

1 UNITED STATES DISTRICT COURT

2 EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION

3 DAKOTA MEDICAL, INC., individually,  
4 and on behalf of all others similarly  
situated,

5 Plaintiff,

6 v.

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

8 Defendants.

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

Judge: Hon. Dale A. Drozd

**Order Granting Plaintiff’s Motion for  
Additional Class Distributions**

Date: September 5, 2018

Time: 9:30 A.M.

Courtroom 5

9  
10  
11 This matter having come before the Court on the motion of Plaintiff Dakota  
12 Medical, Inc., for an order approving additional class distributions, and having considered  
13 the motion, Plaintiff’s Status Report and Memorandum of Points and Authorities in  
14 Support of the Motion for Order Approving Additional Class Distributions, the Declaration  
15 of Kenneth Jue, senior project manager for settlement administrator KCC, LLC, and  
16 argument of counsel and being otherwise fully advised of the premises, the Court  
17 GRANTS the motion.

18  
19 The Court finds that:

20  
21 1. On November 9, 2017, KCC distributed settlement checks in the total sum of  
22 \$6,739,088.97 to 12,294 class members. (Jue Decl. ¶ 3.) Some 7,471 class members that  
23 had failed to provide valid taxpayer identification numbers were paid \$599.99. (*Id.*)  
24 These members’ payments included a notice that their payment had been limited due to  
25 their failure to provide a valid taxpayer identification number, as ordered by the Court in  
26 the final approval order. (*Id.*; see ECF No. 181, p. 22.)

27  
28 2. After the November 9, 2017, distributions, 1,160 class members provided

1 valid taxpayer identification numbers to KCC. (Jue Decl. ¶ 4.) On December 27, 2017,  
2 KCC distributed checks to these members for the balance of settlement funds to which  
3 they were entitled under paragraphs 3.B and 11.A of the Class Action Settlement  
4 Agreement. (See ECF No. 171.) This distribution totaled \$1,538,800.29. (Jue Decl. ¶ 4.)  
5

6 3. A total of 2,060 checks in the distributions referenced above were not  
7 cashed. The total amount represented by these checks is \$1,004,797.29. (Jue Decl. ¶ 7.)  
8

9 4. The Class Action Settlement Agreement provides: “If any portion of the  
10 Members’ Payment Amount remains after initial distribution to Settlement Class  
11 Members, including but not limited to amounts represented by Uncashed Checks and  
12 checks returned as undeliverable by the United States Postal Service, the Settlement  
13 Administrator shall make a further distribution to Settlement Class Members that timely  
14 negotiated checks in the initial distribution, unless the amounts involved are too small to  
15 make individual distribution economically viable.” (ECF No. 171.)  
16

17 5. At least 10,234 class members are eligible to participate in a redistribution.  
18 (Jue Decl. ¶ 7.) In addition, 39 class members cashed one of two checks sent in the  
19 November 9, 2017, distributions and in the December 27, 2017, distribution. (*Id.* ¶ 8.)  
20 Redistribution of the amount represented by uncashed checks to these members would  
21 average \$97.80 per member, before administration costs. The cost of a redistribution was  
22 anticipated and included in KCC’s original budget for class settlement administration. The  
23 distribution is therefore economically viable.  
24

25 IT IS HEREBY ORDERED AND ADJUDGED THAT:  
26

27 1. The settlement administrator shall, no later than 21 days after entry of this  
28 order, distribute \$3,786,536.89 to 6,311 class members that have failed to provide valid

1 taxpayer identification numbers. The amount payable per member shall not exceed  
2 \$599.99. KCC shall include a notice with each check in the amount of \$599.99 that  
3 informs the member that payment was limited because the member failed to provide a  
4 valid taxpayer identification number, and shall include a form for the member to complete  
5 to provide that number to KCC. KCC shall pay the balance of funds due each member that  
6 provides a valid taxpayer identification number on or before December 14, 2018.

7  
8 2. KCC shall, no later than 21 days after entry of this order, distribute  
9 \$1,004,797.29 to class members that cashed checks in the initial distribution, including 39  
10 members that cashed checks in either Distribution 1B or Distribution 2A. Provided,  
11 however, if payment to a member that has failed to provide a valid taxpayer identification  
12 number would, when combined with the distributable amount to the member in the  
13 distribution in paragraph 1, exceed \$599.99, the excess over \$599.99 shall be credited to  
14 the member's account for distribution after 2018.

15  
16 3. All checks payable to class members in these distributions shall expire 120  
17 days after mailing, and KCC is authorized to close the account on which the checks are  
18 drawn or otherwise take expedient measures to stop payment on the checks 125 days after  
19 mailing.

20  
21 4. Plaintiff shall file a report of the status of the settlement account on or before  
22 May 1, 2019.

23  
24 Dated: September \_\_, 2018

\_\_\_\_\_  
25 Hon. Dale A. Drozd  
26 United States District Judge  
27  
28

**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 **Order Granting Joint Motion for Secondary Class Distribution** on the interested parties in this action as follows:

Jon M. Wilson  
Erin K. Kolmansberger  
Melissa Jill Gomberg  
Kimberly Freedman  
BROAD AND CASSEL  
One Biscayne Tower, 21<sup>st</sup> Floor  
2 S. Biscayne Boulevard  
Miami, Florida 33131  
Telephone: (305) 373-9400  
jwilson@broadandcassel.com  
ekolmansberger@broadandcassel.com  
mgomberg@broadandcassel.com  
kfreedman@broadandcassel.com

Oliver W. Wanger  
WANGER JONES HELSEY PC  
265 East River Circle, Suite 310  
Fresno, California 93720  
Telephone: (559) 233-4800  
owanger@wjhattorneys.com

*Counsel for Defendant RehabCare Group, Inc.*

*Counsel for Defendant RehabCare Group, Inc.*

Fletcher C. Alford  
David L. Jordan  
Daniel S. Kubasek  
GORDON & REES, LLP  
275 Battery Street, Suite 2000  
San Francisco, CA 94111  
Telephone: (415) 986-5900  
FAlford@gordonrees.com  
dljordan@gordonrees.com  
dkubasak@gordonrees.com

*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.

I declare under penalty of perjury under the laws of the United States of America 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.

**PAYNE & FEARS LLP**  
ATTORNEYS AT LAW  
400 CONTINENTAL BOULEVARD, SUITE 600  
EL SEGUNDO, CALIFORNIA 90245  
(310) 689-1750

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

\_\_\_\_\_  
/s/ Arlene S. Comstock

4824-0691-1599.2

**PAYNE & FEARS LLP**  
ATTORNEYS AT LAW  
400 CONTINENTAL BOULEVARD, SUITE 600  
EL SEGUNDO, CALIFORNIA 90245  
(310) 689-1750