

AEGIS LAW FIRM, PC

KASHIF HAQUE, State Bar No. 218672
SAMUEL A. WONG, State Bar No. 217104
JESSICA L. CAMPBELL, State Bar No. 280626
JOSEPH M. SZILAGYI, State Bar No. 317450
Email: jcampbell@aegislawfirm.com
Email: jszilagy@aegislawfirm.com
9811 Irvine Center Drive, Suite 100
Irvine, California 92618
Telephone: (949) 379-6250
Facsimile: (949) 379-6251

Attorneys for Plaintiff Janette Brown and Eva Angelina Ramirez,
individually, and on behalf of all other aggrieved employees.

ELECTRONICALLY FILED
Superior Court of California,
County of San Diego
04/15/2022 at 01:05:00 PM
Clerk of the Superior Court
By Regina Chanez, Deputy Clerk

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SAN DIEGO**

JANETTE BROWN and EVA ANGELINA
RAMIREZ, individually and on behalf of
all others similarly situated,

Plaintiff,

vs.

CUE HEALTH INC.; TEG STAFFING,
INC.; and DOES 1 through 20, inclusive,

Defendants.

Case No.: 37-2021-00048118-CU-OE-CTL

Assigned for All Purposes to:
Hon. Judge Keri Katz
Department: C-74

SECOND AMENDED COMPLAINT

1 Plaintiffs Janette Brown and Eva Angelina Ramirez, individually, and on behalf of all
2 other aggrieved employees, allege as follows:

3 **NATURE OF ACTION AND INTRODUCTORY STATEMENT**

4 1. Plaintiffs Janette Brown and Eva Angelina Ramirez (“Plaintiffs”) bring this
5 representative action against defendants Cue Health Inc., TEG Staffing, Inc., and DOES 1
6 through 20, inclusive (collectively, “Defendants”), on behalf of themselves individually and a
7 representative group of California citizens who are and were employed by Defendants as non-
8 exempt employees throughout California.

9 2. Defendants are in the business of providing health monitoring systems.

10 3. Through this action, Plaintiffs allege 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
13 unfair 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 overtime wages at the proper rates;
- 17 (b) Failing to pay all wages (including minimum wages and overtime
18 wages);
- 19 (c) Failing to provide lawful meal periods or compensation in lieu thereof;
- 20 (d) Failing to authorize or permit lawful rest breaks or provide compensation
21 in lieu thereof;
- 22 (e) Failing to provide accurate itemized wage statements;
- 23 (f) Failing to pay all wages due upon separation of employment; and
- 24 (g) Failing to reimburse all business expenses incurred by the employee in
25 direct consequence of the discharge of his or her duties.

26 5. Plaintiffs are informed and believe, and thereon allege, that Defendants violated
27 to Labor Code §§ 201, 202, 203, 204, 210, 226, 226.3, 226.7, 510, 511, 512, 558, 1174, 1174.5,
28 1182.12, 1194, 1194.2, 1197, 1197.1, 1198, 2800, 2802, and 2698 *et seq.*

1 6. Plaintiffs bring this representative action against Defendants on behalf of
2 themselves and other aggrieved employees to recover, among other things, civil penalties,
3 attorney's fees and costs and expenses pursuant to the Private Attorneys General Act of 2004,
4 Labor Code §§ 2698, *et seq.* ("PAGA") and Code of California Civil Procedure § 1021.5.

5 **JURISDICTION AND VENUE**

6 7. This is a representative action pursuant to PAGA. The penalties sought by
7 Plaintiffs exceed the minimal jurisdictional limits of the Superior Court and will be established
8 according to proof at trial.

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

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

18 10. Venue is proper in this Court because, upon information and belief, Defendants
19 reside, transact business, or have offices in this county, and the acts and omissions alleged
20 herein took place in this county.

21 **THE PARTIES**

22 11. Plaintiffs are citizens of California. Plaintiffs were employed by Defendants.

23 12. Plaintiffs are informed and believe, and thereon allege that at all times
24 hereinafter mentioned, Defendants were and are subject to the Labor Code and IWC Wage
25 Orders as employers, whose employees were and are engaged throughout this county and the
26 State of California.

27 13. Plaintiffs are unaware of the true names or capacities of the defendants sued
28 herein under the fictitious names DOES 1 through 20, but will seek leave of this Court to

1 amend this Complaint and serve such fictitiously named defendants once their names and
2 capacities become known.

3 14. Plaintiffs are informed and believe, and thereon allege, that DOES 1 through 20
4 are or were the partners, agents, owners, shareholders, managers, or employees of Defendants
5 at all relevant times.

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

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

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

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

23 **GENERAL ALLEGATIONS**

24 19. At all relevant times mentioned herein, Defendants employed Plaintiffs and
25 other California citizens as non-exempt employees at Defendants' California business
26 location(s).

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

28 21. Plaintiffs are informed and believe, and thereon allege, that at all times herein

1 mentioned, Defendants were advised by skilled lawyers, employees, and other professionals
2 who were knowledgeable about California's wage and hour laws, employment and personnel
3 practices, and the requirements of California law.

4 22. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
5 should have known that Plaintiffs and other aggrieved employees were entitled to receive
6 wages for all time worked (including minimum and overtime wages) and that they were not
7 receiving all wages earned for work that was required to be performed due to rounding,
8 donning and doffing requirements, lines to clock in, health screenings, other off-the-clock
9 work, and interrupted meal periods, among other practices. In violation of the Labor Code and
10 IWC Wage Orders, Plaintiffs and other aggrieved employees were not paid all wages
11 (including minimum and overtime wages) for all hours worked at the proper rates of pay.

12 23. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
13 should have known that Plaintiffs and other aggrieved employees were entitled to receive
14 overtime wages and that they were not receiving all wages earned for work under Defendants'
15 Alternative Workweek Schedule. Plaintiffs believe Defendant either failed to implement a
16 proper alternative workweek or failed to properly pay overtime under a valid Alternative
17 Workweek Schedule and thus owe Plaintiffs and other aggrieved employees unpaid overtime.

18 24. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
19 should have known that Plaintiffs and other aggrieved employees were entitled to receive all
20 required meal periods or payment of one (1) additional hour of pay at Plaintiffs' and other
21 aggrieved employees' regular rate of pay when they did not receive a timely, uninterrupted
22 meal period. In violation of the Labor Code and IWC Wage Orders, Plaintiffs and other
23 aggrieved employees did not receive all meal periods or payment of one (1) additional hour of
24 pay at Plaintiffs' and other aggrieved employees' regular rate of pay when they did not receive
25 a timely, uninterrupted meal period.

26 25. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
27 should have known that Plaintiffs and other aggrieved employees were entitled to receive all
28 rest breaks or payment of one (1) additional hour of pay at Plaintiffs' and other aggrieved

1 employees' regular rate of pay when a rest break was missed. In violation of the Labor Code
2 and IWC Wage Orders, Plaintiffs and other aggrieved employees did not receive all rest breaks
3 or payment of one (1) additional hour of pay at Plaintiffs' and other aggrieved employees'
4 regular rate of pay when a rest break was missed.

5 26. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
6 should have known that Plaintiffs and other aggrieved employees were entitled to
7 reimbursement for necessary expenditures incurred in connection with the performance and
8 execution of their job duties. In violation of the California Labor Code, Plaintiffs and other
9 aggrieved employees did not receive adequate reimbursement for necessary business expenses,
10 including, but not limited to, reimbursement for cell phone use.

11 27. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
12 should have known that Plaintiffs and other aggrieved employees were entitled to receive
13 itemized wage statements that accurately showed the gross and net wages earned, total hours
14 worked, all applicable hourly rates in effect, and the number of hours worked at each hourly
15 rate in accordance with California law. In violation of the Labor Code, Plaintiffs and other
16 aggrieved employees were not provided with accurate itemized wage statements.

17 28. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
18 should have known that the aggrieved employees were entitled to timely payment of wages due
19 upon separation of employment. In violation of the Labor Code, aggrieved employees did not
20 receive payment of all wages within permissible time periods.

21 29. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
22 should have known they had a duty to compensate Plaintiffs and other aggrieved employees,
23 and Defendants had the financial ability to pay such compensation but willfully, knowingly,
24 and intentionally failed to do so in order to increase Defendants' profits.

25 30. Plaintiffs are informed and believe, and thereon allege, that Defendants knew or
26 should have known they had a duty to compensate Plaintiffs and aggrieved employees, and
27 Defendants had the financial ability to pay such compensation but willfully, knowingly and
28 intentionally failed to do so all in order to increase Defendants' profits.

1 **FIRST CAUSE OF ACTION**

2 **ENFORCEMENT OF LABOR CODE § 2698 ET SEQ. ("PAGA")**

3 (Cal. Lab. Code §§ 2698, *Et Seq.*)

4 31. Plaintiffs hereby re-allege and incorporate by reference the previous paragraphs,
5 as though fully set forth herein.

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

12 33. 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
14 hundred dollars (\$100.00) for each aggrieved employee per pay period for the initial violation
15 and two hundred dollars (\$200.00) for each aggrieved employee per pay period for each
16 subsequent pay period in which Defendants violated these provisions of the Labor Code.

17 34. Defendants' conduct with respect to Plaintiffs and the other aggrieved
18 employees violates numerous Labor Code sections including, but not limited to, the following:

19 (a) Violation of Labor Code §§ 201, 202, 203, 204, 210, 510, 1182.12, 1194,
20 1194.2, 1197, 1197.1, and 1198, for failure to timely pay to Plaintiff and
21 other aggrieved employees all earned wages (including minimum and
22 overtime wages and at the proper rate of pay) during and upon separation
23 of employment;

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

27 (b) Violation of Labor Code § 226.7 for failure to permit rest breaks to
28 Plaintiff and other aggrieved employees, and failure to pay premium

wages for missed rest periods as herein alleged;

(c) Violation of Labor Code §§ 226 and 226.3 for failure to provide accurate itemized wage statements to Plaintiff and other aggrieved employees as herein alleged;

(d) Violation of Labor Code §§ 2800 and 2802 for failure to reimburse Plaintiff and other aggrieved employees for all business expenditures as herein alleged; and

(e) Violation of Labor Code §§ 1174 and 1174.5 for failure to keep accurate records of hours worked by Plaintiff and other aggrieved employees as herein alleged.

35. Plaintiffs are an “aggrieved employee” because they were employed by the alleged violators and had one or more of the alleged violations committed against her, and therefore is properly suited to represent the interests of all other aggrieved employees.

36. Plaintiffs have timely alleged the above PAGA violations and have exhausted the procedural requirements under Labor Code § 2699.3 as to Defendants and are therefore able to pursue a claim for penalties on behalf of themselves and all other aggrieved employees under PAGA.

37. Defendants’ conduct, as alleged herein, has been and continues to be unfair, unlawful and harmful to Plaintiffs and the general public. Plaintiffs therefore seek to enforce important rights affecting the public interest within the meaning of Code of Civil Procedure § 1021.5.

38. Pursuant to Labor Code §§ 2699(a), 2699.3 and 2699.5, Plaintiffs are entitled to recover civil penalties, in addition to other remedies, for violations of the Labor Code sections cited above.

39. For bringing this action, Plaintiffs are entitled to attorney’s fees and costs incurred herein.

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1 **PRAYER FOR RELIEF**

2 Plaintiffs, on their own behalf and on behalf of all other aggrieved employees, pray for
3 relief and judgment against Defendants, jointly and severally, as follows:

- 4 1. For civil penalties against Defendants on behalf of all aggrieved employees
5 pursuant to Labor Code §§ 558 and 2698, *et seq.*;
- 6 2. For reasonable attorney's fees and costs of suit to the extent permitted by law,
7 including pursuant to Code of Civil Procedure § 1021.5 and Labor Code §§ 2698, *et seq.*; and
- 8 3. For such other relief as the Court deems just and proper.
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11 Dated: April 15, 2022

AEGIS LAW FIRM, PC

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13 By: _____

14 Joseph M. Szilagyi
15 Attorneys for Plaintiff Janette Brown and
16 Eva Angelina Ramirez
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CERTIFICATE OF SERVICE

I, the undersigned, am employed in the County of Orange, State of California. I am over 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.

On April 15, 2022, I served the foregoing document entitled:

• **SECOND AMENDED COMPLAINT**

on all the appearing and/or interested parties in this action by delivering ☐ the original ☒ a true copy thereof on the party(ies) addressed below as follows:

Thomas S. Ingrassia
Zachary H. Rankin
PETTIT KOHN INGRASSIA LUTZ & DOLIN
11622 El Camino Real, Suite 300
San Diego, CA 92130
Telephone: 858.345.8513
Facsimile: 858.755..8504
tingrassia@pettitkohn.com
rbrown@pettitkohn.com
kwood@pettitkohn.com
ybrowne@pettitkohn.com

Attorneys for Defendant:
CUE HEALTH INC.

Stacey E. James
Shahram Samie
LITTLER MENDELSON P.C.
2049 Century Park East, 5th Floor,
Los Angeles, CA 90067-3107
Telephone: 310.553-0308
Facsimile: 310.553.5583
sjames@littler.com
ssamie@littler.com
aposthill@littler.com
bnikitas@littler.com

Attorneys for Defendant:
TEG STAFFING, INC.

☐ **(BY MAIL)** I am readily familiar with the firm's practice of collection and processing correspondence for mailing. Under that practice it would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid at Irvine, California in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postage cancellation date or postage meter date is more than one day 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).)

☐ **(BY PERSONAL SERVICE)** I delivered the foregoing document by hand delivery to the addressed named above. (*Cal Code Civ. Proc.* § 1011; *Fed. R. Civ. Proc.* 5(b)(2)(A).)

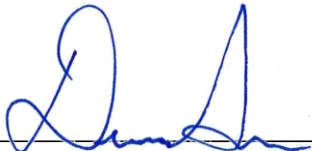
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1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct.

3 Executed on April 15, 2022, at Irvine, California.

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5 _____
6 Delaney Graves
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