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

BRIAN MARTIN, individually and on  
behalf of all those similarly situated,

Plaintiff,

vs.

GUARDIAN SECURITY SYSTEMS,  
INC., a Washington Profit Corporation,

Defendant.

No.

CLASS ACTION COMPLAINT FOR  
DAMAGES

Plaintiff claims against Defendant as follows:

**I. NATURE OF ACTION**

1.1. Plaintiff Brian Martin brings this action for money damages and statutory penalties for violations of Washington 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 individually, and on behalf of all individuals currently or formerly employed by Defendant in Washington State in hourly positions whose duties require driving a vehicle owned by Defendant.

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 is licensed to transact business and does transact business in Pierce  
6 County.

7 2.4. At least some of the acts and omissions alleged in this Complaint took place in the  
8 State of Washington and Pierce County.

9 **III. PARTIES**

10 3.1. Defendant Guardian Security Systems, Inc., hereafter "Guardian" has its principal  
11 office in Seattle, Washington and operates locations and serves customers throughout Washington  
12 including in Pierce County. Guardian is an employer for the purposes of the IWA, MWA, WPA  
13 and WRA.

14 3.2. Plaintiff Brian Martin, hereafter "Martin," is a resident of Spanaway, Washington  
15 and a former employee of Defendant.

16 **IV. FACTUAL ALLEGATIONS**

17 4.1. Plaintiff and members of the putative class are or were employed by Defendant in  
18 Washington state in hourly positions whose duties require driving a vehicle owned by Defendant.  
19 These positions include, but are not limited to, security and fire inspectors and technicians.

20 4.2. Defendant allows Plaintiff and members of the putative class to park vehicles  
21 owned by Defendant at their homes, as well as to drive them to and from Defendant's and their  
22 customers' job locations.

23 4.3. Defendant supplied Plaintiff and members of the putative class with company  
24 vehicles bearing the Defendant's logo and equipped and configured to carry the necessary tools,  
25 parts, supplies, and equipment to perform job requirements.

1           4.4. Without the company provided tools, parts, supplies, and equipment that the  
2 company vehicles were equipped with, Plaintiff and members of the putative class would not be  
3 able to perform the essential duties of their jobs in providing onsite services related to Defendant's  
4 customers.

5           4.5. During the Class Period, Defendant maintained policies and practices prohibiting  
6 Plaintiff and members of the putative class from using the provided company vehicles for personal  
7 travel.

8           4.6. During the Class Period, Defendant maintained policies and practices requiring  
9 Plaintiff and members of the putative class to maintain the logo on the Defendant's vehicle.

10          4.7. Defendant dispatched Plaintiff and members of the putative class to job locations  
11 directly from an application on a company phone.

12          4.8. Defendant benefited from Plaintiff and members of the putative class using  
13 company vehicles to ensure they could quickly respond to an urgent work need.

14          4.9. Plaintiff and members of the putative class checked for changes and confirmed jobs  
15 prior to leaving home to the first job of the day and upon returning home from the last job of the  
16 day.

17          4.10. Defendant provided a gas card for the company vehicle and expected Plaintiff and  
18 members of the putative class to keep the vehicles fueled. Plaintiff and members of the putative  
19 class frequently fueled their vehicles while off the clock.

20          4.11. Defendant maintained policies and practices requiring the Plaintiff and members of  
21 the putative class to maintain and care for the company vehicles.

22          4.12. Defendant failed to compensate Plaintiff and members of the putative class for all  
23 hours worked. Unpaid time includes but is not limited to: time spent driving from home to the  
24 first job of the day and driving home from the last job of the day.

25          4.13. Plaintiff and members of the putative class frequently work and worked over forty  
26 hours per week.

1           4.14. At times, Plaintiff and members of the putative class worked more than three  
2 consecutive hours without a rest period.

3           4.15. With respect to Plaintiff and members of the putative class, Defendant failed to  
4 establish or maintain a process to record the occurrence, time, and duration of paid rest periods.

5           4.16. With respect to Plaintiff and members of the putative class, Defendant failed to provide  
6 a process to report instances of when they were required or allowed to work over three hours without  
7 a rest period, when they did not receive a rest period in at least a ten-minute duration or when they  
8 failed to receive a rest period of at least ten minutes in length for each four hours worked.

9           4.17. Defendant created and maintained work schedules and a working environment that  
10 discouraged Plaintiff and members of the putative class from taking rest periods and meal periods  
11 in compliance with Washington law.

12           4.18. Plaintiff and members of the putative class were not scheduled for and, at times,  
13 did not take a ten-minute rest period on the employer's time for every four hours worked.

14           4.19. Defendant created and maintained work schedules, job requirements, and a working  
15 environment that discouraged Plaintiff and members of the putative class from taking meal periods  
16 in compliance with Washington law.

17           4.20. Defendant did not train Plaintiff and members of the putative class on the elements  
18 of an unpaid meal period.

19           4.21. Defendant did not provide Plaintiff and members of the putative class a process to  
20 record a meal period or report a missed meal period.

21           4.22. Plaintiff and members of the putative class frequently worked shifts greater than  
22 five hours in length and occasionally worked shifts over ten hours in length and, at times, were not  
23 scheduled for, did not take and did not waive their rights to compliant thirty-minute meal periods  
24 during these shifts.

1           4.23. Defendant did not add thirty minutes of compensable time to Plaintiff's and  
2 putative class members' pay for those shifts greater than five hours in length and when meal  
3 periods were not taken.

4           4.24. Defendant did not add another thirty minutes of compensable time to Plaintiff's and  
5 putative class members' pay for those shifts greater than ten hours in length and when additional  
6 meal periods were not taken.

7           4.25. At times when total compensable time, including the aforementioned off the clock  
8 travel time and the additional time added to compensate for missed rest and meal periods totaled  
9 over forty hours in a workweek, Plaintiff and members of the putative class were not paid one and  
10 one-half times their regular rate of pay for all the hours over forty.

11           4.26. There is no fairly debatable issue of law or any objectively or subjectively reasonable  
12 dispute whether Defendant needed to compensate Plaintiff and members of the putative class for all  
13 hours worked including, but not limited to, time spent driving company vehicles transporting necessary  
14 tools, parts, supplies, and equipment.

15           4.27. Defendant's failure to compensate Plaintiff and members of the putative class for all  
16 hours worked including, but not limited to, time spent driving company vehicles transporting necessary  
17 tools, parts, supplies, and equipment was intentional and deliberate and was not the result of  
18 administrative or clerical errors.

19           4.28. There is no fairly debatable issue of law or any objectively or subjectively reasonable  
20 dispute whether additional wages are owed to compensate for meal and rest periods not provided in  
21 compliance with Washington law.

22           4.29. Defendant's failure to compensate Plaintiff and members of the putative class with  
23 additional wages to compensate for meal and rest periods not provided in compliance with Washington  
24 law was not the result of administrative or clerical errors.

25           4.30. Plaintiff's interests in this matter do not conflict with the interests of the putative class.  
26

1 4.31. Plaintiff’s counsel is experienced in complex wage and hour class action litigation and  
2 has been appointed Class Counsel in dozens of similar cases.

3 4.32. Plaintiff’s counsel has adequate financial resources to prosecute this claim through trial  
4 and beyond.

5 **V. CLASS ACTION ALLEGATIONS**

6 5.1. Pursuant to Civil Rule 23, Plaintiff brings this case as a class action against  
7 Defendant on behalf of a Class as defined as follows:

8 All individuals who are or were employed by Defendant in Washington  
9 state at any time on or after July 13, 2020, in hourly positions whose  
duties require driving a vehicle owned by Defendant.

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

11 5.3. The number of putative class members exceeds forty and therefore, pursuant to CR  
12 23(a)(1), it is impracticable to join all of the members of the class as defined herein as named  
13 plaintiffs.

14 5.4. Pursuant to CR 23(a)(2), there are common questions of law and fact among  
15 Plaintiff and members of the putative class including, but not limited to:

16 (1) Whether Defendant was required to compensate Plaintiff and  
17 members of the putative class for all time worked starting with traveling to the first  
18 job of the day and ending with their return home after the last job of the day in the  
19 company vehicle;

20 (2) Whether Defendant failed to compensate Plaintiff and members of  
21 the putative class for all time worked starting with traveling to the first job of the  
22 day and ending with their return home after the last job of the day in the company  
23 vehicle;

24 (3) Whether Defendant failed to train Plaintiff and members of the  
25 putative on the elements of an unpaid meal period;

26

1           (4) Whether Defendant did not provide Plaintiff and members of the  
2 putative class a process to record a meal period or report a missed meal period;

3           (5) Whether Defendant was required to keep records of the occurrence,  
4 time, and duration of rest periods provided to Plaintiff and members of the putative  
5 class;

6           (6) Whether Defendant failed to keep records of the occurrence, time,  
7 and duration of rest periods;

8           (7) Whether Defendant required Plaintiff and members of the putative  
9 class to work greater than three consecutive hours without a rest period;

10          (8) Whether Defendant failed to ensure Plaintiff and members of the  
11 putative class received a compliant rest period of at least ten minutes in length, on  
12 the employer's time, for each four hours worked;

13          (9) Whether Defendant was required to compensate Plaintiff and  
14 members of the putative class for an additional ten minutes of work for each  
15 instance it required them to work greater than three consecutive hours without a  
16 rest period, or in which it failed to ensure Plaintiff and members of the putative  
17 class received a compliant rest period of at least ten minutes in length, on the  
18 employer's time, for each four hours worked;

19          (10) Whether Defendant failed to compensate Plaintiff and members of  
20 the putative class for an additional ten minutes of work for each instance it required  
21 them to work greater than three consecutive hours without a rest period or in which  
22 it failed to ensure Plaintiff and members of the putative class received a compliant  
23 rest period of at least ten minutes in length, on the employer's time, for each four  
24 hours worked;

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

1 (12) Whether Plaintiff and members of the putative class worked greater  
2 than five consecutive hours without a meal period;

3 (13) Whether Defendant was required to compensate Plaintiff and  
4 members of the putative class for an additional thirty minutes of work for each  
5 instance it failed to provide a compliant meal period of at least thirty minutes for  
6 shifts greater than five hours in length or required them to work greater than five  
7 consecutive hours without a meal period;

8 (14) Whether Defendant failed to compensate Plaintiff and members of  
9 the putative class for an additional thirty minutes of work for each instance it failed  
10 to provide a compliant meal period of at least thirty minutes for shifts greater than  
11 five hours in length or required them to work greater than five consecutive hours  
12 without a meal period;

13 (15) Whether Defendant failed to compensate Plaintiff and members of  
14 the putative class for an additional thirty minutes of work for each instance it failed  
15 to provide a second compliant meal period of at least thirty minutes for shifts  
16 greater than ten hours in length;

17 (16) Whether Defendant failed to pay Plaintiff and members of the  
18 putative class one and one-half their regular rate of pay for all hours over forty,  
19 inclusive of the additional time to compensate for travel and for missed or otherwise  
20 noncompliant meal and rest periods, in a workweek; and

21 (17) Whether Defendant acted willfully and with the intent of depriving  
22 wages or other compensation.

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

25 5.6. The named Plaintiff and their counsel will fairly and adequately protect the interests  
26 of the class as required by CR 23(a)(4).



1           5.7. Pursuant to CR 23(b)(3), class certification is appropriate here because questions  
2 of law or fact common to members of the class predominate over any questions affecting only  
3 individual members, and because a class action is superior to other available methods for the fair  
4 and efficient adjudication of the controversy.

5           **VI. FIRST CAUSE OF ACTION – FAILURE TO PAY WAGES FOR ALL HOURS**  
6           **WORKED IN VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT AND**  
7           **WAGE PAYMENT ACT**

8           6.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

9           6.2. Defendant violated the MWA and WPA by failing to pay wages for all hours  
10 worked by Plaintiff and members of the putative class starting with traveling to the first job of the  
11 day and ending with their return home after the last job of the day in the company vehicle.

12           6.3. As a result of Defendant’s acts and omissions, Plaintiff and members of the  
13 putative class have been damaged in amounts as will be proven at trial.

14           **VII. SECOND CAUSE OF ACTION – CLASSWIDE FAILURE ENSURE REST**  
15           **PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**  
16           **WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS IN**  
17           **VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT AND**  
18           **WASHINGTON WAGE PAYMENT ACT**

19           7.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

20           7.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing  
21 regulation, WAC 296-126-092, require employers to provide a rest period of not less than ten  
22 minutes, on the employer’s time, for each four hours of working time.

23           7.3. Employees have an implied cause of action for violations of RCW 49.12 to protect  
24 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow Freight*  
25 *Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

26           7.4. A rest period violation is a wage violation with employees entitled to ten minutes of  
additional compensation for each instance they are required or allowed to work longer than three  
consecutive hours without a rest break. *Id* at 849.

1           7.5. Defendant violated the IWA and its implementing regulation by failing to ensure  
2 Plaintiff and members of the putative class received a ten-minute paid rest period for every four hours  
3 worked and by failing to keep records of the occurrence, time, and duration of rest periods taken, by  
4 failing to implement a process for Plaintiff and members of the putative class to report missed or  
5 otherwise noncompliant rest periods and by creating work schedules, staffing levels and conditions of  
6 work that discouraged paid rest periods.

7           7.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and  
8 members of the putative class for an additional ten minutes of work for each instance a rest period was  
9 not provided in compliance with IWA.

10           7.7. As a result of Defendant's acts and omissions, Plaintiff and members of the putative  
11 class have been damaged in amounts as will be proven at trial.

12           **VIII. THIRD CAUSE OF ACTION – CLASSWIDE FAILURE TO PROVIDE MEAL**  
13           **PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL WELFARE ACT**  
14           **AND FAILURE TO COMPENSATE FOR VIOLATIONS OF THE WASHINGTON**  
15           **MINIMUM WAGE ACT AND WASHINGTON WAGE PAYMENT ACT**

16           8.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

17           8.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing regulation,  
18 WAC 296-126-092, require employers to provide thirty-minute meal periods to their employees for  
19 work shifts greater than five hours in length and prohibits employees from working more than five  
20 consecutive hours without a meal period.

21           8.3. Employees have an implied cause of action for violations of RCW 49.12 to protect  
22 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow Freight*  
23 *Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

24           8.4. A meal period violation is a wage violation with employees entitled to thirty minutes  
25 of additional compensation for each instance they are required to work more than five consecutive  
26 hours without a compliant meal period. *Hill v. Garda CL Nw., Inc.*, 191 Wn.2d 553, 560 (2018), citing  
*Hill v. Garda CL Nw., Inc.*, 198 Wn. App 326, 361 (2017).

1           8.5. Defendant has violated the IWA and its implementing regulation by failing to provide  
2 Plaintiff and members of the putative class with compliant thirty-minute meal periods and by creating  
3 work schedules, staffing levels and conditions of work that discouraged compliant meal periods.

4           8.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and  
5 members of the putative class for thirty minutes of work for each instance a meal period was not  
6 provided in compliance with the IWA.

7           8.7. 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           **IX. FOURTH CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY OVERTIME**  
10           **WAGES IN VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT**

11           9.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

12           9.2. Defendant violated the Washington State Minimum Wage Act, RCW 49.46.130, by  
13 failing to pay Plaintiff and members of the putative one and one-half times their regular rate of pay  
14 for weekly hours worked in excess of forty, including all time worked, including travel time, and  
15 additional compensable time for Defendant's failure to provide compliant rest and meal periods.

16           9.3. As a result of Defendant's acts and omissions, Plaintiff and members of the putative  
17 class have been damaged in amounts as will be proven at trial.

18           **X. FIFTH CAUSE OF ACTION – CLASSWIDE WILLFUL WITHHOLDING OF**  
19           **WAGES IN VIOLATION OF THE WASHINGTON WAGE REBATE ACT**

20           10.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

21           10.2. By the foregoing, Defendant's actions constitute willful withholding of wages due  
22 in violation of RCW 49.52.050 and 070.

23           10.3. As a result of Defendant's acts and omissions, Plaintiff and members of the putative  
24 class have been damaged in amounts as will be proven at trial.

1 **XI. PRAYER FOR RELIEF**

2 WHEREFORE, Plaintiff request this Court enter an order against Defendant granting the  
3 following relief:

- 4 A. Certification of this case as a class action pursuant to CR 23(a) and (b)(3);  
5 B. Damages for unpaid wages in amounts to be proven at trial;  
6 C. Exemplary damages in amounts equal to double the wages due to Plaintiff and  
7 members of the putative class pursuant to RCW 49.52.070;  
8 D. Attorneys' fees and costs pursuant to RCW 49.46.090, 49.48.030 and 49.52.070;  
9 E. Additional Attorneys' fees pursuant to all applicable factors outlined in *Bowers v.*  
10 *Transamerica Title Ins.*, 100 Wn.2d 581, 593-597 (1983);  
11 F. Prejudgment interest pursuant to RCW 19.52.010; and  
12 G. Such other and further relief as the Court deems just and proper.

13  
14 DATED this the 13th day of July, 2023

15 ENTENTE LAW PLLC

16 *s/ James B. Pizl*

17 James B. Pizl, WSBA #28969

18 Justin Abbasi, WSBA #53582

19 Ari Robbins Greene, WSBA #54201

20 *Attorneys for Plaintiff*