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JASMIN GRIDER

Assigned for All Purposes
Judge Lon Hurwitz
Dept. CX103

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF ORANGE
(UNLIMITED JURISDICTION)

JASMIN GRIDER,

Plaintiff,

vs.

BEHFAR OSAFI DMD INC., a California
corporation; BEHFAR OSAFI, an individual;
and DOES 1 to 50, inclusive,

Defendant(s).

Case No.: 30-2023-01346879-CU-OE-CXC

COMPLAINT FOR:

- 1) Failure to Pay All Wages Earned for All Hours Worked (Lab. Code §§ 510, 1194, 1197, and 1198);
- 2) Failure to Provide Rest Breaks (Lab. Code §§ 226.7 and 1198);
- 3) Failure to Provide Meal Periods (Lab. Code §§ 226.7, 512 and 1198);
- 4) Failure to Indemnify (Lab. Code § 2802);
- 5) Failure to Provide Accurate Itemized Wage Statements (Lab. Code § 226);
- 6) Failure To Pay Wages When Employment Ends (Lab. Code §§ 201–203);
- 7) Failure to Pay Wages Owed Every Pay Period (Lab. Code § 204);
- 8) Retaliation In Violation of Labor Code Section 1102.5;
- 9) Civil Penalties (Lab. Code §§ 2698, *et seq.*);
- 10) Wrongful Termination in Violation of Public Policy; and
- 11) Unfair Competition (Bus. & Prof. Code, § 17200 *et seq.*)

JURY TRIAL DEMANDED

1 Plaintiff, JASMIN GRIDER (hereafter “Plaintiff”), complains and alleges as follows:

2 **INTRODUCTION**

3 1. Plaintiff brings this action based on alleged violations of the California Labor
4 Code, Industrial Welfare Commission Order No. 4-2001 (hereafter “the Wage Order”), the
5 Business and Professions Code, and public policy against BEHFAR OSAFI DMD INC., a
6 California corporation; BEHFAR OSAFI, an individual; and DOES 1 to 50, inclusive
7 (collectively “OSAFI” or “Defendants”).

8 2. As set forth in more detail below, Plaintiff alleges that Defendants are liable to
9 her, the State of California, and other similarly situated aggrieved current and former non-
10 exempt hourly employees who worked for Defendants in California at any time during the
11 relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code
12 Private Attorneys General Act of 2004 (“PAGA”), for civil penalties and other related relief.
13 These claims are based on Defendants’ alleged failures to: (1) pay all wages earned for all
14 hours worked at the correct rates of pay; (2) provide all rest breaks and meal periods; (3)
15 indemnify for business expenses; (4) provide accurate and complete written wage statements;
16 (5) timely pay wages during and upon termination of employment; and (6) fairly compete.
17 Plaintiff also has individual claims against Defendants for unpaid wages, unreimbursed
18 expenses, retaliation, and wrongful termination in violation of public policy. Accordingly,
19 Plaintiff now seeks to recover unpaid wages, compensatory damages, civil penalties, punitive
20 damages, and related relief through this action.

21 **JURISDICTION AND VENUE**

22 3. Jurisdiction and venue are proper in this Court and this action is properly filed
23 in the County of Orange because Defendants BEHFAR OSAFI DMD INC., BEHFAR OSAFI,
24 and DOES 1-50, inclusive, do business in the County of Orange and because Defendants’
25 obligations and liabilities arise therein, and because the work that was performed by Plaintiff
26 in the County of Orange is the subject of this action. Moreover, Plaintiff’s damages sought
27 herein exceed \$25,000.

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THE PARTIES

4. Plaintiff Jasmin Grider is a resident of the city of Ontario, California. At all relevant times, Plaintiff was an “employee” within the meaning of Title 8 California Code of Regulations Section 11040 and an “Aggrieved Employee” within the meaning of Labor Code Section 2699(c).

5. Defendant BEHFAR OSAFI DMD INC. is a corporation organized and existing under the laws of California and a citizen of California based on Plaintiff’s information and belief.

6. Defendant BEHFAR OSAFI is a citizen of California based on Plaintiff’s information and belief.

7. In relevant part, Labor Code section 558.1 states:

(a) Any employer or other person acting on behalf of an employer, who violates, or causes to be violated, any provision regulating minimum wages or hours and days of work in any order of the Industrial Welfare Commission, or violates, or causes to be violated, Sections 203, 226, 226.7, 1193.6, 1194, or 2802, may be held liable as the employer for such violation.

(b) For purposes of this section, the term “other person acting on behalf of an employer” is limited to a natural person who is an owner, director, officer, or managing agent of the employer, and the term “managing agent” has the same meaning as in subdivision (b) of Section 3294 of the Civil Code.

8. Based on Plaintiff’s information and belief, Defendant BEHFAR OSAFI is a natural person, and an owner, director, officer, and/or managing agent of BEHFAR OSAFI DMD INC., who directly or indirectly, or through his agent, employed or exercised control over the wages, hours, or working conditions of Plaintiff and the Aggrieved Employees (defined below). Therefore, he is liable to Plaintiff and the Aggrieved Employees for his violations of, or causing Defendants to violate, Labor Code sections 203, 226, 226.7, 1194, and 2802 pursuant to Labor Code section 558.1.

9. The “Aggrieved Employees” are all current and former non-exempt or hourly paid employees who worked for Defendants in California during the relevant time period pursuant to California Labor Code section 2698, et. seq., the Labor Code Private Attorneys General Act of 2004 (“PAGA”).

10. Plaintiff is ignorant of the true names, capacities, relationships, and extents of participation in the conduct alleged herein, of the defendants sued as DOES 1-50, inclusive, but is informed and believes and thereon alleges that said defendants are legally responsible for the wrongful conduct alleged herein and therefore sues these defendants by such fictitious names. Plaintiff will amend the Complaint to allege the true names and capacities of the DOE defendants when ascertained.

11. Plaintiff is informed and believes and thereon alleges that, at all relevant times herein, all Defendants were the agents, employees and/or servants, masters or employers of the remaining Defendants, and in doing the things hereinafter alleged, were acting within the course and scope of such agency or employment, and with the approval and ratification of each of the other Defendants.

12. Plaintiff is informed and believes and thereon alleges that each and every one of the acts and omissions alleged herein were performed by, and/or are attributable to, all Defendants, each acting as agents and/or employees, and/or under the direction and control of each of the other Defendants, and that said acts and failures to act were within the course and scope of said agency, employment, and/or direction and control.

13. At all relevant times, in perpetrating the acts and omissions alleged herein, Defendants, and each of them, acted pursuant to and in furtherance of a policy, practice, or a lack of a practice which resulted in Defendants not paying Plaintiff and the Aggrieved Employees in accordance with applicable California labor laws as alleged herein.

GENERAL ALLEGATIONS

14. OSAFI first employed Plaintiff to work at its Dream Smiles office located at 2240 N. Harbor Blvd, Suite 220, in Fullerton, California in or around December 2022. Plaintiff worked for OSAFI until approximately April 10, 2023 when OSAFI wrongfully terminated her employment. During her employment tenure, Plaintiff's job title was "Registered Dental Assistant (RDA)". In fact, Plaintiff was the only RDA and OMSA certified employee at Dream Smiles and was told by Dr. Osafi that she needed to be with the majority of the patients.

15. During her tenure, Plaintiff was classified as an hourly, non-exempt employee,

1 generally worked Monday-Thursday from 8:30 a.m. to 5:30 p.m., and her latest rate of pay was
2 approximately \$26.00 per hour.

3 16. At all relevant times, OSAFI paid Plaintiff and the other Aggrieved Employees
4 on a bi-weekly basis at an hourly rate of pay. At all relevant times, OSAFI classified Plaintiff
5 and the other Aggrieved Employees as non-exempt employees entitled to the protections of
6 both the Labor Code and the Wage Order.

7 17. OSAFI failed to pay Plaintiff and other Aggrieved Employees for all time
8 worked or subject to its control. OSAFI staff would often text Plaintiff about work-related
9 matters before she had clocked in for work and/or after clocking out at the end of her shifts.
10 Additionally, to the extent that Plaintiff and others worked during and through their meal
11 periods, they were not paid for that time since they were “off the clock”, which is akin to a
12 minimum wage violation. Furthermore, OSAFI paid Plaintiff and the other Aggrieved
13 Employees based on rounded times, which led to time shaving and Plaintiff and others not
14 being paid for all hours worked.

15 18. Due to the above “off the clock” violations, OSAFI failed to pay Plaintiff and
16 the Aggrieved Employees properly-calculated overtime wages. The Aggrieved Employees’
17 actual work hours, which included the “off the clock” work as described above, entitled them to
18 overtime, however, it was not company policy to keep accurate track of all hours worked and to
19 pay employees the accurate amount of overtime, especially since the “off the clock” work was
20 not factored into the equation. In fact, even when Plaintiff and the other Aggrieved Employees
21 worked more than 8 hours in a day/40 hours in a week, OSAFI did not pay them at overtime
22 rates. Furthermore, any incentive payments and/or bonus payments were not factored into
23 employees’ regular rate of pay for purposes of deciphering the correct overtime rate of pay. In
24 addition, any bonus and/or incentive payments were not factored into the correct meal and rest
25 break premium pay per *Ferra v. Loews Hollywood Hotel, LLC* (2021) 11 Cal. 5th 858, 863.

26 19. OSAFI failed to provide Plaintiff and the other Aggrieved Employees the
27 requisite 30-minute, uninterrupted meal periods for every five (5) hours of work throughout
28 their employment, and Plaintiff did not validly waive said meal periods. OSAFI did not

1 completely relieve Plaintiff and the other Aggrieved Employees of all duties during said meal
2 periods. Plaintiff and the Aggrieved Employees did not always receive their meal periods
3 before the 5th hour worked. Patients had to be seen in a timely manner, the instruments had to
4 be sterilized, the rooms had to be cleaned & disinfected, the charts had to be documented, and
5 there was no one to relieve Plaintiff or the others. Moreover, even when Plaintiff and other
6 Aggrieved Employees would be on their lunch break, OSAFI staff would frequently interrupt
7 them with questions and requests for assistance. On information and belief, OSAFI did not pay
8 premium wages to Plaintiff and the other Aggrieved Employees for these meal period
9 violations; if OSAFI did provide premium wages, they were not paid at the correct rate, as
10 explained above. Furthermore, any argument by OSAFI that the employees signed an “On Duty
11 Meal Period Agreement” would not hold water since the nature of their job did not prevent
12 them from being relieved of all work duties and the company could have hired “floaters” to
13 relieve the different employees for their statutory meal and rest breaks.

14 20. OSAFI failed to provide Plaintiff and the Aggrieved Employees 10-minute rest
15 periods for every four hours of work, or majority portion thereof, throughout their employment.
16 OSAFI did not completely relieve Plaintiff of all duty during said rest periods. OSAFI staff or
17 management frequently interrupted Plaintiff and the other Aggrieved Employees during their
18 rest periods to attend to work matters. Moreover, Plaintiff and the other Aggrieved Employees
19 did not receive timely rest breaks because they could not walk away from patients in the middle
20 of their treatments and there were no “floaters” to relieve the different employees for their
21 statutory rest breaks. On information and belief, OSAFI did not pay premium wages to Plaintiff
22 and the other Aggrieved Employees for these rest period violations; if OSAFI did provide
23 premium wages, they were not paid at the correct rate, as explained above.

24 21. OSAFI failed to reimburse Plaintiff and the other Aggrieved Employees for
25 business expenses they incurred in direct consequence of the discharge of their duties. These
26 costs include, but are not limited to, use of personal cell phones to communicate with office
27 staff concerning work matters. In fact, OSAFI required Plaintiff and the other employees to
28 download Google Chat on their personal cell phones in order to communicate with office staff.

1 Accordingly, OSAFI was in violation of California Labor Code sections 2800 and 2802.

2 22. OSAFI failed to pay its employees all wages due to them within any time period
3 specified by California Labor Code section 204, including the minimum wages and overtime as
4 described above as well as meal/rest break premiums. OSAFI did not provide Plaintiff and
5 other Aggrieved Employees accurate, itemized wage statements. Wage statements must
6 include, among other things, total hours worked by the employee. Labor Code § 226(a)(2).
7 OSAFI issued wage statements that inaccurately reflected total hours worked, gross and net
8 wages earned, and the number of hours worked at each hourly rate because of OSAFI's failure
9 to properly pay wages as explained herein. Labor Code §§ 226(a)(1), (2), (5), (9). OSAFI's
10 failure to maintain accurate records as to the hours worked daily by employees also constitutes
11 a violation of Labor Code section 1174(d).

12 23. Moreover, OSAFI failed to provide paid sick leave and/or correctly calculated
13 sick leave wages to Plaintiff and the other Aggrieved Employees and failed to provide Plaintiff
14 and all of the other Aggrieved Employees with statements of sick leave available, or paid time
15 off in lieu of sick leave, in violation of Labor Code sections 233 and 246. OSAFI has also
16 violated Labor Code section 558 and engaged in business practices which violate Business and
17 Professions Code Section 17200.

18 24. Finally, because OSAFI did not properly pay all wages earned as explained
19 herein, OSAFI also failed to pay final wages owed to Plaintiff and other Aggrieved Employees
20 in violation of Labor Code section 203. These earned but unpaid wages include minimum
21 wages and compensation for all hours worked, overtime compensation, premium pay for
22 missed meal and rest breaks, and business expense reimbursement, among others.

23 25. In addition, Defendants retaliated against Plaintiff in violation of Labor Code
24 section 1102.5 and wrongfully terminated Plaintiff's employment in violation of public policy.
25 OSAFI terminated Plaintiff's employment for an alleged "HIPAA violation." In reality, OSAFI
26 had a bullseye on Plaintiff ever since confronted Dr. Osafi about his fault and potential liability
27 for dental malpractice after complications arose during a full mouth dental implant surgery for
28 a patient, spoke to the office staff about it, and voiced her concerns about the inaccuracies and

inconsistencies with the chart notes for the procedure in question.

FIRST CAUSE OF ACTION

FAILURE TO PAY ALL WAGES EARNED FOR ALL HOURS WORKED

(Lab. Code §§ 510, 1194, 1197, and 1198)

(By Plaintiff against all Defendants)

26. Plaintiff incorporates all paragraphs of the Complaint as if fully alleged herein.

27. At all relevant times, Plaintiff was a non-exempt employee of Defendants and entitled to the benefits and protections of California Labor Code §§ 510, 1194, 1197, and 1198, and the Wage Order.

28. Section 2(K) of the Wage Order defines “hours worked” as “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 to do so.”

29. Section 3 of the Wage Order states:

(A) Daily Overtime - General Provisions

(1) The following overtime provisions are applicable to employees 18 years of age or over and to employees 16 or 17 years of age who are not required by law to attend school and are not otherwise prohibited by law from engaging in the subject work. Such employees shall not be employed more than eight (8) hours in any workday or more than 40 hours in any workweek unless the employee receives one and one-half (1 ½) times such employee’s regular rate of pay for all hours worked over 40 hours in the workweek. Eight (8) hours of labor constitutes a day’s work. Employment beyond eight (8) hours in any workday or more than six (6) days in any workweek is permissible provided the employee is compensated for such overtime at not less than:

(a) One and one-half (1 ½) times the employee’s regular rate of pay for all hours worked in excess of eight (8) hours up to and including 12 hours in any workday, and for the first eight (8) hours worked on the seventh (7th) consecutive day of work in a workweek.

(b) Double the employee’s regular rate of pay for

all hours worked in excess of 12 hours in any workday and for all hours worked in excess of eight (8) hours on the seventh (7th) consecutive day of work in a workweek.

(c) The overtime rate of compensation required to be paid to a nonexempt full-time salaried employee shall be computed by using the employee's regular hourly salary as one-fortieth (1/40) of the employee's weekly salary.

30. Section 4 of the Wage Order requires an employer to pay non-exempt employees at least the minimum wage set forth therein for all hours worked, which consist of all hours that an employer has actual or constructive knowledge that employees are working.

31. Labor Code section 510 states:

Eight hours of labor constitutes a day's work. Any work in excess of eight hours in one workday and any work in excess of 40 hours in any one workweek and the first eight hours worked on the seventh day of work in any one workweek shall be compensated at the rate of no less than one and one-half times the regular rate of pay for an employee. Any work in excess of 12 hours in one day shall be compensated at the rate of no less than twice the regular rate of pay for an employee. In addition, any work in excess of eight hours on any seventh day of a workweek shall be compensated at the rate of no less than twice the regular rate of pay of an employee. Nothing in this section requires an employer to combine more than one rate of overtime compensation in order to calculate the amount to be paid to an employee for any hour of overtime work.

32. California Labor Code § 1194 invalidates any agreement between an employer and an employee to work for less than the minimum wage required under the applicable Wage Order.

33. California Labor Code § 1197 makes it unlawful for an employer to pay an employee less than the minimum wage required under the applicable Wage Order for all hours worked during a payroll period.

34. California Labor Code § 1198 makes it unlawful for an employer to employ an employee under conditions that violate the Wage Order.

35. In conjunction, these provisions of the California Labor Code require employers

1 to pay non-exempt employees no less than their agreed-upon or statutorily mandated wage rates
2 for all hours worked, including unrecorded hours when the employer knew or reasonably should
3 have known that employees were working during those hours. (*See Morillion v. Royal Packing*
4 *Co.* (2000) 22 Cal.4th 575, 585.)

5 36. Defendants required Plaintiff to work in excess of eight (8) hours in one workday
6 and forty (40) hours in one workweek without compensating her for such time worked at the
7 premium rates required by California law.

8 37. As described more fully above, Defendants failed to pay all minimum, regular,
9 overtime, and double time wages to Plaintiff because Defendants paid wages based on rounded
10 times, did not pay for off-the-clock work, and failed to pay overtime and double time wages
11 based on correct regular rates of pay.

12 38. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an
13 amount, subject to proof, to the extent that she was not paid the full amount of wages earned
14 during each pay period during the applicable limitations period, including minimum, overtime,
15 and double-time wages.

16 39. As a result of Defendants' conduct, Plaintiff seeks damages and/or restitution for
17 unpaid wages which Defendants failed to pay her at the rates set forth herein, interest thereon,
18 and costs of suit and reasonable attorney's fees pursuant to California Labor Code §§ 1194.

19 **SECOND CAUSE OF ACTION**

20 **FAILURE TO PROVIDE REST BREAKS**

21 **(Lab. Code §§ 226.7 and 1198)**

22 **(By Plaintiff against all Defendants)**

23 40. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

24 41. At all relevant times during the applicable limitations period, Plaintiff was a
25 non-exempt employee of Defendants and entitled to the benefits and protections of California
26 Labor Code §§ 226.7, 1198, and the Wage Order.

27 42. Labor Code § 1198 states,

28 "The maximum hours of work and the standard conditions of labor
fixed by the commission shall be the maximum hours of work and the

standard conditions of labor for employees. The employment of any employee for longer hours than those fixed by the order or under conditions of labor prohibited by the order is unlawful.”

43. In relevant part, Section 12 of the Wage Order states:

Rest Periods:

(A) 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 often (10) minutes net rest time per four (4) hours or major fraction thereof. However, a rest period need not be authorized for employees whose total daily work time is less than three and one-half (3 1/2) hours. Authorized rest period time shall be counted as hours worked for which there shall be no deduction from wages.

(B) 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 the employee’s regular rate of compensation for each work day that the rest period is not provided.

44. In addition, Labor Code Section 226.7 states

(b) An employer shall not require an employee to work during a meal or rest or recovery period mandated pursuant to an applicable statute, or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health.

(c) If an employer fails to provide an employee a meal or rest or recovery period in accordance with a state law, including, but not limited to, an applicable statute or applicable regulation, standard, or order of the Industrial Welfare Commission, the Occupational Safety and Health Standards Board, or the Division of Occupational Safety and Health, the employer shall pay the employee one additional hour of pay at the employee's regular rate of compensation for each workday that the meal or rest or recovery period is not provided.

45. Pursuant to the Wage Order, Plaintiff was entitled to be provided with net rest breaks of at least ten minutes for each four-hour period of work, or major fraction thereof.

46. Defendants failed to authorize and permit Plaintiff to take compliant rest periods and failed to pay one hour of correctly-calculated premium pay for each day such a

1 rest period was not provided.

2 47. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
3 an amount subject to proof to the extent she was not paid additional wages owed for all rest
4 breaks not provided to her.

5 48. By reason of the above, Plaintiff is entitled to premium wages for workdays in
6 which one or more rest breaks were not provided to her pursuant to California Labor Code §
7 226.7, plus interest and costs.

8 **THIRD CAUSE OF ACTION**

9 **FAILURE TO PROVIDE MEAL PERIODS**

10 **(Lab. Code §§ 226.7, 512, and 1198)**

11 **(By Plaintiff against all Defendants)**

12 49. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

13 50. At all relevant times during the applicable limitations period, Plaintiff was a
14 non-exempt employee of Defendants and entitled to the benefits and protections of California
15 Labor Code §§ 226.7, 512 and 1198, and the Wage Order.

16 51. Labor Code § 1198 states,

17 "The maximum hours of work and the standard conditions of labor
18 fixed by the commission shall be the maximum hours of work and the
19 standard conditions of labor for employees. The employment of any
employee for longer hours than those fixed by the order or under
conditions of labor prohibited by the order is unlawful."

20 52. In relevant part, Labor Code Section 512 states

21 "An employer may not employ an employee for a work period of more
22 than five hours per day without providing the employee with a meal
23 period of not less than 30 minutes, except that if the total work period
24 per day of the employee is no more than six hours, the meal period may
25 be waived by mutual consent of both the employer and employee. An
26 employer may not employ an employee for a work period of more than
27 10 hours per day without providing the employee with a second meal
28 period of not less than 30 minutes, except that if the total hours worked
is no more than 12 hours, the second meal period may be waived by
mutual consent of the employer and the employee only if the first meal
period was not waived."

53. In relevant part, Section 11 of the Wage Order states:

Meal Periods:

- (A) No employer shall employ any person for a work period of more than five (5) hours without a meal period of not less than 30 minutes, except that when a work period of not more than six (6) hours will complete the day's work the meal period may be waived by mutual consent of the employer and the employee...
- (B) If an employer fails to provide an employee a meal period in accordance with the applicable provisions of this order, the employer shall pay the employee one (1) hour of pay at the employee's regular rate of compensation for each workday that the meal period is not provided.

54. Pursuant to California Labor Code § 512 and the Wage Order, Plaintiff was entitled to be provided with uninterrupted meal periods of at least 30 minutes for each day she worked five or more hours. Pursuant to California Labor Code § 512, Plaintiff was also entitled to a second 30-minute meal period when she worked more than ten (10) hours in a workday.

55. During the relevant time period, Defendants failed to provide Plaintiff with compliant meal periods before the fifth hour of work and failed to pay one hour of correctly-calculated premium pay for each day such a meal period was not provided.

56. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in an amount subject to proof to the extent she was not paid additional wages owed for all meal periods not provided to her.

57. By reason of the above, Plaintiff is entitled to premium wages for workdays in which one or more meal periods were not provided to her pursuant to California Labor Code § 226.7, plus interest and costs.

FOURTH CAUSE OF ACTION

FAILURE TO INDEMNIFY

(Lab. Code §§ 1198 & 2802)

(By Plaintiff against all Defendants)

58. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

59. At all relevant times, Plaintiff was a non-exempt employee of Defendants and entitled to the benefits and protections of the California Labor Code §§ 1198 and 2802, and the

1 Wage Order.

2 60. In pertinent part, California Labor Code § 2802(a) states:

3 An employer shall indemnify his or her employee[s] for all necessary
4 expenditures incurred by the employee in direct consequence of the
5 discharge of his or her duties.

6 61. Section 9(B) of the Wage Order states:

7 When tools or equipment are required by the employer or are necessary to
8 the performance of a job, such tools and equipment shall be provided and
9 maintained by the employer, except that an employee whose wages are at
10 least two (2) times the minimum wage provided herein may be required to
11 provide and maintain hand tools and equipment customarily required by
12 the trade or craft.

13 62. California Labor Code § 1198 prohibits employers from employing their
14 employees under conditions prohibited by the Wage Order.

15 63. At all relevant times during the applicable limitations period, Defendants
16 required Plaintiff to use her own personal cell phone to communicate with office staff
17 concerning work matters. In fact, OSAFI required Plaintiff to download Google Chat on her
18 personal cell phone in order to communicate with office staff. However, Defendants did not
19 reimburse Plaintiff for these mobile phone expenses.

20 64. Plaintiff is informed and believes and thereon alleges that, at all relevant times,
21 Defendants have maintained a policy, practice, or a lack of a policy which resulted in
22 Defendants' failure to indemnify Plaintiff for the reasonable expenses she incurred in the course
23 of performing her duties.

24 65. By reason of the above, Plaintiff is entitled to reimbursement for all necessary
25 expenditures and losses and interest due and owing to within three years (3) of the date of the
26 filing of the Complaint until the date of entry of judgment pursuant to California Labor Code §
27 2802(b). Further, Plaintiff seeks reasonable attorney's fees pursuant to Labor Code § 2802(c).

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1 **FIFTH CAUSE OF ACTION**

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

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

4 **(By Plaintiff against all Defendants)**

5 66. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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

8 68. Defendants knowingly and intentionally did not furnish Plaintiff with pay stubs
9 that accurately reflected all information required by Labor Code Section 226, including but not
10 limited to, all hours worked, gross wages earned, including overtime, minimum wages, and
11 premium pay for missed meal and rest breaks, net wages earned, total hours worked by the
12 employee, all deductions, and business expense reimbursement. Therefore, Defendants failed
13 to maintain and provide accurate itemized wage statements to Plaintiff in accordance with
14 California Labor Code Section 226(a).

15 69. Pursuant to California Labor Code Section 226(e), Plaintiff is entitled to recover
16 the greater of all actual damages or fifty dollars (\$50) for the initial pay period in which a
17 violation occurs and one hundred dollars (\$100) per employee for each violation in a
18 subsequent pay period, not exceeding an aggregate amount of four thousand dollars (\$4,000),
19 plus costs and reasonable attorney's fees. Plaintiff only claims damages under this cause of
20 action pursuant to the 3-year period immediately preceding the date this lawsuit was filed.

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

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

1 **SIXTH CAUSE OF ACTION**

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

3 **(California Labor Code Sections 201-203)**

4 **(By Plaintiff against all Defendants)**

5 72. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

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

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

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

16 76. After Plaintiff's employment with Defendants ended, Defendants willfully
17 refused and continue to refuse to pay her unpaid wages as required by Labor Code Section 203.

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

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

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

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1 **SEVENTH CAUSE OF ACTION**

2 **FAILURE TO PAY WAGES OWED EVERY PAY PERIOD**

3 **(California Labor Code Section 204)**

4 **(By Plaintiff against all Defendants)**

5 80. Plaintiff incorporates all paragraphs of this complaint as if fully alleged herein.

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

8 82. At all times relevant during the liability period, Defendants failed to pay
9 Plaintiff the full amount of all owed wages when due as required by California Labor Code
10 Section 204.

11 83. Defendants failed to pay Plaintiff all wages earned each pay period. Plaintiff is
12 informed, believes, and thereon alleges, that all times relevant during the applicable limitations
13 period, Defendants maintained a policy or practice of not paying Plaintiff wages for all hours
14 worked, including the minimum wage, overtime hours, double time hours, and premium pay
15 for missed meal and rest breaks.

16 84. As a result of Defendants' unlawful conduct, Plaintiff has suffered damages in
17 an amount, subject to proof, to the extent she was not paid all wages each pay period. The
18 precise amount of unpaid wages is not presently known to Plaintiff but can be determined
19 directly from Defendants' records or indirectly based on information from Defendants' records.

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

23 **EIGHTH CAUSE OF ACTION**

24 **RETALIATION**

25 **(Lab. Code § 1102.5)**

26 **(By Plaintiff against all Defendants)**

27 86. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

28 87. According to Labor Code section 1102.5, subdivision (b),

1 An employer, or any person acting on behalf of the employer, shall not retaliate
2 against an employee for disclosing information, or because the employer
3 believes that the employee disclosed or may disclose information, ... to a
4 person with authority over the employee or another employee who has the
5 authority to investigate, discover, or correct the violation or noncompliance,...
6 if the employee has reasonable cause to believe that the information discloses a
7 violation of state or federal statute, or a violation of or noncompliance with a
8 local, state, or federal rule or regulation, regardless of whether disclosing the
9 information is part of the employee's job duties.

10 88. According to Labor Code section 1102.5, subdivision (c), an employer may not
11 retaliate against an employee for refusing to participate in an activity that would result in a
12 violation of state or federal statute, or a violation or noncompliance with a state or federal rule
13 or regulation.

14 89. This statute reflects the broad public policy interest in encouraging workplace
15 whistleblowers to report unlawful acts without fearing retaliation.

16 90. Defendants were employers for purposes of California law.

17 91. Plaintiff was an employee of Defendants, performing work on behalf of
18 Defendants.

19 92. Defendants retaliated against Plaintiff by terminating her employment after
20 Plaintiff voiced her concerns and confronted Dr. Osafi about his fault and potential liability for
21 dental malpractice after complications arose during a full mouth dental implant surgery for a
22 patient, spoke to the office staff about it, and voiced her concerns about the inaccuracies and
23 inconsistencies with the chart notes for the procedure in question, with the expectation that
24 they would investigate and correct the violations.

25 93. As a direct and proximate result of the aforementioned acts and omissions of
26 Defendants, Plaintiff suffered general and compensatory damages, including but not limited
27 to, loss of income (past and future), loss of employment benefits (past and future), general and
28 compensatory damages (past and future), mental pain and anguish and emotional distress (past
and future), and will continue to suffer in the future, in an amount to be proved at trial.

94. Plaintiff requests all available relief under Labor Code § 1102.5 including
damages and the imposition of civil penalties of \$10,000 for each violation as well as

1 attorney's fees.

2 95. The foregoing conduct engaged in by Defendants and each of their directors,
3 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,
4 ratified, and carried on with a conscious and willful disregard of their workers' right to work
5 in an environment free of retaliation and labor code violations, so as to justify the imposition
6 of punitive damages to punish and set an example of said Defendants.

7 **NINTH CAUSE OF ACTION**

8 **CIVIL PENALTIES**

9 **(Lab. Code §§ 2698, *et seq.*)**

10 **(By Plaintiff against all Defendants)**

11 96. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

12 97. Plaintiff is an Aggrieved Employee under the Private Attorneys General Act of
13 2004 ("PAGA") because she was employed by Defendants during the applicable statutory
14 period and suffered one or more of the violations of the Labor Code set forth in this Complaint.
15 Plaintiff seeks to recover on her own behalf, on behalf of the State of California, and on behalf
16 of all current and former Aggrieved Employees of Defendants, the civil penalties provided by
17 PAGA, plus reasonable attorney's fees and costs in this representative action.

18 98. During the applicable time period, Defendants violated California Labor Code
19 §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558, 558.1, 1102.5, 1174, 1194, 1197,
20 1198, and 2802.

21 99. California Labor Code §§ 2699(a) and (g) authorize an aggrieved employee, on
22 behalf of themselves and other current or former employees, to bring a civil action to recover
23 civil penalties pursuant to the procedures specified in California Labor Code § 2699.3.

24 100. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff and the
25 Aggrieved Employees are entitled to recover civil penalties for each of the Defendants'
26 violations of California Labor Code §§ 201, 202, 203, 204, 226, 226.7, 233, 246, 510, 512, 558,
27 558.1, 1102.5, 1174, 1194, 1197, 1198, and 2802 during the applicable limitations period in the
28 following amounts:

1 A. For violations of California Labor Code § 204, one hundred dollars
2 (\$100.00) for each Aggrieved Employee for each initial violation and two hundred dollars
3 (\$200.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
4 established by California Labor Code § 210).

5 B. For violations of California Labor Code § 226(a), two hundred fifty
6 dollars (\$250.00) for each Aggrieved Employee for initial violation and one thousand dollars
7 (\$1,000.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
8 established by California Labor Code § 226.3).

9 C. For violations of California Labor Code §§ 510, 512, and 558.1, fifty
10 dollars (\$50.00) for each Aggrieved Employee for initial violation and one hundred dollars
11 (\$100.00) for each Aggrieved Employee for each subsequent violation (penalty amounts
12 established by California Labor Code § 558).

13 D. For violations of California Labor Code § 1174, five hundred dollars
14 (\$500.00) for each Aggrieved Employee for each violation (penalty amounts established by
15 California Labor Code § 1174.5).

16 E. For violations of California Labor Code § 1197, one hundred dollars
17 (\$100.00) for each Aggrieved Employee for each initial and intentional violation and two
18 hundred fifty dollars (\$250.00) for each Aggrieved Employee for each subsequent violation,
19 per pay period (regardless of whether the initial violations were intentionally committed)
20 (penalty amounts established by California Labor Code § 1197.1).

21 F. For violations of California Labor Code §§ 201, 202, 203, 226.7, 233,
22 246, 1194, 1198, and 2802, one hundred dollars (\$100.00) for each Aggrieved Employee per
23 pay period for each initial violation and two hundred dollars (\$200.00) for each Aggrieved
24 Employee per pay period for each subsequent violation (penalty amounts established by
25 California Labor Code § 2699(f)(2)).

26 G. Pursuant to California Labor Code §§ 2699(a) and (f), Plaintiff individually
27 is entitled to recover civil penalties for each of the Defendants' violations of California Labor
28 Code § 1102.5 during the applicable limitations period in the following: an amount not to

1 exceed \$10,000 for each violation by Defendants of California Labor Code § 1102.5(c), as well
2 as attorney's fees and costs under Labor Code § 2699(g) (penalty amounts established by
3 California Labor Code § 1102.5(f)).

4 101. Plaintiff has complied with the procedures for bringing suit specified in
5 California Labor Code § 2699.3. By letter dated April 27, 2023 Plaintiff filed written notice
6 online with the Labor and Workforce Development Agency (“LWDA”) and gave written notice
7 by certified mail to Defendants of the specific provisions of the California Labor Code alleged
8 to have been violated, including the facts and theories to support the alleged violations. Plaintiff
9 accompanied her LWDA notice with a fee in the amount of \$75.00. The LWDA has failed to
10 take action in response within 65 calendar days of the date of Plaintiff’s notice.

11 102. Pursuant to California Labor Code § 2699(g), Plaintiff and the Aggrieved
12 Employees are entitled to an award of civil penalties and reasonable attorney’s fees and costs in
13 connection with their claims for civil penalties.

14 **TENTH CAUSE OF ACTION**

15 **WRONGFUL TERMINATION IN VIOLATION OF PUBLIC POLICY**

16 **(By Plaintiff against all Defendants except BEHFAR OSAFI)**

17 103. Plaintiff incorporates by reference each and every paragraph of this Complaint
18 as if fully alleged herein.

19 104. At all times during her employment with Defendants, Plaintiff performed her
20 duties with the utmost diligence and competence.

21 105. Plaintiff is informed and believes and thereon alleges that Defendants’ decision
22 to retaliate against her and terminate her employment, as alleged herein, was motivated by
23 Plaintiff confronting Dr. Osafo about his potential liability for dental malpractice after
24 complications arose during a full mouth dental implant surgery, speaking to the office staff
25 about it, and voicing her concerns about inaccurate and inconsistent chart notes regarding the
26 procedure in question.

27 106. The state and federal statutes recited below embody fundamental, substantial,
28 and well-established public policies of the United States and State of California:

1 (A) According to Labor Code section 1102.5, subdivision (b), an employer shall
2 not retaliate against an employee for disclosing information to a person with authority over the
3 employee who has the authority to correct the violation if the employee has reasonable cause
4 to believe that the information “discloses a violation of state or federal statute, or a violation of
5 or noncompliance with a local, state, or federal rule or regulation.”

6 (B) In *Franklin v. Monadnock Co.* (2007) 151 Cal.App.4th 252, 260 the Court
7 stated, “An employer may not discharge an at will employee for a reason that violates
8 fundamental public policy. This exception is enforced through tort law by permitting the
9 discharged employee to assert against the employer a cause of action for wrongful discharge in
10 violation of fundamental public policy.

11 107. Plaintiff’s employment was wrongfully terminated on or around April 10, 2023.
12 By terminating Plaintiff, Defendants violated fundamental, substantial, and well-established
13 public policies.

14 108. Moreover, Plaintiff was forced to hire an attorney to assist her to end these
15 illegal activities.

16 109. As set forth above, said actions by Defendants were wrongful and in violation of
17 the fundamental principles of the public policy of the State of California as reflected in its laws,
18 objectives and policies. Said statutes and constitutional expressions of public policy include,
19 but are not limited to, the California Labor Code, and the California Constitution, Article 1
20 section 8. These laws inure to the benefit of the public at large, and not just the private interests
21 of the employers and employees whom they govern or protect.

22 110. As a direct and proximate result of the aforementioned acts and omissions of
23 Defendants, Plaintiff suffered general and compensatory damages, including but not limited to,
24 loss of income (past and future), loss of employment benefits (past and future), general and
25 compensatory damages (past and future), mental pain and anguish and emotional distress (past
26 and future), and will continue to suffer in the future, in an amount to be proved at trial.

27 111. The foregoing conduct engaged in by Defendants and each of their directors,
28 officers and/or managing agents, constitutes malice, fraud, and oppression and was authorized,

1 ratified, and carried on with a conscious and willful disregard of their workers' right to work in
2 an environment free of retaliation so as to justify the imposition of punitive damages to punish
3 and set an example of said Defendants.

4 **ELEVENTH CAUSE OF ACTION**

5 **UNFAIR COMPETITION**

6 **(Bus. & Prof. Code §§ 17200, *et seq.*)**

7 **(By Plaintiff against all Defendants except BEHFAR OSAFI)**

8 112. Plaintiff incorporates all paragraphs of this Complaint as if fully alleged herein.

9 113. At all relevant times during the applicable limitations period, Plaintiff has been
10 an employee of Defendants and entitled to the benefits and protections of the Business and
11 Professions Code §§ 17200, *et seq.*

12 114. Defendants engaged in unfair competition by failing to 1) pay employees for all
13 hours worked at the correct rates of pay and 2) pay their employees premium wages for
14 workdays during which one or more meal or rest periods were not provided, and 3) reimburse
15 employees for necessary business expenses incurred in the course of performing their duties.

16 115. The unlawful conduct of Defendants alleged herein amounts to and constitutes
17 unfair competition within the meaning of California Business & Professions Code §§ 17200,
18 *et seq.* Due to their unfair and unlawful business practices alleged herein, Defendants have
19 unfairly gained a competitive advantage over other comparable companies doing business in
20 California that comply with their legal obligations to, among other things, refrain from
21 retaliatory practices and prevent retaliation, pay their employees premium wages for workdays
22 in which they did not provide employees with one or more meal and rest periods, indemnify
23 them for all business expenses incurred during the course of performing their duties, including,
24 but not limited to, mobile phone expenses, and pay them all wages earned.

25 116. As a result of Defendants' unfair competition as alleged herein, Plaintiff has
26 suffered injuries in fact and lost money or property. Defendants failed to pay Plaintiff for all
27 hours worked, failed to provide her with premium wages for missed meal and rest periods, and
28 failed to reimburse Plaintiff for all expenses she incurred in the course of performing her

1 duties.

2 117. Pursuant to California Business & Professions Code § 17203, Plaintiff is
3 entitled to restitution of all monies rightfully belonging to her that Defendants did not pay her
4 or otherwise retained by means of their unlawful and unfair business practices.

5 118. Plaintiff is entitled to reasonable attorneys' fees in connection with her unfair
6 competition claims pursuant to California Code of Civil Procedure § 1021.5, the substantial
7 benefit doctrine and/or the common fund doctrine.

8 119. Accordingly, with respect to this cause of action, Plaintiff prays for the herein
9 stated relief, and an award of all reasonable costs and attorneys' fees, including interest
10 thereon, as permitted by law, all in amounts subject to proof.

11 **PRAYER FOR RELIEF**

12 WHEREFORE, Plaintiff prays for relief and judgment against Defendants as follows:

- 13 1. For compensatory damages including lost past and future wages, commissions, and all
14 other sums of money, including employment benefits, together with interest on said
15 amounts, and any other economic injury to Plaintiff, according to proof;
- 16 2. For general damages according to proof;
- 17 3. For special and consequential damages to the extent allowed by law;
- 18 4. For punitive and exemplary damages against Defendant BEHFAR OSAFI DMD INC.
19 in an amount subject to proof;
- 20 5. For damages and penalties under Labor Code Section 226 for Plaintiff in an amount
21 subject to proof at trial;
- 22 6. For damages and penalties pursuant to Labor Code Section 203 in an amount subject to
23 7. proof at trial;
- 24 8. For one hour of wages due to Plaintiff for each work period of more than five (5) hours
25 when Plaintiff did not receive an uninterrupted thirty (30) minute meal period;
- 26 9. For one hour of wages due to Plaintiff for each work period of four (4) hours or major
27 fraction thereof when Plaintiff did not receive a ten (10) minute rest break;
- 28 10. For maximum civil penalties available under the Labor Code and applicable Wage

- Order against Defendants as described more particularly in the Complaint;
11. For restitution and disgorgement for all unfair business practices by Defendant BEHFAR OSAFI DMD INC. against Plaintiff in an amount according to proof;
 12. For an order enjoining Defendant BEHFAR OSAFI DMD INC. from further unfair and unlawful business practices in violation of Business and Professions Code Sections 17200, et seq.;
 13. For all remedies available to Plaintiff under the applicable Wage Order and the Labor Code including an award of unpaid wages, attorney's fees, costs, interest, liquidated damages, damages, penalties, and waiting time penalties according to proof to the extent permitted by law;
 14. For the imposition of civil penalties and/or statutory penalties;
 15. For all interest as allowed by law;
 16. For all costs and disbursements incurred in this suit;
 17. Reasonable attorney's fees where available by law, including but not limited to, pursuant to, Code of Civil Procedure section 1021.5, Labor Code section 1102.5(j), and/or other applicable laws; and
 18. For such other and further relief as this Court may deem proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial on all issues so triable.

Dated: September 5, 2023

MM LAW, APC

By Maralle Messrelian
Maralle Messrelian, Esq.
Attorney for Plaintiff,
JASMIN GRIDER