

James Joseph (SBN 309883)
JUREWITZ LAW GROUP
600 B Street, Suite 1450
San Diego, CA 92101
Ph: 619-233-5020
Fx: 888-233-3180
james@jurewitz.com

Attorney for Plaintiffs,
KIANA BOYD and
BIANCA MALDONADO

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SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN DIEGO – CENTRAL
UNLIMITED JURISDICTION

KIANA BOYD, an individual; BIANCA
MALDONADO, an individual;

Plaintiff,

vs.

BEHZAD BANIADAM, M.D. A
PROFESSIONAL CORPORATION, a
California stock corporation; BEHZAD
BANIADAM, an individual; DOES 1 through
100, inclusive;

Defendant.

Case No.: 37-2023-00016408-CU-OE-CTL

COMPLAINT

Plaintiffs KIANA BOYD and BIANCA MALDONADO hereby allege the following:

PARTIES

1. Plaintiff KIANA BOYD (“Boyd”) is, and at all times mentioned herein, was an individual residing in Oceanside, CA.

2. Plaintiff BIANCA MALDONADO (“Maldonado”) is, and at all times mentioned herein, was an individual residing in Escondido, CA.

COMPLAINT

3. Boyd and Maldonado will be collectively referred to as “Plaintiffs” hereafter.

4. Defendant BEHZAD BANIADAM, M.D. A PROFESSIONAL CORPORATION (“Company”) is, and at all times mentioned herein, a California stock corporation. Its registered address is 3231 Waring Court, Oceanside, CA 92056.

5. Defendant BEHZAD BANIADAM (“Baniadam”) is, and at all times mentioned herein, an individual residing in San Diego, CA. Plaintiff is informed and believe and thereon alleges that Baniadam is a person acting on behalf of Company, as understood under Labor Code section 558.1.

6. Plaintiff is ignorant of the true names and capacities of defendants sued herein as DOES 1 through 100 (the “DOE Defendants”) and therefore, sues these defendants by such fictitious names. Plaintiff will amend the Complaint to insert DOE Defendants’ true names and capacities when ascertained. Plaintiff is informed and believes and therefore alleges that each of these fictitiously named defendants is legally responsible for the events and happenings referred to herein, and legally hereinafter alleged were proximately caused by the acts of such defendants, and each of them.

7. Company, Baniadam, and DOE Defendants, will be collectively referred to as “Defendants” hereafter.

8. Plaintiff is informed and believes and on that basis alleges that at all times mentioned herein, each of the defendants was the agent and employee of the remaining defendants, and was acting within the scope and purpose of such agency and employment in doing the acts herein alleged.

JURISDICTION

9. This Court has personal jurisdiction over Defendants because Defendants are domiciled in California and/or have sufficient minimum contacts with California.

1 **Employment of Maldonado**

2 19. Defendants hired Maldonado to be a medical assistant for Company on or about
3 August 1, 2020.

4 20. When Maldonado was hired, in her employee handbook, the policy of Defendants
5 for meal breaks was “Employees are required to remain on the premises of Mission Urgent Care
6 – Family Practice during the meal break and will be paid for their time.” Upon review of her
7 paystubs and timecards, Maldonado confirmed she was not being paid for her meal breaks.

8 21. Maldonado was paid on a monthly basis by Defendants until August 2021, when
9 her pay periods were changed to the 1st to 15th of the month, and the 16th to the end of the month.
10 Maldonado did not ask to receive her pay on a monthly basis. Rather it was Defendants’ policy.

11 22. Maldonado was verbally told by Defendants that since she worked seven and a
12 half hour shift, less than eight hours, she was only entitled to one rest break. Maldonado did not
13 receive a second rest break for the entirety of her employment with Defendants.

14 23. Maldonado was a dedicated employee and normally stayed fifteen minutes after
15 5:00 p.m. to ensure patient calls were handled and prescriptions were processed. Baniadam
16 demanded her timecard always reflect the time that her shift ended, not the time she actually
17 stopped working.

18 24. On April 5, 2021, Maldonado received a “Retro Pay” paycheck in the amount of
19 \$59.70 without any explanation from her employer. She later realized that she was paid less than
20 minimum wage for the first two months of 2021, and this was Defendant’s attempt at
21 compensating her for it. Still, even with the retro pay, she did not receive minimum wage for
22 some of her time in 2021.

23 25. Maldonado worked on September 14, 2021, and reported 3.25 hours of work, but
24 she was only paid for 3 hours. For the pay period of September 16, 2021, to September 30, 2021,
25 Maldonado reported 66.00 hours on her timesheet, but she was only paid for 64.50 hours.
26 Maldonado worked on October 20, 2021, October 21, 2021, and October 23, 2021, yet these
27

1 dates were crossed out on her timecard and not paid for on her paycheck for the respective pay
2 periods.

3 26. Maldonado no longer wanted to work with Defendants. Therefore she informed
4 Defendants of her resignation and her last day working for Defendants was December 31, 2022.

5 **FIRST CAUSE OF ACTION**

6 **Failure to Pay Wages**

7 **(By all Plaintiffs, Against all Defendants)**

8 27. Plaintiffs reallege all paragraphs alleged above as though fully set forth here.

9 28. California law requires an employer to pay its employees for all hours worked.

10 29. Defendants failed to maintain accurate records of the hours actual worked by
11 Plaintiffs. Either Plaintiffs were told to not record time they worked, or Defendants unilaterally
12 altered their timesheets without consent.

13 30. Because of Defendants' conduct, Plaintiffs did not receive compensation for all
14 time actually worked for Defendants.

15 31. Defendants' failure to pay permits a civil suit to recover wages due to Maldonado
16 under Labor Code sections 204, 218.5, 510 and 1194, plus recovery of interest.

17 32. As a direct and proximate cause of Defendants' conduct, Maldonado has been
18 injured and is entitled to unpaid wages, interest, attorney fees, and other statutory penalties.

19 **SECOND CAUSE OF ACTION**

20 **Liquidated Damages pursuant to Labor Code section 1194.2**

21 **(By Maldonado Against all Defendants)**

22 33. Plaintiffs reallege all paragraphs alleged above as though fully set forth here.

23 34. Labor Code section 1194.2 states:

24 In any action under Section 98, 1193.6, 1194, or 1197.1 to recover
25 wages because of the payment of a wage less than the minimum
26 wage fixed by an order of the commission or by statute, an employee
27 shall be entitled to recover liquidated damages in an amount equal
to the wages unlawfully unpaid and interest thereon.

35. When Maldonado worked for Defendants, the minimum wage for Defendants' employees in California was \$12.00 in 2020, \$13.00 in 2021, and \$14.00 in 2022.

36. Maldonado worked several days and received under minimum wage for their time. Even if Defendants provided the "retro" pay, Defendants still never paid the liquidated damages owed to Maldonado.

37. Maldonado is entitled to liquidated damages in addition to other statutory penalties, actual wages, and interest.

THIRD CAUSE OF ACTION

Failure to Provide Meal Breaks

(By all Plaintiffs, Against all Defendants)

38. Plaintiffs reallege all paragraphs alleged above as though fully set forth here.

39. Labor Code section 512 states an employer shall not employ an employee for a work period of more than five (5) hours per day without providing the employee with a meal period of not less than thirty (30) minutes. The employee must be completely free from work during this meal break.

40. Plaintiffs were required to remain at work and were not permitted to leave the premises during their meal breaks per the company's policy.

41. Defendants did not compensate Plaintiffs with a meal break premium.

42. As a direct and proximate cause of Defendants' conduct, Plaintiffs have been injured and is entitled to unpaid wages, meal break premiums, interest, attorney fees, and other statutory penalties.

FOURTH CAUSE OF ACTION

Failure to Provide Rest Breaks

(By all Plaintiffs, Against all Defendants)

43. Plaintiffs reallege all paragraphs alleged above as though fully set forth here.

44. Wage Order 7, section 12, provides:

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 . . . Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages. (8 Cal. Code. Regs. §11070, subsec. 12.)

45. Plaintiffs were not allowed to take a second rest break per Baniadam's direct instructions.

46. Defendants did not compensate Plaintiffs with a rest break premium.

47. As a direct and proximate cause of Defendants' conduct, Plaintiffs have been injured and is entitled to unpaid wages, rest break premiums, interest, attorney fees, and other statutory penalties.

FIFTH CAUSE OF ACTION

Waiting Time Penalties pursuant to Labor Code section 203(a)

(By all Plaintiffs, Against all Defendants)

48. Plaintiffs reallege all paragraphs alleged above as though fully set forth here.

49. California Labor Code section 203(a) states:

If an employer willfully fails to pay, without abatement or reduction, in accordance with Sections 201, 201.3, 201.5, 201.6, 201.8, 201.9, 202, and 205.5, any wages of an employee who is discharged or who quits, the wages of the employee shall continue as a penalty from the due date thereof at the same rate until paid or until an action therefor is commenced; but the wages shall not continue for more than 30 days. An employee who secretes or absents themselves to avoid payment to them, or who refuses to receive the payment when fully tendered to them, including any penalty then accrued under this section, is not entitled to any benefit under this section for the time during which the employee so avoids payment.

50. Defendants fail to pay any wages after Plaintiffs resigned.

51. Defendants conduct was willful. Defendants altered timesheets without consent, had a written policy that employees were to stay on the premises during their meal break, and

intentionally and incorrectly told employees they were not entitled to a second rest break. When Plaintiffs demands for compensation, Defendants continue to withhold their wages and payment.

52. As a direct and proximate cause of Defendants' conduct, Plaintiffs have been injured and is entitled to unpaid wages, rest break premiums, interest, attorney fees, and other statutory penalties.

SIXTH CAUSE OF ACTION

Failure to Provide Accurate Wage Statements

(By all Plaintiffs, Against all Defendants)

53. Plaintiffs reallege all paragraphs alleged above as though fully set forth here.

54. An employer in California must provide an itemized wage statement to their employees as prescribed by Labor Code section 226(a).

55. The wage statements provided by Defendants were inaccurate as they did not correctly state all hours worked or all wages earned by Plaintiffs.

56. Plaintiffs are informed and believes and thereon allege that the violation of Labor Code section 226 were not isolated and unintentional payroll errors due to a clerical or inadvertent mistake.

57. Defendants' conduct was willful, as previously explained.

58. As a direct and proximate cause of Defendants' conduct, Plaintiffs have been injured and is entitled to attorney fees, and the associated statutory penalties.

SEVENTH CAUSE OF ACTION

Improper Pay Schedule

(By Maldonado, Against all Defendants)

59. Maldonado realleges all paragraphs alleged above as though fully set forth here.

60. California Labor Code section 204 states:

All wages, other than those mentioned in Section 201, 201.3, 202, 204.1, or 204.2, earned by any person in any employment are due and payable twice during each calendar month, on days designated in advance by the employer as the regular paydays. Labor performed

1 between the 1st and 15th days, inclusive, of any calendar month
2 shall be paid for between the 16th and the 26th day of the month
3 during which the labor was performed, and labor performed between
4 the 16th and the last day, inclusive, of any calendar month, shall be
paid for between the 1st and 10th day of the following month.

5 61. Defendants' failure to pay Maldonado as ordered by Labor Code section 204
6 permits Maldonado's recovery of civil penalties under Labor Code section 210, plus recovery of
7 interest in the amount of 25% of the amount unlawfully withheld.

8 62. As a direct and proximate cause of Defendants' conduct, Maldonado has been
9 injured and is entitled to attorney fees, and the associated statutory penalties.

10 **EIGHTH CAUSE OF ACTION**

11 **Private Attorney General Act (PAGA) Claims**

12 **(Brought by Boyd, Against all Defendants)**

13 63. Plaintiffs realleges all paragraphs alleged above as though fully set forth here.

14 64. Under PAGA, Boyd is permitted to seek civil penalties for violations of the Labor
15 Code through a civil action brought by Plaintiff and other current or former employees.

16 65. Labor Code section 558 states:

17 Any employer or other person acting on behalf of an employer who
18 violates, or causes to be violated, a section of this chapter or any
19 provision regulating hours and days of work in any order of the
20 Industrial Welfare Commission shall be subject to a civil penalty as
21 follows:(1) For any initial violation, fifty dollars (\$50) for each
22 underpaid employee for each pay period for which the employee
23 was underpaid in addition to an amount sufficient to recover
underpaid wages.(2) For each subsequent violation, 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.

24 66. Labor Code section 2699(f) states:

25 For all provisions of this code except those for which a civil penalty
26 is specifically provided, there is established a civil penalty for a
violation of these provisions, as follows:

1 (1) If, at the time of the alleged violation, the person does not
2 employ one or more employees, the civil penalty is five hundred
dollars (\$500).

3 (2) If, at the time of the alleged violation, the person employs one or
4 more employees, the civil penalty is one hundred dollars (\$100) for
5 each aggrieved employee per pay period for the initial violation and
two hundred dollars (\$200) for each aggrieved employee per pay
period for each subsequent violation.

6 (3) If the alleged violation is a failure to act by the Labor and
7 Workplace Development Agency, or any of its departments,
divisions, commissions, boards, agencies, or employees, there shall
8 be no civil penalty.

9 67. As a result of Defendants' conduct alleged above, Boyd seeks penalties under
10 PAGA on behalf of herself and all other aggrieved employees. Boyd also seeks reasonable
11 attorney's fees and costs pursuant to Labor Code section 2699(g)(1).

12 68. Specifically, Boyd seeks civil penalties under PAGA on behalf of herself and all
13 other aggrieved employees for Unpaid Rest Breaks (Labor Code section 226.7; 8 Cal. Code. Regs.
14 §11070), Unpaid Meal Periods (Labor Code section 226.7; 8 Cal. Code. Regs. §11070, subsec. 11),
15 Failure to Provide Accurate Wage Statements (Labor Code section 226), and Waiting Time Penalties
and/or Delay in Payments (Labor Code section 203, 204)

16 69. On or about October 26, 2022, Boyd provided written notice to the Labor and
17 Workforce Development Agency through the agency's online system. Boyd also sent a copy of
18 this notice to Defendants via certified mail.

19 70. No response was provided from the LWDA to Boyd's letter. Boyd therefore has
20 exhausted all administrative procedures required under Labor Code section 2698 *et seq.* Boyd
21 may bring a claim for civil penalties cause of action under PAGA.
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PRAYER OF RELIEF

71. Wherefore, Plaintiffs ask the Court for judgment as follows:
- a. For damages according to proof.
 - b. For reasonable attorneys and costs as permitted by law.
 - c. For costs of suit.
 - d. For interest, as permitted by law
 - e. For all applicable statutory penalties according to proof.
 - f. For all applicable civil penalties according to proof.
 - g. For such other and further relief that the Court may deem just and proper.
 - h. For all applicable civil and statutory penalties according to proof.

Dated: March 30, 2023

JUREWITZ LAW GROUP



JAMES JOSEPH
Attorney for Plaintiffs