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15 Attorneys for Plaintiff Dakota Medical, Inc., dba
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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 similarly
20 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 Craig Robinson 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, Craig Robinson, declare:
2

3 1. I am President of Orianna Health Systems, LLC (formerly known as
4 Covenant Dove, LLC), which operates skilled nursing and assisted living facilities
5 throughout the country. I am authorized to submit this declaration on its behalf. I
6 understand that certain Orianna Health Systems, LLC's facilities are members of the
7 settlement class in this lawsuit and are entitled to receive a share of the settlement fund. I
8 make this declaration in support of the motion to approve the settlement, the motion for
9 class counsel to recover attorneys' fees and costs, and plaintiff's motion for incentive
10 award. I have personal knowledge of the following facts, and could testify competently
11 thereto if called as a witness in this action.
12

13 2. I have been President of Orianna Health Systems, LLC (formerly Covenant
14 Dove, LLC) since September 1, 2015. Orianna Health Systems, LLC (hereinafter
15 "Orianna") operates 36 skilled nursing facilities and assisted living centers throughout the
16 country.
17

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

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

1 be compensated.

2

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

11

12 6. I also understand that attorneys' fees will be paid from the class recovery,
13 and that the class attorneys are seeking (1) one third of the fund for attorneys' fees, (2)
14 reimbursement of expenses, and (3) a \$15,000 incentive award for the class representative.
15 If requests are granted, I understand that the 36 Orianna facilities are still projected to
16 collectively receive over \$54,719. (*See* Schedule A.) This will be a significant award for
17 these facilities. Orianna fully supports the requested fees, reimbursement, and incentive
18 award because we believe the request is fair and the class lawyers and class representative
19 obtained an excellent recovery. The fee request generally lines up with how we pay
20 outside counsel on contingency, based on my knowledge of contingent fee work. In fact,
21 my understanding is that a higher percentage is usually paid in contingency cases that are
22 litigated through settlement or trial.

23

24 7. Overall, I appreciate class counsel's and plaintiff's efforts in this case. In
25 fact, Orianna facilities may not have completed their Class Member Information Forms or
26 W-9s without the assistance of class counsel. It was helpful that counsel reached out to
27 our outside counsel directly to assist in completing the forms for the

28

1 Orianna facilities. The result for Orianna and the settlement administration have
2 both been exemplary.

3
4 I declare under penalty of perjury under the laws of the United States that the
5 foregoing is true and correct.

6
7 Executed this 18 day of July 2017 at 9:17am @ Orianna
8 in Nashville, Tennessee.

9
10 
CRAIG ROBINSON

11 4812-9546-1193.1

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