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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

NEW JERSEY STAFFING ALLIANCE, NEW
JERSEY BUSINESS and INDUSTRY
ASSOCIATION and AMERICAN STAFFING
ASSOCIATION,

Plaintiffs,

v.

STATE OF NEW JERSEY, ROBERT ASARO-
ANGELO, COMMISSIONER OF LABOR AND
WORKFORCE DEVELOPMENT, NEW JERSEY
DEPARTMENT OF LABOR AND WORKFORCE
DEVELOPMENT, CARI FAIS, ACTING
DIRECTOR OF THE NEW JERSEY DIVISION
OF CONSUMER AFFAIRS IN THE
DEPARTMENT OF LAW AND PUBLIC
SAFETY, NEW JERSEY DIVISION OF
CONSUMER AFFAIRS IN THE DEPARTMENT
OF LAW AND PUBLIC SAFETY,

Defendants.

Civil Action No.

COMPLAINT

Plaintiffs, New Jersey Staffing Alliance, New Jersey Business and Industry Association and American Staffing Association, by way of complaint against the

defendants, State of New Jersey, Robert Asaro-Angelo, Commissioner of Labor and Workforce Development, New Jersey Department of Labor and Workforce Development, Cari Fais, Acting Director of The Division Of Consumer Affairs in The Department of Law and Public Safety, New Jersey Division of Consumer Affairs in the Department of Law and Public Safety, say that:

INTRODUCTION

1. This Complaint challenges the validity of N.J.S.A. §34:8D-1 et seq. ("the Legislation") which greatly impacts the Plaintiffs, associations whose members consist of or include individuals or entities which provide temporary laborers to their clients. The Legislation is unconstitutional in several respects. The Legislation violates the dormant Commerce Clause and the Privileges and Immunities Clause under the United States Constitution. The Legislation also singles out temporary labor providers and violates the Equal Protection Clause under the Constitutions of the United States and the State of New Jersey. The Legislation further is unconstitutionally vague and unreasonably exercises police power. As such, the Legislation violates Plaintiffs' rights to due process under the United States and New Jersey Constitutions. Plaintiffs have asserted a federal civil rights cause of action against defendants, pursuant to 42 U.S.C. §1983, *et seq.* Plaintiffs further assert a claim under the New Jersey Civil Rights Act.

2. The Legislation, if allowed to be implemented and enforced, will lead to insurmountable problems, resulting in paralysis within the temporary staffing industry. Additionally, an objective of the Legislation, to raise the wages of temporary staffing employees, is not met. The Legislation simply does not ensure a higher wage.

JURISDICTION

3. This case arises under the Constitution and laws of the United States, including violations of the rights to equal protection and due process under the Fourteenth Amendment to the United States Constitution and the Commerce Clause and the Privileges and Immunities Clause, and is actionable pursuant to 42 U.S.C. §1983, *et seq.* This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §1331 and 28 U.S.C. §1343.

VENUE

4. Venue is proper in this Court pursuant to U.S.C. §1331(b)(1) and (2).

THE PARTIES

Plaintiffs

5. Plaintiff, New Jersey Staffing Alliance ("NJSA") was founded in 1960 as the advocate for the success and growth of NJSA members in the New Jersey staffing industry through leadership in legislation, education, ethics and professional practices. Members of the NJSA invest time and money in helping to train workers to meet New Jersey businesses' needs through improving workers' skills.

6. Temporary employees are employed by NJSA members, namely temporary staffing firms, which cover workers' compensation, unemployment insurance, temporary disability and other business insurance needs.

7. NJSA member firms work with third-party clients, to bring highly skilled and qualified candidates for short or long-term placement.

8. The NJSA is a not-for-profit organization. The purposes and objectives of the NJSA are to promote and encourage high standards of ethical practices of temporary staffing firms in the State of New Jersey, to protect the interests of the temporary staffing industry with respect to legislation and regulatory proposals; to advance the knowledge of temporary staffing service organizations; to promote the positive public image and publicity within the temporary staffing industry and the general public regarding temporary staffing service organizations; to provide information regarding laws and regulations applying to temporary staffing service organizations, especially those protecting the welfare of employees; and to foster a better public understanding of the temporary staffing industry.

9. The NJSA presently has 60 staffing agency members and 40 other partners in its membership.

10. Plaintiff, New Jersey Business and Industry Association ("NJBIA") provides information, services and advocacy to its member companies to build a more prosperous New Jersey. Founded in 1910 as the New Jersey Manufacturers Association, this organization seeks to have a say in government policies affecting businesses. Today, NJBIA members represent every industry in the State of New Jersey. This includes contractors, manufacturers, retail and wholesale business, and service providers of every kind.

11. The NJBIA staff of government affairs experts testify frequently before the Legislature and State Agencies of the State of New Jersey to protect the interests of NJBIA members.

12. The NJBIA exists to advance the competitive excellence and financial success of members by delivering essential information and services; championing a competitive business climate locally and globally; and facilitating partnerships between business, government and academia.

13. The NJBIA helps New Jersey employers understand and respond to employment and labor laws affecting their businesses. NJBIA members receive timely updates about changes in laws affecting business.

14. Plaintiff, American Staffing Association ("ASA") and its state affiliates advance the interests of the staffing industry through advocacy, research, education and the promotion of high standards of legal, ethical and professional practices. ASA began in 1966 as the Institution of Temporary Services in Washington, D.C. Its mission from inception through the present is to advance the interests of the staffing industry and to promote flexible employment opportunities for individuals.

15. The ASA provides the staffing industry with a strong national voice and educates policy makers regarding the unique attributes of the staffing business, so that even well-intended legislative or regulatory proposals do not impede the ability of staffing agencies to serve their clients' and employees' vital needs.

16. ASA has members throughout the United States and promotes the interests of the industry and its members nationwide.

17. The ASA presently has sixty-six member staffing organizations in New Jersey.

Defendants

18. Defendant State of New Jersey is a State of the United States and operates by virtue of its divisions and/or departments or branches of government. The Legislation was passed by the New Jersey Legislature and signed into law by the Governor of the State of New Jersey on February 6, 2023.

19. Defendant Robert Asaro-Angelo, as Commissioner of Labor and Workforce Development, is charged by the Legislation with its implementation and/or enforcement.

20. Defendant Cari Fais, as Acting Director of Consumer Affairs in the Department of Law and Public Safety, is charged by the Legislation with its implementation and/or enforcement.

21. Defendant Department of Labor and Workforce Development is an agency of the State of New Jersey charged with the implementation and enforcement of the Legislation.

22. Defendant Division of Consumer Affairs in the Department of Law and Public Safety is an agency of the State of New Jersey charged with the implementation and enforcement of the Legislation.

THE TEMPORARY STAFFING INDUSTRY

23. The temporary staffing industry services a significant segment of the United States economy and services a wide array of businesses and industries. The temporary staffing industry is a significant component to the United States economy.

24. The temporary staffing industry nationwide has provided job opportunities for about 16 million employees per year in the pre-pandemic time period and approximately 13.6 million employees during the pandemic. Approximately 3 million temporary and contract employees work for American staffing companies during an average week. During the course of a year, American staffing companies hire 16 million temporary and contract employees.

25. Approximately 73% of temporary staffing employees work full-time, which is comparable to the overall United States workforce of 75% full-time employees. More than six in ten staffing employees (64%) work in the staffing industry to fill in the gap between jobs or to help them land a job.

26. Furthermore, one in five (20%) of temporary staffing employees cite scheduling flexibility as the reason choosing temporary/contract work.

27. Temporary staffing employees work in virtually all occupations and industries. Temporary staffing employees work as follows:

- 36% industrial
- 24% office/clerical and administrative
- 21% professional/managerial
- 11% engineering, information technology and scientific
- 8% healthcare

28. Temporary staffing companies provide temporary employees to third-party clients to service client needs. Third-party clients often need short-term labor on short notice to complete a project, and they may lack the necessary time and manpower

to interview, hire and complete the administrative paperwork to secure new employees. Temporary staffing companies fill this void by providing temporary laborers that the staffing companies have already recruited and vetted, and for whom the staffing companies complete all the required paperwork, administration and human resources function, and who are assigned to third-party clients to perform services under the clients' direct supervision.

29. Without the assistance of staffing companies and the laborers they provide, many third-party clients (particularly small ones), could not economically compete in the marketplace. Temporary staffing companies, as the primary employers of the temporary workers, have responsibility for addressing all administrative matters, such as paying the workers' wages, obtaining and maintaining appropriate workers' compensation insurance, attending to unemployment insurance obligations, performing payroll services, and withholding and paying all applicable taxes.

30. The third-party client determines the workers' daily work hours and their specific job duties.

31. Temporary staffing companies charge third-party clients for their services by submitting an invoice. The invoice covers the temporary staffing companies' costs of finding, recruiting and vetting the employees, in addition to taking care of all employer obligations such as paying the employees' wages and related taxes, providing workers' compensation and unemployment insurance, the general and administrative expenses of operating its business, plus a profit element.

32. Third-party clients are willing to pay the temporary staffing companies more than they would pay a worker directly in return for the flexibility of obtaining labor only as needed and to avoid the administrative burden of recruiting and hiring workers to their own payroll when the worker may be employed on a project for only a few days.

THE TEMPORARY STAFFING INDUSTRY IN NEW JERSEY

33. The temporary staffing industry provides significant employment contribution to the workplace in the State of New Jersey. Temporary staffing companies employed over 510,000 workers in New Jersey in 2021. The highest temporary help occupation groups in New Jersey have been transportation and material moving (38%), office and administrative support (14%), production (10%), healthcare practitioners and technical (7%) and business and financial operations (6%).

THE LEGISLATION

34. The Legislation was enacted on February 6, 2023. Some sections of the Legislation become effective on May 7, 2023. Other sections become effective on August 5, 2023.

35. The Legislation defines a "Temporary laborer" as a person who contracts for employment in a designated classification placement with a "temporary help service firm" excluding certain agricultural crew leaders. N.J.S.A. 34-8D-2.

36. The Legislation defines "temporary help service firm" as a person or entity who operates a business which consists of employing individuals directly or indirectly for the purpose of assigning the employed individuals to assist the firm's customer's

temporary, excess or special work-loads, and who pay social security taxes, federal and state unemployment insurance, and carry workers compensation insurance. Ibid.

37. Plaintiffs are associations whose members include persons or entities who are temporary help service firms as defined by the statute.

38. The definition of "temporary help service firm" is broad enough to include persons or entities outside the State of New Jersey.

39. The Legislation defines "third party client" as any person who contracts with a temporary help service firm for obtaining temporary laborers in a "designated classification placement". The definition expressly excludes the State or its subdivisions. Ibid.

40. The Legislation's definition of "temporary laborer" is broad enough to include individuals employed by a New Jersey temporary help service firm provided to an out of state third-party client.

41. The Legislation's definition of "third party client" is broad enough to include entities located outside the State.

42. The Legislation defines "designated classification placement" as an assignment of a temporary worker by a temporary help service firm to perform work in identified occupational categories, as designated by the federal Bureau of Labor Statistics including: Other Protective Service Workers, Food Preparation and Serving Related Occupations, Building and Grounds Cleaning and Maintenance Occupations, Personal Care and Service Occupations, Construction Laborers, Helpers, Construction

Trades, Installation, Maintenance and Repair Occupations, Production Occupations and Transportation and Material Moving Occupations. Ibid.

43. Plaintiffs' members' assigned workers include designated classification placements.

44. The Legislation imposes on a temporary help service firm which sends a temporary laborer into a Designated classification placement, to supply, in a form approved by the commissioner, information related to the identity of the temporary laborer; information related to the temporary help service firm, including the identity of the firm and contact information; its workers' compensation carrier; the work site employer or third party client and Department of Labor and Workforce Development; the name and nature of the work to be performed; the wages offered; the name and address of each temporary work site; transportation details, if applicable; details regarding the nature of the position and whether special clothing, protective equipment or training is required; information regarding needs and equipment; the schedule of multi-day assignments; the length of the assignment; and sick leave. N.J.S.A. 34:8D-3(a)(1)-(11).

45. Violation of the foregoing carriers a civil penalty of \$500 to \$1,000 for each violation. N.J.S.A. 34:8D-3(d).

46. N.J.S.A. §34-8D-4 imposes record keeping and maintaining requirements upon temporary help service firms including: (1) information related to the third party client and each work-site and the date of the transaction; (2) the name, address and specific location sent to work, the type of work performed, the number of hours

worked, the hourly rate of pay and the date sent. (Information required by this subsection is required to be sent by the third party client to the temporary help provider no later than seven days after the last day of work); (3) the name and address of the individual at each third party client's place of business responsible for the transaction; (4) any special qualifications or attributes requested by each third party client; (5) copies of contracts with the third party client; (6) copies of notices required by subsection 3(a); and (7) details regarding deductions. The same Section requires records be kept for 6 years. Violation of the subsection subjects the temporary help service firm and the third party client to a penalty.

47. N.J.S.A. 34:4D-5 precludes a temporary help service or a third-party client from charging a temporary laborer for transportation to the work site.

48. N.J.S.A. 34:8D-6 requires that a temporary help service firm provide a temporary laborer certain information at the time of payment of wages. The same section requires that the third-party client, at the end of the work day, provide the temporary laborer a verification form with required information, including the company worker's name, work location, and hours worked. Failure to comply carries a civil penalty for each violation.

49. Subsection (b) of N.J.S.A. 34:8D-6 prohibits a third-party client from withholding or diverting wages, for any reason, except as authorized by the section.

Subsection (g) of N.J.S.A. 34:8D-6 requires a temporary help service firm to pay a temporary worker for four hours work if the worker is contracted to work at a third-

party client's work site but is not utilized by the third party client or, a minimum of two hours if the temporary laborer is sent to another location.

50. Subsection (h) of N.J.S.A. 34:8D-6 requires a third-party client to reimburse a temporary help service firm for the wages and related payroll taxes of a temporary laborer in accordance with payment hours outlined in invoices, service agreements or stated terms. Failure to do so subjects the third-party client to penalties.

51. N.J.S.A. 34:8D-7(a)(1), (2) restricts the amount of a placement fee a temporary help service firm may charge a third-party client which offers a permanent position to a temporary laborer.

52. Pursuant to Subsection (b) or N.J.S.A. 34:8D-7:

Any temporary laborer assigned to work at a third party client in a designated classification placement shall not be paid less than the average rate of pay and average cost of benefits, or the cash equivalent thereof, of employees of the third party client performing the same or substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions for the third party client at the time the temporary laborer is assigned to work at the third party client. Each violation of this subsection for each affected temporary laborer shall constitute a separate violation under section 11 of P.L. 2023, c.10 (C.34:8D-11).

Section (c) imposes a \$5,000 civil penalty for violation of Section 7. Subsection (d) makes the third party client jointly and severally liable for the violation.

IMPACTS TO NJSA, NJBIA, ASA AND THEIR MEMBERS

55. NJSA, NJBIA, ASA and their members, have already been concretely harmed by the Legislation -- and will continue to be harmed -- by virtue of the Legislation. The Legislation has required the diversion of resources to counteract the provisions which are unconstitutional. The Legislation contains significant and oppressive provisions, including record-keeping requirements, record-producing requirements, pay requirements and placement fee limitations. Plaintiffs have spent time and costs toward understanding, discussing and educating member companies about the Legislation.

56. The Legislation has caused the diversion of resources for Plaintiffs even to understand, much less implement, these unique requirements. That is because the Legislation contains requirements which, to Plaintiffs' knowledge, exist nowhere else in the United States, thereby placing New Jersey law and regulations in conflict with other states' legal requirements. The Legislation requires that temporary staffing employees be paid the average pay and benefits or monetary equivalent of similarly situated employees of the third-party clients. The meaning of this Legislation has proven difficult, if not impossible, to discern and, as members have indicated, would be extraordinarily burdensome, if not impossible to implement.

57. The mission of Plaintiffs are frustrated by the operation of the Legislation. That is due, among other things, to the dramatic difference between the Legislation and the regulation of a staffing industry nationwide. There is and can be no uniformity

among practices and staffing companies in light of the Legislation. The temporary staffing companies both inside and outside of New Jersey which operate inside of New Jersey, are further subject to these requirements.

58. Plaintiffs' members have reported that the new requirements of record-keeping, record-producing, payment requirements and placement fee caps will cause an extraordinary burden and expenditure on members to meet these requirements. Those financial burdens associated with each of these new, unique requirements are contrary to regulations in any other industry. New Jersey members assign workers to third-party clients outside the State of New Jersey. Out-of-State members provide workers to third-party clients in New Jersey. The temporary staffing employees of members are the very type of workers covered by the Legislation.

59. The Legislation is a threat to the continued operation of the temporary staffing industry itself as a whole in New Jersey. Plaintiffs will undoubtedly lose members as a result of the Legislation. The Legislation will put members out of business. The amount of time and labor that will be spent with regard to compliance with this Legislation will in all probability be cost prohibitive and ultimately destroy the temporary staffing industry in New Jersey.

60. As previously stated, the Legislation contains significant and oppressive provisions, including record keeping requirements, record producing requirements, pay requirements and placement fee limitations that will force financial and administrative unconstitutional burdens on every staffing agency in New Jersey. The Legislation requires that temporary staffing employees be paid the average pay and

benefits or monetary equivalent of similarly situated employees of the third-party clients. While there are many provisions in the Legislation that create significant difficulties, this provision creates the most egregious impact.

61. There are so many factors that make N.J.S.A. 34:8D- 7.b. of the Legislation problematic. For one, computation of the amount to be paid to the temporary staffing employee is impossible to calculate accurately. Section 7.b. provides, “Any temporary worker assigned to work at a third-party client in a designated classification placement shall not be paid less than the average rate of pay and average cost of benefits, or the cash equivalent thereof, of employees of the third-party client performing the same or substantially similar work on jobs the performance of which requires equal skill, effort, and responsibility, and which are performed under similar working conditions for the third-party client at the time the temporary laborer is assigned to work at the third-party client.”

62. This provision in and of itself can bring the temporary staffing industry in New Jersey to a halt. This provision requires and assumes significant cooperation to be provided by the third-party client, and this provision assumes that the third-party client is willing to share its pay scale information with the temporary staffing agency. Those assumptions are not accurate.

63. There is no guidance whatsoever in the Legislation for determining whether work is the same or substantially similar to the work performed by the employees of the third-party client. To enable temporary service firms to make such a determination, there must be specific criteria for assessing whether the temporary job

requires "equal skill, effort, and responsibility" as the job being performed by the client's employee and whether the job is "performed under similar working conditions." Such determinations are inherently subjective. There is also no consideration for when a third-party client has no similar employees.

64. There is no consideration for pay and benefits based on length of service. There can be some long-term assignments which are often the result of a mutual decision by both the individual and the third-party client. With long-term assignments both the staffing firm and the third-party client generally will agree to issue pay rate increases periodically to these temporary laborers to encourage retention of this temporary laborer. There is no accountability for this scenario in the Legislation.

65. The Legislation requires the temporary worker to be paid the same average pay plus benefits of a third-party client employee. There is no clear definition regarding what is meant by "benefits provided to the clients' employees". There is no direction to advise if benefits include voluntary benefit plans as well as benefit plans whose costs are shared by the third-party client's employee and the third-party client.

66. The Legislation also does not provide for any factors to determine whether a job is the same or substantially similar and factors that would allow pay and benefits differentials based on differing working conditions. For example, there is no consideration for factors such as seniority, merit, quantity or quality of production, workplace location, travel, education, training, and experience. Furthermore, there is no consideration for whether the work is performed on weekends, holidays or what time of day.

FIRST COUNT

DORMANT COMMERCE CLAUSE

67. Plaintiffs repeat paragraphs 1 through 66 hereof as fully as though set forth at length herein.

68. Article 1, paragraph 1, clause 3 of the United States Constitution gives to the U.S. Congress the power "to regulate commerce . . . among the Several States . . .".

69. The Commerce Clause contains an implied limitation on the ability of States to interfere with or impose undue burdens on interstate commerce; i.e., the dormant Commerce Clause.

70. By its terms, most particularly the broad definition of third-party client, out-of-state entities are subject to the Legislation's requirements relating to, among other things, payment of a placement fee, maintenance and remitting of information, providing wage and benefit information to New Jersey temporary help service firms, and reimbursement for wages and payroll taxes.

71. The Legislation imposes a burden upon interstate commerce greater than any local benefit which it confers.

WHEREFORE, Plaintiffs demand Judgment against Defendants:

- a. Declaring the Legislation unconstitutional;
- b. Restraining Defendants from implementing or enforcing the Legislation;
- c. Damages;
- d. Reasonable attorneys' fees;

e. Such other relief as the Court deems right and just.

SECOND COUNT

DUE PROCESS-VAGUENESS

72. Plaintiffs repeat paragraphs 1 through 70 hereof as fully as though set forth at length herein.

73. The Plaintiffs and their members find the meaning of provisions of the Legislation to be unconstitutionally vague. These provisions include N.J.S.A. 34:8D-7(b), requiring the rate of pay for a temporary laborer to be no less than the average rate of pay and benefits, or the cash equivalent of employees of the third party client, performing similar functions as well as N.J.S.A. 34:8D-7(a)(1), (2), concerning limitations on placement of fees charged by temporary help service firms.

74. N.J.S.A. 34:80-7(b) and N.J.S.A. 34:8D-7(a)(1), (2) are unconstitutional under the Fourteenth Amendment to the United States Constitution and Article 1, paragraph 1 of the New Jersey Constitution because these provisions do not inform Plaintiffs with sufficient explicitness of what they must do, and puts them at risk of substantial penalties for each violation.

75. The Defendants' violation of Plaintiffs' rights to due process under the Fourteenth Amendment is actionable pursuant to 42 U.S.C. §1983, *et seq.*

76. The Defendants' violation of Plaintiffs' rights to due process under Article 1, paragraph 1, of the New Jersey Constitution is actionable under N.J.S.A. §10:6-2.

WHEREFORE, Plaintiffs demand judgment against Defendants:

- a. Declaring N.J.S.A.34-8D-7(6) and N.J.S.A. 34:8D-7(a)(1), (2) void because of unconstitutional vagueness in violation of due process;
- b. Restraining Defendants from implementing or enforcing N.J.S.A. 34:8D-7(b) and N.J.S.A. 34:8D-7(a)(1), (2);
- c. Damages;
- d. Reasonable attorneys' fees;
- e. Such other relief as the Court deems is right and just.

THIRD COUNT

DUE PROCESS-UNREASONABLE EXERCISE OF POLICE POWER

77. Plaintiffs repeat paragraphs 1 through 75 hereof as fully as though set forth at length herein.

78. In enacting the Legislation, New Jersey has exercised its police power in a way which is unreasonable.

79. The Fourteenth Amendment to the United States Constitution protects Plaintiffs from New Jersey's unreasonable exercise of its police power.

80. New Jersey's unreasonable exercise of police power is actionable under 42 U.S.C.§1983, *et seq.*

81. Article I, paragraph 1 of the New Jersey's Constitution protects Plaintiffs from an unreasonable exercise of police power.

82. New Jersey's unreasonable exercise of its police power in enacting the Legislation is actionable under N.J.S.A. 10:6-2.

WHEREFORE, Plaintiffs demand Judgment against Defendants:

- a. Declaring the Legislation unconstitutional under the United States and New Jersey Constitutions;
- b. Restraining Defendants from implementing or enforcing the Legislation;
- c. Damages;
- d. Reasonable attorneys' fees;
- e. Such other relief as the Court deems right and just.

FOURTH COUNT

**VIOLAITION OF THE RIGHT TO EQUAL PROTECTION
UNDER THE FEDERAL AND NEW JERSEY CONSTITUTIONS.**

83. Plaintiffs repeat paragraphs 1 through 81 hereof as fully as though set forth at length herein.

84. In enacting the Legislation, New Jersey has unfairly singled out the staffing industry. There is no comparable legislation affecting any other industry.

85. The Legislation contains requirements for the Staffing Industry, which exist in no other State of the United States.

86. Pursuant to The Fourteenth Amendment of the United States Constitution, Plaintiffs are entitled to equal protection under the Laws.

87. Pursuant to 42 U.S.C. §1983, *et seq.*, Plaintiffs have a right to action against Defendants for defendants' violation under color of law of Plaintiffs' right to equal protection under laws.

88. Defendants have violated Plaintiffs' right to equal protection under Article 1, paragraph 1 of the New Jersey Constitution.

89. The New Jersey Civil Rights Act, §10:6-2, provides Plaintiffs with a right of action against Defendants for Defendants' violation of Plaintiffs' rights to equal notation under the New Jersey Constitution.

WHEREFORE, Plaintiffs demand Judgment against Defendants:

- a. Declaring the Legislation unconstitutional under the United States and New Jersey Constitutions;
- b. Restraining Defendants from implementing or enforcing the Legislation;
- c. Damages;
- d. Reasonable attorneys' fees;
- e. Such other relief as the Court deems right and just.

FIFTH COUNT

VIOLATION OF PRIVILEGES AND IMMUNITIES CLAUSE

90. Plaintiffs repeat paragraphs 1 through 88 hereof as fully as though set forth at length herein.

91. The Fourteenth Amendment to the United States Constitution provides that "No State shall make any law which shall abridge the privileges and immunities of citizens of the United States"

92. The Legislation, as applied to non-New Jersey temporary staffing providers who provide temporary laborers to New Jersey work sites, violates the Privileges and Immunities Clause of the Fourteenth Amendment.

93. The Defendants' violation of the Privileges and Immunities Clause is actionable under 42 U.S.C. §1983, *et seq.*

WHEREFORE, Plaintiffs demand Judgment against Defendants:

- a. Declaring the Legislation unconstitutional under the United States and New Jersey Constitutions;
- b. Restraining Defendants from implementing or enforcing the Legislation;
- c. Damages;
- d. Reasonable attorneys' fees;
- e. Such other relief as the Court deems right and just.

SIXTH COUNT

FEDERAL CIVIL RIGHTS ACT (42 U.S.C §1983, *et seq.*)

94. Plaintiffs repeat paragraphs 1 through 92 hereof as fully as though set forth at length herein.

95. By virtue of the Legislation's unconstitutionality, in numerous respects, Plaintiffs have causes of action under the Federal Civil Rights Act (42 U.S.C. §1983, *et seq.*) for deprivation of rights as the Commissioner of Labor and Workforce Development and the Acting Director of the New Jersey Division of Consumer Affairs stand ready, willing and able to enforce and actively threaten to enforce the Legislation.

96. Plaintiffs' rights have been deprived, entitling them to relief.

WHEREFORE, Plaintiffs demand Judgment against Defendants:

- a. Declaring the Legislation unconstitutional under the United States and New Jersey Constitutions;
- b. Restraining Defendants from implementing or enforcing the Legislation;
- c. Damages;
- d. Attorneys' fees and costs pursuant to 42 U.S.C. §1988;
- e. Such other relief as the Court deems right and just.

SEVENTH COUNT

NEW JERSEY CIVIL RIGHTS ACT (N.J.S.A. 10:6-2)

97. Plaintiffs repeat paragraphs 1 through 95 hereof as fully as though set forth at length herein.

98. By virtue of the Legislation's unconstitutionality under the United States and New Jersey Constitutions, Plaintiffs have causes of action under the New Jersey Civil Rights Act.

99. Plaintiffs' rights have been deprived entitling them to relief.

WHEREFORE, Plaintiffs demand Judgment against Defendants:

- a. Declaring the Legislation unconstitutional under the United States and New Jersey Constitutions;
- b. Restraining Defendants from implementing or enforcing the Legislation;

- c. Damages;
- d. Attorneys' fees and costs;
- e. Such other relief as the Court deems right and just.

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