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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  
25  
26  
27  
28

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

Judge: Hon. Dale A. Drozd

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

**[Fed. R. Civ. P. 23]**

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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 reports to the Court dated March 30, 2018 (ECF No. 214), August  
11 3, 2018 (ECF No. 215), and May 15, 2019 (ECF No. 223-1). This report discusses certain  
12 entries in the Funds Analysis attached as Exhibit A.

13  
14 3. Checks totaling \$1,005,397.28 were not cashed in **Distributions 1A, 1B** and  
15 **2A**. Per the Court's Order Granting Plaintiff's Motion for Approval of Additional Class  
16 Distributions, on October 22, 2018, KCC redistributed this sum to class members who had  
17 cashed a first-round check (1A, 1B, or 2A). KCC's Fund Accounting group refers to  
18 these checks as **Distribution 3A**. At the same time, KCC also made a **Distribution 3B** to  
19 class members who did not provide a TIN and had remaining eligible payments. (ECF No.  
20 222). Distributions 3A and 3B occurred on October 22, 2018 totaling \$3,875,576.34 to  
21 11,542 class members. Distribution 3A consisted of a distribution of \$423,833.87 to 5,791  
22 class members. Distribution 3B consisted of a distribution of \$3,451,742.47 to 5,751 class  
23 members. Class members in Distribution 3B were issued checks in the amount of \$599.99  
24 and were also sent a notice to provide a valid TIN. All checks had a stale date of February  
25 19, 2019.

26  
27 4. Of the **Distribution 3A** and **3B** checks, 85 percent (9,808) were cashed and  
28 15 percent (1,736) were uncashed. The cumulative amount of the cashed checks was

1 \$3,203,634.46 and the total value of the uncashed checks equals \$671,941.88.

2  
3 5. In all distributions to date, inclusive of **Distributions 3A** and **3B**, class  
4 members have cashed 21,200 checks having a total value of \$10,475,526.45. A total of  
5 3,798 checks, or about 15 percent of all issued checks, have not been cashed.

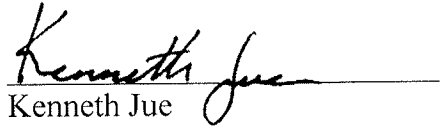
6  
7 6. KCC is holding reserve funds for class members in the amount of  
8 \$4,695,915.38. This represents the total of (a) all uncashed outstanding checks in  
9 **Distributions 3A** and **3B** (\$671,941.88); and (b) amounts payable to class members in  
10 2019 and later years who have not provided valid TINs (\$4,023,973.50).

11  
12 7. KCC has taken steps to obtain valid TINs from class members that remain  
13 entitled to receive \$600 or more. In addition to including notices with the Distribution 3B  
14 checks, KCC conducted a telephone outreach campaign in May and June to members with  
15 the largest remaining eligible payments. Since Distributions 3A and 3B occurred, 1,247  
16 class members provided a TIN that has been verified as valid. KCC will therefore be able  
17 to pay these members their full remaining amount of \$1,141,434.21 this year without the  
18 risk of IRS penalty.

19  
20 8. KCC is also holding a reserve of \$4,023,973.50 payable to 3,520 class  
21 members that have failed to provide valid TINs. The Court ordered payments to  
22 these members capped at \$599.99 per year and is prepared to pay \$2,031,730.66 to  
23 them by the end of this year. Additionally, KCC is prepared to distribute up to  
24 \$599.99 per class member, totaling \$1,141,434.21, to 3,180 class members who  
25 have cashed a previous check in January 2020. After the payment in 2020 there  
26 would be 127 class members who would receive payment in 2021, 38 class  
27 members in 2022, and 2 class members in 2023. The final year of payment in 2024  
28 would be directed at one remaining class member. KCC estimates that the cost to

1 distribute to class members that have not provided valid TINs in 2019 to be \$9,872  
2 and the cost to distribute to class members that have not provided valid TINs in  
3 2020 to be \$9,026.70 for a combined total of \$18,898.70. And, a total of  
4 \$342,848.67 will be distributed to 6,622 class members that provided TINs or for  
5 whom TINs are not required, for which KCC estimates a marginal cost of \$5,844.  
6 Combining a residual distribution with the 2019 payments to those with and without  
7 a valid TIN, KCC would be able to distribute \$653,043.18 to class members with an  
8 average payment amount of \$50.93.

9  
10 I declare under penalty of perjury under the laws of the United States of America  
11 that the foregoing is true and correct. Executed on this 19th day of November 2019 at  
12 Louisville, Kentucky.

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Kenneth Jue

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**EXHIBIT A**

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

Funds received from Distribution account on March 14, 2018	\$375,821.20	
Interest earned in 2018	332.21	
Interest earned through October 2019	242.10	
		\$376,395.51

**Use of Funds**

Attorney Fees & Costs		
Payne & Fears LLP costs (part is deferred)	(85,900.47)	
Payne & Fears LLP costs paid		(85,900.47)
<b>Attorney Hold-back Account Balance as of November 6, 2019</b>		<b>\$290,495.04</b>

**Reserve of Funds**

Attorney Fees & Costs		
Payne & Fears LLP costs (part is deferred)	(7,461,960.59)	
Paid	7,172,039.86	
Balance due Payne & Fears LLP		(289,920.73)
		\$574.31

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	16,967,500.00	
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)	
3A_PaidinFull Distribution of 5,791 checks on October 22, 2018	(423,833.87)	
3B_Capped Distribution of 5,753 checks on October 22, 2018	(3,451,742.47)	
Void Issuance (3,798 checks)	1,677,939.15	
Distribution checks paid		(10,475,526.45)
Funds transferred to Attorney Hold-back account on March 14, 2018		(375,821.20)
Returned Funds - Ft. Sanders Medical Center check #688128		18.86
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	(1,189,157.34)	
Total Attorney fees & costs paid		(8,094,152.34)
Named Plaintiff paid		(15,000.00)
Administration fees paid		(34,319.64)
Total Use of Funds		(18,994,800.77)
<b>Net Fund Balance as of November 6, 2019</b>		<b>\$6,005,199.23</b>

**Reserve of Funds**

Reserve for 54 Class Members with validated TIN in 2019		(43,404.27)
Reserve for future class member without TINS	(9,658,342.18)	
2A Distribution of 1,160 checks on December 29, 2017	1,538,800.29	
3A (2018 paid in full) distribution October 22, 2018	90,721.37	
3B (2018 capped) distribution on October 22, 2018	3,450,225.11	
2018 residual without TIN for future distribution	(670,110.59)	
54 Class Members with validated TIN in 2019	43,404.27	
Balance of Reserve for Future class members		(5,205,301.73)
Attorney fee expense reserve		(1,200.00)
Administration fees awarded	(116,380.00)	
Paid	34,319.64	
Bal due for Administration fees		(82,060.36)
Total Reserve of Funds		(5,331,966.36)
		\$673,232.87

Proof of Balance

Void Issuance after 3rd dist.	673,141.86
Future Claims	5,205,301.73
Reserve for 54 Class Members with validated TIN in 2019	43,404.27
Returned Funds - Ft. Sanders Medical Center check #688128	18.86
Attorney fee	1,200.00
Admin fees	82,060.36
Under dist of funds	72.15
	<u>6,005,199.23</u>

**CERTIFICATE OF SERVICE**

***Dakota Medical, Inc. vs. RehabCare Group, Inc., et al.***  
**Case No. 1:14-cv-02081-DAD-BAM**

**STATE OF CALIFORNIA, COUNTY OF LOS ANGELES**

I hereby certify that 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 200 N. Pacific Coast Highway, Suite 825, El Segundo, CA 90245.

On November 19, 2019, I served a true copy of the following document(s) described as **Updated Declaration of Kenneth Jue [KCC] Advising on Class Distribution Status; Exhibit** on the interested parties in this action via the United States District Court CM/ECF system on all parties or persons requiring notice.

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.

Executed on November 19, 2019, at Los Angeles, California.

\_\_\_\_\_  
/s/ Brenda Mingleton

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