1		Honorable Judge Richard A. Jones			
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6	UNITED STATES DISTRICT COURT				
7	FOR THE WESTERN DISTRICT OF WASHINGTON				
8	BRIAN MARTIN, individually and on behalf of all				
9	others similarly situated,	Case No.: 2:19-cv-00514-RAJ			
10	Plaintiff,	ANSWERS AND DEFENSES			
11					
12	JOHNSON CONTROLS FIRE PROTECTION, LP, a foreign limited partnership,				
13	Defendant.				
14	Defendant Johnson Controls Fire Protection, L.P. ("Defendant") by and through its attorneys,				
15					
16	responds to the Complaint as follows:				
17	I. PARTIES & JURISDICTION				
18	1.1. It admits the allegations contained in Parag	graph 1.1 of the Complaint.			
19 20	1.2. It denies the allegations contained in Paragraph 1.2 of the Complaint, except to				
20 21	admit that it is a Delaware limited partnership having its principal place of business in Boca Raton,				
21	Florida.				
22	1.3. It admits the allegations contained in Parag	graph 1.3 of the Complaint.			
24	1.4. It responds that the allegations contained in Paragraph 1.4 of the Complaint amount				
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26	to conclusions of law which it is not required to answer, and leaves Plaintiff to his proofs.				
	Defendant denies any remaining allegations in this paragr	apii.			
		AVING MACH OMOAK & OTEMADT D.C.			

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1.5. It responds that the allegations contained in Paragraph 1.5 of the Complaint amount to conclusions of law which it is not required to answer, and leaves Plaintiff to his proofs. Defendant denies any remaining allegations in this paragraph.

1.6. It responds that the allegations contained in Paragraph 1.6 of the Complaint amount to conclusions of law which it is not required to answer, and leaves Plaintiff to his proofs, except to admit that Johnson Controls transacts business in King County. Defendant denies any remaining allegations in this paragraph.

II. STATEMENT OF FACTS

2.1. It admits the allegations contained in Paragraph 2.1 of the Complaint.

2.2. It denies the allegations contained in Paragraph 2.2 except to admit that, effective June 13, 2017 SimplexGrinnell, L.P. changed its name to Johnson Controls Fire Protection, L.P.

2.3. It denies the allegations contained in Paragraph 2.3 except to admit that, under the name SimplexGrinnell, L.P., Defendant signed a master contract with the Washington State Department of Enterprise Services, the terms of that agreement speak for themselves.

2.4. It admits the allegations contained in Paragraph 2.4 of the Complaint.

2.5. It denies the allegations contained in Paragraph 2.5 of the Complaint, and further denies that it has failed to pay, or has underpaid, and wages it is obligated to pay, but admits that SimplexGrinnell L.P. executed an assignment to Johnson Controls Fire Protection, L.P.

2.6. It responds that the allegations contained in Paragraph 2.6 amount to conclusions of law which it is not required to answer, except to admit that Defendant has provided services for local governments and municipal facilities in the State of Washington. Defendant denies any remaining allegations in this paragraph.

2.7. It admits the allegations contained in Paragraph 2.7 of the Complaint.

2.8. It denies the allegations contained in Paragraph 2.8 of the Complaint except to admit that Plaintiff has performed certain services in state and municipal facilities in Washington State.

2.9. It responds that the allegations contained in Paragraph 2.9 of the Complaint amount to conclusions of law which it is not required to answer, and leaves Plaintiff to his proofs. Defendant denies any remaining allegations in this paragraph.

2.10. It responds that the allegations contained in Paragraph 2.10 amount to conclusions of law which it is not required to answer, except to deny that Defendant has failed to pay Plaintiff the prevailing wage rate for any work to which the rate is applicable.

2.11. It denies the allegations contained in Paragraph 2.11 except to admit that Plaintiff has requested that Defendant pay him a prevailing wage for work for which he is not entitled to it.

2.12. It denies the allegations contained in Paragraph 2.12.

2.13. It denies the allegations contained in Paragraph 2.13.

2.14. It denies the allegations contained in Paragraph 2.14, except to admit that Defendant's employees in Washington State work more than 40 hours per week from time to time.

III. CLASS ACTION ALLEGATIONS

3.1. It is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in Paragraph 3.1 about what Plaintiff "seeks," and leaves Plaintiff to his proofs, except to deny that Plaintiff can or should represent the individuals he identifies. Defendant denies any remaining allegations in this paragraph.

3.2. It denies the allegations contained in Paragraph 3.2 of the Complaint.

- 3.3. It denies the allegations contained in Paragraph 3.3 of the Complaint.
- 3.4. It denies the allegations contained in Paragraph 3.4 of the Complaint.

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1		3.5.	It denies the allegations contained in Paragraph 3.5 of the Complaint.		
2		3.6.	It denies the allegations contained in Paragraph 3.6 of the Complaint.		
3		3.7.	It denies the allegations contained in Paragraph 3.7 of the Complaint.		
4	IV. [ALLEGED] LIABILITY				
5	A. First Classwide Cause of Action				
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7		4.1.	It repeats and reiterates each and every response previously given as if set forth		
8	fully herein.				
9		4.2.	It denies the allegations contained in Paragraph 4.2 of the Complaint, and		
10	specifically denies that it has failed to pay Plaintiff, or others, at required rates.				
11		4.3.	It denies the allegations contained in Paragraph 4.2 of the Complaint.		
12	B. Second Classwide Cause of Action				
13	B. Second Classwide Cause of Action				
14		4.4.	It repeats and reiterates each and every response previously given as if set forth		
15	fully herein.				
16		4.5.	It denies the allegations contained in Paragraph 4.5 of the Complaint.		
17		4.6.	It denies the allegations contained in Paragraph 4.6 of the Complaint.		
18			V. <u>PRAYER FOR RELIEF</u>		
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21	factual allegations that require a response from Defendant. To the extent that the allegations				
22	contained in Plaintiff's Prayer for Relief section asserts or implies any wrongdoing by Defendant,				
23	or that Plaintiff is entitled to any form of relief, such allegations are expressly denied.				
24	AFFIRMATIVE AND OTHER DEFENSES				
25	Defendant asserts the following affirmative and other defenses, each as a separate and				
26	distinct defense to Plaintiff's alleged causes of action as well as to the entire Complaint. Defendant				

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does not assume the burden of any defense asserted that is adjudged not to be an affirmative defense.

1. The Complaint and each purported cause of action therein, Defendant alleges that Plaintiffs have failed to state facts sufficient to constitute a cause of action.

2. An award of damages to Plaintiff would violate due process because Defendant lacks fair notice from the State regarding what types of work require the payment of prevailing wages and what terms govern its payment of prevailing wages.

3. Plaintiff's claims are preempted, in whole or in part, by federal law.

4. The claims asserted by Plaintiff in the Complaint, and/or on behalf of each member of the purported class Plaintiff purports to represent, are barred by failure to exhaust administrative remedies.

5. Plaintiff's claims are barred because he has failed to, and cannot, satisfy the requirements necessary to maintain a class action, including, without limitation: (i) an adequate class definition; (ii) ascertainability; (iii) numerosity; (iv) commonality; (v) typicality; (vi) adequacy (both of the proposed representatives and proposed class counsel); and (vii) either that (a) separate adjudications are inappropriate, (b) declaratory or injunctive relief is appropriate or (c) predominance of common questions and superiority of class action.

6. Defendant acted at all times on the basis of a good faith, reasonable belief that it was in compliance with law.

7. The claims asserted by Plaintiff, and/or on behalf of each member of the purported class Plaintiff purports to represent, are barred in whole, or in part, by Defendant's good faith reliance upon its governing contract with the Washington Department of Labor as well as written guidelines, coverage determinations, interpretations, and rules promulgated by the Washington

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Department of Labor regarding the application of the Washington Prevailing Wage Act.

8. Neither Plaintiff nor any putative class member is entitled to penalties under any applicable wage and hour laws, because at all relevant times Defendant did not willfully, knowingly, or intentionally fail to comply with the compensation provisions of the Washington Prevailing Wage Act or any other applicable wage and hour laws, but rather acted in good faith and had reasonable grounds for believing that they did not violate those provisions.

9. Plaintiff and any putative class members are barred, in whole or in part, from recovering any damages, or any recovery of damages must be reduced to the extent that any alleged damages are offset by amounts overpaid to Plaintiff and putative class members during their employment.

10. To the extent Plaintiff or any putative class member is entitled to any damages or penalties (which is expressly denied), Defendant is entitled, under the equitable doctrines of setoff and recoupment, to an offset for any overpayment of wages or other consideration previously provided to those parties.

11. Defendant currently has insufficient knowledge or information on which to form a belief as to whether they may have additional, as yet unstated, defenses available. Defendant reserves the right to assert additional defenses in the event discovery indicates additional defenses would be appropriate.

WHEREFORE, having fully answered Plaintiff's Complaint and having stated its defenses, Sodexo respectfully requests the following relief:

1. That Plaintiff's Complaint be dismissed with cause and with prejudice, and without attorneys' fees or costs to Plaintiff;

2. That Defendant be awarded its reasonable attorneys' fees and related costs to the

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1	extent allowed by statutory or common law; and			
2	3. For such other and further relief as the Court deems appropriate.			
3				
4	Dated: April 15, 2019	OGLETREE, DEAKINS, NASH, SMOAK & STEWART,		
5	Dated. April 13, 2019	P.C.		
6		By: <u>/s/ Adam T. Pankratz</u> Adam T. Pankratz. WSBA #50951		
7		Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 1201 Third Avenue, Suite 5150		
8 9		Seattle, WA 98101 Telephone: 206-693-7053		
9 10		Fax: 206-693-7058		
10		adam.pankratz@ogletree.com		
11		By: /s/ Deter O Huches		
12		By: <u>/s/ Peter O. Hughes</u> By: <u>/s/ Valerie L. Weiss</u>		
13		Peter O. Hughes, <i>admitted Pro Hac Vice</i> Valerie L. Weiss, <i>admitted Pro Hac Vice</i>		
15		Ogletree, Deakins, Nash, Smoak & Stewart, P.C. 10 Madison Avenue		
15		Fourth Floor Morristown, NJ 07960		
17		Telephone: 973-630-1600		
18		peter.hughes@ogletree.com valerie.weiss@ogletree.com		
19		Attorneys for Defendant Johnson Controls Fire		
20		Protection LP		
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CERTIFICATE OF SERVICE

The undersigned does hereby certify that on April 15, 2019, a copy of the foregoing was electronically filed with the Clerk of Court using the Court's electronic filing system. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Marissa Lock Marissa Lock, Practice Assistant

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