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14 dba Glenoaks Convalescent Hospital, and the
Certified Class

15
16 **UNITED STATES DISTRICT COURT**

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

18 DAKOTA MEDICAL, INC., individually,
and on behalf of all others similarly
19 situated,

20 Plaintiff,

21 v.

22 REHABCARE GROUP, INC., *et al.*,

23 Defendants.
24

Case No.: 1:14-cv-02081-DAD-BAM

Judge: Hon. Dale A. Drozd

**Declaration of Kenneth Jue [KCC]
Advising on Class Distribution Status;
Exhibit**

[Fed. R. Civ. P. 23]

Date: September 5, 2018

Time: 9:30 A.M.

Courtroom 5

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1 I, Kenneth Jue, declare:
2

3 1. I am employed as a senior project manager of the Class Action Group at
4 KCC, LLC. KCC serves as the court-appointed administrator of the *RehabCare Group*
5 class settlement. I am responsible for overseeing the administrative services provided in
6 this settlement. I have personal knowledge of the facts set forth herein and, if called as a
7 witness, could and would testify competently thereto.
8

9 2. KCC was asked to report regarding the distribution of settlement funds to
10 date. This updates my report to the Court dated March 30, 2018 (ECF No. 214). This
11 report discusses certain entries in the Funds Analysis attached as Exhibit A.
12

13 3. On November 9, 2017, KCC issued and mailed 12,294 checks totaling
14 \$6,739,088.97 to class members. This distribution was in two parts. **Distribution 1A**
15 (\$2,256,563.68) consisted of 4,823 checks payable to class members that were entitled to
16 receive less than \$600 based on the settlement formula, and to class members that were
17 entitled to receive \$600 or more and had provided valid taxpayer identification numbers.
18 **Distribution 1B** (\$4,482,525.29) consisted of 7,471 checks payable to class members that
19 were entitled to receive \$600 or more, but had not provided valid taxpayer identification
20 numbers. In accordance with the final approval order, these members were paid \$599.99.
21 **Distribution 1B** included a notice informing members that their payments were limited
22 because of KCC's failure to receive a valid TIN.
23

24 4. After **Distributions 1A and 1B**, 1,160 class members provided valid TINs to
25 KCC. On December 29, 2017, KCC issued an additional 1,160 checks totaling
26 \$1,538,800.29 to these class members, representing the balance of their payments. KCC
27 refers to this distribution internally as **Distribution 2A**.
28

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1 5. In all three distributions, class members have cashed 11,391 checks, totaling
2 \$7,270,081.79. A total of 2,060 checks remain uncashed; the face value of these checks
3 totals \$1,004,797.29.

4
5 6. KCC is holding reserve funds for class members in the amount of
6 \$9,127,349.36. This represents the total of (a) all uncashed checks (\$1,004,797.29); (b)
7 amounts payable to class members in 2018 and later years who have not provided valid
8 TINs (\$8,119,541.89); and (c) three reissued checks in process (\$3,010.18). One of the
9 three reissued checks in process, in the amount of \$599.99, was a request received after
10 void issuance and is included in the Void Issuance line item of the Funds Analysis.

11
12 7. The cumulative amount of checks not cashed in the prior distributions
13 (\$1,004,797.29) is now available for redistribution. At least 10,234 class members cashed
14 checks in the initial distribution and therefore are eligible for a **Distribution 3A**. This
15 includes 5,067 class members who remain entitled to receive \$600 or more but have failed
16 to provide valid TINs to KCC. These members will receive another distribution of up to
17 \$599.99 this year (*see* paragraph 9). To avoid IRS penalties, to the extent these members'
18 redistribution payments, combined with the balance of payments owed these members, is
19 \$600 or more, the members' payments will be capped at \$599.99 and the balance will be
20 credited to their settlement shares for distribution after 2018.

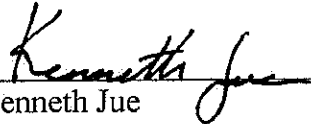
21
22 8. As mentioned earlier, 32 class members who participated in **Distributions**
23 **1B and 2A** failed to cash their **Distribution 1B** checks, but did cash their **Distribution 2A**
24 checks, totaling \$42,966.80. An additional 3 class members cashed their **Distribution 1B**
25 checks but not their **Distribution 2A** checks. KCC is seeking direction from the Court
26 whether to include these members in **Distribution 3A**.

27
28 9. KCC is also holding a reserve of \$8,119,541.89 payable to 6,311 class

1 members that remain entitled to receive \$600 or more but have failed to provide valid
2 TINs. The Court ordered payments to these members capped at \$599.99 per year. KCC
3 proposes a **Distribution 3B** to pay \$3,786,536.89 to these members, representing
4 payments not to exceed \$599.99, at the same time as **Distribution 3A**.

5
6 10. KCC has been paid \$34,319.64 to date for its administration of this
7 settlement. Our budget for this project through the first redistribution was \$116,380.

8
9 I declare under penalty of perjury under the laws of the United States of America
10 that the foregoing is true and correct. Executed on this 3rd day of August 2018 at
11 Louisville, Kentucky.

12
13 
14 Kenneth Jue

15 4852-4705-1886.1

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EXHIBIT A

Funds Analysis
for purpose of Current Status
as of August 3, 2018

Prepared KS

Fellen Inc v Rehabcare Group Inc (RHR)Attorney Holdback Account Activity**Source of Funds**

Funds received from Distribution account on March 14, 2018	\$375,821.20	
Interest earned throught June 30, 2018	185.93	
	<u>185.93</u>	\$376,007.13

Use of Funds

Attorney Fees & Costs		
Payne & Fears LLP costs (part is deferred)	(85,900.47)	
Payne & Fears LLP costs paid	<u>(85,900.47)</u>	
Attorney Hold-back Account Balance as of August 3, 2018		<u>\$290,106.66</u>

Reserve of Funds

Attorney Fees & Costs		
Payne & Fears LLP costs (part is deferred)	(7,461,960.59)	
Paid	<u>7,172,039.86</u>	
Balance due Payne & Fears LLP		<u>(289,920.73)</u>
		\$185.93

Distribution Account Activity**Source of Funds**

Settlement funds received on April 28, 2017	\$32,500.00	
Settlement funds received on May 3, 2017	32,500.00	
Settlement funds received on October 2, 2017	967,500.00	
Settlement funds received on October 2, 2017	7,000,000.00	
Settlement funds received on October 2, 2017	<u>16,967,500.00</u>	
Total Source of Funds		\$25,000,000.00

Use of Funds

1A Distribution of 4,823 checks on November 9, 2017	(2,256,563.68)	
1B Distribution of 7,471 checks on November 9, 2017	(4,482,525.29)	
2A Distribution of 1,160 checks on December 29, 2017	(1,538,800.29)	
Void Issuance (2,061 checks)	1,005,397.28	
Uncashed checks (2)	<u>2,410.19</u>	
Distribution checks paid		(7,270,081.79)
Funds transferred to Attorney Hold-back account on March 14, 2018		(375,821.20)
Attorney Fees & Costs paid:		
Frank Owens	(267,039.48)	
Marko & Magolnick, P.A. fees (paid in full)	(309,343.99)	
Marko & Magolnick, P.A. costs (paid in full)	(9,229.46)	
Dowling Aaron, Inc fees (paid in full)	(418,097.74)	
Dowling Aaron, Inc costs (paid in full)	(4,302.28)	
Payne & Fears LLP fees (part is deferred)	(5,896,982.05)	
Payne & Fears LLP fees	<u>(1,189,157.34)</u>	
Total Attorney fees & costs paid		(8,094,152.34)
Named Plaintiff paid		(15,000.00)
Administration fees paid		<u>(34,319.64)</u>
Total Use of Funds		<u>(15,789,374.97)</u>
NET FUND BALANCE as of August 3, 2018		<u>\$9,210,625.03</u>

Reserve of Funds

Uncashed checks (2)		(2,410.19)
Reserve for future class member without TINS	(9,658,342.18)	
2A Distribution of 1,160 checks on December 29, 2017	<u>1,538,800.29</u>	
Balance of Reserve for Future class members		(8,119,541.89)
Attorney fee expense reserve		(1,200.00)
Administration fees awarded	(116,380.00)	
Paid	<u>34,319.64</u>	
Bal due for Administration fees		<u>(82,060.36)</u>
Total Reserve of Funds		<u>(8,205,212.44)</u>
		\$1,005,412.59

Proof of Service

Dakota Medical, Inc. vs. RehabCare Group, Inc., et al.
United States District Court, Eastern District of California (Fresno Division)
Case No. 1:14-cv-02081-DAD-BAM

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and **not a party to this action**. I am employed in the County of Los Angeles, State of California. My business address is 400 Continental Blvd., Suite 600, El Segundo, CA 90245.

On August 3, 2018, I served true copies of the following document(s) described as **Declaration of Kenneth Jue [KCC] Advising on Class Distribution Status; Exhibit** on the interested parties in this action as follows:

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Erin K. Kolmansberger
Melissa Jill Gomberg
Kimberly Freedman
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Counsel for Defendant, Cannon & Associates

BY CM/ECF NOTICE OF ELECTRONIC FILING: I electronically filed the document(s) with the Clerk of the Court by using the CM/ECF system. Participants in the case who are registered CM/ECF users will be served by the CM/ECF system. Participants in the case who are not registered CM/ECF users will be served by mail or by other means permitted by the court rules.

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1 I declare under penalty of perjury under the laws of the United States of America
2 that the foregoing is true and correct and that I am employed in the office of a member of
the bar of this Court at whose direction the service was made.

3 Executed on August 3, 2018, at Los Angeles, California.
4

5 /s/ Arlene S. Comstock
6

7 4833-1900-7598.1
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