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10 ALIZADEH HOLDINGS, LLC and  
11 ALIZADEH & SALEH, DDS, INC.  
12 dba MARCONI DENTAL GROUP

**FILED**  
**Superior Court Of California,**  
**Sacramento**  
**07/17/2019**  
**mwilliams8**  
**By \_\_\_\_\_, Deputy**  
**Case Number:**  
**34-2019-00260735**

13 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
14 **FOR THE COUNTY OF SACRAMENTO**

15 ALIZADEH HOLDINGS, LLC, a  
16 California limited liability company, and  
17 ALIZADEH & SALEH, DDS, INC., a  
18 California professional corporation dba  
19 MARCONI DENTAL GROUP,

20 Plaintiffs,

21 v.

22 CARMICHAEL SQUARE LLC, a  
23 California limited liability company;  
24 CBRE, INC., a Delaware corporation  
25 authorized to do business in California;  
26 FALLING PRICES, INC., a California  
27 corporation, and DOES 1 through 50,  
28 inclusive,

Defendants.

Case:

**COMPLAINT OF ALIZADEH  
HOLDINGS, LLC and ALIZADEH &  
SALEH, DDS, INC.**

1. Public Nuisance
2. Private Nuisance
3. Intentional Interference with  
Prospective Economic Advantage
4. Civil Conspiracy
5. Breach of Property Management  
Agreement (Third Party Beneficiary)

Plaintiffs, ALIZADEH HOLDINGS, LLC, a California limited liability company, and  
ALIZADEH & SALEH, DDS, INC., a California professional corporation doing business as Marconi  
Dental Group (collectively, the "Plaintiffs") allege as follows:

1 **THE PARTIES**

2 1. At all relevant times alleged herein Plaintiff ALIZADEH HOLDINGS, LLC  
3 (“ALIZADEH HOLDINGS”) was a California limited liability company with its with its principal place  
4 of business located at 6440 Fair Oaks Boulevard, Carmichael, Sacramento County, California, within the  
5 Carmichael Oaks Retail Center.

6 2. At all relevant times alleged herein, Plaintiff ALIZADEH & SALEH, DDS, INC. dba  
7 Marconi Dental Group (“MARCONI DENTAL”) was a California corporation and licensed professional  
8 dental services practice, with its with its principal place of business at 6440 Fair Oaks Boulevard,  
9 Carmichael, Sacramento County, California, within the Carmichael Oaks Retail Center.

10 3. At all relevant times alleged herein, Defendant CARMICHAEL SQUARE LLC  
11 (“CARMICHAEL”) was a California corporation doing business in Sacramento County, California, and  
12 holding a controlling real property ownership interest in the Carmichael Oaks Retail Center located at  
13 6400-6480 Fair Oaks Boulevard, Carmichael, Sacramento County, California (the “Carmichael  
14 Center”).

15 4. At all relevant times alleged herein, Defendant CBRE, INC. (“CBRE”) was a Delaware  
16 corporation registered as a foreign corporation with the State of California, with a place of business at  
17 3648 North Freeway Boulevard, Sacramento, Sacramento County, California. At all relevant times  
18 alleged herein, Defendant CBRE was under contract with Defendant CARMICHAEL to perform property  
19 management services for the Carmichael Center.

20 5. At all relevant times alleged herein, Defendant FALLING PRICES, INC. (“FALLING  
21 PRICES”) was a California corporation doing business in Sacramento County, California, operating a  
22 retail store location at 6456 Fair Oaks Boulevard, Carmichael, Sacramento County, California, within the  
23 Carmichael Center.

24 6. Plaintiffs are informed and believe, and based thereon allege, that the DOES are individuals  
25 or entities subject to the Court’s jurisdiction. The true names and capacities, whether individual,  
26 corporate, associate, or otherwise of the DOES are unknown to Plaintiffs, who therefore sue the DOES,  
27 and each of them, by such fictitious names, and Plaintiffs will seek leave of the Court to amend this  
28 Complaint to allege such true names and capacities when the same are ascertained. Plaintiffs are informed

1 and believe and based thereon allege that each of the DOES is responsible in some manner for the  
2 occurrences herein alleged, and that Plaintiffs' damages as herein alleged were proximately caused by  
3 their conduct. Plaintiffs are informed and believe, and based thereon allege, that each of the Defendants  
4 was the agent, employee, and/or alter-ego of each of the other remaining Defendants and, at all times  
5 relevant hereto, acting with the course and scope of such agency and/or employment. Moreover, Plaintiffs  
6 are informed and believe and thereon allege that each Defendant has authorized and/or ratified the  
7 wrongful activities of each of the remaining Defendants.

#### 8 JURISDICTION AND VENUE

9 7. This court has subject matter jurisdiction over the action pursuant to California Code of  
10 Civil Procedure § 410.10.

11 8. Venue is proper in this action under California Code of Civil Procedure §395(a) and §395.5  
12 because Plaintiffs and Defendants reside in and/or conduct business in Sacramento County, California.  
13 Defendants' conduct arose in the County of Sacramento and the majority of witnesses and events occurred  
14 in the County of Sacramento. As such, jurisdiction and venue lie in Sacramento County Superior Court.

#### 15 GENERAL ALLEGATIONS

16 9. On August 22, 2016, Plaintiff ALIZADEH HOLDINGS purchased the real property and  
17 the existing building and improvements located 6440 Fair Oaks Boulevard, Carmichael within the  
18 Carmichael Center, Sacramento County Assessor's Parcel Nos. 273-0131-036 and 273-0131-037 (the  
19 "Dental Office Property").

20 10. All owners and tenants within the Carmichael Center, including the Dental Office Property,  
21 are subject to certain "Carmichael Oaks Operation and Reciprocal Easement Agreement" recorded  
22 October 31, 1985, and its predecessor "Reciprocal Grant of Easements and Declarations of Establishment  
23 of Restriction and Covenants Affecting Land Known as Carmichael Oaks" recorded September 10, 1985  
24 (collectively, the "CC&R's") which provide for, among other things (a) the establishment of common  
25 areas within the Carmichael Center, (b) the establishment of non-exclusive parking within the Carmichael  
26 Center, (c) the designation of no fewer than 15 and up to 22 non-exclusive parking spaces for the specific  
27 use of the Dental Office Property, (d) the establishment of rules relating to shared monument signage  
28 within the Carmichael Center, (e) security within the Carmichael Center, (f) common area maintenance

1 charges for the upkeep of the Carmichael Center to be apportioned among all owners, and (g) the  
2 appointment of a property manager under the direction of Defendant CARMICHAEL, as the successor to  
3 the declarant of the CC&Rs. All owners within the Carmichael Center, including but not limited to the  
4 Dental Office Property, are entitled to the quiet use and enjoyment of the common areas and parking  
5 within the Carmichael Center. No owner or tenant within the Carmichael Center has the right to interfere  
6 with the quiet use and enjoyment of the common areas and parking within the Carmichael Center.

7 10. Since August 2016, Plaintiff MARCONI DENTAL has been the tenant of ALIZADEH  
8 HOLDINGS and has invested more than \$1,000,000 in improving the Dental Office Property to expand  
9 their dental practice and to render the best possible patient care. At all times alleged herein, ALIZADEH  
10 HOLDINGS and MARCONI DENTAL have abided by the CC&Rs. Plaintiffs ALIZADEH HOLDINGS  
11 and MARCONI DENTAL, in particular, are dependent on their quiet use and enjoyment of the common  
12 areas and parking within the Carmichael Center in order to operate a successful business and to preserve  
13 their patient and employee relationships.

14 11. At all relevant times alleged herein, Defendant CARMICHAEL has been the majority  
15 owner within the Carmichael Center controlling the in-line retail space and more than 50% of the square  
16 footage within the Carmichael Center. Pursuant to the powers vested in the CC&R's, CARMICHAEL  
17 has hired Defendant CBRE to be the leasing agent and property manager for the Carmichael Center.  
18 CARMICHAEL has contracted with CBRE to provide property management and security services for the  
19 Carmichael Center. At all times alleged herein, CBRE had the contractual responsibility to, among other  
20 things (a) maintain the common areas, parking, monument signage, landscaping and security with the  
21 Carmichael Center in order to sustain a first class retail center, and (b) to fairly and accurately apportion  
22 to each owner within the Carmichael Center common area maintenance charges incurred by Defendant  
23 CBRE in performing its property management duties. At all times alleged herein, Plaintiffs ALIZADEH  
24 HOLDINGS and MARCONI DENTAL were third party beneficiaries of the property management  
25 services agreement between Defendant CARMICHAEL and Defendant CBRE.

26 12. On or about January 15, 2019, Defendant FALLING PRICES opened for business in the  
27 Carmichael Center pursuant to a lease with Defendant CARMICHAEL. Defendant FALLING PRICE'S  
28 business model is to sell retail prices at deeply discounted prices, with prices falling each consecutive day

1 from Tuesday through Saturday until the store is emptied by bargain hunters. Each Tuesday morning, the  
2 FALLING PRICES store reopens with new deeply discounted inventory and the cycle of falling prices  
3 resumes from Tuesday through Saturday. Defendant FALLING PRICES' business model is intended to  
4 create a shopping frenzy among buyers.

5 13. From the moment that the Falling Prices store has opened with the Carmichael Center,  
6 Defendant FALLING PRICES has created an attractive nuisance in encouraging and/or permitting retail  
7 shoppers to (a) line up for several hours prior to store opening times to get the best deals, (b) camp out  
8 overnight to be well positioned in the line prior to store opening times, (c) commandeer all available  
9 parking spaces in order to be best positioned for retail shopping, (d) threaten the security of invitees,  
10 owners and tenants within the Carmichael Center, (e) dispose of trash and debris within the Carmichael  
11 Center, (f) cause damage to vehicles and personal property within the Carmichael Center, and (g) to  
12 otherwise violate the rights of Plaintiffs (and every other invitee, owner and tenant within the Carmichael  
13 Center) to the quiet use and enjoyment of the common areas and parking within the Carmichael Center.  
14 Defendant FALLING PRICES has effectively converted and usurped the common areas and non-  
15 exclusive parking rights within the Carmichael Center by dominating their use, thereby denying Plaintiffs  
16 ALIZADEH HOLDINGS and MARCONI DENTAL (and Carmichael Center owners, tenants and  
17 invitees) their right to the quiet use and enjoyment of the common areas and parking under the CC&R's.

18 14. The nuisances and disruptions to the Carmichael Center caused by Defendants  
19 CARMICHAEL, CBRE AND FALLING PRICES include:

20 a. Allowing Falling Prices shoppers and invitees to form lines in the common areas of the  
21 Carmichael Center for several hours prior to the store opening time, so as to block access to other retail  
22 stores and to project the image that the Carmichael Center permits vagrancy and homelessness;

23 b. Allowing Falling Prices shoppers to camp out overnight in common areas prior to the store  
24 opening time, so as to project the image that the Carmichael Center accommodates and permits  
25 homelessness;

26 c. Allowing Falling Prices shoppers to camp out overnight in their vehicles in the non-  
27 exclusive parking areas, which also projects the image that the Carmichael Center accommodates and  
28 permits homelessness;

1 d. Allowing Falling Prices shoppers to load and unload their vehicles in drive aisles within  
2 the Carmichael Center, thereby causing constant traffic suggestion and blocking of access to parking by  
3 the patients and invitees of Plaintiffs and the other owners, tenants and invitees of the Carmichael Center;

4 e. Allowing Falling Prices to so dominate the non-exclusive parking within the Carmichael  
5 Center that Plaintiff's employees, patients and invitees are unable to park in the spaces designated within  
6 the CC&R's for use by the Dental Office Property or in close proximity to the Dental Office Property, and  
7 otherwise requiring Plaintiff's employees, patients and invitees to have to park considerable distances  
8 from the Dental Office Property or to park off-site;

9 f. Allowing Falling Prices to so dominate the non-exclusive parking within the Carmichael  
10 Center that Plaintiff's patients cannot make their scheduled appointments in a timely manner or at all,  
11 resulting in missed and cancelled appointments;

12 g. Allowing Falling Prices to so dominate the non-exclusive parking within the Carmichael  
13 Center that Plaintiff's patients and employees fear for their safety during early morning and evening  
14 appointments. Specifically, the customers of Falling Prices menace Plaintiffs' patients and employees  
15 and adequate security is not provided by Defendants CARMICHAEL and CBRE, resulting in (1)  
16 employees of Plaintiff MARCONI DENTAL quitting, and (2) patients of Plaintiff MARCONI DENTAL  
17 changing their dental services provider;

18 h. Allowing Falling Prices shoppers to damage motor vehicles of other invitees to the  
19 Carmichael Center, including motor vehicles of employees and patients of Plaintiff MARCONI DENTAL  
20 parked adjacent to the Dental Office Property;

21 i. Allowing Falling Prices shoppers to discard boxes from store purchases and to litter within  
22 the Carmichael Center, including depositing trash and debris on the Dental Office Property owned and  
23 occupied by Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL, respectively;

24 j. Allowing Falling Prices shoppers and CBRE hired security guards to smoke cigarettes  
25 and/or marijuana in the common areas of the Carmichael Center, in violation of Sacramento County and  
26 City of Carmichael ordinances;

27 k. Allowing other acts within the Carmichael Center constituting a public nuisance, which  
28 acts are offensive, uncomfortable and/or unlawful, and which acts interfere with the public's free use and

1 access to the parking and common areas of the Carmichael Center and the public's conduct of business  
2 within the Carmichael Center; and

3 m. Allowing other acts within the Carmichael Center constituting a private nuisance, which  
4 acts are offensive, uncomfortable and/or unlawful, and which acts interfere with private ownership within  
5 the Carmichael Center, including but not limited to the free use and access to the parking and common  
6 areas of the Carmichael Center and the conduct of business within the Carmichael Center.

7 15. The nuisances created by Defendant FALLING PRICES and its customers have taken  
8 place with the knowledge, approval, consent and/or acquiescence of Defendants CARMICHAEL and  
9 CBRE.

10 16. Concurrent with the public and private nuisances created by Defendant FALLING PRICES  
11 and its customers, Defendants CARMICHAEL and CBRE have abdicated their responsibilities for the  
12 orderly operation of the Carmichael Center, and negligently and/or intentionally interfered with the use  
13 and enjoyment of common areas, private areas and parking within the Carmichael Center, which  
14 dereliction of duties includes, but is not limited to:

15 a. Failing to implement Carmichael Center rules and regulations to prevent, mitigate, abate  
16 and/or eliminate the nuisance created by Defendant FALLING PRICES;

17 b. Failing to enter into a lease with Defendant FALLING PRICES with covenants to prevent,  
18 mitigate, abate and/or eliminate the nuisance created by Defendant FALLING PRICES;

19 c. Failing to enforce contractual provisions within the lease with Defendant FALLING  
20 PRICES to prevent, mitigate, abate and/or eliminated the nuisance created by Defendant FALLING  
21 PRICES;

22 d. Failing to enforce provisions implied by law within the lease with Defendant FALLING  
23 PRICES, including compliance with all applicable laws, to prevent, mitigate and/or eliminate the nuisance  
24 created by Defendant FALLING PRICES;

25 e. Permitting Defendant FALLING PRICES and its customers to dominate and usurp the  
26 common areas and parking of the Carmichael Center, including permitting the unauthorized use of  
27 handicapped parking, and to interfere with the rights of owners, tenants and invitees to the quiet use and  
28 enjoyment of common areas and parking within the Carmichael Center;

1 f. Failing to hire, supervise and control competent contractors and/or staff to prevent  
2 interference with the quiet use and enjoyment of common areas and parking within the Carmichael Center;

3 g. Failing to hire, supervise and control competent contractors and/or staff to provide security  
4 services for the Carmichael Center;

5 h. Permitting Defendant FALLING PRICES and its customers to discard their trash and to  
6 litter the Carmichael Center with no consequences;

7 i. Failing to hire, supervise and control competent contractors and/or staff to provide day  
8 porter services for the Carmichael Center;

9 j. Failing to consistently maintain landscaping, signage and other improvements within the  
10 Carmichael Center;

11 k. Failing to fairly administer the monument sign for the Carmichael Center in accordance  
12 with the CC&R's including excluding Plaintiff MARCONI DENTAL from the monument sign but  
13 charging Plaintiff MARCONI DENTAL for the monument sign within the common area maintenance  
14 charges for the Carmichael Center;

15 l. Failing to fairly administer the common area maintenance charges for the Carmichael  
16 Center by charging Plaintiff ALIZADEH HOLDINGS for the increased costs attributable to the nuisance  
17 created by Defendant FALLING PRICES and consented to by Defendants CARMICHAEL and CBRE,  
18 including but not limited to increased security charges, increased day porter charges, increased trash  
19 hauling charges, and increased maintenance and upkeep to the Carmichael Center;

20 m. Willfully failing and refusing to cooperate in updating the CC&R's for the Carmichael  
21 Center which are 34 years old and obsolete; and

22 n. Following a March 19, 2019 meeting with Plaintiffs mandated by the CC&Rs, willfully  
23 failing and refusing to take effective action to prevent, mitigate and/or abate the nuisance caused by  
24 Defendant FALLING PRICES and its customers.

25 17. As a consequences of the nuisance created by Defendant FALLING PRICES, and  
26 consented to by Defendants CARMICHAEL and CBRE, and as a further consequence of the failure of  
27 Defendants CARMICHAEL and CBRE to properly discharge their responsibilities for the orderly  
28



1 operation and maintenance of the Carmichael Center, Plaintiffs ALIZADEH HOLDINGS and MARCONI  
2 DENTAL have sustained general and special damages, including but not limited to:  
3 a. decreased revenue by the MARCONI DENTAL practice;  
4 b. decreased productivity by the professional dentists and hygienists of the MARCONI  
5 DENTAL practice;  
6 c. staff overtime incurred by the MARCONI DENTAL practice;  
7 d. lost revenue and business opportunities associated with patients that left the MARCONI  
8 DENTAL practice;  
9 e. lost employees of the MARCONI DENTAL PRACTICE and the associated training costs  
10 for their replacements;  
11 g. property damage sustained to the Dental Office Property and to patient and employee  
12 vehicles parked at the Dental Office Property;  
13 g. the stigma to and diminution in value of the Dental Office Property sustained by  
14 ALIZADEH HOLDINGS; and  
15 h. other damages caused by Defendants.

16 **FIRST CAUSE OF ACTION**

17 **Public Nuisance (Civ. Code § 3479) Against All Defendants**

18 18. Plaintiffs incorporate by reference and reallege each and every allegation set forth in  
19 paragraphs 1 through 17 as though fully set forth herein.

20 19. The actions of Defendant FALLING PRICES and its customers, in interfering with the  
21 quiet use and enjoyment of common areas, parking and orderly operations within the Carmichael Center  
22 constitute a public nuisance. Defendant FALLING PRICES is engaged in business practices that (a) are  
23 injurious to public health and safety, (b) unlawfully obstruct the free passage and use of public common  
24 areas and public parking, and (c) that interfere with the quiet use and enjoyment of common areas and  
25 public parking.  
26

27 20. The actions of Defendants CARMICHAEL and CBRE, in approving, ratifying and/or  
28 acquiescing in the conduct of Defendant FALLING PRICES and its customers, further constitutes an

1 interference with the quiet use and enjoyment of common areas, parking and orderly operations within the  
2 Center constituting a public nuisance. Defendants CARMICHAEL and CBRE have approved, ratified  
3 and acquiesced to conduct that (a) is injurious to public health and safety, (b) unlawfully obstruct the free  
4 passage and use of public common areas and public parking, and (c) interferes with the quiet use and  
5 enjoyment of common areas and public parking.

6 21. Plaintiffs are private entities which may maintain an action for public nuisance within the  
7 meaning of Civil Code section 3493 in that Defendants' acts are specifically injurious to Plaintiffs.

8 22. Plaintiff MARCONI DENTAL has suffered a loss of patronage, diminished business, loss  
9 of reputation and customer goodwill as a result of Defendants' unlawful acts. The blight, crowds, chaos  
10 and lack of safety that have directly resulted from Defendants' business practices have discouraged the  
11 patients of MARCONI DENTAL from patronizing its dental practice and have caused some of the  
12 employees of MARCONI DENTAL to terminate their employment relationship with Plaintiff  
13 MARCONI DENTAL.

14 23. Plaintiff ALIZADEH HOLDINGS has suffered stigma to and a diminution in value to the  
15 Dental Office Property as a consequence of Defendants' unlawful acts. The blight, crowds, chaos and  
16 lack of safety that have directly resulted from Defendants' business practices have negatively impacted  
17 the resale value of the Dental Office Property and will prevent Plaintiffs, and each of them, from  
18 recovering their respective investments in the Dental Office Property at the time of sale.

19 24. Defendants' acts constitute both a public nuisance and private nuisance.

20 25. Defendants threaten to and will, unless restrained by this Court, continue to maintain the  
21 nuisances, and each and every act has been, and will be, without the consent, against the will and in  
22 violation of the rights of the Plaintiffs.

23 26. As a proximate result of the maintenance of the nuisance by Defendants, Plaintiffs  
24 suffered discomfort and annoyance, all to their general damage in excess of \$200,000.

25 27. As a further proximate result of the maintenance of the nuisance by Defendants, Plaintiffs  
26 suffered property damage and economic loss including, but not limited to diminution in the value of their  
27 respective interests in the Dental Office Property, all to their further damage in excess of \$1,000,000.  
28



1 nuisance through substantial interference in the use and enjoyment of Plaintiffs' respective property  
2 interests in the Dental Office Property.

3 35. The substantial interference with the use and enjoyment of Plaintiffs' interests in the real  
4 property and improvements comprising the Dental Office Property includes, but is not limited to, loss of  
5 productive business use of real property, including lost income, and the diminution in value of the Dental  
6 Office Property associated with the stigma to the Carmichael Center associated with the operations of  
7 Defendant FALLING PRICES.

8 36. Defendants threaten to and will, unless restrained by this Court, continue to maintain the  
9 nuisances, and each and every act has been, and will be, without the consent, against the will and in  
10 violation of the rights of the Plaintiffs.

11 37. Unless Defendants are restrained by order of this Court, it will be necessary for Plaintiffs  
12 to commence many successive actions against Defendant, and each of them to secure compensation for  
13 damages sustained, thus requiring a multiplicity of suits, and Plaintiff will be weekly threatened with the  
14 hostile crowds, interference with the quiet use and enjoyment of the common areas and parking within  
15 the Carmichael Center, and other harms herein alleged.

16 38. Unless Defendants are restrained from continuing their course of conduct, Plaintiffs will  
17 suffer irreparable injury in that the usefulness and economic value of Plaintiffs' interest in the Dental  
18 Office Property and its dental practice will be substantially diminished; Plaintiffs will continue to lose  
19 customer goodwill as current and future dental practice patients are discouraged from obtaining treatment  
20 at the dental practice due to Defendants' willful acts and omissions.

21 39. Plaintiffs have no plain, speedy or adequate remedy at law, and injunctive relief is  
22 expressly authorized by Sections 526 and 731 of the Code of Civil Procedure.

23 40. In maintaining the nuisance, Defendants acted with full knowledge of the consequences  
24 thereof and of the damage being caused to Plaintiffs. Despite this knowledge, Defendants failed to abate  
25 the nuisance despite numerous demands by Plaintiffs. The failure of the Defendants to act was both  
26 oppressive and malicious within the meaning of Civil Code section 3294 in that it has subjected Plaintiffs  
27 to cruel and unjust hardship in willful and conscious disregard of Plaintiffs' rights and safety, thereby  
28 entitling Plaintiffs to an award of punitive damages.

1  
2 **THIRD CAUSE OF ACTION**

3 **Intentional Interference With Prospective Economic Advantage Against All Defendants**

4 41. Plaintiffs incorporate by reference and reallege each and every allegation set forth in  
5 paragraphs 1 through 40 as though fully set forth herein.

6 42. Plaintiff MARCONI DENTAL has an existing business relationship with patients of its  
7 dental practice.

8 43. Plaintiff MARCONI DENTAL has an existing business relationship with the skilled and  
9 experienced employees of its dental practice.

10 44. These business relationships create the possibility of future economic benefit to Plaintiff  
11 MARCONI DENTAL by virtue of these patients' patronage of its dental practice by skilled and  
12 experienced employees.

13 45. Defendants at all times relevant to this complaint are and have been aware of the  
14 relationship between Plaintiff and its patients and employees.

15 46. Defendants, and each of them, acting individually or through a scheme and conspiracy,  
16 have engaged in acts that Defendants knew or were substantially certain to know would disrupt Plaintiff  
17 MARCONI DENTAL'S relationship with its patients and employees, including interference with  
18 Plaintiffs' quiet use and enjoyment of the common areas and parking of the Carmichael Center,  
19 undermining the safety and feelings of security of invitees to the Carmichael Center, and generally  
20 maintaining a nuisance associated with the operation of the Falling Prices retain store.

21 47. Plaintiff MARCONI DENTAL's relationship with its patients and employees has been  
22 disrupted because of Defendants' misconduct. The hostile environment created by Defendants'  
23 continuing nuisance, including but not limited to Defendants' interference with the quiet use and  
24 enjoyment of the common areas and parking within the Carmichael Center -- all within close proximity to  
25 the Dental Office Property - has discouraged numerous dental practice patients from obtaining treatment  
26 at MARCONI DENTAL and caused other dental practice patients to change from MARCONI DENTAL  
27 to other dental service providers. Defendants' continuing nuisance has caused MARCONI DENTAL  
28 employees to quit their jobs with Plaintiff MARCONI DENTAL and seek employment elsewhere. The  
presence of Defendant FALLING PRICES within the Carmichael Center has created a blight which has

1 tarnished the reputation of the owners and tenants within the Carmichael Center, including the reputation  
2 of Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL.

3 48. Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL have suffered a loss of  
4 patronage, diminished business, loss of income, diminished business reputation, loss of patient goodwill  
5 and loss of employee goodwill as a result of Defendants' unlawful acts, in an amount in excess of  
6 \$200,000.

7 49. In maintaining the nuisance, and in continuing to interfere with Plaintiffs' relationship with  
8 patients, employees and invitees, Defendants acted with full knowledge of the consequences thereof and  
9 of the damage being caused to Plaintiffs. Despite this knowledge, Defendants failed to cease their  
10 interference despite numerous demands by Plaintiffs. The failure of the Defendants to act was both  
11 oppressive and malicious within the meaning of Civil Code section 3294 in that it has subjected Plaintiffs  
12 to cruel and unjust hardship in willful and conscious disregard of Plaintiffs' rights and safety, thereby  
13 entitling Plaintiffs to an award of punitive damages.

14 **FOURTH CAUSE OF ACTION**  
15 **Civil Conspiracy Against All Defendants**

16 50. Plaintiffs incorporate by reference and reallege each and every allegation set forth in  
17 paragraphs 1 through 49 as though fully set forth herein.

18 51. On or about January 2019, Defendants, and each of them, came to a common understanding  
19 and formed the common purpose to permit Defendant FALLING PRICES to lease and operate a retail  
20 store that would create a nuisance, generate chaos and impose a blight upon the Carmichael Center.  
21 Defendants, and each of them, were motivated by business and financial considerations, including their  
22 overt greed, to interfere with the quiet use and enjoyment of the common areas and parking within the  
23 Carmichael Center, to the detriment of Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL, as  
24 well as to the other owners, tenants and invitees of the Carmichael Center.

25 52. Defendants, and each of them, have committed overt acts pursuant to, and in furtherance  
26 in furtherance of their conspiracy to create a nuisance and interfere with the quiet use and enjoyment of  
27 the common areas and parking within the Carmichael Center, including but not limited to:

1 a. Allowing Falling Prices shoppers and invitees to form lines in the common areas of the  
2 Carmichael Center for several hours prior to the store opening time, so as to block access to other retail  
3 stores and to project the image that the Carmichael Center permits vagrancy and homelessness;

4 b. Allowing Falling Prices shoppers to camp out overnight in common areas prior to the store  
5 opening time, so as to project the image that the Carmichael Center accommodates and permits  
6 homelessness;

7 c. Allowing Falling Prices shoppers to camp out overnight in their vehicles in the non-  
8 exclusive parking areas, which also projects the image that the Carmichael Center accommodates and  
9 permits homelessness;

10 d. Allowing Falling Prices shoppers to load and unload their vehicles in drive aisles within  
11 the Carmichael Center, thereby causing constant traffic suggestion and blocking of access to parking by  
12 the patients and invitees of Plaintiffs and the other owners, tenants and invitees of the Carmichael Center;

13 e. Allowing Falling Prices shoppers to improperly use designated handicapped parking  
14 spaces within the Carmichael Center, including handicapped parking spaces adjacent to the MARCONI  
15 DENTAL entrance, without displaying the required handicapped placard;

16 f. Allowing Falling Prices to so dominate the non-exclusive parking within the Carmichael  
17 Center that Plaintiff's employees, patients and invitees are unable to park in the spaces designated within  
18 the CC&R's for use by the Dental Office Property or in close proximity to the Dental Office Property, and  
19 otherwise requiring Plaintiff's employees, patients and invitees to have to park considerable distances  
20 from the Dental Office Property or to park off-site;

21 g. Allowing Falling Prices to so dominate the non-exclusive parking within the Carmichael  
22 Center that Plaintiff's patients cannot make their scheduled appointments in a timely manner or at all,  
23 resulting in missed and cancelled appointments;

24 h. Allowing Falling Prices to so dominate the non-exclusive parking within the Carmichael  
25 Center that Plaintiff's patients and employees fear for their safety during early morning and evening  
26 appointments. Specifically, the customers of Falling Prices menace Plaintiffs' patients and employees  
27 and adequate security is not provided by Defendants CARMICHAEL and CBRE, resulting in (1)  
28

1 employees of Plaintiff MARCONI DENTAL quitting, and (2) patients of Plaintiff MARCONI DENTAL  
2 changing their dental services provider;

3 i. Allowing Falling Prices shoppers to damage motor vehicles of other invitees to the  
4 Carmichael Center, including motor vehicles of employees and patients of Plaintiff MARCONI DENTAL  
5 parked adjacent to the Dental Office Property;

6 j. Allowing Falling Prices shoppers to discard boxes from store purchases and to litter within  
7 the Carmichael Center, including depositing trash and debris on the Dental Office Property owned and  
8 occupied by Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL, respectively;

9 k. Allowing Falling Prices shoppers and CBRE hired security guards to smoke cigarettes  
10 and/or marijuana in the common areas of the Carmichael Center, in violation of Sacramento County and  
11 City of Carmichael ordinances;

12 l. Allowing other acts within the Carmichael Center constituting a public nuisance, which  
13 acts are offensive, uncomfortable and/or unlawful, and which acts interfere with the public's free use and  
14 access to the parking and common areas of the Carmichael Center and the public's conduct of business  
15 within the Carmichael Center;

16 m. Allowing other acts within the Carmichael Center constituting a private nuisance, which  
17 acts are offensive, uncomfortable and/or unlawful, and which acts interfere with private ownership within  
18 the Carmichael Center, including but not limited to the free use and access to the parking and common  
19 areas of the Carmichael Center and the conduct of business within the Carmichael Center; and

20 n. Other acts in concert in furtherance of the conspiracy, according to proof.

21 53. To the extent that they have not actively participated in tortious misconduct alleged,  
22 Defendants, and each of them, have participated in the conspiracy through their knowledge, approval,  
23 consent and/or acquiescence. Implementation of the conspiracy constitutes the actions of Defendants, and  
24 each of them, such that Defendants, and each of them, shall be jointly and severally liable for the  
25 underlying causes of action alleged in this Complaint.

26 54. The conspiracy of Defendants, and each of them, have caused Plaintiffs ALIZADEH  
27 HOLDINGS and MARCONI DENTAL to suffer damages in excess of \$200,000 and diminution in value  
28 of the Dental Office Property in excess of \$1,000,000, the exact amount of which shall be proven at trial.





1 c. Failing to enforce contractual provisions within the lease with Defendant FALLING  
2 PRICES to prevent, mitigate, abate and/or eliminated the nuisance created by Defendant FALLING  
3 PRICES;

4 d. Failing to enforce provisions implied by law within the lease with Defendant FALLING  
5 PRICES, including compliance with all applicable laws, to prevent, mitigate and/or eliminate the nuisance  
6 created by Defendant FALLING PRICES;

7 e. Permitting Defendant FALLING PRICES and its customers to dominate and usurp the  
8 common areas and parking of the Carmichael Center and to interfere with the rights of owners, tenants  
9 and invitees to the quiet use and enjoyment of common areas and parking within the Carmichael Center;

10 f. Failing to hire, supervise and control competent contractors and/or staff to prevent  
11 interference with the quiet use and enjoyment of common areas and parking within the Carmichael Center;

12 g. Failing to hire, supervise and control competent contractors and/or staff to provide security  
13 services for the Carmichael Center;

14 h. Permitting Defendant FALLING PRICES and its customers to discard their trash and to  
15 litter the Carmichael Center with no consequences;

16 i. Failing to hire, supervise and control competent contractors and/or staff to provide day  
17 porter services for the Carmichael Center;

18 j. Failing to consistently maintain landscaping, signage and other improvements within the  
19 Carmichael Center;

20 k. Failing to fairly administer the monument sign for the Carmichael Center in accordance  
21 with the CC&R's including excluding Plaintiff MARCONI DENTAL from the monument sign but  
22 charging Plaintiff MARCONI DENTAL for the monument sign within the common area maintenance  
23 charges for the Carmichael Center;

24 l. Failing to fairly administer the common area maintenance charges for the Carmichael  
25 Center by charging Plaintiff ALIZADEH HOLDINGS for the increased costs attributable to the nuisance  
26 created by Defendant FALLING PRICES and consented to by Defendants CARMICHAEL and CBRE,  
27 including but not limited to increased security charges, increased day porter charges, increased trash  
28 hauling charges, and increased maintenance and upkeep to the Carmichael Center;

1 m. Willfully failing and refusing to cooperate in updating the CC&R's for the Carmichael  
2 Center which are 34 years old and obsolete; and

3 n. Following a March 19, 2019 meeting with Plaintiffs mandated by the CC&Rs, willfully  
4 failing and refusing to take effective action to prevent, mitigate and/or abate the nuisance caused by  
5 Defendant FALLING PRICES and its customers.

6 60. As third party beneficiaries of the property management agreement, and as parties that  
7 directly or indirectly pay common area maintenance charges pursuant to the CC&R's, Plaintiffs  
8 ALIZADEH HOLDINGS and MARCONI DENTAL have the requisite standing to enforce the property  
9 management agreement.

10 61. Plaintiffs have performed each and every act that they are required to perform under the  
11 CC&R's and the property management agreement, if any, and/or have been excused from performance by  
12 the prior breach of the CC&R's and property management agreement by Defendants CARMICHAEL and  
13 CBRE.

14 62. As a consequence of the breach of the property management agreement by Defendants  
15 CARMICHAEL and CBRE, Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL have suffered  
16 damages in excess of \$200,000 and diminution in value of the Dental Office Property in excess of  
17 \$1,000,000, the exact amount of which shall be proven at trial.

18 **DEMAND FOR JURY TRIAL**

19 Plaintiffs ALIZADEH HOLDINGS and MARCONI DENTAL hereby demand a jury trial with  
20 regard to all causes of action alleged in this Complaint.  
21

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiffs pray for judgment as follows:

24 1. On the first and second causes of action, for preliminary and permanent mandatory  
25 and prohibitory injunctive relief to abate Defendants' conduct constituting a nuisance;

26 2. For general and special damages according to proof, in an amount in excess of the  
27 minimum jurisdiction of this court;  
28

- 1           3.           For attorneys' fees and costs to the extent permitted by law;  
2           4.           For punitive damages;  
3           5.           For cost of suit incurred herein; and  
4           6.           For such further or additional relief that the Court deems just and proper.

5  
6   Dated: July 17, 2019

GAVRILOV & BROOKS

7  
8           By: 

9           H. Vincent McLaughlin  
          Sheila W. Pendergast

10           Attorneys for Plaintiffs  
11           ALIZADEH HOLDINGS, LLC and  
12           ALIZADEH & SALEH, DDS, INC.  
13           dba MARCONI DENTAL GROUP