest of the parties.



IT IS ORDERED, ADJUDGED AND DECREED that Petitioner's Petition is approved, including the settlement set forth therein, and that upon payment of the amount set forth therein, the Petitioner, as Personal Representative, is hereby authorized and directed to execute such documents and to dismiss any action against Defendants, with prejudice.

IT IS ORDERED, ADJUDGED AND DECREED that the Court hereby approves the payment of attorneys' fees and costs and the distribution of settlement proceeds as set forth in the Petition and Distribution Schedule.

This 12 day of May, 2014
Greenville, South Carolina



The Honorable Brooks P. Goldsmith
Fourteenth Judicial Circuit