

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA**

PATRICK PIZZELLA,)
ACTING SECRETARY OF LABOR,)
UNITED STATES DEPARTMENT OF LABOR,)
)
Plaintiff,)

v.)

Civil Action No. 2:19-cv-475

MEDICAL STAFFING OF AMERICA, LLC, a limited)
liability company, d/b/a STEADFAST MEDICAL)
STAFFING, and LISA ANN PITTS, individually and as)
owner and officer of the aforementioned company,)
)
Defendants.)

COMPLAINT

Plaintiff, Patrick Pizzella, Acting Secretary of Labor, United States Department of Labor (“Plaintiff”) brings this action to enjoin Medical Staffing of America, LLC, a limited liability company, d/b/a Steadfast Medical Staffing, and Lisa Ann Pitts, individually and as an owner and officer of the aforementioned company (collectively, “Defendants”), from violating the provisions of Sections 7, 11(c), 15(a)(2), and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended, 29 U.S.C. § 201, *et seq.* (“the Act”), and for a judgment against Defendants in the total amount of back wage compensation found by the Court to be due to any of the employees of Defendants pursuant to the Act and an equal amount due to the employees of Defendants in liquidated damages.

1. Jurisdiction of this action is conferred upon the Court by Section 17 of the Act, 29 U.S.C. § 217, and by 28 U.S.C. §§ 1331 and 1345.

2. Defendant Medical Staffing of America, LLC, d/b/a Steadfast Medical Staffing (“Steadfast”), is a limited liability company duly organized under the laws of the Commonwealth

of Virginia, with a registered office at 5750 Chesapeake Boulevard, Norfolk, Virginia 23513. Defendant is engaged in a medical staffing services business at the same address, within the jurisdiction of this Court.

3. Defendant Lisa Ann Pitts is the president and owner of the limited liability company identified in Paragraph II and resides at 488 Fieldstone Glen Way, Virginia Beach, Virginia 23454. Lisa Pitts has directed employment practices and has directly or indirectly acted in the interest of Steadfast in relation to their employees at all times relevant herein, including recruiting new workers; hiring and firing workers; negotiating with healthcare organizations; and determining the positions, schedules, and rates of pay available to those workers Steadfast retains. At all times relevant herein, Lisa Pitts has been responsible for making, keeping, and preserving records of Steadfast's workers, including accurately recording regular work hours and pay separately from overtime work hours and pay.

4. At all times hereinafter mentioned, Defendants have been an enterprise within the meaning of Section 3(r) of the Act, in that Defendants have been, through unified operation or common control, engaged in the performance of related activities for a common business purpose. These activities constituted (and/or were related to) providing nursing services in the furtherance of the business purposes of Defendants' unified business entity.

5. At all times relevant herein, Defendants have employed, and are employing, employees in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including providing staffing services for businesses located across state lines. Further, at all times relevant herein, Defendants have had annual gross volume sales made or business done of not less than \$500,000, thereby affording coverage over all their employees pursuant to Section 3(s)(1)(A) of the Act.

6. During the period from June 10, 2017 through at least September 11, 2019, Defendants employed the individuals listed in the attached Schedule A (collectively referred to hereinafter as “employees”) as certified nursing assistants (“CNAs”), licensed practical nurses (“LPNs”), and registered nurses (“RNs”) at some point during the relevant period.¹

7. Defendants willfully violated the provisions of Sections 7 and 15(a)(2) of the Act by employing individuals, including CNAs, LPNs, and RNs, in an enterprise engaged in commerce for workweeks longer than those prescribed in Section 7 of the Act without compensating said individuals for employment in excess of the prescribed hours at rates not less than one and one-half times their regular rates. Therefore, Defendants are liable for the payment of unpaid overtime compensation and an equal amount of liquidated damages under Section 16(c) of the Act.

8. For example: During the period of June 10, 2017 through at least September 11, 2019 (“relevant period”), Defendants improperly classified individuals, including CNAs, LPNs, and RNs, as independent contractors and thereby failed to compensate those individuals who worked over 40 hours in a workweek one and one-half times their regular rate. Although many such individuals worked for more than 40 hours in a given week, these individuals did not receive time and one-half their regular rate for their overtime hours.

9. Defendants violated the provisions of Sections 11(c) and 15(a)(5) of the Act in that Defendants failed to make, keep, and preserve adequate and accurate records of their employees, which they were to maintain as prescribed by the regulations issued and found at 29

¹ Plaintiff requested payroll and employment records from Defendants in order to readily identify all affected employees. Defendants have not provided complete records. Accordingly, Plaintiff reserves the right to revise the Schedule A once these records are received.

C.F.R. Part 516. Specifically, Defendants failed to accurately record overtime hours and compensation. 29 C.F.R. § 516.2(a)(9).

10. As a result of the violation alleged above, amounts are owed for hours worked that were paid at rates less than the rate set forth in Section 7 of the Act for the employees named in Schedule A attached to this Complaint. Additional amounts may be due to other employees employed by Defendants during the time period covered by this Complaint (and continuing up to the time Defendants demonstrate that they came into compliance with the Act) whose identities are not now known to the Plaintiff.

11. During the investigative period, Defendants continually and willfully violated the provisions of the Act as alleged above. A judgment permanently enjoining and restraining the violations herein alleged (including restraining of withholding of overtime compensation) is specifically authorized by Section 17 of the Act, 29 U.S.C. § 217.

WHEREFORE, cause having been shown, the Secretary prays for judgment against Defendants providing the following relief:

(1) For an injunction issued pursuant to Section 17 of the Act permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those persons in active concert or participation with Defendants who receive actual notice of any such judgment, from violating the provisions of Sections 7, 11(c), 15(a)(2) and 15(a)(5) of the Act; and

(2) For judgment pursuant to Section 16(c) of the Act finding Defendants liable for unpaid overtime compensation due to certain of Defendants' current and former employees listed in the attached Schedule A for the period of June 10, 2017 until present, and for an equal amount due to certain of Defendants' current and former employees in liquidated damages. Additional amounts of back wages and liquidated damages may also be owed to certain current and former

employees of Defendants listed in the attached Schedule A for violations continuing after the filing of this Complaint, and may be owed to certain current and former employees presently unknown to the Secretary for the period covered by this Complaint, who may be identified during this litigation and added to Schedule A; or

(3) In the event liquidated damages are not awarded, for an injunction issued pursuant to Section 17 of the Act restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding the amount of unpaid minimum wages and overtime compensation found due Defendants' employees and prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621.

FURTHER, Plaintiff prays that this Honorable Court award costs in his favor, and an order granting such other and further relief as may be necessary and appropriate.

Respectfully Submitted,

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