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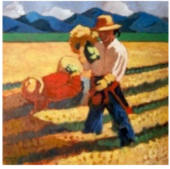

Employment Law Note

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Could Employers Get a Break?

By Han Lee, hlee@sbj.law

The Washington State Supreme Court handed Providence Health & Services a lifeline and perhaps a glimmer of hope when on April 29, 2026, it accepted Providence's petition for review of the Court of Appeals' decision in *Bennett and Hughes v. Providence Health & Services* (Case No. 86321-5-I). At stake is a thermonuclear $230-million-dollar class action judgment (now purportedly approaching $300 million dollars, including accrued interest) based on alleged missed meal breaks and other unpaid wages. Until the moment the Washington State Supreme Court agreed to hear Providence's appeal, things couldn't have gone much worse for the non-profit regional healthcare provider. Having failed to defeat class certification, having lost on summary judgment, having received a nine-figure jury verdict on damages, having suffered a doubling of those damages, and then having a unanimous ruling against them by the Court of Appeals, Providence was truly at the end of its rope. But now, by the Washington Supreme Court accepting review, could Providence's fortunes change and could the Court finally issue a ruling to contain the epidemic of wage-and-hour class actions spreading like wildfire across the state? Would it be foolhardy for employers to dream such big dreams? Perhaps.

The Class Action Bonanza

The wave of wage-and-hour class actions has been accelerated in part by out-of-state (e.g., from California) law firms having gotten wind of Washington's plethora of pro-employee legislation that has eroded the concept of at-will employment and ensured big money judgments for statutory violations. Private rights of action? Check. Double damages? Check. High burdens of proof on employers to rebut allegations? Check. Attorney fees for a prevailing employee? CHECK. As an example, by our count as of January 2026, one California-based plaintiff's firm had close to forty cases pending in federal court and over sixty cases pending in *just* King County.

While large-scale employers like Providence (class size of 33,000 employees) may appear to be prime targets, even moderate-sized employers should take note that anyone is fair game. Recently, Seattle's beloved burger chain *Dick's Drive-In* made local headlines when they were served with a class action complaint for allegedly failing to provide rest and meal breaks to their employees. The lawsuit certainly clashed with the company's history of touting its positive treatment of employees. Clearly, there are no sacred cows – or rather, sacred all-beef patties – amongst plaintiff lawyers.

The Supreme Questions

In a future decision that may affect the rights and remedies of nurses and fry-cooks alike, the Washington State Supreme Court has before it multiple issues raised by Providence. Two key issues involve the waiver of meal breaks and the rounding of employee clock-in/clock-out times. Plaintiffs prevailed in part by asserting there was no waiver of meal breaks and that time-rounding unfairly disadvantaged employees. At first glance, it may appear that the dispute involves the straightforward battle between employees and employers and which labor practice

favored or disfavored one group over the other. But on closer inspection, the dispute involves more than just whether employees validly waived their meal breaks or whether rounding time to the nearest quarter-hour ended up benefiting the employer more. The larger issue – and certainly one that the Court will be mindful of – is the fact that Providence's meal-waiver and time-rounding practices were in accordance with their collective bargaining agreements *and* complied with explicit guidelines set forth by Washington State's Department of Labor and Industries (L&I). In other words, the unions wanted to waive meal breaks for their employees and L&I explicitly gave their thumbs up to time-rounding. Providence was aligned with these two (traditionally labor-friendly) heavy-hitters but *still* got hit with a $230-million-dollar judgment. In fact, when the trial court doubled the damages, the court determined that Providence's conduct was "willful," a determination that Providence now appeals to the Supreme Court, questioning how a violation could be "willful" if they were (in good faith) doing what was greenlit by the unions and L&I. Thus, the Court will need to referee a multi-dimensional dispute involving not just employer and employee, but also labor unions and the State's regulatory agency. Perhaps the Court will set new ground rules and, in deference to unions and L&I, give Providence a break (pun intended), reducing the double-damage award or, better yet, remanding the case for a new trial. Or, if past is prologue, the Court may take the opportunity to triple down (siding with both the trial court and the Court of Appeals), throw more coal into the firebox, and signal to employers that the class-action train will continue to chug forward.

Best Practices for Employers

Regardless of the Court's future decision, employers can draw lessons from the experiences of Providence and other employers who have faced class action wage-and-hour claims. While there may never be a 100% effective inoculation available to counter every conceivable wage-and-hour claim, employers *can* implement concrete measures to ensure compliance with the law and, *more importantly*, ensure there is actual compelling evidence of that compliance. It starts by asking a basic question – can you prove, with objective evidence, that your employees are taking their mandated rest and meal breaks? If all an employer relies on is belief, trust, and goodwill, they are in a position of great vulnerability. As a fundamental matter, employers should record, log, and enforce strict adherence to state rest and meal-break requirements, including making sure employees are taking the *full* ten or thirty-minute break period (and not a minute less). Employers should be mindful of key liability triggers found in the Providence case (and others) and eliminate time-rounding and auto-deduct practices. Meal-break waivers are permitted, but employers should ensure these are in writing and in accordance with regulatory guidelines. Employers should carefully consider whether employees need to be compensated for travel time or any pre/post-shift work. Arbitration provisions in employment agreements may be a preferred option to mitigate the risk of costly class action litigation.

Employers should proactively review their employment practices and employers with questions about their obligations under federal, state, or local employment laws are encouraged to contact Sebris Busto James.

For more information about this month's Employment Law Note
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