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Superior Court of California
County of Tuolumne

by *Elizabeth M. Myers* clerk

Larry W. Lee (State Bar No. 228175)
lwlee@diversitylaw.com
Kristen M. Agnew (State Bar No. 247656)
kagnew@diversitylaw.com
Nicholas Rosenthal (State Bar No. 268297)
nrosenthal@diversitylaw.com
DIVERSITY LAW GROUP, P.C.
515 S. Figueroa Street, Suite 1250
Los Angeles, CA 90071
(213) 488-6555
(213) 488-6554 facsimile

William L. Marder (State Bar No. 170131)
bill@polarislawgroup.com
POLARIS LAW GROUP
501 San Benito Street, Suite 200
Hollister, CA 95023
(831) 531-4214
(831) 634-0333 facsimile

Attorneys for Plaintiff and the Aggrieved Employees

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF TUOLUMNE**

VERONICA AGUAYO, as an individual
and on behalf of all others similarly situated,

Plaintiff,

vs.

HEALTHCARE STAFFING
PROFESSIONALS, INC., a California
corporation; and DOES 1 through 50,
inclusive,

Defendants.

Case No.: *CV 65621*

**REPRESENTATIVE ACTION COMPLAINT
VIOLATION OF LABOR CODE § 2698, ET
SEQ.**

DEMAND OVER \$25,000.00

By FAX

1 Plaintiff Veronica Aguayo (“Plaintiff”) hereby submits this Representative Action
2 (“Complaint”) against Defendant Healthcare Staffing Professionals, Inc. (“Defendant”) and Does 1
3 through 50 (collectively, “Defendants”), on behalf of herself and all other similarly situated current
4 and former employees of Defendant for penalties under the California Labor Code, as follows:

5 **INTRODUCTION**

6 1. This representative action complaint is within the Court’s jurisdiction under
7 California Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1
8 and 2698 *et. seq.*, and the applicable Wage Orders of the California Industrial Welfare Commission
9 (“IWC”).

10 2. This Complaint challenges systemic illegal employment practices resulting in
11 violations of the California Labor Code against individuals who worked for Defendants.

12 3. Plaintiff is informed and believes, and based thereon alleges, that Defendants, jointly
13 and severally, have acted intentionally and with deliberate indifference and conscious disregard to
14 the rights of all employees by: (a) failing to pay minimum, regular and/or overtime wages for all
15 hours worked, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1; (b) failing to
16 provide off-duty meal and rest breaks, in violation of Labor Code sections 226.7 and 512; (c) failing
17 to pay employees all of their wages upon separation of employment due to unpaid and/or underpaid
18 wages and meal/rest break premiums, in violation of Labor Code sections 201, 202 and 203; and (d)
19 failing to provide accurate itemized wage statements, in violation of Labor Code section 226.

20 4. Plaintiff is informed and believes, and based thereon alleges, that Defendants have
21 engaged in, among other things a system of willful violations of the California Labor Code and the
22 applicable IWC Wage Orders, by creating and maintaining policies, practices, and customs that
23 knowingly deny employees the above stated rights and benefits.

24 **JURISDICTION AND VENUE**

25 5. The Court has jurisdiction over the violations of the California Labor Code sections
26 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1 and 2698 *et. seq.*, and the
27 applicable IWC Wage Orders.

28 6. Venue is proper in Tuolumne County, because Plaintiff worked for Defendant in

1 Jamestown, California.

2 **PARTIES**

3 7. Plaintiff was employed by Defendant as a Nurse from approximately December
4 2022, to on or about July 10, 2023. During her employment with Defendant, Plaintiff worked as a
5 non-exempt employee.

6 8. Plaintiff was and is the victim of the policies, practices, and customs of Defendant
7 complained of in this action in ways that have deprived her of the rights guaranteed by California
8 Labor Code sections 201, 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1197, 1197.1 and 2698
9 *et. seq.*, and the applicable IWC Wage Orders.

10 9. Plaintiff is informed and believes, and based thereon alleges, that Defendant
11 Healthcare Staffing Professionals, Inc. maintains operations and does business in the State of
12 California, including in Tuolumne County, California.

13 10. Plaintiff is informed and believes, and based thereon alleges, that at all times herein
14 mentioned Does 1 through 50, are and were corporations, business entities, individuals, and
15 partnerships, licensed to do business and actually doing business in the State of California. As such
16 and based upon all the facts and circumstances incident to Defendants' business, Defendants are
17 subject to the California Labor Code and the IWC Wage Orders.

18 11. Plaintiff does not know the true names or capacities, whether individual, partner or
19 corporate, of the defendants sued herein as Does 1 through 50, inclusive, and for that reason, said
20 defendants are sued under such fictitious names, and Plaintiff prays for leave to amend this
21 Complaint when the true names and capacities are known. Plaintiff is informed and believes and
22 based thereon alleges that each of said fictitious defendants was responsible in some way for the
23 matters alleged herein and proximately caused Plaintiff and Aggrieved Employees to be subject to
24 the illegal employment practices, wrongs and injuries complained of herein.

25 12. At all times herein mentioned, each of said Defendants participated in the doing of
26 the acts hereinafter alleged to have been done by the named Defendant; and furthermore,
27 Defendants, and each of them, were the agents, servants, and employees of each of the other
28 defendants, as well as the agents of all Defendants, and at all times herein mentioned, were acting

1 within the course and scope of said agency and employment.

2 13. Plaintiff is informed and believes, and based thereon alleges, that at all times
3 material hereto, each of the Defendants named herein was the agent, employee, alter ego and/or
4 joint venturer of, or working in concert with each of the other co-Defendants and was acting within
5 the course and scope of such agency, employment, joint venture, or concerted activity. To the extent
6 said acts, conduct, and omissions were perpetrated by certain Defendants, each of the remaining
7 Defendants confirmed and ratified said acts, conduct, and omissions of the acting Defendants.

8 14. At all times herein mentioned, Defendants, and each of them, were members of, and
9 engaged in, a joint venture, partnership, and common enterprise, and acting within the course and
10 scope of, and in pursuance of, said joint venture, partnership, and common enterprise.

11 15. At all times herein mentioned, the acts and omissions of various Defendants, and
12 each of them, concurred and contributed to the various acts and omissions of each and all of the
13 other Defendants in proximately causing the injuries and damages as herein alleged. At all times
14 herein mentioned, Defendants, and each of them, ratified each and every act or omission
15 complained of herein. At all times herein mentioned, Defendants, and each of them, aided and
16 abetted the acts and omissions of each and all of the other Defendants in proximately causing the
17 damages as herein alleged.

18 **FIRST CAUSE OF ACTION**

19 **VIOLATION OF LABOR CODE § 2698, *ET SEQ.***

20 **(BY PLAINTIFF AND AGGRIEVED EMPLOYEES AGAINST ALL DEFENDANTS)**

21 16. Plaintiff re-alleges and incorporates by reference the preceding paragraphs as though
22 fully set forth herein.

23 17. Plaintiff brings this cause of action as a proxy for the State of California and, in this
24 capacity, seeks penalties on behalf of all Aggrieved Employees from July 27, 2022, through the
25 present, for Defendant's policy and practice of: (a) failing to pay minimum, regular and/or overtime
26 wages for all hours worked, in violation of Labor Code sections 510, 558, 1194, 1197 and 1197.1;
27 (b) failing to provide off-duty meal and rest breaks, in violation of Labor Code sections 226.7 and
28 512; (c) failing to pay employees all of their wages upon separation of employment due to unpaid

1 and/or underpaid wages, in violation of Labor Code sections 201, 202 and 203; and (d) failing to
2 provide accurate itemized wage statements, in violation of Labor Code section 226.

3 18. Defendant had a corporate policy, pattern, and practice of failing to pay all earned
4 wages to Plaintiff and Aggrieved Employees. In particular, employees were required to submit to
5 mandatory security procedures prior to clocking into Defendant's timekeeping system for the
6 workday. Plaintiff and Aggrieved Employees did not receive the payment of wages for such time.

7 19. As a separate violation of Labor Code section 510, Defendant paid Plaintiff and
8 Aggrieved Employees overtime wages based on the incorrect regular rate of pay. During
9 workweeks when employees worked overtime and earned non-discretionary incentive pay,
10 including without limitation, per diems, Defendant failed to properly calculate the regular rate of
11 pay for purposes of paying overtime. Specifically, Defendant failed to incorporate the non-
12 discretionary incentives into the calculation of the regular rate of pay. As a result of such policy and
13 practice, Defendant underpaid overtime wages to Plaintiff and Aggrieved Employees and thus owe
14 additional overtime wages.

15 20. Defendant also failed in its affirmative obligation to ensure that Plaintiff and
16 Aggrieved Employees had the opportunity to take and were provided with off-duty meal and rest
17 periods in accordance with the mandates of the California Labor Code and the applicable IWC
18 Wage Order. As a pattern and practice, employees were required to work through their entire shift
19 without being allowed to take any off-duty meal and rest breaks. Plaintiff and Aggrieved
20 Employees did not receive the payment of meal/rest break premiums, as required by Labor Code
21 section 226.7.

22 21. Defendant, as a matter of policy and practice, did not provide accurate wage
23 statements to Plaintiff and Aggrieved Employees, in violation of Labor Code section 226(a). Due to
24 the non-payment and/or underpayment of wages and meal/rest break premiums, as identified above,
25 the wage statements issued to Plaintiff and Aggrieved Employees failed to identify the correct gross
26 wages earned, net wages earned, and correct hourly rates of pay, in violation of Labor Code section
27 226(a).

28 22. Relatedly, Defendant violated Labor Code sections 201, 202 and 203 by not paying

1 Plaintiff and other separated Aggrieved Employees all of earned wages upon separation of
2 employment due to the unpaid and/or underpaid wages and meal/rest break premiums.

3 23. On or about July 27, 2023, Plaintiff sent written notice to the California Labor &
4 Workforce Development Agency ("LWDA") of Defendant's violation of Labor Code sections 201,
5 202, 203, 204, 226, 226.7, 510, 512, 558, 1194, 1197 and 1197.1, pursuant to Labor Code section
6 2698, *et seq.*, the Private Attorneys General Act ("PAGA"). Plaintiff also sent written notice of said
7 Labor Code violations to Defendant via certified mail pursuant to Labor Code section 2699.3. As
8 of the date of the filing of this Complaint, the LWDA has not provided written notice regarding
9 whether it intends to investigate the Labor Code violations set forth in Plaintiff's written notice.

10 24. As such, pursuant to Labor Code section 2699(a), Plaintiff seeks recovery of any and
11 all applicable civil penalties for Defendant's violation of Labor Code sections 201, 202, 203, 204,
12 226, 226.7, 510, 512, 558, 1194, 1197 and 1197.1 for the time period described above, on behalf of
13 herself and other Aggrieved Employees.

14 **PRAYER FOR RELIEF**

15 WHEREFORE, Plaintiff prays for judgment individually and all others on whose behalf this
16 suit is brought against Defendants, jointly and severally, as follows:

17 1. Upon the First Cause of Action, for civil penalties according to proof pursuant to the
18 PAGA and Labor Code section 226.3, and for costs and attorneys' fees;

19 2. On all causes of action for attorneys' fees and costs as provided by Labor Code
20 section 2699 and California Code of Civil Procedure section 1021.5; and

21 3. For such other and further relief as the Court may deem just and proper.
22

23 DATED: October 2, 2023

DIVERSITY LAW GROUP, P.C.

24
25 By: _____

Larry W. Lee

Kristen M. Agnew

Nicholas Rosenthal

Attorneys for Plaintiff and the Aggrieved
26 Employees
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