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17 **UNITED STATES DISTRICT COURT**

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

19 DAKOTA MEDICAL, INC.,
individually, and on behalf of all others
20 similarly situated,

21 Plaintiff,

22 v.

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

24 Defendants.

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

Hon. Dale A. Drozd

**Declaration of Dennis R. Hunter 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

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1 I, Dennis R. Hunter, declare:
2

3 1. I am Vice President at Brooke Grove Foundation (“Brooke Grove”),
4 which operates two skilled facilities, assisted homes and a continuing care
5 retirement community in Pennsylvania. I am authorized to submit this declaration
6 on its behalf. I understand that certain Brooke Grove facilities are members of the
7 settlement class in this lawsuit and will receive shares of the settlement fund. I
8 make this declaration in support of the motion to approve the settlement, the motion
9 for class counsel to recover attorneys’ fees and costs, and plaintiff’s motion for
10 incentive award. I have personal knowledge of the following facts, and could testify
11 competently thereto if called as a witness in this action.
12

13 2. I have been Vice President at Brooke Grove since 1996. Brooke Grove
14 operates two skilled facilities, assisted homes and a continuing care retirement
15 community.
16

17 3. I understand that certain Brooke Grove facilities were subscribers of
18 telephone numbers that had been sent fax advertisements promoting “Polaris Group”
19 products and services. Brooke Grove did not agree to receive these faxes, nor, to the
20 best of my knowledge, did anyone at the facilities. Brooke Grove facilities do not
21 like or consent to these types of unsolicited faxes because they tie up business fax
22 machines and unnecessarily waste paper toner, and other resources, including
23 Brooke Grove facilities employees’ time.
24

25 4. The Brooke Grove facilities may have thrown away most of these faxes
26 as junk mail, but I understand that the settlement administrator will nevertheless be
27 able to determine how many faxes Brooke Grove facilities received from
28 transmission records produced in this case. Without these records, it appears that

1 Brooke Grove facilities would have no way to be compensated.

2

3 5. Brooke Grove facilities support the proposed class settlement. I
4 understand that the law provides for minimum statutory damages of \$500 per
5 violation, but that full \$500 recovery was not possible in settlement. The class
6 notice indicates that defendants Polaris Group and RehabCare agreed to pay \$25
7 million to create a settlement fund, that Class Counsel may seek up to one third of
8 the settlement fund to compensate them for attorney fees and costs, and that the
9 plaintiff may seek up to \$15,000 as an incentive award. This appears to be a
10 significant recovery for the class.

11

12 6. I also understand that attorneys' fees will be paid from the class
13 recovery, and that the class attorneys are seeking (1) one third of the fund for
14 attorneys' fees, (2) reimbursement of expenses, and (3) a \$15,000 incentive award
15 for the class representative. If requests are granted, I understand that the two

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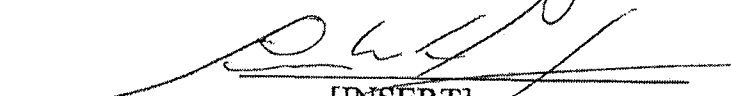
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Brooke Grove facilities are still projected to collectively receive approximately \$4,172. (See Schedule A.) This will be a significant award for these facilities. Brooke Grove fully supports the requested fees, reimbursement, and incentive award because we believe the request is fair and the class lawyers and class representative obtained an excellent recovery. The fee request generally lines up with how we pay outside counsel on contingency, based on my knowledge of contingent fee work. In fact, my understanding is that a higher percentage is usually paid in contingency cases that are litigated through settlement or trial.

7. Overall, I appreciate class counsel's and plaintiff's efforts in this case. The Brooke Grove facilities may not have completed their Class Member Information Forms or W-9s without class counsel. It was helpful that counsel reached out to Brooke Grove's corporate headquarters directly to assist in completing the forms for the Brooke Grove facilities. The result for Brooke Grove and the settlement administration have both been exemplary.

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

Executed this 21st day of July 2017 at Brooke Grove Foundation
Sandy Spring, MD


[INSERT]
Dennis K. Hunter

4815-5812-5643.1