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17 **UNITED STATES DISTRICT COURT**

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

19 DAKOTA MEDICAL, INC.,
20 individually, and on behalf of all others
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 Rustan Williams 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, Rustan Williams, declare:
2

3 1. I am Vice President, Information Services/Technical Services, of The
4 Evangelical Lutheran Good Samaritan Society (“Evangelical”), which operates
5 numerous senior care service facilities throughout the United States. I am
6 authorized to submit this declaration on its behalf. I understand that certain
7 Evangelical facilities are members of the settlement class in this lawsuit and are
8 entitled to receive a share of the settlement fund. I make this declaration in support
9 of the motion to approve the settlement, the motion for class counsel to recover
10 attorneys’ fees and costs, and plaintiff’s motion for incentive award. I have personal
11 knowledge of the following facts, and could testify competently thereto if called as a
12 witness in this action.
13

14 2. I have been Vice President, Information Services/Technical Services,
15 of Evangelical since June 1997. Evangelical operates numerous senior care service
16 facilities throughout the United States.
17

18 3. I understand that certain Evangelical facilities were subscribers of
19 telephone numbers that had been sent fax advertisements promoting “Polaris Group”
20 products and services. Evangelical did not agree to receive these faxes, nor, to the
21 best of my knowledge, did anyone at the facilities. Evangelical facilities do not like
22 or consent to these types of unsolicited faxes because they tie up business fax
23 machines and unnecessarily waste paper toner, and other resources, including
24 Evangelical facilities employees’ time.
25

26 4. The Evangelical facilities may have thrown away most of these faxes as
27 junk mail, but I understand that the settlement administrator will nevertheless be
28 able to determine how many faxes Evangelical facilities received from transmission

1 records produced in this case. Without these records, it appears that Evangelical
2 facilities would have no way to be compensated.

3
4 5. The Evangelical facilities support the proposed class settlement. I
5 understand from the class notice that Defendants agreed to create a \$25 million
6 common fund for the class's benefit. I understand that the law provides for
7 minimum statutory damages of \$500 per violation, but that despite a two-year
8 litigation that was not possible to obtain in settlement. Yet the class is still receiving
9 fair, reasonable, and adequate compensation because it is likely that few, if any, of
10 the class members kept copies of junk faxes they received. Under the
11 circumstances, I believe the overall settlement and the Evangelical facilities'
12 recovery are excellent.

13
14 6. I also understand that attorneys' fees will be paid from the class
15 recovery, and that the class attorneys are seeking (1) one third of the fund for
16 attorneys' fees, (2) reimbursement of expenses, and (3) a \$15,000 incentive award
17 for the class representative. If requests are granted, I understand that the 85
18 Evangelical facilities are still projected to collectively receive approximately
19 \$76,153. (*See* Schedule A.) This will be a significant award for these facilities.
20 Evangelical fully supports the requested fees, reimbursement, and incentive award
21 because we believe the request is fair and the class lawyers and class representative
22 obtained an excellent recovery. The fee request generally lines up with how we pay
23 outside counsel on contingency, based on my knowledge of contingent fee work. In
24 fact, my understanding is that a higher percentage is usually paid in contingency
25 cases that are litigated through settlement or trial.


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27 7. Overall, I appreciate class counsel's and plaintiff's efforts in this case.
28 In fact, Evangelical facilities may not have completed their Class Member

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Information Forms or W-9s without the assistance of class counsel. It was helpful that counsel reached out to us to assist in completing the forms for the Evangelical facilities. The result for Evangelical 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 28th day of July 2017 at Sioux Falls, South Dakota.



Rustan Williams
Vice President, Information
Services/Technical Services

4836-1164-9612.1

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