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Clerk of the Superior Court
By Amy Woolf, Deputy Clerk

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Attorneys for Plaintiffs Michael Jordan and Taylor Armond,
individually and behalf of all other similarly situated,

SUPERIOR COURT OF THE STATE OF CALIFORNIA

FOR THE COUNTY OF SAN DIEGO

MICHAEL JORDAN, individually,
TAYLOR ARMOND, individually; on
behalf of all others similarly situated,

Plaintiffs,

vs.

ASSOCIATED HEALTH
PROFESSIONALS, INC., a California
Corporation, and DOES 1-10, inclusive,

Defendants.

Case No. 37-2019-00035374-CU-OE-NC

*Assigned for all purposes to
Hon. Timothy M. Casserly
Dept. N-31*

FIRST AMENDED COMPLAINT FOR:

1. Failure to Pay Minimum Wages;
2. Failure to Pay Overtime Wages;
3. Failure to Provide Meal Periods;
4. Failure to Authorize or Permit Rest Periods;
5. Failure to Pay Wages Upon Separation of
Employment and Within the Required Time;
6. Failure to Furnish Accurate Wage
Statements;
7. Violation of California Business and
Professions Code §§ 17200, *et seq.*;
8. Enforcement of the California Labor Code
Private Attorneys General Act of 2004 (Cal.
Lab. Code §§ 2698, *Et Seq.*)

DEMAND FOR JURY TRIAL

1 Plaintiffs Michael Jordan and Taylor Armond, individually and on behalf of all others
2 similarly situated, alleges as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs Michael Jordan and Taylor Armond (“Plaintiffs”) bring this class action
5 pursuant to California Code of Civil Procedure section 382 and representative action, on behalf of
6 themselves and non-exempt employees employed, or formerly employed, within the State of
7 California by Associated Health Professionals, Inc. and any subsidiaries or affiliated companies
8 (hereinafter, along with DOES 1 through 10, collectively referred to as “AHP” or “Defendants”).

9 2. AHP is a staffing agency for health professionals located in Southern California.

10 3. Through this action, Plaintiffs are alleging that Defendants have engaged in a
11 systematic pattern of wage and hour violations under the California Labor Code and Industrial
12 Welfare Commission (“IWC”) Wage Orders, all of which contribute to Defendants’ deliberate unfair
13 competition.

14 4. Plaintiffs are informed and believe, and thereon allege, that Defendants have
15 increased their profits by violating state wage and hour laws by, among other things:

- 16 (a) Failing to pay all wages (including minimum wages and overtime wages),
- 17 (b) Failing to provide lawful meal periods or compensation in lieu thereof,
- 18 (c) Failing to authorize or permit lawful rest periods or provide compensation in
19 lieu thereof;
- 20 (d) Willfully failing to provide accurate semi-monthly itemized wage statements;
21 and
- 22 (e) Failing to pay all wages due upon separation of employment.

23 5. Plaintiffs bring this lawsuit seeking monetary relief against Defendants on behalf of
24 themselves and all others similarly to recover, among other things, unpaid wages, unpaid meal period
25 compensation, unpaid rest period compensation, interest, attorney’s fees, costs and expenses and
26 penalties pursuant to Labor Code §§ 201-204, 210, 226, 226.3, 226.7, 512, 558, 1194, 1174, 1174.5,
27 1182.12, 1194, 1194.2, 1197, 1197.1, and 1198.

6. Plaintiffs, on behalf of themselves and all class members, pursuant to Business and Professions Code sections 17200, *et seq.*, also seeks injunctive relief and restitution for the unfair, unlawful, or fraudulent practices alleged in this Complaint.

7. Plaintiffs bring this representative action against Defendants on behalf of themselves and other aggrieved employees to recover, among other things, civil penalties, attorney’s fees and costs and expenses pursuant to the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.* (“PAGA”).

JURISDICTION AND VENUE

8. This is a class action pursuant to California Code of Civil Procedure § 382 and a representative action brought under PAGA *seq.* The monetary damages and restitution sought by Plaintiffs exceed the minimal jurisdictional limits of the Superior Court and will be established according to proof at trial.

9. This Court has jurisdiction over this action pursuant to the California Constitution, Article VI, § 10, which grants the Superior Court original jurisdiction in all cases except those given by statutes to other courts. The statutes under which this action is brought do not specify any other basis for jurisdiction.

10. This Court has jurisdiction over all Defendants because, upon information and belief, Defendants have sufficient minimum contacts in California or otherwise intentionally avail themselves of the California market so as to render the exercise of jurisdiction over them by the California courts consistent with traditional notions of fair play and substantial justice.

11. Venue as to each defendant is proper in this judicial district, pursuant to California Code of Civil Procedure section 395.5. Upon information and belief, Defendants transact business or have at least one facility in this county and acts and omissions alleged herein took place in this county.

THE PARTIES

12. Plaintiffs were employed by Defendants during the Class Period in California.

13. Plaintiffs are informed and believe, and thereon allege, that Defendants at all times hereinafter mentioned, were and are employers as defined in and subject to the Labor Code and IWC

1 Wage Orders, whose employees were and are engaged throughout this county and the State of
2 California.

3 14. Plaintiffs are unaware of the true names or capacities of the defendants sued herein
4 under the fictitious names DOES 1 through 20, but will seek leave of this Court to amend this
5 Complaint and serve such fictitiously named defendants once their names and capacities become
6 known.

7 15. Plaintiffs are informed and believe, and based thereon allege, that each defendant
8 acted in all respects pertinent to this action as the agent of the other defendant, carried out a joint
9 scheme, business plan or policy in all respects pertinent hereto, and the acts of each defendant are
10 legally attributable to the other defendant. Furthermore, defendants in all respects acted as the
11 employer and/or joint employer of Plaintiffs and the class members.

12 16. Plaintiffs are informed and believe, and thereon allege, that each and all of the acts
13 and omissions alleged herein were performed by, or are attributable to, Defendants and/or DOES 1
14 through 20, acting as the agent or alter ego for the other, with legal authority to act on the other's
15 behalf. The acts of any and all Defendants were in accordance with, and represent, the official policy
16 of Defendants.

17 17. At all relevant times, Defendants, and each of them, acted within the scope of such
18 agency or employment, or ratified each and every act or omission complained of herein. At all
19 relevant times, Defendants, and each of them, aided and abetted the acts and omissions of each and
20 all the other Defendants in proximately causing the damages herein alleged.

21 18. Plaintiffs are informed and believe, and thereon allege, that each of said Defendants
22 is in some manner intentionally, negligently or otherwise responsible for the acts, omissions,
23 occurrences and transactions alleged herein.

24 **CLASS ACTION ALLEGATIONS**

25 19. Plaintiffs bring this action under Code of Civil Procedure § 382 on behalf of
26 themselves and all other members of the general public similarly situated who were affected by
27 Defendants' Labor Code, Business and Professions Code §§ 17200 and IWC Wage Order violations.
28

1 20. All claims alleged herein arise under California law for which Plaintiffs seek relief
2 authorized by California law.

3 21. Plaintiffs' proposed Class consists of and is defined as follows:
4
5 All persons currently or formerly employed as non-exempt employees by
6 Defendants in the State of California within four years prior to the filing of
7 this action to the present.

8 22. Plaintiffs also seek to certify the following Subclass:
9
10 Waiting Time Subclass
11 All members of the Class who separated their employment from Defendants
12 within three years prior to the filing of this action to the present.

13 23. Members of the Class and Subclass described above will collectively be referred to
14 as "class members." Plaintiffs reserve the right to establish other or additional subclasses, or modify
15 any Class or Subclass definition, as appropriate based on investigation, discovery and specific
16 theories of liability.

17 24. This action has been brought and may properly be maintained as a class action under
18 the California Code of Civil Procedure § 382 because there are common questions of law and fact as
19 to the Class that predominate over questions affecting only individual members including, but not
20 limited to:

- 21 a. Whether Defendants failed to pay Plaintiffs and Class Members all wages
22 (including minimum wages and overtime wages and at the proper rate) for all
23 hours worked;
- 24 b. Whether Defendants deprived Plaintiffs and class members of timely meal
25 periods;
- 26 c. Whether Defendants deprived Plaintiffs and class members of rest breaks or
27 required Plaintiffs and class members to work through rest breaks;
- 28 d. Whether Defendants failed to timely pay Plaintiffs and former class members
all wages due upon termination or within 72 hours of resignation;
- e. Whether Defendants failed to furnish Plaintiffs and class members with
accurate wage statements; and

f. Whether Defendants engaged in unfair business practices in violation of Business & Professions Code §§ 17200, *et seq.*

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

(a) Numerosity: The members of the Class are so numerous that joinder of all members is impractical. Although the members of the Class are unknown to Plaintiffs at this time, on information and belief, the Class is estimated to be greater than 1000 individuals. The identity of the class members are readily ascertainable by inspection of Defendants' employment and payroll records.

(b) Typicality: The claims (or defenses, if any) of Plaintiffs are typical of the claims (or defenses, if any) of the Class because Defendants' failure to comply with the provisions of California wage and hour laws entitled each class member to similar pay, benefits and other relief. The injuries sustained by Plaintiffs are also typical of the injuries sustained by the Class because they arise out of and are caused by Defendants' common course of conduct as alleged herein.

(c) Adequacy: Plaintiffs are qualified to, and will fairly and adequately represent and protect the interests of all members of the Class because it is in their best interest to prosecute the claims alleged herein to obtain full compensation and penalties due to them and the Class. Plaintiffs' attorneys, as proposed class counsel, are competent and experienced in litigating large employment class actions and are versed in the rules governing class action discovery, certification and settlement. Plaintiffs have incurred and, throughout the duration of this action, will continue to incur attorneys' fees and costs that have been and will be necessarily expended for the prosecution of this action for the substantial benefit of each class member.

(d) Superiority: The nature of this action makes the use of class action adjudication superior to other methods. A class action will achieve economies

1 of time, effort and expense as compared with separate lawsuits, and will avoid
2 inconsistent outcomes because the same issues can be adjudicated in the same
3 manner and at the same time for each Class. If appropriate this Court can, and
4 is empowered to, fashion methods to efficiently manage this case as a class
5 action.

6 (e) Public Policy Considerations: Employers in the State of California and other
7 states violate employment and labor laws every day. Current employees are
8 often afraid to assert their rights out of fear of direct or indirect retaliation.
9 Former employees are fearful of bringing actions because they believe their
10 former employers might damage their future endeavors through negative
11 references and/or other means. Class actions provide the class members who
12 are not named in the complaint with a type of anonymity that allows for the
13 vindication of their rights at the same time as affording them privacy
14 protections.

15 **GENERAL ALLEGATIONS**

16 26. At all relevant times mentioned herein, Defendants employed Plaintiffs and other
17 persons as non-exempt employees.

18 27. Plaintiffs was employed in a non-exempt position at Defendants' California business
19 location(s).

20 28. Defendants continue to employ non-exempt employees within California.

21 29. Plaintiffs are informed and believe, and thereon allege, that at all times mentioned
22 herein, Defendants were advised by skilled lawyers, employees and other professionals who were
23 knowledgeable about California wage and hour law, employment and personnel practices and the
24 requirements of California.

25 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
26 should have known that Plaintiffs, Class Members, and other aggrieved employees were entitled to
27 receive wages for all time worked (including minimum and overtime wages and at the proper rate of
28 pay). In violation of the Labor Code and IWC Wage Orders, Plaintiffs, Class Members, and other

1 aggrieved employees were not paid all wages (including minimum and overtime wages and at the
2 proper rate of pay) for all hours worked when Defendants required Plaintiffs, Class Members, and
3 other aggrieved employees to work off-the-clock during their meal periods, and failed to pay
4 Plaintiffs, Class Members, and other aggrieved employees all wages for standby time and/or
5 reporting time, among other things.

6 31. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
7 should have known that Plaintiffs, class members, and other aggrieved employees were entitled to
8 receive all meal periods or payment of one additional hour of pay at Plaintiffs', class members', and
9 other aggrieved employees' regular rate of pay when they did not receive one timely, uninterrupted
10 meal period when working more than five hours and a second timely, uninterrupted meal period
11 when working more than ten hours. Defendants failed to provide these lawful meal periods to
12 Plaintiffs, class members, and other aggrieved employees. These failures include, but are not limited
13 to, requiring Plaintiffs, Class Members, and other aggrieved employees to work off-the-clock during
14 meal periods and failing to provide second meal periods for shifts of longer than ten hours.

15 32. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
16 should have known that Plaintiffs, class members, and other aggrieved employees were entitled to
17 receive all rest breaks or payment of one additional hour of pay at Plaintiffs', class members', and
18 other aggrieved employees' regular rate of pay when a rest break was missed. In violation of the
19 Labor Code and IWC Wage Orders, Plaintiffs and class members did not receive all rest breaks or
20 payment of one additional hour of pay at Plaintiffs', class members', and other aggrieved employees'
21 regular rate of pay when a rest break was missed.

22 33. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
23 should have known that Plaintiffs, class members, and other aggrieved employees were entitled to
24 timely payment of wages during their employment. In violation of the California Labor Code,
25 Plaintiffs, class members, and other aggrieved employees did not receive payment of all wages
26 including, but not limited to, compensation for meal period violations and rest period violations,
27 within permissible time periods.
28

1 34. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
2 should have known that Plaintiffs, Waiting Time class members, and other aggrieved employees
3 were entitled to timely payment of wages upon separation of employment. In violation of the
4 California Labor Code, Plaintiffs, Waiting Time class members, and other aggrieved employees did
5 not receive payment of all wages including, but not limited to, compensation for meal period
6 violations and compensation for rest period violations, upon separation of their employment with
7 Defendants.

8 35. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
9 should have known that Plaintiffs, class members, and other aggrieved employees were entitled to
10 receive complete and accurate wage statements in accordance with California law. In violation of the
11 California Labor Code, Plaintiffs, class members, and other aggrieved employees were not furnished
12 with complete and accurate wage statements showing their accurate gross and net wages, among
13 other things.

14 36. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
15 should have known they had a duty to compensate Plaintiffs, class members, and other aggrieved
16 employees, and Defendants had the financial ability to pay such compensation but willfully,
17 knowingly and intentionally failed to do so all in order to increase Defendants' profits.

18 37. Therefore, Plaintiffs bring this lawsuit seeking monetary and injunctive relief against
19 Defendants on behalf of themselves and all class members to recover, among other things, unpaid
20 wages, unpaid meal period premium payments, unpaid rest period premium payments, interest,
21 attorneys' fees, penalties, costs and expenses.

22 **FIRST CAUSE OF ACTION**

23 **FAILURE TO PAY MINIMUM WAGES**

24 (Violation of Labor Code §§ 1182.12, 1194, 1194.2, 1197, and 1198;

25 and Violation of IWC Wage Order)

26 38. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
27 though fully set forth herein.
28

39. Labor Code §§ 1194 and 1197 provide that the minimum wage for employees fixed by the IWC is the minimum wage to be paid to employees, and the payment of a lesser wage than the minimum so fixed is unlawful.

40. During the relevant time period, Defendants paid Plaintiffs and Class Members less than minimum wages when Defendants required Plaintiffs and Class Members to work during meal periods that were taken off-the-clock, and failed to pay all wages for standby time and reporting time, among other things.

41. During the relevant time period, Defendants regularly failed to pay at least minimum wages to Plaintiffs and Class Members for all hours worked pursuant to Labor Code §§ 1182.12, 1194, and 1197.

42. Defendants' failure to pay Plaintiffs and Class Members the required minimum wages violates Labor Code §§ 1182.12, 1194, and 1197. Pursuant to these sections, Plaintiffs and Class Members are entitled to recover the unpaid balance of their minimum wage compensation as well as interest, costs and attorneys' fees.

43. Pursuant to Labor Code § 1194.2, Plaintiffs and Class Members are entitled to recover liquidated damages in an amount equal to the wages unlawfully unpaid and interest thereon.

SECOND CAUSE OF ACTION

FAILURE TO PAY OVERTIME WAGES

(Violation of Labor Code §§ 510, 1194 and 1198; Violation of IWC Wage Order)

44. Plaintiffs hereby incorporate all previous paragraphs of this Complaint as though fully set forth herein.

45. Labor Code § 1198 and the applicable IWC Wage Order provide that it is unlawful to employ persons without compensating them at a rate of pay either one and one-half or two times the person's regular rate of pay, depending on the number of hours worked by the person on a daily or weekly basis.

46. Specifically, the applicable IWC Wage Order provides that Defendants are and were required to pay Plaintiffs and Class Members employed by Defendants, and working more than eight (8) hours in a day or more than forty (40) hours in a workweek, at the rate of one and one-half times

1 their regular rate of pay for all hours worked in excess of eight (8) hours in a day or more than forty
2 (40) hours in a workweek.

3 47. The applicable IWC Wage Order further provides that Defendants are and were
4 required to pay Plaintiffs and Class Members employed by Defendants, and working more than
5 twelve (12) hours in a day or in excess of eight (8) hours on the seventh day of work in a workweek,
6 overtime compensation at a rate of two times their regular rate of pay.

7 48. Labor Code § 510 codifies the right to overtime compensation at one and one-half
8 times the regular hourly rate for hours worked in excess of eight (8) hours in a day or forty (40) hours
9 in a week or for the first eight (8) hours worked on the seventh day of work, and overtime
10 compensation at twice the regular hourly rate for hours worked in excess of twelve (12) hours in a
11 day or in excess of eight (8) hours in a day on the seventh day of work.

12 49. At all relevant times, Defendants failed to pay Plaintiffs and Class Members all wages
13 when Defendants required Plaintiffs and Class Members to work during meal periods that were taken
14 off-the-clock and failed to pay all wages for standby time and reporting time, among other things.
15 Defendants failed to pay Plaintiffs and Class Members all overtime wages to the extent such work
16 performed entitled Plaintiffs and Class Members to pay at the overtime rate of pay.

17 50. At all relevant times, Defendants failed to pay Plaintiffs and Class Members at the
18 proper overtime rate. Defendants paid Plaintiffs and Class Members a regular overtime rate below
19 one and one-half times their regular rate of pay when Plaintiffs and Class Members worked overtime
20 hours.

21 51. In violation of state law, Defendants have knowingly and willfully failed to pay all
22 overtime wages owed to Plaintiffs and Class Members.

23 52. Defendants' failure to pay Plaintiffs and Class Members the unpaid balance of
24 overtime compensation, as required by California law, violates the provisions of Labor Code §§ 510
25 and 1198, and is therefore unlawful.

26 53. Pursuant to Labor Code § 1194, Plaintiffs and Class Members are entitled to recover
27 their unpaid overtime compensation, as well as interest, costs and attorney's fees.

28 ///

1 **THIRD CAUSE OF ACTION**

2 **FAILURE TO PROVIDE MEAL PERIODS**

3 **(Violations of Labor Code §§ 226.7 and 512)**

4 54. Plaintiffs hereby incorporate all previous paragraphs of this Complaint as though fully
5 set forth herein.

6 55. Labor Code § 226.7 provides that no employer shall require an employee to work
7 during any meal period mandated by the IWC Wage Orders.

8 56. Section 11 of the applicable IWC Wage Order states, “no employer shall employ any
9 person for a work period of more than five (5) hours without a meal period of not less than 30
10 minutes, except that when a work period of not more than six (6) hours will complete the day’s work
11 the meal period may be waived by mutual consent of the employer and the employee.”

12 57. Labor Code § 512(a) provides that an employer may not require, cause or permit an
13 employee to work for a period of more than five (5) hours per day without providing the employee
14 with an uninterrupted meal period of not less than thirty (30) minutes, except that if the total work
15 period per day of the employee is not more than six (6) hours, the meal period may be waived by
16 mutual consent of both the employer and the employee.

17 58. Labor Code § 512(a) also provides that an employer may not employ an employee for
18 a work period of more than ten (10) hours per day without providing the employee with a second
19 meal period of not less than thirty (30) minutes, except that if the total hours worked is no more than
20 twelve (12) hours, the second meal period may be waived by mutual consent of the employer and
21 the employee only if the first meal period was not waived.

22 59. During the relevant time period, Plaintiffs and class members did not receive
23 compliant meal periods for working more than five (5) and/or ten (10) hours per day because, among
24 other things, Defendants required Plaintiffs and Class Members to work off-the-clock during their
25 meal periods, and because Plaintiffs and Class Members did not provide the second meal period for
26 shifts over 10 hours.

1 60. Labor Code § 226.7(b) and section 11 of the applicable IWC Wage Order requires an
2 employer to pay an employee one additional hour of pay at the employee's regular rate of
3 compensation for each work day that a compliant meal period is not provided.

4 61. At all relevant times, Defendants failed to pay Plaintiffs and class members the full
5 meal period premium for missed and untimely meal periods pursuant to Labor Code § 226.7(b) and
6 section 11 of the applicable IWC Wage Order.

7 62. As a result of Defendants' failure to pay Plaintiffs and class members an additional
8 hour of pay for each day a compliant meal period was not provided, Plaintiffs and class members
9 suffered and continue to suffer a loss of wages and compensation.

10 **FOURTH CAUSE OF ACTION**
11 **FAILURE TO PERMIT REST PERIODS**
12 **(Violations of Labor Code § 226.7)**

13 63. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
14 though fully set forth herein.

15 64. Labor Code § 226.7(a) provides that no employer shall require an employee to work
16 during any rest period mandated by the IWC Wage Orders.

17 65. Section 12 of the applicable IWC Wage Order states "every employer shall authorize
18 and permit all employees to take rest periods, which insofar as practicable shall be in the middle of
19 each work period" and the "authorized rest period time shall be based on the total hours worked
20 daily at the rate of ten (10) minutes net rest time per four (4) hours or major fraction thereof" unless
21 the total daily work time is less than three and one-half (3½) hours.

22 66. During the relevant time period, Plaintiffs and class members did not receive a ten
23 (10) minute rest period for every four (4) hours or major fraction thereof worked because they were
24 required to work through their daily rest periods and/or were not authorized to take their rest periods.

25 67. Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order requires an
26 employer to pay an employee one additional hour of pay at the employee's regular rate of
27 compensation for each work day that the rest period is not provided.
28

68. At all relevant times, Defendants failed to pay Plaintiffs and class members the full rest period premium for missed or interrupted rest periods pursuant to Labor Code § 226.7(b) and section 12 of the applicable IWC Wage Order.

69. As a result of Defendants' failure to pay Plaintiffs and class members an additional hour of pay for each day a rest period was not provided, Plaintiffs and class members suffered and continue to suffer a loss of wages and compensation

FIFTH CAUSE OF ACTION

FAILURE TO PAY WAGES UPON SEPARATION

OF EMPLOYMENT AND WITHIN THE REQUIRED TIME

(Violations of Labor Code §§ 201, 202, 203 and 210)

70. Plaintiffs hereby re-allege and incorporate all previous paragraphs of this Complaint as though fully set forth herein.

71. California Labor Code §§ 201 and 202 provide that if an employer discharges an employee, the wages earned and unpaid at the time of discharge are due and payable immediately, and that if an employee voluntarily leaves his or her employment, his or her wages shall become due and payable not later than seventy-two (72) hours thereafter, unless the employee has given seventy-two (72) hours previous notice of his or her intention to quit, in which case the employee is entitled to his or her wages at the time of quitting.

72. During the relevant time period, Defendants willfully failed to pay Plaintiffs and Waiting Time Subclass Members all their earned wages upon termination including, but not limited to, compensation for failure to provide compliant meal periods and permit compliant rest periods, either at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ.

73. Defendants' failure to pay Plaintiffs and Waiting Time Subclass Members all their earned wages at the time of discharge or within seventy-two (72) hours of their leaving Defendants' employ, is in violation of California Labor Code §§ 201 and 202.

74. California Labor Code § 203 provides that if an employer willfully fails to pay wages owed promptly upon discharge or resignation as required under California Labor Code §§ 201 and 202, then the wages of the employee shall continue as a penalty from the due date, and at the same

1 rate until paid or until an action is commenced; but the wages shall not continue for more than thirty
2 (30) days.

3 75. Defendants willfully failed to pay Plaintiffs and Waiting Time Subclass Members all
4 wages due and, as a result, owe Plaintiffs and Waiting Time Subclass Members regular daily wages
5 for each day they were not paid, at their regular rates of pay up to a thirty (30) day maximum pursuant
6 to California Labor Code § 203 all in an amount to be shown according to proof at trial.

7 76. Based on these violations, Plaintiffs and the Waiting Time Subclass they seek to
8 represent request relief as described herein and below.

9 **SIXTH CAUSE OF ACTION**

10 **FAILURE TO FURNISH ACCURATE WAGE STATEMENTS**

11 **(Violation of Labor Code § 226)**

12 77. Plaintiffs hereby re-allege and incorporate all previous paragraphs of this Complaint
13 as though fully set forth herein.

14 78. California Labor Code § 226(a) requires employers to furnish their employees with
15 an accurate itemized writing that shows gross wages earned, total hours worked, all deductions and
16 reimbursements, net wages earned, the inclusive dates of the period for which the employee is paid,
17 the name of the employee and the portion of his or her social security number as required by law, the
18 name and address of the legal entity that is the employer and all applicable hourly rates in effect
19 during the pay period and the corresponding number of hours worked at each hourly rate by the
20 employee.

21 79. Defendants have intentionally and willfully failed to provide Plaintiffs and class
22 members with complete and accurate wage statements. The deficiencies include, among other things,
23 the failure to list the proper amount of the gross wages earned and net wages earned, due to the failure
24 to compensate class members for non-compliant meal periods and rest periods.

25 80. As a result of Defendants' violation of California Labor Code § 226(a), Plaintiffs and
26 class members have suffered injury and damage to their statutorily protected rights. Specifically,
27 Plaintiffs and class members have been injured by Defendants' intentional violation of California
28 Labor Code § 226(a) because they were denied both their legal right to receive, and their protected

1 interest in receiving, accurate itemized wage statements under California Labor Code § 226(a).
2 Plaintiffs has had to file this lawsuit in order to determine the extent of the underpayment of wages,
3 thereby causing Plaintiffs to incur expenses and lost time. Plaintiffs would not have had to engage in
4 these efforts and incur these costs had Defendants provided the accurate wages earned. This has also
5 delayed Plaintiffs' ability to demand and recover the underpayment of wages from Defendants.

6 81. California Labor Code § 226(a) requires an employer to pay the greater of all actual
7 damages or fifty dollars (\$50.00) for the initial pay period in which a violation occurred, and one
8 hundred dollars (\$100.00) per employee for each violation in subsequent pay periods, plus attorney's
9 fees and costs, to each employee who was injured by the employer's failure to comply with California
10 Labor Code § 226(a).

11 82. Defendants' violations of California Labor Code § 226(a) prevented Plaintiffs and
12 class members from knowing, understanding and disputing the wages paid to them, and resulted in
13 an unjustified economic enrichment to Defendants. As a result of Defendants' knowing and
14 intentional failure to comply with California Labor Code § 226(a), Plaintiffs and class members have
15 suffered an injury, and the exact amount of damages and/or penalties is all in an amount to be shown
16 according to proof at trial.

17 83. Plaintiffs and class members are also entitled to injunctive relief under California
18 Labor Code § 226(g), compelling Defendants to comply with California Labor Code § 226, and seek
19 the recovery of attorneys' fees and costs incurred in obtaining this injunctive relief.

20 **SEVENTH CAUSE OF ACTION**

21 **UNFAIR BUSINESS PRACTICES**

22 **(Violation of Business and Professions Code §§ 17200 *et seq.*)**

23 84. Plaintiffs hereby reallege and incorporate all previous paragraphs of this Complaint
24 as though fully set forth herein.

25 85. California Business and Professions Code §§ 17200, *et seq.*, prohibits acts of unfair
26 competition, which includes any "unlawful, unfair or fraudulent business act or practice . . ."

27 86. A violation of California Business and Professions Code §§ 17200, *et seq.* may be
28 predicated on the violation of any state or federal law. In the instant case, Defendants' policies and

1 practices have violated state law, causing Plaintiffs and class members to suffer and continue to
2 suffer injuries in fact. As alleged herein, Defendants systematically engaged in unlawful conduct in
3 violation of the California Labor Code and IWC Wage Orders, such as failing to pay all minimum
4 and overtime wages, failing to provide meal periods or compensation in lieu thereof, failing to permit
5 rest periods or compensation in lieu thereof, failing to pay all wages due and owing upon separation
6 of employment and in a timely manner, and failing to furnish accurate wage statements, all in order
7 to decrease their costs of doing business and increase their profits.

8 87. At all times relevant herein, Defendants intentionally avoided paying Plaintiffs and
9 class members wages and monies, thereby creating for Defendants an artificially lower cost of doing
10 business in order to undercut their competitors and establish and/or gain a greater foothold in the
11 marketplace.

12 88. As a result of Defendants' conduct, Plaintiffs and class members suffered a loss of
13 wages and monies, all in an amount to be shown according to proof at trial. By violating the foregoing
14 statutes and regulations as herein alleged, Defendants' acts constitute unfair and unlawful business
15 practices under California Business and Professions Code §§ 17200, *et seq.*

16 89. Defendants' violations of the California Labor Code and IWC Wage Orders and their
17 scheme to lower their payroll costs as alleged herein, constitute unlawful business practices because
18 they were done in a systematic manner over a period of time to the detriment of Plaintiffs and class
19 members.

20 90. As a result of the unfair business practices of Defendants, as alleged herein, Plaintiffs
21 and class members are entitled to injunctive relief, disgorgement and restitution in an amount to be
22 shown according to proof at trial.

23 91. Plaintiffs seek to enforce important rights affecting the public interest within the
24 meaning of California Code of Civil Procedure § 1021.5. Defendants' conduct, as alleged herein, has
25 been, and continues to be, unfair, unlawful and harmful to Plaintiffs, class members and to the general
26 public. Based on Defendants' conduct as alleged herein, Plaintiffs and class members are entitled to
27 an award of attorneys' fees pursuant to California Code of Civil Procedure § 1021.5.
28

1 **EIGHTH CAUSE OF ACTION**

2 **ENFORCEMENT OF LABOR CODE §§ 2698, et seq. (“PAGA”)**

3 (California Labor Code §§ 2698, et seq.)

4 92. Plaintiffs hereby re-allege and incorporate by reference all paragraphs above as
5 though fully set forth herein.

6 93. Pursuant to Labor Code § 2699(a), any provision of the Labor Code that provides
7 for a civil penalty to be assessed and collected by the Labor and Workforce Development Agency
8 (“LWDA”) or any of its departments, divisions, commissions, boards, agencies or employees for
9 violation of the code may, as an alternative, be recovered through a civil action brought by an
10 aggrieved employee on behalf of himself and other current or former employees pursuant to the
11 procedures specified in Labor Code § 2699.3.

12 94. For all provisions of the Labor Code except those for which a civil penalty is
13 specifically provided, Labor Code § 2699(f) imposes upon Defendants a penalty of one hundred
14 dollars (\$100.00) for each aggrieved employee per pay period for the initial violation and two
15 hundred dollars (\$200.00) for each aggrieved employee per pay period for each subsequent pay
16 period in which Defendants violated these provisions of the Labor Code.

17 95. Defendants’ conduct violates numerous Labor Code sections including, but not
18 limited to, the following:

19 (a) Violation of Labor Code §§ 201-204, 210, 510, 1182.12, 1194, 1197 and
20 1198 for failure to timely pay all earned wages (including minimum wages
21 and overtime wages) for all hours worked which were owed to Plaintiffs
22 and other aggrieved employees during and/or upon separation of their
23 employment as herein alleged;

24 (b) Violation of Labor Code §§ 226.7 and 512 for failure to provide meal
25 periods to Plaintiffs and other aggrieved employees and failure to pay
26 premium wages for missed meal periods as herein alleged;

- 1 (c) Violation of Labor Code § 226.7 for failure to provide rest periods to
2 Plaintiffs and other aggrieved employees and failure to pay premium wages
3 for missed rest periods as herein alleged;
- 4 (d) Violation of Labor Code § 226 for failure to provide accurate itemized wage
5 statements to Plaintiffs and other aggrieved employees as herein alleged;
6 and
- 7 (e) Violation of Labor Code §§ 1174 and 1174.5 for failure to maintain accurate
8 records.

9 96. Plaintiffs are each an “aggrieved employee” because they were employed by the
10 alleged violator and had one or more of the alleged violations committed against them, and
11 therefore are properly suited to represent the interests of all other aggrieved employees.

12 97. Plaintiffs have exhausted the procedural requirements under Labor Code § 2699.3
13 as to Defendants and are therefore able to pursue a claim for penalties on behalf of themselves and
14 all other aggrieved employees under PAGA.

15 98. Pursuant to Labor Code § 2699(a), 2699.2, and 2699.5, Plaintiffs are entitled to
16 recover civil penalties, in addition to other remedies, for violations of the Labor Code sections
17 cited above.

18 99. For bringing this action, Plaintiffs are entitled to attorneys’ fees and costs incurred
19 herein.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiffs, on behalf of all others similarly situated, pray for judgment against
22 Defendants as follows:

- 23 1. For certification of the proposed Class and Waiting Time Subclass and any other
24 appropriate classes or subclasses under California Code of Civil Procedure § 382;
- 25 2. For appointment of Plaintiffs as the class representatives;
- 26 3. For appointment of Aegis Law Firm, PC as class counsel for all purposes;
- 27 4. For general damages;
- 28 5. For special damages;

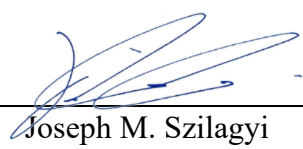
- 1 6. For civil penalties pursuant to PAGA;
- 2 7. For statutory penalties to the extent permitted by law, including those pursuant to the
- 3 California Labor Code and IWC Wage Orders;
- 4 8. For injunctive relief as provided by the California Labor Code and California
- 5 Business and Professions Code §§ 17200 *et seq.*;
- 6 9. For restitution as provided by California Business and Professions Code §§ 17200, *et*
- 7 *seq.*;
- 8 10. For an order requiring Defendants to restore and disgorge all funds to each employee
- 9 acquired by means of any act or practice declared by this Court to be unlawful, unfair or fraudulent
- 10 and, therefore, constituting unfair competition under California Business and Professions Code §§
- 11 17200 *et seq.*;
- 12 11. For an award of damages in the amount of unpaid compensation and reimbursements;
- 13 12. For pre-judgment interest;
- 14 13. For reasonable attorney's fees and costs of suit to the extent permitted by law,
- 15 including pursuant to California Code of Civil Procedure § 1021.5 and California Labor Code §§
- 16 226(e), 2802(c), and 2699(g) *et seq.*; and
- 17 14. For such other relief as the Court deems just and proper.
- 18
- 19

20 Dated: March 7, 2022

AEGIS LAW FIRM, PC

21

22 By: _____


Joseph M. Szilagyi
Attorneys for Plaintiffs

23

24

25 **DEMAND FOR JURY TRIAL**

26

27 Plaintiffs hereby demand a jury trial with respect to all issues triable of right by jury.

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Dated: March 7, 2022

AEGIS LAW FIRM, PC

By:  _____
Joseph M. Szilagyi
Attorneys for Plaintiffs

1 **CERTIFICATE OF SERVICE**

2 I, the undersigned, am employed in the County of Orange, State of California. I am over
3 the age of 18 and not a party to the within action; am employed with Aegis Law Firm PC and my
business address is 9811 Irvine Center Drive, Suite 100, Irvine, California 92618.

4 On March 7, 2022, I served the foregoing document entitled

5 • **FIRST AMENDED COMPLAINT**

6 on all the appearing and/or interested parties in this action by placing *the original* ☒ *a true copy*
7 thereof enclosed in sealed envelope(s) addressed as follows:

8 Tracie Childs

9 Andrew J. Deddeh

10 Diksha Vadan

11 **OGLETREE DEAKINS NASH SMOAK &
12 STEWART, P.C.**

13 4370 La Jolla Village Dr., Suite 990

14 San Diego, CA 92122

15 Tel.: 858.652.3100

16 Fax: 714.754.1298

17 Tracie.childs@ogletree.com

18 andrew.deddeh@ogletreedeakins.com

19 Diksha.Vadan@ogletreedeakins.com

20 Attorneys for Defendant
21 ASSOCIATED HEALTH
22 PROFESSIONALS, INC.

23 ☒ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing
24 correspondence for mailing. Under that practice it would be deposited with the U.S. Postal
25 Service on that same day with postage thereon fully prepaid at Irvine, California in the
26 ordinary course of business. I am aware that on motion of the party served, service is
27 presumed invalid if postage cancellation date or postage meter date is more than one day
28 after date of deposit for mailing this affidavit. (*Cal Code Civ. Proc. § 1013(a); Fed. R.
Civ. Proc. 5(a); Fed. R. Civ. Proc. 5(c).*)

☐ **(BY OVERNIGHT MAIL)** I am personally and readily familiar with the business
practice of Aegis Law Firm PC for collection and processing correspondence for overnight
delivery, and I caused such document(s) described herein to be deposited for delivery to
a facility regularly maintained Federal Express for overnight delivery. (*Cal Code Civ.
Proc. § 1013(c); Fed. R. Civ. Proc. 5(c).*)

☐ **(BY ELECTRONIC TRANSMISSION)** I caused said document(s) to be served via
electronic transmission via the above listed email addresses on the date below. (*Cal. Code
Civ. Proc. § 1010.6(6); Fed. R. Civ. Proc. 5(b)(2)(E); Fed. R. Civ. Proc. 5(b)(3).*)

25 ///

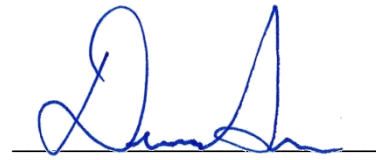
26 ///

27 ///

28 ///

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

3 Executed on March 7, 2022, at Irvine, California.



Delaney Graves