

1 LAW OFFICES OF THOMAS W. FALVEY
 2 THOMAS W. FALVEY, SBN 65744
 3 J.D. HENDERSON, SBN 235767
 4 JUDY D. JONAS, SBN 123982
 5 DANIEL O'NEIL-ORTIZ, SBN 269299
 6 301 North Lake Avenue, Suite 800
 7 Pasadena, California 91101
 8 Telephone: (626) 795-0205
 9 Attorneys for Plaintiff
 10 ESTELEEE DALEY, on behalf of herself
 11 and all others similarly situated
 12
 13 JOHN M. GARRICK, ESQ. SBN 108321
 14 ANDREW K. DOTY, ESQ. SBN 135054
 15 LARSON, GARRICK & LIGHTFOOT, LLP
 16 801 South Figueroa Street, Suite 1750
 17 Los Angeles, California 90017
 18 Tel (213) 404-4100 / Fax (213) 404-4123
 19 Attorneys for Defendant
 20 ROSE HILLS COMPANY dba ROSE HILLS
 21 MEMORIAL PARK AND MORTUARY
 22 (incorrectly sued as Rose Hills Memorial Park & Mortuary)

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FILED
 SUPERIOR COURT OF CALIFORNIA
 COUNTY OF LOS ANGELES

JUN 06 2012
 John A. Clarke, Executive Officer/Clerk
 By Christopher G. Washington, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF LOS ANGELES

16	ESTELEE DALEY, an individual, on behalf	)	Case No.: BC 425654
17	of herself and all others similarly situated,)	
18		)	[CLASS ACTION]
19	Plaintiff,)	
20		)	Judge: Hon. Deirdre Hill
21	vs.	)	Department: 49
22)	
23	ROSE HILLS MORTUARY, L.P., a limited	)	[PROPOSED] ORDER GRANTING
24	partnership, SKYROSE CHAPEL	)	PRELIMINARY APPROVAL OF CLASS
25	FOUNDATION AT ROSE HILLS	)	ACTION SETTLEMENT
26	MEMORIAL PARK, a business entity of)	
27	unknown form, ROSE HILLS COMPANY, a	)	Complaint Filed: November 10, 2009
28	business entity of unknown form, ROSE	)	Trial Date: TBD
	HILLS MEMORIAL PARK & MORTUARY,)	
	a business entity of unknown form, and	)	Date: May 4, 2012
	DOES 1 through 25, inclusive,	)	Time: 8:30 a.m.
		)	Location: Dept. 49
	Defendants.)	
)	

1 WHEREAS, Plaintiff ESTELEEE DALEY (“Plaintiff”) and Defendant entered into
2 a Settlement and Release Between Plaintiff and Defendant Rose Hills Company dba Rose Hills
3 Memorial Park and Mortuary (the “Settlement Agreement”) intended to resolve this litigation;

4 WHEREAS, Plaintiff’s Motion for Preliminary Approval came on regularly for
5 hearing in Department 49 of this Court on May 4, 2012. Plaintiff appeared by Thomas W.
6 Falvey and J.D. Henderson of the Law Offices of Thomas W. Falvey. Defendant appeared by
7 John M. Garrick, Esq., and Andrew K. Doty, Esq., of Larson, Garrick & Lightfoot.

8 WHEREAS, the Court has heard the attorneys for the parties with respect to the
9 proposed settlement of this action;

10 WHEREAS, the Court is satisfied that the settlement set forth in the Settlement
11 Agreement was the result of good faith, arm’s-length settlement negotiations among competent
12 and experienced counsel for both Plaintiff and Defendant; and

13 WHEREAS, the Court, having conducted a hearing respecting the reasonableness
14 of proceeding with this proposed settlement, and good cause appearing therefore, now finds and
15 orders as follows:

16 1. The provisions of the Settlement Agreement are hereby provisionally approved,
17 subject to further consideration thereof at the Fairness Hearing provided for below. The Court
18 finds that this settlement is sufficiently within the range of reasonableness that notice of the
19 proposed settlement should be given as provided for in this Order.

20 2. The Court has considered the pleadings and arguments of Class Counsel in
21 support of the Motion for Preliminary Approval, and finds the proposed Settlement Class is
22 proper and should be certified, for settlement purposes only, in the circumstances of this action.
23 Specifically, the Court finds that, for settlement purposes only, there is an ascertainable
24 Settlement Class and a community of interest among the members of the Settlement Class.
25 Certification of the Settlement Class for settlement purposes is the best means for protecting the
26 interests of all members of the class.

27 3. The Court finds for the purposes of settlement only that: (I) the number of
28 individuals in the Settlement Class is so numerous that joinder would be impractical; (ii) there is

1 a commonality of interests between the Class Representative and the members of the Settlement
2 Class; (iii) there are questions of law and fact that are common to the Settlement Class, and the
3 common questions related to the settlement predominate over individual questions; (iv) the Class
4 Representative's claims are typical of the claims of absent members of the Settlement Class; and
5 (v) the Class Representative will fairly and adequately represent the interests of the absent
6 members of the Settlement Class. The Court further conditionally finds that the Law Offices of
7 Thomas W. Falvey (collectively, "Class Counsel") is adequate class counsel.

8 4. Therefore, pursuant to Code of Civil Procedure ("C.C.P.") section 382, the Court
9 hereby conditionally certifies the following settlement class:

10 All Family Service Counselors who are or have been employed by
11 Defendant in the State of California at any time during the time
12 period from November 10, 2005 through the date of Preliminary
13 Approval of this Settlement.

14 5. If the Stipulation of Settlement is terminated or is not consummated for any
15 reason whatsoever, the conditional certification of the Settlement Class shall be void; the
16 Defendant shall have reserved all their rights to oppose any and all class certification motions
17 and to contest the adequacy of the Class Representative and to contest the adequacy of the Law
18 Offices of Thomas W. Falvey as Class Counsel. This Order shall not be admissible as evidence
19 during any class certification hearings.

20 6. The Court further conditionally approves the proposed Notice of Class Action
21 Settlement ("Class Notice"), Proof of Claim Form and Exclusion Form attached as Exhibits 2, 3,
22 and 4 respectively, to the Henderson Declaration In Support Of Preliminary Approval of Class
23 Action Settlement ("Henderson Decl.").

24 7. The Court further conditionally approves the proposed method of notice described
25 in the Stipulation of Settlement and directs distribution of the Class Notice, Proof of Claim Form
26 and Exclusion Form to the members of the Settlement Class.

27 8. The Court further conditionally approves payment of \$10,000 to Class
28 Representative Estelee Daley, said payment to come from the Maximum Payment.

1 9. The Court further conditionally approves payment of \$5,000 to the State of
2 California Labor and Workforce Development Agency (“LWDA”) for civil penalties.

3 10. The Court further conditionally approves reimbursement of Class Counsel’s costs,
4 currently estimated at \$10,000 for all past, present and future costs, from the Maximum Payment.

5 11. The Court further conditionally approves payment of reasonable attorney’s fees of
6 one-third of the Maximum Payment (\$191,666).

7 12. The Court further conditionally approves the appointment of Simpluris, Inc. as
8 Claims Administrator and preliminarily approves costs of administration for an amount estimated
9 to be approximately \$20,000, to be paid from the Maximum Payment.

10 13. A hearing on final settlement approval (the “Fairness Hearing”) is hereby
11 scheduled to be held before this Court on SEPT. 19, 2012, at 8:30 a.m. in Department 49
12 to consider the fairness, reasonableness, and adequacy of the proposed settlement, the dismissal
13 with prejudice of this class action with respect to the released parties that are defendants therein,
14 and the entry of final judgment.

15 14. Briefs in support of final approval shall be filed on or before SEPT. 6,
16 2012.

17 15. Any person who does not elect to be excluded (“opt-out”) from the Settlement
18 Class may, but need not, enter an appearance through his or her own attorney. Settlement Class
19 members who do not enter an appearance through their own attorneys will be represented by
20 Class Counsel.

21 16. Any person who does not elect to be excluded (“opt-out”) from the Settlement
22 Class may, but need not, submit comments or objections to the proposed Settlement. All such
23 comments or objections and any supporting papers must be filed with the Clerk of Court, in
24 writing, not later than forty-five (45) days after the date the Claims Administrator first mails the
25 Class Notice, Proof of Claim Form, and Exclusion Form to members of the Settlement Class, and
26 copies of all such papers must be delivered to the following not later than forty-five (45) days
27 after the date the Claims Administrator first mails the Class Notice, Proof of Claim Form, and
28 Exclusion Form to members of the Settlement Class:

1 Thomas W. Falvey
2 J.D. Henderson
3 Law Offices of Thomas W. Falvey
4 301 North Lake Avenue, Suite 800
5 Pasadena, CA 91101
6 Attorneys for Plaintiff

7 John M. Garrick, Esq.
8 Andrew K. Doty, Esq.
9 Larson, Garrick & Lightfoot, LLP
10 801 South Figueroa, Suite 1750
11 Los Angeles, CA 90017-5504
12 Attorneys for Defendant

13 17. Attendance at the Fairness Hearing is not necessary; however, persons wishing to be
14 heard at the Fairness Hearing are required to file written comments or objections and indicate in
15 their written comments or objections their intentions to appear at the hearing. Settlement Class
16 members need not appear at the hearing or take any other action to indicate their approval of the
17 settlement.

18 SO ORDERED this 6th day of May, 2012.

19 
20 _____
21 Judge of the Superior Court