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SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF LOS ANGELES

JUAN SALAS,

Plaintiff,

vs.

DANIEL PINAR D.D.S., DENTAL
CORPORATION; PINAR & WAGNER;
DANIEL PINAR D.D.S.; DAVID
WAGNER D.D.S.; and DOES 1 to 25,
inclusive,

Defendants.

) CASE NO.: 21STCV17002

) COMPLAINT FOR DAMAGES FOR:

-) 1) FAILURE TO COMPENSATE FOR
) ALL HOURS WORKED;
) 2) FAILURE TO PAY MINIMUM
) WAGES;
) 3) FAILURE TO PAY OVERTIME
) 4) FAILURE TO PROVIDE
) ACCURATE ITEMIZED WAGE
) STATEMENTS;
) 5) FAILURE TO PAY WAGES OWED
) EVERY PAY PERIOD;
) 6) FAILURE TO PAY WAGES WHEN
) EMPLOYMENT ENDS;
) 7) VIOLATION OF LABOR CODE
) SECTION 558;
) 8) FAILURE TO MAINTAIN
) ACCURATE RECORDS;
) 9) FAILURE TO GIVE REST BREAKS;
) 10) FAILURE TO GIVE MEAL
) BREAKS;
) 11) PRIVATE ATTORNEYS GENERAL
) ACT ("PAGA");
) 12) FAILURE TO REIMBURSE FOR
) BUSINESS EXPENSES
) 13) BREACH OF CONTRACT;
) 14) VIOLATION OF CALIFORNIA
) BUSINESS AND PROFESSIONS
) CODE SECTION 17200.

DEMAND FOR JURY TRIAL

1
2 **COMES NOW** Plaintiff, JUAN SALAS (hereinafter “Plaintiff”), and alleges as
3 follows:

4 **PARTIES, JURISDICTION, VENUE**

5 1. Jurisdiction and Venue are proper in this Court and this action is properly filed in the
6 County of Los Angeles in this judicial district because Defendants DANIEL PINAR D.D.S.,
7 DENTAL CORPORATION; PINAR & WAGNER; DANIEL PINAR D.D.S.; DAVID
8 WAGNER D.D.S. and DOES 1 to 25, inclusive, (hereinafter collectively known as
9 “PINAR” or “Defendant(s)”), do business in the County of Los Angeles and because
10 Defendants’ obligations and liabilities arise therein, and because the work that was performed
11 by Plaintiff in the County of Los Angeles is the subject of this action. Moreover, Plaintiff’s
12 damages sought herein exceed \$25,000.
13

14 2. Plaintiff is a male resident of the County of Los Angeles, State of California.

15 3. Plaintiff is informed and believes that at all times herein mentioned, Defendant
16 DANIEL PINAR D.D.S., DENTAL CORPORATION is and was a California corporation,
17 doing business in Los Angeles County, California, and which employed Plaintiff as a Dental
18 Assistant.
19

20 4. Plaintiff is informed and believes that at all times herein mentioned, Defendant PINAR
21 & WAGNER is a business entity, form unknown, doing business in Los Angeles County,
22 California and which employed Plaintiff as a Dental Assistant.

23 5. Plaintiff is informed and believes that at all times herein mentioned, Defendant
24 DANIEL PINAR, D.D.S. and DAVID WAGNER D.D.S. are male residents of the County of
25 Los Angeles, State of California, and are the owners, managing agents of DANIEL PINAR
26 D.D.S., DENTAL CORPORATION and PINAR & WAGNER. Both individuals being
27 included in this lawsuit pursuant to Labor Code Section 558.1 as they controlled the hours,
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wages, and working conditions of Plaintiff and other hourly, non-exempt employees.

6. Plaintiff is ignorant of the true names and capacities, whether individual, corporate, or associate of those defendants fictitiously sued as DOES 1 to 25, inclusive, and so Plaintiff sues them by these fictitious names. Plaintiff is informed and believes that each of the DOE defendants, numbers 1 to 25, reside in the State of California and are in some manner responsible for the conduct alleged herein. Upon discovering the true names and capacities of these fictitiously named defendants, Plaintiff will amend this complaint to show the true names and capacities of these fictitiously named defendants.

7. Unless otherwise alleged in this complaint, Plaintiff is informed, and on the basis of that information and belief, alleges that at all times herein mentioned, each of the remaining codefendants, in doing the things hereinafter alleged, were acting within the course, scope, and under the authority of their agency, employment, or representative capacity, with the consent of his/her codefendants.

GENERAL ALLEGATIONS

8. Plaintiff started working for PINAR on or around January 2017 as a Dental Assistant. Plaintiff's last date of employment was on or around January 28, 2021. Plaintiff was classified as an hourly, non-exempt employee and earned approximately \$24 per hour. Plaintiff worked approximately 4 days per week and his scheduled work hours were 9am to 6pm or 8am to 5pm.

9. It is Plaintiff's position that PINAR has committed numerous Labor Code violations against Plaintiff and other similarly situated aggrieved employees.

10. PINAR did not provide Plaintiff and other aggrieved employees with compensation for all hours worked and did not pay Plaintiff and others the minimum wages to which they were entitled for work performed pursuant to California Labor Code sections 1194, 1197 and 1197.1. This is so because PINAR had a policy of rounding down the hours worked by Plaintiff and other aggrieved employees which translated to Mr. Pinar and others not being paid for all hours

1 worked, including minimum wages. Moreover, PINAR failed to pay Plaintiff and others for all
2 hours worked past their scheduled shift end time.

3
4 11. PINAR also violated Labor Code §510 because it failed to pay Plaintiff and other
5 aggrieved employees the correct amount of overtime, even though they worked more than 8
6 hours per day and/or 40 hours per week throughout their employment. Plaintiff's and other
7 aggrieved employees' actual work hours entitled them to overtime compensation, however,
8 PINAR did not compensate its hourly, non-exempt employees with the correct amount of
9 overtime and did not include bonuses in calculating the regular rate of pay for purposes of
10 deciphering the overtime rate of pay. To the extent that PINAR argues that it had an election to
11 pay workers based on an alternative work week schedule, it is Plaintiff's position that PINAR
12 had not gone through the proper procedures and protocols to pay its employees based on an
13 alternative work week schedule (at least with this particular dental office at this current location).
14 It was essentially company policy not to pay any overtime compensation despite the fact that
15 Plaintiff and others consistently stayed past their scheduled shifts (20-30 minutes or longer past
16 their scheduled end time).

17 12. PINAR also violated Labor Code § 226.7 and the appropriate Industrial Welfare
18 Commission Wage Order no. 4 because it failed to provide Plaintiff and others with 10-minute
19 rest periods for every four hours of work, or majority portion thereof, throughout their
20 employment. PINAR did not completely relieve Plaintiff and others of all duty during said rest
21 periods. PINAR did not pay to Plaintiff and others one additional hour of pay at Plaintiff's
22 regular rate of compensation for each workday that one or more statutory rest periods was not
23 provided. It was not part of the company policy for employees such as Plaintiff and others to
24 take rest breaks, especially in the fast-paced dental practice. As such, the culture at PINAR did
25 not lend itself to the employees receiving statutory rest breaks wherein they were relieved of all
26 work duties. Plaintiff and others were simply too busy, and the office was understaffed. In fact,
27 Plaintiff and others had suggested to management that the dentists hire another assistant,
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1 however, that request was denied. There was no “breaker” in place to relieve Plaintiff and other
2 aggrieved employees so that they can take their timely, uninterrupted rest breaks. As such, the
3 environment at PINAR was not conducive to receiving statutory rest breaks under California law
4 and timely, statutory rest breaks were not authorized or enforced.

5 13. PINAR violated Labor Code §§ 512 and 226.7 along with Industrial Welfare
6 Commission Wage Order no. 4 because it failed to provide hourly, non-exempt employees,
7 including Plaintiff and others, the requisite 30-minute, uninterrupted meal periods for every five
8 (5) hours of work throughout their employment. PINAR did not completely relieve employees
9 of all duty during said meal periods. PINAR did not pay to Plaintiff and its hourly, non-exempt
10 employees one additional hour of pay at their regular rate of compensation for each workday that
11 one or more statutory meal periods was not provided. The hourly, non-exempt employees,
12 including Plaintiff, would often not be able to receive their meal periods before the 5th hour
13 worked and would in fact at times not receive an uninterrupted, 30-minute meal period. Due to
14 being too busy and understaffed, Plaintiff and others would at times simply not clock out and
15 would not take a meal break. Like the rest breaks, receiving a timely, uninterrupted thirty-minute
16 uninterrupted meal break was not part of the company culture and was not enforced by PINAR.
17 It was the normal practice and custom of PINAR not to authorize, permit, and enforce timely
18 statutory meal periods.

19 14. In fact, it is important to note that Dr. Wagner and Plaintiff had a verbal agreement
20 wherein Dr. Wagner would perform dental work on Plaintiff’s teeth in exchange for Plaintiff
21 helping with dental cases on Plaintiff’s days off. Moreover, in exchange for the dental work, Dr.
22 Wagner also posted photos of Plaintiff’s teeth on his website (without getting Plaintiff’s
23 permission) and also used Plaintiff’s own case study for an article with UCLA. Dr. Wagner
24 breached the oral agreement and never completed the dental work on Plaintiff’s teeth.

25 15. Furthermore, during the relevant time period, PINAR failed to pay Plaintiff and others
26 all wages due to them within any time period specified by California Labor Code section 204.
27 PINAR was also in violation of California Labor Code section 226(a), by failing to include
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1 pertinent information on the wage statements, including but not limited to, the full and correct
2 name of the legal employer along with the employer's address, all hours worked (including "off
3 the clock" hours and overtime), gross wages earned, net wages earned, the correct start and end
4 time of the pay period, all deductions, the employee's identifying information, premium pay for
5 the missed meal and rest breaks, and business expense reimbursement, among others. As such,
6 PINAR did not provide Plaintiff and other similarly situated aggrieved employees with complete,
7 accurate itemized wage statements.

8 16. During the relevant time period, PINAR also failed to keep accurate and complete payroll
9 records showing the actual hours worked per day and the wages paid to Plaintiff and others
10 pursuant to California Labor Code sections 1174(d).

11 17. PINAR also violated Labor Code § 203 because it willfully failed to pay Plaintiff and
12 other similarly situated aggrieved employees earned and due wages upon separation of
13 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
14 These earned but unpaid wages include payment for all hours worked, overtime compensation,
15 premium pay for missed meal and rest breaks, and business expense reimbursement. Also, during
16 the relevant time period, Plaintiff and other aggrieved employees incurred necessary, business-
17 related expenses and costs that were not reimbursed by PINAR. These costs include, but are not
18 limited to, the use of personal cell phones for work purposes as well as mileage
19 reimbursement/gas. As part of his job duties, Plaintiff had to use his cell phone to call
20 laboratories to follow up and perform other similar work-related functions. Moreover, Plaintiff
21 would have to take his personal vehicle to buy water for the office and was not compensated for
22 his mileage. Accordingly, PINAR was in violation of California Labor Code sections 2800 and
23 2802.

24 18. PINAR also violated Labor Code § 203 because it willfully failed to pay Plaintiff and
25 other similarly situated aggrieved employees earned and due wages upon separation of
26 employment, either immediately upon involuntary termination, or within 72 hours of resignation.
27 These earned but unpaid wages include payment for all hours worked, overtime compensation,
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1 premium pay for missed meal and rest breaks, and business expense reimbursement. Also, during
2 the relevant time period, Plaintiff and other aggrieved employees incurred necessary, business-
3 related expenses and costs that were not reimbursed by PINAR. These costs include, but are not
4 limited to, the use of personal cell phones for work purposes as well as mileage
5 reimbursement/gas. As part of his job duties, Plaintiff had to use his cell phone to call
6 laboratories to follow up and perform other similar work-related functions. Moreover, Plaintiff
7 would have to take his personal vehicle to buy water for the office and was not compensated for
8 his mileage. Accordingly, PINAR was in violation of California Labor Code sections 2800 and
9 2802. Moreover, PINAR failed to provide sick pay pursuant to Labor Code section 246 and also
10 failed to provide Worker's Compensation coverage for Plaintiff and other aggrieved employees
11 in violation of Labor Code Section 3700.5.

12 **FIRST CAUSE OF ACTION**

13 **FAILURE TO COMPENSATE FOR ALL HOURS WORKED**

14 **(California Industrial Welfare Commission Order 4-2001, California Code of**
15 **Regulations Title 8 Section 11040, and California Labor Code Section 1198)**

16 **(Plaintiff against all named defendants and all DOE defendants)**

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18 19. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 18, inclusive, of this Complaint as though fully set forth herein.

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21 20. At all times relevant herein, Defendants were required to compensate its employees for
22 all hours worked upon reporting for work at the appointed time stated by the employer
23 pursuant to Industrial Welfare Commission Order 4-2001, California Code of Regulations,
24 Title 8, Section 11040.

25 21. For the three (3) years preceding filing of this action, Defendants failed to compensate
26 Plaintiff for all hours worked.

27 22. Under the aforementioned wage order and regulations, Plaintiff is to recover
28 compensation for all hours worked but not paid by Defendants for the three (3) years

preceding the filing of this Complaint.

23. As a proximate result of the aforementioned violations, Plaintiff has been damaged in an amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this Court.

24. Defendants' conduct described herein violates Labor Code Section 512, 558, 1194, and 1198. Therefore, pursuant to Labor Code Sections 218.5, 512, 558, and 1194, Plaintiff is entitled to recover damages for the nonpayment of wages for all hours worked, penalties, plus reasonable attorney's fees and costs of suit.

25. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs which will equal an amount known to Plaintiff once he has obtained all of his payroll records from Defendants.

SECOND CAUSE OF ACTION

FAILURE TO PAY MINIMUM WAGES

(California Labor Code Sections 1194, 1194.2, 1197; IWC Wage Order no. 4-2001)

(Plaintiff against all named defendants and all DOE defendants)

26. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 25, inclusive, of this Complaint as though fully set forth herein.

27. Pursuant to Labor Code Sections 1194, 1194.2 and 1197, it is unlawful for an employer to suffer or permit a California employee to work without paying wages at the minimum wage rate for all hours worked as required by the applicable Industrial Welfare Commission (hereinafter "IWC") Wage Order No. 4-2001, codified at California Code of Regulations, Title 8, Section 11050, subdivision 4.

28. Pursuant to IWC Wage Order no. 4-2001 subdivision 2(K), at all relevant times, "hours worked" included "the time during which an employee is subject to the control of an employer, and includes all the time the employee is suffered or permitted to work, whether or not required

1 to do so...”

2 29. During his employment, Plaintiff was regularly required as a matter of uniform
3 policy and practice to work, and in fact worked, as employee of DEFENDANTS and
4 Plaintiff was paid less than the minimum wage rate by DEFENDANTS for hours worked
5 in violation of California Labor Code Section 1197 and the applicable California
6 Industrial Wage Commission wage order(s).

7 30. Plaintiff was, at all relevant times, under the control of DEFENDANTS and suffered
8 or permitted to work by Defendants.

9 31. Defendants’ acts or omissions in failing to adequately compensate Plaintiff were not in
10 good faith nor were there reasonable grounds for DEFENDANTS to believe that their acts or
11 omissions were not contrary to California law.

12 32. For all hours worked by Plaintiff for which he was paid less than minimum wage,
13 Plaintiff is entitled to not less than the applicable California minimum wage rate and, pursuant
14 to Labor Code Section 1194.2(a), liquidated damages in an amount equal to unpaid minimum
15 wages and interests thereon. Pursuant to Labor Code Section 1194, Plaintiff is also entitled to
16 attorney’s fees, costs and interests according to proof.

17 33. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
18 along with any allowable interest, penalties, attorney’s fees, and costs according to
19 proof at trial.

20 **THIRD CAUSE OF ACTION**

21 **FAILURE TO PAY OVERTIME**

22 **(California Industrial Welfare Commission Order 4-2001, California Code of**
23 **Regulations Title 8 Section 11040, California Labor Code sections 510, 1194)**

24 **(Plaintiff against all named defendants and all DOE defendants)**

25 34. Plaintiff re-alleges and incorporates by reference each and every allegation in
26 paragraphs 1 through 33, inclusive, of this Complaint as though fully set forth herein.

27 35. Pursuant to Industrial Welfare Commission Order No. 4-2001, California Code of
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1 Regulations, Title 8, Section 11040, for the period of Plaintiff's employment, Defendants were
2 required to compensate Plaintiff for all overtime, which is calculated at one and one-half (1.5)
3 times the regular rate of pay for hours worked in excess of eight (8) in a day or forty (40) hours
4 in a week, and two (2) times the regular rate of pay for hours worked in excess of twelve (12)
5 hours in a day or hours worked in excess of eight (8) on the seventh consecutive work day in a
6 week.

7 36. Plaintiff was a non-exempt employee entitled to the protections of the California
8 Industrial Welfare Commission Order No. 4-2001, California Code of Regulations, Title 8,
9 Section 11040.

10 37. Plaintiff worked more than eight (8) hours in a single workday or forty (40) hours in a
11 single workweek on numerous occasions.

12 38. Plaintiff worked more than twelve (12) hours in a single workday.

13 39. Plaintiff was entitled to the above overtime premiums.

14 40. Defendants did not pay Plaintiff premium wages of at least one and one-half times
15 Plaintiff's regular correct rate of pay (two times the minimum wage) for hours worked past
16 eight (8) in a day.

17 41. Defendants did not pay Plaintiff premium wages of at least one and one-half times
18 Plaintiff's regular, correct rate of pay (two times the minimum wage) for hours worked past
19 forty (40) in a week.

20 42. Defendants did not pay Plaintiff premium wages of at least two times Plaintiff's
21 regular, correct rate of pay (two times the minimum wage) for hours worked past twelve (12)
22 in a day.

23 43. Plaintiff worked at least one pay period in which he was not properly paid the correct
24 amount of overtime within the three (3) years prior to the initiation of this lawsuit.

25 44. Defendants know or should know the actual dates of overtime worked, the amount of
26 overtime worked, and the amount of unpaid overtime due.

27 45. As a proximate result of Defendants' violations, Plaintiff has been damaged in an
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1 amount according to proof at time of trial, but in an amount in excess of the jurisdiction of this
2 Court.

3 46. Pursuant to California Labor Code Sections 218.6, 510, 1194, and California Code of
4 Regulations, Title 8, Sections 11040, Plaintiff is entitled to recover damages for the
5 nonpayment of overtime premiums for all overtime hours worked, penalties, interest, plus
6 reasonable attorney's fees and costs of suit.

7 **FOURTH CAUSE OF ACTION**

8 **FAILURE TO PROVIDE ACCURATE ITEMIZED WAGE STATEMENTS**

9 **(California Labor Code Section 226)**

10 **(Plaintiff against all named defendants and all DOE defendants)**

11 47. Plaintiff re-alleges and incorporates by reference each and every allegation in
12 paragraphs 1 through 46, inclusive, of this Complaint as though fully set forth herein.

13 48. Pursuant to California Labor Code Section 226, every employer must furnish each
14 employee an itemized statement of wages and deductions at the time of payment of wages.

15 49. Defendants knowingly and intentionally did not furnish Plaintiff with any pay stubs that
16 accurately reflected all information required by Labor Code Section 226, including but not
17 limited to, gross wages earned (regular and overtime hours), net wages earned, all applicable
18 hourly rates, the correct start and end of the pay period, all identifying employee information,
19 premium pay for missed meal and rest breaks, total hours worked by the employee, all
20 deductions, and the correct legal name and address of the employing entity. Therefore,
21 Defendants failed to maintain and provide accurate itemized wage statements to Plaintiff in
22 accordance with California Labor Code Section 226(a).

23 50. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover the
24 greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a violation
25 occurs and one hundred dollars (\$100) per employee for each violation in a subsequent pay
26 period, not exceeding an aggregate amount of four thousand dollars (\$4,000), plus costs and
27 reasonable attorney's fees. Plaintiff only claims damages under this cause of action pursuant to
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the 1-year period immediately preceding the date this lawsuit was filed.

51. As a direct and proximate result of Defendants' unlawful conduct, Plaintiff has sustained damages, including loss of earnings, in an amount to be established at trial. As a further direct and proximate result of Defendants' unlawful conduct, as set forth herein, Plaintiff is entitled to recover penalties, in an amount to be established at trial, as well as costs and attorney's fees pursuant to statute.

52. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES OWED EVERY PAY PERIOD

(California Labor Code Section 204)

(Plaintiff against all named defendants and all DOE defendants)

53. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 52, inclusive, of this Complaint as though fully set forth herein.

54. California Labor Code Section 204 establishes the fundamental right of all employees in the State of California to be paid wages in a timely fashion for their work.

55. At all times relevant during the liability period, and as described above, Defendants failed to pay Plaintiff the full amount of all owed wages when due as required by California Labor Code Section 204.

56. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is informed, believes, and thereon alleges, that all times relevant during the liability period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours worked, including the minimum wage and the correct amount of overtime as well as premium pay for missed meal and rest breaks, and business expense reimbursement.

57. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount, subject to proof, to the extent he was not paid all wages each pay period. The precise

1 amount of unpaid wages is not presently known to Plaintiff but can be determined directly
2 from Defendants' records or indirectly based on information from Defendants' records.

3 58. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
4 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
5 trial.

6 **SIXTH CAUSE OF ACTION**

7 **FAILURE TO PAY WAGES WHEN EMPLOYMENT ENDS**

8 **(Plaintiff against all named Defendants and all DOE defendants)**

9 59. Plaintiff re-alleges and incorporates by reference each and every allegation in
10 paragraphs 1 through 58, inclusive, of this Complaint as though fully set forth herein.

11 60. Pursuant to California Labor Code Section 201(a), an employer who discharges an
12 employee must immediately pay for all compensation due and owing.

13 61. Pursuant to California Labor Code Section 202, when an employee resigns, the
14 employer must pay all compensation due and owing within 72 hours of resignation, or on the
15 employee's last day of work, if the employee gives more than 72 hours notice of resignation.

16 62. Pursuant to California Labor Code Section 203, if an employer willfully fails to pay,
17 without abatement or reduction, any wages of an employee whose employment ends, the wages
18 of the employee shall continue as a penalty from the due date at the same rate until paid or until
19 an action is commenced; however, the wages shall not continue for more than 30 days for
20 failure to pay an employee owed wages.

21 63. After Plaintiff's employment with Defendants ended, Defendants willfully refused and
22 continue to refuse to pay him unpaid wages as required by Labor Code Section 203.

23 64. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
24 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
25 trial. Moreover, Plaintiff prays for the above-mentioned money from 3 years immediately
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preceding the filing of this lawsuit.

65. Under this cause of action, Plaintiff also prays for attorney's fees and costs under California Labor Code Section 218.5 for time spent pursuing the non-payment of wages as set forth herein. Plaintiff also prays for interest under California Labor Code Section 218.6.

66. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged along with any allowable interest, penalties, attorney's fees, and costs according to proof at trial.

SEVENTH CAUSE OF ACTION
VIOLATION OF LABOR CODE SECTION 558
(California Labor Code Section 558)

(Plaintiff against all named defendants and all DOE defendants)

67. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 66, inclusive, of this Complaint as though fully set forth herein.

68. California Labor Code Section 558 states that any person acting on behalf of an employer who violates, or causes to be violated, a section of this chapter or any provision regulating hours and days of work in any order of the Industrial Welfare Commission shall be subject to a civil penalty for any initial violation, fifty dollars (\$50) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. The civil penalty for each subsequent violation is one hundred dollars (\$100) for each underpaid employee for each pay period for which the employee was underpaid in addition to an amount sufficient to recover underpaid wages. Plaintiff claims penalties for five (5) years immediately preceding the date this lawsuit was filed.

69. Plaintiff hereby alleges that named Defendants violated Labor Code Section 558. Thus, Defendants are subject to civil penalties under the following laws:

- a. California Labor Code Section 558. Defendants failed to pay Plaintiff the minimum

1 wage for all hours worked, failed to pay Plaintiff for all hours worked, and failed to
2 pay Plaintiff overtime wages that were owed. As such, Defendants violated Section
3 558 under which penalties are due. Plaintiff therefore prays for penalties of \$50.00
4 for the first pay period and \$100.00 for each subsequent violation for each pay
5 period for which Plaintiff was underpaid in addition to an amount sufficient to
6 recover underpaid wages.

7
8 b. California Labor Code Section 218.5 for recovery of costs and attorney's fees for
9 relief associated with Plaintiff's prosecution of this cause of action under California
10 Labor Code Sections 200, et seq. Defendants knowingly violated labor laws by not
11 paying Plaintiff the minimum wage for all hours worked, not paying Plaintiff the
12 correct amount of overtime compensation, and not paying Plaintiff for all hours
13 worked.

14
15 c. California Labor Code Section 211 and 218.5 for recovery of costs and attorney's
16 fees for relief associated with Plaintiff's prosecution of this cause of action under
17 California Labor Code Sections 200, et seq.

18 70. Under this cause of action, Plaintiff prays for all penalties and pay otherwise due under
19 the statutes, regulations, and wage orders alleged in this cause of action along with any
20 allowable interest, penalties, attorney's fees, and costs according to proof at trial.

21 71. Plaintiff also prays for Labor Code Section 211 and 218.5 recovery of costs an
22 attorney's fees for the time Plaintiff's attorney spent prosecuting this cause of action.

23 **EIGHTH CAUSE OF ACTION**

24 **FAILURE TO MAINTAIN ACCURATE RECORDS**

25 **(California Labor Code Section 1174(d))**

26 **(Plaintiff against all named defendants and all DOE defendants)**

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28 72. Plaintiff re-alleges and incorporates by reference each and every allegation in

1 paragraphs 1 through 71, inclusive, of this Complaint as though fully set forth herein.

2 73. Labor Code section 1174(d) requires that employers, including Defendants, maintain
3 accurate records showing the hours worked daily by its employees and to whom wages were
4 paid.

5 74. Additionally, the “Records” section of the applicable IWC Wage Order obligates the
6 employer, including Defendants, to keep accurate information with respect to each one of their
7 employees including, but not limited to, the total wages paid each payroll period, and time
8 records showing when the employee begins and ends each work period, meal periods, split
9 shift intervals; the total daily hours worked; the total hours worked in the payroll period, and
10 the applicable rates of pay.

11 75. Pursuant to Labor Code section 1174.5, any person employing labor who willfully fails
12 to maintain accurate and complete records required by Labor Code section 1174(d) is subject
13 to a penalty. On information and belief, Defendants intentionally failed to maintain accurate
14 records of Plaintiff’s applicable rates of pay, and total wages earned for the payroll period.

15 76. As a direct result of Defendants’ violations alleged herein, Plaintiff has suffered and
16 continues to suffer substantial losses related to Defendants’ failure to record and maintain
17 accurate time records.

18 77. Plaintiff seeks all available remedies for Defendants’ violations including, but not
19 limited penalties, and costs to the extent permitted by law and according to proof at trial.

20 **NINTH CAUSE OF ACTION**

21 **FAILURE TO GIVE REST BREAKS**

22 **(Plaintiff against all named defendants and all DOE defendants)**

23 78. Plaintiff re-alleges and incorporates by reference each and every allegation in
24 paragraphs 1 through 77, inclusive, of this Complaint as though fully set forth herein.

25 79. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 26 a. Title 8 of the California Code of Regulations Sections 11040, which provides that
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every employer shall authorize and permit all employees to take rest periods, which insofar as practicable shall be in the middle of each work period. The authorized rest period time shall be based on the total hours worked daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof;

b. Title 8 of the California Code of Regulations Sections 11040 (12)(B), which provides that if an employer fails to provide an employee a rest period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at employee's regular rate of compensation for each workday that the rest period is not provided;

c. Title 8 of the California Code of Regulations sections 11040(20)(A), which penalizes the employer \$50.00 for each initial violation, per employee, of any provision of the Wage Order, and \$100.00 for each additional violation thereafter per employee; and

d. California Labor Code section 226.7, which states that (a) no employer shall require any employee to work during any rest period mandated by an applicable order of the Industrial Welfare Commission, and (b) if an employer fails to provide an employee a rest period in accordance with an applicable order of the Industrial Welfare Commission, the employer shall pay the employee one (1) additional hour of pay at employee's regular rate of compensation for each work day that the rest period is not provided.

80. Plaintiff alleges that he was not authorized and permitted to take a ten (10) minute rest break after every four (4) hours of work or major fraction thereof, as required by California law.

81. Under this cause of action, Plaintiff prays for wages due to him under the statutes,

1 regulations, and wage orders alleged in this cause of action along with any allowable interest,
2 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
3 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

4 82. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
5 fees as well as interest under Labor Code section 218.6.

6 83. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
7 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
8 trial.

9 **TENTH CAUSE OF ACTION**

10 **FAILURE TO GIVE MEAL BREAKS**

11 **(Plaintiff against all named defendants and all DOE defendants)**

12 84. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 83, inclusive, of this Complaint as though fully set forth herein.

14 85. Plaintiff brings this cause of action under the following laws, for the following reasons:

- 15 a. California Labor Code section 512(a), which requires that employees be given a 30-
16 minute uninterrupted meal break after five (5) hours of work, and a second
17 uninterrupted meal break after ten (10) hours of work;
18
19 b. California Labor Code section 226.7, which states that (a) no employer shall require
20 any employee to work during any meal period mandated by an applicable order of
21 the Industrial Welfare Commission, and (b) if any employer fails to provide an
22 employee a meal period in accordance with an applicable order of the Industrial
23 Welfare Commission, the employer shall pay the employee one (1) additional hour
24 of pay at the employee's regular rate of compensation for each workday that the
25 meal period is not provided;
26
27 c. California Industrial Welfare Commission Order No. 4 section 11(B), as codified
28

1 under Title 8 of the California Code of Regulations Section 11040, which states that
2 if an employer fails to provide an employee a meal period in accordance with the
3 applicable provisions of the Wage Order, the employer shall pay the employee one
4 (1) hour of pay at the employee's regular rate of compensation for each workday
5 that the meal period is not provided;

6 d. California Industrial Welfare Commission Wage Order No. 4 Section 7(A)(3), as
7 codified under Title 8 of the California Code of Regulations Section 11040, which
8 requires an employer to maintain records documenting its employees' meal periods;
9

10 e. California Industrial Welfare Commission wage order No. 4 Section 20(A), as
11 codified under California Code of Regulations Section 11040 , which penalizes the
12 employer \$50.00 for each initial violation, per employee, of any provision of the
13 Wage Order, and \$100.00 for each additional violation thereafter per employee; and
14

15 f. California Labor Code section 1171 and 1173, which have given the California
16 Labor Commission jurisdiction to enact Wage Orders (such as Wage Order no. 4)
17 as enforceable law.

18 86. Plaintiff alleges that he was not authorized and permitted to take relieved meal breaks
19 after five (5) hours of work. Plaintiff further alleges that he was not authorized and permitted to
20 take a second relieved meal break after ten (10) hours of work, as required by California law.

21 California Labor Code section 512(a) and California Industrial Welfare Commission Order No.
22 4, as codified under California Code of Regulations Sections 11040 et. seq. requires that
23 employees receive uninterrupted meal periods every five (5) hours of consecutive work, and
24 that the meal period be at least 30 minutes in length, wherein employee is relieved of all work
25 duty. California Labor Code section 226.7 provides that employers may not require their
26 employees to work through their meal periods. California Labor Code section 226.7 and
27
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1 California Code of Regulations section 11040 requires that if the employer fails to provide the
2 employee with an uninterrupted meal period, the employer must pay the employee one (1) hour
3 of pay for each work day that the meal period is not given.

4 87. Under this cause of action, Plaintiff prays for wages due to him under the statutes,
5 regulations, and wage orders alleged in this cause of action along with any allowable interest,
6 penalties, attorney's fees and costs according to proof at trial. Specifically, Plaintiff prays for
7 the foregoing moneys calculated from 3 years immediately preceding the filing of this lawsuit.

8 88. Plaintiff also prays for Labor Code section 218.5 recovery of costs and attorney's
9 fees as well as interest under Labor Code section 218.6.

10 89. Under this cause of action, Plaintiff prays for penalties due under the statutes alleged
11 along with any allowable interest, penalties, attorney's fees, and costs according to proof at
12 trial.

13 **ELEVENTH CAUSE OF ACTION**

14 **PRIVATE ATTORNEYS GENERAL ACT**

15 **Individual and Representative Claim for PAGA penalties under California Labor Code**
16 **sections 201, 202, 203, 204 and/or 204b, 210, 226, 226.3, 232, 246, 510, 512, 558, 1174,**
1174.5, 1194, 1197, 1198, 2802, 3700.5)

17 **(Against All Named Defendants and all DOE Defendants)**

18 90. Plaintiff re-alleges and incorporates by reference each and every allegation in
19 paragraphs 1 through 89, inclusive, of this Complaint as though fully set forth herein.

20 91. Pursuant to law, Plaintiff provided the required written notice to the LWDA and
21 Defendants of the specific violations of the California Labor Code that Defendants
22 and DOE defendants have violated and continue to violate.

23 92. Pursuant to California Labor code section 2699.3, no response was received from the
24 LWDA within 65 days of the postmark date of the above-alleged letter.

25 93. Plaintiff therefore has exhausted all administrative remedies required of him under
26 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
27 cause of action and pursue penalties in a representative action for Defendants' violations of the
28

1 Labor Code.

2 94. Pursuant to California Labor Code section 2699, any provisions of the Labor Code
3 that provides for a civil penalty to be assessed and collected by the LWDA or any of its
4 departments, divisions, commissions, boards, agencies, or employees for violation of the code
5 may, as an alternative, be recovered through a civil action brought by an aggrieved employee
6 on behalf of himself and other current or former employees pursuant to the procedures
7 specified in California Labor Code section 2699.3.

8 95. Plaintiff is an “aggrieved employee” because Plaintiff was employed by the alleged
9 violator and had one or more of the alleged violations committed against him, and therefore is
10 properly suited to represent the interests of other current and former hourly, non-exempt
11 employees who worked for PINAR in the State of California during the PAGA period.

12 96. Based on the acts alleged above, Plaintiff, on behalf of himself and others, seeks
13 penalties under California Labor Code sections 2698 and 2699 because of Defendants’
14 violations of numerous provisions of the California Labor Code as alleged in this Complaint.

15 97. Plaintiff therefore has exhausted all administrative remedies required of him under
16 California Labor Code sections 2698, 2699, and 2699.3, and, as a result, may prosecute this
17 cause of action and pursue penalties in a representative action for Defendants’ violations of the
18 Labor Code.

19 98. California Labor Code section 2699 et seq. imposes penalties upon culpable
20 Defendants for violating the Labor Code.

21 99. California Labor Code section 558 establishes a civil penalty as follows: Any
22 employer or other person action on behalf of an employer who violates, or causes to be
23 violated, a section of this chapter or any provision regulating hours and days of work in any
24 order of the Industrial Welfare Commission (including the “Hours and Days of Work” section
25 of the Wage Order) shall be subject to a civil penalty of (1) for any initial violation, fifty
26 dollars (\$50) for each underpaid employee for each pay period for which the employee was
27 underpaid ...; (2) for each subsequent violation, one hundred dollars (\$100) for each underpaid
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1 employee for each pay period for which the employee was underpaid ...;

2 100. Plaintiff seeks penalties for Defendants' misconduct as alleged herein as permitted by
3 law, but only those penalties that are required to be shared with the LWDA as Plaintiff is not
4 seeking individual/victim specific relief or underpaid wages under this particular cause of
5 action.

6 101. Specifically, Plaintiff seeks penalties under California Labor Code section 2699, for
7 the following:

8 Violations of California Labor Code sections 201, 202, 203, 204 and/or 204b, 210, 226,
9 226.3, 226.7, 232, 246, 510, 512, 558, 1174, 1174.5, 1194, 1197, 1198, 2802, 3700.5 via
10 2698 and 2699 any other Labor Codes and Wage Orders (including no. 4) violated based
11 on the facts alleged in this Complaint.

12 102. Pursuant to Labor Code section 2698 et seq., Plaintiff seeks to recover attorney's fees,
13 costs, and civil penalties on behalf of Plaintiff and other current and former aggrieved
14 employees as alleged herein in an amount to be shown according to proof at trial and within the
15 jurisdictional limits of this Court.

16 **TWELFTH CAUSE OF ACTION**

17 **FAILURE TO REIMBURSE FOR BUSINESS EXPENSES**

18 **(Plaintiff against all named Defendants and DOE Defendants, and each of them)**

19 103. Plaintiff re-alleges and incorporates by reference each and every allegation in
20 paragraphs 1 through 102, inclusive, of this Complaint as thought fully set forth herein.
21

22 104. Labor Code section 2802 provides that "[a]n employer shall indemnify his or her
23 employee for all necessary expenditures or losses incurred by the employee in direct
24 consequence of the discharge of his or her duties."

25 105. Beginning at least 3 years prior to the filing of this complaint, in order to discharge
26 their duties for Defendant, Plaintiff incurred reasonable and necessary expenses in the course
27 of completing his job duties, which were not reimbursed by Defendant. These expenses
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1 include, but are not limited to, the use of personal cell phones for work purposes as well as
2 mileage reimbursement/gas. As part of his job duties, Plaintiff had to use his cell phone to call
3 laboratories to follow up and perform other similar work-related functions. Moreover, Plaintiff
4 would have to take his personal vehicle to buy water for the office and was not compensated for
5 his mileage.

6 106. Plaintiff is entitled to reimbursement for these necessary expenditures, plus interest
7 and attorney's fees and costs, under Labor Code section 2802.

8 **THIRTEENTH CAUSE OF ACTION**

9 **BREACH OF CONTRACT**

10 **(Plaintiff Against DANIEL PINAR D.D.S., DENTAL CORPORATION, DAVID**
11 **WAGNER D.D.S. and all DOE Defendants)**

12 107. Plaintiff re-alleges and incorporates by reference each and every allegation in
13 paragraphs 1 through 106, inclusive, of this Complaint as though fully set forth herein.

14 108. Plaintiff and Defendants entered into a verbal agreement whereby it was agreed that
15 Dr. Wagner would perform dental work on Plaintiff's teeth in exchange for Plaintiff
16 helping with dental cases on Plaintiff's days off. Moreover, in exchange for the dental work, Dr.
17 Wagner also posted photos of Plaintiff's teeth on his website (without getting Plaintiff's
18 permission) and also used Plaintiff's own case study for an article with UCLA. Dr. Wagner
19 breached the oral agreement and never completed the dental work on Plaintiff's teeth.
20

21 109. Plaintiff performed all of the conditions, covenants, and promises required by him to
22 be performed in accordance with the terms of the verbal agreement.

23 110. Defendants and each of them breached their written agreement with Plaintiff.

24 111. Defendants breached their verbal agreement by failing to finish the dental work on
25 Plaintiff's teeth, long before Plaintiff's termination date with the company.

26 112. As a direct and proximate result of Defendants' breach, Plaintiff has suffered
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substantial monetary losses according to proof, as well as pre-judgment interest, costs, and attorneys' fees pursuant to statute and applicable law.

FOURTEENTH CAUSE OF ACTION

VIOLATION OF BUSINESS AND PROFESSIONS CODE SECTION 17200

(California Business and Professions Code Section 17200)

(Plaintiff against All Named Defendants and all DOE defendants)

113. Plaintiff re-alleges and incorporates by reference each and every allegation in paragraphs 1 through 112, inclusive, of this Complaint as though fully set forth herein.

114. By virtue of the foregoing statutes, regulations, and laws, the acts of Defendants constitute unfair and unlawful business practices under California Business and Professions Code Section 17200, et seq.

115. Defendants' violations of California labor laws constitutes a business practice because it was done repeatedly over a significant period of time in a systematic manner that was detrimental to Plaintiff and other aggrieved employees.

116. For the four years preceding the filing of this action, Plaintiff has suffered damages and requests damages and/or restitution of all monies and profits to be disgorged from Defendants in an amount according to proof at time of trial, but in excess of the jurisdiction of this Court.

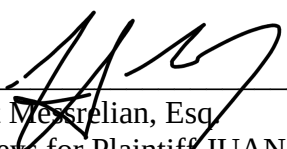
WHEREFORE, Plaintiff prays for Judgment against Defendants, and each of them, as follows:

1. For compensatory damages to Plaintiff in an amount subject to proof at trial;
2. For damages for wages and overtime not paid to Plaintiff in an amount subject to proof at trial;
3. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount subject to proof at trial;
4. For restitution and disgorgement for all unfair business practices by Defendants against

- 1 Plaintiff in an amount subject to proof at trial;
- 2 5. For an order enjoining Defendants from further unfair and unlawful business
- 3 practices in violation of Business and Professions Code Sections 17200, et seq.;
- 4 6. For special and consequential damages to the extent allowed by law;
- 5 7. For maximum civil penalties available under the Labor Code and applicable Wage
- 6 Order against Defendants as described more particularly in the Complaint and
- 7 representative PAGA claims;
- 8 8. For all remedies available to Plaintiff under the applicable Wage Order and the
- 9 Labor Code including an award of unpaid wages, attorney's fees, costs, interest,
- 10 liquidated damages, damages, penalties, and waiting time penalties according to proof
- 11 to the extent permitted by law;
- 12 9. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
- 13 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 14 10. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
- 15 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 16 11. For the imposition of civil penalties and/or statutory penalties;
- 17 12. For all interest as allowed by law;
- 18 13. For all costs and disbursements incurred in this suit;
- 19 14. Reasonable attorney's fees where available by law, including but not limited to,
- 20 pursuant to Labor Code section 2698 et seq., Code of Civil Procedure section 1021.5,
- 21 and/or other applicable laws; and
- 22 15. For such other and further relief as this Court may deem proper.
- 23

24 DATED: April 21, 2021

MESSRELIAN LAW INC.

25
26 By: 
27 Harout Messrelian, Esq.
28 Attorneys for Plaintiff JUAN SALAS

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DATED: April 21, 2021

By: Harout Messrelian, Esq.
Attorneys for Plaintiff JUAN SALAS