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17 **UNITED STATES DISTRICT COURT**

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

19 DAKOTA MEDICAL, INC., a DAKOTA
20 MEDICAL, INC., 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. Drozed

**Declaration of Theresa Creagh in
Support of Plaintiff's Motions for Final
Approval of Class Settlement and
Certification of Settlement Class**

Date: Sept. 7, 2017

Time: 9:30 a.m.

Courtroom: 5

27 ///

28 ///

1 I, Theresa Creagh, declare:

2
3 1. I am General Counsel of Grane Healthcare Co. (“Grane Healthcare”), which
4 manages 12 skilled nursing facilities in Pennsylvania (“Grane Healthcare facilities”). I am
5 authorized to submit this declaration on its behalf. I understand certain Grane Healthcare
6 facilities are members of the settlement class in this lawsuit and are entitled to receive a
7 share of the settlement fund. I make this declaration in support of the motion to approve
8 the settlement, the motion for class counsel to recover attorneys’ fees and costs, and
9 plaintiff’s motion for incentive award. I have personal knowledge of the following facts,
10 and could testify competently thereto if called as a witness in this action.

11
12 2. I have been General Counsel for Grane Healthcare since 2000. Grane
13 Healthcare manages numerous senior care service facilities throughout Pennsylvania.

14
15 3. I understand that certain Grane Healthcare facilities were subscribers of
16 telephone numbers that had been sent fax advertisements promoting “Polaris Group”
17 products and services. Grane Healthcare did not agree to receive these faxes, nor, to the
18 best of my knowledge, did anyone at the facilities. Grane Healthcare facilities do not like
19 or consent to these types of unsolicited faxes because they tie up business fax machines and
20 unnecessarily waste paper toner, and other resources, including Grane Healthcare facilities
21 employees’ time.

22
23 4. The Grane Healthcare facilities may have thrown most of these faxes away
24 as junk mail, but I understand settlement administrator will nevertheless be able to
25 determine how many faxes Grane Healthcare facilities received from transmission records
26 produced in this case. Without these records, it appears the Grane Healthcare facilities
27 would have no way to be compensated.

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

9
10 6. I also understand that attorneys’ fees will be paid from the class recovery,
11 and that the class attorneys are seeking (1) one third of the fund for attorneys’ fees, (2)
12 reimbursement of expenses, and (3) a \$15,000 incentive award for the class representative.
13 If requests are granted, I understand that the 6 Grane Healthcare facilities that are class
14 members are still projected to collectively receive over \$12,000. This will be a significant
15 award for these facilities. Grane Healthcare and Grane Healthcare facilities fully support
16 the requested fees, reimbursement, and incentive award because we believe the request is
17 fair and the class lawyers and class representative obtained an excellent recovery. The fee
18 request generally lines up with how we pay outside counsel on contingency, based on my
19 knowledge of contingent fee work. In fact, my understanding is that a higher percentage is
20 usually paid in contingency cases that are litigated through settlement or trial.

21
22 7. Overall, I appreciate class counsel’s and plaintiff’s efforts in this case. In
23 fact, Grane Healthcare facilities may not have completed their Class Member Information
24 Forms or W-9s without the assistance of class counsel. It was helpful

25
26 ///

27
28 ///

1 that counsel reached out to us to assist in completing the forms for the Grane
2 Healthcare facilities. The result for Grane Healthcare and the settlement
3 administration have both been exemplary.

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

7
8 Executed this 27 day of July 2017 at Pittsburgh, Pennsylvania.

9
10
11 
12 THERESA CREAGH

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