

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF KINGS**

 LISA SIMMONS)
 and KELLY PETERSON-SMALL,)
 individually and on behalf of all others)
 similarly situated,)
)
 Plaintiffs,)
)
 v.)
)
 ASSISTCARE HOME HEALTH)
 SERVICES, LLC, d/b/a Preferred Home)
 Care of New York/Preferred Gold,)
)
 Defendant.)

Index No. 511490/2021

Judge: Hon. Larry D. Martin

**PLAINTIFFS’ NOTICE OF MOTION AND MOTION FOR
FINAL APPROVAL OF CLASS ACTION SETTLEMENT**

PLEASE TAKE NOTICE, that Plaintiffs Lisa Simmons and Kelly Peterson-Small (“Plaintiffs” or “Class Representatives”), individually and on behalf of all others similarly situated, move this Court at a. E-file/Motion Support Office, Room 227 thereof, at the courthouse located at 360 Adams Street, Brooklyn, New York on the 27th day of June, 2023, at 2:30 P.M., or as soon thereafter as counsel can be heard for an Order (1) granting final approval of the Settlement; (2) confirming the Court’s preliminary certification of the Settlement Class; (3) awarding Class Counsel Attorneys’ Fees and costs in the amount of \$235,000; and (4) awarding Plaintiffs service awards in the amount of \$1,500 to each Plaintiff for their service to the Settlement Class.

This Motion is made pursuant to N.Y. C.P.L.R. Ch. 8, Art. 9, §§ 901-904, and 908 and is based on: (1) this Motion; (2) Plaintiffs’ Memorandum in Support of Motion for Final Approval of Class Action Settlement (“Memorandum”); (3) The Declaration of the Settlement Administrator, attached to the Memorandum as Exhibit 1; (4) The Declaration of Gary M. Klinger in Support of Plaintiffs’ Motion for Final Approval of Class Action Settlement, attached to the

Memorandum as Exhibit 2; (5) Plaintiffs' Memorandum in Support of Plaintiffs' Unopposed Motion for Preliminary Approval of Class Action Settlement; (6) the Declaration of Gary M. Klinger in Support of Plaintiffs' Motion for Preliminary Approval of Class Action Settlement Agreement; (7) the Settlement Agreement; (8) the Notices of Class Action Settlement (including the Short Form Notice and Long Form Notice); (9) the Claim Form; (10) the Order Granting Preliminary Approval of Class Action Settlement; (11) the [Proposed] Final Approval Order and Judgment Granting Final Approval of Class Action Settlement; (12) the records, pleadings, and papers filed in this action; and (13) upon such other documentary and oral evidence or argument as may be presented to the Court at or prior to the hearing of this Motion.

Dated: June 13, 2023

Respectfully submitted,

/s/ Gary M. Klinger

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*Counsel for Plaintiffs Lisa Simmons and
Kelly Peterson-Small and Proposed Class*

CERTIFICATION OF COMPLIANCE WITH RULE 202.8-b

I hereby certify that the foregoing contains 292 words and is in compliance with the Court's word count limit.

Gary M. Klinger
Gary M. Klinger

CERTIFICATE OF SERVICE

I, Gary M. Klinger, hereby certify that on this 13th day of June, 2023, I caused a true and correct copy of the foregoing Plaintiffs' Notice of Motion and Motion for Final Approval of Class Action Settlement to be electronically filed using the Court's NYSCEF system, which will serve all counsel of record.

/s/ Gary M. Klinger

Gary M. Klinger