

CAUSE NO. 2022-84301

DASPIT LAW FIRM, PLLC,	§	IN THE DISTRICT COURT
	§	
<i>Plaintiff,</i>	§	
v.	§	80 TH JUDICIAL DISTRICT
	§	
NEELAM KAINтура,	§	
	§	
<i>Defendant.</i>	§	OF HARRIS COUNTY, TEXAS

DEFENDANT’S ORIGINAL ANSWER

Defendant Neelam Kaintura (“Defendant” or “Ms. Kaintura”) files this Original Answer (“Answer”) to the Plaintiff’s Original Petition, and respectfully shows the Court as follows:

GENERAL DENIAL

1. As authorized by Texas Rule of Civil Procedure 92, Defendant enters a general denial of the matters pled in Plaintiff’s Original Petition and requests that the Court require DASPIT LAW FIRM, PLLC (“DASPIT”) to prove each of their charges, claims, and allegations by a preponderance of the evidence or clear and convincing evidence as required by the Constitution and the laws of the State of Texas.

DEFENSES AND AFFIRMATIVE DEFENSE

2. Without waiving its general denial and reserving the right to plead further applicable defenses, Defendant asserts the following defenses and affirmative defenses, each of which are offered in the alternative and to the extent applicable: Defendant gives notice that she intends to rely on such other defenses and affirmative defenses as may become available or apparent during the course of discovery in this case. Defendant reserves the right to amend this Answer; to add additional affirmative or other defenses; to delete or withdraw affirmative or

other defenses; and to add such counterclaims as may become necessary after a reasonable opportunity for discovery.

3. DASPIT's claims are wholly or in part offset by its violation of the Fair Labor Standards Act (FLSA) by failing to pay overtime. Additionally, DASPIT's claims are wholly or in part offset by its unlawful withholding of Defendant's wages due from December 8, 2022 through December 28, 2022.

4. DASPIT's claims are barred in whole or in part by equitable estoppel, as their actions during Defendant's employment are contrary to their current position.

5. DASPIT's claims are barred by ratification as Plaintiff consented to Defendant's actions during her employment.

ADDITIONAL DENIALS AND ALLEGATIONS

Pleading further, should such be necessary, and without waiving the foregoing general denial and affirmative defenses, Defendant states as follows:

6. Defendant, Neelam Kaintura, began working for the Daspit Law firm in November of 2021 as paralegal, becoming a permanent non-exempt paralegal in February 2022, at \$22.50 per hour with overtime. During this time and only during this time was Ms. Kaintura ever restricted on the number of hours worked as per DASPIT's written policies.

7. On or about May 9, 2022, Ms. Kaintura was promoted to an unlicensed associate attorney because she was a foreign trained attorney and working toward obtaining her state bar license.

8. As an associate attorney, Ms. Kaintura was paid \$27.50 per hour, with no salary, but unlawfully classified as exempt from the payment of overtime pursuant to the FLSA. During this period, she did question why she was not paid overtime as she was paid hourly, rather than

by salary as required by the FLSA to be classified as exempt. Through this period, as before, she was required to clock in and out.

9. During Ms. Kaintura's period as an hourly associate attorney, Ms. Kaintura had no restriction on the number of hours worked. This fact is documented in DASPIT's own written company policies which are provided to all employees upon hiring and is also reflected in communications between Ms. Kaintura and DASPIT management staff. DASPIT's overtime restrictions expressly excluded hourly attorneys from any prohibition against working overtime hours, yet improperly categorized them as exempt from the requirements of the FLSA. Thus, for all such hours, DASPIT paid only straight time, unlawfully withholding overtime pay as is required for non-salaried employees under the FLSA.

10. Ms. Kaintura regularly worked 11 to 12 hours in the office and another 4 to 6 hours outside the office at home during this period. Again, contrary to DASPIT's assertion to the contrary, there was no restriction placed on the number of hours Defendant was allowed to work during this period and her high number of hours was well known to management staff as email communications between Defendant and staff plainly attest. DASPIT's own written policies indicate that attorneys are expected to work "in the office from 7:30/8 a.m. to 7/9 p.m.," requiring them to work in the office approximately 12 hours per day. Additionally, Ms. Kaintura expressly confirmed via email communications, that she was not expected to clock out for lunch periods during the day. Thus, DASPIT's assertions to the contrary are patently false.

11. Upon becoming licensed on December 15, 2022, Ms. Kaintura was promoted to licensed attorney status and offered a salary of \$85,000. Only at this time was Ms. Kaintura placed on a salary. However, when Ms. Kaintura questioned the salary as being low in comparison to when she worked hourly, DASPIT, for the first time questioned her regarding her

hours. DASPIT partners claimed only then to have no knowledge of the number of hours worked by Ms. Kaintura. This was despite email communications with DASPIT management clearly discussing and expressly approving hours as high as 140 in a given pay period.

12. Ms. Kaintura was then terminated on via a phone call on December 28, 2022, based upon the libelous and defamatory accusations that form the basis of this lawsuit.

13. Following Ms. Kaintura's termination, DASPIT unlawfully withheld her wages due from December 8, 2022 through December 28, 2022 in the amount of \$7,947.33.

RIGHT TO AMEND

14. Defendant reserves the right to further amend and/or supplement this Answer at a future date, as is its right under the Texas Rules of Civil Procedure.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant respectfully prays that after trial of this cause, the Court enter judgment in Defendant's favor, dismissing claims against her with prejudice, that Plaintiff and any others subsequently joined herein, take nothing by this cause of action, that Defendant be awarded court costs, including reasonable attorneys' fees, and for such further relief, general and special, legal and equitable, to which Defendant may show herself justly entitled. Respectfully Submitted,

TB Robinson Law Group, PLLC



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ATTORNEY FOR DEFENDANT

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of January 2023, the foregoing *DEFENDANT'S ORIGINAL ANSWER* was electronically filed with the Clerk of the Court using the E-filing System and served a true and correct copy of the filing on Plaintiff's counsel.

A handwritten signature in blue ink, appearing to read "T. B. Robinson", with a horizontal line underneath.

Terrence B. Robinson

Automated Certificate of eService

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Jeanice Brown on behalf of Terrence Robinson
Bar No. 17112900
jeanice@tbrobinsonlaw.com
Envelope ID: 72250596
Status as of 1/30/2023 9:00 AM CST

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