

December 23 2020 4:26 PM

KEVIN STOCK  
COUNTY CLERK  
NO: 20-2-08973-2

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26

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

AUDRA K. STAFFORD, individually and  
on behalf of all those similarly situated,  
  
Plaintiff,

vs.

KEY MECHANICAL CO. OF  
WASHINGTON, a Washington corporation  
  
Defendant.

No.  
  
CLASS ACTION COMPLAINT FOR  
DAMAGES

Plaintiff claims against Defendant as follows:

**I. NATURE OF ACTION**

1.1. Plaintiff Audra K. Stafford, individually and on behalf of all individuals currently or formerly employed in Washington as mechanical laborers with the titles of Foreman, Journeyman, Apprentice, Tradesman or other titled positions with similar duties, brings this action for money damages and statutory penalties for violations of the 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.

**II. JURISDICTION AND VENUE**

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



1           4.6. Defendant required or allowed Plaintiff and members of the putative class to take  
2 their company vehicles home and dispatched them to customer locations directly from their homes.

3           4.7. During some or all of the time periods relevant hereto, Defendant failed to  
4 compensate Plaintiff and members of the putative class for all hours worked, including but not  
5 limited to: time spent driving from home to jobsites and jobsites to home, time spent driving  
6 between job sites and time spent driving between home, company offices and jobsites.

7           4.8. Plaintiff and members of the putative class frequently work and worked over forty  
8 hours per week.

9           4.9. Defendant created and maintained timekeeping systems, work schedules, staffing  
10 levels, job requirements and a working environment that discouraged Plaintiff and members of the  
11 putative class from taking rest periods and meal periods in compliance with Washington law.

12           4.10. At times, Plaintiff and members of the putative class were required or allowed to  
13 work more than three consecutive hours without a rest period.

14           4.11. With respect to Plaintiff and members of the putative class, Defendant failed to  
15 establish or maintain a process to record of the occurrence, time and duration of paid rest periods.

16           4.12. With respect to Plaintiff and members of the putative class, Defendant failed to  
17 maintain accurate records of the occurrence, time and duration of paid rest periods.

18           4.13. With respect to Plaintiff and members of the putative class, Defendant failed to  
19 provide a process to report instances of when they were required or allowed to work over three  
20 hours without a rest period, when they did not receive a rest period in at least a ten-minute duration  
21 or when they failed to receive a rest period of at least ten minutes in length for each four hours  
22 worked.

23           4.14. Defendant did not ensure Plaintiff and members of the putative class received a ten-  
24 minute rest period on the employer's time for every four hours worked.

25           4.15. Defendant did not compensate Plaintiff and members of the putative class for an  
26 additional ten minutes of work for each instance it required or allowed them to work greater than

1 three consecutive hours without a rest period, when a rest period was taken in a duration of less  
2 than ten minutes, or no rest period of at least ten minutes in duration was taken for each four hours  
3 worked.

4 4.16. Plaintiff and members of the putative class frequently worked shifts greater than  
5 five hours in length and, at times, were not provided and did not waive their rights to thirty-minute  
6 meal periods in compliance with Washington law.

7 4.17. At times, Plaintiff and members of the putative class worked more than five  
8 consecutive hours without a meal period.

9 4.18. Defendant did not did not compensate Plaintiff and members of the putative class  
10 for an additional thirty minutes of work for shifts greater than five hours in length when compliant  
11 meal periods were not provided or when Plaintiff and members of the putative class worked more  
12 than five consecutive hours without a meal period.

13 4.19. At times when total compensable time including additional time to compensate for  
14 missed rest and meal periods and additional time added to compensate for unpaid time spent  
15 driving company vehicles to and from customer locations totaled over forty in a workweek,  
16 Defendant did not pay Plaintiff and members of the putative class one and one-half times their  
17 regular rate of pay for all hours over forty in a workweek.

18 4.20. There is no “fairly debatable” issue of law or any objectively or subjectively  
19 reasonable (“bona fide”) dispute whether Defendants needed to compensate Plaintiff for all time  
20 spent driving company vehicles transporting necessary tools, parts, supplies and equipment.

21 4.21. Defendants failure to compensate Plaintiff for all time spent driving company  
22 vehicles transporting necessary tools, parts, supplies and equipment was not the result of  
23 administrative or clerical errors.

24 4.22. There is no “fairly debatable” issue of law or any objectively or subjectively  
25 reasonable (“bona fide”) dispute whether additional wages are owed to compensate for meal and  
26 rest periods not provided in compliance with Washington law.

1 4.23. Defendants failure to pay additional wages to compensate for meal and rest periods  
2 not provided in compliance with Washington law was not the result of administrative or clerical  
3 errors.

4 4.24. There is no “fairly debatable” issue of law or any objectively or subjectively  
5 reasonable (“bona fide”) dispute whether Defendants needed to compensate Plaintiff for all hours  
6 worked over forty in each workweek at one and one-half times Plaintiff’s regular hourly rate.

7 4.25. Defendants failure to compensate Plaintiff for all hours worked over forty in each  
8 workweek at one and one-half times Plaintiff’s regular hourly rate was not the result of  
9 administrative or clerical errors.

10 4.26. Plaintiff’s interests in this matter do not conflict with the interests of the putative  
11 class.

12 4.27. Plaintiff’s counsel is experienced in complex class action litigation and has been  
13 appointed Class Counsel in a number of similar cases.

#### 14 **V. CLASS ACTION ALLEGATIONS**

15 5.1. Plaintiff seeks to represent all individuals employed by Defendant in Washington  
16 at any time between December 23, 2017 and thereafter as mechanical laborers with the titles of  
17 Foreman, Journeyman, Apprentice, Tradesman or other titled positions with similar duties.

18 5.2. This action is properly maintainable as a class action under CR 23(a) and (b)(3).

19 5.3. Pursuant to CR 23(a)(1), it is impracticable to join all of the members of the class  
20 as defined herein as named plaintiff.

21 5.4. Pursuant to CR 23(a)(2), there are common questions of law and fact among  
22 Plaintiff and members of the putative class including but not limited to whether (1) Defendant was  
23 required to compensate Plaintiff and members of the putative class for driving company vehicles  
24 transporting necessary tools, parts, equipment and supplies between their home and the first jobsite  
25 of the day, driving home from the last jobsite of the day, driving between jobsites, and for other  
26 driving to and from Defendant’s home to and from company offices, warehouses or other

1 locations; (2) whether Defendant was required to keep records of the occurrence, time and duration  
2 of rest periods provided to Plaintiff and members of the putative class; (3) whether Defendant  
3 failed to keep records of the occurrence, time and duration of rest periods; (4) whether Defendant  
4 required Plaintiff and members of the putative class to work greater than three consecutive hours  
5 without a rest period; (5) whether Defendant failed to ensure Plaintiff and members of the putative  
6 class received a compliant rest period of at least ten minutes in length, on the employer's time, for  
7 each four hours worked; (6) whether Defendant was required to compensate Plaintiff and members  
8 of the putative class for an additional ten minutes of work for each instance it required or allowed  
9 them to work greater than three consecutive hours without a rest period or in which it failed to  
10 ensure Plaintiff and members of the putative class received a compliant rest period of at least ten  
11 minutes in length, on the employer's time, for each four hours worked; (7) whether Defendant  
12 failed to compensate Plaintiff and members of the putative class for an additional ten minutes of  
13 work for each instance it required them to work greater than three consecutive hours without a rest  
14 period or in which it failed to ensure Plaintiff and members of the putative class received a  
15 compliant rest period of at least ten minutes in length, on the employer's time, for each four hours  
16 worked; (8) whether Defendant failed to provide a compliant meal period of at least thirty minutes  
17 for shifts greater than five hours in length; (9) whether Plaintiff and members of the putative class,  
18 at times, worked greater than five consecutive hours without a meal period; (10) whether  
19 Defendant was required to compensate Plaintiff and members of the putative class for an additional  
20 thirty minutes of work for each instance it failed to provide a compliant meal period for shifts  
21 greater than five hours in length or required or allowed them to work greater than five consecutive  
22 hours without a meal period; (11) whether Defendant failed to compensate Plaintiff and members  
23 of the putative class for an additional thirty minutes of work for each instance it failed to provide  
24 a compliant meal period of at least thirty minutes for shifts greater than five hours in length or  
25 required them to work greater than five consecutive hours without a meal period; (12) whether  
26 Defendant failed to pay Plaintiff and members of the putative class one and one-half their regular

1 rate of pay for all hours over forty, including unpaid time driving company vehicles transporting  
2 necessary tools, parts, supplies and equipment to and from customer locations and inclusive of the  
3 additional time to compensate for noncompliant or miss meal and rest periods, in a workweek and  
4 (13) whether Defendant acted willfully and with the intent of depriving wages or other  
5 compensation.

6 5.5. Pursuant to CR 23(a)(3), the named Plaintiff's claims are typical of the claims of  
7 all class members and of Defendant's anticipated defenses thereto.

8 5.6. The named Plaintiff and their counsel will fairly and adequately protect the interests  
9 of the class as required by CR 23(a)(4).

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

14 **VI. FIRST CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY WAGES IN**  
15 **VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT**

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

17 6.2. Defendant violated the MWA and WPA by failing to pay wages to Plaintiff and  
18 members of the putative class for all time spent driving company vehicles.

19 6.3. As a result of Defendant's acts and omissions, Plaintiff and members of the putative  
20 class have been damaged in amounts as will be proven at trial.

21 **VII. SECOND CAUSE OF ACTION – CLASSWIDE FAILURE TO ENSURE REST**  
22 **PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**  
23 **WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS IN**  
24 **VIOLATION OF THE WASHINGTON MINIMUM WAGE ACT AND**  
25 **WASHINGTON WAGE PAYMENT ACT**

24 7.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

25 7.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing  
26 regulation, WAC 296-126-092, require employers to provide a rest period of not less than ten

1 minutes, on the employer's time, for each four hours of working time.

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

5 7.4. A rest period violation is a wage violation with employees entitled to ten minutes  
6 of additional compensation for each instance they are required or allowed to work longer than  
7 three consecutive hours without a rest break. *Id* at 849.

8 7.5. Defendant violated the IWA and its implementing regulation by failing to ensure  
9 Plaintiff and members of the putative class received a ten-minute paid rest period for every four  
10 hours worked and by failing to keep records of the occurrence, time and duration of rest periods  
11 taken, by failing to implement a process for Plaintiff and members of the putative class to report  
12 missed or otherwise noncompliant rest periods and by creating work schedules, staffing levels and  
13 conditions of work that discouraged paid rest periods.

14 7.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and  
15 members of the putative class for an additional ten minutes of work for each instance a rest period  
16 was not provided in compliance with IWA.

17 7.7. 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 **VIII. THIRD CAUSE OF ACTION – CLASSWIDE FAILURE TO PROVIDE MEAL**  
20 **PERIODS IN VIOLATION OF THE WASHINGTON INDUSTRIAL**  
21 **WELFARE ACT AND FAILURE TO COMPENSATE FOR VIOLATIONS OF**  
22 **THE WASHINGTON MINIMUM WAGE ACT AND WASHINGTON WAGE**  
23 **PAYMENT ACT**

24 8.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

25 8.2. The Washington Industrial Welfare Act, RCW 49.12, and its implementing  
26 regulation, WAC 296-126-092, require employers to provide thirty-minute meal periods to their  
employees for work shifts greater than five hours in length and prohibits employees from working  
more than five consecutive hours without a meal period.



1           8.3. Employees have an implied cause of action for violations of RCW 49.12 to protect  
2 them from conditions of labor that have a pernicious effect on their health. *Wingert v. Yellow*  
3 *Freight Systems, Inc.*, 146 Wn.2d 841, 850 (2002).

4           8.4. A meal period violation is a wage violation with employees entitled to thirty  
5 minutes of additional compensation for each instance they are required to work more than five  
6 consecutive hours without a compliant meal period. *Hill v. Garda CL Nw., Inc.*, 191 Wn.2d 553,  
7 560 (2018), citing *Hill v. Garda CL Nw., Inc.*, 198 Wn.App 326, 361 (2017).

8           8.5. Defendant has violated the IWA and its implementing regulation by failing to  
9 provide Plaintiff and members of the putative class with compliant thirty-minute meal periods and  
10 by creating work schedules, staffing levels and conditions of work that discouraged compliant  
11 meal periods.

12           8.6. Defendant violated the MWA and WPA when it failed to compensate Plaintiff and  
13 members of the putative class for thirty minutes of work for each instance a meal period was not  
14 provided in compliance with the IWA.

15           8.7. As a result of Defendant's acts and omissions, Plaintiff and members of the putative  
16 class have been damaged in amounts as will be proven at trial.

17           **IX. FOURTH CAUSE OF ACTION – CLASSWIDE FAILURE TO PAY**  
18           **OVERTIME WAGES IN VIOLATION OF THE WASHINGTON MINIMUM**  
19           **WAGE ACT**

20           9.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

21           9.2. Defendant violated the Washington State Minimum Wage Act, RCW 49.46.130, by  
22 failing to pay Plaintiff and members of the putative one and one-half times their regular rate of pay  
23 for weekly hours worked in excess of forty, including additional compensable time for driving  
24 between home to and jobsites, between jobsites and elsewhere and including additional  
25 compensable time for Defendant's failure to provide rest periods and meal periods.

26           9.3. As a result of Defendant's acts and omissions, Plaintiff and members of the putative  
class have been damaged in amounts as will be proven at trial.

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

3 10.1. Plaintiff restates and realleges the allegations set forth in all preceding paragraphs.

4 10.2. By the foregoing, Defendant’s actions and omissions constitute willful withholding  
5 of wages due in violation of RCW 49.52.050 and 070.

6 10.3. 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 **XI. PRAYER FOR RELIEF**

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

11 A. Certification of this case as a class action pursuant to CR 23(a) and (b)(3);

12 B. Damages for unpaid wages in amounts to be proven at trial;

13 C. Exemplary damages in amounts equal to double the wages due to Plaintiff and  
14 members of the putative class pursuant to RCW 49.52.070;

15 D. Attorneys’ fees and costs pursuant to RCW 49.46.090, 49.48.030 and 49.52.070;

16 E. Prejudgment interest;

17 F. Such other and further relief as the Court deems just and proper.

18 DATED this the 23rd Day of December, 2020

19 ENTENTE LAW PLLC

20 s/ James B. Pizl

21 James B. Pizl, WSBA #28969

22 *Attorney for Plaintiff*