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15 Attorneys for Plaintiff Dakota Medical, Inc.,
16 dba Glenoaks Convalescent Hospital

17 UNITED STATES DISTRICT COURT

18 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

19 DAKOTA MEDICAL, INC., individually,
20 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 Nick Anderson in
Support of Plaintiff's Motions for Final
Approval of Class Settlement, for an
Award of Attorneys' Fees, and for an
Incentive Award**

[Fed. R. Civ. P. 23]

Date: Sept. 7, 2017
Time: 9:30 A.M.
Courtroom: 5

1 I, Nick Anderson, declare:

2
3 1. I am Chief Operating Officer of Plum Healthcare Group, which operates
4 post-acute healthcare facilities in the California, Arizona, Nevada and Utah. I am
5 authorized to submit this declaration on its behalf. I have learned that 38 Plum Healthcare
6 Group facilities are members of the class in this lawsuit because they subscribed to
7 telephone numbers that received “Polaris Group” fax advertisements between 2010 and
8 2014. I make this declaration in support of the motion to approve the settlement, the
9 motion 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 COO at Plum Healthcare Group since 2014. My responsibilities
14 include oversight, strategy and leadership development of Plum Healthcare Group. Plum
15 Healthcare Group provides support services to 63 skilled nursing facilities in California,
16 Arizona, and Utah. These facilities provide rehabilitation therapy, nursing care, and
17 personal care services.

18
19 3. I have learned that 38 of our facilities to which Plum Healthcare Group, LLC
20 provides support services are members of the class because they received fax
21 advertisements promoting “Polaris Group” products and services. (These facilities are
22 shown in Exhibit A.) As a matter of business strategy, the skilled nursing facilities to
23 which Plum Healthcare Group provides support services do not give permission to vendors
24 to send fax advertisements. These types of unsolicited faxes tie up fax machines and
25 unnecessarily waste paper toner, and other resources, including our employees’ time.

26
27 4. The skilled nursing facilities to which Plum Healthcare Group provides
28 support services do not, as a matter of policy, retain copies of fax advertisements from

1 vendors and prospective vendors, and it is extremely unlikely that copies of “Polaris
2 Group” faxes sent between 2010 and 2014. I understand, however, that Plum Healthcare
3 Group, LLC will be credited under the proposed settlement for all successful fax
4 transmissions to telephone numbers based on transmission logs produced in the lawsuit.
5 Without this litigation and this treatment of the issue, it appears that the skilled nursing
6 facilities to which Plum Healthcare Group provides support services would have no way to
7 be compensated.

8
9 5. Plum Healthcare Group supports the proposed class settlement. The class
10 notice indicates that defendants Polaris Group and RehabCare have agreed to pay \$25
11 million to create a settlement fund, and that the fund will be used to pay class members
12 based on the number of faxes they received, pay costs of settlement administration, pay
13 attorneys’ fees and expenses, and pay an incentive award to Dakota Medical, the named
14 plaintiff. This appears to be a significant recovery for the class.

15
16 6. I have learned from class attorney Darryl Cordero that the 38 Plum class
17 members received 9,291 successful fax transmissions and, if the settlement is approved,
18 are projected to collectively receive about \$65,000, after deductions for costs of settlement
19 administration, attorneys’ fees/expenses and an incentive award to the named plaintiff.
20 This will be a significant award for the skilled nursing facilities to which Plum Healthcare
21 Group provides support services.

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1 7. I also understand that Class Counsel are asking the Court to award one
2 third of the total settlement fund as their attorneys' fees and for reimbursement of
3 costs. I also understand that the named plaintiff, Dakota Medical, is requesting a
4 \$15,000 incentive award for its service in the case. Plum Healthcare Group, LLC
5 supports these requests, even though they affect net recovery, because I believe they
6 are fair and the class lawyers and class representative obtained an excellent
7 recovery. In my role as COO, I am very familiar with legal billings and the market
8 rates for attorneys throughout California. The one-third fee request generally lines
9 up with how Plum Healthcare Group, LLC pays attorneys hired on contingent fee
10 arrangements, and I believe this is reasonable.

11
12 8. Overall, I appreciate Class Counsel's and Plaintiff's efforts in this case.
13 Class Counsel was very helpful in assisting us to complete Class Member
14 Information Forms and substitute form W-9s. The result for Plum Healthcare
15 Group, LLC and the settlement administration have both been exemplary.

16
17 I declare under penalty of perjury under the laws of the United States that the
18 foregoing is true and correct.

19
20 Executed this 31st day of July 2017 at Rocklin, California.

21
22
23 
24 Nicklas Anderson

25 Plum Healthcare Group Declaration ISO Plaintiff's Motions for Final Approval of Class Settlement, for an Award of Attorneys' Fees, and for an Incentive
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