

1
2 THE HONORABLE CATHERINE SHAFFER
3 Department 11
4 Noted for Hearing: December 20, 2019, 11:00 a.m.
5 With Oral Argument
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8

9 IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
10 COUNTY OF KING

11 ZACHARY HUDSON, individually and on behalf
12 of all others similarly situated,

13 Plaintiff,

14 v.

15 OATRIDGE SECURITY GROUP, INC., a
16 Washington corporation; and CY A. OATRIDGE,
17 individually and on behalf of the marital
18 community composed of CY and J. DOE
19 OATRIDGE,

20 Defendants.

NO. 18-2-23611-8 SEA

**[PROPOSED] ORDER GRANTING
PLAINTIFF'S AMENDED MOTION FOR
CLASS CERTIFICATION**

21 I. INTRODUCTION

22 This matter came before the Court on Plaintiff's Amended Motion for Class
23 Certification. The Court has considered the parties' briefing and supporting evidence,
24 including the arguments and evidence presented in favor of and against supplemental briefing
25 on the narrowed proposed definitions of the Class and Subclass. The Court has also heard
26 from the parties at oral argument. For the reasons stated below, the Court GRANTS Plaintiff's
27 motion.

1 **II. BACKGROUND**

2 **A. Plaintiff's allegations.**

3 Plaintiff Zachary Hudson brings this action individually and on behalf of current and
4 former employees of Defendants Oatridge Security Group, Inc. and Cy A. Oatridge. Plaintiff
5 alleges Defendants have engaged in a common course of wage and hour abuse against
6 employees who worked as security officers and shift leads in Washington, including (1) failing
7 to provide the employees with rest breaks, ensure those breaks are taken, and pay for any
8 missed breaks; (2) failing to provide the employees with meal breaks, ensure those breaks are
9 taken, and pay for any missed breaks; (3) failing to pay the employees for all hours worked; (4)
10 failing to pay the employees overtime wages for all hours worked beyond 40 in a week; and
11 (5) failing to keep accurate records of time worked by the employees.

12 Defendants deny all such allegations.

13 **B. The proposed Class and Subclass.**

14 Plaintiff brings this case individually and on behalf of the following proposed Class:

15 All current and former employees of Oatridge Security Group, Inc.
16 who have worked as security officers or shift leads at the
17 following sites in the state of Washington at any time between
18 September 20, 2014 and the date of final disposition of this
19 action: Seattle Tunnel Partners (STP), North Portal, (STP) Terminal
20 106, Facebook – Venture General, Point Edmonds – Venture
21 General, IGQ – Sabey Data Center, IGC – Sabey Data Center,
22 Flatiron West, Inc. – Tacoma Trestle, Centeris Data Center,
23 Mortenson, and Esterra – Venture.

24 Plaintiff also brings this case individually and on behalf of the following proposed
25 Subclass:

26 All current and former employees of Oatridge Security Group, Inc.
27 who have worked as security officers or shift leads at the
following sites in the city of Seattle at any time between
September 20, 2014 and the date of final disposition of this
action: Seattle Tunnel Partners (STP), North Portal, (STP) Terminal
106, Facebook – Venture General, and Mortenson.

The proposed Class and Subclass are referred to together as the "Classes."

1 **C. The claims of the proposed Classes.**

2 Plaintiff asserts the following claims against Defendants, individually and on behalf of
3 the proposed Class members:

- 4 1. Failure to Provide Rest Periods—RCW 49.12.020 and WAC 296-126-092
- 5 2. Failure to Provide Meal Periods—RCW 49.12.020 and WAC 296-126-092
- 6 3. Payment of Wages Less Than Entitled—RCW 49.46.090
- 7 4. Failure to Pay Overtime Wages—RCW 49.46.130
- 8 5. Willful Refusal to Pay Wages—RCW 49.52.050
- 9 6. Violations of Washington’s Consumer Protection Act—RCW 19.86

10 Plaintiff also asserts the following claim against Defendants, individually and on behalf
11 of the proposed Subclass members:

- 12 1. Failure to Pay All Compensation Owed—SMC 14.20.020

13 For his alleged injuries as well as injuries suffered by the members of the proposed
14 Classes, Plaintiff seeks actual damages and exemplary damages, including interest thereon,
15 and attorneys’ fees and costs.

16 Defendants deny all claims asserted.

17 **III. ANALYSIS**

18 The four prerequisites to class certification are numerosity, commonality, typicality,
19 and adequacy of representation. CR 23(a); *see also Moeller v. Farmer’s Ins. Co., Inc.*, 173
20 Wn.2d 264, 278, 267 P.3d 998 (2011); *Pellino v. Brink’s Inc.*, 164 Wn. App. 668, 682, 267 P.3d
21 383 (2011). In addition, one of the three conditions of CR 23(b) must be met. CR 23(b); *see*
22 *also Moeller*, 173 Wn.2d at 279; *Pellino*, 164 Wn. App. at 682–83. Here, Plaintiff seeks
23 certification under CR 23(b)(3), which requires a finding that questions of law or fact common
24 to class members predominate over any questions affecting only the individual members and
25 that a class action is superior to other available methods for the fair and efficient adjudication
26 of the controversy.

1 For the reasons set forth in the Court’s oral ruling of December 20, 2019, the Court
2 finds that Plaintiff satisfies all of the requirements of CR 23(a) and CR 23(b)(3).

3 **A. Plaintiff satisfies the requirements for class certification under CR 23(a).**

4 1. The numerosity requirement is satisfied.

5 The first prerequisite for certification is that the class is “so numerous that joinder of
6 all members is impracticable.” CR 23(a)(1). Plaintiff has presented evidence showing the Class
7 consists of at least 299 current and former Washington-based employees of Defendants, and
8 the Subclass consists of at least 214 current and former Washington-based employees of
9 Defendants. Numerosity is satisfied.

10 2. There are numerous questions of law and fact common to the Classes.

11 The second prerequisite for class certification is the existence of “a single issue
12 common to all members of the class.” *Smith v. Behr Process Corp.*, 113 Wn. App. 306, 320, 54
13 P.3d 665 (2002); *see also* CR 23(a)(2). In its oral ruling, the Court found that several common
14 questions of fact and law are common to the Classes. Commonality is satisfied.

15 3. Plaintiff’s claims are typical of the claims of the members of the Classes.

16 The third prerequisite for certification is that the claims of the Plaintiff are typical of
17 the proposed class. CR 23(a)(3). “Typicality is satisfied if the claim ‘arises from the same event
18 or practice or course of conduct that gives rise to the claims of other class members, and if his
19 or her claims are based on the same legal theory.’” *See Pellino*, 164 Wn. App. at 684 (quoting
20 *Behr Process*, 113 Wn. App. at 320 (citation omitted)). In its oral ruling, the Court found that
21 Plaintiff’s claims are typical of the claims of the Class and Subclass members. Typicality is
22 satisfied.

23 4. Plaintiff and his counsel will fairly and adequately protect the interests
24 of the Classes.

25 The fourth prerequisite for certification is a finding that the named plaintiff will “fairly
26 and adequately protect the interest of the class.” CR 23(a)(4). This test is satisfied if the
27 named plaintiff is able to prosecute the action vigorously through qualified counsel and the

1 plaintiff does not have interests antagonistic to those of absent class members. *See Hansen v.*
2 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

3 With respect to the first element, Plaintiff's counsel have extensive experience
4 certifying, litigating, trying, and settling class actions, including wage and hour actions
5 involving the same laws and regulations at issue here. With respect to the second element,
6 Plaintiff's claims are coextensive with, and not antagonistic to, the claims asserted on behalf
7 of the Classes. These findings are not contested. Adequacy of representation is satisfied.

8 **B. Plaintiff meets the requirements for certification under CR 23(b)(3).**

9 1. Common legal and factual questions concerning Defendants' conduct
10 predominate over any individual issues.

11 The predominance requirement "is not a rigid test, but rather contemplates a review
12 of many factors, the central question being whether 'adjudication of the common issues in the
13 particular suit has important and desirable advantages of judicial economy compared to all
14 other issues, or when viewed by themselves.'" *Sitton v. State Farm Mut. Auto. Ins. Co.*,
15 116 Wn. App. 245, 254, 63 P.3d 198 (2003) (citation omitted). In deciding this, the "trial court
16 pragmatically examines whether there is a common nucleus of operative facts in each class
17 member's claim." *Chavez*, 190 Wn.2d at 516 (citing *Moeller*, 155 Wn. App. at 148, *aff'd* 173
18 Wn.2d 264). "The relevant inquiry is whether the issue shared by class members is the
19 dominant, central, or overriding issue in the litigation." *Chavez*, 190 Wn.2d at 516 (citing
20 *Miller*, 115 Wn. App. at 825).

21 In its oral ruling, the Court found that the claims common to the Class and Subclass
22 members predominate over any individual issues that may exist. Predominance is satisfied.

23 2. Plaintiff satisfies the superiority requirement.

24 Before granting certification under CR 23(b)(3), the Court must find that a class action
25 is the superior means of adjudicating this controversy. "The superiority requirement focuses
26 on a comparison of available alternatives and a determination that a class action is superior
27 to, not just as good as, other available methods." *Chavez*, 190 Wn.2d at 520 (citing *Schnall v.*

1 AT&T Wireless Servs., Inc., 171 Wn.2d 260, 275, 259 P.3d 129 (2011)). “The inquiry must
2 involve rigorous analysis and articulate application of the CR 23 criteria to the relevant facts.”
3 *Id.* (citing *Miller* 115 Wn. App. at 820).

4 In its oral ruling, the Court found that the class action method is superior to any
5 available mechanisms for resolving the claims of the Class and Subclass members. Superiority
6 is satisfied.

7 3. Manageability.

8 “[O]ne of the elements that goes into the balance to determine the superiority of a
9 class action in a particular case” is “manageability.” *Sitton*, 116 Wn. App. at 257 (citation
10 omitted). In its oral ruling, the Court found that the claims of the Class and Subclass members
11 can be manageably tried in one action. Manageability is satisfied.

12 4. Constitutionally-sound notice can be provided to members of the
13 Classes.

14 To protect their rights, absent class members must be provided with the best notice
15 practicable when an action is certified under Rule 23(b)(3). CR 23(c)(2); *see also Eisen v.*
16 *Carlisle & Jacquelin*, 417 U.S. 156, 174–75 (1974). The best practicable notice is that which is
17 “reasonably calculated, under all the circumstances, to apprise interested parties of the
18 pendency of the action and afford them an opportunity to present their objections.” *Mullane*
19 *v. Cent. Hanover Bank & Trust Co.*, 339 U.S. 306, 314 (1950). Where the names and addresses
20 of potential class members are readily ascertainable, notice by mail is usually the preferred
21 method. *Manual for Complex Litigation (Fourth)* § 21.311 at 461 (2012).

22 Defendants have already produced a list of those current and former employees, and
23 the list includes last-known mailing addresses, phone numbers, and email addresses. The
24 Court expects Defendants are able to identify which current and former employees worked at
25 the locations listed in the definitions of the Classes. If that is incorrect, however, notice can be
26 sent to all of Defendants’ current and former employees, who will be able to determine
27 themselves whether they worked at the locations listed and are thus within the Classes.

1 Notice shall be sent directly to all via First Class mail. In addition, notice shall be
2 published on a website maintained and updated by Plaintiff's attorneys. Together, these
3 approaches will provide the best practicable notice to members of the Classes.

4 If the parties are unable to agree on the form of notice, Plaintiff shall present his
5 proposed form to the Court for approval.

6 IV. CONCLUSION

7 For the reasons set forth above, IT IS HEREBY ORDERED:

8 1. The following Class is certified for purposes of litigation and trial:

9 All current and former employees of Oatridge Security Group, Inc.
10 who have worked as security officers or shift leads at the
11 following sites in the state of Washington at any time between
12 September 20, 2014 and the date of final disposition of this
13 action: Seattle Tunnel Partners (STP), North Portal, (STP) Terminal
14 106, Facebook – Venture General, Point Edmonds – Venture
15 General, IGQ – Sabey Data Center, IGC – Sabey Data Center,
16 Flatiron West, Inc. – Tacoma Trestle, Centeris Data Center,
17 Mortenson, and Esterra – Venture.

18 The following Subclass is also certified for purposes of litigation and trial:

19 All current and former employees of Oatridge Security Group, Inc.
20 who have worked as security officers or shift leads at the
21 following sites in the city of Seattle at any time between
22 September 20, 2014 and the date of final disposition of this
23 action: Seattle Tunnel Partners (STP), North Portal, (STP) Terminal
24 106, Facebook – Venture General, and Mortenson.

25 Excluded from the Classes are Defendants, any entity in which a Defendant has a
26 controlling interest or that has a controlling interest in a Defendant, and Defendants' legal
27 representatives, assignees and successors. Also excluded are the Judge to whom this case is
assigned and any member of the Judge's immediate family;

28 2. Plaintiff Zachary Hudson is appointed as representative of the Classes;

29 3. Toby J. Marshall and Eric R. Nusser of Terrell Marshall Law Group PLLC
30 and Elizabeth A. Hanley and Kelli A. Carson of Reed Longyear Malnati & Ahrens, PLLC
31 are appointed as counsel for the Classes;

1 4. Notice of the action shall be provided to the Classes. If the parties are
2 unable to agree on the form of notice, Plaintiff shall present his proposed form to the
3 Court for approval no later than 21 days from the date of this order.

4 5. This Order does not preclude defendants from seeking a modification or
5 decertification of the Classes at a later stage of the litigation.

6 IT IS SO ORDERED.

7 DATED this 20 day of December, 2019.

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10 THE HONORABLE CATHERINE SHAFFER

11 Presented by:

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