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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SACRAMENTO

WENDIE BRANDT, as an individual and on
behalf of all others similarly situated, and as a
private attorney general,

Plaintiff,

vs.

KIDS CARE DENTAL & ORTHODONTICS, a
California corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No. 34-2021-00296816

**SECOND AMENDED CLASS AND
REPRESENTATIVE ACTION COMPLAINT**

- (1) Unpaid Minimum Wages
(Lab. Code §§ 1182.12, 1197)
- (2) Unpaid Overtime
(Lab. Code §§ 510, 1198)
- (3) Meal Period Violations
(Lab. Code §§ 226.7, 512)
- (4) Rest Period Violations
(Lab. Code § 226.7)
- (5) Inaccurate Itemized Wage Statements
(Lab. Code § 226(a));
- (6) Unreimbursed Business Expenses
(Lab. Code §§ 450, 2802)
- (7) Unfair or Unlawful Business Practices
(Bus. & Prof. Code §§ 17200 et seq.); and
- (8) Violations of the California Labor Code
(Lab. Code §§ 2698 et seq.)

DEMAND OVER \$25,000.00

BY FAX

1 On behalf of herself and other similarly situated current and former employees of Defendants,
2 and as a proxy for the State of California, Plaintiff, Wendle Brandt, submits this Second Amended Class
3 and Representative Action Complaint (the “Complaint”) against Defendant, Kids Care Dental &
4 Orthodontics, and Does 1 through 50 (collectively, “Defendants”).

5 INTRODUCTION

6 1. This class and representative action challenges systemic employment practices resulting
7 in violations of the California Labor Code against individuals who worked for Defendants. The
8 Complaint addresses Defendants’ violations of Labor Code sections 201-204, 226, 226.7, 450, 510, 512,
9 1182.12, 1197, 1198, and 2802, and seeks penalties, damages, and other relief pursuant to, among other
10 provisions, Labor Code sections 203, 210, 218, 218.5, 218.6, 226.3, 558, 1194, 1194.2, 1197.1, and
11 2698 et seq., and the Unfair Competition Law, codified at Business and Professions Code sections
12 17200 et seq. (the “UCL”).¹

13 2. Plaintiff is informed and believes that Defendants have jointly and severally acted
14 intentionally and with deliberate indifference and conscious disregard to the rights of employees by
15 failing to pay and timely pay all wages due, including minimum wages, overtime wages, and additional
16 hours of wages for meal and rest period violations, failing to provide accurate itemized wage
17 statements, and failing to reimburse all work-related expenses, including those for the required
18 purchase, cleaning, and maintenance of work uniforms.

19 3. Defendants routinely fail to pay all wages, including minimum wages, overtime wages,
20 and additional hours of wages for meal and rest period violations, including for the time that Plaintiff
21 and other non-exempt employees spend to boot up their computers at work and the time they spend to
22 maintain their work uniforms. First, Plaintiff and other non-exempt employees are required to boot up
23 Defendants’ computers and access an ADP application to clock in and clock out for their work hours. In
24 order to be able to clock in and clock out, Plaintiff and other non-exempt employees have to boot up
25 Defendants’ computers and start the ADP application, which takes anywhere between 5 and 15 minutes
26 each day, which were not paid for. Second, Plaintiff and other non-exempt employees also are required
27 to maintain and clean their work uniforms on their own time, without the payment of any wages for the
28

¹ Except as otherwise noted, all “Section” references are to the Labor Code.

1 time spent maintaining and cleaning their uniforms. Moreover, because Plaintiff and other non-exempt
2 employees are not paid all of their wages, they also are neither timely paid their wages during
3 employment nor timely paid their wages upon separation of employment. Similarly, as a result of
4 Defendants' failure to pay for all hours worked, Plaintiff and other non-exempt employees also receive
5 itemized wage statements that inaccurately state the total hours worked, number of hours worked at
6 each applicable hourly rate, gross wages earned, and net wages earned.

7 4. Defendants also routinely fail to reimburse Plaintiff and other employees for work-
8 related expenses, including for example for the costs associated with the purchase, cleaning, and
9 maintenance of their work uniforms. Specifically, Defendants require Plaintiff and other employees to
10 purchase work uniforms with Defendants' logo. Plaintiff and other employees are not reimbursed for
11 the costs of the work uniforms, which must be purchased from Defendants. Plaintiff and other
12 employees also must maintain and clean the work uniforms, but they also are not reimbursed for the
13 costs of maintaining and cleaning the work uniforms.

14 5. Plaintiff is informed and believes that Defendants engage in, among other things, a
15 system of willful violations of the Labor Code by creating and maintaining policies, practices, and
16 customs that knowingly deny its employees the above stated rights and benefits.

17 6. The policies, practices, and customs of Defendants result in unjust enrichment of
18 Defendants and an unfair business advantage over businesses that comply with the Labor Code.

19 **JURISDICTION AND VENUE**

20 7. The Complaint seeks relief exceeding \$25,000.00. The Court has jurisdiction of
21 Defendants' violations of Sections 201-204, 226, 226.7, 450, 510, 512, 1182.12, 1197, 1198, and 2802,
22 and the UCL.

23 8. Venue is proper in the County of Sacramento. Defendant is located in Rancho Cordova,
24 California.

25 **PARTIES**

26 9. Plaintiff began working for Defendants in or about March of 2016. Until her
27 employment as a Dental Patient Coordinator ended in or about December of 2020, Plaintiff was paid on
28 an hourly basis as a non-exempt employee. Plaintiff was required to purchase from Defendants a work

uniform with Defendants' logo and to maintain and clean the work uniform on her own time and at her own expense. Plaintiff was not reimbursed for the costs of purchasing, maintaining, or cleaning her work uniform. When Plaintiff reported to work, she also was required to spend 5 to 15 minutes per day booting up Defendants' computers then accessing an ADP application before being able to clock in to report her work hours. Plaintiff was neither timely paid nor ever paid minimum wages or overtime wages for her work time spent maintaining and cleaning her work uniform or for her work time booting up Defendants' computers and accessing the ADP application. Plaintiff also received itemized wage statements that inaccurately stated her total hours worked, number of hours worked at each applicable hourly rate, gross wages earned, and net wages earned. Plaintiff thus is a victim of the policies, practices, and customs of Defendants complained of in this action in ways that have deprived her of the rights guaranteed by the Labor Code and the UCL.

10. Plaintiff is informed and believes that at all times herein mentioned named defendants and Does 1 through 50, were and are corporations, business entities, individuals, or partnerships that are and were licensed to do business and actually doing business in the State of California. Based upon all the facts and circumstances incident to Defendants' business, Defendants are subject to Sections 201-204, 226, 226.7, 450, 510, 512, 1182.12, 1197, 1198, and 2802, and the UCL.

11. Plaintiff does not know the true names or capacities of the defendants sued herein as Does 1 through 50, whether individual, partner, or corporate, and for that reason, said defendants are sued under such fictitious names. Plaintiff prays for leave to amend this Complaint when the true names and capacities are known. Plaintiff is informed and believes that each of said fictitious defendants was responsible in some way for the matters alleged herein and proximately caused the illegal employment practices, wrongs, and injuries complained of herein.

12. At all times herein mentioned, each of said Defendants participated in the doing of the acts alleged herein. Defendants, and each of them, were the agents, servants, or employees of each of the other Defendants, as well as the agents of all Defendants, and were acting within the course and scope of said agency and employment.

13. Plaintiff is informed and believes that at all times material hereto, each of said Defendants was the agent, employee, alter ego, or joint venturer of, or was working in concert with,

1 each of the other Defendants and was acting within the course and scope of such agency, employment,
2 joint venture, or concerted activity. To the extent said acts, conduct, or omissions were perpetrated by
3 certain Defendants, each of the remaining Defendants confirmed and ratified said acts, conduct, or
4 omissions of the acting Defendants.

5 14. Plaintiff is informed and believes that at all times material hereto each of the Defendants
6 (i) aided and abetted the acts and omissions of each of the other Defendants in proximately causing the
7 alleged harms, or (ii) were members of, engaged in, and acting within the course and scope of, and in
8 pursuance of, a joint venture, partnership, or common enterprise.

9 CLASS ACTION ALLEGATIONS

10 15. **Definition:** Pursuant to Code of Civil Procedure section 382, Plaintiff seeks class
11 certification of: (i) all current and former non-exempt employees of Defendants in the State of
12 California at any time since September 21, 2016 (the “Unpaid Wage Class”); (ii) all current and former
13 non-exempt employees of Defendants in the State of California who worked more than eight hours in a
14 day or 40 hours in a week at any time since September 21, 2016 (the “Overtime Class”); and (iii) all
15 current and former employees of Defendants in the State of California at any time since September 21,
16 2016, who purchased a work uniform (the “Uniform Class”). The Unpaid Wage Class, Overtime Class,
17 and Uniform Class, are collectively referred to as the “Class.”

18 16. **Numerosity and Ascertainability:** The members of the Class are so numerous that
19 joinder of all members would be impractical, if not impossible. The identities of the members of the
20 Class are readily ascertainable by review of Defendants’ records, including payroll records. Plaintiff is
21 informed and believes that Defendants violate Sections 201-204, 226, 226.7, 450, 510, 512, 1182.12,
22 1197, 1198, and 2802, and the UCL against Plaintiff and the Class by failing to pay and timely pay all
23 wages due, failing to provide accurate itemized wage statements, and failing to reimburse all work-
24 related expenses, including those for the required purchase, cleaning, and maintenance of work
25 uniforms.

26 17. **Adequacy of Representation:** Plaintiff is fully prepared to take all necessary steps to
27 represent fairly and adequately the interests of the Class defined above. Plaintiff’s attorneys are ready,
28 willing, and able to represent fully and adequately both Plaintiff and the Class. Plaintiff’s attorneys have

1 prosecuted and settled wage-and-hour class actions in the past and continue to litigate numerous wage-
2 and-hour class actions currently pending in California state and federal courts.

3 18. **Common Question of Law and Fact:** There are predominant common questions of law
4 and fact and a community of interest amongst the claims of Plaintiff and of the Class. Plaintiff is
5 informed and believes that Defendants uniformly administer a corporate policy and practice of routinely
6 failing to (i) pay minimum wages and overtime wages (ii) timely pay all wages, (iii) provide accurate
7 itemized wage statements, and (iv) reimburse work-related expenses.

8 19. **Typicality:** The claims of Plaintiff are typical of the claims of all members of the Class
9 in that Plaintiff suffered the alleged harms in a similar and typical manner as other members of the Class
10 suffered. As with other members of the Class, Plaintiff was required to purchase from Defendants a
11 work uniform with Defendants' logo and to maintain and clean the work uniform on her own time and
12 at her own expense. Plaintiff also was required to spend 5 to 15 minutes per day booting up Defendants'
13 computers then accessing an ADP application before being able to clock in to report her work hours.
14 Plaintiff was not reimbursed for the costs of purchasing, maintaining, or cleaning her work uniform,
15 neither timely paid nor ever paid minimum wages or overtime wages for her work time spent
16 maintaining and cleaning her work uniform or for her work time booting up Defendants' computers and
17 accessing the ADP application, and not provided accurate itemized wage statements. Plaintiff thus is a
18 member of the Class and has suffered the alleged violations of the Labor Code.

19 20. The Labor Code is broadly remedial in nature. Its laws serve an important public interest
20 in establishing minimum working conditions and requirements in California. These labor standards
21 protect employees from onerous terms and conditions of employment or exploitation by employers who
22 have superior economic and bargaining power.

23 21. The nature of this action and the format of laws available to Plaintiff and members of the
24 Class make the class action format a particularly efficient and appropriate procedure to redress the
25 wrongs alleged herein. If each employee were required to file an individual lawsuit, the corporate
26 Defendants would necessarily gain an unconscionable advantage since they would be able to exploit and
27 overwhelm the limited resources of each individual plaintiff with their vastly superior financial and
28 legal resources. Requiring each member of the Class to pursue an individual remedy would also

discourage the assertion of lawful claims by employees who would be disinclined to file an action against their former or current employer for real and justifiable fear of retaliation and permanent damage to their careers at their current or subsequent employment.

22. The prosecution of separate actions by individual members of the Class, even if possible, would create a substantial risk of (a) inconsistent or varying adjudications with respect to individual members of the Class that would establish potentially incompatible standards of conduct for Defendants, or (b) adjudications with respect to individual members of the Class that would, as a practical matter, be dispositive of, or substantially impair or impede the ability to protect, the interests of other members of the Class not parties to the adjudications. Further, the claims of the individual members of the Class are not sufficiently large to warrant vigorous individual prosecution considering the concomitant costs and expenses.

23. Defendants' pattern, practice, and uniform administration of corporate policy in violation of the Labor Code is unlawful. Proof of a common business practice or factual pattern will establish the rights of Plaintiff and the Class under Sections 201-204, 210, 218, 218.5, 218.6, 226, 226.7, 226.3, 450, 510, 512, 558, 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, and 2802, and 2698 et seq., applicable IWC Wage Orders, the UCL, and Code of Civil Procedure section 1021.5, among other provisions, to recover damages and restitution, including unpaid wages and interest thereon, applicable penalties, liquidated damages, reasonable attorneys' fees, and costs of suit.

24. This action is brought for the benefit of the Class, which is commonly entitled to a specific fund with respect to the compensation illegally and unfairly retained by Defendants. The Class is commonly entitled to restitution of those funds being improperly withheld by Defendant.

FIRST CAUSE OF ACTION

Unpaid Minimum Wages (Lab. Code §§ 1182.12 and 1197)

(By Plaintiff and the Unpaid Wage Class Against All Defendants)

25. The preceding paragraphs are re-alleged and incorporated by this reference.

26. Sections 1182.12 and 1197 provide a minimum wage to be paid to employees and make unlawful the payment of a lesser wage. The applicable IWC Wage Order defines compensable time as "the time during which an employee is subject to the control of an employer, and includes all the time

1 the employee is suffered or permitted to work, whether or not required to do so.” Cal. Code. Regs. tit. 8,
2 § 11040(2)(K) (defining “Hours Worked”). California law thus generally requires that employers pay
3 employees at least the minimum wage for all hours worked.

4 27. As a matter of policy and practice, Defendants fail to pay at least minimum wage or any
5 wage for all hours worked by Plaintiff and the Unpaid Wage Class, including the time that Plaintiff and
6 the Unpaid Wage Class spend to boot up their computers at work and to maintain their work uniforms.
7 First, Plaintiff and the Unpaid Wage Class are required to boot up Defendants’ computers and access an
8 ADP application to clock in and clock out for their work hours. In order to be able to clock in and clock
9 out, Plaintiff and the Unpaid Wage Class have to boot up Defendants’ computers and start the ADP
10 application, which takes anywhere between 5 and 15 minutes each day. Second, Plaintiff and the
11 Unpaid Wage Class are also required to maintain and clean work uniforms on their own time. As a
12 matter of policy and practice, Plaintiff and the Unpaid Wage Class are not paid any wages for these
13 hours worked. As such, Plaintiff and the Unpaid Wage Class are owed unpaid minimum wages.

14 28. Moreover, Section 204 provides that wages are generally due and payable no later than
15 seven days after the end of a pay period or at least twice during each calendar month, on days
16 designated in advance as the regular paydays. Section 201 provides if an employer discharges an
17 employee, the wages earned and unpaid at the time of discharge are due and payable immediately.
18 Section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours
19 after an employee quits his or her employment, unless the employee has given seventy-two (72) hours
20 previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages
21 at the time of quitting. Section 203 provides that if an employer willfully fails to pay wages owed in
22 accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from
23 the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30)
24 days.

25 29. Based on Defendants’ failure to pay all minimum wages to Plaintiff and the Unpaid
26 Wage Class and as a matter of policy and practice, Defendants fail to timely pay all due wages and fail
27 to timely pay all due wages upon separation of employment. On information and belief, Defendants
28 were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as

1 it relates to Plaintiff's allegations. Because Defendants willfully fail to timely pay Plaintiff and the
2 Unpaid Wage Class all minimum wages due, Defendants are subject to applicable penalties.

3 30. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
4 entitles Plaintiff and the Unpaid Wage Class to recover unpaid minimum wages, including interest
5 thereon, liquidated damages, applicable penalties, including waiting time penalties, attorneys' fees, and
6 costs of suit.

7 **SECOND CAUSE OF ACTION**

8 **Unpaid Overtime (Lab. Code §§ 510 and 1198)**

9 **(By Plaintiff and the Overtime Class Against All Defendants)**

10 31. The preceding paragraphs are re-alleged and incorporated by this reference.

11 32. Section 510 and the applicable IWC Wage Order provide that "[a]ny work in excess of
12 eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight
13 hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no
14 less than one and one-half times the regular rate of pay for an employee" and that "[a]ny work in excess
15 of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for
16 an employee." Section 1198 makes unlawful conditions of labor that are prohibited by the applicable
17 IWC Wage Order.

18 33. As discussed above and as a matter of policy and practice, Defendants fail to pay all
19 overtime wages for all overtime hours worked by Plaintiff and the Overtime Class, including overtime
20 hours that Plaintiff and the Overtime Class spend to boot up their computers at work and to maintain
21 their work uniforms. As a matter of policy and practice, Plaintiff and the Overtime Class are not paid
22 overtime wages when these hours worked result in more than eight hours of work in a workday or 40
23 hours of work in a workweek. Moreover, when Plaintiff and the Overtime Class are paid overtime
24 wages, they are paid based on a rate that does not account for all compensation, including non-
25 discretionary incentives, bonuses, or shift differentials, earned during the same workweek. As a result,
26 such wages are not paid at no less than one and one-half times the regular rate. As such, Plaintiff and the
27 Overtime Class are owed unpaid overtime wages.

34. Moreover, Section 204 provides that wages are generally due and payable no later than seven days after the end of a pay period or at least twice during each calendar month, on days designated in advance as the regular paydays. Section 201 provides if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately. Section 202 provides that an employee is entitled to receive all unpaid wages no later than 72 hours after an employee quits his or her employment, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting. Section 203 provides that if an employer willfully fails to pay wages owed in accordance with Sections 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same rate until paid, but the wages shall not continue for more than thirty (30) days.

35. Based on Defendants' failure to pay all overtime wages to Plaintiff and the Overtime Class and as a matter of policy and practice, Defendants fail to timely pay all due wages and fail to timely pay all due wages upon separation of employment. On information and belief, Defendants were advised by skilled lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiff's allegations. Because Defendants willfully fail to timely pay Plaintiff and the Overtime Class all overtime wages due, Defendants are subject to applicable penalties.

36. Such a pattern, practice, and uniform administration of corporate policy is unlawful and entitles Plaintiff and the Overtime Class to recover underpaid overtime wages, including interest thereon, applicable penalties, including waiting time penalties, attorneys' fees, and costs of suit.

THIRD CAUSE OF ACTION

Meal Period Violations (Lab. Code §§ 226.7, 512)

(By Plaintiff and the Unpaid Wage Class Against All Defendants)

37. The preceding paragraphs are re-alleged and incorporated by this reference.

38. Because Plaintiff and the Unpaid Wage Class are non-exempt employees, Defendants are required to comply with Sections 226.7 and 512 and the applicable IWC Wage Order. Section 512(a) generally prohibits employment of an individual for a work period of more than five hours per day without providing the employee with an uninterrupted, duty-free meal period of at least 30 minutes.

1 Section 226.7(b) provides that an employer shall not require an employee to work during a meal period.
2 Section 226.7(c) states that “the employer shall pay the employee one additional hour of pay at the
3 employee’s regular rate of compensation for each workday that the meal or rest or recovery period is
4 not provided.”

5 39. As a matter of policy and practice on shifts exceeding five hours of work, Defendants do
6 not pay Plaintiff and the Unpaid Wage Class an additional hour of wages at the regular rate for each
7 missed, late, short, or interrupted meal break. Whenever such wages are paid to Plaintiff and the Unpaid
8 Wage Class, the wages are paid at their base hourly rate of pay, which does not account for all
9 compensation, including non-discretionary incentives, bonuses, or shift differentials, earned during the
10 same workweek. As a result, such wages are not paid at the regular rate.

11 40. Based on Defendants’ failure to pay Plaintiff and the Unpaid Wage Class the additional
12 hour of wages at the regular rate, and as a matter of policy and practice, Defendants fail to timely pay
13 Plaintiff and the Unpaid Wage Class all of their wages during employment and fail to timely pay all due
14 wages upon separation of employment. On information and belief, Defendants were advised by skilled
15 lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiff’s
16 allegations. Because Defendants willfully fail to timely pay Plaintiff and the Unpaid Wage Class all
17 wages due, Defendants are subject to applicable penalties.

18 41. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
19 entitles Plaintiff and the Unpaid Wage Class to recover unpaid wages, including interest thereon,
20 applicable penalties, attorneys’ fees, and costs of suit.

21 **FOURTH CAUSE OF ACTION**

22 **Rest Period Violations (Lab. Code § 226.7)**

23 **(By Plaintiff and the Unpaid Wage Class Against All Defendants)**

24 42. The preceding paragraphs are re-alleged and incorporated by this reference.

25 43. Section 226.7 and the applicable IWC Wage Order generally require an employer to
26 provide a paid, duty-free, 10-minute rest period for every four hours worked, or major fraction thereof.
27 Section 226.7(b) provides that an employer shall not require an employee to work during a rest period.
28 Section 226.7(c) states that “the employer shall pay the employee one additional hour of pay at the

1 employee's regular rate of compensation for each workday that the meal or rest or recovery period is
2 not provided."

3 44. As a matter of policy and practice on shifts of at least 3.5 hours of work, Defendants do
4 not pay Plaintiff and the Unpaid Wage Class an additional hour of wages at the regular rate for each
5 missed, late, short, or interrupted rest break. Whenever such wages are paid to Plaintiff and the Unpaid
6 Wage Class, the wages are paid at their base hourly rate of pay, which does not account for all
7 compensation, including non-discretionary incentives, bonuses, or shift differentials, earned during the
8 same workweek. As a result, such wages are not paid at the regular rate.

9 45. Based on Defendants' failure to pay Plaintiff and the Unpaid Wage Class the additional
10 hour of wages at the regular rate, and as a matter of policy and practice, Defendants fail to timely pay
11 Plaintiff and the Unpaid Wage Class all of their wages during employment and fail to timely pay all due
12 wages upon separation of employment. On information and belief, Defendants were advised by skilled
13 lawyers and knew, or should have known, of the mandates of the Labor Code as it relates to Plaintiff's
14 allegations. Because Defendants willfully fail to timely pay Plaintiff and the Unpaid Wage Class all
15 wages due, Defendants are subject to applicable penalties.

16 46. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
17 entitles Plaintiff and the Unpaid Wage Class to recover unpaid wages, including interest thereon,
18 applicable penalties, attorneys' fees, and costs of suit.

19 **FIFTH CAUSE OF ACTION**

20 **Inaccurate Itemized Wage Statements (Lab. Code § 226(a))**

21 **(By Plaintiff, the Unpaid Wage Class, and the Overtime Class Against All Defendants)**

22 47. The preceding paragraphs are re-alleged and incorporated by this reference.

23 48. Section 226(a) requires an employer to furnish to its employees itemized wage
24 statements that show accurate information, including without limitation, the total hours worked, the
25 number of hours worked at each hourly rate, the gross wages earned, and the net wages earned.

26 49. As a result of Defendants' failure to pay for all hours worked and as a matter of policy
27 and practice since September 21, 2019, Defendants fail to furnish Plaintiff, the Unpaid Wage Class, and
28

1 the Overtime Class with itemized wage statements that accurately state the total hours worked, number
2 of hours worked at each applicable hourly rate, gross wages earned, and net wages earned.

3 50. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
4 entitles Plaintiff, the Unpaid Wage Class, and the Overtime Class to recover applicable penalties,
5 attorneys' fees, and costs of suit.

6 **SIXTH CAUSE OF ACTION**

7 **Unreimbursed Business Expenses (Lab. Code §§ 450, 2802)**

8 **(By Plaintiff and the Uniform Class Against All Defendants)**

9 51. The preceding paragraphs are re-alleged and incorporated by this reference.

10 52. Section 450(a) makes it unlawful for an employer to "compel or coerce any employee ...
11 to patronize his or her employer, or any other person, in the purchase of any thing of value." With
12 respect to work uniforms, the applicable IWC Wage Order provides:

13 When uniforms are required by the employer to be worn by the employee as a condition of
14 employment, such uniforms shall be provided and maintained by the employer. The term
—uniform includes wearing apparel and accessories of distinctive design or color.

15 8 Cal. Code Regs. 11040 § 9(A).

16 53. Section 2802 requires that an employer must reimburse employees for all necessary
17 expenditures and losses incurred in the performance of their jobs. Section 2802 is intended to prevent
18 employers from placing their operating expenses and cost of doing business on employees. *Cochran v.*
19 *Schwan's Home Service, Inc.*, 228 Cal. App. 4th 1137, 1144 (2014).

20 54. As a matter of policy and practice, Defendants fail to reimburse Plaintiff and the
21 Uniform Class for necessary business expenses incurred in performing their work for Defendants,
22 including for example for the costs associated with the purchase, cleaning, and maintenance of their
23 work uniforms. Defendants require Plaintiff and the Uniform Class to purchase work uniforms with
24 Defendants' logo and to maintain and clean the work uniforms. Plaintiff and the Uniform Class are not
25 reimbursed for the costs of the work uniforms, which must be purchased from Defendants. Nor are they
26 reimbursed for the costs of maintaining and cleaning the work uniforms.

1 55. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
2 entitles Plaintiff and the Uniform Class to recover unreimbursed expenses, including interest thereon,
3 attorneys' fees, and costs of suit.

4 **SEVENTH CAUSE OF ACTION**

5 **Unfair or Unlawful Business Practices (Bus. & Prof. Code §§ 17200 et seq.)**

6 **(By Plaintiff, Unpaid Wage Class, Overtime Class, and Uniform Class Against All Defendants)**

7 56. The preceding paragraphs are re-alleged and incorporated by this reference.

8 57. Plaintiff is informed and believes that Defendants have engaged and continue to engage
9 in unfair and unlawful business practices in California by utilizing the employment policies and
10 practices alleged herein, including the failure to pay and timely pay all wages due, including minimum
11 wages and overtime wages, and the failure to reimburse all work-related expenses, including those for
12 the required purchase, cleaning, and maintenance of work uniforms.

13 58. Defendants' utilization of such unfair and unlawful business practices constitutes unfair
14 or unlawful competition and provides an unfair advantage over Defendants' competitors, as proscribed
15 by the UCL. Defendants have deprived Plaintiff, the Unpaid Wage Class, the Overtime Class, and the
16 Uniform Class of the minimum working conditions and standards due to them under the Labor Code
17 and applicable IWC Wage Orders.

18 59. Such a pattern, practice, and uniform administration of corporate policy is unlawful and
19 entitles Plaintiff, the Unpaid Wage Class, the Overtime Class, and the Uniform Class to full restitution
20 of all monies withheld, acquired, or converted by Defendants by means of the unfair practices
21 complained of herein, including interest thereon, attorneys' fees, and costs of suit.

22 **EIGHTH CAUSE OF ACTION**

23 **Violation of Labor Code §§ 2698 et seq.**

24 **(By Plaintiff and Aggrieved Employees Against All Defendants)**

25 60. The preceding paragraphs are re-alleged and incorporated by this reference.

26 61. Pursuant to the Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698
27 *et seq.* ("PAGA"), Plaintiff brings this cause of action as a proxy for the State of California. In this
28 capacity, Plaintiff seeks penalties for Defendants' violations of Sections 201-204, 226, 226.7, 450, 510,

512, 1182.12, 1197, 1198, and 2802, committed since September 21, 2019, against all aggrieved employees. Under Section 2699(c), Plaintiff is an “aggrieved employee,” as one or more of the alleged violations was committed against Plaintiff as an employee of Defendants. As stated herein, Defendants fail to pay and timely pay all wages due, including minimum wages and overtime wages, failing to provide accurate itemized wage statements, and failing to reimburse all work-related expenses, including those for the required purchase, cleaning, and maintenance of work uniforms.

62. On or about February 12, 2021, Plaintiff sent written notice to the Labor & Workforce Development Agency (“LWDA”) of facts and theories for Defendants’ violations of Sections 201-204, 226, 226.7, 510, 512, 1182.12, 1197, and 1198. Plaintiff simultaneously sent written notice to Defendants via certified mail. As of the date of the filing of this Complaint, the LWDA has neither responded nor indicated that it intends to investigate the allegations in the written notice.

63. As such, pursuant to Section 2699(a), (f), and (g), Plaintiff seeks recovery of all applicable penalties for Defendants’ violations against all aggrieved employees for the period described above.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment for herself and all others on whose behalf this suit is brought against Defendants, jointly and severally, as follows:

1. For an order certifying the proposed Class;
2. For an order appointing Plaintiff as the representative of the Class;
3. For an order appointing Counsel for Plaintiff as Class Counsel;
4. Upon the First Cause of Action for damages, including unpaid wages and interest thereon, penalties, and liquidated damages, and for costs and attorneys’ fees;
5. Upon the Second Cause of Action for damages, including unpaid wages, interest thereon, and penalties, and for costs and attorneys’ fees;
6. Upon the Third Cause of Action for damages, including unpaid wages and interest thereon, penalties, attorneys’ fees, and costs of suit;
7. Upon the Fourth Cause of Action for damages, including unpaid wages and interest thereon, penalties, attorneys’ fees, and costs of suit;

8. Upon the Fifth Cause of Action for penalties, and for costs and attorneys' fees;

9. Upon the Sixth Cause of Action for damages, including interest thereon, and for costs and attorneys' fees;

10. Upon the Seventh Cause of Action for restitution of all funds unlawfully acquired by Defendants by any acts or practices declared to be in violation of the UCL, including interest thereon, and for costs and attorneys' fees;

11. Upon the Eighth Cause of Action for penalties according to proof, and for costs and attorneys' fees;

12. Upon each cause of action for attorneys' fees and costs as provided by Sections 218.5, 226, and 2699, and Code of Civil Procedure section 1021.5; and

13. For such other and further relief that the Court may deem just and proper.

DATED: April 13, 2023

DIVERSITY LAW GROUP, P.C.

By: _____

Larry W. Lee
Simon L. Yang
Attorneys for Plaintiff

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PROOF OF SERVICE

(Code of Civil Procedure Sections 1013a, 2015.5)

STATE OF CALIFORNIA]
]ss.
COUNTY OF LOS ANGELES]

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is 515 S. Figueroa Street, Suite 1250, Los Angeles, California 90071.

On May 15, 2023, I served the following document(s) described as: **SECOND AMENDED CLASS AND REPRESENTATIVE ACTION COMPLAINT** on the interested parties in this action as follows:

Maureen K. Bogue Noah Levin PACIFIC EMPLOYMENT LAW, INC. 260 California Street, Suite 500 San Francisco, CA 94111 maureen@pacificemploymentlaw.com noah@pacificemploymentlaw.com <i>Attorneys for Defendant Kids Care Dental & Orthodontics</i>	Kelsey A. Webber Shaelyn A. Stewart Webber Law Group, P.C. 1610 R. Street, Suite 300 Sacramento, California 95811 Kelsey.Webber@webberlawgroup.com Shaelyn.Stewart@webberlawgroup.com <i>Attorneys for Plaintiff</i>
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 X BY ELECTRONIC MAIL: by personally sending a true and correct copy of the above-described document(s) to the party(ies) listed above or on the attached mailing list from the e-mail server diversitylaw.com, to the electronic transmission address of the recipient(s) indicated above or on the attached mailing list. I certify that said electronic transmission was completed and that all pages were received by the party(ies) identified herein or on the attached mailing list.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 15, 2023, at Los Angeles, California.


Erika Mejia