

Exhibit A

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CANNON & ASSOCIATES, LLC dba POLARIS GROUP
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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 R. FELLEN, INC., a California corporation, dba) CASE NO. 1:14-cv-02081-GEB-SMS
13 SUNNYSIDE CONVALESCENT HOSPITAL; and)
14 DAKOTA MEDICAL, INC., a California) **SECOND SUPPLEMENTAL**
15 corporation, dba GLENOAKS CONVALESCENT) **RESPONSE TO PLAINTIFF'S**
HOSPITAL; individually and on behalf of all others) **REQUEST FOR ADMISSIONS**
similarly situated,)

16 Plaintiffs,)
17)

18 v.)
19)

20 REHABCARE GROUP, INC., a Delaware)
corporation; and CANNON & ASSOCIATES, LLC,)
21 a Delaware limited liability corporation, dba)
POLARIS GROUP,)

22 Defendants.)
23)

24 PROPOUNDING PARTY: Plaintiff, DAKOTA MEDICAL, INC., d/b/a GLENOAKS
25 CONVALESCENT HOSPITAL

26 RESPONDING PARTY: Defendant, CANNON & ASSOCIATES, LLC, dba POLARIS
27 GROUP

28 SET NO.: ONE

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1 Pursuant to Federal Rule of Civil Procedure Rule 36, Defendant CANNON
2 ASSOCIATES, LLC, dba POLARIS GROUP (“Defendant”) responds under oath to Plaintiff
3 DAKOTA MEDICAL, INC., d/b/a GLENOAKS CONVALESCENT HOSPITAL’s (“Plaintiff”)
4 First Set of Requests for Admission.

5 **INTRODUCTION**

6 The responding party has not fully completed its investigation of the facts relating to this
7 case, and has not fully completed its discovery in this action, nor has it completed its preparation
8 for trial. All of the responses contained herein are based only upon such information and
9 documents which are presently available to and specifically known to this responding party and
10 disclose only those contentions which are presently known to such responding party, It is
11 anticipated that further discovery, independent investigation, legal research and analysis will
12 supply additional facts, add meaning to the known facts, as well as establish entirely new factual
13 conclusions and legal contentions, all of which may lead to substantial additions to, changes and
14 variations from the responses herein set forth.

15 The following responses are given without prejudice to this responding party’s right to
16 produce evidence of any subsequently discovered fact or facts which this responding party may
17 later recall or locate. Responding party accordingly reserves the right to change any and all
18 responses herein as additional facts are ascertained, analyses are made, legal research is
19 completed and contentions are made. The responses contained herein are made in a good faith
20 effort to supply as much factual information and as much specification of legal contentions as are
21 presently known, but should in no way be to the prejudice of Defendant in relation to further
22 discovery, research or analysis.

23 **REQUESTS FOR ADMISSION AND RESPONSES THERETO**

24 **REQUEST FOR ADMISSIONS NO. 1:**

25 Admit that YOU did not have an ESTABLISHED BUSINESS RELATIONSHIP with
26 GLENOAKS at the time the GLENOAKS FAXES were sent via facsimile transmission to (818
27 247-0949.
28

1 **RESPONSE TO REQUEST NO. 1:**

2 Defendant incorporates its General Objections. Defendant objects to this request on the
3 grounds it is premature.

4 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 1:**

5 Defendant further objects to this request on the ground that it calls for a legal conclusion,
6 particular with respect to use of the defined term "Established Business Relationship". Without
7 waiving the foregoing General Objections and specific objections, responding party responds as
8 follows: Defendant admits that to date it has been unable to locate any evidence of a business
9 relationship with Plaintiff. However, Defendant's investigation and discovery is continuing.
10 Defendant has directly or indirectly done business with hundreds of entities. Accordingly, there
11 may exist some evidence, of which Defendant is not presently aware, regarding some form of
12 prior business relationship with Plaintiff, either directly or through parents, subsidiaries,
13 affiliates, officers, directors, employees or agents of Plaintiff. Therefore, Defendant reserves the
14 right to modify or amend this response based upon such later acquired or discovered evidence.

15 **SECOND SUPPLEMENTAL RESPONSE TO REQUEST NO. 1:**

16 Defendant objects to this request on the ground that it calls for a legal conclusion,
17 particular with respect to use of the defined term "Established Business Relationship". Without
18 waiving the foregoing objection, responding party responds as follows: Defendant admits that to
19 date it has been unable to locate any evidence of a business relationship with Plaintiff. However,
20 Defendant's investigation and discovery is continuing. Defendant has directly or indirectly done
21 business with many hundreds of entities. Accordingly, there may exist some evidence, of which
22 Defendant is not presently aware, regarding some form of prior business relationship with
23 Plaintiff, either directly or through parents, subsidiaries, affiliates, officers, directors, employees
24 or agents of Plaintiff. Therefore, Defendant reserves the right to modify or amend this response
25 based upon such later acquired or discovered evidence.

26 **REQUEST FOR ADMISSIONS NO. 2:**

27 Admit that GLENOAKS did not give PRIOR EXPRESS INVITATION OR
28 PERMISSION to be sent the GLENOAKS FAXES via facsimile transmission to (818) 247 0949.

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1 **RESPONSE TO REQUEST NO. 2:**

2 Defendant incorporates its General Objections. Defendant objects to this request on the
3 grounds it is premature.

4 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 2:**

5 Defendant further objects to this request on the ground that it calls for a legal conclusion,
6 particular with respect to use of the defined term "Prior Express Invitation or Permission".
7 Without waiving the foregoing General Objections and specific objections, responding party
8 responds as follows: Deny. Plaintiff was a member of California Association of Health
9 Facilities (CAHF) during all relevant times. As such, Plaintiff provided its contact information,
10 including its facsimile number, to CAHF for inclusion in the CAHF Membership Directory so
11 that it could be contacted by other CAHF members. As such, Plaintiff gave the members of
12 CAHF the requisite prior permission/consent to contact Plaintiff, including via facsimile during
13 all relevant periods. Defendant refers Plaintiff to the CAHF Membership Directory for the years
14 2010-2014, which are equally available to Plaintiff. Furthermore, Defendant has directly or
15 indirectly communicated with hundreds of entities over the course of its existence and, in that
16 regard, has received direct requests from those entities to send them information regarding
17 Defendant, such as, for example, by being given a business card with the recipient's contact
18 information, including facsimile number. Accordingly, there may exist some additional
19 evidence, of which Defendant is not presently aware, regarding other forms of prior
20 permission/consent from Plaintiff, either directly or indirectly through parents, subsidiaries,
21 affiliates, officers, directors, employees or agents of Plaintiff. Therefore, Defendant reserves the
22 right to modify or amend this response as its investigation and discovery continue.

23 **SECOND SUPPLEMENTAL RESPONSE TO REQUEST NO. 2:**

24 Defendant objects to this request on the ground that it calls for a legal conclusion,
25 particular with respect to use of the defined term "Prior Express Invitation or Permission".
26 Without waiving the foregoing objection, responding party responds as follows: Deny. Plaintiff
27 was a member of California Association of Health Facilities (CAHF) during all relevant times.
28 As such, Plaintiff provided its contact information, including its facsimile number, to CAHF for

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1 inclusion in the CAHF Membership Directory so that it could be contacted by other CAHF
2 members. As such, Plaintiff gave the members of CAHF the requisite prior permission/consent
3 to contact Plaintiff, including via facsimile during all relevant periods. Defendant refers Plaintiff
4 to the CAHF Membership Directory for the years 2010-2014, which are equally available to
5 Plaintiff. Furthermore, Defendant has directly or indirectly communicated with many hundreds,
6 if not thousands, of entities over the course of its existence and, in that regard, has received direct
7 requests from those entities to send them information regarding Defendant, such as, for example,
8 by being given a business card with the recipient's contact information, including facsimile
9 number. Accordingly, there may exist some additional evidence, of which Defendant is not
10 presently aware, regarding other forms of prior permission/consent from Plaintiff, either directly
11 or indirectly through parents, subsidiaries, affiliates, officers, directors, employees or agents of
12 Plaintiff. Therefore, Defendant reserves the right to modify or amend this response as its
13 investigation and discovery continue.

14 **REQUEST FOR ADMISSIONS NO. 3:**

15 Admit that the sending of the GLENOAKS FAXES via facsimile transmission to (818
16 247-0949 violated the TCPA.

17 **RESPONSE TO REQUEST NO. 3:**

18 Defendant incorporates its General Objections. Defendant objects to this request on the
19 grounds it is premature.

20 **SUPPLEMENTAL RESPONSE TO REQUEST NO. 3:**

21 Defendant objects to this request on the ground that it calls for a legal conclusion.
22 Without waiving the foregoing General Objections and specific objections, responding party
23 responds as follows: Deny. See response to Request No. 2, incorporated herein by this
24 reference. Further, Defendant was granted a retroactive waiver by the FCC, which waived the
25 opt-out requirements concerning facsimile transmissions. In addition, there is no evidence that
26 Plaintiff ever received the Faxes.

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1 SECOND SUPPLEMENTAL RESPONSE TO REQUEST NO. 3:

2 Defendant objects to this request on the ground that it calls for a legal conclusion.
3 Without waiving the foregoing objection, responding party responds as follows: Deny. See
4 response to Request No. 2, incorporated herein by this reference. Further, Defendant was
5 granted a retroactive waiver by the FCC, which waived the opt-out requirements concerning
6 facsimile transmissions. In addition, there is no evidence that Plaintiff ever received the Faxes.

7 Dated: February 1, 2016

GORDON & REES LLP

8
9 By:



Fletcher C. Alford
David L. Jordan
Daniel S. Kubasak
Attorneys for Defendant:
CANNON & ASSOCIATES, LLC dba
POLARIS GROUP

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VERIFICATION

I, Chuck Cave, declare:

I am the President of Cannon & Associates, LLC, dba Polaris Group, a company organized and existing under the laws of the State of Delaware, and which is a Defendant in the above-entitled action. I am authorized to make this verification on its behalf.

I have read the foregoing Second Supplemental Response to Dakota Medical, Inc.'s Request for Admissions (Set One) on file herein and know the contents thereof. To the extent I have personal knowledge of the matters set forth therein, the same are true and correct. Insofar as said matters are a composite of the information of many individuals, I do not have personal knowledge concerning all of the information contained in said Response, but I am informed and believe that the information set forth therein for which I lack personal knowledge is true and correct.

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

Executed at Tampa, Florida on this 1st day of February, 2016.

Chuck Cave
Chuck Cave

PROOF OF SERVICE

STATE OF CALIFORNIA)
)
COUNTY OF SAN FRANCISCO)

I am employed in the County of San Francisco, State of California.

I am over the age of eighteen years and not a party to the within action. My business address is 275 Battery Street, Ste. 2000, San Francisco California 94111.

On **February 1, 2016**, I served the following document(s):

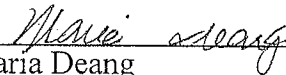
SECOND SUPPLEMENTAL RESPONSE TO PLAINTIFF'S REQUEST FOR ADMISSIONS

on all interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

- BY MAIL:** I sealed such envelope(s) and placed it (them) for collection and mailing on this date following the ordinary business practices of Gordon & Rees LLP. I am readily familiar with the business practices of Gordon & Rees LLP for collection and processing of correspondence for mailing with the United States Postal Service. Such correspondence would be deposited with the United States Postal Service at Los Angeles, California this same day in the ordinary course of business with postage thereon fully prepaid.
- BY ELECTRONIC MAIL:** Based on Court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the said documents to be sent to the persons at the electronic mail addresses listed below (see attached service list). I did not receive within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- BY FACSIMILE** — I transmitted via telecopier machine such document to the interested parties at the facsimile number(s) listed on the attached service list.
- (STATE):** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.
- (FEDERAL):** I declare that I am employed in the office of a member of the bar of this court at whose direction the service was made.

Executed this **1st day of February, 2016** at San Francisco, California.



Maria Deang

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SERVICE LIST

R. Fellen, Inc. v. Rehabare Group, Inc., et al.
Case No. 14-cv-02081-GEB-SMS
File No. 08019.20

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