

FILED FOR COURT USE ONLY
 Superior Court Of California,
 Sacramento
 07/29/2021
 mwhitaker
 By _____, Deputy
 Case Number:
34-2021-00305106

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):
 Galen T. Shimoda (SBN 226752) Justin P. Rodriguez (SBN 278275)
 Brittany V. Berzin (SBN 325121)
 SHIMODA LAW CORP
 9401 E. Stockton Blvd, Suite 120, Elk Grove, California 95624
 TELEPHONE NO.: 916-525-0716 FAX NO.: 916-760-3733
 ATTORNEY FOR (Name): Plaintiff Andrea Walker

SUPERIOR COURT OF CALIFORNIA, COUNTY OF Sacramento
 STREET ADDRESS: 720 Ninth Street
 MAILING ADDRESS: 720 Ninth Street
 CITY AND ZIP CODE: Sacramento, CA 95814
 BRANCH NAME: Civil Division

CASE NAME:
 Walker v. Yan Kalika Dental Corporation, et al.

CIVIL CASE COVER SHEET

☒ **Unlimited** (Amount demanded exceeds \$25,000) ☐ **Limited** (Amount demanded is \$25,000 or less)

Complex Case Designation
☐ **Counter** ☐ **Joinder**
 Filed with first appearance by defendant (Cal. Rules of Court, rule 3.402)

CASE NUMBER:
 JUDGE:
 DEPT:

Items 1–6 below must be completed (see instructions on page 2).

1. Check one box below for the case type that best describes this case:
- | | | |
|---|--|--|
| Auto Tort
☐ Auto (22)
☐ Uninsured motorist (46)
Other PI/PD/WD (Personal Injury/Property Damage/Wrongful Death) Tort
☐ Asbestos (04)
☐ Product liability (24)
☐ Medical malpractice (45)
☐ Other PI/PD/WD (23)
Non-PI/PD/WD (Other) Tort
☐ Business tort/unfair business practice (07)
☐ Civil rights (08)
☐ Defamation (13)
☐ Fraud (16)
☐ Intellectual property (19)
☐ Professional negligence (25)
☐ Other non-PI/PD/WD tort (35)
Employment
☐ Wrongful termination (36)
☒ Other employment (15) | Contract
☐ Breach of contract/warranty (06)
☐ Rule 3.740 collections (09)
☐ Other collections (09)
☐ Insurance coverage (18)
☐ Other contract (37)
Real Property
☐ Eminent domain/Inverse condemnation (14)
☐ Wrongful eviction (33)
☐ Other real property (26)
Unlawful Detainer
☐ Commercial (31)
☐ Residential (32)
☐ Drugs (38)
Judicial Review
☐ Asset forfeiture (05)
☐ Petition re: arbitration award (11)
☐ Writ of mandate (02)
☐ Other judicial review (39) | Provisionally Complex Civil Litigation (Cal. Rules of Court, rules 3.400–3.403)
☐ Antitrust/Trade regulation (03)
☐ Construction defect (10)
☐ Mass tort (40)
☐ Securities litigation (28)
☐ Environmental/Toxic tort (30)
☐ Insurance coverage claims arising from the above listed provisionally complex case types (41)
Enforcement of Judgment
☐ Enforcement of judgment (20)
Miscellaneous Civil Complaint
☐ RICO (27)
☐ Other complaint (not specified above) (42)
Miscellaneous Civil Petition
☐ Partnership and corporate governance (21)
☐ Other petition (not specified above) (43) |
|---|--|--|
2. This case ☐ is ☒ is not complex under rule 3.400 of the California Rules of Court. If the case is complex, mark the factors requiring exceptional judicial management:
- | | |
|--|--|
| a. ☐ Large number of separately represented parties | d. ☐ Large number of witnesses |
| b. ☐ Extensive motion practice raising difficult or novel issues that will be time-consuming to resolve | e. ☐ Coordination with related actions pending in one or more courts in other counties, states, or countries, or in a federal court |
| c. ☐ Substantial amount of documentary evidence | f. ☐ Substantial postjudgment judicial supervision |
3. Remedies sought (check all that apply): a. ☒ monetary b. ☐ nonmonetary; declaratory or injunctive relief c. ☐ punitive
4. Number of causes of action (specify): One
5. This case ☐ is ☒ is not a class action suit.
6. If there are any known related cases, file and serve a notice of related case. (You may use form CM-015.)

Date: July 28, 2021
 Brittany V. Berzin

(TYPE OR PRINT NAME)

(SIGNATURE OF PARTY OR ATTORNEY FOR PARTY)

NOTICE

- Plaintiff must file this cover sheet with the first paper filed in the action or proceeding (except small claims cases or cases filed under the Probate Code, Family Code, or Welfare and Institutions Code). (Cal. Rules of Court, rule 3.220.) Failure to file may result in sanctions.
- File this cover sheet in addition to any cover sheet required by local court rule.
- If this case is complex under rule 3.400 et seq. of the California Rules of Court, you must serve a copy of this cover sheet on all other parties to the action or proceeding.
- Unless this is a collections case under rule 3.740 or a complex case, this cover sheet will be used for statistical purposes only.

FILED
Superior Court Of California,
Sacramento
07/29/2021
mwhitaker
By _____, Deputy
Case Number:
34-2021-00305106

1 Galen T. Shimoda (Cal. State Bar No. 226752)
2 Justin P. Rodriguez (Cal. State Bar No. 278275)
3 Brittany V. Berzin (Cal. State Bar No. 325121)
4 **Shimoda Law Corp.**
5 9401 East Stockton Boulevard, Suite 120
6 Elk Grove, CA 95624
7 Telephone: (916) 525-0716
8 Facsimile: (916) 760-3733

9 Attorneys for Plaintiff ANDREA WALKER

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**SUPERIOR COURT OF CALIFORNIA
FOR THE COUNTY OF SACRAMENTO**

ANDREA WALKER,

Plaintiff,

vs.

YAN KALIKA DENTAL CORPORATION, a
California Corporation;
YAN KALIKA, an individual; and
DOES 1 to 100, inclusive,

Defendants.

Case No.

COMPLAINT FOR CIVIL PENALTIES:

1. Private Attorneys General Act

Plaintiff ANDREA WALKER ("Plaintiff"), on behalf of herself and Aggrieved Employees, hereby files this Complaint against Defendants YAN KALIKA DENTAL CORPORATION, a California Corporation; YAN KALIKA, an individual; and DOES 1 to 100, inclusive (hereinafter all collectively referred to as "Defendants"). On information and belief, Plaintiff alleges the following:

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JURISDICTION AND VENUE

2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to California Code of Civil Procedure section 410.10 to determine alleged violations of the California Labor Code and Wage Order No. 4.

2. The Sacramento County Superior Court has jurisdiction in this matter pursuant to California Code of Civil Procedure section 410.10 to determine alleged violations of the California Labor Code and Wage Order No. 4.

4. Plaintiff has sought permission pursuant to California Labor Code section 2699 *et seq.* to pursue the claims set forth in this Complaint against Defendants as a Private Attorney General on behalf of herself and other Aggrieved Employees. Pursuant to California Labor Code section 2699.3, Plaintiff gave written notice via online submission to the Labor and Workforce Development Agency (“LWDA”) on approximately May 12, 2021. Plaintiff provided facts and legal bases for her claims within the notice to the LWDA on all violations asserted under the Private Attorneys General Act cause of action. Plaintiff also submitted the \$75.00 filing fee. The May 12, 2021, notice was also sent via certified mail to Defendants on the same day. To date, the LWDA has not provided any response to Plaintiff’s notice correspondence. Accordingly, Plaintiff has exhausted all administrative remedies pursuant to the Private Attorneys General Act (“PAGA”) and may bring this action on behalf of herself and all similarly situated employees, *i.e.*, Aggrieved Employees. *See* Cal. Lab. Code § 2699.3(a)(2)(A), (c)(3); *Caliber Bodyworks, Inc., v. Sup. Ct.*, 134 Cal. App. 4th 365, 383 n.18, 385 n.19 (2005). Aggrieved Employees

1 include but is not limited to the following: all non-exempt employees who have worked, or continue to
2 work, for Defendants in California from one year prior to Plaintiff's notice to the LWDA.

3 **PARTIES**

4 5. ANDREA WALKER is an individual over the age of eighteen (18) and is a resident
5 of the State of California.

6 6. On information and belief, Plaintiff alleges, YAN KALIKA DENTAL
7 CORPORATION is now and/or at all times mentioned in this Complaint was a California
8 Corporation and the owner and operator of an industry, business and/or facility doing business in the
9 State of California.

10 7. On information and belief, Plaintiff alleges that YAN KALIKA is an individual over
11 the age of eighteen (18) and is a resident of the State of California. Plaintiff further allege(s) that
12 YAN KALIKA is an owner, director, officer, and/or managing agent of YAN KALIKA DENTAL
13 CORPORATION responsible for causing the violations outlined in this Complaint. As such YAN
14 KALIKA is individually liable pursuant to California Labor Code section 558.1

15 8. Defendants DOES 1 through 100 are affiliates, subsidiaries and related entities and the
16 alter egos of each of the other Defendants named herein, corporate or otherwise, who participated in and
17 are liable for the actions herein alleged. Plaintiff will seek to amend this Complaint to allege the true
18 names and capacities of these DOE Defendants when they are ascertained. At all times mentioned
19 herein, each Defendant was the agent or employee of each of the other Defendants and was acting within
20 the course and scope of such agency or employment. The Defendants are jointly and severally liable to
21 Plaintiff.

22 9. At all times mentioned herein, each Defendant was the agent or employee of each of the
23 other Defendants and was acting within the course and scope of such agency or employment. The
24 Defendants are jointly and severally liable to Plaintiff.

25 10. Defendants, and each of them, are now and/or at all times mentioned in this Complaint
26 were members of and/or engaged in a joint employment, joint venture, partnership and common
27 enterprise, and were acting within the course and scope of, and in pursuance of said joint employment,
28 joint venture, partnership and common enterprise.

1 11. Defendants proximately caused Plaintiff to be subjected to the unlawful practices,
2 wrongs, complaints, injuries and/or damages alleged in this Complaint.

3 **GENERAL ALLEGATIONS**

4 12. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 11 as though fully
5 set forth herein.

6 13. Plaintiff worked for Defendants from approximately June 30, 2018 to December 1, 2020.
7 Plaintiff worked as a dental assistant traveling between multiple office locations.

8 14. Defendants paid Plaintiff and Aggrieved Employees an hourly rate in addition to non-
9 discretionary remuneration, such as bonuses, etc. However, Defendants failed to incorporate the value
10 of these bonuses into Plaintiff's and Aggrieved Employees' regular rates of pay for the purpose of
11 paying overtime wages, meal period premiums and paid sick time. For example, during Defendants'
12 8/1/20 to 8/15/20 pay period, Defendants' paystub reflects that Defendants paid Plaintiff several bonuses
13 totaling \$50.00 and that she worked .49 overtime hours. Defendants paid Plaintiff's overtime wages at
14 exactly 1.5x her base hourly rate, which does not include any adjustment for the value of the bonuses.
15 Similar miscalculations occurred regarding overtime, sick leave pay, and meal period premiums in the
16 9/1/20 to 9/15/20 pay period. This practice of Defendants not to incorporate the value of bonuses into
17 employees' regular rates of pay resulted in unpaid overtime, unpaid meal period premiums, and unpaid
18 sick leave for Plaintiff and Aggrieved Employees.

19 15. Plaintiff and Aggrieved Employees were also not authorized and permitted to take all
20 meal periods they were entitled to, as evidenced by their being paid meal period premiums.

21 16. Defendants required Plaintiff and Aggrieved Employees to incur expenses for work
22 without paying reimbursement for such expenses. For instance, Defendants required Plaintiff and
23 Aggrieved Employees to use their personal cellphones to reply to work-emails, answer work related
24 calls, check their schedule through an app, and use navigation to get to various job sites. Defendants did
25 not reimburse Plaintiff or Aggrieved Employees for the use of their personal cellphones.

26 17. Defendants failed to provide Plaintiff and Aggrieved Employees with accurate wage
27 statements. The wage statements Defendants provided did not accurately itemize employees' gross and
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1 net wages, meal period premiums, and all applicable hourly rates in effect during the pay period, total
2 hours worked, and the corresponding number of hours worked at each hourly rate.

3 18. At the time of Plaintiff's and Aggrieved Employees' termination or separation, Plaintiff
4 and Aggrieved Employees had overtime, sick time, and meal period premiums owing to them. As of the
5 date of this letter, Defendants have not paid Plaintiff and Aggrieved Employees these wages they are
6 owed.

7
8 **FIRST CAUSE OF ACTION**
9 **PRIVATE ATTORNEYS GENERAL ACT**
10 **(As to all Defendants)**

11 19. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 18 as though fully
12 set forth herein.

13 20. Plaintiff has alleged to the Labor Commissioner that Defendants have violated the
14 following provisions of the Labor Code in their dealings with Plaintiff and other Aggrieved Employees:

- 15 • Violation of Labor Code §§ 510, 1194; IWC Wage Order 4, § 3 (Failure to Pay Overtime
16 Wages)
- 17 • Violation of Labor Code §§ 226.7, 512 and Wage Order No. 4, §§ 11(A) and 11(B)
18 (Failure to Provide Meal Periods or Pay Premiums in Lieu Thereof)
- 19 • Violation of Labor Code §§ 226, 226.3 (Failure to Provide Accurate Wage Statements)
- 20 • Violation of Labor Code §§ 201-203, 256 (Failure to Pay Final Wages)
- 21 • Violation of Labor Code §§ 558, 558.1 (Provisions Regulating Hours and Days of Work
22 in Any Industrial Welfare Commission Order)
- 23 • Violation of Labor Code §§ 246, 246.5, 248.5 (Failure to Provide Paid Sick Leave)
- 24 • Violation of Labor Code § 2802 (Failure to Pay Reimbursements for Expenses)

25 21. Plaintiff seeks civil penalties against Defendants as provided in the California Labor
26 Code, or, if no civil penalty is provided, default penalties pursuant to California Labor Code section
27 2699(f)(2).

28 22. Plaintiff seeks these civil penalties from Defendants pursuant to California Labor Code
sections 2699(a) and 2699.3.

23. As a proximate result of Defendants' conduct, Plaintiff and Aggrieved Employees have been damaged as stated in the section below entitled "DAMAGES," which is incorporated here to the extent pertinent as if set forth here in full.

DAMAGES

WHEREFORE Plaintiff requests relief as follows:

1. As to the First Cause of Action:

- a. For civil penalties as provided for in the Labor Code for each enumerated violation;
- b. For those Labor Code sections, the violation of which there is no civil penalty provided, the default penalty provided in Labor Code section 2699(f): for any initial violation, one hundred dollars (\$100) for each aggrieved employee per pay period; For any subsequent violation, two hundred dollars (\$200) for each aggrieved employee per pay period;
- c. Reasonable attorney's fees and costs pursuant to Labor Code section 2699;
- d. For any other remedies as allowed by law and/or deemed appropriate by the Court;

Dated: July 28, 2021

Shimoda Law Corp.

By:

Galen T. Shimoda
Justin P. Rodriguez
Brittany V. Berzin
Attorneys for Plaintiff

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):

YAN KALIKA DENTAL CORPORATION, a California Corporation;
YAN KALIKA, an individual; and
DOES 1 to 100, inclusive,

YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTÁ DEMANDANDO EL DEMANDANTE):
ANDREA WALKER,

SUM-100

FILED
FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)
Superior Court of California,
Sacramento
08/03/2021
mwhitaker
By _____, Deputy
Case Number:
34-2021-00305106

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California, County of Sacramento
720 Ninth Street

Sacramento, CA 95814

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Galen T. Shimoda (SBN 226752) Justin Rodriguez (SBN 278275) Brittany V. Berzin (SBN 325121)
9401 East Stockton Blvd, # 120, Elk Grove, California 95624 (916) 525-0716

DATE: AUG - 3 2021
(Fecha)

Clerk, by M. WHITAKER, Deputy
(Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

[SEAL]



NOTICE TO THE PERSON SERVED: You are served

1. ☐ as an individual defendant.
2. ☐ as the person sued under the fictitious name of (specify):

3. ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

4. ☐ by personal delivery on (date):