

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

ANDREW RADULESCU and JUSTIN GREEN,
each individually and on behalf of all others
similarly situated,

Plaintiffs,

v.

WEST COAST SECURITY, a Nevada
Corporation; WEST COAST SECURITY
CONCEPTS INC., a Nevada Corporation;
ANTHONY LOMBARDI, individually and/or
the marital community composed of ANTHONY
LOMBARDI and JANE DOE LOMBARDI,

Defendants.

NO. 21-2-10485-8 SEA

**ORDER GRANTING PLAINTIFFS'
MOTION FOR CLASS
CERTIFICATION**

I. INTRODUCTION

This matter came before the Honorable Joe Campagna on Plaintiffs' Motion for Class Certification. The Court has considered Plaintiffs' briefing and evidence, as well as any briefing and evidence submitted by Defendants. For the reasons set forth below, the Court GRANTS Plaintiffs' motion.

II. BACKGROUND

A. Background.

Plaintiffs and the Class allege that Defendants West Coast Security, West Coast Security Concepts Inc., and Anthony Lombardi (collectively, “Defendants”) have systematically violated Washington’s and Seattle’s wage and hour laws, unlawfully depriving Plaintiffs Andrew Radulescu and Justin Green (“Plaintiffs”) and the Class of their wages and statutorily mandated breaks. Plaintiffs allege that Defendants employed them and the Class under the wage statutes at issue. Plaintiffs allege Defendants willfully failed to pay them and the Class for all hours worked, including at the correct wage rate, as well as all overtime compensation earned as required by Washington’s Minimum Wage Act (“MWA”) and Seattle’s Wage Theft Ordinance, SMC 14.20. Plaintiffs allege Defendants willfully failed to provide them and the Class a meal period of thirty minutes every five hours as required to by Washington law, and that Defendants willfully failed to pay them for missed meal breaks. Plaintiffs allege Defendant willfully failed to ensure the Class received rest breaks and pay for missed rest breaks. Finally, Plaintiffs allege that Defendants willfully made unlawful deductions from their and Class members’ pay and failed to reimburse them and the Class for business expenses.

B. The Proposed Class.

Plaintiffs assert the following definition for the proposed class (the “Class”):

All current and former hourly employees who worked for West Coast Security, West Coast Security Concepts Inc., and/or Anthony Lombardi as security guards or officers for any period of time from August 9, 2018, through 90 days before final resolution of this matter, who were based or resided in the State of Washington during such employment, and for whom Plaintiffs timely obtain last known contact information.

1 **C. Class Claims.**

- 2 1. Defendants failed to provide and pay Class members for their rest breaks in
3 violation of RCW 49.12 *et seq.*, and WAC 296-126-092;
- 4 2. Defendants failed to provide Class members with their meal breaks and failed to
5 pay them for their missed or interrupted meal breaks in violation of RCW 49.12 *et*
6 *seq.*, and WAC 296-126-092;
- 7 3. Defendants failed to pay Class members overtime compensation for all overtime
8 hours worked, or at the required overtime rate, as required by RCW 49.46.130 when
9 they worked in excess of forty hours per week;
- 10 4. Defendants failed to pay Class members for all hours worked, in violation of RCW
11 49.46.020, RCW 49.12.150, WAC 296-126-020 to -021;
- 12 5. Defendants failed to pay Class members who worked in Seattle at the proper rate
13 and for all compensation earned in violation of RCW 49.46.120 and SMC 14.20 *et*
14 *seq.*;
- 15 6. Defendants made unlawful deductions from Class members pay and failed to
16 reimburse them for business expenses in violation of RCW 49.52.060, WAC 296-
17 126-025 and -028, and SMC 14.20 *et seq.*;
- 18 7. The above-identified failures to pay the Class all their wages were “willful” within
19 the meaning of RCW 49.52.050/.070.

20 **III. ANALYSIS**

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

1 CR 23 is liberally interpreted because the “rule avoids multiplicity of litigation, saves
2 members of the class the cost and trouble of filing individual suits, and also frees the defendant
3 from the harassment of identical future litigation.” *Moeller*, 173 Wn.2d at 278. Because a class
4 is always subject to later modification or decertification, “the trial court should err in favor of
5 certifying the class.” *Id.*

6 **A. Plaintiffs Satisfy the Requirements for Class Certification Under Rule 23(a).**

7 1. The Numerosity Requirement Is Satisfied.

8 The first prerequisite for certification is that the class is “so numerous that joinder of all
9 members is impracticable.” CR 23(a)(1). Although there is no fixed rule, more than 40
10 members generally suffice. *Miller v. Farmer Bros. Co.*, 115 Wn. App. 815, 821-22, 64 P.3d 49
11 (2003). Here, the Class consists of more than 160 employees. Numerosity has been satisfied.

12 2. There Are Numerous Questions of Law and Fact Common to the Class.

13 The second prerequisite for class certification is the existence of “a single issue
14 common to all members of the class.” *Smith v. Behr Process Corp.*, 113 Wn.App. 306, 320, 54
15 P.3d 665 (2002); *see also* CR 23(a)(2). Washington courts have noted, “there is a low threshold
16 to satisfy this test.” *Behr Process*, 113 Wn.App. at 320. If a defendant has “engaged in a
17 ‘common course of conduct’ in relation to all potential class members,” class certification is
18 appropriate regardless of whether “different facts and perhaps different questions of law exist
19 within the potential class.” *Brown v. Brown*, 6 Wn.App. 249, 255, 492 P.2d 581 (1971); *accord*
20 *Miller*, 115 Wn.App. at 825. Furthermore, a common course of conduct need not affect all
21 potential class members uniformly. Instead, a “common” question is one that is “characteristic
22 of a *usual* type or standard: *representative* of a type.” *Anfinson v. FedEx Ground Package Sys.,*
23 *Inc.*, 174 Wn.2d 851, 875, 281 P.3d 289 (2012) (emphasis in original) (citation omitted).

1 “[C]laims by workers that their employers have unlawfully denied them wages to
2 which they were legally entitled have repeatedly been held to meet the prerequisites for class
3 certification[],’ including commonality.” *Mendis v. Schneider Nat’l Carriers, Inc.*, C15-0144-
4 JCC, 2017 WL 497600, at *2 (W.D. Wash. Feb. 7, 2017) (quoting *Ramos v. SimplexGrinnell*
5 *LP*, 796 F. Supp. 2d 346, 355 (E.D.N.Y. 2011)).¹ This is because the “glue” holding together
6 such claims is the “common question” of “whether an unlawful [wage] policy prevented
7 employees from collecting lawfully earned [wage] compensation.” *Ramos*, 796 F. Supp. 2d at
8 355.

9 Common questions of law and fact arise from Defendants’ conduct as to the Class,
10 including whether: (1) Defendants failed to provide rest breaks to the Class; (2) Defendants
11 failed to pay Class members for their rest breaks; (3) Defendants failed to provide meal breaks
12 to the Class; (4) Defendants failed to pay Class members for missed meal breaks; (5)
13 Defendants failed to pay the Class for all hours worked; (6) Defendants failed to pay the Class
14 one and one-half times their regular hourly rate for hours worked over forty per week; (7)
15 Defendants failed to pay the Class at the proper wage rate; (8) Defendants made unlawful
16 deductions from Class members’ pay and failed to reimburse the Class for business expenses;
17 and (9) the above-identified failures to pay the Class all their wages were “willful.” Due to
18 these common questions among the Class, the Court finds the commonality requirement is
19 satisfied.

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23 ¹ Because Civil Rule 23 is based on its federal counterpart, interpretations of analogous provisions by federal
courts are persuasive to the extent they do not contradict the decisions of Washington’s courts. *Pickett v. Holland*
Am. Line-Westours, Inc., 145 Wn.2d 178, 188, 35 P.3d 351 (2001).

1 3. The Claims of the Named Plaintiffs Are Typical of the Class Claims.

2 The third prerequisite for certification is that the claims of Plaintiffs are typical of the
3 proposed class. CR 23(a)(3). “Typicality is satisfied if the claim ‘arises from the same event or
4 practice or course of conduct that gives rise to the claims of other class members, and if his or
5 her claims are based on the same legal theory.’” *See Pellino*, 164 Wn.App. at 684 (quoting
6 *Behr Process*, 113 Wn. App. at 320 (citation omitted)). “Where the same unlawful conduct is
7 alleged to have affected both named plaintiffs and the class members, varying fact patterns in
8 the individual claims will not defeat the typicality requirement.” *Id.*

9 Plaintiffs’ claims are typical of the Class members’ claims because they all arise from
10 the same conduct of Defendants and are based on the same legal theories, namely alleged
11 systematic violations of the Washington wage and hour laws at issue. The record shows that
12 Plaintiffs were employed by Defendants. The harm they allegedly suffered was of similar
13 nature to that of the Class and arose from Defendants’ uniform pay policies and practices. The
14 Plaintiffs’ claims are based on the same legal theories and statutes those of the Class.

15 4. The Named Plaintiffs and Their Counsel Will Fairly and Adequately
16 Protect the Interests of the Class.

17 The fourth prerequisite for certification is a finding that the named plaintiffs will “fairly
18 and adequately protect the interest of the class.” CR 23(a)(4). This test is satisfied if the named
19 plaintiffs are able to prosecute the action vigorously through qualified counsel, and the
20 plaintiffs do not have interests antagonistic to those of absent class members. *See Hansen v.*
21 *Ticket Track, Inc.*, 213 F.R.D. 412, 415 (W.D. Wash. 2003).

22 With respect to the first element, collectively, Plaintiffs’ counsel have extensive
23 experience certifying, litigating, trying, and settling class actions, including wage and hour
actions involving the same laws and regulations at issue here. With respect to the second

1 element, the claims of Plaintiffs are coextensive with and not antagonistic to the claims asserted
2 on behalf of the Class. Plaintiffs and Class members are alleged to have suffered the same
3 injuries as the Class. The adequacy requirement is satisfied.

4 **B. Plaintiffs Meet the Requirements for Certification under Rule 23(b)(3).**

5 1. Common Factual and Legal Questions Concerning Defendant's Conduct
6 Predominate Over Any Individual Damages Issues.

7 The predominance requirement “is not a rigid test, but rather contemplates a review of
8 many factors, the central question being whether ‘adjudication of the common issues in the
9 particular suit has important and desirable advantages of judicial economy compared to all
10 other issues, or when viewed by themselves.’” *Sitton* 116 Wn.App. at 254 (quoting 1 Newberg
11 & Conte, *Newberg on Class Action*, § 4:25, at 4-86(3rd ed. 1992)). The requirement “is not a
12 demand that common issues be dispositive, or even determinative ‘[A] single common
13 issue may be the overriding one in the litigation, despite the fact that the suit also entails
14 numerous remaining individual questions.’” *Id.* In deciding whether common issues
15 predominate, the Court “is engaged in a pragmatic inquiry into whether there is a common
16 nucleus of operative facts to each class member’s claim.” *Behr Process*, 113 Wn.App. at 323.

17 The focus of this case is on the lawfulness of Defendants’ uniform policies and
18 practices. To prevail on their claims, Plaintiffs must demonstrate that Defendants engaged in a
19 pattern and practice of violating the Washington and Seattle laws at issue. These common
20 issues will predominate at trial.

21 While the amount of damages to which the members of the Class are entitled must be
22 calculated, the fact that those damages may be varied does not preclude class certification *See*
23 *Mendis*, 2017 WL 497600, at *7. Because common issues predominate over any individualized
issues, the predominance requirement is satisfied.

1 2. Plaintiffs Satisfy the Superiority Requirement.

2 Before granting certification under CR 23(b)(3), the Court must find that a class action
3 is the superior means of adjudicating this controversy. “This requirement focuses upon a
4 comparison of available alternatives.” *Sitton*, 116 Wn.App. at 256. Factors to be considered
5 include “conserving time, effort and expense; providing a forum for small claimants; and
6 deterring illegal activities.” *Id.* at 257 (citation omitted). The Court also looks at the interest of
7 Class members in individually controlling the prosecution of claims, the extent of any litigation
8 already commenced by Class members, the desirability of concentrating the suit in this forum,
9 and any difficulties that may be encountered in managing the action. CR 23(b)(3)(A)-(D).

10 There are more than 160 class members. Joinder of all 160 employees would be inferior
11 to a class action. It would be a burden on the courts to manage the claims of 160 separate
12 plaintiffs. Also filing 160 different claims would be a drain on judicial resources. A class action
13 may be superior if class litigation of common issues will reduce litigation costs and promote
14 greater efficiency, or if no realistic alternative exists. *Chavez v. Our Lady of Lourdes Hosp. at*
15 *Pasco*, 190 Wn.2d 507, 521, 415 P.3d 224 (2018). Here, forcing numerous plaintiffs to litigate
16 the alleged unlawful patterns or practices asserted by Plaintiffs in repeated individual trials runs
17 counter to the very purpose of the class action. Class treatment conserves judicial resources and
18 promotes consistency and efficiency of adjudication for both the Defendants and Plaintiff. *Id.* at
19 522.

20 Here, Plaintiffs’ claims raise numerous common factual and legal issues. In addition,
21 class treatment conserves judicial resources and promotes consistency and efficiency of
22 adjudication. Given the large number of Class members and the common issues, as well as the
23 relatively modest recovery Plaintiffs estimate for each Class member, a class action is the most

1 appropriate means of adjudicating the claims arising out of Defendants’ common course of
2 conduct. Additionally, it is likely that most Class members lack the resources necessary to seek
3 legal redress against Defendants for their misconduct and, without class treatment, would have
4 no effective remedy for their injuries.

5 3. This Case Presents No Management Difficulties.

6 “[O]ne of the elements that goes into the balance to determine the superiority of a class
7 action in a particular case” is “manageability.” *Sitton*, 116 Wn.App. at 257 (citation omitted).
8 Trial courts have a “variety of procedural options to reduce the burden of resolving individual
9 damage issues, including bifurcated trials, use of subclasses or masters, pilot or test cases with
10 selected class members, or even class decertification after liability is determined.” *Chavez*, 190
11 Wash.2d at 521 (citing *Sitton*, 116 Wn.App. at 255).

12 Here, the Court will not face any difficulties managing and resolving the case. Liability
13 turns on Defendants’ conduct, which was uniform with respect to Class members, and there are
14 various ways in which to manageably determine any resulting damages.

15 4. Constitutionally Sound Notice Can Be Provided to Class Members.

16 To protect their rights, absent class members must be provided with the best notice
17 practicable when an action is certified under Rule 23(b)(3). CR 23(c)(2); *see also Eisen v.*
18 *Carlisle & Jacquelin*, 417 U.S. 156, 174-175, 94 S. Ct. 2140, 40 L. Ed. 2d 732 (1974). Here,
19 Defendants have already produced a list of hourly employees who worked for them through
20 November 2022, which includes the employees’ last known mailing address. Plaintiffs’ counsel
21 has also obtained additional names of hourly employees employed by Defendants and has
22 affirmed that they will seek contact information as to those employees as well as any additional
23

1 employees employed in the Class Period. The Proposed Class definition is circumscribed to
2 those for whom Plaintiffs obtain contact information so that they can receive such notice.

3 In addition, notice can be published on a website maintained and updated by Plaintiffs'
4 attorneys. Together, these approaches will provide the best practicable notice to the Class
5 members.

6 If the parties are unable to agree on the form of notice, Plaintiffs shall present their
7 proposed form to the Court for approval.

8 IV. CONCLUSION

9 For the reasons set forth above, NOW, THEREFORE, IT IS HEREBY ORDERED:

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

11 All current and former hourly employees who worked for West Coast Security,
12 West Coast Security Concepts Inc., and/or Anthony Lombardi as security guards
13 or officers for any period of time from August 9, 2018, through 90 days before final
14 resolution of this matter, who were based or resided in the State of Washington
15 during such employment, and for whom Plaintiffs timely obtain last known contact
16 information.

17 Excluded from the Class are Defendants, any entity in which Defendants have a
18 controlling interest or which has a controlling interest of Defendants, and Defendants' legal
19 representatives, assignees and successors. Also excluded are the Judge to whom this case is
20 assigned and any member of the Judge's immediate family.

21 2. Plaintiffs Radulescu and Green are designated and appointed as representatives
22 for the Class;

23 3. The law firms of Rekhi & Wolk, P.S. and Donovan Employment Law are
appointed as counsel for the Class;

4. Plaintiffs are directed to seek and obtain the identities and contact information of
Class members and to provide timely notice to such individuals as set forth above.

1 DATED this 17th day of July, 2023.

2
3
4 electronic signature attached
5 THE HONORABLE JOE CAMPAGNA

6 Presented by:

7 **REKHI & WOLK, P.S.**

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Judicial Electronic Signature Page

Case Number: 21-2-10485-8
Case Title: RADULESCU VS WEST COAST SECURITY ET AL
Document Title: ORDER RE CLASS CERTIFICATION

Signed By: Joe Campagna
Date: July 17, 2023



Judge: Joe Campagna

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

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