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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

CARLOS ESPARZA, individually, and on behalf
 of other members of the general public similarly
 situated,

Plaintiff,

v.

COHEN SEDGH, MANAVI & PAKRAVAN
 DENTAL CORPORATION, a California
 corporation; and DOES 1 through 10, inclusive,
 Defendants.

Case No.: 24STCV19390

**FIRST AMENDED CLASS AND PAGA
 REPRESENTATIVE ACTION
 COMPLAINT FOR:**

1. Failure to Pay Minimum and Straight Time Wages (Cal. Lab. Code §§ 204, 1194, 1194.2, and 1197);
2. Failure to Pay Overtime Wages (Cal. Lab. Code §§ 1194 and 1198);
3. Failure to Provide Accurate Itemized Wage Statements (Cal. Lab. Code § 226);
4. Failure to Indemnify Employees for Expenditures (Cal. Lab. Code § 2802);
5. Failure to Produce Requested Employment Records (Cal. Lab. Code §§ 226 and 1198.5); and
6. Unfair Business Practices (Cal. Bus. & Prof. Code §§ 17200, et seq.); and
7. Civil Penalties Under the Labor Code Private Attorneys General Act of 2004 (Cal. Lab. Code §§ 2698 et seq.).

DEMAND FOR JURY TRIAL

1 Plaintiff CARLOS ESPARZA (“Plaintiff”), based upon facts that either have evidentiary
2 support or are likely to have evidentiary support after a reasonable opportunity for further
3 investigation and discovery, individually and on behalf of all other members of the public similarly
4 situated, alleges as follows:

5 **THE PARTIES**

6 1. Plaintiff is a California resident who worked for Defendant COHEN SEDGH,
7 MANAVI & PAKRAVAN DENTAL CORPORATION and DOES 1 through 10 (“Defendants”)
8 in Los Angeles County, California, as a nonexempt employee paid hourly from approximately
9 September 2022 to approximately February 2024.

10 2. Plaintiff reserves the right to seek leave to amend this complaint to add new
11 Plaintiffs, if necessary, in order to establish suitable representative(s) pursuant to *La Sala v.*
12 *American Savings and Loan Association* (1971) 5 Cal.3d 864, 872, and other applicable law.

13 3. Plaintiff alleges, on information and belief, that Defendant COHEN SEDGH,
14 MANAVI & PAKRAVAN DENTAL CORPORATION is, and at all times herein mentioned, was:

- 15 (a) A business entity qualified to do business and actually conducting business
16 in numerous counties throughout the State of California, including in Los
17 Angeles County; and,
18 (b) The former employer of Plaintiff and the current and/or former employer of
19 the putative Class because Defendant COHEN SEDGH, MANAVI &
20 PAKRAVAN DENTAL CORPORATION suffered and permitted Plaintiff
21 and the Class to work, and/or controlled their wages, hours, or working
22 conditions.

23 4. At all relevant times, Defendants were and are legally responsible for all of the
24 unlawful conduct, policies, practices, acts and omissions as described in each and all of the
25 foregoing paragraphs as the employer of Plaintiff and of the Class. Further, Defendants are
26 responsible for each of the unlawful acts or omissions complained of herein under the doctrine of
27 “respondeat superior.”
28

6. At all times mentioned herein, Does 1-10, inclusive, and each of them, were residents of, doing business in, availed themselves of the jurisdiction of, and/or injured Plaintiff and a significant number of the Class members in the State of California.

7. Plaintiff alleges, on information and belief, that, at all relevant times, each Defendant, directly or indirectly, or through agents or other persons, employed Plaintiff and the other employees described in the class definitions below, and exercised control over their wages, hours, and working conditions. Plaintiff is informed and believes and thereon alleges that, at all relevant times, each Defendant was the principal, agent, partner, joint venturer, officer, director, controlling shareholder, subsidiary, affiliate, parent corporation, successor in interest and/or predecessor in interest of some or all of the other Defendants, and was engaged with some or all of the other Defendants in a joint enterprise for profit, and bore such other relationships to some or all of the other Defendants so as to be liable for their conduct with respect to the matters alleged below. Plaintiff alleges, on information and belief, that each Defendant acted pursuant to and within the scope of the relationships alleged above, that each Defendant knew or should have known about, and authorized, ratified, adopted, approved, controlled, aided and abetted the conduct of all other Defendants.

JURISDICTION AND VENUE

8. This Court has jurisdiction over this matter because Plaintiff brings this Complaint for various violations of the California Labor Code (including a claim pursuant to the Private Attorney General Act of 2004) and California Industrial Welfare Commission (“IWC”) orders, Defendant is a business entity doing business in California, and Plaintiff is a California resident.

1 9. This class action is brought pursuant to California Code of Civil Procedure section 382.
2 The monetary damages, penalties, and restitution sought by Plaintiff exceed the minimal
3 jurisdiction limits of the Superior Court and will be established according to proof at trial. This
4 Court has jurisdiction over this action pursuant to the California Constitution, Article VI, section
5 10. The statutes under which this action is brought do not specify any other basis for jurisdiction.
6 Plaintiff's share of damages, penalties, and other relief sought in this action does not exceed
7 \$75,000.

8 10. This Court has jurisdiction over Defendants because Defendants are either citizens of
9 California, have sufficient minimum contacts in California, or otherwise intentionally avail
10 themselves of the California market so as to render the exercise of jurisdiction over them by the
11 California courts consistent with traditional notions of fair play and substantial justice. There is
12 no basis for federal diversity jurisdiction in this action because there is no complete diversity,
13 and this case falls within the statutory exceptions to "minimal diversity" jurisdiction under the
14 Class Action Fairness Act, 28 U.S.C. § 1332(d)(4). Upon information and belief, two-thirds or
15 more of the class members and Defendants are citizens of California and/or (a) two-thirds of the
16 class members and Defendants are citizens of California; (b) the alleged wage and hour
17 violations occurred in California; (c) significant relief is being sought against Defendants whose
18 violations of California wage and hour laws form a significant basis for Plaintiff's claims; and
19 (d) no other class action has been filed within the past three (3) years on behalf of the same
20 proposed class against Defendants asserting the same or similar factual allegations.

21 11. Venue is proper in this judicial district because Defendants maintain offices, have
22 agents, and/or transact business in the County of Los Angeles, California.

23 **ALLEGATIONS COMMON TO ALL CAUSES OF ACTION**

24 12. Plaintiff worked for Defendants in California as a non-exempt employee paid
25 hourly. Defendants typically scheduled Plaintiff to work at least five days in a workweek and at
26 least eight hours per day, but Plaintiff regularly worked more than eight hours in a workday and
27 more than forty (40) hours in a workweek.

28 13. On February 28, 2023, Plaintiff sent a written request through their counsel to

Defendants for their personnel file, pay records, wage statements, timekeeping records, and other employment-related documents pursuant to Labor Code section 226 and 1198.5. However, Defendants failed to timely produce all of the requested employment records, in violation of Labor Code sections 226 and 1198.5.

14. Plaintiff brings this action against Defendants for California Labor Code violations and unfair business practices stemming from Defendants' failure to pay for all hours worked (minimum, straight time, and overtime wages), failure to furnish accurate wage statements, failure to indemnify employees for expenditures, and failed to timely produce Employee's requested employment records. As discussed below, Plaintiff's experience working for Defendants was typical and illustrative of the class.

15. Plaintiff brings the First through Sixth Causes of Action individually and as a class action on behalf of himself and certain current and former employees of Defendants (hereinafter collectively referred to as the "Class" or "Class Members," and defined more fully below). The Class consists of Plaintiff and all other persons who have been employed by any Defendant in California as an hourly-paid or non-exempt employee during the statute of limitations period applicable to the claims pleaded here.

16. Plaintiff brings the Seventh Cause of Action as a representative action under the Labor Code Private Attorneys Act of 2004, Labor Code sections 2698 et seq. ("PAGA") to recover civil penalties that are owed to Plaintiff, the State of California, and past and present non-exempt employees employed by Defendants in the State of California during the statute of limitations period for their PAGA claim (herein after referred to as the "Aggrieved Employees").

17. Defendants own/owned and operate/operated an industry, business, and establishment within the State of California, including Los Angeles County. As such and based upon all the facts and circumstances incident to Defendants' business in California, Defendants are subject to the California Labor Code, Wage Orders issued by the IWC, and the California Business & Professions Code.

18. Despite these requirements, throughout the statutory period, Defendants willfully failed to comply with the California Labor Code and IWC Wage Orders with respect to Plaintiff

and the Class and instead maintained a systematic, company-wide policy and practice of including, but not limited to, the following violations on a regular basis:

- (a) Failing to pay employees for all hours worked, including all minimum, straight time, and overtime wages; for example, Defendants:
 - 1) required employees to perform work off-the-clock, without compensation, such as monitoring for and having to respond to work-related calls and text messages; and/or
 - 2) provided a malfunctioning time-keeping system and engaged in inaccurate manual time-keeping; and/or
 - 3) altered time records to avoid paying overtime rates; and/or
 - 4) failed to pay for all hours worked and failed to pay some of this unpaid work at the overtime rate, as required; and/or
 - 5) failed to maintain accurate records of the hours worked.
- (b) Failing to provide employees with accurate, itemized wage statements containing all the information required by the California Labor Code and IWC Wage Orders, such as the correct legal entity name, accrued paid sick leave, all applicable hourly rates, all overtime hourly rates, and all gross and net wages earned (including correct hours worked), among other things;
- (c) Failing to timely produce requested employment records as required by the California Labor Code and IWC Wage Order;
- (d) Failing to indemnify employees for expenditures incurred in direct discharge of duties of employment; for example, Defendants:
 - 1) failed to reimburse employees for having to use their personal cell phones to discharge their job duties; and/or
 - 2) failing to adequately reimburse employees for having to use their personal vehicles to discharge their job duties; and/or
 - 3) requiring employees to purchase uniform without reimbursement.

1 19. On information and belief, Defendants, and each of them, were on actual and
2 constructive notice of the improprieties alleged herein and intentionally refused to rectify their
3 unlawful policies. Defendants' violations, as alleged above, during all relevant times herein were
4 willful and deliberate.

5 20. As a result of these violations of California Labor Code § 226(a), Plaintiff and the
6 Class suffered injury because, among other things:

- 7 (a) the violations led them to believe that they were not entitled to be paid
8 minimum, straight time, and overtime, even though they were entitled;
- 9 (b) the violations led them to believe that they had been paid the minimum,
10 straight time, and overtime, even though they had not been;
- 11 (c) the violations led them to believe they were not entitled to be paid minimum,
12 straight time, and overtime wages at the correct California rate even though
13 they were entitled;
- 14 (d) the violations led them to believe they had been paid minimum, straight time,
15 and overtime at the correct California rate even though they had not been;
- 16 (e) the violations hindered them from determining the amounts of minimum,
17 straight time, and overtime wages owed to them;
- 18 (f) in connection with their employment before and during this action, and in
19 connection with prosecuting this action, the violations caused them to have
20 to perform mathematical computations to determine the amounts of wages
21 owed to them, computations they would not have to make if the wage
22 statements contained the required accurate information;
- 23 (g) by understating the wages truly due to them, the violations caused them to
24 lose entitlement and/or accrual of the full amount of Social Security,
25 disability, unemployment, and other governmental benefits;
- 26 (h) the wage statements inaccurately understated the wages, hours, and wage
27 rates to which Plaintiff and the Class were entitled, and Plaintiff and the
28

Class were paid less than the wages and wage rates to which they were entitled.

21. Thus, Plaintiff and the Class are owed the amounts provided for in California Labor Code § 226(e) and injunctive relief under California Labor Code § 226(h).

CLASS ACTION ALLEGATIONS

22. Plaintiff brings certain claims individually, as well as on behalf of each and all other persons similarly situated, and thus, seeks class certification under California Code of Civil Procedure section 382.

23. All claims alleged herein arise under California law for which Plaintiff seeks relief authorized by California law.

24. The proposed Class consists of and is defined as:

All persons who worked for any Defendant in California as an hourly-paid or non-exempt employee at any time during the period beginning four years and 123 days before the filing of the initial complaint in this action and ending on the last day of the trial in this matter.¹

25. At all material times, Plaintiff was a member of the Class.

26. Plaintiff undertook this concerted activity to improve the wages and working conditions of all Class Members.

27. There is a well-defined community of interest in the litigation and the Class is readily ascertainable:

(a) Numerosity: The members of the Class (and each subclass, if any) are so numerous that joinder of all members would be unfeasible and impractical. The membership of the entire Class is unknown to Plaintiff at this time; however, the Class is estimated to be greater than forty (40) individuals and the identity of such membership is readily ascertainable by inspection of Defendants' records.

(b) Typicality: Plaintiff is qualified to, and will, fairly and adequately protect

¹ In response to the COVID-19 pandemic, the Judicial Council of California adopted Emergency Rule 9(a) (California Rules of Court), whereby "statutes of limitations and repose for civil causes of action that exceed 180 days are tolled from April 6, 2020 to October 1, 2020."

the interests of each Class Member with whom there is a shared, well-defined community of interest, and Plaintiff's claims (or defenses, if any) are typical of all Class Members' claims as demonstrated herein.

(c) Adequacy: Plaintiff is qualified to, and will, fairly, and adequately protect the interests of each Class Member with whom there is a shared, well-defined community of interest and typicality of claims, as demonstrated herein. Plaintiff has no conflicts with or interests antagonistic to any Class Member. Plaintiff's attorneys, the proposed class counsel, are versed in the rules governing class action discovery, certification, and settlement. Plaintiff has incurred, and throughout the duration of this action, will continue to incur costs and attorneys' fees that have been, are, and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: A Class Action is superior to other available methods for the fair and efficient adjudication of the controversy, including consideration of:

- 1) The interests of the members of the Class in individually controlling the prosecution or defense of separate actions;
- 2) The extent and nature of any litigation concerning the controversy already commenced by or against members of the Class;
- 3) The desirability or undesirability of concentrating the litigation of the claims in the particular forum; and,
- 4) The difficulties likely to be encountered in the management of a class action.

(e) Public Policy Considerations: The public policy of the State of California is to resolve the California Labor Code claims of many employees through a class action. Indeed, current employees are often afraid to assert their rights out of fear of direct or indirect retaliation. Former employees are also fearful of bringing actions because they believe their former employers might

1 damage their future endeavors through negative references and/or other
2 means. Class actions provide the class members who are not named in the
3 complaint with a type of anonymity that allows for the vindication of their
4 rights at the same time as their privacy is protected.

5 28. There are common questions of law and fact as to the Class (and each subclass, if
6 any) that predominate over questions affecting only individual members, including without
7 limitation, whether, as alleged herein, Defendants have:

- 8 (a) Failed to pay Class Members for all hours worked, including minimum,
9 straight time, and overtime wages, as well as on-call/standby pay;
- 10 (b) Failed to provide Class Members with accurate wage statements;
- 11 (c) Failed to indemnify Class Members for expenditures;
- 12 (d) Failed to produce records, when requested; and
- 13 (e) Violated California Business & Professions Code §§ 17200 *et. seq.* as a
14 result of their illegal conduct as described above.

15 29. This Court should permit this action to be maintained as a class action pursuant to
16 California Code of Civil Procedure § 382 because:

- 17 (a) The questions of law and fact common to the Class predominate over any
18 question affecting only individual members;
- 19 (b) A class action is superior to any other available method for the fair and
20 efficient adjudication of the claims of the members of the Class;
- 21 (c) The members of the Class are so numerous that it is impractical to bring all
22 members of the class before the Court;
- 23 (d) Plaintiff, and the other members of the Class, will not be able to obtain
24 effective and economic legal redress unless the action is maintained as a
25 class action;
- 26 (e) There is a community of interest in obtaining appropriate legal and equitable
27 relief for the statutory violations, and in obtaining adequate compensation
28 for the damages and injuries for which Defendants are responsible in an

amount sufficient to adequately compensate the members of the Class for the injuries sustained;

(f) Without class certification, the prosecution of separate actions by individual members of the class would create a risk of:

1) Inconsistent or varying adjudications with respect to individual members of the Class which would establish incompatible standards of conduct for Defendants; and/or,

2) Adjudications with respect to the individual members which would, as a practical matter, be dispositive of the interests of other members not parties to the adjudications, or would substantially impair or impede their ability to protect their interests, including but not limited to the potential for exhausting the funds available from those parties who are, or may be, responsible Defendants; and,

(g) Defendants have acted or refused to act on grounds generally applicable to the Class, thereby making final injunctive relief appropriate with respect to the class as a whole.

30. Plaintiff contemplates the eventual issuance of notice to the proposed members of the Class that would set forth the subject and nature of the instant action. The Defendants' own business records may be utilized for assistance in the preparation and issuance of the contemplated notices. To the extent that any further notices may be required, Plaintiff contemplates the use of additional techniques and forms commonly used in class actions, such as published notice, e-mail notice, website notice, first-class mail, or combinations thereof, or by other methods suitable to the Class and deemed necessary and/or appropriate by the Court.

FIRST CAUSE OF ACTION

(Against All Defendants for Failure to Pay Minimum and Straight Time Wages for All Hours Worked)

31. Plaintiff incorporates by reference and realleges, as if fully stated herein, the above paragraphs.

1 32. “Hours worked” is the time during which an employee is subject to the control of
2 an employer and includes all the time the employee is suffered or permitted to work, whether or
3 not required to do so.

4 33. At all relevant times herein mentioned, Defendants knowingly failed to pay to
5 Plaintiff and the Class compensation for all hours they worked. By their failure to pay
6 compensation for each hour worked as alleged above, Defendants willfully violated the provisions
7 of California Labor Code § 1194, and any additional applicable Wage Orders that require such
8 compensation to non-exempt employees.

9 34. Accordingly, Plaintiff and the Class are entitled to recover minimum and straight
10 time wages for all non-overtime hours worked for Defendants.

11 35. By and through the conduct described above, Plaintiff and the Class have been
12 deprived of their rights to be paid wages earned by virtue of their employment with Defendants.

13 36. By virtue of the Defendants’ unlawful failure to pay additional compensation to
14 Plaintiff and the Class for their non-overtime hours worked without pay, Plaintiff and the Class
15 suffered, and will continue to suffer, damages in amounts which are presently unknown to Plaintiff
16 and the Class and which will be ascertained according to proof at trial.

17 37. By failing to keep adequate time records required by California Labor Code §
18 1174(d), Defendants have made it difficult to calculate the full extent of minimum wage
19 compensation due Plaintiff and the Class.

20 38. Pursuant to California Labor Code § 1194.2, Plaintiff and the Class are entitled to
21 recover liquidated damages (double damages) for Defendants’ failure to pay minimum wages.

22 39. California Labor Code § 204 requires employers to provide employees with all
23 wages due and payable twice a month. Throughout the statute of limitations period applicable to
24 this cause of action, Plaintiff and the Class were entitled to be paid twice a month at rates required
25 by law, including minimum and straight time wages. However, during all such times, Defendants
26 systematically failed and refused to pay Plaintiff and the Class all such wages due and failed to
27 pay those wages twice a month.

28 40. Plaintiff and the Class are also entitled to seek recovery of all unpaid minimum and

1 straight time wages, interest, and reasonable attorneys' fees and costs pursuant to California Labor
2 Code §§ 218.5, 218.6, and 1194(a).

3 **SECOND CAUSE OF ACTION**

4 **(Against All Defendants for Failure to Pay Overtime Wages)**

5 41. Plaintiff incorporates by reference and realleges, as if fully stated herein, the above
6 paragraphs.

7 42. California Labor Code § 510 provides that employees in California shall not be
8 employed more than eight hours in any workday or forty (40) hours in a workweek unless they
9 receive additional compensation beyond their regular wages in amounts specified by law.

10 43. California Labor Code §§ 1194 and 1198 provide that employees in California shall
11 not be employed more than eight hours in any workday unless they receive additional
12 compensation beyond their regular wages in amounts specified by law. Additionally, California
13 Labor Code § 1198 states that the employment of an employee for longer hours than those fixed
14 by the IWC is unlawful.

15 44. At all times relevant hereto, Plaintiff and the Class have worked more than eight
16 hours in a workday and/or more than forty (40) hours in a workweek, as employees of Defendants.

17 45. At all times relevant hereto, Defendants failed to pay Plaintiff and the Class
18 overtime compensation for the hours they have worked in excess of the maximum hours
19 permissible by law as required by California Labor Code §§ 510 and 1198.

20 46. By virtue of Defendants' unlawful failure to pay additional premium rate
21 compensation to Plaintiff and the Class for their overtime hours worked, Plaintiff and the Class
22 have suffered, and will continue to suffer, damages in amounts which are presently unknown to
23 them but which exceed the jurisdictional minimum of this Court and which will be ascertained
24 according to proof at trial.

25 47. By failing to keep adequate time records required by Labor Code § 1174(d),
26 Defendants have made it difficult to calculate the full extent of overtime compensation due to
27 Plaintiff and the Class.

28 48. Plaintiff and the Class also request recovery of overtime compensation according to

1 proof, interest, attorneys' fees and costs pursuant to California Labor Code § 1194(a), as well as
2 the assessment of any statutory penalties against Defendants, in a sum as provided by the California
3 Labor Code and/or other statutes.

4 49. California Labor Code § 204 requires employers to provide employees with all
5 wages due and payable twice a month. The Wage Orders also provide that every employer shall
6 pay to each employee, on the established payday for the period involved, overtime wages for all
7 overtime hours worked in the payroll period. Defendants failed to provide Plaintiff and the Class
8 with all compensation due, in violation of California Labor Code § 204.

9 **THIRD CAUSE OF ACTION**

10 **(Against All Defendants for Failure to Provide and Maintain**

11 **Accurate and Compliant Wage Records)**

12 50. Plaintiff incorporates by reference and realleges, as if fully stated herein, the above
13 paragraphs.

14 51. At all material times set forth herein, California Labor Code § 226(a) provides that
15 every employer shall furnish each of his or her employees an accurate itemized wage statement in
16 writing showing nine pieces of information, including: (1) gross wages earned, (2) total hours
17 worked by the employee, (3) the number of piece-rate units earned and any applicable piece rate
18 if the employee is paid on a piece-rate basis, (4) all deductions, provided that all deductions made
19 on written orders of the employee may be aggregated and shown as one item, (5) net wages earned,
20 (6) the inclusive dates of the period for which the employee is paid, (7) the name of the employee
21 and the last four digits of his or her social security number or an employee identification number
22 other than a social security number, (8) the name and address of the legal entity that is the
23 employer, and (9) all applicable hourly rates in effect during the pay period and the corresponding
24 number of hours worked at each hourly rate by the employee.

25 52. In addition, California Labor Code § 246(i) required employer to provide an
26 employee with written notice that sets forth the amount of paid sick leave available, or paid time
27 off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage
28 statement described in Section 226 or in a separate writing provided on the designated pay date

1 with the employee's payment of wages. If an employer provides unlimited paid sick leave or
2 unlimited paid time off to an employee, the employer may satisfy this section by indicating on the
3 notice or the employee's itemized wage statement "unlimited."

4 53. Defendants have intentionally and willfully failed to provide employees with
5 complete and accurate wage statements compliant with these Labor Code sections. The
6 deficiencies include, among other things, the failure to correctly identify the gross wages earned
7 by Plaintiff and the Class, the failure to list the true "total hours worked by the employee," and the
8 failure to list the true net wages earned.

9 54. As a result of Defendants' violation of California Labor Code §§ 226(a) and 246(i),
10 Plaintiff and the Class have suffered injury and damage to their statutorily protected rights.

11 55. Specifically, Plaintiff and the members of the Class have been injured by
12 Defendants' intentional violations of California §§ 226(a) and 246(i) because they were denied
13 both their legal right to receive, and their protected interest in receiving, accurate, itemized wage
14 statements under California Labor Code § 226(a).

15 56. Calculation of the true wage entitlement for Plaintiff and the Class is difficult and
16 time consuming. As a result of this unlawful burden, Plaintiff and the Class were also injured as
17 a result of having to bring this action to attempt to obtain correct wage information following
18 Defendants' refusal to comply with many of the mandates of California's Labor Code and related
19 laws and regulations.

20 57. Plaintiff and the Class are entitled to recover from Defendants the greater of their
21 actual damages caused by Defendants' failure to comply with California Labor Code §§ 226(a)
22 and 246(i), or an aggregate penalty not exceeding four thousand dollars (\$4,000) per employee.

23 58. Plaintiff and the Class are also entitled to injunctive relief, as well as an award of
24 attorney's fees and costs to ensure compliance with this section, pursuant to California Labor Code
25 § 226(h).

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FOURTH CAUSE OF ACTION

(Against All Defendants for Failure to Indemnify Employees for Expenditures)

59. Plaintiff incorporates by reference and realleges, as if fully stated herein, the above paragraphs.

60. As set forth above, Plaintiff and the Class were required to incur substantial necessary expenditures and losses in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

61. Defendants violated California Labor Code § 2802, by failing to pay and indemnify Plaintiff and the Class for necessary expenditures and losses incurred in direct consequence of the discharge of their duties or of their obedience to directions of Defendants.

62. As a result, Plaintiff and the Class were damaged at least in the amounts of the expenses they paid, or which were deducted by Defendants from their wages.

63. Plaintiff and the Class are entitled to reasonable attorney's fees, expenses, and costs of suit pursuant to California Labor Code § 2802(c) and interest pursuant to California Labor Code § 2802(b).

FIFTH CAUSE OF ACTION

(Against All Defendants by All Plaintiffs for Failure to Produce Requested Employment Records)

64. Plaintiff incorporates by reference and realleges, as if fully stated herein, the above paragraphs.

65. Pursuant to California Labor Code § 226, current and former employees have the right to inspect or receive a copy of their payroll records pertaining to their employment, upon reasonable request to their employer. Under this statute, an employer that receives a request to inspect or receive a copy of payroll records pertaining to a current or former employee must comply with the request as soon as practicable, but no later than twenty-one (21) calendar days from the date of the request.

66. Pursuant to California Labor Code § 1198.5(a), every current and former employee, or their or her representative, has the right to inspect and receive a copy of the

1 personnel records that the employer maintains relating to the employee's performance or to any
2 grievance concerning the employee. Under this statute, upon written request from a current or
3 former employee or their or her representative, an employer must make the contents of those
4 personnel records available for inspection or provide a copy of the personnel records to the
5 current or former employee, or their or her representative, not later than thirty (30) calendar days
6 from the date the employer receives the written request, subject to some limited exceptions.
7 Failure to comply with these requests allows for a civil penalty seven hundred fifty dollars
8 (\$750), pursuant to Labor Code §§ 1198.5(k) and 226(f).

9 67. Labor Code § 432 provides that if an employee or applicant signs any instrument
10 relating to the obtaining or holding of employment, they shall be given a copy of the instrument
11 upon request.

12 68. As set forth above, Plaintiff and the Class are current and former employees of
13 Defendants.

14 69. As set forth above, Plaintiff sent a written request through their counsel to
15 Defendants for their payroll records, timecards, and personnel records. However, Plaintiff has
16 not received the requested records as of the date of this Complaint.

17 70. Defendants violated California Labor Code §§ 226 and 1198.5 by failing to timely
18 produce the required records requested by Plaintiff.

19 71. On information and belief, Defendants' failure to provide Plaintiff with their
20 requested employment records is not an isolated incident, but was instead consistent with
21 Defendants' policy and practice that applied to Plaintiffs and the Class.

22 72. Pursuant to California Labor Code § 1198.5, Plaintiff and the Class are entitled to
23 a penalty of seven hundred fifty dollars (\$750) from Defendants, injunctive relief in the form of
24 compliance with section 1198.5, and attorneys' fees and costs.

25 73. Pursuant to California Labor Code § 226, Plaintiff is entitled to a penalty of seven
26 hundred fifty dollars (\$750) from Defendants, injunctive relief in the form of compliance with
27 section 226, and attorneys' fees and cost.
28

SIXTH CAUSE OF ACTION

**(Against All Defendants for Violation of California
Business & Professions Code §§ 17200, et seq.)**

74. Plaintiff incorporates by reference and realleges, as if fully stated herein, the above paragraphs.

75. Defendants, and each of them, are “persons” as defined under California Business & Professions Code § 17201.

76. Defendants’ conduct, as alleged herein, has been, and continues to be, unfair, unlawful, and harmful to Plaintiff, other Class members, and to the general public. Plaintiff seeks to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

77. Defendants’ activities, as alleged herein, are violations of California law, and constitute unlawful business acts and practices in violation of California Business & Professions Code §§ 17200, et seq.

78. A violation of California Business & Professions Code §§ 17200, et seq. may be predicated on the violation of any state or federal law. All of the acts described above (failure to pay for all hours worked (minimum, straight time, and overtime wages), failure to furnish accurate wage statements, failure to indemnify employees for expenditures, and failure to timely produce Employee’s requested employment records) are unlawful and in violation of public policy; and in addition are immoral, unethical, oppressive, fraudulent and unscrupulous, and thereby constitute unfair, unlawful and/or fraudulent business practices in violation of California Business & Professions Code §§ 17200, et seq.

79. By and through their unfair, unlawful and/or fraudulent business practices described herein, the Defendants, have obtained valuable property, money and services from Plaintiff, and all persons similarly situated, and has deprived Plaintiff, and all persons similarly situated, of valuable rights and benefits guaranteed by law, all to their detriment.

80. Plaintiff and the Class Members suffered monetary injury as a direct result of Defendants’ wrongful conduct.

1 81. Plaintiff, individually, and on behalf of members of the putative Class, is entitled
2 to, and does, seek such relief as may be necessary to disgorge money and/or property which the
3 Defendants have wrongfully acquired, or of which Plaintiff and the Class have been deprived, by
4 means of the above-described unfair, unlawful and/or fraudulent business practices. Plaintiff and
5 the Class are not obligated to establish individual knowledge of the wrongful practices of
6 Defendants in order to recover restitution.

7 82. Plaintiff, individually, and on behalf of members of the putative class, is further
8 entitled to, and does, seek a declaration that the above-described business practices are unfair,
9 unlawful and/or fraudulent, and injunctive relief restraining the Defendants, and each of them,
10 from engaging in any of the above-described unfair, unlawful and/or fraudulent business practices
11 in the future.

12 83. Plaintiff, individually, and on behalf of members of the putative class, has no plain,
13 speedy, and/or adequate remedy at law to redress the injuries which the Class Members suffered
14 as a consequence of the Defendants' unfair, unlawful and/or fraudulent business practices. As a
15 result of the unfair, unlawful and/or fraudulent business practices described above, Plaintiff,
16 individually, and on behalf of members of the putative Class, has suffered and will continue to
17 suffer irreparable harm unless the Defendants, and each of them, are restrained from continuing to
18 engage in said unfair, unlawful and/or fraudulent business practices.

19 84. Plaintiff also alleges that if Defendants are not enjoined from the conduct set forth
20 herein above, they will continue to avoid paying the appropriate taxes, insurance, and other
21 withholdings.

22 85. Pursuant to California Business & Professions Code §§ 17200, et seq., Plaintiff and
23 putative Class Members are entitled to restitution of the wages withheld and retained by
24 Defendants during a period that commences four years and 178 days prior to the filing of this
25 complaint; a permanent injunction requiring Defendants to pay all outstanding wages due to
26 Plaintiff and Class Members; an award of attorneys' fees pursuant to California Code of Civil
27 Procedure § 1021.5 and other applicable laws; and an award of costs.

28 ///

SEVENTH CAUSE OF ACTION

**(By Plaintiff Against All Defendants for Civil Penalties Under the Private Attorneys
General Act of 2004, Cal. Lab. Code § 2698, et seq.)**

86. Plaintiff incorporates by reference and reallege, as if fully stated herein, the above paragraphs.

87. At all times herein mentioned, Defendants were subject to the Labor Code of the State of California and the applicable Industrial Welfare Commission Orders.

88. California Labor Code § 2699(a) specifically provides for a private right of action to recover penalties for violations of the Labor Code: “Notwithstanding any other provision of law, any provision of this code that provides for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency or any of its departments, divisions, commissions, boards, agencies, or employees, for a violation of this code, may, as an alternative, be recovered through a civil action brought by an aggrieved employee on behalf of himself or herself and other current or former employees pursuant to the procedures specified in Section 2699.3.”

89. On July 29, 2024, Plaintiff gave written notice by online filing pursuant to California Labor Code § 2699.3 to the Labor and Workforce Development Agency and by certified mail to Defendants of the specific provisions of the Labor Code that Defendants have violated against Plaintiff and current and former aggrieved employees, including the facts and theories to support the violations. Plaintiff also paid the filing fee. Plaintiff’s PAGA case number is LWDA-CM-1042326-24 (Carlos Esparza v. Cohen Sedgh, Manavi & Pakravan Dental Corporation). More than 65 days passed, and The Labor and Workforce Development Agency has not indicated that it intends to investigate Defendants’ Labor Code violations discussed in the notice. Plaintiff hereby commences a civil action to recover penalties under Labor Code § 2699 pursuant to § 2699.3 for the violations of the Labor Code described in this Complaint. These penalties include, but are not limited to, penalties under California Labor Code §§ 210, 226.3, 1174.5, 1197.1, and 2699.

90. Based on the conduct described in this Complaint, Plaintiff is entitled to an award of civil penalties on behalf of Plaintiff, the State of California, and similarly situated Aggrieved Employees of Defendants. The exact amount of the applicable penalties, in all, is an amount to be

1 shown according to proof at trial. These penalties are in addition to all other remedies permitted
2 by law.

3 91. In addition, Plaintiff seeks an award of reasonable attorneys' fees and costs pursuant to
4 California Labor Code § 2699(g)(1), which states, "Any employee who prevails in any action shall
5 be entitled to an award of reasonable attorney's fees and costs."

6 **PRAYER FOR RELIEF**

7 Plaintiff, individually, and on behalf of all others similarly situated only with respect to the
8 class claims, prays for relief and judgment against Defendants, jointly and severally, as follows:

9 **CLASS CERTIFICATION**

- 10 1. That this action be certified as a class action with respect to all of its causes of
11 action;
12 2. That Plaintiff be appointed as the representative of the Class; and,
13 3. That counsel for Plaintiff be appointed as Class Counsel.

14 **AS TO THE FIRST CAUSE OF ACTION**

- 15 1. That the Court declare, adjudge, and decree that Defendants violated California
16 Labor Code §§ 204 and 1194 and applicable IWC Wage Orders by willfully failing to pay all
17 minimum and straight time wages due;
18 2. For unpaid wages as may be appropriate;
19 3. For pre-judgment interest on any unpaid compensation commencing from the date
20 such amounts were due;
21 4. For liquidated damages; and
22 5. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to
23 California Labor Code § 1194(a).

24 **AS TO THE SECOND CAUSE OF ACTION**

- 25 1. That the Court declare, adjudge, and decree that Defendants violated California
26 Labor Code §§ 510 and 1198 and applicable IWC Wage Orders by willfully failing to pay all
27 overtime wages due;
28 2. For unpaid wages at overtime wage rates as may be appropriate;

3. For pre-judgment interest on any unpaid overtime compensation commencing from the date such amounts were due;

4. For reasonable attorneys' fees and for costs of suit incurred herein pursuant to California Labor Code § 1194(a); and

5. For such other and further relief as the Court may deem equitable and appropriate.

AS TO THE THIRD CAUSE OF ACTION

1. That the Court declare, adjudge, and decree that Defendants violated the record keeping provisions of California Labor Code § 226(a) and applicable IWC Wage Orders, and willfully failed to provide accurate itemized wage statements thereto;

2. For all actual damages, according to proof;

3. For statutory penalties pursuant to California Labor Code § 226(e);

4. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h); and

5. For reasonable attorneys' fees and for costs of suit incurred herein.

AS TO THE FOURTH CAUSE OF ACTION

1. That the Court declare, adjudge, and decree that Defendants violated California Labor Code § 2802 by willfully failing to indemnify employees for expenditures;

2. For unpaid wages or unreimbursed business expenses as may be appropriate;

3. For pre-judgment interest on any unpaid compensation commencing from the date such amounts were due; and

4. For reasonable attorneys' fees and for costs of suit incurred herein.

AS TO THE FIFTH CAUSE OF ACTION

1. That the Court declare, adjudge, and decree that Defendants violated the records producing provisions of California Labor Code §§ 226 and 1198.5 and applicable IWC Wage Orders, and willfully failed to provide the required and requested documents thereto;

2. For all actual damages, according to proof;

3. For statutory penalties pursuant to California Labor Code §§ 226 and 1198.5;

4. For injunctive relief to ensure compliance with this section, pursuant to California Labor Code § 226(h); and

5. For reasonable attorneys' fees and for costs of suit incurred herein.

AS TO THE SIXTH CAUSE OF ACTION

1. That the Court declare, adjudge, and decree that Defendants violated California Business & Professions Code §§ 17200, et seq. by failing to pay for all hours worked (minimum, straight time, and overtime wages), failing to indemnify employees for expenditures, and unlawful deductions from wages.

2. For restitution of unpaid wages to Plaintiff and all Class Members and prejudgment interest from the day such amounts were due and payable;

3. For the appointment of a receiver to receive, manage and distribute any and all funds disgorged from Defendants and determined to have been wrongfully acquired by Defendants as a result of violations of California Business & Professions Code §§ 17200 et seq.;

4. For reasonable attorneys' fees and costs of suit incurred herein pursuant to California Code of Civil Procedure § 1021.5; and

5. For injunctive relief to ensure compliance with this section, pursuant to California Business & Professions Code §§ 17200, et seq.

AS TO THE SEVENTH CAUSE OF ACTION

1. That the Court declare, adjudge, and decree that Defendants violated the California Labor Code by failing to pay for all hours worked (minimum, straight time, and overtime wages), failure to provide meal periods, failure to authorize and permit rest periods, failure to timely pay final wages, failure to furnish accurate wage statements, and failure to indemnify employees for expenditures;

2. An award of civil penalties on behalf of Plaintiff, individually, and on behalf of the State of California, and all similarly aggrieved employees pursuant to PAGA;

3. Pre-judgment and post-judgment interest at the maximum rate allowed;

4. Attorneys' fees and costs reasonably incurred;

5. Injunctive and declaratory relief to the extent allowed by PAGA; and,

AS TO ALL CAUSES OF ACTION

1. For a trial by jury as to all causes of action triable by jury; and
2. For any additional relief that the Court deems just and proper.

Respectfully submitted,

Dated: November 1, 2024

WILSHIRE LAW FIRM

m. desario

By: _____
Molly DeSario, Esq.
James Yoo, Esq.
Ruby Carrera, Esq.
Attorneys for Plaintiff

PROOF OF SERVICE

I, **Manuel Martinez**, state that I am employed in the aforesaid County, State of California; I am over the age of eighteen years and not a party to the within action; my business address is 3055 Wilshire Blvd., 12th Floor, Los Angeles, California 90010.

On **November 1, 2024**, I served the foregoing document on the interested parties as addressed below and via one of the methods of service set forth below:

FIRST AMENDED CLASS AND PAGA REPRESENTATIVE ACTION COMPLAINT

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Attorneys for Defendant

[X] (By Electronic Service) Based on a court order or an agreement of the parties to accept electronic service, I caused the documents to be sent to the persons at the electronic service addresses listed above via third party cloud service **CASE ANYWHERE**.

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 1, 2024, at Los Angeles, California.


Manuel Martinez