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**IN THE CIRCUIT COURT OF OUACHITA COUNTY, ARKANSAS
SIXTH DIVISION**

OUACHITA COUNTY, ARKANSAS
GLADYS H. JONES
CIRCUIT CLERK

Nellie R. Lamb, by and through Richard Williams,
as Guardian of the Estate and Person of Nellie R. Lamb; et al.

PLAINTIFFS

vs. Case No. 52CV-11-121-6

GGNSC Arkadelphia LLC d/b/a Golden LivingCenter–
Arkadelphia; GGNSC Camden LLC d/b/a Golden
LivingCenter–Camden; et al.

DEFENDANTS

**RESPONSE TO DEFENDANTS' MOTION FOR AN ORDER ENFORCING
THE REQUIREMENT THAT CLAIMANTS MEET APPLICABLE LEGAL
REQUIREMENTS AND TO ENJOIN THE PAYMENT
OF DISPUTED CLAIMS**

Come now Plaintiffs, by and through Class Counsel appointed by the Court,
and for their Response to the Defendants' Motion for an Order Enforcing the
Requirement That Claimants Meet Applicable Legal Requirements and to Enjoin
the Payment of Disputed Claims, state:

INTRODUCTION

The Settlement Agreement provides that an Eligible Class Member need
only file the information required by the Status and Benefit Form, which was
agreed to by Golden Living and approved by the Court. The Status and Benefit
Form only requires the Eligible Class Member to provide a file marked copy of a
Small Estate Affidavit. Golden Living does not challenge that the claimant was an

Eligible Class Member or that a file marked copy of a Small Estate Affidavit was filed. Accordingly, the requirements under the Settlement Agreement for an Eligible Class Member to be paid are satisfied and Rust correctly followed the conditions of the Settlement Agreement in approving the claims now disputed by Golden Living.

ARGUMENT

I. Claims Based Upon Small Claims Affidavits.

As stated, Golden Living does not challenge that the claimants were Eligible Class Members or that a filed marked copy of a Small Estate Affidavit was submitted, which are the only requirements that must be met to receive the benefit promised under the Settlement Agreement. Instead, the bulk of Golden Living's objections (216/243) is that the Small Estate Affidavits incorrectly state that "there are no unpaid claims or demands against the decedent or his or her estate, that the Department of Human Services furnished no federal or state benefits to the decedent, or, that if such benefits have been furnished, the department has been reimbursed in accordance with state and federal laws and regulations." Golden Living now seeks to impose the additional requirement on the Settlement Administrator to investigate and confirm the validity of the information contained in the Small Estate Affidavits submitted.

Golden Living cannot now renegotiate the Settlement Agreement to impose any additional terms. The validity of any claim filed is not contingent on the Administrator determining if creditors of an estate, including DHS, credit card companies, funeral home, etc., are accounted for or that any claim any creditor might have is protected. It is clear that the Settlement Agreement does not require the Administrator to administer the estate or assume the duties of administering the estate in any form or capacity.

The administration of an estate and the validity of any creditors' claim against an estate lies within the exclusive jurisdiction of the probate court, not this Court. Obviously, Golden Living does not have standing to challenge or otherwise intercede on behalf of unrelated creditors (i.e. Medicaid, credit card companies, funeral homes, car finance companies, etc.) as a defense to negate or otherwise limit a debtor's (Golden Living) obligation to pay an adjudicated debt owed to the estate. Golden Living essentially contends that they should not have to pay a valid claim if the estate did not disclose its creditors in its claim. Clearly, any issue between an estate and a creditor of the estate, whether it be DHS or a funeral home, is a probate issue between the creditor and the estate and does not affect Golden Living's legal obligation as a debtor of the estate.

Moreover, Golden Living's altruistic concern for the Arkansas Department of Human Services is simply a red-herring. In *Ark. Dept. of Human Services v.*

Ahlborn, 547 U.S. 268 (2006), the United States Supreme Court held that the Medicaid law does not allow the Arkansas Department of Human Services to seek recovery for the non-medical portions of a settlement. The federal anti-lien provisions of the Medicaid law explicitly prohibit Arkansas' attempts to do otherwise. *Id.* In *Wos v. ex. Rel. E.M.A.*, 133 S. Ct. 1391 (2013), the United States Supreme Court affirmed the principles set forth in *Ahlborn*. The Settlement Agreement explicitly states that the settlement is not compensation for medical expenses or services of any kind.

II. Inadequate Proof of Legal Authorization.

Golden Living objects to 24 claims approved by the Administrator because the claimants did not provide proof that the claimant was legally authorized to submit the claim. Class Counsel is in the process of verifying the information submitted in response to deficiency letters sent to the claimants and will supplement this response once that process is complete.


CONCLUSION

The claims approved by the Administrator should be paid.

Respectfully submitted,

CLASS COUNSEL

By: _____


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CERTIFICATE OF SERVICE

I, the undersigned, do hereby certify that a true and correct copy of the foregoing was served via email transmission upon the following counsel of record on this the 24th day of January, 2018:

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