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16 Glenoaks Convalescent Hospital

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 Debra Pierce 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

27
28 ///

1 I, Debra Pierce, declare:
2

3 1. I am Associate General Counsel at GGNSC Administrative Services,
4 LLC, which encompasses a family of healthcare companies that includes facilities
5 referred to as Golden Living that operate post-acute healthcare facilities across the
6 United States. I am authorized to submit this declaration on its behalf. I have
7 learned that 219 Golden Living Centers are members of the class in this lawsuit
8 because they subscribed to telephone numbers that received "Polaris Group" fax
9 advertisements between 2010 and 2014. I make this declaration in support of the
10 motion to approve the settlement, the motion for class counsel to recover attorneys'
11 fees and costs, and plaintiff's motion for incentive award. I have personal
12 knowledge of the following facts, and could testify competently thereto if called as a
13 witness in this action.
14

15 2. I have been employed at GGNSC Administrative Services, LLC, in my
16 current position since 2015. I am an attorney licensed to practice law by the State of
17 Missouri and have been licensed for 25 years. My responsibilities include handling
18 and overseeing certain legal matters for Golden Living facilities, including oversight
19 of outside attorneys that represent Golden Living or one of the facilities. My
20 responsibilities include reviewing invoices from law firms and approving those
21 invoices for payment. I estimate that I have reviewed well over a thousand legal
22 bills as part of my professional responsibilities.
23

24 3. Between 2010 and 2014, Golden Living operated approximately 250
25 post-acute healthcare centers, including living centers and living communities. The
26 facilities were located in, among other locations, California, Indiana, Massachusetts,
27 Minnesota and Wisconsin, and provide rehabilitation therapy, nursing care, and
28 pharmacy services.

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1 4. I have learned that the 219 Golden Living facilities are members of the
2 class because they received fax advertisements promoting “Polaris Group” products
3 and services. As a matter of policy, Golden Living does not give permission to
4 vendors to send fax advertisements to our facilities. Our facilities do not like these
5 types of unsolicited faxes because they tie up our fax machines and unnecessarily
6 waste paper toner, and other resources, including the time of our employees.
7

8 5. We do not keep copies of junk faxes we receive, and likely no longer
9 have any “Polaris Group” faxes. I understand, however, that we will be credited
10 under the proposed settlement for all successful fax transmissions to our telephone
11 numbers based on transmission logs produced in this lawsuit. Without this litigation
12 and this treatment of the issue, it appears that our facilities would have no way to be
13 compensated.
14

15 6. Golden Living does not oppose the proposed class settlement. The
16 class notice indicates that defendants Polaris Group and RehabCare agreed to pay
17 \$25 million to create a settlement fund, and that the fund will be used to pay class
18 members based on the number of faxes they received, pay costs of settlement
19 administration, pay attorneys’ fees and expenses, and pay an incentive award to
20 Dakota Medical, the named plaintiff. This appears to be a reasonable recovery for
21 the class.
22

23 7. I understand that the 219 Golden Living facility class members
24 received 40,317 successful fax transmissions and, if the settlement is approved, are
25

26 ///

27

28 ///

1 projected to collectively receive about \$296,000, after deducting for costs of
2 settlement administration, attorneys' fees/expenses and incentive awards. (See
3 Schedule A.) This will be a fair and reasonable award for the facilities.
4

5 8. I also understand that Class Counsel are asking the Court to award one
6 third of the total settlement fund as their attorneys' fees and for reimbursement of
7 costs. I also understand that the named plaintiff, Dakota Medical, is requesting a
8 \$15,000 incentive award for its service in the case. Golden Living does not object
9 to these requests.
10

11 9. Class Counsel was helpful to us in assisting us to complete Class
12 Member Information Forms and substitute form W-9s.
13

14 10. I declare under penalty of perjury under the laws of the United States
15 that the foregoing is true and correct.
16

17 Executed this 28th day of July 2017 at St. Louis, Missouri.
18
19
20

21 Debra Pierce
22 [INSERT DECLARANT'S NAME]
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25
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4833-4581-6907.1

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