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Attorneys for Plaintiff CATALINA ROSALES, individually and
On behalf of all others similarly situated

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,

Defendants.

Case No.: **34-2022-00319163-CU-OE-GDS**

*[Assigned to Hon. Lauri A. Damrell, Dept 22, for
all purposes]*

**DECLARATION OF JAMES HAWKINS
IN SUPPORT OF MOTION FOR
PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

Date: February 7, 2025
Time: 9:00 a.m.
Dept.: 22
Reservation ID #: **A-19163-001**

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

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DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff Catalina Rosales, who alongside Plaintiffs Lorraine Walters, Jennifer Thorton, Amparito Dominguez, Tameria Hartley, Mariel Jinn Garcia, Marina Martinez, Twinkle Tuttle, Maria Saldana Jones, Eunice Leon, Osvaldo Leon, Elizabeth Harbert, and Kyle C. Burkardt (hereinafter referred to as “Plaintiffs” or “Class Representatives”) moves for Preliminary Approval of the Class Settlement. I submit this declaration in support of Plaintiffs’ Motion for Preliminary Approval of Class Settlement, which Plaintiffs filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

BRIEF HISTORY OF THE ROSALES ACTION

2. On September 29, 2023, Plaintiff Rosales gave notice to the Labor and Workforce Development Agency (“LWDA”) of her claims that Defendant DaVita Inc., (“Defendant”) had violated the Labor Code and Wage Order by, *inter alia*, failing to provide meal breaks, and derivative violations.

3. On September 16, 2022, Plaintiff Rosales filed a class action complaint against Defendant in the San Bernardino County Superior Court (Case No. CIVSB2325121).

4. On November 22, 2022, Plaintiff Rosales filed a separate PAGA complaint in San Bernardino County Superior Court (Case No. CVISB2331645).

5. On November 12, 2024, the Parties herein filed a Second Amended Complaint which adds the plaintiffs and causes of action alleged in the Thornton Action, Dominguez Action, Tuttle Action, Jones Action, Eunice Leon Action, Osvaldo Leon Action, Harbert Actions, and the Rosales Actions. The Second Amended Complaint in the Walters Action is the operative complaint in the Actions (the “Operative Complaint”).

1 **MEDIATION EFFORTS**

2 6. On March 19, 2024, Plaintiffs and Defendants attended an all-day mediation with
3 noted mediator Steve Mehta., a well-respected and experienced mediator of complex class action
4 matters. As a result of the Parties' mediation efforts, the Parties reached a class settlement.

5 **INVESTIGATION OF CLAIMS**

6 7. Plaintiffs' Counsel conducted a thorough investigation into the factual and legal
7 issues implicated by Plaintiffs' claims, and were able to objectively assess the settlement's
8 reasonableness. For example, prior to filing the action, Plaintiffs contacted Plaintiffs' Counsel to
9 discuss the factual bases for pursuing their actions against Defendants for Labor Code violations.

10 8. Plaintiffs were intimately familiar with Defendants' labor policies and practices,
11 and over the course of multiple interviews, knowledgeably summarized those policies and
12 practices to Plaintiffs' Counsel. During those conversations, Plaintiffs' Counsel explained how the
13 policies and practices were instituted and provided valuable insight into how they gave rise to the
14 alleged Labor Code violations. Based on these interviews with Plaintiffs, Plaintiffs' Counsel
15 determined that there were legally sufficient grounds for pursuing the Actions against Defendant.
16 And in preparation for drafting the complaints, Plaintiffs' Counsel conducted their own
17 independent preliminary investigations into the factual bases for Plaintiff's claims, which entailed,
18 *inter alia*, a careful examination of Plaintiffs' personnel files and associated records.

19 9. During the course of litigation, Plaintiffs' Counsel received a considerable amount
20 of documents and data, including employee demographic data, time and pay records, and
21 Defendants' policies and procedures manuals which covered a broad range of topics including,
22 *inter alia*, employee clock-in policies and procedures, attendance policies, meal periods/rest
23 periods, overtime & premium pay, etc., and sampled time and pay records for the Class Members.
24 The document and data exchanges allowed Plaintiffs' Counsel to fully assess the nature and
25 magnitude of the claims being settled, as well as the impediments to recovery, and ultimately
26 enabled Plaintiffs' Counsel to make an independent assessment of the reasonableness of the
27 settlement's terms.

28 10. In summary, Plaintiffs' Counsel performed a thorough investigation into the claims

1 at issue, which included: (1) determining Plaintiffs' suitability as class representatives and private
2 attorneys general through interviews, background investigations, and analyses of their
3 employment files and related records; (2) evaluating all of Plaintiffs' potential representative
4 claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of
5 the positions, and the type of employer; (4) analyzing employees' time and wage records; (5)
6 reviewing Defendants' employment policies and practices; (6) researching settlements in similar
7 cases; (7) evaluating Plaintiffs' claims and estimating Defendants' liability for purposes of
8 settlement; (8) drafting the mediation brief; and (9) participating in the mediation.

9 11. By engaging in such a thorough investigation and evaluation of Plaintiffs' claims,
10 Plaintiffs' Counsel can opine that the Settlement, for the consideration and on the terms set forth
11 in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class
12 Members in light of all known facts and circumstances, including the risk of significant delay and
13 uncertainty associated with litigation, and various defenses asserted by Defendants.

14 12. Plaintiffs' counsel balanced the terms of the proposed Settlement against the risk of
15 litigation and probable outcome at the class certification stage, and if any Class were certified, at
16 trial. Based on their own respective independent investigations and evaluations, and after taking
17 into account the sharply disputed factual and legal issues involved in this matter, the risks
18 attending further prosecution of the case, and the monetary benefits received under the Settlement
19 despite the questionable nature of the claims, Plaintiffs' counsel is of the opinion that Settlement
20 for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable and
21 adequate and is in the best interests of Plaintiffs and the Class. Counsel for the Parties
22 investigated the applicable law as applied to the facts discovered regarding the claims of Plaintiffs,
23 Defendants' defenses thereto and the damages claimed by Plaintiffs on behalf of the Settlement
24 Class.

25 13. I believe that the consideration and terms set forth in the Settlement Agreement are
26 fair, reasonable, and adequate and are in the best interests of the Settlement Class in light of all
27 known facts and circumstances, including the various defenses asserted by Defendants, and
28 numerous potential appellate issues. In addition, the prospect of a potential adverse summary

1 judgment ruling, as well as the uncertainty of class certification, the difficulties of complex
2 litigation, the lengthy process of establishing specific damages and various possible delays and
3 appeals, were also carefully considered in agreeing to the proposed Settlement.

4 **CLASS COUNSEL EXPERIENCE**

5 14. I have a great deal of experience in wage and hour class action litigation. I have
6 obtained certification of several classes, I have been approved as class counsel in many other
7 wage/hour class actions, and I am currently litigating numerous others. Although not an all
8 inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-
9 lead counsel, all of which implicated similar law and facts to those associated with this action:

10 a. *Aguilar v. 7-Eleven, Inc.*, et. al., Orange County Superior Court- Case No.: 30-
11 2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium
12 wages for meal period and rest periods and resultant penalties. Class
13 Notice pending.

14 b. *Carey, et. al. v. Arthur J. Gallagher, et. al.*, USDC, SOUTHERN DISTRICT- Case
15 No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-
16 classification of insurance claims adjusters employed by Gallagher Bassett, a third
17 party administrator (TPA) in the State of California. Certification granted. Plaintiffs'
18 counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds
19 fully distributed.

20 c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-
21 04554. Wage and Hour Class Action case seeking past wages for "off the clock",
22 overtime and meal and rest break violations for production workers in the State of
23 California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final
24 Approval granted, no objections and funds fully distributed.

25 d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW.
26 Wage and Hour Class Action case seeking past wages for meal and rest period
27 violations for retail employees in the State of California. Plaintiffs' counsel appointed
28 co-lead counsel. Case settled, Final Approval granted, no objections and funds fully

distributed.

e. *Morgan v. Aramark Campus, LLC*, USDC, CENTRAL DISTRICT, Case No. SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al.*; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiffs' counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al.*, Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc., et al.*, Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al.*, Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal

1 and rest break violations for security officers in the State of California. Plaintiffs'
2 counsel appointed as co-lead counsel. Case settled, Final Approval granted, no
3 objections and funds fully distributed.

4 k. *Martinez v. Securitas Security Services USA, et al.*, Santa Clara Superior Court,
5 Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action
6 seeking past wages for meal and rest break violations for security officers employed by
7 defendant in the State of California. Plaintiffs' counsel and co-counsel. Case settled,
8 Final Approval granted and funds fully distributed.

9 l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc. et al.*, Riverside Superior Court,
10 Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime,
11 meal and rest break violations for housekeepers employed by defendant in the State of
12 California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval
13 granted, no objections and funds fully distributed.

14 m. *Ruiz, et al. v. Unisource Worldwide, Inc., et al.*, USDC, CENTRAL DISTRICT,
15 Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and
16 rest period violations for non-exempt employees employed by defendant in the state of
17 California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has
18 petitioned the Court for Lead Counsel.

19 n. *Herrador v. Culligan International Company, et al.*, USDC, CENTRAL
20 DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages
21 for field and branch employees of defendant in the State of California. Plaintiffs'
22 counsel appointed as lead counsel. Case settled and awaiting Final Approval.

23 o. *Defries v. Domain Restaurants, et al.*, Orange County Superior Court, Case No.
24 05CC00128. Wage and Hour Class Action seeking past wages for restaurant
25 employees of defendant in the State of California. Plaintiffs' counsel appointed as lead
26 counsel. Case settled, Final Approval granted, no objections and funds fully
27 distributed.

28 p. *Denton v. BLB Enterprises, Inc., et al.*, Orange County Superior Court, Case No.

07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *Rios v. Sandberg Furniture Manufacturing Co., Inc*, et al., Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by defendant in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Osuna v. DFG Restaurants, Inc.*, et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for misclassification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. *Burns v. Gymboree Operations, Inc.*, et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Willems v. Diedrich Coffee, Inc.*, et al., Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for misclassification of managers employed by Defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no

1 objections and funds fully distributed.

2 v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court, Case
3 No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal
4 and rest break violations for production workers employed by defendant in the State of
5 California. Plaintiffs' counsel appointed lead counsel. Cased settled; final approval
6 granted; no objections and funds fully distributed.

7 w. *Perez v. Naked Juice Company of Glendora, Inc.*, Los Angeles Superior Court,
8 Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime,
9 meal and rest period violations for production employees employed by defendant in the
10 State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final
11 Approval granted, no objections and funds fully distributed.

12 15. Here, the Parties' agreement to pay Class Counsel Fees of 1/3 of the Gross
13 Settlement Amount is reasonable. Plaintiffs' counsel have borne the entire risk and cost of this
14 litigation on a pure contingency fee basis. The legal issues raised drew significantly upon my
15 firms and co-counsel's experience and the extensive review and analysis of documents and
16 information by me and others at my firm and our co-counsel. In a complex action such as this,
17 the proposed attorneys' fees are, at the very least, on the low side of the market rate for
18 contingency fees.

19 16. At this juncture, with the addition of more hours due to the administration of the
20 Settlement by Class Counsel, administration of the Settlement, and preparation for final approval,
21 counsel for plaintiff will provide a detailed analysis of its time in advance of the final approval
22 hearing.

23 I declare under penalty of perjury that the foregoing is true and correct. Executed on
24 January 8, 2025 at Irvine, California.

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27 James R. Hawkins
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