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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF KING

ADAM ROBINSON, individually and on
behalf of all persons similarly situated,

Plaintiff,

v.

VR VENTURES LLC, d/b/a
HUNTINGTON LEARNING CENTER OF
BELLEVUE, a foreign limited liability
company,

Defendant.

No. 21-2-04224-1 SEA

FINDINGS OF FACT, CONCLUSIONS
OF LAW, AND ORDER GRANTING
CLASS CERTIFICATION

I. INTRODUCTION

This matter comes before the Court on Plaintiff’s Motion for Class Certification. The Court has reviewed the parties’ briefing, the evidence submitted in connection with those briefs, and has heard argument from counsel. The Court GRANTS Plaintiff’s motion and hereby finds, concludes, and orders as follows:

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that the number of potential class members satisfies the numerosity criterion in this case.

b) CR 23(a)(2): Commonality. CR 23(a)(2) is met where the plaintiff's claims arise out of a "common course of conduct" or "common nucleus of operative facts." *Brown v. Brown*, 6 Wn. App. 249, 255 (1971). Here, the court finds that commonality is met with respect to all three of Plaintiffs' claims: for unpaid pre- and post-session work, for missed rest breaks, and for missed meal breaks. Specifically, the Court finds that the claims arise from Defendant's uniform policies and practices with respect to timekeeping, payroll, and breaks. These policies and practices apply to all tutors, equally. As such, Plaintiff's claims share a common nucleus of fact and therefore the commonality prong is met here.

c) CR 23(a)(3): Typicality. The proposed class representative's claims must be typical of the claims of other class members. A named plaintiff's claim is typical if it arises out of the same course of conduct and is based on the same legal theory as the class members' claims. *Smith v. Behr Process Corp.*, 113 Wn. App. 306, 320 (2002). Here, Plaintiff's claims are typical of the class because they arise from the same course of conduct and rely on the same legal theories as the class claims. Plaintiff Adam Robinson worked as a tutor for Defendant during the class period and alleges that he was subjected to the same course of conduct as the rest of the class, including not being paid for pre- and post-session work and not receiving adequate meal or rest breaks. His claims are, therefore, typical to those of the class.

d) CR 23(a)(4): Adequacy of Representation. On this element, there must be no adversity of interest between the class representative and other class members,

1 and the attorneys for the class representative must be qualified to conduct the proposed
2 litigation. *DeFunis v. Odegaard*, 84 Wn.2d 617, 622 (1974); *Marquardt v. Fein*, 25
3 Wn. App. 651, 656 (1980). Here, the Court is satisfied that Class Counsel possess the
4 requisite qualifications to conduct this litigation. As for adequacy of the named
5 Plaintiff, the Court finds that his interests and those of the other class members are
6 aligned: the entire group has an interest in ensuring that Defendant complies with the
7 law, and that tutors receive the compensation and protections owed to them by statute.

8 4. The Court finds that Plaintiff also satisfies the requirements of CR 23(b)(3),
9 which requires the Court to find that “questions of law or fact common to the members of the
10 class predominate over any questions affecting only individual members, and that a class action
11 is superior to other available methods for the fair and efficient adjudication of the controversy.”

12 a) CR 23(b)(3): Predominance. Whether common issues predominate over
13 individual ones is a “pragmatic” inquiry into whether there is a “common nucleus of
14 operative facts” as to all class claims. *Smith*, 113 Wn. App. at 323. It is not a “rigid
15 test,” but contemplates “many factors,” the central one being “whether adjudication of
16 the common issues in the particular suit has important and desirable advantages of
17 judicial economy compared to all other issues, or when viewed by themselves.” *Sitton*
18 *v. State Farm Mut. Auto. Ins. Co.*, 116 Wn. App. 245, 254 (2003) (internal quotation
19 and citations omitted). The Court finds that predominance is satisfied here because
20 questions of law and fact common to all class members predominate over any questions
21 affecting only individual members. Such common questions of law and fact include,
22 but are not limited to, whether Defendant had policies or practices of not paying tutors
23 for pre- and post-shift work and not providing (or paying for) rest and meal breaks, and

1 whether such alleged policies and practices violate the law. This also includes the
2 question of what additional compensation the law requires when workers are not
3 provided an unpaid meal break.

4 b) CR 23(b)(3): Superiority. “[W]here individual claims of class members
5 are small, a class action will usually be deemed superior to other forms of
6 adjudication.” *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 828 (2003). Here, the
7 Court finds that class resolution is superior to other available methods for the fair and
8 efficient adjudication of this controversy. Here, there are at least 59 and up to 132 class
9 members. The alternative to a class action would be multiple individual lawsuits. This
10 would place unnecessary costs on the Court and the individual litigants and may deny
11 recovery altogether for class members who are unable or unwilling to bear the burdens
12 and costs of litigation. A class action is superior here.

13 5. Pursuant to CR 23, Plaintiff Adam Robinson is hereby appointed and
14 designated as the class representative. Carson Phillips-Spotts and Adam Berger of Schroeter
15 Goldmark & Bender are hereby appointed and designated as Class Counsel.

16 6. The parties shall confer and attempt to agree upon a Class Notice within 14
17 business days from the date of this Order. If agreement is reached, the proposed Class Notice
18 shall be submitted for approval by the Court. If no agreement can be reached, each party shall
19 submit to the Court its proposed Class Notice within 21 calendar days from the date of this
20 Order.

21 7. Once a Class Notice is approved, Defendant’s counsel shall provide to Class
22 Counsel, within ten (10) business days of the date of such approval, a complete list of the class
23 members with their last known addresses, telephone numbers, and Social Security numbers

1 (which shall only be used to identify correct addresses if necessary). The Social Security
2 numbers shall be kept strictly confidential by Class Counsel.

3 8. Class Counsel shall cause the Class Notice to be mailed to class members within
4 30 (thirty) days of receipt of the complete list of class members and their last known addresses,
5 telephone numbers, and any other relevant contact information. Class Counsel may employ an
6 experienced third-party administrator to provide this notice.

7 9. The class members shall have 30 (thirty) calendar days from the mailing of the
8 Class Notice to return any exclusion requests advising counsel and the Court of their desire to
9 opt-out of the case.

10 10. The Class Notice shall advise class members who do not request exclusion that
11 they may enter an appearance through counsel.

12 11. In the event any Class Notice is returned as undeliverable, all counsel and the
13 third-party administrator (if used) shall use their best efforts to obtain corrected addresses.
14 When corrected addresses are obtained, Class Counsel or the third-party administrator shall
15 promptly mail the Class Notice to the affected individuals, with a new deadline for returning
16 the exclusion forms at least thirty (30) days after the date of the new mailing.

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18 IT SO ORDERED this ____ day of _____ 2022.

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20 _____
21 The Honorable Elizabeth Berns
22 Judge, King County Superior Court
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PRESENTED BY:
SCHROETER GOLDMARK & BENDER

s/Carson Phillips-Spotts
Carson D. Phillips-Spotts, WSBA #51207
Adam J. Berger, WSBA #20714

King County Superior Court
Judicial Electronic Signature Page

Case Number: 21-2-04224-1
Case Title: ROBINSON VS VR VENTURES DBA
Document Title: ORDER

Signed By: Elizabeth Berns
Date: April 29, 2022



Judge: Elizabeth Berns

This document is signed in accordance with the provisions in GR 30.

Certificate Hash: 37A8ECB3BA0A4F749309B5FCAB783D14382C7E41
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Certificate expiry date: 7/16/2023 2:09:22 PM
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O=KCDJA, CN="Elizabeth Berns:
1FcJ7Yr95BGeyxmH11GsA=="