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5 Attorneys for Defendants, LIFE CARE CENTERS OF AMERICA, INC., ESCONDIDO
6 MEDICAL INVESTORS LIMITED PARTNERSHIP erroneously named and served as
7 "ESCONDIDO MEDICAL INVESTORS LIMITED PARTNERSHIP LIFE CARE CENTER OF
ESCONDIDO"

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10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
11 **COUNTY OF LOS ANGELES, CENTRAL CIVIL WEST DISTRICT**

12 BARBARA J. BOWLIN-BURDICK, an
13 individual on behalf of herself and all others
similarly situated,

14 Plaintiff,

15 v.

16 LIFE CARE CENTERS OF AMERICA, INC.,
17 a corporation; and DOES 1 through 10,
inclusive,

18 Defendant.

Case No. BC657139
[Assigned to Hon. Maren Nelson, Dept. 307]

**DEFENDANTS' ANSWER TO
PLAINTIFFS' SECOND AMENDED
COMPLAINT**

Action Filed: 4/10/2017

Trial Date: None Set

19
20 **COMES NOW** DEFENDANTS LIFE CARE CENTERS OF AMERICA, INC., and
21 ESCONDIDO MEDICAL INVESTORS LIMITED PARTNERSHIP erroneously named and
22 served as "ESCONDIDO MEDICAL INVESTORS LIMITED PARTNERSHIP LIFE CARE
23 CENTER OF ESCONDIDO" (collectively referred to as "Defendants") each for themselves in
24 Answer to the Second Amended Complaint of PLAINTIFFS BARBARA J. BOWLIN-BURDICK
25 and LUCY CHAVEZ (hereinafter "Plaintiffs"), on file herein as follows:

26 **GENERAL DENIAL**

27 1. Pursuant to the provisions of California Code of Civil Procedure section 431.30(d),
28

1 Defendants, and each of them, generally deny each and every allegation, cause of action and all
2 portions of the Complaint directed against Defendants, and each of them, and that Plaintiffs or the
3 class they propose have been damaged in the sums alleged or any sum whatsoever.

4 2. Defendants, and each of them, further deny that Plaintiffs or the class they propose
5 were damaged in any sum whatsoever from any act, omission, fault, conduct or liability on the
6 part of Defendants, or any of them, whether negligent, careless, unlawful, by any breach of
7 warrant or contract, or any nature alleged or otherwise, and denies that Defendants, or any of
8 them, was in any way negligent, careless, reckless, wanton, unlawful or breached any contract or
9 warranty, express or implied.

10 **AFFIRMATIVE DEFENSES**

11 **FIRST AFFIRMATIVE DEFENSE**

12 **(Failure to State Facts Sufficient for Cause of Action)**

13 3. The Complaint as a whole and each of the purported causes of action thereof fail to
14 set forth facts sufficient to constitute any cause of action against Defendants, or any of them.

15 **SECOND AFFIRMATIVE DEFENSE**

16 **(Failure to Mitigate Damages)**

17 4. As a separate and affirmative defense to the Complaint, these answering
18 Defendants, each allege that, even if Plaintiffs suffered damages or injuries, all or some portion of
19 said damages or injuries were caused or attributable to the Plaintiffs' failure to take reasonable
20 action to mitigate said injuries or damages.

21 **THIRD AFFIRMATIVE DEFENSE**

22 **(Unclean Hands)**

23 5. As a separate and affirmative defense to the Complaint, these answering
24 Defendants, each allege that Plaintiffs are barred from any relief by the equitable doctrine of
25 unclean hands.

26 **FOURTH AFFIRMATIVE DEFENSE**

27 **(Estoppel and Waiver)**

28 6. As a separate and affirmative defense to the Complaint, these answering

1 Defendants each allege that Plaintiffs, by reason of their own acts, omissions, representations
2 and/or courses of conduct, are estopped from asserting, and have waived any right to assert, their
3 claims against Defendants or any of them.

4 **FIFTH AFFIRMATIVE DEFENSE**

5 **(Frivolous Claim)**

6 7. As a separate and affirmative defense to the Complaint, these answering
7 Defendants each allege that all of Plaintiffs' claims against these answering Defendants, or any of
8 them, is frivolous, unreasonable and/or groundless and, accordingly, these answering Defendants
9 each allege that they should recover all costs and attorneys' fees incurred herein.

10 **SIXTH AFFIRMATIVE DEFENSE**

11 **(Compliance with the Law)**

12 8. As a separate and affirmative defense to the Complaint, these answering
13 Defendants each allege that each is in substantial and/or complete compliance with all applicable
14 laws and statutes.

15 **SEVENTH AFFIRMATIVE DEFENSE**

16 **(Sham Pleading)**

17 9. As a separate and affirmative defense to the Complaint, these answering
18 Defendants each allege that Plaintiffs' Complaint is a sham pleading made against these answering
19 Defendants and each of them not for alleged statutory wrongs and violations against Plaintiffs, but
20 solely for the financial gain of Plaintiffs.

21 **EIGHTH AFFIRMATIVE DEFENSE**

22 **(Good Faith)**

23 10. As a separate and affirmative defense to the Complaint, these answering
24 Defendants each allege that they each have complied in good faith with all applicable laws and
25 reasonable interpretations of the same pertaining to the wage and hour and payment requirements,
26 but not limited the California Labor Code and the California Business and Professions Code and
27 that each has not engaged in any other violation of law, including, but not limited to, unfair
28 business practices, as alleged by Plaintiffs in this action.

NINTH AFFIRMATIVE DEFENSE

(No Damages)

11. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs have not suffered any damage as a result of any actions taken by Defendants or any of them, and that Plaintiffs are thereby barred from asserting any claim against Defendants.

TENTH AFFIRMATIVE DEFENSE

(Compliance with Labor Code Section 201 *et seq.*)

12. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that each did not engage in any conduct that constitutes failure to provide immediate payment of wages upon discharge of an employee.

ELEVENTH AFFIRMATIVE DEFENSE

(California Labor Code §2854)

13. As a separate and affirmative defense to the Complaint, these answering Defendants each allege Plaintiffs' Complaint and each purported cause of action alleged therein is barred by Plaintiffs' failure to comply with their employee obligations pursuant to California Labor Code §2854.

TWELFTH AFFIRMATIVE DEFENSE

(California Labor Code §2856)

14. As a separate and affirmative defense to the Complaint, these answering Defendants each allege Plaintiffs' Complaint and each purported cause of action alleged therein is barred by Plaintiffs' failure to comply with their employee obligations pursuant to California Labor Code §2856.

THIRTEENTH AFFIRMATIVE DEFENSE

(California Labor Code §2857)

15. As a separate and affirmative defense to the Complaint, these answering Defendants each allege Plaintiffs' Complaint and each purported cause of action alleged therein is barred by Plaintiffs' failure to comply with their employee obligations pursuant to California

1 Labor Code §2857.

2 **FOURTEENTH AFFIRMATIVE DEFENSE**

3 **(California Labor Code §2865)**

4 16. As a separate and affirmative defense to the Complaint, these answering
5 Defendants each allege Plaintiffs' Complaint and each purported cause of action alleged therein is
6 barred by Plaintiffs' failure to comply with their employee obligations pursuant to California
7 Labor Code §2865.

8 **FIFTEENTH AFFIRMATIVE DEFENSE**

9 **(Failure to Exhaust Administrative Remedies)**

10 17. As a separate affirmative defense to the Complaint, these answering Defendants
11 each allege that Plaintiffs are barred from recovery because they failed to exhaust administrative
12 remedies required under any and all applicable statute and/or federal laws, including but not
13 limited to California Labor Code §§98-98.2.

14 **SIXTEENTH AFFIRMATIVE DEFENSE**

15 **(Impossibility)**

16 18. As a separate affirmative defense to the Complaint, these answering Defendants
17 each allege that any duty or obligation they may have had to perform for the benefit of Plaintiffs
18 was rendered impossible to perform due to the conduct of Plaintiffs.

19 **SEVENTEENTH AFFIRMATIVE DEFENSE**

20 **(Statute of Limitations)**

21 19. As a separate affirmative defense to the Complaint, these answering Defendants each
22 allege that Plaintiffs are barred from bringing this Complaint by the applicable statute of limitations,
23 including, but not limited to, Code of Civil Procedure §§ 335.1, 337(1), 338, 339, 340(a), 340(b),
24 under California Labor Code §§ 9, 201, 202, 203, 226, 226.7, 227, 227.3, 227.5, 229, 510, 512, 1194,
25 1194.2, 1194.5, 1197, 2698, 2699, 2699.3, 2699.5, 29 U.S.C.A. § 255, and/or Government Code §
26 12965(b).

EIGHTEENTH AFFIRMATIVE DEFENSE

(Prior Claims)

20. As a separate and affirmative defense to the Complaint, these answering Defendants each allege Plaintiffs' Complaint and each alleged cause of action is barred in whole or in part to the extent that Plaintiffs' have previously pursued any claim before the California Department of Industrial Relations, Division of Labor Standards Enforcement or the United States Department of Labor.

NINETEENTH AFFIRMATIVE DEFENSE

(Benefits Received)

21. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that each alleged cause of action is barred in whole or in part to the extent that Plaintiffs have previously been paid monies and/or received any other monetary benefit.

TWENTIETH AFFIRMATIVE DEFENSE

(No Unlawful/Unfair Practices)

22. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that each's business practices are not unlawful and/or unfair within the meaning of California Business and Professions Code § 17200, et seq. and that the utility of any such practice outweighs any potential harm.

TWENTY-FIRST AFFIRMATIVE DEFENSE

(Standing)

23. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that all of Plaintiffs' claims are barred in whole or in part because Plaintiffs lack standing to bring the asserted claims on behalf of themselves and others.

TWENTY-SECOND AFFIRMATIVE DEFENSE

(Not Intentional, Malicious, or Oppressive)

24. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that the conduct and/or violation of applicable law alleged against each is not sufficient to be determined as "intentional," "malicious," or "oppressive" within the meaning of applicable law.

TWENTY-THIRD AFFIRMATIVE DEFENSE

(Class Action/Representatives Not Proper)

25. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this action does not and cannot qualify for certification as a class action based upon applicable law, and the Plaintiffs are not proper or appropriate class representatives. Also, Plaintiffs lack standing to sue on behalf of the representative class under Business and Professions Code § 17200, et seq.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

(No Ascertainable Class)

26. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because there is no readily ascertainable class.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

(Numerosity)

27. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because the alleged class is not so numerous that joinder is impractical.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

(Predominance)

28. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because common issues of law and fact do not predominate over individual issues.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

(No Community Of Interest - Questions of Law And Fact)

29. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because there is no well-defined community of interest in the questions of law and fact involved in this putative class action.

TWENTY-EIGHTH AFFIRMATIVE DEFENSE

(Typicality)

30. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because Plaintiffs' claims are not typical of the claims of other putative class members.

TWENTY-NINTH AFFIRMATIVE DEFENSE

(Superiority)

31. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because a class action is not the superior way of resolving the claims of the putative class.

THIRTIETH AFFIRMATIVE DEFENSE

(Adequate Representation)

32. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because neither Plaintiffs nor their counsel are able to fairly and adequately protect the interest of all members of the alleged class.

THIRTY-FIRST AFFIRMATIVE DEFENSE

(Individualized Inquiry)

33. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because the liability issues raised by the Complaint require a detailed, fact-specific and individualized inquiry that must be decided employee-by-employee and are therefore not appropriate to be adjudicated on a class-wide basis.

THIRTY-SECOND AFFIRMATIVE DEFENSE

(Administrative Remedy)

34. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that this case is not appropriate for class certification because a far

1 speedier administrative remedy before the California State Labor Commissioner is available to
2 Plaintiffs and each alleged putative class member, and thus class treatment is not the superior
3 method for resolving the alleged claims.

4 **THIRTY-THIRD AFFIRMATIVE DEFENSE**

5 **(Code of Civil Procedure §382)**

6 35. As a separate and affirmative defense to the Complaint, these answering
7 Defendants each allege that Plaintiffs have not and cannot satisfy the requirements of California
8 Code of Civil Procedure § 382.

9 **THIRTY-FOURTH AFFIRMATIVE DEFENSE**

10 **(Failure to Comply With Requirements of Labor Code Section 2699.3)**

11 36. As a separate and affirmative defense to the Complaint, these answering
12 Defendants each allege that Plaintiffs are barred from seeking civil penalties on behalf of
13 themselves and others to the extent that they failed to satisfy the pre-filing requirements of Labor
14 Code § 2699.3 as to each and every alleged Labor Code violation upon which penalties are being
15 sought.

16 **THIRTY-FIFTH AFFIRMATIVE DEFENSE**

17 **(No Standing Under Labor Code Section 2698, et seq.)**

18 37. As a separate and affirmative defense to the Complaint, these answering
19 Defendants each allege that Plaintiffs are barred from seeking civil penalties, on behalf of
20 themselves and others because they are not "aggrieved employees" as defined in Labor Code §
21 2699 (c).

22 **THIRTY-SIXTH AFFIRMATIVE DEFENSE**

23 **(29 U.S.C. § 216(b))**

24 38. As a separate and affirmative defense to the Complaint, these answering
25 Defendants each allege that the groups of persons Plaintiffs allegedly purport to represent, the
26 existence of which is expressly denied, cannot be represented in this action due to their failure to
27 abide by the "opt-in" requirements of 29 U.S.C. § 216(b).
28

THIRTY-SEVENTH AFFIRMATIVE DEFENSE

(Class Allegations are Vague and Uncertain)

39. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' class allegations are vague and uncertain and either they should be dismissed for failure to state a claim upon which relief may be granted or Plaintiffs should be ordered to make a more definite statement of them.

THIRTY-EIGHTH AFFIRMATIVE DEFENSE

(Laches)

40. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that the Complaint, and each of its causes of action, is barred in whole or in part by the doctrine of laches.

THIRTY-NINTH AFFIRMATIVE DEFENSE

(Res Judicata and/or Collateral Estoppel)

41. The Complaint, and each of its causes of action, is barred in whole or in part by the doctrines of res judicata and collateral estoppel.

FORTIETH AFFIRMATIVE DEFENSE

(Release)

42. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that the Complaint, and each of its causes of action, is barred in whole in part by the release of claims given by Plaintiffs and each of them.

FORTY-FIRST AFFIRMATIVE DEFENSE

(Failure to comply with statutory obligations)

43. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that the Complaint, and each of its causes of action, is barred in whole or in part because plaintiff did not satisfy and/or breached his statutory obligations as provided in the California Labor Code, including but not limited to California Labor Code sections 2854, 2856-2859, 2922, and 2924.

FORTY-SECOND AFFIRMATIVE DEFENSE

(Good Faith Belief)

44. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that the Complaint, each of its causes of action, and in particular each of plaintiffs claims for statutory or civil penalties, is barred in whole or in part because Defendants and each of them had an honest, good-faith belief that all decisions with respect to Plaintiffs, and each of them, were made solely for legitimate, business-related reasons and were reasonably based upon the facts as Defendants and each of them understood them.

FORTY-THIRD AFFIRMATIVE DEFENSE

(Waiver)

45. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs and each of them has waived the right, if any, to pursue the claims in the Complaint, and each of its causes of action by reason of Plaintiffs' own actions and course of conduct.

FORTY-FOURTH AFFIRMATIVE DEFENSE

(Payment of Wages)

46. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claim for failure to pay wages is barred because Plaintiffs, and each of them, was paid all wages owed in accordance with the law.

FORTY-FIFTH AFFIRMATIVE DEFENSE

(Provision of Meal and Rest Periods)

47. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claims for failure to provide meal periods and rest breaks are barred because Plaintiffs and each of them were provided meal periods and rest breaks in accordance with the law; Plaintiffs were not required to work during any meal period or rest break; and any failure by Plaintiffs or either of them to take a meal period or rest break was due to her own election and not any act or omission by Defendants or any of them.

FORTY-SIXTH AFFIRMATIVE DEFENSE

(Consent & Waiver)

48. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claims for failure to provide meal periods and rest breaks are barred to the extent that Plaintiffs and each of them consented to the waiver of her meal periods and/or rest breaks.

FORTY-SEVENTH AFFIRMATIVE DEFENSE

(No private cause of action)

49. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claim for failure to provide meal periods under California Labor Code section 512 is barred because section 512 does not support a private right of action.

FORTY-EIGHTH AFFIRMATIVE DEFENSE

(No knowing or intentional failure to provide properly itemized wage statements)

50. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claim for failure to render properly itemized wage statements is barred because Defendants, and each of them, did not knowingly and intentionally fail to render properly itemized wage statements; and its failure, if any, to provide such wage statements was inadvertent and/or due to clerical error.

FORTY-NINTH AFFIRMATIVE DEFENSE

(No damages)

51. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claim for failure to render properly itemized wage statements is barred because Plaintiffs and each of them suffered no actual injury from the alleged failure to render properly itemized wage statements.

FIFTIETH AFFIRMATIVE DEFENSE

(No statutory or civil penalty)

52. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs and each of them are not entitled to any statutory and/or civil

1 penalty award under the California Labor Code because, at all times relevant to the Complaint,
2 Defendants, and each of them, did not willfully fail to comply with the compensation provisions of
3 the California Labor Code or the applicable wage order, but rather acted in good faith and had
4 reasonable grounds for believing that it did not violate the compensation provisions of the
5 California Labor Code or the applicable wage order.

6 **FIFTY-FIRST AFFIRMATIVE DEFENSE**

7 **(Good Faith Dispute)**

8 53. As a separate and affirmative defense to the Complaint, these answering
9 Defendants each allege that Plaintiffs and each of them are not entitled to any statutory and/or civil
10 penalty award under the California Labor Code because there is a good-faith dispute as to
11 Defendants' and each of their obligation to pay any wages that may be found to be due.

12 **FIFTY-SECOND AFFIRMATIVE DEFENSE**

13 **(Due Process)**

14 54. As a separate and affirmative defense to the Complaint, these answering
15 Defendants each allege that recovery of statutory and/or civil penalties is barred to the extent that
16 the accumulation of penalties would be so disproportionate to the harm alleged to violate due
17 process under the Constitutions of the United States and the State of California.

18 **FIFTY-THIRD AFFIRMATIVE DEFENSE**

19 **(No injury to competition)**

20 55. As a separate and affirmative defense to the Complaint, these answering
21 Defendants each allege that Plaintiffs' claim under California Business and Professions Code
22 section 17200 et seq. is barred because Plaintiffs and each of them cannot show an injury to
23 competition, as distinguished from injury to herself, which such injury Defendants and each of
24 them deny.

25 **FIFTY-FOURTH AFFIRMATIVE DEFENSE**

26 **(No deceptive practice)**

27 56. As a separate and affirmative defense to the Complaint, these answering
28 Defendants each allege that Plaintiffs' claim under California Business and Professions Code

1 section 17200 et seq. is barred because Plaintiffs and each of them cannot show a deception upon
2 the public.

3 **FIFTY-FIFTH AFFIRMATIVE DEFENSE**

4 **(Violation of rights)**

5 57. As a separate and affirmative defense to the Complaint, these answering
6 Defendants each allege that Plaintiffs' claim under California Business and Professions Code
7 section 17200 et seq. is barred because the provisions, as stated and as sought to be applied by
8 Plaintiffs, violate Defendants' and each of their rights under the United States Constitution and the
9 California Constitution in that, among other things, they are void for vagueness, violative of equal
10 protection, violative of due process, an undue burden upon interstate commerce, and violative of
11 the freedom of contract.

12 **FIFTY-SIXTH AFFIRMATIVE DEFENSE**

13 **(Injunctive relief is improper)**

14 58. As a separate and affirmative defense to the Complaint, these answering
15 Defendants each allege that Plaintiffs' claim under California Business and Professions Code
16 section 17200 et seq. is barred because Plaintiffs and each of them have adequate remedies at law
17 for the alleged violations, and the requirements for imposition of an injunction have not been met.

18 **FIFTY-SEVENTH AFFIRMATIVE DEFENSE**

19 **(Failure to Plead with specificity)**

20 59. As a separate and affirmative defense to the Complaint, these answering
21 Defendants each allege that Plaintiffs' claim under California Business and Professions Code
22 section 17200 et seq. is barred because Plaintiffs and each of them have failed to plead with
23 sufficient particularity her claims of false, unfair, or fraudulent conduct.

24 **FIFTY-EIGHTH AFFIRMATIVE DEFENSE**

25 **(Inadequate Representative)**

26 60. As a separate and affirmative defense to the Complaint, these answering
27 Defendants each allege that Plaintiffs and each of them is an inadequate representative of each of
28 the Proposed Classes.

FIFTY-NINTH AFFIRMATIVE DEFENSE

(Violation of Separation of Powers)

61. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that prosecution of Plaintiffs' causes of action as a representative action under Private Attorneys General Act ("PAGA") and/or an award of penalties under PAGA against Defendants or any of them would violate the constitutionally based separation of powers doctrine.

SIXTIETH AFFIRMATIVE DEFENSE

(Violation of rights)

62. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that prosecuting a representative action under PAGA, based upon the facts and circumstances alleged in support of Plaintiffs' Complaint, would be an unconstitutional denial of Defendants, and each of their, rights contained in the United States Constitution and the California Constitution, including, but not limited to, the due process clause of the Fourteenth Amendment to the United States Constitution and Article I, Section 7 of the California Constitution.

SIXTY-FIRST AFFIRMATIVE DEFENSE

(Failure to Exhaust Administrative Remedies)

63. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs and each of them failed to exhaust their administrative remedies under PAGA prior to filing their Complaint.

SIXTY-SECOND AFFIRMATIVE DEFENSE

(Excessive Damages)

64. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that Plaintiffs' claims and the claims of the allegedly aggrieved employees Plaintiffs and each of them seek to represent, are barred at least in part because an award of penalties would result in the imposition of excessive fines in violation of the Eighth Amendment to the United States Constitution and Article I Section 7 of the California Constitution.

SIXTY-THIRD AFFIRMATIVE DEFENSE

(Defenses apply to each member of the putative class)

65. As a separate and affirmative defense to the Complaint, these answering Defendants each allege that in the event that a class should be certified in this matter, Defendants and each of them incorporates by reference and re-alleges as to the causes of action of each member of that class or classes each and every and all of the defenses raised against Plaintiffs' causes of action set forth herein.

SIXTY-FOURTH AFFIRMATIVE DEFENSE

(Right to Add Other Affirmative Defenses)

66. Defendants each specifically reserves the right to amend this Answer and any affirmative defenses alleged hereinabove, and to add additional affirmative defenses, as allowed and permitted under United States and California law.

REQUEST FOR ATTORNEYS' FEES

67. Each cause of action alleged in Plaintiffs' complaint is frivolous and without merit. Defendants have each been required to retain the services of counsel in defending themselves against each such cause of action and is entitled to recover their attorney's fees incurred in defending each such cause of action pursuant to Government Code § 12965(b), Labor Code § 218.5 and Code of Civil Procedure §§ 128.5 and 128.6.

WHEREFORE, Defendants prays for judgment as follows:

1. That Plaintiffs take nothing by way of their First Amended Complaint;
2. That Plaintiffs' First Amended Complaint be dismissed with prejudice and that judgment be awarded in favor of Defendants, and each of them;

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- 1 3. For costs of suit herein; and
2 4. For such other and further relief as this Court may deem just and proper.
3

4 DATED: February 13, 2018

WOOD, SMITH, HENNING & BERMAN LLP

5
6 By: 

7 CONSTANCE A. ENDELICATO
8 STACEY F. BLANK

9 Attorneys for Defendants, LIFE CARE CENTERS OF
10 AMERICA, INC., ESCONDIDO MEDICAL
11 INVESTORS LIMITED PARTNERSHIP erroneously
12 named and served as "ESCONDIDO MEDICAL
13 INVESTORS LIMITED PARTNERSHIP LIFE CARE
14 CENTER OF ESCONDIDO"
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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles, State of California. I am over the age of eighteen years and not a party to the within action. My business address is 10960 Wilshire Boulevard, 18th Floor, Los Angeles, CA 90024-3804.


On February 14, 2018, I served the following document(s) described as **DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY ELECTRONIC SERVICE: I electronically served the document(s) described above via Case Anywhere, on the recipients designated on the service list located on the Case Anywhere website, pursuant to the Court Order establishing the case website and authorizing service of documents.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 14, 2018, at Los Angeles, California.


Gianna M. DeGuire

SERVICE LIST
Bowlin-Burdick v. Life Care Centers of America, Inc.
BC657139

*****Service via Case Anywhere*****

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