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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

LORRAINE WALTERS, JENNIFER
THORNTON, AMPARITO
DOMINGUEZ, TAMERIA HARTLEY,
MARIEL JINN GARCIA, MARINA
MARTINEZ, TWINKLE TUTTLE,
MARIA SALDANA JONES, EUNICE
LEON, OSVALDO LEON, ELIZABETH
HARBERT, KYLE C. BURKARDT, and
CATALINA ROSALES, as individuals,
on behalf of themselves and on behalf of
all persons similarly situated,

Plaintiffs,

vs.

TOTAL RENAL CARE, INC., DAVITA,
INC., RENAL TREATMENT
CENTERS-CALIFORNIA, INC., DVA
RENAL HEALTHCARE, INC., DAVITA
HEALTHCARE PARTNERS, INC.,
VILLAGEHEALTH DM, LLC, AND
PATIENT PATHWAYS, LLC; and
DOES 1 through 50, inclusive,

Defendants.

CASE NO.: **34-2022-00319163-CU-OE-GDS**

**DECLARATION OF PLAINTIFF
ELIZABETH HARBERT IN SUPPORT OF
APPROVAL OF CLASS ACTION AND PAGA
SETTLEMENT**

Hearing Date: February 7, 2025
Hearing Time: 9:00 a.m.
Reservation ID # A-319163-001

Judge: Hon. Lauri A. Damrell
Dep't.: 22

Date Action Filed: May 2, 2022
Trial Date: None Set

DECLARATION OF ELIZABETH HARBERT

I, Elizabeth Harbert, declare as follows:

1. I am an individual over the age of 18 and am one of the named plaintiffs in this matter. This declaration is submitted in support of approval of the proposed class action and PAGA settlement (“Settlement”) reached in this case. I have personal knowledge of the facts stated in this declaration and could testify competently to them if called upon to do so.

2. I worked for Defendants DaVita Inc. and Total Renal Care Inc. from on or around May, 2018 to July 7, 2020. I worked as a non-exempt “Clinical Coordinator” through on or around November, 2019, and worked as an Administrator thereafter. During my employment with Defendants, I was subject to Defendants’ wage and hour policies and practices that are at issue in this case.

3. I have been actively involved in this case since I first retained Szmanda Law Firm, P.C. and Matthew J. Gustin, of the Law Office of Matthew J. Gustin. On July 13, 2021, I filed a PAGA representative action against Defendants DVA Renal Healthcare, Inc., Total Renal Care, Inc., and DaVita Inc., in Riverside Superior Court. Thereafter, on February 22, 2024, I filed a Class Action Complaint against Defendants DVA Renal Healthcare, Inc., Total Renal Care, Inc., and DaVita Inc., in Riverside Superior Court. Without waiving the attorney-client privilege, prior to filing my lawsuit, my attorneys explained my role and responsibilities as a Class Representative, and I understand my responsibilities as a Class Representative.

4. From the time of the filing of the lawsuit, I have understood that this is a PAGA and class action lawsuit where I represent the interests of any and all current and former hourly non-exempt employees of Defendants in California during Class and PAGA Periods.

5. During my employment with DaVita, I received various incentive pay, including “Village Lives” bonuses, shift differentials, and other pay during my employment with Defendants. However, I do not believe Defendants included these payments when calculating my overtime wages. I also was not always provided with timely, full lunch breaks due to my work demands. Similarly, it was not always possible for me to take rest breaks due to my

1 workload. As a result of these violations, it is my understanding that I did not receive accurate
2 paystubs and did not receive all wages that were owed to me when I stopped working for
3 Defendants.

4 6. Over the last four years, I have had many extensive discussions with my
5 attorneys, including discussions regarding Defendants' wage and hour practices and my claims
6 in this case, potential witnesses, litigation strategy, updates on how the case was proceeding, the
7 Settlement, and how I could help the case and potential aggrieved employees and Settlement
8 Class member.

9 7. I also gathered and reviewed documents for use in the lawsuit and reviewed
10 relevant documents with my attorneys. I estimate that I have spent at least 50 hours on this case
11 from the time I first spoke with my attorneys regarding this case until the present. I also
12 understand that as part of the Settlement, I have agreed to a general release of claims against
13 Defendants, which is broader than the release of claims agreed to by other Settlement Class
14 members.

15 8. I have searched for an attorney, met with my attorneys to see if they would
16 represent me, met with my attorneys to discuss the Defendants' policies, procedures, and
17 practices for clocking in and out, automatic deduction of meals, paying wages for the hours that
18 we worked, providing meal breaks, providing rest breaks, payment of premium wages,
19 reimbursement of business expenses, wage statements, and final payment of wages. I spent time
20 searching for policies and procedures that were given to me during my employment, any
21 timecards I had, any pay stubs I had, W2s, and other documents related to my employment. I
22 produced all the documents to my attorneys. I responded to almost all of my attorneys' telephone
23 calls and interviews and I met with them in person and/or telephonically to discuss any questions
24 they had about my employment, Defendants' policies and procedures, Defendants' paying of
25 minimum and overtime wages, Defendants' providing of meal and rest breaks, paying premium
26 wages, providing wage statements, or the documents I had provided to them. I made myself
27 available during the mediation session. Once the settlement agreement was finalized, I conferred
28 with my attorneys to review and discuss the agreement before signing.

9. I also understand that in the event this matter proceeds to trial, I must come to court to participate in the trial. I will come to court if I am needed and have been ready to perform any responsibility that is necessary for this lawsuit.

10. When this lawsuit was filed, I understood that this lawsuit could benefit former and current employees by helping to recover their unpaid wages, unpaid meal and rest period premiums, and other penalties. I knew there was a risk that I could be liable for Defendants' costs if we lost the case. I accepted this risk because I wanted Defendants to pay its current and former employees for their unpaid wages and penalties. Even though I understood that filing a lawsuit is a public record, I accepted that burden in order to help former, current, and future employees. As far as I am aware, I have no actual or potential conflicts with any of the Settlement Class members.

11. I understand that my attorneys will request that the Court approve a Class and PAGA Representative Service Payment of \$10,000.00 for my efforts on behalf of the Settlement Class including the aggrieved employees. I believe this amount is reasonable based on the amount of time and effort I have devoted to this case and the risks I have undertaken as a class representative, as described above. My support for the Settlement is not contingent on me receiving this enhancement payment.

I declare under penalty of perjury under the laws of the State of California and the United States that the foregoing is true and correct. Executed on January 9, 2025, in Murrieta, California.

DocuSigned by:

 490174A528FC4CD...
 Elizabeth Harbert