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17 Dakota Medical, Inc., dba  
Glenoaks Convalescent Hospital

18  
19 **UNITED STATES DISTRICT COURT**

20 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

21 DAKOTA MEDICAL, INC., individually,  
and on behalf of all others similarly  
22 situated,

23 Plaintiff,

24 v.

25 REHABCARE GROUP, INC., *et al.*,

26 Defendants.

Case No.: 1:14-cv-02081-DAD-BAM

**Declaration of R. William Nemeć in  
Support of Plaintiff's Motions for Final  
Approval of Class Settlement and  
Certification of Settlement Class**

**[Fed. R. Civ. P. 23]**

Date: Sept. 7, 2017  
Time: 9:30 A.M.  
Courtroom: 5

1 I, R. William Nemec, declare:  
2

3 1. I am employed as a paralegal by the law firm of Payne & Fears LLP, counsel  
4 in this case for Plaintiff Dakota Medical, Inc., dba Glenoaks Convalescent Hospital. I have  
5 personal knowledge of the facts set forth herein, except as to those stated on information  
6 and belief and, as to those, I am informed and believe them to be true. If called as a  
7 witness, I could and would competently testify to the matters stated herein.  
8

9 2. I have a Bachelor's of Science degree in Criminal Justice from California  
10 State University Long Beach which was awarded to me in May 2006.  
11

12 3. I was awarded a Certificate as a Litigation Attorney Assistant in August  
13 1987 from the UCLA Attorney Assistant Training Program in affiliation with the  
14 University of California, Los Angeles, School of Law. I have been continuously employed  
15 with various firms as a paralegal from October 1, 1987, to the present.  
16

17 4. Throughout my career I have used electronic spreadsheet and relational  
18 database management software programs to assist attorneys with the analysis of data  
19 related to various issues and have become proficient in the use of this type of software.  
20

21 5. In addition to my paralegal duties at Payne & Fears LLP, I am a member of  
22 our firm's technical support group, wherein I conduct training and assist attorneys,  
23 paralegals, and support staff with the use of and technical issues related to litigation  
24 support software including spreadsheet and relational database management programs.  
25

26 6. In my declaration dated March 21, 2017, filed in this case, I described the  
27 sources of data and methodology used to create the preliminary version of the Master  
28 Facsimile Transmission Database ("MFTD") consisting of 12,976 non-duplicative

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1 facsimile telephone numbers that received successful facsimile transmissions together with  
2 contact information for most of those numbers.

3  
4 7. In paragraph 11 of my declaration, I discussed the identification of 152  
5 entries to be provisionally excluded from the MFTD. Two of those entries are related to  
6 Pines Nursing Home and the remaining 150 entries are related to facilities owned or  
7 affiliated with RehabCare Group or Kindred Healthcare.

8  
9 8. In April 2017, I was asked by Attorney Scott Luskin to examine the data for  
10 the 150 entries related to RehabCare/Kindred Healthcare facilities to determine if any of  
11 those facilities were sold during the class period. I was informed that entries  
12 corresponding to facilities sold during the class period would remain on the MFTD, and  
13 that these facilities would receive credit for faxes received from the time of sale until the  
14 end of the class period.


15  
16 9. Mr. Luskin informed me that the dates stored in the operation expiration  
17 column contained in the RehabCare/Kindred Healthcare facility list data represent the date  
18 a particular facility was sold. I then examined the facility list data and found operation  
19 expiration dates falling within the class period for 43 out of the 150 RehabCare/Kindred  
20 Healthcare facilities appearing on the MFTD. Since these 43 facilities were sold during  
21 the class period, their entries remain on the final MFTD. Thus, the total number of entries  
22 excluded from the final MFTD was reduced to 109 entries; 107 of those entries associated  
23 with RehabCare/Kindred Healthcare facilities that were not sold during the class period,  
24 and two entries associated with Pines Nursing Home. After excluding these entries, a total  
25 of 12,867 entries remain on the final MFTD.

26  
27 10. On April 19 I prepared a Microsoft Excel workbook containing all entries in  
28 the proposed MFTD database, a highlighted list of entries to be excluded from the list, and

1 a key to those highlighted entries. The entries highlighted for removal were ultimately  
2 deleted from the final MFTD, which I later prepared for transmission to the settlement  
3 administrator.

4  
5 I declare under penalty of perjury under the laws of the United States of America  
6 that the foregoing is true and correct.

7  
8 Executed August 1, 2017, at Irvine, California.

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10  
11   
12 \_\_\_\_\_  
13 R. William Nemeč

14  
15 4841-7822-1388.1

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