



### **Jurisdiction and Venue**

1. This Court has jurisdiction of this case. 29 U.S.C. §§ 216(c), 217 and 28 U.S.C. § 1345.

2. This Court is the proper venue because all or a substantial part of the events or omissions giving rise to these allegations occurred in this judicial district.

### **Defendants**

3. Defendant NurseRight Staffing Agency, LLC, is a corporation within this Court's jurisdiction with an office at 129 Phelps Avenue, Building 2, Suite 207, Rockford, Illinois 61008 where it conducts business.

4. NurseRight is a staffing company that provides registered nurses ("RNs"), licensed practical nurses ("LPNs"), and certified nursing assistants ("CNAs") to nursing homes in northern Illinois.

5. Defendant Kwame Adjekum owns NurseRight and is its president.

6. In those roles, Adjekum has actively managed and supervised NurseRight's operations and its employees during the Investigation Period. Among other things, Adjekum has hired and fired employees, set their work schedules, and set their pay rates.

7. Adjekum has acted directly or indirectly in NurseRight's interests with respect to its employees and is therefore an "employer" under the FLSA. 29 U.S.C. § 203(d).

8. During the Investigation Period, Defendants engaged in business within Winnebago County, within this Court's jurisdiction.

---

additional back wages and liquidated damages to employees.

### **The FLSA Applies to Defendants**

9. NurseRight is an “enterprise” under the FLSA due to its related activities performed through unified operation or common control and for a common business purpose. 29 U.S.C. § 203(r).

10. NurseRight is an “enterprise engaged in commerce” under the FLSA, because it had (i) two or more employees who are engaged in or produced goods for commerce; and (ii) an annual gross volume of sales or business done greater than \$500,000 during the Investigation Period. 29 U.S.C. § 203(s)(1)(A).

### **Misclassification of Workers as Independent Contractors**

11. Defendants’ workers were misclassified as independent contractors when they were economically dependent upon NurseRight and were not in business for themselves.

12. Defendants’ workers are CNAs, LPNs, and RNs hired by Defendants to provide nursing duties pursuant to contracts Defendants enter into with nursing homes to provide nursing staff.

13. Defendants bid on and obtain contracts with nursing homes and then place their workers in the care facilities.

14. Defendants oversee the work performed by their workers.

15. Defendants dispatch assignments to their workers.

16. Defendants direct their workers’ performance of work assignments.

17. Defendants ask new workers to sign an employment agreement.

18. New workers are also asked to provide Defendants with their certification requirements.

19. Defendants’ workers do not choose the nursing homes they work for; they are expected to adhere to the schedule(s) and site(s) assigned to them by Defendants.

20. Workers receive their schedule and document their time worked via a phone app controlled by Defendants.

21. The phone app also tracks workers' location via GPS to ensure they are working at the correct site.

22. If a nursing home has a problem with a particular worker, the nursing home reaches out to Defendants and does not address the worker directly.

23. Defendants determine the hourly rates workers will receive. The workers have no opportunity to negotiate their compensation.

24. Defendants pay their workers on a weekly basis; the workers do not bill Defendants themselves, nor do the workers bill the nursing homes directly.

25. Defendants oversee their workers' work and set performance guidelines.

26. Defendants' workers do not perform services for any staffing agency other than NurseRight at a given time.

27. Defendants workers do not carry their own liability or other insurance.

28. Defendants' workers are not required to bring their own nursing or other supplies to work.

29. Defendants' workers do not have their own separate business entities.

30. Defendants' workers do not invest in advertising for themselves.

31. Defendants' workers do not hire or contract out their shifts to other workers.

#### **FLSA Violations**

32. Defendants repeatedly violated Sections 207 and 215(a)(2) of the FLSA when they failed to pay their employees one-and-one-half times their regular rates for hours worked in excess of 40 in a workweek. Defendants failed to pay proper overtime for hours worked over 40 per

workweek because they misclassified their employees, who were paid their regular rates for all hours worked, as independent contractors. 29 U.S.C. §§ 207(a)(1), 215(a)(2).

33. Defendants repeatedly violated Sections 211 and 215(a)(5) of the FLSA when they failed to keep complete and accurate records. 29 U.S.C. §§ 211, 215(a)(5), 29 C.F.R. Part 516. Defendants failed to maintain complete and accurate time and pay records because they did not keep records indicating actual work hours and earned wages on a weekly basis for all employees during the Investigative Period.

34. Moreover, Defendants repeatedly and willfully violated Section 207 of the FLSA, because Defendants knew or showed reckless disregard for whether the FLSA prohibited their conduct.

35. Specifically, Defendants acted willfully when they intentionally began to classify workers as independent contractors only after they began to work more than 40 hours in a workweek.

36. Defendant Adjekum admitted to Wage and Hour Investigator Piotr Kisielinski that Defendants' workers were employees, but Defendants did not pay the workers overtime wages because Defendants did not include overtime premium expenses in their bids to obtain contracts with nursing homes.

37. Despite being on notice that their pay practices violate the FLSA by virtue of the Wage and Hour Division's investigation, Defendants have not taken any steps to come into compliance with the Act or even agreed to do so; nor have Defendants agreed to pay the back wages owed to their workers.

### **Remedies Sought**

38. As a result of their FLSA violations, Defendants owe the employees listed in Exhibit A back wages and liquidated damages, under 29 U.S.C. §§ 216(c), 217. If Defendants continued to

violate the FLSA after the Investigation Period, then Defendants may owe additional back wages and liquidated damages to employees.

39. Defendants may also owe additional back wages and liquidated damages during the Investigation Period to employees whose identities are presently unknown to the Acting Secretary.

40. Because Defendants repeatedly and willfully violated the FLSA, the Acting Secretary is entitled to recover back wages and liquidated damages for a three-year period. 29 U.S.C. § 255(a).

### **Prayer for Relief**

As a result of Defendants' repeated and willful FLSA violations, the Acting Secretary respectfully requests this Court enter an Order:

A. Permanently enjoining and restraining Defendants, their officers, agents, servants, employees, and those in active concert or participation with them, from violating Sections 207, 211, 215(a)(2), and 215(a)(5) of the FLSA. 29 U.S.C. § 217(a).

B. Finding Defendants liable for unpaid overtime wages, plus an equal amount in liquidated damages, owing to the employees listed in Exhibit A, as well as to other of Defendants' employees not yet known to the Secretary. 29 U.S.C. § 216(c).

C. If the Court declines to award liquidated damages, then enjoining and restraining Defendants, their officers, agents, employees, and those persons in active concert or participation with Defendants, from withholding unpaid compensation found owing to Defendants' employees, plus prejudgment interest computed at the underpayment rate established by the Secretary of the Treasury under 26 U.S.C. § 6621.

D. Providing such other relief as may be necessary and appropriate.

E. Awarding costs and granting such other and further relief as may be necessary and

appropriate.

Date: February 7, 2024

Respectfully Submitted,

**SEEMA NANDA**

Solicitor of Labor

**CHRISTINE Z. HERI**

Regional Solicitor

/s/ Haley R. Jenkins

Haley R. Jenkins

U.S. Department of Labor

Office of the Solicitor

230 South Dearborn Street, Rm. 844

Chicago, Illinois 60604

312.353.1218

jenkins.haley.r@dol.gov

IL Bar No. 6324112

*Attorneys for Plaintiff Julie A. Su, Acting Secretary of  
Labor, United States Department of Labor*

Exhibit A