

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

Norman B. Blumenthal (State Bar #068687)

Kyle R. Nordrehaug (State Bar #205975)

Aparajit Bhowmik (State Bar #248066)

Nicholas J. De Blouw (State Bar #280922)

Jeffrey S. Herman (State Bar #280058)

jeffrey@bamlawca.com

2255 Calle Clara

La Jolla, CA 92037

Telephone: (858)551-1223

Facsimile: (858) 551-1232

Website: www.bamlawca.com

Attorneys for Plaintiff

SUPERIOR COURT OF THE STATE OF CALIFORNIA

IN AND FOR THE COUNTY OF MADERA

MICHAEL DEVILBISS, an individual, on
behalf of himself and on behalf of all persons
similarly situated,

Plaintiff,

vs.

AMERICAN RENAL MANAGEMENT
LLC, a Limited Liability Company; and
DOES 1 through 50, inclusive,

Defendants.

Case No. MCV096483

**FIRST AMENDED CLASS AND
REPRESENTATIVE ACTION
COMPLAINT FOR:**

1. UNFAIR COMPETITION IN
VIOLATION OF CAL. BUS. & PROF.
CODE §§ 17200;
2. FAILURE TO PAY MINIMUM WAGES
IN VIOLATION OF CAL. LAB. CODE §§
1194, 1197 & 1197.1;
3. FAILURE TO PAY OVERTIME WAGES
IN VIOLATION OF CAL. LAB. CODE §
510;
4. FAILURE TO PROVIDE REQUIRED
MEAL PERIODS IN VIOLATION OF CAL.
LAB. CODE §§ 226.7 & 512 AND THE
APPLICABLE IWC WAGE ORDER;
5. FAILURE TO PROVIDE REQUIRED
REST PERIODS IN VIOLATION OF CAL.
LAB. CODE §§ 226.7 & 512 AND THE
APPLICABLE IWC WAGE ORDER;
6. FAILURE TO PROVIDE ACCURATE
ITEMIZED STATEMENTS IN VIOLATION
OF CAL. LAB. CODE § 226;
7. FAILURE TO PAY SICK PAY WAGES
IN VIOLATION OF CAL. LAB CODE
§§201-204, 233, 246;
8. FAILURE TO REIMBURSE
EMPLOYEES FOR REQUIRED
EXPENSES IN VIOLATION OF CAL. LAB.
CODE § 2802; and

9. CIVIL PENALTIES PURSUANT TO
LABOR CODE § 2699 FOR VIOLATIONS
OF LABOR CODE §§ 201, 202, 203, 204,
210, 218, 221, 226(A), 226.3, 226.7, 233,
246, 246.5, 510, 512, 558(A)(1)(2), 1174,
1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1,
1198, CALIFORNIA CODE OF
REGULATIONS, TITLE 8, SECTION
11040, SUBDIVISION 5(A)-(B), AND THE
APPLICABLE WAGE ORDER(S) .

DEMAND FOR A JURY TRIAL

Michael Devilbiss (“PLAINTIFF”), an individual, on behalf of himself and all other similarly situated current and former employees alleges on information and belief, except for his own acts and knowledge which are based on personal knowledge, the following.

THE PARTIES

1. American Renal Management LLC (“DEFENDANT”) is a limited liability company that at all relevant times mentioned herein conducted and continues to conduct substantial business in California.

2. DEFENDANT provides dialysis services in California.

3. PLAINTIFF is currently employed by DEFENDANT in California. PLAINTIFF was classified by DEFENDANT as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked from August of 2018 to 2022 and then again from February of 2025 to present.

4. PLAINTIFF brings this Class Action on behalf of himself and a California class, defined as all individuals who are or previously were employed by DEFENDANT American Renal Management, LLC, who were classified as non-exempt in the State of California (the “CALIFORNIA CLASS”) from June 20, 2024 through June 13, 2026 (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for the aggregate claim of CALIFORNIA CLASS Members is under five million dollars (\$5,000,000.00).

5. PLAINTIFF brings this Class Action on behalf of himself and a CALIFORNIA CLASS in order to fully compensate the CALIFORNIA CLASS for their losses incurred during the CALIFORNIA CLASS PERIOD caused by DEFENDANT's policy and practice which failed to lawfully compensate these employees. DEFENDANT's policy and practice alleged herein was an unlawful, unfair and deceptive business practice whereby DEFENDANT retained and continues to retain wages due PLAINTIFF and the other members of the CALIFORNIA CLASS. PLAINTIFF and the other members of the CALIFORNIA CLASS seek an injunction enjoining such conduct by DEFENDANT in the future, relief for the named PLAINTIFF and the other members of the CALIFORNIA CLASS who have been economically injured by DEFENDANT's past and current unlawful conduct, and all other appropriate legal and equitable relief.

6. The true names and capacities, whether individual, corporate, subsidiary, partnership, associate or otherwise of defendants DOES 1 through 50, inclusive, are presently unknown to PLAINTIFF who therefore sues these Defendants by such fictitious names pursuant to Cal. Civ. Proc. Code § 474. PLAINTIFF will seek leave to amend this Complaint to allege the true names and capacities of Does 1 through 50, inclusive, when they are ascertained. PLAINTIFF is informed and believes, and based upon that information and belief alleges, that the Defendants named in this Complaint, including DOES 1 through 50, inclusive, are responsible in some manner for one or more of the events and happenings that proximately caused the injuries and damages hereinafter alleged.

7. The agents, servants and/or employees of the Defendants and each of them acting on behalf of the Defendants acted within the course and scope of his, her or its authority as the agent, servant and/or employee of the Defendants, and personally participated in the conduct alleged herein on behalf of the Defendants with respect to the conduct alleged herein. Consequently, the acts of each Defendant are legally attributable to the other Defendants and all Defendants are jointly and severally liable to PLAINTIFF and the other members of the CALIFORNIA CLASS, for the loss sustained as a proximate result of the conduct of the Defendants' agents, servants and/or employees.

THE CONDUCT

1 8. Pursuant to the Industrial Welfare Commission Wage Orders, DEFENDANT was
2 required to pay PLAINTIFF and CALIFORNIA CLASS Members for all their time worked,
3 meaning the time during which an employee is subject to the control of an employer, including all
4 the time the employee is suffered or permitted to work. DEFENDANT requires PLAINTIFF and
5 CALIFORNIA CLASS Members to work without paying them for all the time they are under
6 DEFENDANT's control. Among other things, DEFENDANT requires PLAINTIFF to work while
7 clocked out during what is supposed to be PLAINTIFF's off-duty meal break. PLAINTIFF was
8 from time to time interrupted by work assignments while clocked out for what should have been
9 PLAINTIFF's off-duty meal break. DEFENDANT, as a matter of established company policy and
10 procedure, administers a uniform practice of rounding the actual time worked and recorded by
11 PLAINTIFF and CALIFORNIA CLASS Members, always to the benefit of DEFENDANT, so that
12 during the course of their employment, PLAINTIFF and CALIFORNIA CLASS Members are paid
13 less than they would have been paid had they been paid for actual recorded time rather than
14 "rounded" time. Additionally, DEFENDANT engages in the practice of requiring PLAINTIFF and
15 CALIFORNIA CLASS Members to perform work off the clock in that DEFENDANT, as a
16 condition of employment, required these employees to submit to mandatory temperature checks and
17 symptom questionnaires for COVID-19 screening prior to clocking into DEFENDANT's
18 timekeeping system for the workday. As a result, PLAINTIFF and other CALIFORNIA CLASS
19 Members forfeit minimum wage, overtime wage compensation, and off-duty meal breaks by
20 working without their time being correctly recorded and without compensation at the applicable
21 rates. DEFENDANT's policy and practice not to pay PLAINTIFF and other CALIFORNIA CLASS
22 Members for all time worked, is evidenced by DEFENDANT's business records.

23 9. State and federal law provides that employees must be paid overtime and meal and
24 rest break premiums at one-and-one-half times their "regular rate of pay." PLAINTIFF and other
25 CALIFORNIA CLASS Members are compensated at an hourly rate plus incentive pay that is tied to
26 specific elements of an employee's performance.

27 10. The second component of PLAINTIFF's and other CALIFORNIA CLASS Members'
28 compensation is DEFENDANT's non-discretionary incentive program that paid PLAINTIFF and

1 other CALIFORNIA CLASS Members incentive wages based on their performance for
2 DEFENDANT. The non-discretionary incentive program provided all employees paid on an hourly
3 basis with incentive compensation when the employees met the various performance goals set by
4 DEFENDANT. However, when calculating the regular rate of pay in order to pay overtime and
5 meal and rest break premiums to PLAINTIFF and other CALIFORNIA CLASS Members,
6 DEFENDANT failed to include the incentive compensation as part of the employees' "regular rate
7 of pay" for purposes of calculating overtime pay and meal and rest break premium pay.
8 Management and supervisors described the incentive program to potential and new employees as
9 part of the compensation package. As a matter of law, the incentive compensation received by
10 PLAINTIFF and other CALIFORNIA CLASS Members must be included in the "regular rate of
11 pay." The failure to do so has resulted in a underpayment of overtime compensation and meal and
12 rest break premiums to PLAINTIFF and other CALIFORNIA CLASS Members by DEFENDANT.

13 11. As a result of their rigorous work schedules, PLAINTIFF and other CALIFORNIA
14 CLASS Members were from time to time unable to take thirty (30) minute off duty meal breaks and
15 were not fully relieved of duty for their meal periods. PLAINTIFF and other CALIFORNIA
16 CLASS Members were required from time to time to perform work as ordered by DEFENDANT for
17 more than five (5) hours during some shifts without receiving a meal break. Further, DEFENDANT
18 from time to time failed to provide PLAINTIFF and CALIFORNIA CLASS Members with a second
19 off-duty meal period for some workdays in which these employees were required by DEFENDANT
20 to work ten (10) hours of work. DEFENDANT also engaged in the practice of rounding the meal
21 period times to avoid paying penalties to PLAINTIFF and other CALIFORNIA CLASS Members.
22 PLAINTIFF and other members of the CALIFORNIA CLASS therefore forfeit meal breaks without
23 additional compensation and in accordance with DEFENDANT's corporate policy and practice.

24 12. During the CALIFORNIA CLASS PERIOD, PLAINTIFF and other CALIFORNIA
25 CLASS Members were also required from time to time to work in excess of four (4) hours without
26 being provided ten (10) minute rest periods. Further, these employees were denied their first rest
27 periods of at least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours from
28 time to time, a first and second rest period of at least ten (10) minutes for some shifts worked of

1 between six (6) and eight (8) hours from time to time, and a first, second and third rest period of at
2 least ten (10) minutes for some shifts worked of ten (10) hours or more from time to time.

3 PLAINTIFF and other CALIFORNIA CLASS Members were also not provided with one hour
4 wages in lieu thereof. Additionally, the applicable California Wage Order requires employers to
5 provide employees with off-duty rest periods, which the California Supreme Court defined as time
6 during which an employee is relieved from all work related duties and free from employer control.
7 In so doing, the Court held that the requirement under California law that employers authorize and
8 permit all employees to take rest period means that employers must relieve employees of all duties
9 and relinquish control over how employees spend their time which includes control over the
10 locations where employees may take their rest period. Employers cannot impose controls that
11 prohibit an employee from taking a brief walk - five minutes out, five minutes back. Here,
12 DEFENDANT's policy restricted PLAINTIFF and other CALIFORNIA CLASS Members from
13 unconstrained walks and is unlawful based on DEFENDANT's rule which states PLAINTIFF and
14 other CALIFORNIA CLASS Members cannot leave the work premises during their rest period.

15 13. During the CALIFORNIA CLASS PERIOD, DEFENDANT failed to accurately
16 record and pay PLAINTIFF and other CALIFORNIA CLASS Members for the actual amount of
17 time these employees worked. Pursuant to the Industrial Welfare Commission Wage Orders,
18 DEFENDANT was required to pay PLAINTIFF and other CALIFORNIA CLASS Members for all
19 time worked, meaning the time during which an employee was subject to the control of an
20 employer, including all the time the employee was permitted or suffered to permit this work.
21 DEFENDANT required these employees to work off the clock without paying them for all the time
22 they were under DEFENDANT's control. As such, DEFENDANT knew or should have known that
23 PLAINTIFF and the other members of the CALIFORNIA CLASS were under compensated for all
24 time worked. As a result, PLAINTIFF and other CALIFORNIA CLASS Members forfeited time
25 worked by working without their time being accurately recorded and without compensation at the
26 applicable minimum wage and overtime wage rates in violation of Cal. Lab. Code §§ 201, 202, 203,
27 204, and 210. To the extent that the time worked off the clock does not qualify for overtime
28

1 premium payment, DEFENDANT fails to pay minimum wages for the time worked off-the-clock in
2 violation of Cal. Lab. Code §§ 1182.12, 1194, 1197, and 1197.1.

3 14. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other
4 members of the CALIFORNIA CLASS with complete and accurate wage statements which failed
5 to show, among other things, the correct gross and net wages earned. Cal. Lab. Code § 226 provides
6 that every employer shall furnish each of his or her employees with an accurate itemized wage
7 statement in writing showing, among other things, gross wages earned and all applicable hourly
8 rates in effect during the pay period and the corresponding amount of time worked at each hourly
9 rate. PLAINTIFF and CALIFORNIA CLASS Members were paid on an hourly basis. As such, the
10 wage statements should reflect all applicable hourly rates during the pay period and the total hours
11 worked, and the applicable pay period in which the wages were earned pursuant to California Labor
12 Code Section 226(a). The wage statements DEFENDANT provided to PLAINTIFF and other
13 CALIFORNIA CLASS Members failed to identify such information. More specifically, the wage
14 statements failed to identify the accurate total hours worked each pay period. When the hours
15 shown on the wage statements were added up, they did not equal the actual total hours worked
16 during the pay period in violation of Cal. Lab. Code 226(a)(2). Aside, from the violations listed
17 above in this paragraph, DEFENDANT failed to issue to PLAINTIFF an itemized wage statement
18 that lists all the requirements under California Labor Code 226. As a result, DEFENDANT from
19 time to time provided PLAINTIFF and the other members of the CALIFORNIA CLASS with wage
20 statements which violated Cal. Lab. Code § 226.

21 15. DEFENDANT underpaid sick pay wages to PLAINTIFF and other CALIFORNIA
22 CLASS Members by failing to pay such wages at the regular rate of pay in violation of Cal. Lab.
23 Code Section 246. Specifically, PLAINTIFF and other non-exempt employees earn non-
24 discretionary remuneration. Rather than pay sick pay at the regular rate of pay, DEFENDANT
25 underpaid sick pay to PLAINTIFF and other CALIFORNIA CLASS Members at their base rates of
26 pay.

27 16. Cal. Lab. Code Section 246(1)(2) requires that paid sick time for nonexempt
28

1 employees be calculated by dividing the employee's total wages, not including overtime premium
2 pay, by the employee's total hours worked in the full pay periods of the prior 90 days of
3 employment.

4 17. DEFENDANT violated Cal. Lab. Code Section 246 by failing to pay sick pay at the
5 regular rate of pay. PLAINTIFF and CALIFORNIA CLASS Members routinely earned non-
6 discretionary incentive wages which increased their regular rate of pay. However, when sick pay
7 was paid, it was paid at the base rate of pay for PLAINTIFF and members of the CALIFORNIA
8 CLASS, as opposed to the correct, higher regular rate of pay, as required under Cal. Lab. Code
9 Section 246. Further, DEFENDANT illegally restricts the use of PLAINTIFF's legally required
10 California sick time as DEFENDANT did not allow PLAINTIFF to use his paid sick leave when he
11 needed to care for his wife after a major surgery.

12 18. As a pattern and practice, DEFENDANT regularly failed to pay PLAINTIFF and
13 other members of the CALIFORNIA CLASS their correct wages and accordingly owe waiting time
14 penalties pursuant to Cal. Lab. Code Section 203. Further, PLAINTIFF is informed and believes and
15 based thereon alleges that such failure to pay sick pay at regular rate was willful, such that
16 PLAINTIFF and members of the CALIFORNIA CLASS whose employment has separated are
17 entitled to waiting time penalties pursuant to Cal. Lab. Code Sections 201-203.

18 19. Pursuant to Cal. Lab. Code Section 221, "It shall be unlawful for any employer to
19 collect or receive from an employee any part of wages theretofore paid by said employer to said
20 employee." DEFENDANT failed to pay all compensation due to PLAINTIFF and other
21 CALIFORNIA LABOR SUB-CLASS Members, made unlawful deductions from compensation
22 payable to PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members, failed to disclose all
23 aspects of the deductions from compensation payable to PLAINTIFF and CALIFORNIA LABOR
24 SUB-CLASS Members, and thereby failed to pay these employees all wages due at each applicable
25 pay period and upon termination. PLAINTIFF and members of the CALIFORNIA LABOR SUB-
26 CLASS seek recovery of all illegal deductions from wages according to proof, related penalties,
27 interest, attorney fees and costs.
28

20. Specifically as to PLAINTIFF, DEFENDANT failed to provide all the legally required off-duty meal and rest breaks to PLAINTIFF as required by the applicable Wage Order and Labor Code and failed to pay PLAINTIFF all minimum and overtime wages due to PLAINTIFF. DEFENDANT did not have a policy or practice which provided timely off-duty meal and rest breaks to PLAINTIFF and also failed to compensate PLAINTIFF for PLAINTIFF's missed meal and rest breaks. The nature of the work performed by the PLAINTIFF did not prevent PLAINTIFF from being relieved of all of PLAINTIFF's duties for the legally required off-duty meal periods. As a result, DEFENDANT's failure to provide PLAINTIFF with the legally required meal periods is evidenced by DEFENDANT's business records. The amount in controversy for PLAINTIFF individually does not exceed the sum or value of \$75,000.

JURISDICTION AND VENUE

21. This Court has jurisdiction over this Action pursuant to California Code of Civil Procedure, Section 410.10 and California Business & Professions Code, Section 17203. This action is brought as a Class Action on behalf of PLAINTIFF and similarly situated employees of DEFENDANT pursuant to Cal. Code of Civ. Proc. § 382.

22. Venue is proper in this Court pursuant to California Code of Civil Procedure, Sections 395 and 395.5, because PLAINTIFF worked in this County for DEFENDANT and DEFENDANT (i) currently maintains and at all relevant times maintained offices and facilities in this County and/or conducts substantial business in this County, and (ii) committed the wrongful conduct herein alleged in this County against members of the CALIFORNIA CLASS.

THE CALIFORNIA CLASS

23. PLAINTIFF brings the First Cause of Action for Unfair, Unlawful and Deceptive Business Practices pursuant to Cal. Bus. & Prof. Code §§ 17200, (the "UCL") as a Class Action, pursuant to Cal. Code of Civ. Proc. § 382, on behalf of a California class, defined as all individuals who are or previously were employed by DEFENDANT American Renal Management, LLC who were classified as non-exempt in the State of California (the "CALIFORNIA CLASS") from June

1 23, 2022 to April 14, 2026 (the “CALIFORNIA CLASS PERIOD”). The amount in controversy for
2 the aggregate claim of CALIFORNIA CLASS Members is under five million dollars
3 (\$5,000,000.00).

4 24. To the extent equitable tolling operates to toll claims by the CALIFORNIA CLASS
5 against DEFENDANT, the CALIFORNIA CLASS PERIOD should be adjusted accordingly.

6 25. DEFENDANT, as a matter of company policy, practice and procedure, and in
7 violation of the applicable Labor Code, Industrial Welfare Commission (“IWC”) Wage Order
8 requirements, and the applicable provisions of California law, intentionally, knowingly, and
9 wilfully, engaged in a practice whereby DEFENDANT failed to record all meal and rest breaks
10 missed by PLAINTIFF and other CALIFORNIA CLASS Members, even though DEFENDANT
11 enjoyed the benefit of this work, required employees to perform this work and permits or suffers to
12 permit this work.

13 26. DEFENDANT has the legal burden to establish that each and every CALIFORNIA
14 CLASS Member was paid accurately for all meal and rest breaks missed as required by California
15 laws. The DEFENDANT, however, as a matter of policy and procedure failed to have in place
16 during the CALIFORNIA CLASS PERIOD and still fails to have in place a policy or practice to
17 ensure that each and every CALIFORNIA CLASS Member is paid as required by law. This
18 common business practice is applicable to each and every CALIFORNIA CLASS Member can be
19 adjudicated on a class-wide basis as unlawful, unfair, and/or deceptive under Cal. Business &
20 Professions Code §§ 17200, (the “UCL”) as causation, damages, and reliance are not elements of
21 this claim.

22 27. The CALIFORNIA CLASS, is so numerous that joinder of all CALIFORNIA
23 CLASS Members is impracticable.

24 28. DEFENDANT violated the rights of the CALIFORNIA CLASS under California law
25 by:

- 26 (a) Committing an act of unfair competition in violation of , Cal. Bus. & Prof.
27 Code §§ 17200, (the "UCL"), by unlawfully, unfairly and/or deceptively
28 having in place company policies, practices and procedures that failed to

1 record and pay PLAINTIFF and the other members of the CALIFORNIA
2 CLASS for all time worked, including minimum wages owed and overtime
3 wages owed for work performed by these employees; and,

- 4 (b) Committing an act of unfair competition in violation of the UCL, by failing
5 to provide the PLAINTIFF and the other members of the CALIFORNIA
6 CLASS with the legally required meal and rest periods.

7 29. This Class Action meets the statutory prerequisites for the maintenance of a Class
8 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 9 (a) The persons who comprise the CALIFORNIA CLASS are so numerous that
10 the joinder of all such persons is impracticable and the disposition of their
11 claims as a class will benefit the parties and the Court;
- 12 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
13 are raised in this Complaint are common to the CALIFORNIA CLASS will
14 apply to every member of the CALIFORNIA CLASS;
- 15 (c) The claims of the representative PLAINTIFF are typical of the claims of each
16 member of the CALIFORNIA CLASS. PLAINTIFF, like all the other
17 members of the CALIFORNIA CLASS, was classified as a non-exempt
18 employee paid on an hourly basis who was subjected to the DEFENDANT's
19 deceptive practice and policy which failed to provide the legally required
20 meal and rest periods to the CALIFORNIA CLASS and thereby underpaid
21 compensation to PLAINTIFF and CALIFORNIA CLASS. PLAINTIFF
22 sustained economic injury as a result of DEFENDANT's employment
23 practices. PLAINTIFF and the members of the CALIFORNIA CLASS were
24 and are similarly or identically harmed by the same unlawful, deceptive and
25 unfair misconduct engaged in by DEFENDANT; and,
- 26 (d) The representative PLAINTIFF will fairly and adequately represent and
27 protect the interest of the CALIFORNIA CLASS, and has retained counsel
28 who are competent and experienced in Class Action litigation. There are no

1 material conflicts between the claims of the representative PLAINTIFF and
2 the members of the CALIFORNIA CLASS that would make class
3 certification inappropriate. Counsel for the CALIFORNIA CLASS will
4 vigorously assert the claims of all CALIFORNIA CLASS Members.

5 30. In addition to meeting the statutory prerequisites to a Class Action, this action is
6 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

7 (a) Without class certification and determination of declaratory, injunctive,
8 statutory and other legal questions within the class format, prosecution of
9 separate actions by individual members of the CALIFORNIA CLASS will
10 create the risk of:

- 11 1) Inconsistent or varying adjudications with respect to individual
12 members of the CALIFORNIA CLASS which would establish
13 incompatible standards of conduct for the parties opposing the
14 CALIFORNIA CLASS; and/or,
15 2) Adjudication with respect to individual members of the
16 CALIFORNIA CLASS which would as a practical matter be
17 dispositive of interests of the other members not party to the
18 adjudication or substantially impair or impede their ability to protect
19 their interests.

20 (b) The parties opposing the CALIFORNIA CLASS have acted or refused to act
21 on grounds generally applicable to the CALIFORNIA CLASS, making
22 appropriate class-wide relief with respect to the CALIFORNIA CLASS as a
23 whole in that DEFENDANT failed to pay all wages due to members of the
24 CALIFORNIA CLASS as required by law;

- 25 1) With respect to the First Cause of Action, the final relief on behalf of
26 the CALIFORNIA CLASS sought does not relate exclusively to
27 restitution because through this claim PLAINTIFF seeks declaratory
28 relief holding that the DEFENDANT's policy and practices constitute

1 unfair competition, along with declaratory relief, injunctive relief,
2 and incidental equitable relief as may be necessary to prevent and
3 remedy the conduct declared to constitute unfair competition;

4 (c) Common questions of law and fact exist as to the members of the
5 CALIFORNIA CLASS, with respect to the practices and violations of
6 California law as listed above, and predominate over any question affecting
7 only individual CALIFORNIA CLASS Members, and a Class Action is
8 superior to other available methods for the fair and efficient adjudication of
9 the controversy, including consideration of:

10 1) The interests of the members of the CALIFORNIA CLASS in
11 individually controlling the prosecution or defense of separate actions
12 in that the substantial expense of individual actions will be avoided to
13 recover the relatively small amount of economic losses sustained by
14 the individual CALIFORNIA CLASS Members when compared to
15 the substantial expense and burden of individual prosecution of this
16 litigation;

17 2) Class certification will obviate the need for unduly duplicative
18 litigation that would create the risk of:

19 A. Inconsistent or varying adjudications with respect to
20 individual members of the CALIFORNIA CLASS, which
21 would establish incompatible standards of conduct for the
22 DEFENDANT; and/or,

23 B. Adjudications with respect to individual members of the
24 CALIFORNIA CLASS would as a practical matter be
25 dispositive of the interests of the other members not parties to
26 the adjudication or substantially impair or impede their ability
27 to protect their interests;
28

- 1 3) In the context of wage litigation because a substantial number of
2 individual CALIFORNIA CLASS Members will avoid asserting their
3 legal rights out of fear of retaliation by DEFENDANT, which may
4 adversely affect an individual's job with DEFENDANT or with a
5 subsequent employer, the Class Action is the only means to assert
6 their claims through a representative; and,
7 4) A class action is superior to other available methods for the fair and
8 efficient adjudication of this litigation because class treatment will
9 obviate the need for unduly and unnecessary duplicative litigation that
10 is likely to result in the absence of certification of this action pursuant
11 to Cal. Code of Civ. Proc. § 382.

12 31. This Court should permit this action to be maintained as a Class Action pursuant to
13 Cal. Code of Civ. Proc. § 382 because:

- 14 (a) The questions of law and fact common to the CALIFORNIA CLASS
15 predominate over any question affecting only individual CALIFORNIA
16 CLASS Members because the DEFENDANT's employment practices are
17 applied with respect to the CALIFORNIA CLASS;
18 (b) A Class Action is superior to any other available method for the fair and
19 efficient adjudication of the claims of the members of the CALIFORNIA
20 CLASS because in the context of employment litigation a substantial number
21 of individual CALIFORNIA CLASS Members will avoid asserting their
22 rights individually out of fear of retaliation or adverse impact on their
23 employment;
24 (c) The members of the CALIFORNIA CLASS are so numerous that it is
25 impractical to bring all members of the CALIFORNIA CLASS before the
26 Court;

- 1 (d) PLAINTIFF, and the other CALIFORNIA CLASS Members, will not be able
2 to obtain effective and economic legal redress unless the action is maintained
3 as a Class Action;
- 4 (e) There is a community of interest in obtaining appropriate legal and equitable
5 relief for the acts of unfair competition, statutory violations and other
6 improprieties, and in obtaining adequate compensation for the damages and
7 injuries which DEFENDANT's actions have inflicted upon the
8 CALIFORNIA CLASS;
- 9 (f) There is a community of interest in ensuring that the combined assets of
10 DEFENDANT are sufficient to adequately compensate the members of the
11 CALIFORNIA CLASS for the injuries sustained;
- 12 (g) DEFENDANT has acted or refused to act on grounds generally applicable to
13 the CALIFORNIA CLASS, thereby making final class-wide relief
14 appropriate with respect to the CALIFORNIA CLASS as a whole;
- 15 (h) The members of the CALIFORNIA CLASS are readily ascertainable from
16 the business records of DEFENDANT; and,
- 17 (i) Class treatment provides manageable judicial treatment calculated to bring a
18 efficient and rapid conclusion to all litigation of all wage and hour related
19 claims arising out of the conduct of DEFENDANT as to the members of the
20 CALIFORNIA CLASS.

21 32. DEFENDANT maintains records from which the Court can ascertain and identify by
22 job title each of DEFENDANT's employees who have been intentionally subjected to
23 DEFENDANT's company policy, practices and procedures as herein alleged. PLAINTIFF will seek
24 leave to amend the Complaint to include any additional job titles of similarly situated employees
25 when they have been identified.

26
27 **THE CALIFORNIA LABOR SUB-CLASS**
28

1 33. PLAINTIFF further brings the Second, Third, Fourth, Fifth, Sixth, Seventh, and
2 Eighth causes of Action on behalf of a California sub-class, defined as all members of the
3 CALIFORNIA CLASS who are or previously were employed by DEFENDANT American Renal
4 Management, LLC, who were classified as non-exempt in the State of California from June 23,
5 2022 to April 14, 2026 (the “CALIFORNIA LABOR SUB-CLASS”) at any time during the period
6 three (3) years prior to the filing of the complaint and ending on the date as determined by the Court
7 (the “CALIFORNIA LABOR SUB-CLASS PERIOD”) pursuant to Cal. Code of Civ. Proc. § 382.
8 The amount in controversy for the aggregate claim of CALIFORNIA LABOR SUB-CLASS
9 Members is under five million dollars (\$5,000,000.00).

10 34. DEFENDANT, in violation of the applicable Labor Code, Industrial Welfare
11 Commission (“IWC”) Wage Order requirements, and the applicable provisions of California law,
12 intentionally, knowingly, and willfully, engaged in a practice whereby DEFENDANT failed to
13 correctly calculate compensation for the time worked by PLAINTIFF and the other members of the
14 CALIFORNIA LABOR SUB-CLASS and reporting time wages owed to these employees, even
15 though DEFENDANT enjoyed the benefit of this work, required employees to perform this work
16 and permitted or suffered to permit this work. DEFENDANT has denied these CALIFORNIA
17 LABOR SUB-CLASS Members wages to which these employees are entitled in order to unfairly
18 cheat the competition and unlawfully profit. To the extent equitable tolling operates to toll claims
19 by the CALIFORNIA LABOR SUB-CLASS against DEFENDANT, the CALIFORNIA LABOR
20 SUB-CLASS PERIOD should be adjusted accordingly.

21 35. DEFENDANT maintains records from which the Court can ascertain and
22 identify by name and job title, each of DEFENDANT’s employees who have been intentionally
23 subjected to DEFENDANT’s company policy, practices and procedures as herein alleged.
24 PLAINTIFF will seek leave to amend the complaint to include any additional job titles of similarly
25 situated employees when they have been identified.

26 36. The CALIFORNIA LABOR SUB-CLASS is so numerous that joinder of all
27 CALIFORNIA LABOR SUB-CLASS Members is impracticable.
28

1 37. Common questions of law and fact exist as to members of the CALIFORNIA
2 LABOR SUB-CLASS, including, but not limited, to the following:

- 3 (a) Whether DEFENDANT unlawfully failed to correctly calculate and pay
4 compensation due to members of the CALIFORNIA LABOR SUB-CLASS
5 for missed meal and rest breaks in violation of the California Labor Code and
6 California regulations and the applicable California Wage Order;
- 7 (b) Whether DEFENDANT failed to provide the PLAINTIFF and the other
8 members of the CALIFORNIA LABOR SUB-CLASS with accurate itemized
9 wage statements;
- 10 (c) Whether DEFENDANT has engaged in unfair competition by the
11 above-listed conduct;
- 12 (d) The proper measure of damages and penalties owed to the members of the
13 CALIFORNIA LABOR SUB-CLASS; and,
- 14 (e) Whether DEFENDANT's conduct was willful.

15 38. DEFENDANT violated the rights of the CALIFORNIA LABOR SUB-CLASS under
16 California law by:

- 17 (a) Violating Cal. Lab. Code § 510, by failing to correctly pay the PLAINTIFF
18 and the members of the CALIFORNIA LABOR SUB-CLASS all wages due
19 for overtime worked, for which DEFENDANT is liable pursuant to Cal. Lab.
20 Code § 1194;
- 21 (b) Violating Cal. Lab. Code §§ 1194, 1197 & 1197.1, by failing to accurately
22 pay PLAINTIFF and the members of the CALIFORNIA LABOR SUB-
23 CLASS the correct minimum wage pay for which DEFENDANT is liable
24 pursuant to Cal. Lab. Code §§ 1194 and 1197;
- 25 (c) Violating Cal. Lab. Code § 226, by failing to provide PLAINTIFF and the
26 members of the CALIFORNIA LABOR SUB-CLASS with an accurate
27 itemized statement in writing showing the corresponding correct amount of
28 wages earned by the employee;

- 1 (d) Violating Cal. Lab. Code §§ 226.7 and 512, by failing to provide PLAINTIFF
2 and the other members of the CALIFORNIA LABOR SUB-CLASS with all
3 legally required off-duty, uninterrupted thirty (30) minute meal breaks and
4 the legally required off-duty rest breaks; and,
- 5 (e) Violating Cal. Lab. Code §§ 201, 202 and/or 203, which provides that when
6 an employee is discharged or quits from employment, the employer must pay
7 the employee all wages due without abatement, by failing to tender full
8 payment and/or restitution of wages owed or in the manner required by
9 California law to the members of the CALIFORNIA LABOR SUB-CLASS
10 who have terminated their employment;

11 39. This Class Action meets the statutory prerequisites for the maintenance of a Class
12 Action as set forth in Cal. Code of Civ. Proc. § 382, in that:

- 13 (a) The persons who comprise the CALIFORNIA LABOR SUB-CLASS are so
14 numerous that the joinder of all CALIFORNIA LABOR SUB-CLASS
15 Members is impracticable and the disposition of their claims as a class will
16 benefit the parties and the Court;
- 17 (b) Nearly all factual, legal, statutory, declaratory and injunctive relief issues that
18 are raised in this Complaint are common to the CALIFORNIA LABOR SUB-
19 CLASS and will apply to every member of the CALIFORNIA LABOR SUB-
20 CLASS;
- 21 (c) The claims of the representative PLAINTIFF are typical of the claims of each
22 member of the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF, like all
23 the other members of the CALIFORNIA LABOR SUB-CLASS, was a non-
24 exempt employee paid on an hourly basis who was subjected to the
25 DEFENDANT's practice and policy which failed to pay the correct amount
26 of wages due to the CALIFORNIA LABOR SUB-CLASS. PLAINTIFF
27 sustained economic injury as a result of DEFENDANT's employment
28 practices. PLAINTIFF and the members of the CALIFORNIA LABOR

1 SUB-CLASS were and are similarly or identically harmed by the same
2 unlawful, deceptive, and unfair misconduct engaged in by DEFENDANT;
3 and,

4 (d) The representative PLAINTIFF will fairly and adequately represent and
5 protect the interest of the CALIFORNIA LABOR SUB-CLASS, and has
6 retained counsel who are competent and experienced in Class Action
7 litigation. There are no material conflicts between the claims of the
8 representative PLAINTIFF and the members of the CALIFORNIA LABOR
9 SUB-CLASS that would make class certification inappropriate. Counsel for
10 the CALIFORNIA LABOR SUB-CLASS will vigorously assert the claims of
11 all CALIFORNIA LABOR SUB-CLASS Members.

12 40. In addition to meeting the statutory prerequisites to a Class Action, this action is
13 properly maintained as a Class Action pursuant to Cal. Code of Civ. Proc. § 382, in that:

14 (a) Without class certification and determination of declaratory, injunctive,
15 statutory and other legal questions within the class format, prosecution of
16 separate actions by individual members of the CALIFORNIA LABOR SUB-
17 CLASS will create the risk of:

- 18 1) Inconsistent or varying adjudications with respect to individual
19 members of the CALIFORNIA LABOR SUB-CLASS which would
20 establish incompatible standards of conduct for the parties opposing
21 the CALIFORNIA LABOR SUB-CLASS; or,
22 2) Adjudication with respect to individual members of the
23 CALIFORNIA LABOR SUB-CLASS which would as a practical
24 matter be dispositive of interests of the other members not party to the
25 adjudication or substantially impair or impede their ability to protect
26 their interests.

27 (b) The parties opposing the CALIFORNIA LABOR SUB-CLASS have acted or
28 refused to act on grounds generally applicable to the CALIFORNIA LABOR

1 SUB-CLASS, making appropriate class-wide relief with respect to the
2 CALIFORNIA LABOR SUB-CLASS as a whole in that DEFENDANT fails
3 to pay all wages due. Including the correct wages for all time worked by the
4 members of the CALIFORNIA LABOR SUB-CLASS as required by law;

5 (c) Common questions of law and fact predominate as to the members of the
6 CALIFORNIA LABOR SUB-CLASS, with respect to the practices and
7 violations of California Law as listed above, and predominate over any
8 question affecting only individual CALIFORNIA LABOR SUB-CLASS
9 Members, and a Class Action is superior to other available methods for the
10 fair and efficient adjudication of the controversy, including consideration of:

11 1) The interests of the members of the CALIFORNIA LABOR SUB-
12 CLASS in individually controlling the prosecution or defense of
13 separate actions in that the substantial expense of individual actions
14 will be avoided to recover the relatively small amount of economic
15 losses sustained by the individual CALIFORNIA LABOR SUB-
16 CLASS Members when compared to the substantial expense and
17 burden of individual prosecution of this litigation;

18 2) Class certification will obviate the need for unduly duplicative
19 litigation that would create the risk of:

20 A. Inconsistent or varying adjudications with respect to
21 individual members of the CALIFORNIA LABOR SUB-
22 CLASS, which would establish incompatible standards of
23 conduct for the DEFENDANT; and/or,

24 B. Adjudications with respect to individual members of the
25 CALIFORNIA LABOR SUB-CLASS would as a practical
26 matter be dispositive of the interests of the other members not
27 parties to the adjudication or substantially impair or impede
28 their ability to protect their interests;

- 1 3) In the context of wage litigation because a substantial number of
2 individual CALIFORNIA LABOR SUB-CLASS Members will avoid
3 asserting their legal rights out of fear of retaliation by DEFENDANT,
4 which may adversely affect an individual's job with DEFENDANT or
5 with a subsequent employer, the Class Action is the only means to
6 assert their claims through a representative; and,
- 7 4) A class action is superior to other available methods for the fair and
8 efficient adjudication of this litigation because class treatment will
9 obviate the need for unduly and unnecessary duplicative litigation that
10 is likely to result in the absence of certification of this action pursuant
11 to Cal. Code of Civ. Proc. § 382.

12 41. This Court should permit this action to be maintained as a Class Action pursuant to
13 Cal. Code of Civ. Proc. § 382 because:

- 14 (a) The questions of law and fact common to the CALIFORNIA LABOR SUB-
15 CLASS predominate over any question affecting only individual
16 CALIFORNIA LABOR SUB-CLASS Members;
- 17 (b) A Class Action is superior to any other available method for the fair and
18 efficient adjudication of the claims of the members of the CALIFORNIA
19 LABOR SUB-CLASS because in the context of employment litigation a
20 substantial number of individual CALIFORNIA LABOR SUB-CLASS
21 Members will avoid asserting their rights individually out of fear of
22 retaliation or adverse impact on their employment;
- 23 (c) The members of the CALIFORNIA LABOR SUB-CLASS are so numerous
24 that it is impractical to bring all members of the CALIFORNIA LABOR
25 SUB-CLASS before the Court;
- 26 (d) PLAINTIFF, and the other CALIFORNIA LABOR SUB-CLASS Members,
27 will not be able to obtain effective and economic legal redress unless the
28 action is maintained as a Class Action;

- 1 (e) There is a community of interest in obtaining appropriate legal and equitable
2 relief for the acts of unfair competition, statutory violations and other
3 improprieties, and in obtaining adequate compensation for the damages and
4 injuries which DEFENDANT's actions have inflicted upon the
5 CALIFORNIA LABOR SUB-CLASS;
- 6 (f) There is a community of interest in ensuring that the combined assets of
7 DEFENDANT are sufficient to adequately compensate the members of the
8 CALIFORNIA LABOR SUB-CLASS for the injuries sustained;
- 9 (g) DEFENDANT has acted or refused to act on grounds generally applicable to
10 the CALIFORNIA LABOR SUB-CLASS, thereby making final class-wide
11 relief appropriate with respect to the CALIFORNIA LABOR SUB-CLASS as
12 a whole;
- 13 (h) The members of the CALIFORNIA LABOR SUB-CLASS are readily
14 ascertainable from the business records of DEFENDANT. The
15 CALIFORNIA LABOR SUB-CLASS consists of all CALIFORNIA CLASS
16 Members who worked for DEFENDANT in California at any time during the
17 CALIFORNIA LABOR SUB-CLASS PERIOD; and,
- 18 (i) Class treatment provides manageable judicial treatment calculated to bring a
19 efficient and rapid conclusion to all litigation of all wage and hour related
20 claims arising out of the conduct of DEFENDANT as to the members of the
21 CALIFORNIA LABOR SUB-CLASS.

22
23 **FIRST CAUSE OF ACTION**

24 **For Unlawful Business Practices**

25 **[Cal. Bus. And Prof. Code §§ 17200]**

26 **(By PLAINTIFF and the CALIFORNIA CLASS and Against All Defendants)**
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1 42. PLAINTIFF, and the other members of the CALIFORNIA CLASS, reallege and
2 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this
3 Complaint.

4 43. DEFENDANT is a “person” as that term is defined under Cal. Bus. and Prof. Code §
5 17021.

6 44. California Business & Professions Code §§ 17200, (the “UCL”) defines unfair
7 competition as any unlawful, unfair, or fraudulent business act or practice. Section 17203
8 authorizes injunctive, declaratory, and/or other equitable relief with respect to unfair competition as
9 follows:

10 Any person who engages, has engaged, or proposes to engage in unfair competition
11 may be enjoined in any court of competent jurisdiction. The court may make such
12 orders or judgments, including the appointment of a receiver, as may be necessary to
13 prevent the use or employment by any person of any practice which constitutes unfair
competition, as defined in this chapter, or as may be necessary to restore to any
person in interest any money or property, real or personal, which may have been
acquired by means of such unfair competition.

14 Cal. Bus. & Prof. Code § 17203.

15 45. By the conduct alleged herein, DEFENDANT has engaged and continues to engage
16 in a business practice which violates California law, including but not limited to, the applicable
17 Industrial Wage Order(s), the California Code of Regulations and the California Labor Code
18 including Sections 221, 226.7, 246, 510, 512, 1194, 1197, 1197.1, 1198, and the Fair Labor
19 Standards Act and federal regulations promulgated thereunder, for which this Court should issue
20 declaratory and other equitable relief pursuant to Cal. Bus. & Prof. Code § 17203 as may be
21 necessary to prevent and remedy the conduct held to constitute unfair competition, including
22 restitution of wages wrongfully withheld.

23 46. By the conduct alleged herein, DEFENDANT’s practices were unlawful and unfair
24 in that these practices violate public policy, were immoral, unethical, oppressive, unscrupulous or
25 substantially injurious to employees, and were without valid justification or utility for which this
26 Court should issue equitable and injunctive relief pursuant to Section 17203 of the California
27 Business & Professions Code, including restitution of wages wrongfully withheld.

1 47. By the conduct alleged herein, DEFENDANT's practices were deceptive and
2 fraudulent in that DEFENDANT's policy and practice failed to provide the legally mandated meal
3 and rest periods, the required amount of compensation for missed meal and rest periods and
4 overtime and minimum wages owed, failed to timely pay wages, and failed to reimburse all
5 necessary business expenses incurred, and failed to provide Fair Labor Standards Act overtime
6 wages due for overtime worked as a result of failing to include non-discretionary incentive
7 compensation into their regular rates of pay for purposes of computing the proper overtime pay due
8 to a business practice that cannot be justified, pursuant to the applicable Cal. Lab. Code, and
9 Industrial Welfare Commission requirements in violation of Cal. Bus. Code §§ 17200, and for
10 which this Court should issue injunctive and equitable relief, pursuant to Cal. Bus. & Prof. Code §
11 17203, including restitution of wages wrongfully withheld.

12 48. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair
13 and deceptive in that DEFENDANT's employment practices caused PLAINTIFF and the other
14 members of the CALIFORNIA CLASS to be underpaid during their employment with
15 DEFENDANT.

16 49. By the conduct alleged herein, DEFENDANT's practices were also unlawful, unfair
17 and deceptive in that DEFENDANT's policies, practices and procedures failed to provide all legally
18 required meal breaks to PLAINTIFF and the other members of the CALIFORNIA CLASS as
19 required by Cal. Lab. Code §§ 226.7 and 512.

20 50. Therefore, PLAINTIFF demands on behalf of himself and on behalf of each
21 CALIFORNIA CLASS Member, one (1) hour of pay for each workday in which an off-duty meal
22 period was not timely provided for each five (5) hours of work, and/or one (1) hour of pay for each
23 workday in which a second off-duty meal period was not timely provided for each ten (10) hours of
24 work.

25 51. PLAINTIFF further demands on behalf of himself and each member of the
26 CALIFORNIA LABOR SUB-CLASS, one (1) hour of pay for each workday in which an off duty
27 paid rest period was not timely provided as required by law.
28

1 52. By and through the unlawful and unfair business practices described herein,
2 DEFENDANT has obtained valuable property, money and services from PLAINTIFF and the other
3 members of the CALIFORNIA CLASS, including earned wages for all time worked, and has
4 deprived them of valuable rights and benefits guaranteed by law and contract, all to the detriment of
5 these employees and to the benefit of DEFENDANT so as to allow DEFENDANT to unfairly
6 compete against competitors who comply with the law.

7 53. All the acts described herein as violations of, among other things, the Industrial
8 Welfare Commission Wage Orders, the California Code of Regulations, and the California Labor
9 Code, were unlawful and in violation of public policy, were immoral, unethical, oppressive and
10 unscrupulous, were deceptive, and thereby constitute unlawful, unfair and deceptive business
11 practices in violation of Cal. Bus. & Prof. Code §§ 17200.

12 54. PLAINTIFF and the other members of the CALIFORNIA CLASS are entitled to, and
13 do, seek such relief as may be necessary to restore to them the money and property which
14 DEFENDANT has acquired, or of which PLAINTIFF and the other members of the CALIFORNIA
15 CLASS have been deprived, by means of the above described unlawful and unfair business
16 practices, including earned but unpaid wages for all time worked.

17 55. PLAINTIFF and the other members of the CALIFORNIA CLASS are further entitled
18 to, and do, seek a declaration that the described business practices are unlawful, unfair and
19 deceptive, and that injunctive relief should be issued restraining DEFENDANT from engaging in
20 any unlawful and unfair business practices in the future.

21 56. PLAINTIFF and the other members of the CALIFORNIA CLASS have no plain,
22 speedy and/or adequate remedy at law that will end the unlawful and unfair business practices of
23 DEFENDANT. Further, the practices herein alleged presently continue to occur unabated. As a
24 result of the unlawful and unfair business practices described herein, PLAINTIFF and the other
25 members of the CALIFORNIA CLASS have suffered and will continue to suffer irreparable legal
26 and economic harm unless DEFENDANT is restrained from continuing to engage in these unlawful
27 and unfair business practices.
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1 by PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS. DEFENDANT
2 acted in an illegal attempt to avoid the payment of all earned wages, and other benefits in violation
3 of the California Labor Code, the Industrial Welfare Commission requirements and other applicable
4 laws and regulations.

5 64. As a direct result of DEFENDANT's unlawful wage practices as alleged herein,
6 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive the
7 correct minimum wage compensation for their time worked for DEFENDANT.

8 65. During the CALIFORNIA LABOR SUB-CLASS PERIOD, DEFENDANT required,
9 permitted or suffered PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members to work
10 without paying them for all the time they were under DEFENDANT's control. During the
11 CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the other members of the
12 CALIFORNIA LABOR SUB-CLASS were paid less for time worked that they were entitled to,
13 constituting a failure to pay all earned wages.

14 66. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
15 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
16 for the true time they worked, PLAINTIFF and the other members of the CALIFORNIA LABOR
17 SUB-CLASS have suffered and will continue to suffer an economic injury in amounts which are
18 presently unknown to them and which will be ascertained according to proof at trial.

19 67. DEFENDANT knew or should have known that PLAINTIFF and the other
20 members of the CALIFORNIA LABOR SUB-CLASS were under compensated for their time
21 worked. DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not
22 pay employees for their labor as a matter of company policy, practice and procedure, and
23 DEFENDANT perpetrated this scheme by refusing to pay PLAINTIFF and the other members of
24 the CALIFORNIA LABOR SUB-CLASS the correct minimum wages for their time worked.

25 68. In performing the acts and practices herein alleged in violation of California labor
26 laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all
27 time worked and provide them with the requisite compensation, DEFENDANT acted and continues
28 to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the

1 CALIFORNIA LABOR SUB-CLASS with a conscious and utter disregard for their legal rights, or
2 the consequences to them, and with the despicable intent of depriving them of their property and
3 legal rights, and otherwise causing them injury in order to increase company profits at the expense
4 of these employees.

5 69. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
6 therefore request recovery of all unpaid wages, according to proof, interest, statutory costs, as well
7 as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the
8 California Labor Code and/or other applicable statutes. To the extent minimum wage compensation
9 is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have
10 terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or
11 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab.
12 Code § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-
13 CLASS Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in
14 good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are
15 entitled to seek and recover statutory costs.

16
17 **THIRD CAUSE OF ACTION**

18 **For Failure To Pay Overtime Compensation**

19 **[Cal. Lab. Code § 510]**

20 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

21 70. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
22 reallege and incorporate by this reference, as though full set forth herein, the prior paragraphs of this
23 Complaint.

24 71. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
25 bring a claim for DEFENDANT's willful and intentional violations of the California Labor Code
26 and the Industrial Welfare Commission requirements for DEFENDANT's failure to pay these
27 employees for all overtime worked, including, work performed in excess of eight (8) hours in a
28 workday, and/or twelve (12) hours in a workday, and/or forty (40) hours in any workweek.

1 72. Cal. Lab. Code § 510 further provides that employees in California shall not be
2 employed more than eight (8) hours per workday and more than forty (40) hours per workweek
3 unless they receive additional compensation beyond their regular wages in amounts specified by
4 law.

5 73. Cal. Lab. Code § 1194 establishes an employee's right to recover unpaid wages,
6 including minimum wage and overtime compensation and interest thereon, together with the costs
7 of suit. Cal. Lab. Code § 1198 further states that the employment of an employee for longer hours
8 than those fixed by the Industrial Welfare Commission is unlawful.

9 74. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and
10 CALIFORNIA LABOR SUB-CLASS Members were required, permitted or suffered by
11 DEFENDANT to work for DEFENDANT and were not paid for all the time they worked, including
12 overtime work.

13 75. DEFENDANT's unlawful wage and hour practices manifested, without limitation,
14 applicable to the CALIFORNIA LABOR SUB-CLASS as a whole, as a result of implementing a
15 policy and practice that failed to accurately record overtime worked by PLAINTIFF and other
16 CALIFORNIA LABOR SUB-CLASS Members and denied accurate compensation to PLAINTIFF
17 and the other members of the CALIFORNIA LABOR SUB-CLASS for overtime worked, including,
18 the overtime work performed in excess of eight (8) hours in a workday, and/or twelve (12) hours in
19 a workday, and/or forty (40) hours in any workweek.

20 76. In committing these violations of the California Labor Code, DEFENDANT
21 inaccurately recorded overtime worked and consequently underpaid the overtime worked by
22 PLAINTIFF and other CALIFORNIA LABOR-SUB CLASS Members. DEFENDANT acted in an
23 illegal attempt to avoid the payment of all earned wages, and other benefits in violation of the
24 California Labor Code, the Industrial Welfare Commission requirements and other applicable laws
25 and regulations. As a direct result of DEFENDANT's unlawful wage practices as alleged herein, the
26 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS did not receive full
27 compensation for overtime worked.

28 77. Cal. Lab. Code § 515 sets out various categories of employees who are exempt

1 from the overtime requirements of the law. None of these exemptions are applicable to the
2 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS. Further,
3 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS were not subject to
4 a valid collective bargaining agreement that would preclude the causes of action contained herein
5 this Complaint. Rather, PLAINTIFF brings this Action on behalf of himself and the CALIFORNIA
6 LABOR SUB-CLASS based on DEFENDANT's violations of non-negotiable, non-waiveable rights
7 provided by the State of California.

8 78. During the CALIFORNIA LABOR SUB-CLASS PERIOD, PLAINTIFF and the
9 other members of the CALIFORNIA LABOR SUB-CLASS have been paid less for overtime
10 worked that they are entitled to, constituting a failure to pay all earned wages.

11 79. DEFENDANT failed to accurately pay the PLAINTIFF and the other members of the
12 CALIFORNIA LABOR SUB-CLASS overtime wages for the time they worked which was in
13 excess of the maximum hours permissible by law as required by Cal. Lab. Code §§ 510, 1194 &
14 1198, even though PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
15 were required to work, and did in fact work, overtime as to which DEFENDANT failed to
16 accurately record and pay as evidenced by DEFENDANT's business records and witnessed by
17 employees.

18 80. By virtue of DEFENDANT's unlawful failure to accurately pay all earned
19 compensation to PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS
20 for the true amount of time they worked, PLAINTIFF and the other members of the CALIFORNIA
21 LABOR SUB-CLASS have suffered and will continue to suffer an economic injury in amounts
22 which are presently unknown to them and which will be ascertained according to proof at trial.

23 81. DEFENDANT knew or should have known that PLAINTIFF and the other members
24 of the CALIFORNIA LABOR SUB-CLASS were under compensated for all overtime worked.
25 DEFENDANT elected, either through intentional malfeasance or gross nonfeasance, to not pay
26 employees for their labor as a matter of company policy, practice and procedure, and DEFENDANT
27 perpetrated this scheme by refusing to pay PLAINTIFF and the other members of the
28 CALIFORNIA LABOR SUB-CLASS for overtime worked.

82. In performing the acts and practices herein alleged in violation of California labor laws, and refusing to compensate the members of the CALIFORNIA LABOR SUB-CLASS for all overtime worked and provide them with the requisite overtime compensation, DEFENDANT acted and continues to act intentionally, oppressively, and maliciously toward PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS with a conscious of and utter disregard for their legal rights, or the consequences to them, and with the despicable intent of depriving them of their property and legal rights, and otherwise causing them injury in order to increase company profits at the expense of these employees.

83. PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS therefore request recovery of all overtime wages, according to proof, interest, statutory costs, as well as the assessment of any statutory penalties against DEFENDANT, in a sum as provided by the California Labor Code and/or other applicable statutes. To the extent minimum and/or overtime compensation is determined to be owed to the CALIFORNIA LABOR SUB-CLASS Members who have terminated their employment, DEFENDANT's conduct also violates Labor Code §§ 201 and/or 202, and therefore these individuals are also be entitled to waiting time penalties under Cal. Lab. Code § 203, which penalties are sought herein on behalf of these CALIFORNIA LABOR SUB-CLASS Members. DEFENDANT's conduct as alleged herein was willful, intentional and not in good faith. Further, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members are entitled to seek and recover statutory costs.

///

FOURTH CAUSE OF ACTION

For Failure to Provide Required Meal Periods

[Cal. Lab. Code §§ 226.7 & 512]

(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)

84. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS, reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.

1 85. During the CALIFORNIA CLASS PERIOD, DEFENDANT from time to time failed
2 to provide all the legally required off-duty meal breaks to PLAINTIFF and the other CALIFORNIA
3 LABOR SUB-CLASS Members as required by the applicable Wage Order and Labor Code. The
4 nature of the work performed by PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
5 MEMBERS did not prevent these employees from being relieved of all of their duties for the legally
6 required off-duty meal periods. As a result of their rigorous work schedules, PLAINTIFF and other
7 CALIFORNIA LABOR SUB-CLASS Members were from time to time not fully relieved of duty by
8 DEFENDANT for their meal periods. Additionally, DEFENDANT's failure to provide
9 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS Members with legally required meal
10 breaks prior to their fifth (5th) hour of work is evidenced by DEFENDANT's business records from
11 time to time. Further, DEFENDANT failed to provide PLAINTIFF and CALIFORNIA CLASS
12 Members with a second off-duty meal period in some workdays in which these employees were
13 required by DEFENDANT to work ten (10) hours of work from time to time. As a result,
14 PLAINTIFF and other members of the CALIFORNIA LABOR SUB-CLASS therefore forfeited
15 meal breaks without additional compensation and in accordance with DEFENDANT's strict
16 corporate policy and practice.

17 86. DEFENDANT further violates California Labor Code §§ 226.7 and the applicable
18 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
19 Members who were not provided a meal period, in accordance with the applicable Wage Order, one
20 additional hour of compensation at each employee's regular rate of pay for each workday that a
21 meal period was not provided.

22 87. As a proximate result of the aforementioned violations, PLAINTIFF and
23 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to
24 proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

25
26 **FIFTH CAUSE OF ACTION**

27 **For Failure to Provide Required Rest Periods**

28 **[Cal. Lab. Code §§ 226.7 & 512]**

1 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

2 88. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
3 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
4 this Complaint.

5 89. PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were from
6 time to time required to work in excess of four (4) hours without being provided ten (10) minute
7 rest periods. Further, these employees from time to time were denied their first rest periods of at
8 least ten (10) minutes for some shifts worked of at least two (2) to four (4) hours, a first and second
9 rest period of at least ten (10) minutes for some shifts worked of between six (6) and eight (8)
10 hours, and a first, second and third rest period of at least ten (10) minutes for some shifts worked of
11 ten (10) hours or more from time to time. PLAINTIFF and other CALIFORNIA LABOR SUB-
12 CLASS Members were also not provided with one hour wages in lieu thereof. As a result of their
13 rigorous work schedules, PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members
14 were periodically denied their proper rest periods by DEFENDANT and DEFENDANT's managers.

15 90. DEFENDANT further violated California Labor Code §§ 226.7 and the applicable
16 IWC Wage Order by failing to compensate PLAINTIFF and CALIFORNIA LABOR SUB-CLASS
17 Members who were not provided a rest period, in accordance with the applicable Wage Order, one
18 additional hour of compensation at each employee's regular rate of pay for each workday that rest
19 period was not provided.

20 91. As a proximate result of the aforementioned violations, PLAINTIFF and
21 CALIFORNIA LABOR SUB-CLASS Members have been damaged in an amount according to
22 proof at trial, and seek all wages earned and due, interest, penalties, expenses and costs of suit.

23 **SIXTH CAUSE OF ACTION**

24 **For Failure to Provide Accurate Itemized Statements**

25 **[Cal. Lab. Code § 226]**

26 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

1 92. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-CLASS,
2 reallege and incorporate by this reference, as though fully set forth herein, the prior paragraphs of
3 this Complaint.

4 93. Cal. Labor Code § 226 provides that an employer must furnish employees with
5 an “accurate itemized” statement in writing showing:

- 6 (1) gross wages earned,
- 7 (2) total hours worked by the employee, except for any employee whose compensation is
solely based on a salary and who is exempt from payment of overtime under subdivision (a)
8 of Section 515 or any applicable order of the Industrial Welfare Commission,
- 9 (3) the number of piece-rate units earned and any applicable piece rate if the employee is paid
on a piece-rate basis,
- 10 (4) all deductions, provided that all deductions made on written orders of the employee may
be aggregated and shown as one item,
- 11 (5) net wages earned,
- 12 (6) the inclusive dates of the period for which the employee is paid,
- 13 (7) the name of the employee and his or her social security number, except that by January 1,
2008, only the last four digits of his or her social security number or an employee
14 identification number other than a social security number may be shown on the itemized
statement,
- 15 (8) the name and address of the legal entity that is the employer, and
- 16 (9) all applicable hourly rates in effect during the pay period and the corresponding number
of hours worked at each hourly rate by the employee.

17 94. From time to time, DEFENDANT also failed to provide PLAINTIFF and the other
18 members of the CALIFORNIA LABOR SUB-CLASS with complete and accurate wage statements
19 which failed to show, among other things, the correct gross and net wages earned. Cal. Lab. Code §
20 226 provides that every employer shall furnish each of his or her employees with an accurate
21 itemized wage statement in writing showing, among other things, gross wages earned and all
22 applicable hourly rates in effect during the pay period and the corresponding amount of time worked
23 at each hourly rate. PLAINTIFF and CALIFORNIA LABOR SUB-CLASS Members were paid on
24 an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the
25 pay period and the total hours worked, and the applicable pay period in which the wages were
26 earned pursuant to California Labor Code Section 226(a). The wage statements DEFENDANT
27 provided to PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members failed to identify
28 such information. More specifically, the wage statements failed to identify the accurate total hours
worked each pay period. When the hours shown on the wage statements were added up, they did
not equal the actual total hours worked during the pay period in violation of Cal. Lab. Code

1 226(a)(2). Aside, from the violations listed above in this paragraph, DEFENDANT failed to issue
2 to PLAINTIFF an itemized wage statement that lists all the requirements under California Labor
3 Code 226. As a result, DEFENDANT from time to time provided PLAINTIFF and the other
4 members of the CALIFORNIA LABOR SUB-CLASS with wage statements which violated Cal.
5 Lab. Code § 226.

6 95. DEFENDANT knowingly and intentionally failed to comply with Cal. Lab. Code §
7 226, causing injury and damages to PLAINTIFF and the other members of the CALIFORNIA
8 LABOR SUB-CLASS. These damages include, but are not limited to, costs expended calculating
9 the correct wages for all missed meal and rest breaks and the amount of employment taxes which
10 were not properly paid to state and federal tax authorities. These damages are difficult to estimate.
11 Therefore, PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS may
12 elect to recover liquidated damages of fifty dollars (\$50.00) for the initial pay period in which the
13 violation occurred, and one hundred dollars (\$100.00) for each violation in a subsequent pay period
14 pursuant to Cal. Lab. Code § 226, in an amount according to proof at the time of trial (but in no
15 event more than four thousand dollars (\$4,000.00) for PLAINTIFF and each respective member of
16 the CALIFORNIA LABOR SUB-CLASS herein).

17
18
19 **SEVENTH CAUSE OF ACTION**

20 **For Failure to Pay Sick Pay Wages**

21 **[Cal. Lab. Code §§ 201-203, 233, 246]**

22 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS**

23 **and Against All Defendants)**

24 96. PLAINTIFF, and the other members of the CALIFORNIA LABOR SUB-
25 CLASS, reallege and incorporate by reference, as though fully set forth herein, the prior paragraphs
26 of this Complaint.

27 97. Cal Lab. Code § 233 provides that an employer must permit an employee to
28

1 use accrued sick leave in accordance with Cal Lab. Code § 246.5 at the employee's then current rate
2 of entitlement. Cal Lab. Code § 246 provides that an employee is entitled to sick pay wages for use
3 of accrued sick leave pursuant to Cal Lab. Code § 246.5. Specifically, once accrued sick leave is
4 used as paid sick time, an employee has a vested right to sick pay wages, which an employer must
5 calculate and compensate based on one of two calculations: (i) "Paid sick time for nonexempt
6 employees shall be calculated in the same manner as the regular rate of pay for the workweek in
7 which the employee uses paid sick time, whether or not the employee actually works overtime in
8 that workweek," or (ii) "Paid sick time for nonexempt employees shall be calculated by dividing the
9 employee's total wages, not including overtime premium pay, by the employee's total hours worked
10 in the full pay periods of the prior 90 days of employment." Under Cal Lab. Code §§ 218 and 233,
11 employees may sue to recover underpaid sick pay wages as damages.

12 98. As a matter of policy and practice, DEFENDANT pays sick pay wages to
13 PLAINTIFF and the other members of the CALIFORNIA LABOR SUB-CLASS at the incorrect
14 rate of pay. PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-CLASS
15 regularly use accrued sick leave in the workweeks in which they also earn non-hourly remuneration.
16 As a matter of policy and practice, DEFENDANT pays sick pay wages to PLAINTIFF and the other
17 members of the CALIFORNIA LABOR-SUB-CLASS at the base hourly pay, as opposed to the
18 regular rate of pay, which would consider all non-hourly remuneration in addition to base hourly
19 wages, or the rate resulting from dividing the employee's total wages, not including overtime
20 premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of
21 employment. As a result, DEFENDANT underpaid sick pay wages to PLAINTIFF and the other
22 members of the CALIFORNIA LABOR-SUB-CLASS.

23 99. Cal. Lab. Code § 246 specifically requires that, upon use of accrued sick leave,
24 vested sick pay wages are due and to be paid no later than the payday for the next regular payroll
25 period after accrued sick leave is used as paid sick time. Similarly, Cal. Lab. Code § 201 provides
26 that if an employer discharges an employee, wages earned and unpaid at the time of discharge are
27 due and payable immediately. Cal. Lab. Code § 202 provides that an employee is entitled to receive
28 all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the

1 employee has given 72-hour notice of his or her intention to quit, in which case the employee is
2 entitled to his or her wages at the time of quitting. The Labor Code penalizes untimely payments.
3 For example, Cal. Lab. Code § 203 provides that if an employer willfully fails to pay wages owed in
4 accordance with Cal. Lab. Code §§ 201-202, then the wages of the employee shall continue as a
5 penalty from the due date, and at the same rate until paid, but the wages shall not continue for more
6 than thirty (30) days. Under Cal. Lab. Code §§ 203 and 218, employees may sue to recover
7 applicable penalties.

8 100. As alleged herein and as a matter of policy and practice, DEFENDANT
9 routinely underpays sick pay wages and thus did not timely pay PLAINTIFF and the other members
10 of the CALIFORNIA LABOR-SUB-CLASS all owing and underpaid sick pay wages. As a result,
11 DEFENDANT violates Cal. Lab. Code §§ 201-203, 233, and 246, among other Labor Code
12 provisions. PLAINTIFF is informed and believes that DEFENDANT was advised by skilled
13 lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to
14 PLAINTIFF's allegations, especially since the California Supreme Court has explained that
15 "[c]ourts have recognized that 'wages' also include those benefits to which an employee is entitled
16 as a part of his or her compensation, including money, room, board, clothing, vacation pay, *and sick*
17 *pay.*" *Murphy v. Kenneth Cole Prods., Inc.*, 40 Cal. 4th 1094, 1103 (2007)(emphasis added).
18 Because DEFENDANT willfully fails to timely pay PLAINTIFF and the other members of the
19 CALIFORNIA LABOR-SUB-CLASS all sick pay wages due, DEFENDANT is subject to
20 applicable penalties.

21 101. Such a pattern, practice, and uniform administration of corporate policy is
22 unlawful and entitles PLAINTIFF and the other members of the CALIFORNIA LABOR-SUB-
23 CLASS to underpaid sick pay wages, including interest thereon, applicable penalties, attorney's
24 fees, and costs of suit.

25 ///

26 ///

27 ///

28 ///

1 **EIGHTH CAUSE OF ACTION**

2 **For Failure to Reimburse Employees for Required Expenses**

3 **[Cal. Lab. Code §§ 2800 and 2802]**

4 **(By PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS and Against All Defendants)**

5 102. PLAINTIFF and the other CALIFORNIA LABOR SUB-CLASS members reallege and
6 incorporate by this reference, as though fully set forth herein, the prior paragraphs of this Complaint.
7

8 103. Cal. Lab. Code § 2802 provides, in relevant part, that:

9 An employer shall indemnify his or her employee for all necessary expenditures
10 or losses incurred by the employee in direct consequence of the discharge of his
11 or her duties, or of his or her obedience to the directions of the employer, even
12 though unlawful, unless the employee, at the time of obeying the directions,
believed them to be unlawful.

13 104. At all relevant times herein, DEFENDANT violated Cal. Lab. Code § 2802, by
14 failing to indemnify and reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS
15 members for required expenses incurred in the discharge of their job duties for DEFENDANT's
16 benefit. DEFENDANT failed to reimburse PLAINTIFF and the CALIFORNIA LABOR SUB-
17 CLASS members for expenses which included, but were not limited to, costs related to using their
18 personal cellular phones on behalf of and for the benefit of DEFENDANT. Specifically,
19 PLAINTIFF and other CALIFORNIA LABOR SUB-CLASS Members were required by
20 DEFENDANT to use their personal cellular phones and home offices in order to perform work
21 related job tasks. DEFENDANT's policy and practice was to not reimburse PLAINTIFF and the
22 CALIFORNIA LABOR SUB-CLASS members for expenses resulting from using their personal
23 cellular phones and home offices for DEFENDANT within the course and scope of their
24 employment for DEFENDANT. These expenses were necessary to complete their principal job
25 duties. DEFENDANT is estopped by DEFENDANT's conduct to assert any waiver of this
26 expectation. Although these expenses were necessary expenses incurred by PLAINTIFF and the
27 CALIFORNIA LABOR SUB-CLASS members, DEFENDANT failed to indemnify and reimburse
28

1 PLAINTIFF and the CALIFORNIA LABOR SUB-CLASS members for these expenses as an
2 employer is required to do under the laws and regulations of California.

3 105. PLAINTIFF therefore demands reimbursement for expenditures or losses incurred by
4 himself and the CALIFORNIA LABOR SUB-CLASS members in the discharge of their job duties
5 for DEFENDANT, or their obedience to the directions of DEFENDANT, with interest at the
6 statutory rate and costs under Cal. Lab. Code § 2802.

7
8 **NINTH CAUSE OF ACTION**

9 **For Violation of the Private Attorneys General Act**

10 **[Cal. Lab. Code §§ 2698]**

11 **(By PLAINTIFF and Against All Defendants)**

12 106. PLAINTIFF realleges and incorporates by this reference, as though fully set forth herein,
13 the prior paragraphs of this Complaint.

14 107. PAGA is a mechanism by which the State of California itself can enforce state labor
15 laws through the employee suing under the PAGA who do so as the proxy or agent of the state's labor
16 law enforcement agencies. An action to recover civil penalties under PAGA is fundamentally a law
17 enforcement action designed to protect the public and not to benefit private parties. The purpose of the
18 PAGA is not to recover damages or restitution, but to create a means of "deputizing" citizens as private
19 attorneys general to enforce the Labor Code. In enacting PAGA, the California Legislature specified
20 that "it was ... in the public interest to allow aggrieved employees, acting as private attorneys general
21 to recover civil penalties for Labor Code violations ..." Stats. 2003, ch. 906, § 1. Accordingly, PAGA
22 claims cannot be subject to arbitration.

23 108. PLAINTIFF, and such persons that may be added from time to time who satisfy the
24 requirements and exhaust the administrative procedures under the Private Attorney General Act, brings
25 this Representative Action on behalf of the State of California with respect to all individuals who are
26 or previously were employed by DEFENDANT who were classified as non-exempt in the State of
27
28

1 California ("AGGRIEVED EMPLOYEES") from June 20, 2024 through June 13, 2026 (the "PAGA
2 PERIOD").

3 109. On June 20, 2025, PLAINTIFF gave written notice by electronic mail to the Labor and
4 Workforce Development Agency (the "Agency") and by certified mail to the employer of the specific
5 provisions of this code alleged to have been violated as required by Labor Code § 2699.3. *See Exhibit*
6 *#1*, attached hereto and incorporated by this reference herein. On June 23, 2025, PLAINTIFF gave
7 amended written notice by electronic mail to the Agency and by certified mail to the employer of the
8 specific provisions of this code alleged to have been violated as required by Labor Code § 2699.3. *See*
9 *Exhibit #2*, attached hereto and incorporated by this reference herein. On July 14, 2026, PLAINTIFF
10 gave second amended written notice by electronic mail to the Agency and by certified mail to the
11 employer of the specific provisions of this code alleged to have been violated as required by Labor Code
12 § 2699.3. *See Exhibit #3*, attached hereto and incorporated by this reference herein. The statutory
13 waiting period for PLAINTIFF to add these allegations to the Complaint has expired. As a result,
14 pursuant to Section 2699.3, PLAINTIFF may now commence a representative civil action under PAGA
15 pursuant to Section 2699 as the proxy of the State of California with respect to all AGGRIEVED
16 EMPLOYEES as herein defined.

17 110. The policies, acts and practices heretofore described were and are an unlawful business
18 act or practice because DEFENDANT (a) failed to provide PLAINTIFF and the AGGRIEVED
19 EMPLOYEES accurate itemized wage statements, (b) failed to properly record and provide legally
20 required meal and rest periods, (c) failed to pay minimum wages, (d) failed to pay overtime wages and
21 sick pay wages, (e) failed to reimburse or indemnify necessary business expenses, and (f) failure to
22 maintain adequate records, all in violation of the applicable Labor Code sections listed in Labor Code
23 §§ 201, 202, 203, 204, 210, 218, 221, 226(a), 226.3, 226.2, 226.7, 233, 246, 246.5, 510, 512,
24 558(a)(1)(2), 1174. 1174.5, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, California Code
25 of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and the applicable Wage Order(s), and
26 thereby gives rise to civil penalties as a result of such conduct. PLAINTIFF hereby seeks recovery of
27 only civil penalties as prescribed by the Labor Code Private Attorney General Act of 2004 as the
28

1 representative of the State of California for the illegal conduct perpetrated on PLAINTIFF and the
2 AGGRIEVED EMPLOYEES.

3
4 **PRAYER FOR RELIEF**

5 WHEREFORE, PLAINTIFF prays for judgment against each Defendant, jointly and severally,
6 as follows:

7 1. On behalf of the CALIFORNIA CLASS:

- 8 A) That the Court certify the First Cause of Action asserted by the CALIFORNIA CLASS
9 as a class action pursuant to Cal. Code of Civ. Proc. § 382;
- 10 B) An order temporarily, preliminarily and permanently enjoining and restraining
11 DEFENDANT from engaging in similar unlawful conduct as set forth herein;
- 12 C) An order requiring DEFENDANT to pay all wages and all sums unlawfully withheld
13 from compensation due to PLAINTIFF and the other members of the CALIFORNIA
14 CLASS; and,
- 15 D) Restitutionary disgorgement of DEFENDANT's ill-gotten gains into a fluid fund for
16 restitution of the sums incidental to DEFENDANT's violations due to PLAINTIFF and
17 to the other members of the CALIFORNIA CLASS.

18 2. On behalf of the CALIFORNIA LABOR SUB-CLASS:

- 19 A) That the Court certify the Second, Third, Fourth, Fifth, Sixth and Seventh Causes of
20 Action asserted by the CALIFORNIA LABOR SUB-CLASS as a class action pursuant
21 to Cal. Code of Civ. Proc. § 382;
- 22 B) Compensatory damages, according to proof at trial, including compensatory damages
23 for minimum and overtime compensation due PLAINTIFF and the other members of
24 the CALIFORNIA LABOR SUB-CLASS, during the applicable CALIFORNIA LABOR
25 SUB-CLASS PERIOD plus interest thereon at the statutory rate;
- 26 C) The greater of all actual damages or fifty dollars (\$50) for the initial pay period in which
27 a violation occurs and one hundred dollars (\$100) per each member of the
28 CALIFORNIA LABOR SUB-CLASS for each violation in a subsequent pay period, not

exceeding an aggregate penalty of four thousand dollars (\$4,000), and an award of costs for violation of Cal. Lab. Code § 226;

D) Meal and rest period compensation pursuant to Cal. Lab. Code §§ 226.7, 512 and the applicable IWC Wage Order;

E) For liquidated damages pursuant to California Labor Code Sections 1194.2 and 1197;

F) The amount of the expenses PLAINTIFF and each member of the CALIFORNIA LABOR SUBCLASS incurred in the course of their job duties, plus interest, and costs of suit.; and,

G) The wages of all terminated employees in the CALIFORNIA LABOR SUB-CLASS as a penalty from the due date thereof at the same rate until paid or until an action therefore is commenced, in accordance with Cal. Lab. Code § 203.

3. On behalf of the State of California and with respect to all AGGRIEVED EMPLOYEES:

A) Recovery of civil penalties as prescribed by the Labor Code Private Attorneys General Act of 2004; and,

B) An Award of attorneys' fees and costs of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §2699.

4. On all claims:

A) An award of interest, including prejudgment interest at the legal rate;

B) Such other and further relief as the Court deems just and equitable; and,

C) An award of penalties, attorneys' fees and cost of suit, as allowable under the law, including, but not limited to, pursuant to Labor Code §221, §226, §1194 and § 2802.

Dated: September 14, 2026 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw

Norman B. Blumenthal

Nicholas J. De Blouw

Attorneys for Plaintiff

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DEMAND FOR A JURY TRIAL

PLAINTIFF demands a jury trial on issues triable to a jury.

Dated: September 14, 2026 BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

By: /s/ Nicholas J. De Blouw
Norman B. Blumenthal
Nicholas J. De Blouw

Attorneys for Plaintiff

EXHIBIT 1

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

June 20, 2025

CA3719

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

American Renal Management LLC
Certified Mail #9589071052703176334594
C T CORPORATION SYSTEM
AMANDA GARCIA
330 N BRAND BLVD, SUITE 700
GLENDALE, CA 91203

Re: Notice Of Violations Of California Labor Code Sections §§ 204, 210, 226(a), 226.7, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and Violation of Applicable Industrial Welfare Commission Wage Order(s) brought Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

This letter serves as a written notice under California Labor Code Section 2699.3 on behalf of Michael Devilbliss (“Plaintiff”) and all other Aggrieved Employees of American Renal Management LLC (“Defendant”). “Aggrieved Employees” refers to all individuals who are or previously were employed by American Renal Management LLC in California, including any employees staffed with American Renal Management LLC by a third party, and classified as non-exempt employees during the time period of June 20, 2024 until a date as determined by the Court (“PAGA Period”). Our offices represent Plaintiff and other Aggrieved Employees in a lawsuit against Defendant. Plaintiff has been employed by Defendant in California since February of 2025 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock as described further below.

Plaintiff is employed by Defendant as a Patient Care Technician and assigned to Defendant’s location at 841 W. Henderson Ave., Porterville, CA93257. During the PAGA period., Plaintiff has clocked out of Defendant’s timekeeping system and performed additional work for Defendant during what should have been his off duty meal periods. As a result of not enough labor to cover for Plaintiff, Plaintiff would have to perform repair and

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

maintenance tasks on dialysis machines and water systems at Defendant's clinic. Plaintiff would also call and email Defendant's vendors regarding plumbing and HVAC system issues during what should have been his off duty meal and rest periods. Plaintiff was and under duress from his managers to complete these tasks in a timely manner which resulted in late and interrupted meal and rest breaks. Further, Plaintiff has been subjected to numerous violations during his employment with Defendant during the PAGA Period and Defendant has paid Plaintiff ***ZERO penalties for these violations***. As a result, Defendant violated Cal. Labor Code Sections 226.7, 510, 512, 1198.

Additionally, Defendant implemented an "On-Call" schedule for Plaintiff that has resulted in unpaid minimum and overtime wages during the PAGA period. Defendant requires Plaintiff to be on call from 5p.m. to 8a.m. after his normal work shifts. As Plaintiff works as a technician, Plaintiff is restricted from traveling or attending social functions and other normal life tasks when he is on call as he may be required to physically show up at Defendant's clinics in order to complete his on-call tasks. Defendant's on-call policy imposes severe geographic and temporal restrictions on Plaintiff. Defendant only compensates Plaintiff a flat stipend that does not cover minimum and or overtime wages Plaintiff earned during his on-call schedule. Defendant not only failed to pay Plaintiff all wages correctly for the on-call policy, but also failed to correctly calculate the on-call "stipend" wages into Plaintiff's overtime and sick pay rates. Defendant paid Plaintiff and other Aggrieved Employees non-discretionary incentive compensation wages during the PAGA Period ("On-Call") in which Defendant failed to correctly include these payments into Plaintiff's regular rate for the purposes of calculating the correct overtime and sick pay and as a result violated Labor Code Sections 246 & 510. For example, Defendant paid Plaintiff a "On-Call" flat rate stipend non-discretionary wage in the pay period (04/27/2025-05/10/2025) and Plaintiff also was paid overtime and sick pay wages during that pay period. Attached hereto as **Exhibit #1** is a true and correct copy of Plaintiff's pay stub showing the violations.

Additionally, Plaintiff and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the proper regular and overtime wages earned. Often, this did not occur. Plaintiff therefore contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a), such as not including all non-discretionary incentive wages into the regular rate for purposes of calculating Plaintiff's correct overtime rate during certain pay periods and also the pay stubs did not correctly reflect all the hours worked by Plaintiff during his on-call schedule and during his work off the clock when clocked out for a meal period.

Defendant also failed to comply with California's paid sick leave laws with respect to Plaintiff and other Aggrieved Employees in violation of California Labor Code Section 246. Due to Defendant's policy and practice of excluding some forms of non-discretionary wages (including but not limited to "On-Call" stipend wages) from the regular rate of pay,

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

Plaintiff believes and alleges that Defendant underpaid sick pay at only Plaintiff's and Aggrieved Employees' base hourly rate instead of regular rate of pay. Finally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff with his wages, including the meal and rest break penalties, minimum and overtime wages, and sick pay wages as a result of the violations described above.

This notice is provided to enable Plaintiff to proceed with a Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit will consist of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

If you have any questions or concerns, please do not hesitate to contact me at the above number and email address.

Respectfully,

/s/Nicholas De Blouw

Nicholas J. De Blouw, Esq.

EXHIBIT #1

Pay Details

MICHAEL EVAN DEVILBISS	Employee Number		Pay Group	Pay Group A3
	SSN		Location	Porterville 362
	Job	Biomedical Technician II	Entity	362 - Porterville 362
	Pay Rate	\$33.57	Division	100 - In-Center
	Pay Frequency	Biweekly	Department	109 - Biomedical Technician

Earnings

Pay Type	Week	Job	Hours	Pay Rate	Current	YTD
Adjustment			0.000000	\$0.00	\$0.00	\$6.59
Annual Bonus			0.000000	\$0.00	\$0.00	\$5,744.00
Call Back OT			0.000000	\$0.00	\$0.00	\$29.54
Call Back OTP			0.000000	\$0.00	\$0.00	\$16.92
Cell Stipend-Hourly			0.000000	\$0.00	\$0.00	\$250.00
GTL Imputed	2	Biomedical Technician II			\$1.03	\$10.30
Hourly Pay	1	Biomedical Technician II	28.900000	\$33.57	\$970.17	
Hourly Pay	1	Biomedical Technician II	10.350000	\$33.57	\$347.45	
Hourly Pay	2	Biomedical Technician II	16.870000	\$33.57	\$566.33	
Hourly Pay	2	Biomedical Technician II	13.150000	\$33.57	\$441.45	\$7,355.88
On Call	1	Biomedical Technician II			\$180.00	
On Call	2	Biomedical Technician II			\$180.00	\$1,440.00
OT Premium	1	Biomedical Technician II	2.000000	\$18.96	\$37.93	
OT Premium	2	Biomedical Technician II	0.220000	\$19.75	\$4.35	
OT Premium	2	Biomedical Technician II	0.070000	\$19.75	\$1.38	\$201.78
Overtime	1	Biomedical Technician II	2.000000	\$33.57	\$67.14	
Overtime	2	Biomedical Technician II	0.220000	\$33.57	\$7.39	
Overtime	2	Biomedical Technician II	0.070000	\$33.57	\$2.35	\$352.84
Paid Time Off	2	Biomedical Technician II	9.700000	\$33.57	\$325.63	\$4,616.44
Salary Pay			0.000000	\$0.00	\$0.00	\$17,009.02
Sutter Guar			0.000000	\$0.00	\$0.00	\$37.60

Total Hours Worked 71.560000 Total Hours 81.260000

Deductions

Deduction	Pre-Tax	Employee Current	Employee YTD	Employer Current	Employer YTD
401K Loan	No	\$90.40	\$873.65	\$0.00	\$0.00
401K Prefax	Yes	\$62.63	\$736.20	\$0.00	\$0.00
Dental	Yes	\$14.05	\$140.50	—	—
Expense Reimbur	No	(\$283.22)	(\$1,809.66)	\$0.00	\$0.00
GTL Imputed	No	\$1.03	\$10.30	\$0.00	\$0.00
Legal	No	\$10.11	\$101.10	\$0.00	\$0.00
Medical	Yes	\$163.21	\$1,632.10	—	—
Vision	Yes	\$6.34	\$63.40	—	—
Basic AD&D	No	\$0.00	\$0.00	\$0.62	\$6.20
Basic Life (ER)	No	\$0.00	\$0.00	\$3.60	\$36.00
Basic LTD (ER)	No	\$0.00	\$0.00	\$13.31	\$133.10
Basic STD (ER)	No	\$0.00	\$0.00	\$10.04	\$100.40

Taxes

Tax	Current	YTD
Federal Income Tax	\$312.46	\$4,307.92
Employee Medicare	\$42.76	\$507.28
Social Security Employee Tax	\$182.83	\$2,169.06
CA State Income Tax	\$121.50	\$1,776.39
CA Disability Employee	\$35.38	\$419.70

Paid Time Off

Plan	Taken	Current	Balance
CA Supp Paid Sick Leave	0.0000	0.0000	80.0000
Continuing Ed	0.0000	0.0000	8.0000
Extended Sick L	0.0000	1.5380	264.1400
Paid Time Off	118.8500	9.2400	\$2,0100

Net Pay Distribution

Account Number	Account Type	Amount
		\$2,373.12
Total		\$2,373.12

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	\$3,192.60	\$2,886.37	\$694.93	\$64.55	\$2,373.12
YTD	\$37,070.91	\$34,248.71	\$9,180.35	\$1,747.59	\$26,142.97

EXHIBIT 2

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

Nick@bamlawca.com

WRITERS EXT:

1004

June 23, 2025

CA3719

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

American Renal Management LLC
Certified Mail #9589071052703176334600
CSC-Lawyers Incorporating Service
2710 Gateway Oaks Drive, Suite 150N
Sacramento, CA 95833

AMENDED NOTICE FOR LWDA CASE NO. LWDA-CM-1106631-25

Re: Notice Of Violations Of California Labor Code Sections §§ 204, 210, 226(a), 226.7, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and Violation of Applicable Industrial Welfare Commission Wage Order(s) brought Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

This letter serves as written notice under California Labor Code Section 2699.3 on behalf of Michael Devilbliss (“Plaintiff”) and all other Aggrieved Employees of American Renal Management LLC (“Defendant”). Plaintiff sent a PAGA notice on June 20, 2025 to Defendant American Renal Management LLC.¹ After the submission of the original PAGA notice, Plaintiff was made aware that said PAGA notice was sent to and/or served on an incorrect registered agent. Plaintiff is providing this amended PAGA notice in order to serve it on the correct registered agent, that is, CSC-Lawyers Incorporating Service.

“Aggrieved Employees” refers to all individuals who are or previously were employed by American Renal Management LLC in California, including any employees staffed with American Renal Management LLC by a third party, and classified as non-exempt employees during the time period of June 20, 2024 until a date as determined by the Court (“PAGA Period”). Our offices represent Plaintiff and other Aggrieved Employees in a lawsuit against Defendant. Plaintiff has been employed by Defendant in California since February of 2025 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for

1. Attached hereto as **Exhibit #2** is a true and correct copy of Plaintiff’s original PAGA notice dated June 20, 2025.

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock as described further below.

Plaintiff is employed by Defendant as a Patient Care Technician and assigned to Defendant's location at 841 W. Henderson Ave., Porterville, CA93257. During the PAGA period., Plaintiff has clocked out of Defendant's timekeeping system and performed additional work for Defendant during what should have been his off duty meal periods. As a result of not enough labor to cover for Plaintiff, Plaintiff would have to perform repair and maintenance tasks on dialysis machines and water systems at Defendant's clinic. Plaintiff would also call and email Defendant's vendors regarding plumbing and HVAC system issues during what should have been his off duty meal and rest periods. Plaintiff was and under duress from his managers to complete these tasks in a timely manner which resulted in late and interrupted meal and rest breaks. Further, Plaintiff has been subjected to numerous violations during his employment with Defendant during the PAGA Period and Defendant has paid Plaintiff ***ZERO penalties for these violations***. As a result, Defendant violated Cal. Labor Code Sections 226.7, 510, 512, 1198.

Additionally, Defendant implemented an "'On-Call" schedule for Plaintiff that has resulted in unpaid minimum and overtime wages during the PAGA period. Defendant requires Plaintiff to be on call from 5p.m. to 8a.m. after his normal work shifts. As Plaintiff works as a technician, Plaintiff is restricted from traveling or attending social functions and other normal life tasks when he is on call as he may required to physically show up at Defendant's clinics in order to complete his on-call tasks. Defendant's on-call policy imposes severe geographic and temporal restrictions on Plaintiff. Defendant only compensates Plaintiff a flat stipend that does not cover minimum and or overtime wages Plaintiff earned during his on-call schedule. Defendant not only failed to pay Plaintiff all wages correctly for the on-call policy, but also failed to correctly calculate the on-call "stipend" wages into Plaintiff's overtime and sick pay rates. Defendant paid Plaintiff and other Aggrieved Employees non-discretionary incentive compensation wages during the PAGA Period ("On-Call") in which Defendant failed to correctly include these payments into Plaintiff's regular rate for the purposes of calculating the correct overtime and sick pay and as a result violated Labor Code Sections 246 & 510. For example, Defendant paid Plaintiff a "On-Call" flat rate stipend non-discretionary wage in the pay period (04/27/2025-05/10/2025) and Plaintiff also was paid overtime and sick pay wages during that pay period. Attached hereto as **Exhibit #1** is a true and correct copy of Plaintiff's pay stub showing the violations.

Additionally, Plaintiff and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the proper regular and overtime wages earned. Often, this did not occur. Plaintiff

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2255 CALLE CLARA

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therefore contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a), such as not including all non-discretionary incentive wages into the regular rate for purposes of calculating Plaintiff's correct overtime rate during certain pay periods and also the pay stubs did not correctly reflect all the hours worked by Plaintiff during his on-call schedule and during his work off the clock when clocked out for a meal period.

Defendant also failed to comply with California's paid sick leave laws with respect to Plaintiff and other Aggrieved Employees in violation of California Labor Code Section 246. Due to Defendants' policy and practice of excluding some forms of non-discretionary wages (including but not limited to "On-Call" stipend wages) from the regular rate of pay, Plaintiff believes and alleges that Defendant underpaid sick pay at only Plaintiff's and Aggrieved Employees' base hourly rate instead of regular rate of pay. Finally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff with his wages, including the meal and rest break penalties, minimum and overtime wages, and sick pay wages as a result of the violations described above.

This notice is provided to enable Plaintiff to proceed with a Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit will consist of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

If you have any questions of concerns, please do not hesitate to contact me at the above number and email address.

Respectfully,

/s/Nicholas De Blouw

Nicholas J. De Blouw, Esq.

EXHIBIT 3

BLUMENTHAL NORDREHAUG BHOWMIK DE BLOUW LLP

2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

Web Site: www.bamlawca.com

San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

Phone: (858) 551-1223

Fax: (858) 551-1232

WRITERS E-MAIL:

sergiojulian@bamlawca.com

WRITERS EXT:

1006

July 14, 2026

CA3719

VIA ONLINE FILING TO LWDA AND CERTIFIED MAIL TO DEFENDANT

Labor and Workforce Development Agency
Online Filing

American Renal Management LLC
Certified Mail #9589071052704052147666

JACKSON LEWIS P.C.

NATHAN W. AUSTIN

KEELIA K. LEE

400 Capitol Mall, Suite 1600

Sacramento, California 95814

Telephone: (916) 341-0404

SECOND AMENDED NOTICE FOR LWDA CASE NO. LWDA-CM-1106631-25

Re: Amended Notice Of Violations Of California Labor Code Sections §§ 204, 210, 226(a), 226.7, 246, 510, 512, 558(a)(1)(2), 1194, 1197, 1197.1, 1198, 2802, California Code of Regulations, Title 8, Section 11040, Subdivision 5(A)-(B), and Violation of Applicable Industrial Welfare Commission Wage Order(s) brought Pursuant To California Labor Code Section 2699.5.

Dear Sir/Madam:

This letter serves as written amended notice under California Labor Code Section 2699.3 on behalf of Michael Devilbliss (“Plaintiff”) and all other Aggrieved Employees of American Renal Management LLC (“Defendant”). Specifically, this second amended notice is submitted to add a claim under Cal. Lab. Code § 2802 for Defendant’s failure to provide reimbursement. Plaintiff asserts her received an average of twenty (20) calls and twenty (20) texts daily. Plaintiff estimates that 70% of his cell phone data is for the company. Despite this expenditure, Defendant only paid a plat \$50 per month for all reimbursements.

Plaintiff sent a PAGA notice on June 20, 2025 to Defendant American Renal Management LLC.¹ After the submission of the original PAGA notice, Plaintiff was made aware that said PAGA notice was sent to and/or served on an incorrect registered agent.

1. Attached hereto as **Exhibit #2** is a true and correct copy of Plaintiff’s original PAGA notice dated June 20, 2025.

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2255 CALLE CLARA

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Plaintiff thereafter provided an amended PAGA notice in order to serve it on the correct registered agent, that is, CSC-Lawyers Incorporating Service.²

“Aggrieved Employees” refers to all individuals who are or previously were employed by American Renal Management LLC in California, including any employees staffed with American Renal Management LLC by a third party, and classified as non-exempt employees during the time period of June 20, 2024 until a date as determined by the Court (“PAGA Period”). Our offices represent Plaintiff and other Aggrieved Employees in a lawsuit against Defendant. Plaintiff has been employed by Defendant in California since February of 2025 as a non-exempt employee, paid on an hourly basis, and entitled to the legally required meal and rest periods and payment of minimum and overtime wages due for all time worked. Defendant, however, unlawfully failed to record and pay Plaintiff and other Aggrieved Employees for, including but not limited to, all of their time worked, including minimum and overtime wages and sick pay wages at the correct rate, for all of their missed meal and rest breaks at the correct regular rates, and for all of their time spent working off the clock as described further below.

Plaintiff is employed by Defendant as a Patient Care Technician and assigned to Defendant’s location at 841 W. Henderson Ave., Porterville, CA93257. During the PAGA period., Plaintiff has clocked out of Defendant’s timekeeping system and performed additional work for Defendant during what should have been his off duty meal periods. As a result of not enough labor to cover for Plaintiff, Plaintiff would have to perform repair and maintenance tasks on dialysis machines and water systems at Defendant’s clinic. Plaintiff would also call and email Defendant’s vendors regarding plumbing and HVAC system issues during what should have been his off duty meal and rest periods. Plaintiff was and under duress from his managers to complete these tasks in a timely manner which resulted in late and interrupted meal and rest breaks. Further, Plaintiff has been subjected to numerous violations during his employment with Defendant during the PAGA Period and Defendant has paid Plaintiff ***ZERO penalties for these violations***. As a result, Defendant violated Cal. Labor Code Sections 226.7, 510, 512, 1198.

Additionally, Defendant implemented an “On-Call” schedule for Plaintiff that has resulted in unpaid minimum and overtime wages during the PAGA period. Defendant requires Plaintiff to be on call from 5p.m. to 8a.m. after his normal work shifts. As Plaintiff works as a technician, Plaintiff is restricted from traveling or attending social functions and other normal life tasks when he is on call as he may be required to physically show up at Defendant’s clinics in order to complete his on-call tasks. Defendant’s on-call policy imposes severe geographic and temporal restrictions on Plaintiff. Defendant only compensates Plaintiff a flat

2. Attached hereto as **Exhibit #3** is a true and correct copy of Plaintiff’s Amended PAGA Notice dated June 23, 2025.

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2255 CALLE CLARA

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stipend that does not cover minimum and or overtime wages Plaintiff earned during his on-call schedule. Defendant not only failed to pay Plaintiff all wages correctly for the on-call policy, but also failed to correctly calculate the on-call “stipend” wages into Plaintiff’s overtime and sick pay rates. Defendant paid Plaintiff and other Aggrieved Employees non-discretionary incentive compensation wages during the PAGA Period (“On-Call”) in which Defendant failed to correctly include these payments into Plaintiff’s regular rate for the purposes of calculating the correct overtime and sick pay and as a result violated Labor Code Sections 246 & 510. For example, Defendant paid Plaintiff a “On-Call” flat rate stipend non-discretionary wage in the pay period (04/27/2025-05/10/2025) and Plaintiff also was paid overtime and sick pay wages during that pay period. Attached hereto as **Exhibit #1** is a true and correct copy of Plaintiff’s pay stub showing the violations.

Additionally, Plaintiff and the Aggrieved Employees were paid on an hourly basis. As such, the wage statements should reflect all applicable hourly rates during the pay period and the proper regular and overtime wages earned. Often, this did not occur. Plaintiff therefore contends that Defendant failed to provide accurate wage statements to him, and other Aggrieved Employees, in violation of California Labor Code section 226(a), such as not including all non-discretionary incentive wages into the regular rate for purposes of calculating Plaintiff’s correct overtime rate during certain pay periods and also the pay stubs did not correctly reflect all the hours worked by Plaintiff during his on-call schedule and during his work off the clock when clocked out for a meal period.

Defendant also failed to comply with California’s paid sick leave laws with respect to Plaintiff and other Aggrieved Employees in violation of California Labor Code Section 246. Due to Defendants’ policy and practice of excluding some forms of non-discretionary wages (including but not limited to “On-Call” stipend wages) from the regular rate of pay, Plaintiff believes and alleges that Defendant underpaid sick pay at only Plaintiff’s and Aggrieved Employees’ base hourly rate instead of regular rate of pay. Finally, pursuant to Labor Code § 204 *et seq.*, Defendant failed to timely provide Plaintiff with his wages, including the meal and rest break penalties, minimum and overtime wages, and sick pay wages as a result of the violations described above.

This notice is provided to enable Plaintiff to proceed with a Complaint against Defendant as authorized by California Labor Code section 2699, *et seq.* The lawsuit will consist of other Aggrieved Employees. As counsel, our intention is to vigorously prosecute the claims, and to procure civil penalties as provided by the Private Attorney General Statute of 2004 on behalf of Plaintiff and all Aggrieved Employees.

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2255 CALLE CLARA

LA JOLLA, CALIFORNIA 92037

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San Diego | San Francisco | Sacramento | Los Angeles | Riverside | Santa Clara | Orange | Chicago

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If you have any questions or concerns, please do not hesitate to contact me at the above number and email address.

Respectfully,

/s/ Sergio J. Puche

Sergio J. Puche, Esq.