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

AURORA T. DAGUPION, individually and on
behalf of all those similarly situated,

Plaintiff,

vs.

WILLAMETTE DENTAL GROUP, P.C., a
foreign professional services corporation

Defendant.

No.

CLASS ACTION COMPLAINT FOR
DAMAGES

Plaintiff claims against Defendant as follows:

I. NATURE OF ACTION

1.1. Plaintiff Aurora T. Dagupion, individually and on behalf of all individuals currently or formerly employed by Defendant in Washington state in dental clinic staff positions paid on an hourly basis including but not limited to: patient care advocates, patient support specialists, dental assistants, and dental hygienists, brings this action for money damages and statutory penalties for violations of Washington's Industrial Welfare Act ("IWA"), RCW 49.12, Minimum Wage Act ("MWA"), RCW 49.46, Wage Payment Act ("WPA"), RCW 49.48 and Wage Rebate Act ("WRA"), RCW 49.52.

1 **II. JURISDICTION AND VENUE**

2 2.1. The Superior Court of Washington has jurisdiction of Plaintiff's claims pursuant to
3 RCW 2.08.010.

4 2.2. Venue in Pierce County is appropriate pursuant to RCW 4.12.025.

5 2.3. Defendant transacts business in Pierce County and at least some of the acts and
6 omissions alleged in this Complaint took place in the State of Washington and Pierce County.

7 **III. PARTIES**

8 3.1. Defendant Willamette Dental Group P.C., hereafter "Willamette" is organized
9 under the laws of Oregon and headquartered in Hillsboro, Oregon. Willamette operates dental
10 facilities throughout the Pacific Northwest including approximately twenty locations in
11 Washington state. Willamette is an employer for the purposes of the IWA, MWA, WPA and
12 WRA.

13 3.2. Plaintiff Aurora T. Dagupion is a resident of Puyallup, Washington and was
14 formerly employed by Defendant as a dental assistant.

15 **IV. FACTUAL ALLEGATIONS**

16 4.1. Plaintiff and members of the putative class are or were employed by Defendant in
17 in Washington state at any time from March 2, 2019 and thereafter in dental clinic staff positions
18 paid on an hourly basis including but not limited to: patient care advocates, patient support
19 specialists, dental assistants, and dental hygienists.

20 4.2. Defendant created and maintained timekeeping systems, work schedules, staffing
21 levels, job requirements and a working environment that discouraged Plaintiff and members of the
22 putative class from taking rest periods and meal periods in compliance with Washington law.

23 4.3. At times, Plaintiff and members of the putative class were required to work more
24 than three consecutive hours without a rest period.

25 4.4. With respect to Plaintiff and members of the putative class, Defendant failed to
26 establish maintain a process to record of the occurrence, time, and duration of paid rest periods.

1 4.5. With respect to Plaintiff and members of the putative class, Defendant failed to
2 maintain accurate records of the occurrence, time, and duration of paid rest periods.

3 4.6. With respect to Plaintiff and members of the putative class, Defendant failed to
4 provide a process to report instances of when they were required to work over three consecutive
5 hours without a rest period, when they did not receive a rest period in at least a ten-minute duration
6 for each four hours worked.

7 4.7. Defendant did not ensure Plaintiff and members of the putative class received a ten-
8 minute rest period on the employer's time for every four hours worked.

9 4.8. Defendant did not compensate Plaintiff and members of the putative class for an
10 additional ten minutes of work for each instance it required them to work greater than three
11 consecutive hours without a rest period, provided a rest period in a duration of less than ten
12 minutes, or did not provide a rest period of at least ten minutes in duration for each four hours
13 worked.

14 4.9. Plaintiff and members of the putative class worked shifts greater than five hours in
15 length and, at times, were not provided and did not waive their rights to meal periods in compliance
16 with Washington law.

17 4.10. At times, Plaintiff and members of the putative class worked more than five
18 consecutive hours without a meal period.

19 4.11. Defendant did not compensate Plaintiff and members of the putative class for an
20 additional thirty minutes of work for each time it required them to work shifts greater than five
21 hours in length and meal periods were not provided, or when Plaintiff and members of the putative
22 class worked more than five consecutive hours without a meal period.

23 4.12. At times when total compensable time, including additional time to compensate for
24 missed or otherwise noncompliant rest and meal periods, totaled over forty in a workweek,
25 Defendant did not pay Plaintiff and members of the putative class one and one-half times their
26 regular rate of pay for all hours over forty in a workweek.

1 4.13. Plaintiff's interests in this matter do not conflict with the interests of the putative
2 class.

3 4.14. Plaintiff's counsel is experienced in complex class action litigation and has been
4 appointed class counsel in a number of similar cases.

5 V. CLASS ACTION ALLEGATIONS

6 5.1. Plaintiff seeks to represent all individuals employed by Defendant at any time in
7 Washington State after March 2, 2022 in dental clinic staff positions paid on an hourly basis,
8 including but not limited to: patient care advocates, patient support specialists, dental assistants,
9 and dental hygienists.

10 5.2. This action is properly maintainable as a class action under CR 23(a) and (b)(3).

11 5.3. Plaintiff believes the number of putative class members exceeds forty and therefore,
12 pursuant to CR 23(a)(1), it is impracticable to join all of the members of the class as defined herein
13 as named plaintiffs. See *Chavez v. Our Lady of Lourdes Hosp. at Pasco*, 190 Wn.2d 507, 520
14 (2018) ("As a general rule, joinder is impracticable where a class contains at least 40 members.")

15 5.4. Pursuant to CR 23(a)(2), there are common questions of law and fact among
16 Plaintiff and members of the putative class including, but not limited to:

17 (1) whether Defendant was required to keep records of the occurrence, time and
18 duration of rest periods provided to Plaintiff and members of the putative class;

19 (2) whether Defendant failed to keep records of the occurrence, time and
20 duration of rest periods;

21 (3) whether Defendant required Plaintiff and members of the putative class to
22 work greater than three consecutive hours without a rest period;

23 (4) whether Defendant failed to ensure Plaintiff and members of the putative
24 class received a compliant rest period of at least ten minutes in length, on the employer's time, for
25 each four hours worked;

1 (5) whether Defendant was required to compensate Plaintiff and members of
2 the putative class for an additional ten minutes of work for each instance it required them to work
3 greater than three consecutive hours without a rest period or when it failed to ensure Plaintiff and
4 members of the putative class received a compliant rest period of at least ten minutes in length, on
5 the employer's time, for each four hours worked;

6 (6) whether Defendant failed to compensate Plaintiff and members of the
7 putative class for an additional ten minutes of work for each instance it required them to work
8 greater than three consecutive hours without a rest period or when it failed to ensure Plaintiff and
9 members of the putative class received a compliant rest period of at least ten minutes in length, on
10 the employer's time, for each four hours worked;

11 (7) whether Defendant failed to provide a compliant meal period of at least
12 thirty minutes for shifts greater than five hours in length;

13 (8) whether Plaintiff and members of the putative class, at times, worked
14 greater than five consecutive hours without a meal period;

15 (9) whether Defendant was required to compensate Plaintiff and members of
16 the putative class for an additional thirty minutes of work for each instance it failed to provide a
17 compliant meal period of at least thirty minutes for shifts greater than five hours in length or
18 required them to work greater than five consecutive hours without a meal period;

19 (10) whether Defendant failed to compensate Plaintiff and members of the
20 putative class for an additional thirty minutes of work for each instance it failed to provide a
21 compliant meal period of at least thirty minutes for shifts greater than five hours in length or
22 required them to work greater than five consecutive hours without a meal period;

23 (11) whether Defendant failed to pay Plaintiff and members of the putative class
24 one and one-half their regular rate of pay for all hours over forty in a workweek, inclusive of the
25 additional time to compensate for noncompliant or missed meal and rest periods; and
26

1 (12) whether Defendant acted willfully and with the intent of depriving Plaintiff
2 and members of the putative class of wages or other compensation.

3 5.5. Pursuant to CR 23(a)(3), the named Plaintiff's claims are typical of the claims of
4 all class members and of Defendant's anticipated defenses thereto.

5 5.6. The named Plaintiff and his counsel will fairly and adequately protect the interests
6 of the class as required by CR 23(a)(4).

7 5.7. Pursuant to CR 23(b)(3), class certification is appropriate here because questions
8 of law or fact common to members of the class predominate over any questions affecting only
9 individual members, and because a class action is superior to other available methods for the fair
10 and efficient adjudication of the controversy.

11 **VI. FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO ENSURE REST**
12 **PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**
13 **WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS IN**
14 **VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT AND**
15 **WASHINGTON WAGE PAYMENT ACT**

16 6.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

17 6.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing
18 regulation, WAC 296-126-092, require employers to provide a rest period of not less than ten
19 minutes, on the employer's time, for each four hours of working time.

20 6.3. Employees have an implied cause of action for violations of RCW 49.12 to protect
21 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow*
22 *Freight Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

23 6.4. A rest period violation is a wage violation with employees entitled to ten minutes
24 of additional compensation for each instance they are required to work longer than three
25 consecutive hours without a rest break. *Id* at 849.

26 6.5. Defendant violated the IWA and its implementing regulation by failing to ensure
Plaintiff and members of the putative class received a ten-minute paid rest period for every four
hours worked and by failing to keep records of the occurrence, time and duration of rest periods

1 taken, by failing to implement a process for Plaintiff and members of the putative class to report
2 missed or otherwise noncompliant rest periods and by creating work schedules, staffing levels and
3 conditions of work that discouraged paid rest periods.

4 6.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and
5 members of the putative class for an additional ten minutes of work for each instance a rest period
6 was not provided in compliance with IWA.

7 6.7. As a result of Defendant's acts and omissions, Plaintiff and members of the putative
8 class have been damaged in amounts as will be proven at trial.

9 **VII. SECOND CAUSE OF ACTION – CLASSWIDE FAILURE TO PROVIDE**
10 **MEAL PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**
11 **WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS OF**
12 **THE WASHINGTON MINIMUM WAGE ACT AND WASHINGTON WAGE**
13 **PAYMENT ACT**

14 7.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

15 7.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing
16 regulation, WAC 296-126-092, require employers to provide thirty-minute meal periods to their
17 employees for work shifts greater than five hours in length and prohibits employees from working
18 more than five consecutive hours without a meal period.

19 7.3. Employees have an implied cause of action for violations of RCW 49.12 to protect
20 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow*
21 *Freight Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

22 7.4. A meal period violation is a wage violation with employees entitled to thirty
23 minutes of additional compensation for each instance they are required to work more than five
24 consecutive hours without a compliant meal period. *Hill v. Garda CL Nw., Inc.*, 191 Wn.2d 553,
25 560 (2018), citing *Hill v. Garda CL Nw., Inc.*, 198 Wn.App 326, 361 (2017).

26 7.5. Defendant has violated the IWA and its implementing regulation by failing to
provide Plaintiff and members of the putative class with compliant thirty-minute meal periods and

1 by creating work schedules, staffing levels and conditions of work that discouraged compliant
2 meal periods.

3 7.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and
4 members of the putative class for thirty minutes of work for each instance a meal period was not
5 provided in compliance with the IWA.

6 7.7. As a result of Defendant's acts and omissions, Plaintiff and members of the putative
7 class have been damaged in amounts as will be proven at trial.

8 **VIII. THIRD CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY**
9 **OVERTIME WAGES IN VIOLATION OF THE WASHINGTON MINIMUM**
10 **WAGE ACT**

11 8.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

12 8.2. In weeks where the total number of compensable hours including additional
13 compensable time for Defendant's failure to provide rest periods and meal periods exceeded forty,
14 Defendant has violated the Washington State Minimum Wage Act, RCW 49.46.130, by failing to
15 pay Plaintiff and members of the putative one and one-half times their regular rate of pay for those
16 hours.

17 8.3. As a result of Defendant's acts and omissions, Plaintiff and members of the putative
18 class have been damaged in amounts as will be proven at trial.

19 **IX. FOURTH CAUSE OF ACTION – CLASSWIDE WILLFUL WITHHOLDING OF**
20 **WAGES IN VIOLATION OF THE WASHINGTON WAGE REBATE ACT**

21 9.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

22 9.2. There is no "fairly debatable" issue of law or any objectively or subjectively
23 reasonable ("bona fide") dispute whether additional wages are owed to compensate for meal and
24 rest periods not provided in compliance with Washington law.

25 9.3. The failure to pay additional wages to compensate for meal and rest periods not
26 provided in compliance with Washington law was not the result of administrative or clerical errors.

1 9.4. By the foregoing, Defendant's actions in failing to pay the additional wages to
2 compensate for failing to provide meal and rest periods in compliance with Washington law
3 constitutes willful withholding of wages due in violation of RCW 49.52.050 and 070.

4 9.5. As a result of Defendant's acts and omissions, Plaintiff and members of the putative
5 class have been damaged in amounts as will be proven at trial.

6 **X. PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff requests this Court enter an order against Defendant granting the
8 following relief:

- 9 A. Certification of this case as a class action pursuant to CR 23(a) and (b)(3);
10 B. Damages for unpaid wages in amounts to be proven at trial;
11 C. Exemplary damages in amounts equal to double the wages due to Plaintiff and
12 members of the putative class pursuant to RCW 49.52.070;
13 D. Attorney's fees and costs pursuant to RCW 49.46.090, 49.48.030 and 49.52.070;
14 E. Prejudgment interest pursuant to RCW 19.52.010; and
15 F. Such other and further relief as the Court deems just and proper.

16
17 DATED this 2nd day of March, 2022.

18
19 ENTENTE LAW PLLC

20 s/ James B. Pizl
21 _____
22 James B. Pizl, WSBA #28969
23 Attorney for Plaintiff