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6 Attorneys for Defendants
RURAL/METRO OF SAN DIEGO, INC.
7 (incorrectly identified as "RURAL METRO OF SAN DIEGO, INC."),
RURAL/METRO CORPORATION
8 (incorrectly identified as "RURAL METRO CORPORATION"),
AMERICAN MEDICAL RESPONSE, INC.
9 and ENVISION HEALTHCARE CORPORATION

10 **UNITED STATES DISTRICT COURT**
11 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA**

13 REUBEN CALLEROS and RALPH
14 RUBIO, individually and on behalf of
all others similarly situated in the State
15 of California,

16 Plaintiffs,

17 v.

18 RURAL METRO OF SAN DIEGO,
INC., RURAL METRO
19 CORPORATION, AMERICAN
MEDICAL RESPONSE, INC. and
20 ENVISION HEALTHCARE
CORPORATION and DOES, 1 through
21 50, inclusive,

22 Defendants.

CASE NO. '17CV0686 CAB BLM

[CLASS ACTION]

**NOTICE OF REMOVAL OF
ACTION BY DEFENDANTS**

24 **TO THE CLERK OF THE UNITED STATES DISTRICT COURT**
25 **FOR THE SOUTHERN DISTRICT OF CALIFORNIA:**

26 **PLEASE TAKE NOTICE** that Defendants Rural/Metro of San Diego, Inc.
27 ("RMSD"), Rural/Metro Corporation ("RMC"), American Medical Response, Inc.
28 ("AMR") and Envision Healthcare Corporation ("Envision") (collectively,

1 “Defendants”) hereby remove to this Court the state court action filed by Plaintiffs
2 Reuben Calleros (“Calleros”) and Ralph Rubio (“Rubio”) (collectively
3 “Plaintiffs”) on behalf of a proposed class of persons. Jurisdiction is invoked
4 pursuant to 28 U.S.C. §§ 1331, which confers jurisdiction for cases involving
5 federal questions. Jurisdiction is further invoked pursuant to the Class Action
6 Fairness Act, 28 U.S.C. § 1332(d) (“CAFA”).

7 **PLEADINGS AND PROCESS**

8 1. On February 22, 2017, Plaintiffs commenced the above-entitled
9 action in the Superior Court of the State of California, County of San Diego, by
10 filing a Complaint therein entitled Reuben Calleros and Ralph Rubio, individually
11 and on behalf of all others similarly situated in the State of California vs. Rural
12 Metro of San Diego, Inc., Rural Metro Corporation, American Medical Response,
13 Inc., and Envision Healthcare Corporation, et al., Case No. 37-2017-00006612-
14 CU-OE-CTL (the “State Court Action”).

15 2. The Complaint purports to state causes of action for: (1) failure to
16 authorize and permit rest periods; and (2) unfair and unlawful business practices
17 under Business & Professions Code § 17200.

18 3. Plaintiffs served the Complaint upon Defendants on March 7, 2017.
19 True and correct copies of the Summons, Complaint and related documents that
20 were served on Defendants on that date are attached hereto collectively as
21 Exhibits A through D.

22 4. Defendants served their Answer on April 4, 2017. A true and correct
23 copy is attached hereto as Exhibit E.

24 5. Exhibits A through E constitute all of the process, pleadings and
25 orders served, on or by Defendants in the State Court Action.

26 **BASIS FOR REMOVAL**

27 **I. CAFA JURISDICTION**

28 6. Removal is proper because this action is a civil action of which this

1 Court has original jurisdiction under 28 U.S.C. § 1332, and is one which may be
2 removed to the United States District Court by Defendants pursuant to the
3 provisions of 28 U.S.C. §§ 1332(d), 1441 and 1453 in that it is a purported class
4 action in which there are more than 100 putative class members, it is between
5 citizens of different states, and the amount in controversy exceeds the sum of
6 \$5,000,000.00, exclusive of interest and costs.

7 7. CAFA was enacted to expand federal jurisdiction over purported
8 class actions. It provides that a purported class action may be removed in
9 accordance with 28 U.S.C. § 1446 if: (a) membership in the putative class is not
10 less than 100; (b) any member of the plaintiff class is a citizen of a foreign country
11 or a state different from any defendant; and (c) the aggregate amount in
12 controversy exceeds \$5,000,000.00. 28 U.S.C. §§ 1332(d), 1453(b).

13 **A. Class Size**

14 8. CAFA's requirement that proposed class membership be no less than
15 100 (28 U.S.C. § 1332(d)(5)) is satisfied here because the putative class has more
16 than 100 members.

17 9. Plaintiffs seek to represent all of Defendants' ambulance crew
18 employees in California for a period of four (4) years prior to the filing of this
19 action. (Complaint, ¶ 2.) Defendants RMSD and RMC have employed more than
20 3,000 such individuals in that time. (Reid Dec., ¶ 4.)

21 **B. Citizenship**

22 10. CAFA's requirement that any one member of the proposed class be a
23 citizen of a state different from any defendant is also satisfied here. 28 U.S.C.
24 § 1332(d)(2).

25 11. The records in their personnel files reflect that Plaintiffs are citizens
26 of the State of California. It appears that Calleros has lived and worked in
27 California at all times since 2012, and that Rubio has done so since 2007,
28 evidencing an intent to continue to live in the state indefinitely. Moreover, it does

1 not appear that either has ever resided in Colorado, Texas or Tennessee. (Reid
2 Dec., ¶ 5.)

3 12. Defendant AMR was at the time of filing of this action, and still is, a
4 corporation formed under the law of the State of Delaware and has its principal
5 places of business in the States of Colorado and Texas. (Reid Dec., ¶ 2.)

6 13. Defendant Envision was at the time of filing of this action, and still
7 is, a corporation formed under the laws of the State of Delaware and has its
8 principal places of business in the States of Colorado and Tennessee. (Reid Dec.,
9 ¶ 3.)

10 14. The requirements for diversity jurisdiction are met because Plaintiffs
11 and Defendant Envision are citizens of different states.

12 **C. Amount in Controversy**

13 15. CAFA's requirement that the aggregate amount in controversy
14 exceeds \$5,000,000.00, exclusive of interest and costs is satisfied as well. 28
15 U.S.C. § 1332(d)(2). Although Defendants dispute liability, the damages and
16 penalties Plaintiffs claim for themselves and the putative classes exceed
17 \$5,000,000.00.

18 16. The Complaint does not specify the amount in controversy.
19 However, for a putative class of more than 1000 persons, Plaintiffs seek, inter alia,
20 recovery for alleged unpaid rest periods for a period of four (4) years. (Reid Dec.,
21 ¶ 4.)

22 17. Without admitting any liability whatsoever, the same being expressly
23 denied, Defendants calculate that the recovery sought in the Complaint, including
24 penalties, exceeds the sum of \$5,000,000.00, exclusive of interest and costs.
25 Defendants can and will provide evidence in support of this calculation if
26 challenged to do so.

27 18. For these reasons, the amount in controversy requirement of 28 U.S.
28 C. §§ 1332(d) and 1453 has been met.

1 **II. VENUE**

2 19. This is the District Court of the United States for the district
3 embracing the place where the state court action was filed, and is, therefore, the
4 appropriate court for removal.

5 **III. TIMELINESS OF REMOVAL**

6 20. This Notice of Removal is being timely filed within thirty (30) days
7 of service of the Summons and Complaint upon Defendants.

8
9 DATED: April 4, 2017

EPSTEIN BECKER & GREEN, P.C.

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11 By: /s/ Michael S. Kun

12 Michael S. Kun
13 Kevin D. Sullivan
14 Attorneys for Defendants
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