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

KARLI WHITE, and ANTONIO
MITCHELL, individually and as class
representatives,

Plaintiffs,

v.

PROVIDENCE HEALTH SERVICES
WASHINGTON,

Defendant.

No. 20-2-08249-0 SEA

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

I. INTRODUCTION

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

II. FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Certification of class actions is governed by Civil Rule 23. At the class certification stage, doubts are resolved in favor of class certification. *Smith v. Behr Process Corp.*, 113 Wn. App. 306, 318-19 (2002). “Where, as here, class certification is sought at the early stages of litigation, courts generally assume that the allegations in the pleadings are true

1 and will not attempt to resolve material factual disputes or make any inquiry into the merits of
2 the claim.” *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 820 (2003). “Courts may, however,
3 go beyond the pleadings and examine the parties' evidence to the extent necessary to determine
4 whether the requirements of CR 23 have been met.” *Miller*, 115 Wn. App. at 820. The courts
5 must conduct a “rigorous analysis” of the CR 23 requirements to determine whether a class
6 action is appropriate in a particular case. *Oda v. State*, 111 Wn. App. 79, 93 (2002).

7 2. Pursuant to CR 23(a) and (b)(3) of the Washington Superior Court Rules, the
8 Court certifies the following class in this case:

9 All registered nurses and technical personnel engaged in patient care who have
10 been employed by Providence Health & Services-Washington at the Providence
11 Regional Medical Center-Everett (“PRMCE”); worked in the Emergency
12 Department of PRMCE for at least one shift between April 15, 2017 and March
13 1, 2021; and worked at PRMCE for at least 20 shifts between April 15, 2017
14 and March 1, 2021.

15 3. The Court finds that the prerequisites of CR 23(a) and (b)(3) have been satisfied
16 for the proposed class. Specifically, the Court finds and concludes as follows:

17 a) CR 23(a)(1): Numerosity. A class may be certified where a plaintiff
18 demonstrates that the proposed class “is so numerous that joinder of all members is
19 impracticable.” *Miller*, 115 Wn. App. at 821. The evidence submitted by the parties
20 indicate that Providence employed over 200 nurses and technicians who meet the class
21 definition. Since both nurses and technicians were both subject to the same policies and
22 practices at issue in this case and discussed below, the Court finds it appropriate to
23 group them together for purposes of applying the criteria of CR 23. The Court
24 concludes that the number of potential class members easily satisfies the numerosity
25 criterion in this case.
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b) CR 23(a)(2): Commonality. CR 23(a)(2) is met where the plaintiffs' 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 all class members utilized the same Kronos timekeeping system and were subject to the same corporate policies and practices regarding timekeeping, compensation, and rest and meal breaks, including with respect to compensation for missed meal breaks reported in that system. Common questions include, but are not limited to, whether class members are entitled to an extra thirty (30) minutes of compensation when reporting a missed meal break, whether class members working scheduled 12 hours shifts are entitled to compensation for a fourth rest break when they are not provided a meal break, and whether the rest break policy adopted by Providence in January 2020 is inconsistent with the requirements of WAC 296-126-092(4).

c) CR 23(a)(3): Typicality. The proposed class representatives' 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, the named plaintiffs' claims are typical of the class because they reported missed meal breaks, including during scheduled 12 hour shifts, and under Plaintiffs' theory of the case and interpretation of the law, they have not received full compensation for their missed rest and meal breaks. Further, the named plaintiffs' have standing to bring their claims on behalf of a class that extends beyond the ends of their employment with Providence because the claims rest on policies and practices that

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were common throughout the putative class period, both during and after the named plaintiffs' periods of employment.

d) CR 23(a)(4): Adequacy of Representation. On this element, there must be no adversity of interest between the class representatives and other class members, and the attorneys for the class representatives must be qualified to conduct the proposed litigation. *DeFunis v. Odegaard*, 84 Wn.2d 617, 622 (1974); *Marquardt v. Fein*, 25 Wn. App. 651, 656 (1980). Here, there is no dispute that Class Counsel possess the requisite qualifications to conduct this litigation. As for the adequacy of the named plaintiffs, the Court finds there is no current conflict or adversity of interest between them and the Class and they have demonstrated their willingness and ability to represent the interests of and prosecute this action adequately on behalf of the proposed class.

4. The Court finds that Plaintiffs' also satisfy the requirements of CR 23(b)(3), which requires the Court to find that "questions of law or fact common to the members of the class predominate over any questions affecting only individual members, and that a class action is superior to other available methods for the fair and efficient adjudication of the controversy."

a) CR 23(b)(3): Predominance. Whether common issues predominate over individual ones is a "pragmatic" inquiry into whether there is a "common nucleus of operative facts" as to all class claims. *Smith*, 113 Wn. App. at 323. It is not a "rigid test," but contemplates "many factors," the central one being "whether adjudication of the common issues in the particular suit has important and desirable advantages of judicial economy compared to all other issues, or when viewed by themselves." *Sitton v. State Farm Mut. Auto. Ins. Co.*, 116 Wn. App. 245, 254 (2003) (internal quotation

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and citations omitted). The Court finds that predominance is satisfied here because questions of law and fact common to all class members predominate over any questions affecting only individual members. Such common questions of law and fact include, but are not limited to, the common questions identified above, including the question of what additional compensation the law requires when workers miss an unpaid meal break. Indeed, this case appears to be a classic rest and meal break case of the type that the King County Superior Court and other Washington courts have adjudicated on a class basis before, for example in *Hill v. Garda CL Nw., Inc.*, Case No. 09-2-07360-1 SEA. Although Defendant has submitted declarations from various managers and putative class members attesting to some differences in how rest and meal breaks were handled or taken, and differences in the frequency of missed breaks on different shifts, those differences do not undermine commonality or predominance where all workers utilized the same electronic Kronos timekeeping system and where determinations regarding missed rest and meal breaks and the compensation provided and alleged to be owing for such missed breaks will be driven, for all class members, by data from that system.

b) CR 23(b)(3): Superiority. “[W]here individual claims of class members are small, a class action will usually be deemed superior to other forms of adjudication.” *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 828 (2003). Here, the Court finds that class resolution is superior to other available methods for the fair and efficient adjudication of this controversy. The alternative to class resolution would be hundreds of individual claims, which is neither necessary nor superior given the

1 availability of the same Kronos data for all class members to drive resolution of the
2 issues in the case.

3 5. Pursuant to CR 23, Plaintiffs Karli White and Antonio Mitchell are hereby
4 appointed and designated as the class representatives. Damian Mendez of Mendez Law Group,
5 PLLC, and Adam Berger and Jamal Whitehead of Schroeter Goldmark & Bender are hereby
6 appointed and designated as Class Counsel.

7 6. The parties shall confer and attempt to agree upon a Class Notice within ten
8 (10) business days from the date of this Order. If agreement is reached, the proposed Class
9 Notice shall be submitted for approval by the Court. If no agreement can be reached, each party
10 shall submit to the Court its proposed Class Notice within 21 calendar days from the date of
11 this Order.

12 7. Once a Class Notice is approved, Defendant's counsel shall provide to Class
13 Counsel, within ten (10) business days of the date of such approval, a complete list of the class
14 members with their last known addresses, telephone numbers, and Social Security numbers
15 (which shall only be used to identify correct addresses if necessary). The Social Security
16 numbers shall be kept strictly confidential by Class Counsel.

17 8. Class Counsel shall cause the Class Notice to be mailed to class members within
18 30 days of receipt of the complete list of class members and their last known addresses,
19 telephone numbers, and any other relevant contact information. Class Counsel may employ an
20 experienced third party administrator to provide this notice.

21 9. The class members shall have 30 calendar days from the mailing of the Class
22 Notice to return their exclusion requests advising counsel of their desire to opt-out of the case.

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King County Superior Court
Judicial Electronic Signature Page

Case Number: 20-2-08249-0
Case Title: WHITE ET ANO VS PROVIDENCE HEALTH SERVICES
WASHINGTON
Document Title: ORDER

Signed By: Josephine Wiggs-Martin
Date: November 23, 2021



Judge: Josephine Wiggs-Martin

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

Certificate Hash: 17191A54C99F1ECEBA4EF6B295DD14D9B1E02ABC
Certificate effective date: 4/15/2019 8:51:22 AM
Certificate expiry date: 4/15/2024 8:51:22 AM
Certificate Issued by: C=US, E=kcscefiling@kingcounty.gov, OU=KCDJA,
O=KCDJA, CN="Josephine Wiggs-Martin:
QDbimgvS5hGLn133AFk6yQ=="