

IN THE CIRCUIT COURT OF BENTON COUNTY, ARKANSAS

MARK FOCHTMAN and SHANE O'NEAL,
individually and on behalf of all others
similarly situated

PLAINTIFFS

v. CASE NO. _____

CAAIR, INC., SIMMONS FOODS, INC.,
DARP, INC., HENDREN PLASTICS, INC.,
and JOHN DOES 1-30

DEFENDANTS

CLASS ACTION COMPLAINT

I. INTRODUCTION

1. This is a class action for violations of the Arkansas Constitution's prohibition on slavery, as well as for unpaid minimum wage and overtime under the Arkansas Minimum Wage Act. Defendants CAAIR, Inc. ("CAAIR") and DARP, Inc. ("DARP") claim to operate counseling and rehabilitation services. Plaintiffs agreed to enter CAAIR and DARP for court-ordered rehabilitation services. Instead of receiving counseling and treatment, however, Plaintiffs were forced to work for various businesses in Arkansas performing demanding, dangerous manual labor for no pay. Those who are injured on the job are threatened with jail to coerce them into continuing to toil; those who are unable to work are actually jailed.

2. CAAIR and DARP force their charges to work at manufacturing, food-processing, and other similar facilities in Arkansas, including Simmons Foods, Inc. ("Simmons") and Hendren Plastics, Inc. ("Hendren"). At all times, the businesses permit

CAAIR's and DARP's charges to work in their facilities, directing their work and profiting from their labors. Those individuals, however, are not paid anything for their labor. Moreover, CAAIR's and DARP's charges have severely circumscribed access to phone calls and the internet, making it virtually impossible for them to contact anyone — even their attorneys — outside the presence of CAAIR and DARP staff.

3. Defendants' scheme violates Arkansas law. The Arkansas Constitution expressly forbids forced labor without compensation. The Arkansas Minimum Wage Act mandates that individuals are paid a minimum wage for their labors, which includes overtime compensation for those who work more than 40 hours in a workweek. Plaintiffs bring their claims individually and on behalf of the other individuals who were required to work for free. Plaintiffs seek to enjoin CAAIR and DARP from selling their labor, and to recover unpaid wages (including minimum wage and overtime compensation), other compensatory damages, liquidated damages, punitive damages, attorneys' fees, costs, and expenses, and any other relief the Court deems just and proper.

II. PARTIES, JURISDICTION, AND VENUE

4. Plaintiff Mark Fochtman is a citizen of Washington County, Arkansas. In 2015 or 2016, Fochtman agreed to enter the CAAIR program as a condition of probation. Fochtman spent approximately six months attending CAAIR's "treatment" facility near Jay, Oklahoma. When Fochtman first arrived to CAAIR, he was assigned to work for one of Simmons' poultry processing facilities. Because of a wrist injury, however, he could not pass the required physical. Because of this, CAAIR assigned him to work for a Simmons' chicken farm that did not require a physical, where he disposed of dead birds,

fed chickens, maintained machinery, and performed other manual labor. In 2016 or 2017, Fochtman left CAAIR and entered the DARP “treatment” facility. During this time, DARP put Fochtman to work at Hendren Plastics filling large containers with plastic beads to be cooked to make floatation platforms. Fochtman was not paid anything for working at Simmons or Hendren Plastics.

5. Plaintiff Shane O’Neal is a citizen of Benton County, Arkansas. In 2014, O’Neal agreed to enter the CAAIR program as a condition of probation. From approximately December 2014 until December 2015, O’Neal attended CAAIR’s “treatment” facility near Jay, Oklahoma. During this time, O’Neal worked for Simmons at its pet food processing plant in Decatur, Arkansas. For the first six months, O’Neal worked as a Stacker stacking bags of dry pet food on pallets. After that, O’Neal worked as a Line Operator. O’Neal was not paid anything for working at Simmons during the time he was assigned to CAAIR.

6. Defendant CAAIR, Inc. is a foreign, not-for-profit corporation based in Jay, Oklahoma. CAAIR is an employer of Plaintiffs and other putative class members within the meaning of the Arkansas Minimum Wage Act. CAAIR can be served via its registered agent, Donald Wilkerson, at 40152 S. 700 Road, Jay, Oklahoma, 74346.

7. Defendant Simmons Foods, Inc. is a domestic, private, for profit corporation with headquarters in Siloam Springs, Arkansas. Simmons Foods, Inc. is an employer of Plaintiffs and putative class members within the meaning of the Arkansas Minimum Wage Act. Simmons can be served via its registered agent, Mark Simmons, at 601 N. Hico, Siloam Springs, Arkansas 72761.

8. Defendant DARP, Inc. is a foreign, for profit corporation which operates in Decatur, Arkansas. DARP is an employer of Plaintiffs and other putative class members within the meaning of the Arkansas Minimum Wage Act. DARP can be served via its registered agent, Raymond Jones, at 1409 Beecher Street, Ft. Gibson, Oklahoma, 74434.

9. Defendant Hendren Plastics, Inc. ("Hendren") is a domestic, private, for profit corporation with headquarters in Gravette, Arkansas. Hendren is an employer of Plaintiffs and putative class members within the meaning of the Arkansas Minimum Wage Act. Hendren Plastics can be served via its registered agent, James Hendren, at 15316 Highway 59 N., Sulphur Springs, Arkansas 72768.

10. Defendants John Does 1-30 are currently unknown, but believed to be, other individuals or entities who utilized the labor of individuals assigned to CAAIR and DARP within the state of Arkansas, without paying the individual for their labor. Plaintiffs have attached hereto as Exhibit A the affidavit of Plaintiffs' attorney attesting that the identifies of John Does 1-30 are unknown pursuant to Ark. Code Ann. § 16-56-125.

11. This Court has jurisdiction over the Plaintiffs' claims and subject matter of this action. Ark. Code Ann. § 16-13-201.

12. Venue lies within this county because a substantial part of the events or omissions giving rise to the claim occurred in this county. Ark. Code Ann. § 16-60-101(a)(1). Venue is also appropriate within this county because it is the county in which Defendants DARP, Simmons, and Hendren had their principal offices in Arkansas at the time of the events giving rise to Plaintiffs' cause of action. Ark. Code Ann. § 16-60-

101(a)(2)(B) Further, venue is also appropriate here because it was the county in which Plaintiff Fochtman resided while a resident of DARP, and was Plaintiff O'Neal's residence at the time he agreed to enter the CAAIR program. Ark. Code Ann. § 16-60-101(a)(3)(a).

13. At all relevant times, Plaintiffs and the putative class members have been entitled to the rights, protections, and benefits provided by the Arkansas Constitution and Arkansas Minimum Wage Act.

14. At all relevant times, Plaintiffs and the putative class members have been "employees" of Defendants as defined by Ark. Code Ann. § 11-4-203(3).

15. At all relevant times, Defendants were the "employers" of Plaintiffs and the putative class members as defined by Ark. Code Ann. § 203(4).

III. FACTS

16. Plaintiffs incorporate the preceding paragraphs as if there set forth herein.

CAAIR

17. Defendant CAAIR is based near Jay, Oklahoma and houses and employs hundreds of male residents, including Plaintiffs and putative class members, in on-site dormitories. "CAAIR" is an acronym for "Christian Alcoholics & Addicts in Recovery."

18. CAAIR purports to be a "faith based, long term drug and alcohol recovery program." (*CAAIR About Us Webpage* [Ex. B]). Despite this claim, according to a review of the Oklahoma State Board of Licensed Alcohol and Drug Counselors membership roster, CAAIR does not employ any licensed drug and alcohol counselors to help the

hundreds of residents it employs. The program is uncertified and is not regulated by any state agency.

19. Typically, CAAIR's residents agree to enter the CAAIR program as a condition of probation and in lieu of serving prison time. If a resident leaves CAAIR, either voluntarily or involuntarily, they are typically sent to prison.

20. CAAIR assigns its residents to work for various entities in the surrounding location, including northwest Arkansas. For example, each day, residents are transported to Simmons' pet food processing plant, poultry processing facility, and chicken farms in Decatur, Arkansas. Simmons Foods, Inc., is a company with annual revenue of \$1.4 billion. There, the residents perform dirty and physically demanding manual labor for Simmons' business. Upon information and belief, CAAIR's residents are also assigned to work at other businesses in Arkansas. The residents routinely work over 40 hours in a workweek.

21. At CAAIR, everyone must work: if an employee is sick, injured, or otherwise unable to work, they are kicked out of the program and sent to jail. As a result, the ever-present fear of incarceration ensures CAAIR's residents report to work despite physical injuries and sicknesses that would otherwise prevent them from working.

22. Upon information and belief, Simmons and the other entities contracted with CAAIR pay a discounted rate for the labor performed by Plaintiffs and the putative class members.

23. Despite performing demanding, dangerous, and dirty work, the residents do not receive any wages. Instead, CAAIR keeps all of the wages earned by the residents.

CAAIR generates over one million dollars a year in revenue, largely based on the slave labor provided by residents. CAAIR's officers, however, do not work for free, and they pay themselves hundreds of thousands of dollars annually in compensation.

24. CAAIR is not a treatment facility despite its fraudulent claims to the contrary. CAAIR is not certified, and it does not even employ licensed counsellors or social workers to provide drug and alcohol recovery services.

25. Instead of receiving counseling and treatment, the residents are forced to toil long hours performing dangerous jobs without compensation.

26. At CAAIR, an employee's violation of a work rule is a "major rule violation" on par with "bringing or using drugs or alcohol on the premises," "engaging in acts of violence or threats of violence," "theft," "having money or credit cards on the premises of CAAIR or at work," and "refusal to submit to a drug test or alcohol test." (CAAIR's *Major Rule Violations* [Ex. C]). Likewise, "failure to maintain your position at your assigned work provider" is also a "major rule violation." (CAAIR's *Major Rule Violations* [Ex. C]).

27. At CAAIR, residents have severally circumscribed access to phone calls and the internet. CAAIR's work rules expressly forbid its residents from having cellphones or other electronic devices on the premises or at work. (CAAIR's *Major Rule Violations* [Ex. C]). Any phone calls made by residents, including calls to family or legal counsel, must be done in the presence of a CAAIR staff member. As a result, CAAIR residents do not have a legitimate avenue to complain about the conditions at CAAIR.

28. As described herein, CAAIR and the businesses with which it provides labor had an interrelation of operations between the entities, and a common business purpose — providing cheap labor for various enterprises in Arkansas, including poultry processing facilities, pet food production, and chicken farm operations. CAAIR and the other businesses with which it provides labor also directly or indirectly controlled the terms of employment of Plaintiffs and the putative class members.

29. CAAIR and the other businesses with which it provides labor either directly, or indirectly, controlled the hours worked by Plaintiffs and the putative class members.

30. CAAIR and the other businesses with which it provides labor directed the work of Plaintiffs and the putative class members.

31. CAAIR and the other businesses with which it provides labor directly or indirectly maintained communications with Plaintiffs and the putative class members and received updates as to the status of their work.

32. CAAIR and the other businesses with which it provides labor provided guidance on how each assigned task was to be performed by Plaintiffs and putative class members.

33. CAAIR and the other businesses with which it provides labor are joint employers in that they direct and control Plaintiffs' and the putative class members' work. Thus, CAAIR and the other businesses with which it provides labor are each directly liable for the violations of Arkansas law in this case.

34. CAAIR, Simmons Foods, Inc., Hendren Plastics, Inc., and John Does 1-30 are “employers” of Plaintiffs and putative class members under the Arkansas Minimum Wage Act, and, as a result, they are jointly and severally liable for unpaid minimum wages (including overtime compensation), liquidated damages, and attorneys’ fees, costs, and expenses.

DARP

35. Defendant DARP, Inc. operates in Decatur, Arkansas. DARP has two sixty-bed men’s facilities in Decatur, Arkansas that houses hundreds of male residents. *See (DARP Letter [Ex. D]).* “DARP” is an acronym for “Drug and Alcohol Recovery Program.”

36. DARP purports to be a “faith based alcohol and drug recovery program.” (*DARP Mission Statement [Ex. E]*). Like CAAIR, DARP is an unregulated “recovery program” and is not a certified drug treatment program.

37. DARP’s primary source of referrals is through court-ordered programs, and DARP’s residents agree to enter the DARP program as a condition of probation and in lieu of serving prison time. If a resident leaves DARP, either voluntarily or involuntarily, they are typically sent to prison.

38. DARP assigns its residents to work for various entities in Arkansas. Each day, residents are transported to poultry processing facilities and other manufacturing jobs in and around Decatur, Arkansas. For example, DARP sends its residents to work for Simmons and Hendren in Decatur, Arkansas. Simmons is a company with annual revenue of \$1.4 billion. There, the residents perform dirty and physically demanding manual labor for Simmons’ and Hendren’s business. Upon information and belief, DARP

residents are also assigned to work for other businesses in Arkansas. The residents routinely work over 40 hours in a workweek.

39. At DARP, everyone must work: if an employee is sick, injured, or otherwise unable to work, they are kicked out of the program and sent to jail. As a result, the ever-present fear of incarceration ensures DARP's residents report to work despite physical injuries and sicknesses that would prevent them from working. In fact, DARP does not even allow the admittance of residents who have a medical condition that prohibits working. *See (DARP: Criteria for Admittance [Ex. F])*.

40. Upon information and belief, Simmons, Hendren Plastics, and the other entities contracted with DARP pay a discounted rate for the labor performed by Plaintiffs and the putative class members.

41. Despite performing demanding, dangerous, and dirty work, the residents do not receive any wages. *(DARP: Fees and Costs [Ex. G])*. It is DARP's policy that all participants are to work full-time jobs for which they will not be paid. *(DARP: Fees and Costs [Ex. G])*. Instead, the residents' wages go to pay DARP's operating expenses of day-to-day operations and the salaries of its staff and executive officers. *See (DARP: Fees and Costs [Ex. G])*. DARP's revenue is "generated solely through the various employment contracts the D.A.R.P. has entered into to provide employment for [its] participants." *(DARP: Introduction [Ex. H])*.

42. DARP is not a treatment facility, as it fraudulently claims. DARP is not certified, and it does not even employ licensed counselors or social workers. Thus, DARP does not provide the counseling and rehabilitation services that it purports to provide.

43. Instead of receiving promised counseling and treatment, the residents are forced to toil in dirty and dangerous jobs without pay. (*DARP: Fees and Costs* [Ex. G]).

44. At DARP, residents have severally circumscribed access to phone calls and the internet. Upon information and belief, any phone calls made by residents, including calls to family or legal counsel, must be done in the presence of a DARP staff member. As a result, DARP residents do not have a legitimate avenue to complain about the conditions at DARP.

45. As described herein, DARP and the businesses with which it provides labor had an interrelation of operations between the entities, and a common business purpose — providing cheap labor for various enterprises in Arkansas, including poultry processing facilities, chicken farm operations, and other manufacturing enterprises. DARP and the other businesses with which it provides labor also directly or indirectly controlled the terms of employment of Plaintiffs and the putative class members.

46. DARP and the other businesses with which it provides labor either directly, or indirectly, controlled the hours worked by Plaintiffs and the putative class members.

47. DARP and the other businesses with which it provides labor directed the work of Plaintiffs and the putative class members.

48. DARP and the other businesses with which it provides labor directly or indirectly maintained communications with Plaintiffs and the putative class members and received updates as to the status of their work.

49. DARP and the other businesses with which it provides labor provided guidance on how each assigned task was to be performed by Plaintiffs and putative class members.

50. DARP and the other businesses with which it provides labor are joint employers, in that they direct and control Plaintiffs' and the putative class members' work. Thus, DARP and the other businesses with which it provides labor are each directly liable for the violations of Arkansas law in this case.

51. DARP, Simmons Foods, Inc., Hendren Plastics, Inc., and John Does 1-30 are "employers" of Plaintiffs and putative class members under the Arkansas Minimum Wage Act, and, as a result, they are jointly and severally liable for unpaid minimum wages (including overtime compensation), liquidated damages, and attorneys' fees, costs, and expenses.

Simmons, Hendren, and John Doe Defendants

52. Simmons, Hendren, and the John Doe Defendants are for-profit businesses operating in Arkansas that, in conjunction with CAAIR and DARP, employed Plaintiffs and putative class members in unskilled labor positions but did not pay them for their work.

53. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, employed Plaintiffs and the putative class members as employees in the Defendants' profit-making enterprises. Plaintiffs and the putative class members were not employed to provide valuable community service like picking up trash on the side of the road or painting and repairing public works.

54. Rather, Plaintiffs and the putative class members worked alongside, and oftentimes in the place of, typical employees hired to produce the products of Simmons, Hendren, and the John Doe Defendants' businesses.

55. Likewise, Plaintiffs and the putative class members were not trained in a trade, but instead performed unskilled labor in demanding, dangerous, and dirty environments.

56. CAAIR and DARP provided their charges to be exploited by Simmons, Hendren, and the John Doe Defendants. CAAIR and DARP reaped the benefits of Plaintiffs and the putative class members' labor by collecting all of the wages earned by those employees, collectively generating millions of dollars in revenue and paying their officers hundreds of thousands of dollars in annual salary.

57. Simmons, Hendren, and the John Doe Defendants profited from that relationship by paying lower wage rates and using threats of incarceration to coerce Plaintiffs and putative class members into performing the type of work many employees would not perform.

58. CAAIR and DARP, acting in concert with Simmons, Hendren, and the John Doe Defendants, married Plaintiffs' and the putative class members' job performance with their successful "treatment." For example, at CAAIR, an employee's violation of a work rule is a "major rule violation" on par with "bringing or using drugs or alcohol on the premises," "engaging in acts of violence or threats of violence," "theft," "having money or credit cards on the premises of CAAIR or at work," and "refusal to submit to a drug test or alcohol test." (*CAAIR's Major Rule Violations* [Ex. C]). Likewise, "failure to

maintain your position at your assigned work provider” is also a “major rule violation.” (CAAIR’s *Major Rule Violations* [Ex. C]).

59. As a result, CAAIR, DARP, Simmons, Hendren, and the John Doe Defendants together orchestrated a pervasive scheme of slavery in which each entity and their officers profited from CAAIR and DARP’s large, coerced labor force.

60. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, controlled the working conditions of Plaintiffs and the putative class members.

61. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, supervised the work of Plaintiffs and the putative class members.

62. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, directed the work of Plaintiffs and the putative class members.

63. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, set the work schedules of Plaintiffs and the putative class members.

64. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, enforced compliance of Simmons, Hendren, and the John Doe Defendants’ work rules and policies.

65. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, controlled the rates and methods of pay for Plaintiffs and the putative class members, although that pay was kept by CAAIR and DARP, not Plaintiffs and the putative class members.

66. Simmons, Hendren, and the John Doe Defendants, in conjunction with CAAIR and DARP, maintained employee records pertaining to Plaintiffs and the putative class members.

IV. CLASS ACTION ALLEGATIONS

67. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

68. Plaintiffs brings this action for violation of the AMWA as a class action under Rule 23 of the *Arkansas Rules of Civil Procedure*. The first class is comprised of individuals who were, are, or will be CAAIR participants from October 20, 2014 until the present who worked in the State of Arkansas during their time at CAAIR. The second class is comprised of individuals who were, are, or will be DARP participants from October 20, 2014 until the present who worked in the State of Arkansas during their time at DARP.

69. Members of the putative classes are so numerous that joinder of all such members is impracticable. The exact size of the putative classes is unknown, but may be determined from records maintained by Defendants. CAAIR and DARP each employed hundreds of individuals who worked for employers located in Arkansas. Former employees are also included as putative class members.

70. There are common questions of law and fact applicable to the putative classes with respect to liability, relief, and anticipated affirmative defenses. Common questions of law and fact include, but are not limited to, whether Defendants failed to pay Plaintiffs and putative class members minimum wage for all hours worked; whether

Defendants' compensation policies and practices are illegal; whether injunctive relief is available to force Defendants into compliance, whether Defendants have acted willfully or in good faith; whether Defendants subjected Plaintiffs and the putative class to involuntary servitude; whether Plaintiffs and members of the putative class are entitled to liquidated damages, penalties, and attorneys' fees and costs; and whether Defendants have complied with the AMWA's record-keeping obligations.

71. Plaintiffs are typical of the putative class. Like all other putative class members, Plaintiffs were subject to Defendants' common policy and practice of not paying them for all compensable work to which they were entitled under Arkansas law.

72. Plaintiffs will fairly and adequately protect the interest of the putative classes. They have no conflicts with putative class members and have suffered the same injury as members of the putative class. Plaintiffs' counsel possess the requisite resources and experience in class action litigation to adequately represent Plaintiffs in prosecuting the claims here.

73. Defendants have acted or refused to act on grounds generally applicable to the putative classes, making appropriate declaratory and injunctive relief with respect to Plaintiffs and the putative class as a whole. Plaintiffs and members of the putative classes are entitled to injunctive relief to end Defendants' common and uniform practice of failing to properly compensate them for all hours worked.

74. The questions of law and fact common to Plaintiffs and members of the putative classes predominate over any question affecting only individual class members,

and a class action is superior to other available methods for the fair and efficient adjudication of this controversy.

**V. COUNT I:
AMWA: FAILURE TO PAY MINIMUM WAGE**

75. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

76. At all relevant times, Plaintiffs and members of the putative classes were entitled to the rights, protections, and benefits provided under the AMWA.

77. At all relevant times, Plaintiffs and members of the putative class were “employees” of Defendants, as defined by Ark. Code Ann. § 11-4-203(3).

78. At all relevant times, Defendants were the “employers” of Plaintiffs and members of the putative classes, as defined by Ark. Code Ann. § 11-4-203(4).

79. Ark. Code Ann. § 11-4-210(a) provides that “beginning October 1, 2006, every employer shall pay each of his or her employees wages at the rate of not less than six dollars and twenty-five cents (\$6.25) per hour except as otherwise provided in this subchapter. Beginning January 1, 2015, every employer shall pay his or her employees wages at the rate of not less than seven dollars and fifty cents (\$7.50) per hour, beginning January 1, 2016, the rate of not less than eight dollars (\$8.00) per hour, and beginning January 1, 2017, the rate of not less than eight dollars and fifty cents (\$8.50) per hour, except as otherwise provided in this subchapter.” Ark. Code Ann. § 11-4-210(a)(1)-(2).

80. At all relevant times, Defendants, pursuant to their policies and practices, failed and refused to compensate Plaintiffs for work performed at the rate required by Ark. Code Ann. § 11-4-210.

81. Plaintiffs and members of the putative classes are entitled to compensation for all hours worked up to 40 per work week at the minimum wage set by Arkansas law. From October 1, 2006 until December 31, 2014, that minimum rate was \$6.25 per hour. From January 1, 2015 until December 31, 2015, that minimum rate was \$7.50 per hour. From January 1, 2016 until December 31, 2016, that minimum rate was \$8.00 per hour. Since January 1, 2017, that minimum rate is \$8.50 per hour.

82. Defendants have willfully violated and continue to violate the AMWA by failing to pay putative class members for all hours worked up to 40 per work week at least the minimum rate prescribed therein.

83. Defendants have failed and continue to fail to make, keep, and preserve records with respect to each of its employees sufficient to determine their wages, hours, and other conditions and practices of employment, in violation of Ark. Code Ann. § 11-4-217.

84. Defendants have willfully violated and continue to violate the above provisions by failing to pay putative class members for all hours worked up to 40 per work week at least the minimum rate prescribed therein.

85. Plaintiffs and members of the putative classes have sustained damages as a result of Defendants' violation of the AMWA.

86. Defendants' violations entitle Plaintiffs and members of the putative class to liquidated damages pursuant to Ark. Code Ann. § 11-4-218(a)(2) in an amount equal to Plaintiffs' and the putative class' compensatory damages.

87. Plaintiffs and members of the putative classes are entitled to an award of attorneys' fees and costs pursuant to Ark. Code Ann. § 11-4-218(a)(1)(B)(ii).

88. Defendants, as joint employers, are jointly and severally liable to Plaintiffs and the putative class members for unpaid wages, liquidated damages, interest, expenses, attorneys' fees, and costs.

**VI. COUNT II:
AMWA: FAILURE TO PAY OVERTIME**

89. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

90. At all relevant times, Plaintiffs and members of the putative classes were entitled to the rights, protections, and benefits provided under the AMWA.

91. At all relevant times, Plaintiffs and members of the putative class were "employees" of Defendants, as defined by Ark. Code Ann. § 11-4-203(3).

92. At all relevant times, Defendants were the "employers" of Plaintiffs and members of the putative classes, as defined by Ark. Code Ann. § 11-4-203(4).

93. Ark. Code Ann. § 11-4-211(a) provides that "no employer shall employ any of his or her employees for a work week longer than forty (40) hours unless the employee receives compensation for his or her employment in excess of the hours above specified

at a rate not less than one and one-half (1 ½) times the regular rate of pay at which he or she is employed.”

94. At all relevant times, Defendants, pursuant to their policies and practices, failed and refused to compensate Plaintiffs for work performed at the rate required by Ark. Code Ann. § 11-4-211.

95. Plaintiffs and members of the putative classes are entitled to compensation for all hours worked in excess of 40 per work week at a rate not less than one-and-a-half times their regular rate of pay.

96. Defendants have willfully violated and continue to violate the AMWA by failing to pay putative class members for all hours actually worked at the rate prescribed therein.

97. Defendants have failed and continue to fail to make, keep, and preserve records with respect to each of its employees sufficient to determine their wages, hours, and other conditions and practices of employment, in violation of Ark. Code Ann. § 11-4-217.

98. Defendants have willfully violated and continue to violate the above provisions by failing to pay one-and-a-half times the regular rate of pay for compensable work in excess of 40 hours in a work week.

99. Plaintiffs and members of the putative classes have sustained damages as a result of Defendants’ violation of the AMWA.

100. Defendants' violations entitle Plaintiffs and members of the putative class to liquidated damages pursuant to Ark. Code Ann. § 11-4-218(a)(2) in an amount equal to Plaintiffs' and the putative class' compensatory damages.

101. Plaintiffs and members of the putative classes are entitled to an award of attorneys' fees and costs pursuant to Ark. Code Ann. § 11-4-218(a)(1)(B)(ii).

102. Defendants, as joint employers, are jointly and severally liable to Plaintiffs and the putative class members for unpaid wages, liquidated damages, interest, expenses, attorneys' fees, and costs.

**VII. COUNT III:
INVOLUNTARY SERVITUDE IN VIOLATION OF ARK. CONST. ART. 2, § 27**

103. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

104. At all relevant times, Plaintiffs and members of the putative classes were entitled to the rights, protections, and benefits provided under the Arkansas Constitution, including Article 2, § 27's prohibition on slavery and involuntary servitude.

105. As explained above, Defendants held Plaintiffs and putative class members in involuntary servitude by falsely holding themselves out as a "drug and alcohol recovery program," forcing them to work long hours under harsh conditions, without pay, and under the constant threat of being sent to jail.

106. CAAIR and DARP provided their charges to be exploited by Simmons, Hendren, and the John Doe Defendants. CAAIR and DARP reaped the benefits of Plaintiffs and the putative class members' labor by collecting all of the wages earned by

those employees, collectively generating millions of dollars in revenue and paying their officers hundreds of thousands of dollars in annual salary.

107. Simmons, Hendren, and the John Doe Defendants profited from that relationship by paying lower wage rates and using threats of incarceration to coerce Plaintiffs and putative class members into performing the type of work many employees would not perform.

108. As a result, CAAIR, DARP, Simmons, Hendren, and the John Doe Defendants together orchestrated a pervasive scheme of slavery in which each entity and their officers profited from CAAIR and DARP's large, coerced labor force, and are therefore jointly and severally liable for the violations complained of herein.

109. As such, Defendants directed, assisted, conspired, and acted in concert with each other and perpetuated a system of involuntary servitude prohibited by the Arkansas Constitution.

110. As a direct and proximate result of these actions, Plaintiffs and putative class members have suffered economic losses.

111. As a direct and proximate result of these actions, Plaintiffs have suffered pain and suffering.

112. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered lost income and lost employment opportunities.

113. Plaintiffs and putative class members are entitled to recover damages in an amount to be proven at trial, including attorneys' fees and costs, and punitive damages.

**VIII. COUNT IV:
VIOLATION OF ARK. CODE ANN. § 16-123-105
ARKANSAS CIVIL RIGHTS ACT**

114. Plaintiffs incorporate by reference the preceding paragraphs as if they were fully set forth herein.

115. Under the Arkansas Civil Rights Act, any person who under color of any statute, ordinance, regulation, custom, or usage of any political subdivision deprives an individual of any rights, privileges, and immunities secured by the Arkansas Constitution shall be liable for legal and equitable relief. Ark. Code Ann. § 16-123-105.

116. At all relevant times, Plaintiffs and members of the putative classes were entitled to the rights, protections, and benefits provided under the Arkansas Constitution, including Article 2, § 27's prohibition on slavery and involuntary servitude.

117. As explained above, Defendants held Plaintiffs and putative class members in involuntary servitude by falsely holding themselves out as a "drug and alcohol recovery program," forcing them to work long hours under harsh conditions, without pay, and under the constant threat of being sent to jail.

118. CAAIR and DARP provided their charges to be exploited by Simmons, Hendren, and the John Doe Defendants. CAAIR and DARP reaped the benefits of Plaintiffs and the putative class members' labor by collecting all of the wages earned by those employees, collectively generating millions of dollars in revenue and paying their officers hundreds of thousands of dollars in annual salary.

119. Simmons, Hendren, and the John Doe Defendants profited from that relationship by paying lower wage rates and using threats of incarceration to coerce

Plaintiffs and putative class members into performing the type of work many employees would not perform.

120. As a result, CAAIR, DARP, Simmons, Hendren, and the John Doe Defendants together orchestrated a pervasive scheme of slavery in which each entity and their officers profited from CAAIR and DARP's large, coerced labor force, and are therefore jointly and severally liable for the violations complained of herein.

121. As such, Defendants directed, assisted, conspired, and acted in concert with each other and perpetuated a system of involuntary servitude prohibited by the Arkansas Constitution.

122. As a direct and proximate result of these actions, Plaintiffs and putative class members have suffered economic losses.

123. As a direct and proximate result of these actions, Plaintiffs have suffered pain and suffering.

124. As a direct and proximate result of Defendants' conduct, Plaintiffs suffered lost income and lost employment opportunities.

125. Plaintiffs and putative class members are entitled to recover damages in an amount to be proven at trial, including attorneys' fees and costs, and punitive damages.

IX. PRAYER FOR RELIEF

126. WHEREFORE, Plaintiffs, on behalf of themselves and all members of the putative class, respectfully request this Court:

- a. Certify this action as a class action on behalf of the proposed class pursuant to Ark. R. Civ. P. 23, with one class defined as:

All individuals who were, are, or will be CAAIR participants from October 20, 2014 until the present, and worked in the State of Arkansas for employers located in Arkansas during their time at CAAIR.

b. Certify this action as a class action on behalf of the proposed class pursuant to Ark. R. Civ. P. 23, with another class defined as:

All individuals who were, are, or will be DARP participants from October 20, 2014 until the present, and worked in the State of Arkansas for employers located in Arkansas during their time at DARP.

c. Designate Plaintiffs as Representative of the Classes;

d. Appoint Holleman & Associates, P.A. as class counsel;

e. Enter a declaratory judgment that the practices complained of herein are unlawful under Arkansas law;

f. Enter a permanent injunction, restraining and preventing Defendants from withholding the compensation that is due to Plaintiffs, from retaliating against any Plaintiff for taking part in this action, and from further violation of their rights under the law;

g. Enter an order for a complete and accurate accounting of all the compensation to which Plaintiffs and the putative class members are entitled;

h. Enter judgment against Defendants for an amount equal to the unpaid back wages of Plaintiffs and others similarly situated at the applicable minimum wage and overtime rates. The damages continue for a period from three (3) years prior to the filing of this Complaint to the date of trial;

- i. Enter judgment against Defendants for liquidated damages equal to the amount of compensatory damages;
- j. Find that Defendants' violations of the AMWA were willful;
- k. Grant Plaintiffs all recoverable costs, expenses, and attorneys' fees incurred in prosecuting these claims, together with all applicable interest and punitive damages; and
- l. Grant Plaintiffs all such further relief as the Court deems just and appropriate.

X. JURY DEMAND

Plaintiffs demand a jury trial on all issues so triable.

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Respectfully Submitted,



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