

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23

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

RALEIGH JOHNSON and JENNIFER HOWSE,  
on their own behalf and on the behalf of all  
others similarly situated,

Plaintiffs,

v.

MULTICARE HEALTH SYSTEM, a  
Washington non-profit corporation.

Defendant.

NO.

**CLASS ACTION COMPLAINT**

Plaintiffs RALEIGH JOHNSON and JENNIFER HOWSE (“Plaintiffs”), individually and on behalf of all others similarly situated, by and through their attorneys of record, for their complaint against Defendant MULTICARE HEALTH SYSTEM (“Defendant”) hereby state and allege as follows:

**I. INTRODUCTION**

Plaintiffs bring this action on behalf of themselves and those similarly situated against Defendant to recover unpaid wages, including unpaid overtime wages, exemplary damages, interest, and attorneys’ fees and costs, and to obtain injunctive relief. Plaintiffs seek to redress the unlawful effects of Defendant MultiCare Health System’s policies and practices of failing to

1 compensate its employees who are non-exempt and similarly situated to Plaintiffs from overtime  
2 for missed rest periods, failing to provide such employees with statutorily required uninterrupted  
3 meal breaks while automatically deducting time worked for such purported meal breaks. Such  
4 policies and practices, as alleged below, all violate Washington law. Plaintiffs bring this action  
5 to remedy Defendant's willful violations of Washington wage laws against its employees who  
6 are not exempt from overtime and similarly situated to Plaintiffs.

## 7 **II. PARTIES**

8 2.1 Plaintiffs Johnson and Howse are individuals residing in Spanaway and Tacoma  
9 Washington, respectively. Plaintiff Johnson worked for Defendant in Tacoma, Washington from  
10 2005 to November 2017 and Plaintiff Howse has worked for Defendant in Tacoma, Washington  
11 since 2014 to the present. Both Plaintiffs have been hourly, non-exempt Washington employees  
12 of Defendant who have been employed by Defendant within three years of the date of this  
13 complaint.

14 2.2 Defendant, MultiCare Health System, is a non-profit Washington Corporation  
15 that provides medical services in facilities throughout Washington State, including in Pierce  
16 County. Defendant has employed Plaintiffs and the proposed class members in the state of  
17 Washington.

## 18 **III. JURISDICTION AND VENUE**

19 3.1 Jurisdiction and venue are proper as the alleged acts occurred in Pierce County,  
20 Washington, and all parties have availed themselves of the laws of Washington state. The claims  
21 asserted in this complaint are brought solely under state law causes of action and are governed  
22 exclusively by Washington law.



1           4.6     Defendant requires that phlebotomists do not to punch in or punch out at the  
2 beginning and end of their meal breaks.

3           4.7     Defendant requires that phlebotomists do not to punch in or punch out at the  
4 beginning and end of their rest breaks.

5           4.8     Defendant automatically deducts 30 minutes of compensable work time for a  
6 purported meal break for every five hours worked by phlebotomists from their total hours worked  
7 in lieu of tracking meal periods.

8           4.9     Defendant requires phlebotomists to remain on premises ready to respond to  
9 patient and doctor needs while purportedly taking meal and rest breaks.

10          4.10    Defendant requires phlebotomists to be available for calls during break times,  
11 including carrying employer issued mobile phones at all times.

12          4.11    Defendant's staff at TGH have routinely interrupted Plaintiffs' purported meal  
13 and rest breaks to perform work because Defendant has not had staff to backfill or float to  
14 accommodate Plaintiffs' meal and rest breaks. On information and belief, this was and remains  
15 a policy and practice common to all proposed Class members.

16          4.12    Plaintiffs and other phlebotomists are often not compensated for their meal and  
17 rest breaks even when they report a missed meal or rest break.

18          4.13    Plaintiffs and other phlebotomists consistently missed and continue to miss breaks  
19 required by WAC 296-126-092. Contrary to state law, such non-exempt employees are not  
20 compensated for missed breaks.

21          4.14    Defendant's "overtime approval" policy strongly discourages phlebotomists to  
22 record overtime work without prior management approval.

23

1           4.15   As a result of Defendant’s “overtime approval” policy, Plaintiffs and other  
2 phlebotomists have frequently not received overtime when they worked more than 40 hours a  
3 week.

4           4.16   As a result of Defendant’s “overtime approval” policy, Plaintiffs and other  
5 phlebotomists have frequently worked through their meal and rest breaks without compensation  
6 in order to meet Defendant’s job requirements.

7           4.17   Defendant’s policy requires that paid time for phlebotomists be rounded in 7-  
8 minute increments. For example, when a phlebotomists clocks in at 10:53 a.m. for a shift  
9 scheduled at 11:00 a.m., the time keeping system would report that s/he started working at 11:00  
10 a.m., accordingly denying the employee 7 minutes of compensable time. If the employees had a  
11 shift that ended at 6:00 p.m. and clocked out at 6:07 p.m., the time keeping system would report  
12 that the employees ended their shift at 6:00 p.m. which again leads to a shortfall in pay.

13           4.18   In theory, Defendant would round down a proposed Class member’s time if s/he  
14 clocked in 1-7 minutes after the scheduled shift, and Defendant would round up a proposed Class  
15 member’s time if s/he clocked in 7 minutes or less before their shift. Defendant’s policy subjects  
16 phlebotomists to written discipline for having even clocked in one minute late. This makes it very  
17 difficult, if not impossible, for such employees to have their compensable time rounded in a  
18 manner that is not beneficial just to Defendant and detrimental to themselves. Therefore,  
19 Defendant’s time rounding practices are not neutral.

20           4.19   Defendant would prohibit and/or discourage Plaintiffs to clock out more than 7  
21 minutes after the end of their shift. On information and belief, this was a policy and practice  
22 common to all proposed Class members.



1 exceed 40. The identity of proposed Class members is readily ascertainable from Defendant's  
2 employment records.

3 b. Typicality: Plaintiffs' claims are typical of the proposed Class.

4 1. Plaintiffs were hourly, nonexempt employees. Defendant employed  
5 Plaintiffs as phlebotomists.

6 2. Plaintiffs' claims stem from the same practices or course of conduct that  
7 form the basis of the class claims.

8 3. All of the proposed Class members' claims are based on the same facts  
9 and legal theories.

10 4. There is no antagonism between Plaintiffs' interests and the proposed  
11 Class members, because their claims are for damages provided to each individual employee by  
12 statute.

13 5. The injuries that Plaintiffs suffered are similar to the injuries that the  
14 proposed Class members suffered and continue to suffer, and they are relatively small  
15 compared to the expenses and burden of individual prosecutions of this litigation.

16 c. Adequacy: Plaintiffs will fairly and adequately protect the interests of the  
17 proposed Class because:

18 1. There is no conflict between Plaintiffs' claims and those of their  
19 proposed Class members.

20 2. Plaintiffs acknowledge that they have an obligation to make known to  
21 the Court any relationship, conflicts or differences with any proposed Class member.

22 3. Plaintiffs agree to actively participate in the case and protect the interests  
23 of the proposed Class members.

1                   4.     Plaintiffs have retained counsel experienced in handling wage-and-hour  
2 class actions who have already devoted substantial time and resources to investigating the  
3 proposed Class members' claims and who will vigorously prosecute this litigation.

4                   5.     Plaintiffs' claims are typical of the claims of proposed Class members in  
5 that their claims stem from the same practice and course of conduct that forms the basis of the  
6 class claims.

7                   d.     Superiority: Class action adjudication is superior to other methods of  
8 adjudication for at least the following reasons:

9                   1.     The common questions of law and fact described below predominate  
10 over questions affecting only individual members, and the questions affecting individuals  
11 primarily involve calculations of individual damages.

12                   2.     There is no antagonism between Plaintiffs' interests and the proposed  
13 Class members, because their claims are for damages provided by statute.

14                   f.     Public Policy Considerations: Certain employers in Washington  
15 regularly violate wage and hour and other employment laws. The value of individual and  
16 employee claims is often small as compared with the relative cost of litigation. Current  
17 employees are often afraid to assert their rights out of fear of retaliation. Class actions provide  
18 Class Members who are not named in the Complaint with a type of anonymity that allows for  
19 the vindication of their rights, while at the same time, protection of their privacy.

20                   g.     Predominance: There are questions of law and fact common to the  
21 proposed Class members, which predominate over any issues involving only individual class  
22 members, including but not limited to:





1 violation of Washington law, including RCW 49.12 *et seq.*, RCW 49.46.020, RCW 49.46.090,  
2 RCW 49.46.130, RCW 49.52.050 and WAC 296-126-092.

3 6.3 Defendant further failed to pay Plaintiffs and the proposed Class for all time  
4 worked;

5 6.4 As a result of Defendant's acts and omissions, Plaintiffs and the proposed Class  
6 have been damaged in amounts to be proven at trial.

7  
8 **SECOND CAUSE OF ACTION**  
9 **(Willful Withholding of Wages in Violation of Washington Law)**

10 6.5 Plaintiffs reallege the above paragraphs of the Complaint and thereby incorporate  
11 the same by reference.

12 6.6 The above acts by Defendant, based on its own policies and practices, were willful  
13 and with the intent to deprive Plaintiffs and the proposed Class of all their wages owed, in  
14 violation of RCW 49.52.050 and RCW 49.52.070, entitling Plaintiffs and the proposed Class to  
15 compensatory damages, double damages, attorneys' fees, and costs.

16 6.7 As a result of Defendant's acts and omissions, Plaintiffs and the proposed Class  
17 have been damaged in amounts to be proven at trial.

18 **VII: PRAYER FOR RELIEF**

19 Wherefore, Plaintiffs, on their own behalf and on behalf of the members of the proposed  
20 Class, prays for judgment against Defendant as follows:

- 21 A. Certify the proposed Class;
- 22 B. Appoint Plaintiffs as Class representative;
- 23 C. Appoint the undersigned attorneys as Class counsel;
- D. Declare that the actions complained of herein violate Washington's statutes and

1 administrative codes;

2 E. Award Plaintiffs and Class members compensatory, liquidated, and exemplary  
3 damages;

4 F. Award attorneys' fees and costs to Plaintiffs' attorneys, as allowed by law;

5 G. Award pre-judgment and post-judgment interest to Plaintiffs and Class  
6 members, as provided by law;

7 H. Grant an injunction against Defendants from engaging in the unlawful and  
8 wrongful conduct set forth herein; and,

9 I. Grant such other and further relief as this Court deems necessary.

10 DATED this 16<sup>th</sup> day of March, 2018.

11  
12 **REKHI & WOLK, P.S.**

13 By: /s/ Hardeep S. Rekhi, WSBA #34579  
14 Hardeep S. Rekhi, WSBA #34579  
15 Gregory A. Wolk, WSBA #28946  
16 529 Warren Ave N., Suite 201  
17 Seattle, Washington 98109  
18 Telephone: (206) 388-5887  
19 Facsimile: (206) 577-3924  
20 Email: [hardeep@rekhiwolk.com](mailto:hardeep@rekhiwolk.com)  
21 [greg@rekhiwolk.com](mailto:greg@rekhiwolk.com)

12 **DEFIANCE LAW PLLC**

13 By: /s/ Kevin Smith WSBA #48578  
14 Kevin Smith, WSBA #48578  
15 1115 Tacoma Avenue South  
16 Tacoma, Washington 98402  
17 Telephone: (253) 507-4769  
18 Email: [k.smith@defiance.law](mailto:k.smith@defiance.law)

18 *Attorneys for Plaintiffs*