

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ALABAMA  
SOUTHERN DIVISION**

**TAMMY MAPLES,** §  
**KENYA HENSON,** §  
**ANGELA WATKINS,** §  
**OLIVE TURNER,** §  
**JESSICA WATTS,** §  
**CARLEB DELICES,** §  
**RICKY GRAY,** §  
**CHEQUITIA GRIGGS** §  
**individually and on** §  
**behalf of all others similarly** §  
**situated,** §

**Plaintiffs,** §

**v.** §

**NORTH ALABAMA FAMILY** §  
**SERVICES, INC.;** §  
**NORTH ALABAMA PROFESSIONAL** §  
**AND RESIDENTIAL SERVICES, INC,** §  
**FICTICIOUS DEFENDATS A-D** §  
**and DEANNA WILKS, an individual** §

**Defendants.** §

**Case No.:** \_\_\_\_\_  
**JURY TRIAL DEMANDED**

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**COMPLAINT**

COMES NOW the Plaintiffs, Tammy Maples, Kenya Henson, Angela Watkins, Olive Turner, Jessica Watts, Carleb Delices, Ricky Gray, and Chequitia Griggs individually and on behalf of others similarly situated and files this lawsuit

against the Defendants, North Alabama Family Services, NC (hereinafter: “NAFL” or “”), and North Alabama Professional and Residential Services, Inc., Fictitious Defendants A-D, and Deanna Wilks on behalf of themselves all others similarly situated, pursuant to §216(b) of the Fair Labor Standards Act (hereinafter "FLSA") and for this cause of action states the following:

### **PARTIES**

1. The Defendant North Alabama Family Services is a corporation conducting business in the State of Alabama. Defendant also operates several other businesses through Deanna Wilks locations throughout the state.
2. The Defendant North Alabama Professional and Residential Services is the parent corporation of Defendant North Alabama Family Services, conducting business in the State of Alabama. Defendant also operates with other businesses through agent Deanna Wilks.
3. The Fictitious **Defendants A -D** are the persons, companies or legal entities causing Plaintiff’s damages made the basis of this complaint.
4. The Defendant Deanna Wilks, an individual who is an agent, officer, manager, or other employee of Defendants North Alabama Professional and Residential Services, Defendant North Alabama Family Services, as is known at this time. She is sued individually and in her official capacity as agent, officer, manager and/or employee of said Defendants.

5. At all times material to this action, the Plaintiff Tammy Maples is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
6. At all times material to this action, the Plaintiff Kenya Henson is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
7. At all times material to this action, the Plaintiff Angela Watkins is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
8. At all times material to this action, the Plaintiff Olive Turner is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
9. At all times material to this action, the Plaintiff Jessica Watts is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
10. At all times material to this action, the Plaintiff Carleb Delices is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
11. At all times material to this action, the Plaintiff Ricky Graves is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.
12. At all times material to this action, the Plaintiff Chequitia Griggs is over the age of nineteen (19) and was employed by Defendant at its Alabama Location.

### **JURISDICTION AND VENUE**

13. This action is brought pursuant to the FLSA, 29 U.S.C. §201 et seq., -- specifically the collective action provision of the Act found at Section 216(b) -- for equitable and injunctive relief and to remedy violations of the wage provisions of the FLSA

by the Defendants, which has deprived the Plaintiffs, as well as others similarly situated to the Plaintiffs, of their lawful wages.

14. This action is brought to recover any and all unpaid compensation (including but not limited to: salary, sales incentives, commissions, bonuses, vacation and sick time) owed to Plaintiffs and all employees and former employees of Defendants who are similarly situated, pursuant to the FLSA.

15. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331.

16. Venue is proper in the Northern District of Alabama under 28 U.S.C. § 1391(b).

17. Defendants are subject to personal jurisdiction in the State of Alabama for the purpose of this lawsuit.

### **FACTS**

18. North Alabama Family Services (NAFS) is a business operating at 203 S Emmett St., Albertville, Alabama 35950.

19. NAFS provides health care services to adults in need of care structured as a group home.

20. NAFS has four adult group home locations known to Plaintiffs as Rosewood, Brownhome, Carrybrooke, and Roundhouse.

21. To provide care to residents in NAFS's adult group homes, NAFS employs many types health care professionals and non-professionals, collecting money

for their services from government agencies as well as from private individuals.

22. Plaintiffs at all relevant times to this matter were employed by NAFS for services as a non-professional health care provider.
23. Plaintiffs at all relevant times to this matter were employed by NAFS as full time employees with the understood expectation to work a 40-hour regular work week at an hourly rate, with overtime compensation when hours worked by an individual exceeded their 40-hour scheduling.
24. Plaintiff Tammy Maples has been employed by NAFS at least two years prior to the filing of this matter until the time of November 2017.
25. Plaintiff Kenya Henson was employed by NAFS at least two years prior to the filing of this matter until the time of November 2017.
26. Plaintiff Angela Watkins was employed by NAFS from the summer of 2015 until November 2017.
27. Plaintiff Olive Turner was employed with NAFS from March to October 2017
28. Plaintiff Jessica Watts was employed with NAFS from 2015-2016, returning to NAFS in April of 2017 where she is currently employed.
29. Plaintiff Carleb Delices was employed with NAFS since at least 2016, and remains currently employed with NAFS.
30. Plaintiff Ricky Graves was employed with NAFS since at least 2016, and remains currently employed with NAFS.

31. Plaintiff Chequitia Griggs was employed with NAFS since at least 2015, and remains currently employed with NAFS.

32. Employee hours are calculated by NAFS through an ineffectual process of handwriting hours into separate and noncorresponding employee log books at each group home. ‘

33. By NAFS policy, Employees are not allowed to leave a employment shift until the next scheduled employee arrives. This time between the end of their shift and when an employee can leave their place of employment is not considered calculable thus compensable time worked by NAFS.

34. By NAFS policy, Employees can reside in house at their assigned group home. However, when residing within the house, Employee is not allowed to leave at night, and expected to provide employment service and care to group home residents. Employees are not compensated for such time<sup>1</sup>.

35. Employee hours are often calculated by NAFS to be considerably less than (40 hours) time scheduled by NAFS and worked by employees, thus employees are habitually improperly compensated.

36. Employees often worked over forty hours per week for NAFS. Not only were

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<sup>1</sup> 29 C.F.R. § 785.23 (1989) provides that: An **employee** who resides on his employer's premises on a permanent basis or for extended periods of time is not considered as working all the time he is on the premises. Ordinarily, he may engage in normal private pursuits and thus have enough time for eating, sleeping, entertaining, and other periods of complete freedom from all duties when he may leave the premises for purposes of his own  
[Lott v. Rigby, 746 F. Supp. 1084, 1084, 1990 U.S. Dist. LEXIS 12552, \\*1, 117 Lab. Cas. \(CCH\) P35,434, 30 Wage & Hour Cas. \(BNA\) 99](#)

Plaintiffs never provided accurate straight time, Plaintiffs were never compensated for overtime hours.

37. Often, Employees were asked to work outside of their scheduled time. These worked hours were not reflected in their compensation, and Plaintiffs have reason to believe such hours worked were not documented by NAFS.

38. Each listed Plaintiff in this matter as well as the employees of NAFS they seek to represent have made complaints addressing the habitual improper compensation by NAFS.

39. In response to Plaintiffs' complaints, NAFS did not properly compensate employees for inaccurate pay, nor did they provide justification for how hours employees were paid for were accounted for and/or documented.

40. Employees were often told to look for the proper compensation from the last pay period to be reflected on the next pay check. However, despite NAFS's assurances, the paychecks remained inaccurate for straight time for hours worked, creating a mounting deficit for owed compensation to employees.

### **FAIR LABOR STANDARDS ACT CLAIMS**

41. For at least three years prior to filing this complaint, the Defendant North Alabama Family Services and associated Defendants have had a uniform policy and practice of consistently requiring its employees to work over forty (40) hours per week for a specified hourly rate without overtime compensation in a position not

corresponding to a non-exempt position exemption. The Plaintiffs' primary duty was neither managing the enterprise, nor managing a customarily recognized department or subdivision of the enterprise.

42. The Plaintiffs did not customarily or regularly direct the work of two or more other full-time employees or their equivalent.

43. The Plaintiffs did not have the authority to hire, fire, or promote any employees.

44. The Plaintiffs' work duties consisted primarily of performing non-non-exempt functions, including, but not limited to driving and operating a trash collecting truck.

45. The Plaintiffs, as well as all similarly situated other alleged non-exempt employees, were promised a specified hourly rate of compensation.

46. The Plaintiffs, as well as other similarly situated employees, were not paid any overtime compensation even though the employees individually worked 10-50 hours a week over the required 40 hours and that the vast majority of their hours were spent performing non-non-exempt job duties.

47. Defendants failed to adequately maintain records of employment pursuant to 29 C.F.R. § 516.5.

48. The Plaintiffs and all similarly situated employees who elect to participate in this action seek owed proper compensation, unpaid incentives, bonuses, vacation and sick time, overtime compensation, an equal amount of liquidated



damages, attorneys' fees, and costs pursuant to 29 U.S.C. §216(b).

49. At all times material to this action, Defendants were and are enterprises engaged in commerce or in the production of goods for commerce as defined by §203(s)(1) of the FLSA.

50. At all times relevant to this action, Defendants were "employers" of the named Plaintiffs as defined by §203(d) of the FLSA.

51. At all times material to this action, the Plaintiffs were and are "employees" of Defendants as defined by §203(e)(1) of the FLSA, and worked for the Defendants within the territory of the United States within three years preceding the filing of this lawsuit.

52. The provisions set forth in §§ 206 and 207, respectively, of the FLSA apply to the Defendants, and all members of the Plaintiffs class were covered by §§ 206 and 207 of the FLSA while they were employed by the Defendants.

53. At all times relevant to this action, the Defendants employed the Plaintiffs in the nominal capacity of non-exempt employees.

54. The services performed by Plaintiffs were a necessary and integral part of and directly essential to the Defendants' business.

55. The Plaintiffs and other similarly situated non-exempt employees were required to perform both non-exempt duties without proper compensation for hours regularly worked, overtime compensation, bonuses, vacation or sick time.

56. The Defendants have intentionally failed and/or refused to pay the Plaintiffs and other non-exempt salary/rates according to the provisions of the FLSA.

57. The systems, practices, and duties of the named Plaintiffs have existed for at least three years throughout the Defendants' businesses.

58. For at least three years, the Defendants have been aware of the requirements of the FLSA and its corresponding regulations necessary to provide non-exempt employees with proper compensation for regularly worked hours, overtime compensation, bonuses, vacation and sick time. Despite this knowledge, the Defendants have failed to pay its employees the mandatory lawful compensation, overtime compensation, bonuses, vacation and/or sick time to conform the duties of these employees to the requirements of the FLSA.

59. The Defendants have intentionally and repeatedly misrepresented the true status of non-exempt compensation to its employees as well as their entitlement to non-exempt straight time compensation, overtime compensation, vacation and sick time in order to avoid suspicion and inquiry by employees regarding their entitlement to monies owed to them. The Plaintiffs, as well as other similarly situated present and former employees, relied upon these misrepresentations by Defendants and were unable to determine their true status under the FLSA by the exercise of reasonable diligence because of those misrepresentations.

60. As a result of the actions of the Defendants fraudulently concealing the true status of

its employees when performing non-exempt duties under the FLSA, the applicable statute of limitations governing FLSA actions at 29 U.S.C. § 255(a) is tolled for long as Defendants engaged or engages in the fraudulent and misleading conduct set forth above, which is a period of at least ten (10) years. Defendants are estopped from raising such statute of limitations as a bar.

61. There are numerous other similarly situated employees and former employees of Defendants who have been improperly compensated in violation of the FLSA and who would benefit from the issuance of Court-Supervised Notice of the present lawsuit and the opportunity to join the present lawsuit. Those similarly situated employees are known to the Defendants and are readily identifiable and locatable through the Defendants' records. Specifically, all care providing employees and former care providing employees of named business who were not compensated at proper straight time, as well as a time and a half rate for all hours worked over forty (40) hours per week, would benefit from Court- Supervised Notice and the opportunity to join the present lawsuit and should be so notified.

62. Defendants further have engaged in widespread pattern and practice of violating the provisions of FLSA by failing to pay the Plaintiffs and other similarly situated employees and former employees in accordance with § 207 of the FLSA.

63. As a result of the Defendants' violations of the FLSA, the named Plaintiffs, as well as all others similarly situated, have suffered damages by failing to receive non-exempt

compensation in accordance with § 207 of the FLSA.

64. In addition to the amount of unpaid wages and benefits owing to the Plaintiffs and all other similarly situated, they are also entitled to recover an additional equal amount as liquidated damages pursuant to 29 U.S.C. § 216(b) and prejudgment interest.

65. The Defendants' actions in failing to compensate the Plaintiffs, as well as other similarly situated employees and former employees, in violation of the FLSA, were willful.

66. The Defendants have not made a good faith effort to comply with the FLSA.

67. The Plaintiffs, and all others similarly situated, are also entitled to an award of attorney's fees pursuant to 29 U.S.C. § 216(b).

### **PRAYER FOR RELIEF**

**WHEREFORE**, the Plaintiffs, individually and on behalf of all other similarly situated persons, pursuant to § 216(b) of the FLSA, prays for the following relief:

A. At the earliest possible time, he be allowed to give notice, or that the Court issue such Notice, to all of Defendants' employees in all locations within the United States during the three years immediately preceding the filing of this suit, to all other potential Plaintiffs who may be similarly situated informing them that this action has been filed, the nature of the action, and of their right to opt-into this lawsuit if they worked overtime but were not paid non-exempt compensation and benefits pursuant to 29 U.S.C. §216(b);

B. That the Plaintiffs be awarded damages in the amount of their respective unpaid compensation and benefits, plus an equal amount of liquidated damages pursuant to 29 U.S.C. §216(b), and/or prejudgment interest;

C. Plaintiffs' reasonable attorneys' fees, including the costs and expenses of this action; and

D. Such other legal and equitable relief including, but not limited to, any injunctive and/or declaratory relief, to which they may be entitled.

**JURY DEMAND**

Plaintiffs' demand a trial before a struck jury.

Respectfully submitted this December 29, 2017.

/s/ J. Allen Schreiber

J. Allen Schreiber

/s/ Lauren E. Miles

Lauren E. Miles

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***ATTORNEYS FOR  
PLAINTIFFS***

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# ClassAction.org

This complaint is part of ClassAction.org's searchable class action lawsuit database and can be found in this post: [Lawsuit: NAFS Miscalculates Employees' Compensable Hours](#)

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