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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 Joshua Sable 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, Joshua Sable, declare:
2

3 1. I am the general counsel of S&F Management Company, LLC
4 (“SNF”), which provides a variety of professional services to the skilled nursing and
5 assisted living facilities in California and Arizona operating under the name
6 “Windsor”. I am authorized to submit this declaration on its behalf. Over twenty
7 Windsor facilities are members of the settlement class in this lawsuit and will
8 receive shares of the settlement fund. I make this declaration in support of the
9 motion to approve the settlement, the motion for class counsel to recover attorneys’
10 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 the general counsel for SNF acting on behalf of the
15 Windsor facilities for a little less than eight years. There are about thirty skilled
16 nursing facilities and three assisted living centers located throughout California and
17 Arizona operating under the “Windsor” name. As general counsel, my
18 responsibilities include working with outside counsel, especially to review legal
19 bills submitted for payment. I have also worked with counsel in contingent fee
20 cases, and I am intimately familiar with that billing arrangement. In fact, I
21 previously was a partner with a law firm that acted as outside counsel for numerous
22 businesses on both a contingent and hourly basis.
23

24 3. During my time with SNF, certain Windsor facilities were sent fax
25 advertisements promoting Polaris Group products and services. I did not agree to
26 receive these faxes, nor, to the best of my knowledge, did anyone else at the
27 facilities. SNF and the Windsor facilities do not like these faxes because they tie up
28 our fax machines, waste our employees’ time, and consume paper and toner.

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1 4. SNF and the Windsor facilities support the proposed class settlement. I
2 understand that the law provides for minimum statutory damages of \$500 per
3 violation, but that full \$500 recovery was not possible in settlement. The class notice
4 indicates that defendants agreed to pay \$25 million to create a settlement fund, that
5 Class Counsel may seek up to one third of the settlement fund to compensate them
6 for attorney fees, and that the plaintiff may seek up to \$15,000 as an incentive
7 award. This appears to be a significant recovery for the class, and I believe such
8 requests are fair in light of the exemplary settlement.
9

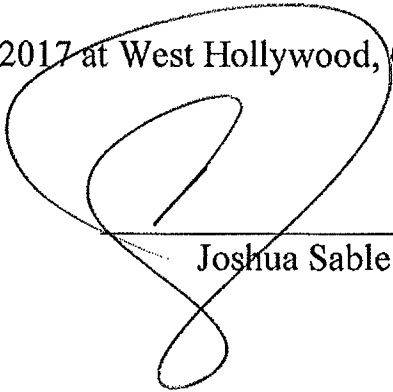
10 5. In fact, the Windsor facilities threw the faxes away, so without the
11 settlement we likely would have no way to be compensated. I understand, however,
12 that because of the work of the class representative and counsel, the settlement
13 administrator will be able to determine how many faxes we received from
14 transmission records produced in this case. Under these circumstances my facilities'
15 recoveries are excellent.
16

17 6. I understand that attorneys' fees, costs, and the incentive award will be
18 paid from the class recovery. I also understand that (1) the class attorneys are
19 seeking payment for fees in an amount equal to 33 percent of the class settlement
20 fund, (2) reimbursement of expenses, and (3) that the class representative is seeking
21 a \$15,000 service award. If the Court grants these requests, the Windsor facilities
22 are still projected to receive over \$30,000. This is a significant award for us. We
23 fully support the requests because we believe the class lawyers and class
24 representative obtained an excellent recovery and believe the requests are fair. The
25 fee request lines up well with how we pay outside counsel and my knowledge of
26 contingent fee work. In fact, my understanding is that a higher percent can be paid
27 in contingency cases.
28

1 7. Overall, I appreciate class counsel's and plaintiff's efforts in this case.
2 The Windsor facilities may not have completed their Class Member Information
3 Forms or W-9s without class counsel. It was helpful that counsel reached out to me
4 directly to assist in completing the forms for the Windsor facilities. The result for
5 Windsor and the settlement administration have both been exemplary.

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

9
10 Executed this 13th day of July 2017 at West Hollywood, California.



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Joshua Sable

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