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

COLE W. CHAMBERS, individually and on
behalf of all those similarly situated,

Plaintiff,

vs.

FOUNDATION PARTNERS GROUP, LLC a
foreign limited liability company,

Defendant.

No.

CLASS ACTION COMPLAINT FOR
DAMAGES

Plaintiff claims against Defendant as follows:

I. NATURE OF ACTION

1.1. Plaintiff Cole W. Chambers, individually and on behalf of all individuals currently or formerly employed by Defendant in Washington state as funeral directors, funeral directors in training, and other positions paid on an hourly basis 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 Foundation Partners Group, LLC, hereafter "Foundation" is organized
9 under the laws of Delaware and headquartered in Orlando, Florida. Under several different brand
10 names, Foundation provides funeral and cremation services from a dozen or so locations in
11 Washington state as well as several other locations in Oregon, Idaho, California, Nevada and
12 Colorado. Foundation is an employer for the purposes of the IWA, MWA, WPA and WRA.

13 3.2. Plaintiff Cole W. Chambers is a resident of Tacoma, Washington and is currently
14 employed by Defendant as a funeral director in training at its location in Lakewood, Washington.

15 **IV. FACTUAL ALLEGATIONS**

16 4.1. Plaintiff and members of the putative class are or were employed by Defendant in
17 Washington state as funeral directors, funeral directors in training, and other positions paid on an
18 hourly basis at any time from April 29, 2019 and thereafter.

19 4.2. Defendant expected Plaintiff and members of the putative class to communicate
20 with clients and co-workers via Microsoft Teams and ASD (after hours answering service), as well
21 as via cellular telephone at all times on and off the clock.

22 4.3. Defendant expected Plaintiff and members of the putative class to be constantly on
23 call and to respond immediately to any communication from clients and/or co-workers.

24 4.4. Defendant failed to compensate Plaintiff and members of the putative class for all
25 time spent on call and/or communicating with clients and/or co-workers after hours.

1 4.5. Defendant created and maintained timekeeping systems, work schedules, staffing
2 levels, job requirements and a working environment that discouraged Plaintiff and members of the
3 putative class from taking rest periods and meal periods in compliance with Washington law.

4 4.6. At times, Plaintiff and members of the putative class were required to work more
5 than three consecutive hours without a rest period.

6 4.7. With respect to Plaintiff and members of the putative class, Defendant failed to
7 establish maintain a process to record of the occurrence, time, and duration of paid rest periods.

8 4.8. With respect to Plaintiff and members of the putative class, Defendant failed to
9 maintain accurate records of the occurrence, time, and duration of paid rest periods.

10 4.9. With respect to Plaintiff and members of the putative class, Defendant failed to
11 provide a process to report instances of when they were required to work over three consecutive
12 hours without a rest period, when they did not receive a rest period in at least a ten-minute duration
13 for each four hours worked.

14 4.10. Defendant did not ensure Plaintiff and members of the putative class received a ten-
15 minute rest period on the employer's time for every four hours worked.

16 4.11. Defendant did not compensate Plaintiff and members of the putative class for an
17 additional ten minutes of work for each instance it required them to work greater than three
18 consecutive hours without a rest period, provided a rest period in a duration of less than ten
19 minutes, or did not provide a rest period of at least ten minutes in duration for each four hours
20 worked.

21 4.12. Plaintiff and members of the putative class worked shifts greater than five hours in
22 length and, at times, were not provided and did not waive their rights to meal periods in compliance
23 with Washington law.

24 4.13. At times, Plaintiff and members of the putative class worked more than five
25 consecutive hours without a meal period.

1 as named plaintiffs. See *Chavez v. Our Lady of Lourdes Hosp. at Pasco*, 190 Wn.2d 507, 520
2 (2018) (“As a general rule, joinder is impracticable where a class contains at least 40 members.”)

3 5.4. Pursuant to CR 23(a)(2), there are common questions of law and fact among
4 Plaintiff and members of the putative class including, but not limited to:

5 (1) whether Plaintiff and members of the putative class were expected to be
6 constantly on call and to immediately respond to clients and/or co-workers after hours;

7 (2) whether Defendant was required to compensate Plaintiff and members of
8 the putative class for time spent on call and/or responding to clients and/or co-workers after hours;

9 (3) whether Defendant failed to compensate Plaintiff and members of the
10 putative class for time spent on call and/or responding to clients and/or co-workers after hours;

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

13 (5) whether Defendant failed to keep records of the occurrence, time and
14 duration of rest periods;

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

17 (7) whether Defendant failed to ensure Plaintiff and members of the putative
18 class received a compliant rest period of at least ten minutes in length, on the employer’s time, for
19 each four hours worked;

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

25 (9) whether Defendant failed to compensate Plaintiff and members of the
26 putative class for an additional ten minutes of work for each instance it required them to work

1 greater than three consecutive hours without a rest period or when it failed to ensure Plaintiff and
2 members of the putative class received a compliant rest period of at least ten minutes in length, on
3 the employer's time, for each four hours worked;

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

6 (11) whether Defendant failed to provide an additional compliant meal period
7 of at least thirty minutes for shifts greater than ten hours in length.

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

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

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

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

25 (16) whether Defendant acted willfully and with the intent of depriving Plaintiff
26 and members of the putative class of wages or other compensation.

1 5.5. Pursuant to CR 23(a)(3), the named Plaintiff’s claims are typical of the claims of
2 all class members and of Defendant’s anticipated defenses thereto.

3 5.6. The named Plaintiff and his counsel will fairly and adequately protect the interests
4 of the class as required by CR 23(a)(4).

5 5.7. Pursuant to CR 23(b)(3), class certification is appropriate here because questions
6 of law or fact common to members of the class predominate over any questions affecting only
7 individual members, and because a class action is superior to other available methods for the fair
8 and efficient adjudication of the controversy.

9 **VI. FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO COMPENSATE**
10 **FOR ALL HOURS WORKED IN VIOLATION OF THE WASHINGTON**
11 **MINIMUM WAGE ACT AND WAGE PAYMENT ACT**

12 6.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

13 6.2. MWA requires employees to be compensated for all hours worked. *RCW*
14 *49.46.020, .130*. Hours worked includes any time an employee is “authorized or required to be on
15 duty on the employer’s premises or at a prescribed workplace.” *Wash. Dep’t of Labor & Indus.,*
Admin. Policy ES.C. 2 at 8.

16 6.3. An employee cannot agree to work for an employer without payment of wages at
17 either regular or applicable overtime rates. *See* RCW 49.46.090(1).

18 6.4. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and
19 members of the putative class for time spent on call and/or responding to customers and/or co-
20 workers after hours.

21 6.5. As a result of Defendant’s acts and omissions, Plaintiff and members of the putative
22 class have been damaged in amounts as will be proven at trial.

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25 **VII. SECOND CAUSE OF ACTION – CLASSWIDE FAILURE TO ENSURE**
26 **REST PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**

1 **WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS IN**
2 **VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT AND**
3 **WASHINGTON WAGE PAYMENT ACT**

4 7.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

5 7.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing
6 regulation, WAC 296-126-092, require employers to provide a rest period of not less than ten
7 minutes, on the employer's time, for each four hours of working time.

8 7.3. Employees have an implied cause of action for violations of RCW 49.12 to protect
9 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow*
10 *Freight Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

11 7.4. A rest period violation is a wage violation with employees entitled to ten minutes
12 of additional compensation for each instance they are required to work longer than three
13 consecutive hours without a rest break. *Id* at 849.

14 7.5. Defendant violated the IWA and its implementing regulation by failing to ensure
15 Plaintiff and members of the putative class received a ten-minute paid rest period for every four
16 hours worked and by failing to keep records of the occurrence, time and duration of rest periods
17 taken, by failing to implement a process for Plaintiff and members of the putative class to report
18 missed or otherwise noncompliant rest periods and by creating work schedules, staffing levels and
19 conditions of work that discouraged paid rest periods.

20 7.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and
21 members of the putative class for an additional ten minutes of work for each instance a rest period
22 was not provided in compliance with IWA.

23 7.7. 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.

25 **VIII. THIRD CAUSE OF ACTION – CLASSWIDE FAILURE TO PROVIDE**
26 **MEAL PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**
 WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS OF

1 **THE WASHINGTON MINIMUM WAGE ACT AND WASHINGTON WAGE**
2 **PAYMENT ACT**

3 8.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

4 8.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing
5 regulation, WAC 296-126-092, require employers to provide thirty-minute meal periods to their
6 employees for work shifts greater than five hours in length and prohibits employees from working
7 more than five consecutive hours without a meal period.

8 8.3. Employees have an implied cause of action for violations of RCW 49.12 to protect
9 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow*
10 *Freight Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

11 8.4. A meal period violation is a wage violation with employees entitled to thirty
12 minutes of additional compensation for each instance they are required to work more than five
13 consecutive hours without a compliant meal period. *Hill v. Garda CL Nw., Inc.*, 191 Wn.2d 553,
14 560 (2018), citing *Hill v. Garda CL Nw., Inc.*, 198 Wn.App 326, 361 (2017).

15 8.5. Defendant has violated the IWA and its implementing regulation by failing to
16 provide Plaintiff and members of the putative class with compliant thirty-minute meal periods and
17 by creating work schedules, staffing levels and conditions of work that discouraged compliant
18 meal periods.

19 8.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and
20 members of the putative class for thirty minutes of work for each instance a meal period was not
21 provided in compliance with the IWA.

22 8.7. As a result of Defendant's acts and omissions, Plaintiff and members of the putative
23 class have been damaged in amounts as will be proven at trial.

24 **IX. FOURTH CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY**
25 **OVERTIME WAGES IN VIOLATION OF THE WASHINGTON MINIMUM**
26 **WAGE ACT**

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

1 9.2. In weeks where the total number of compensable hours including compensable time
2 spent on call and/or responding to clients and/or co-workers and additional compensable time for
3 Defendant's failure to provide rest periods and meal periods exceeded forty, Defendant has
4 violated the Washington State Minimum Wage Act, RCW 49.46.130, by failing to pay Plaintiff and
5 members of the putative one and one-half times their regular rate of pay for those hours.

6 9.3. 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 **X. FIFTH CAUSE OF ACTION – CLASSWIDE WILLFUL WITHHOLDING OF**
9 **WAGES IN VIOLATION OF THE WASHINGTON WAGE REBATE ACT**

10 10.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

11 10.2. There is no fairly debatable issue of law or any objectively or subjectively
12 reasonable dispute whether employees must be paid wages for all hours worked.

13 10.3. Defendant's failure to pay wages for all hours worked by Plaintiff and members of
14 the putative class was not the result of administrative or clerical errors.

15 10.4. There is no fairly debatable issue of law or any objectively or subjectively
16 reasonable dispute whether additional wages are owed to compensate for meal and rest periods not
17 provided in compliance with Washington law.

18 10.5. The failure to pay additional wages to compensate for meal and rest periods not
19 provided in compliance with Washington law was not the result of administrative or clerical errors.

20 10.6. By the foregoing, Defendant's actions in failing to pay the additional wages to
21 compensate for failing to provide meal and rest periods in compliance with Washington law
22 constitutes willful withholding of wages due in violation of RCW 49.52.050 and 070.

23 10.7. 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.

25 **XI. PRAYER FOR RELIEF**

26 WHEREFORE, Plaintiff requests this Court enter an order against Defendant granting the

1 following relief:

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

9

10 DATED this 29th day of April, 2022.

11 ENTENTE LAW PLLC

12 s/ James B. Pizl

13

James B. Pizl, WSBA #28969

14 *Attorney for Plaintiff*