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7 8	IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON COUNTY OF KING		
9	IOSIIIIA KING individually and an habalf of all		
10	JOSHUA KING, individually and on behalf of all others similarly situated,	NO.	
11	Plaintiff,	CLASS ACTION COMPLAINT	
12	V.		
13	BEACON SALES ACQUISITION, INC., a Delaware corporation		
14			
15	Defendant.		
16		I	
17	Plaintiff Josh King, by his undersigned counsel, for his class action complaint against		
18	Defendant Beacon Sales Acquisition, Inc., alleges as follows:		
19	I. INTRODUCTION		
20	1.1 <u>Nature of Action.</u> Defendant Beac	on Sales Acquisition is the largest publicly	
21	traded distributor of roofing materials and complementary building products in North		
22	America. Beacon has employed more than 40 delivery drivers and "loaders" in Washington,		
23	who work to deliver materials from Beacon's warehouses directly to contractors' job sites.		
24	Beacon has engaged in a systematic scheme of wage and hour abuses against its Washington		
25	delivery drivers and loaders. These abuses include: (1) failing to provide delivery drivers and		
26	loaders with the rest breaks to which they are entitled; (2) failing to provide delivery drivers		

and loaders with the meal breaks to which they are entitled; (3) making unlawful deductions from the wages of delivery drivers and loaders wages, including deductions for missed meal breaks; (4) failing to pay all overtime wages to delivery drivers and loaders when they work more than 40 hours in a workweek; and (5) failing to pay delivery drivers and loaders all the wages to which they are entitled. Defendant's deliberate and willful failure to pay these employees their earned wages violates Washington law.

1.2 Plaintiff and Class members are current and former Beacon delivery drivers and loaders who have been victimized by Beacon's unlawful compensation practices. This lawsuit is brought as a class action under state law to recover unpaid wages owed to Plaintiff and those similarly situated.

II. JURISDICTION AND VENUE

- 2.1 <u>Jurisdiction.</u> Defendant is within the jurisdiction of this Court. Defendant does business in the State of Washington and has operations in King County. Defendant is registered to conduct business in the State of Washington. Defendant has obtained the benefits of the laws of the State of Washington and the Washington retail and labor markets.
- 2.2 <u>Venue.</u> Venue is proper in King County because Defendant operates and transacts business in King County. RCW 4.12.025(1), (3).
- 2.3 <u>Governing Law</u>. The claims asserted on behalf of Plaintiff and Class members in this complaint are brought solely under state law causes of action and are governed exclusively by Washington law.

III. PARTIES

3.1 <u>Plaintiff Joshua King.</u> Plaintiff Joshua King is a resident of Washington and a commercial truck driver and certified crane operator by trade. Beacon hired Mr. King as a delivery driver on September 4, 2019, to deliver products from Beacon's facility in Woodinville, Washington. Mr. King later transferred to Beacon's facility in Snohomish, Washington. Mr. King drives a large conveyor truck and operates Beacon's truck cranes,

delivering roofing products to job sites throughout Washington. Mr. King typically works tento twelve-hour shifts—about five deliveries per day—five or six days per week. Mr. King drives the truck from Beacon's facility to the job site, works with a loader to unload the roofing materials and stack them on the roof, and then returns to Beacon's facility to pick up another delivery.

3.2 <u>Defendant Beacon Acquisition Sales, Inc.</u> Defendant Beacon is a Delaware corporation with its principal place of business in Herndon, Virginia. Beacon is one of the largest distributors of building materials in North America and sells a wide variety of commercial and residential building materials (including roofing, siding, decking, insulation, and water proofing systems) to contractors across the United States and Canada. Beacon operates more than 400 locations and maintains a fleet of more than 2,300 trucks. Beacon has employed more than 40 delivery drivers and loaders at its facilities in Washington.

IV. CLASS ACTION ALLEGATIONS

4.1 <u>Class Definition.</u> Pursuant to Washington Civil Rule 23, Plaintiff brings this case as a class action on behalf of a Class defined as follows:

All individuals who are or have been employed as delivery drivers or loaders by Beacon Acquisition Sales, Inc. in the State of Washington from September 2, 2019 through the date of final disposition of this action.

Excluded from the Class are any entity in which Defendant has a controlling interest or which has a controlling interest in Defendant, and Defendant's legal representatives, assignees, and successors. Also excluded are the judge to whom this case is assigned and any member of the judge's immediate family.

- 4.2 <u>Numerosity.</u> Plaintiff believes that more than 40 people have worked as delivery drivers and loaders for Beacon in Washington during the relevant time period.
- 4.3 <u>Commonality.</u> There are numerous questions of law and fact common to Plaintiff and Class members. These questions include, but are not limited to, the following:

1	a. Whether Beacon has engaged in a common course of failing to p	rovide	
2	Class members with a ten-minute rest break for every four hours of work;		
3	b. Whether Beacon has engaged in a common course of requiring C	lass	
4	members to work more than three consecutive hours without a rest break;		
5	c. Whether Beacon has engaged in a common course of failing to e	nsure	
6	that Class members have received the rest breaks to which they are entitled;		
7	d. Whether Beacon has engaged in a common course of failing to p	rovide	
8	Class members with a thirty-minute meal break for every five hours of work;		
9	e. Whether Beacon has engaged in a common course of failing to e	nsure	
10	that Class members have received the meal breaks to which they are entitled;		
11	f. Whether Beacon has engaged in a common course of failing to page	ay Class	
12	members all of the overtime wages to which they are entitled;		
13	g. Whether Beacon has engaged in a common course of failing to page	ay Class	
14	members all the wages to which they are entitled;		
15	h. Whether Beacon failed to keep true and accurate records of the	hours	
16	worked, rates of pay, gross wages, and all deductions for each pay period;		
17	i. Whether Beacon failed to furnish itemized pay statements to Pla	intiff	
18	and Class members;		
19	j. Whether Beacon willfully deprived Plaintiff and Class members o	f the	
20	wages to which they were entitled;		
21	k. Whether Beacon has violated RCW 49.12.020;		
22	l. Whether Beacon has violated WAC 296-126-092;		
23	m. Whether Beacon has violated RCW 49.46.130		
24	n. Whether Beacon has violated RCW 49.46.090;		
25	o. Whether Beacon has violated RCW 49.48.010;		
26	p. Whether Beacon has violated WAC 296-126-025;		
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- Whether Beacon has violated WAC 296-126-028; q.
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- Whether Beacon has violated RCW 49.52.050; and
- The nature and extent of class-wide injury and the measure of s. compensation for such injury.
- 4.4 Typicality. Plaintiff's claims are typical of the claims of the members of the Class because Plaintiff delivered building products for Defendant in Washington. The claims of Plaintiff, like the claims of the Class, arise out of the same common course of conduct by Defendant and are based on the same legal and remedial theories.
- 4.5 Adequacy. Plaintiff will fairly and adequately protect the interests of the Class. Plaintiff has retained competent and capable attorneys who are experienced trial lawyers with significant experience in complex and class action litigation, including employment law. Plaintiff and his counsel are committed to prosecuting this action vigorously on behalf of the Class and have the financial resources to do so. Neither Plaintiff nor his counsel have interests that are contrary to or that conflict with those of the proposed Class.
- 4.6 Predominance. Beacon has engaged in a common course of wage and hour abuse toward Plaintiff and members of the Class. The common issues arising from this conduct that affect Plaintiff and members of the Class predominate over any individual issues.
- 4.7 Superiority. Plaintiff and Class members have suffered and will continue to suffer harm and damages as a result of Beacon's unlawful and wrongful conduct. Absent a class action, however, most Class members likely would find the cost of litigating their claims prohibitive. Class treatment is superior to multiple individual suits or piecemeal litigation because it conserves judicial resources, promotes consistency and efficiency of adjudication, provides a forum for small claimants, and deters illegal activities. There will be no significant difficulty in the management of this case as a class action. The Class members are readily identifiable from Beacon's records.

V. SUMMARY OF FACTUAL ALLEGATIONS

- 5.1 Beacon has engaged in, and continues to engage in, a common course of wage and hour abuse against its delivery employees in the state of Washington.
- 5.2 <u>Failure to provide rest breaks.</u> Beacon has engaged in a common course of failing to provide Plaintiff and Class members with a paid ten-minute rest break for every four hours of work. Beacon schedules deliveries back-to-back and often adds additional deliveries mid-day. Rest breaks are not scheduled into the workday and Beacon's scheduling does not leave sufficient time for drivers and loaders to take breaks. As a result, drivers and loaders are rarely able to take ten-minute rest breaks during their shift.
- 5.3 Beacon has engaged in a common course of requiring or permitting Plaintiff and Class members to work more than three consecutive hours without a rest break.
- 5.4 Beacon has engaged in a common course of failing to ensure Plaintiff and Class members have taken the rest breaks to which they are entitled.
- 5.5 Beacon has engaged in a common course of failing to provide Plaintiff and Class members with ten minutes of additional pay for each missed rest break.
- 5.6 Each time a delivery driver or loader misses a rest break, Beacon receives the benefit of 10 minutes worked without paying for the time worked.
- 5.7 <u>Failure to provide meal breaks.</u> Beacon has engaged in a common course of failing to provide Plaintiff and Class members with a 30-minute meal break for every five hours of work. Beacon does not schedule lunch breaks and its delivery schedule does not leave sufficient time for drivers and loaders to take 30-minute lunch breaks. Drivers and loaders are routinely on duty for more than 10 hours without any lunch break at all.
- 5.8 Beacon has engaged in a common course of requiring or permitting Plaintiff and Class members to work more than five consecutive hours without a meal break.
- 5.9 Beacon has engaged in a common course of failing to ensure Plaintiff and Class members have received the meal breaks to which they are entitled.

- 5.10 <u>Failure to pay for all hours worked.</u> Beacon has engaged in a common course of failing to pay Plaintiff and Class members for all hours worked, including by making unlawful deductions from their wages for lunch breaks they did not take. Beacon automatically deducts 30 minutes for a meal break from Class members' worktime regardless of whether they received the meal break. Because Plaintiff and Class members continue working when they fail to receive a meal break, 30 minutes of work time goes unrecorded and unpaid.
- 5.11 For nearly three years, Mr. King repeatedly complained to his managers that Beacon was deducting time from his workday for meal breaks he did not receive. Mr. King was told the deductions were "automatic" and could not be changed.
- 5.12 <u>Failure to pay all overtime wages due</u>. Beacon has engaged in a common course of failing to pay Class members all overtime wages to which they are entitled, including, without limitation, overtime wages owed to Class members for missed rest and meal breaks, and for time deducted for unpaid meal breaks.
- 5.13 <u>Failure to maintain accurate payroll records.</u> Under Washington law, an employer must keep and preserve payroll records that detail the "[h]ours worked each workday and total hours worked each workweek" and maintain those records for at least three years. WAC 296-128-010(6); WAC 296-126-050; see also RCW 49.46.0040(3).
- 5.14 Beacon failed to keep accurate records of the hours Class members worked each day or the total hours they worked each week.

VI. FIRST CLAIM FOR RELIEF (Violations of RCW 49.12.020 and WAC 296-126-092 — Failure to Provide Rest Periods)

- 6.1 Plaintiff and the Class reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.
- 6.2 RCW 49.12.010 provides that "[t]he welfare of the state of Washington demands that all employees be protected from conditions of labor which have a pernicious effect on their health. The state of Washington, therefore, exercising herein its police and

employees for a workweek longer than forty hours unless such employee receives compensation for his or her employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he or she is employed."

- 8.2 Defendant failed to pay Plaintiff and Class members for all hours worked over forty in a week at a rate of not less than one and one-half times their regular rate of pay, including time for missed rest and meal breaks and time deducted for meal breaks Plaintiff and Class members did not receive.
- 8.3 By the actions alleged above, Defendant has violated the provisions of RCW 49.46.130.
- 8.4 As a result of these unlawful acts, Plaintiff and Class members have been deprived of compensation in amounts to be determined at trial and pursuant to RCW 49.46.090, Plaintiff and Class members are entitled to recovery of such damages, including interest thereon, as well as attorneys' fees and costs.

IX. FOURTH CLAIM FOR RELIEF (Violation of RCW 49.46.090 — Payment of Wages Less Than Entitled)

- 9.1 Plaintiff and the Class reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.
- 9.2 Under RCW 49.46.090, employers must pay employees all wages to which they are entitled under the Washington Minimum Wage Act (WMWA).
- 9.3 By the actions alleged above, Beacon has violated the provisions of RCW 49.46.090, including by failing to pay any wage whatsoever to Plaintiff and Class members for their missed rest and meal breaks, and failing to pay overtime wages to which Plaintiff and Class members were entitled.
- 9.4 RCW 49.46.010 defines "wage" as "compensation due to an employee by reason of employment, payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to such deductions, charges, or allowances as may be permitted by rules of the director."

9.5 As a result of the unlawful acts of Beacon, Plaintiff and Class members have been deprived of compensation in amounts to be determined at trial and pursuant to RCW 49.46.090(1), Plaintiff and Class members are entitled to recovery of such damages, including interest thereon, as well as attorneys' fees and costs.

X. FIFTH CLAIM FOR RELIEF (Violation of RCW 49.52.060 and WAC 296-126-028 — Unlawful Deductions and Rebates)

- 10.1 Plaintiff and the Class reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.
- 10.2 Pursuant to RCW 49.52.060 and WAC 296-126-028, an employer may not make deductions from an employee's wages except in limited circumstances.
- 10.3 Under Washington law, deductions and rebates must be identified and recorded "openly and clearly in employee payroll records." WAC 296-126-028(5); see also RCW 49.52.060; WAC 296-128-010(9).
- 10.4 Defendant made deductions and collected rebates from the wages of Plaintiff and Class members, including deductions for unpaid meal breaks they did not take.
 - 10.5 By the actions alleged above, Beacon violated Washington law.
- 10.6 As a result of the unlawful acts of Beacon, Plaintiff and Class members have been deprived of compensation in amounts to be determined at trial. Pursuant to RCW 49.52.060 and WAC 296-126-028, Plaintiff and Class members are entitled to recovery of such damages, including interest thereon, as well as attorneys' fees under RCW 49.48.030 and costs.

XI. SIXTH CLAIM FOR RELIEF (RCW 49.52.050 – Willful Refusal to Pay Wages)

11.1 Plaintiff and the Class reallege and incorporate by reference each and every allegation set forth in the preceding paragraphs.

1	G.	Award pre-judgment and post-judgment interest to Plaintiff and Class	
2	members, as provided by law; and		
3	Н.	Grant such other and further relief as this Court deems necessary.	
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5	RESPI	ECTFULLY SUBMITTED AND DATED this 2nd day of September, 2022.	
6		TERRELL MARSHALL LAW GROUP PLLC	
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