

Melbourne dental practice faces second legal action after allegedly underpaying another 457 visa holder

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The former operators of a Melbourne dental practice are facing fresh allegations of significantly underpaying a 457 visa-holder, in a new Fair Work Ombudsman legal action.

Facing the Federal Circuit Court are Nobrace Centre Pty Ltd and its former part-owner and operator, Dr Ari Masters, who formerly operated the No Brace Centre dental clinic in the Melbourne CBD.

The legal action relates to a South Korean national, then aged in his late 20s, who was allegedly underpaid a total of \$36,693 for work he performed as a dental technician at the clinic between March 2012 and February 2014.

Nobrace allegedly paid the worker, who it was sponsoring on a 457 visa, a flat rate of \$15 per hour over the course of his employment.

This allegedly resulted in the worker being underpaid the base hourly, Saturday, overtime and public holiday rates required under the Health Professionals and Support Services Award 2010. Public holiday pay was allegedly also underpaid.

Although the alleged underpayments occurred a number of years ago, the worker did not lodge a request for assistance with the Fair Work Ombudsman until last year.

In February this year, the Fair Work Ombudsman issued Nobrace Centre Pty Ltd a Compliance Notice requiring full back-payment of the worker, who is now a permanent resident, within 24 days.

Under the Fair Work Act, business operators must adhere to Compliance Notices or make a Court application for a review if they are seeking to challenge a Compliance Notice.

The Fair Work Ombudsman alleges Nobrace Centre Pty Ltd and Dr Masters failed to comply with the Compliance Notice by the stipulated date, or at all.

Dr Masters faces a maximum penalty of \$6300 and Nobrace Centre Pty Ltd faces a maximum penalty of \$31,500.

The Fair Work Ombudsman is also seeking court orders for the company and Dr Masters to back-pay the worker and for Dr Masters to sign up to the My Account portal at www.fairwork.gov.au and complete educational courses in the online learning centre.

A directions hearing is set for the Federal Circuit Court in Melbourne on June 26.

It is the second time the Fair Work Ombudsman has commenced legal action against the Nobrace Centre Pty Ltd and Dr Masters.

In 2015, the Fair Work Ombudsman commenced legal action alleging a Korean dental technician on a 457 visa at the Nobrace clinic in the Melbourne CBD was underpaid more than \$66,000. The matter is still before the Federal Circuit Court in Melbourne, with a hearing set for August 1.

Fair Work Ombudsman Natalie James says a decision was made to commence legal action because a worker had allegedly been denied basic lawful entitlements and the employer had refused to co-operate and resolve the matter outside of the courts by complying with the Compliance Notice.

"In this matter, we are alleging that a vulnerable worker has again been denied tens of thousands of dollars in wages and the employer has refused to cooperate with us to pay the worker his lawful entitlements," she said.

"We know that visa-holders can be particularly vulnerable in the workplace and we take very seriously any allegations relating to the exploitation of overseas workers."

Ms James says business operators should also be aware that the Fair Work Amendment (Protecting Vulnerable Workers) Act 2017 has introduced significantly higher penalties for a range of contraventions.

Penalties of up to \$630,000 per contravention for a company and \$126,000 per contravention for an individual now apply in relation to serious exploitation of workers.

The new laws and penalties apply to conduct that has occurred since the Fair Work Amendment (Protecting Vulnerable Workers) Act

2017 came into effect in September 2017.

Employers and employees seeking assistance can visit www.fairwork.gov.au or call the Fair Work Infoline on 13 13 94. An interpreter service is available on 13 14 50. Information on the website can be translated into 40 languages, complementing a suite of professionally translated resources available at www.fairwork.gov.au/languages (<http://www.fairwork.gov.au/languages>) .

The Fair Work Ombudsman's [Pay and Conditions Tool \(PACT\)](http://calculate.fairwork.gov.au/) (<http://calculate.fairwork.gov.au/>) provides advice about pay, shift, leave and redundancy entitlements.

Employers and employees can also sign up to remain informed and receive tailored information by registering for a free Fair Work Ombudsman [My Account](https://www.fairwork.gov.au/my-account/registerpage.aspx?utm_source=webchat&utm_medium=SB-My-acct-sign-up&utm_campaign=MyaccountLP) (https://www.fairwork.gov.au/my-account/registerpage.aspx?utm_source=webchat&utm_medium=SB-My-acct-sign-up&utm_campaign=MyaccountLP) .

The Fair Work Ombudsman's popular [Anonymous Report function](https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170731-migrant-worker-anon-report-tool) (<https://www.fairwork.gov.au/about-us/news-and-media-releases/2017-media-releases/july-2017/20170731-migrant-worker-anon-report-tool>) , available in 16 languages other than English, allows visa-holders to report workplace concerns anonymously to the agency in their own language.

Ms James says visa-holders should also be aware that in line with an agreement between the Fair Work Ombudsman and the Department of Home Affairs, they can seek assistance from the Fair Work Ombudsman without fear of their visa being cancelled. More information is at <https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants> (<https://www.fairwork.gov.au/find-help-for/visa-holders-and-migrants>) .

NOTE: Nobrace Centre Pty Ltd has sold the No Brace Centre dental clinic in the Melbourne CBD and the current owners are not involved in any of the proceedings described above.

Follow Fair Work Ombudsman Natalie James on Twitter [@NatJamesFWO](http://twitter.com/NatJamesFWO) (<http://twitter.com/NatJamesFWO>) , the Fair Work Ombudsman [@fairwork_gov_au](http://twitter.com/fairwork_gov_au) (http://twitter.com/fairwork_gov_au) or find us on Facebook www.facebook.com/fairwork.gov.au (<http://www.facebook.com/fairwork.gov.au>) .

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Contact us

Fair Work Online: www.fairwork.gov.au

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For TTY: 13 36 77. Ask for the Fair Work Infoline 13 13 94

Speak & Listen: 1300 555 727. Ask for the Fair Work Infoline 13 13 94

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