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

JEFFREY MAIN and TODD PHELPS, on behalf  
of themselves and all others similarly situated,

Plaintiffs,

v.

QUICK & CLEAR, INC. d/b/a/ AA WINDOW  
AND GUTTER CLEANING, a Washington  
corporation, and BRETT VANDENBRINK, and  
his marital community,

Defendants.

No.

CLASS COMPLAINT FOR DAMAGES

1 Plaintiffs, individually and on behalf of all others similarly situated (“the Class” or  
2 “Class Members”), allege as follows:

3 **I. INTRODUCTION**

4 1. Plaintiffs’ action is brought against Defendants Quick & Clear, Inc., a  
5 Washington corporation, doing business as AA Window and Gutter Cleaning, and against Brett  
6 VandenBrink and his marital community, for violations of law under the Washington wage  
7 statutes including, RCW 49.46 *et. seq.* (the Washington Minimum Wage Act (MWA)), RCW  
8 49.48 *et. seq.*, and RCW 49.52 *et. seq.*. This includes Defendants’ failure to include non-  
9 discretionary bonus payments in the calculation of employees’ regular hourly rate for payment  
10 of overtime purposes; failure to compensate employees for all hours worked; and for  
11 Defendants’ policy of illegally rebating or deducting earned wages from each plaintiff’s earned  
12 bonus fund.

13 2. Plaintiffs also bring this action to seek certification of their claims as a class  
14 action under Civil Rule 23, as well as money damages, statutory penalties, and equitable relief  
15 for the wage violations on behalf of themselves and the Class.

16 **II. JURISDICTION, VENUE, AND PARTIES**

17 3. Plaintiff Jeffrey Main is a resident of the State of Washington.

18 4. Plaintiff Todd Phelps is a resident of the State of Washington.

19 5. Defendant Quick & Clear, Inc., d/b/a/ AA Window and Gutter Cleaning is a  
20 Washington corporation doing business in King County, Washington.

21 6. Defendant Brett VandenBrink is a resident of the State of Washington and the  
22 owner and principal officer of Defendant Quick & Clear, Inc., d/b/a/ AA Window and Gutter  
23 Cleaning (AAWG).

24 7. Defendants are employers under the applicable Washington statutes for  
25 Plaintiffs.

26 8. At all relevant times, Plaintiffs were employees of Defendants.

1           9.       This Court has jurisdiction over Plaintiffs’ and Class Members’ claims pursuant  
2 to Civil Rule 23 and RCW 2.08.010 because Plaintiffs’ request legal relief exceeding \$300.00.

3           10.       Venue is proper pursuant to RCW 4.12.025 because Defendants transact  
4 business in King County, Washington, and has its principal place of business in Kirkland,  
5 Washington.

### 6    III.      GENERAL FACTUAL ALLEGATIONS

7           11.       Plaintiffs and Class Members are or were employed for Defendants as “Field  
8 Technicians,” or similar classifications.

9           12.       Plaintiffs and Class Members perform roof, window, gutter cleaning, pressure  
10 washing, and bird control for clients of Defendants.

11           13.       Plaintiffs and Class Members are grouped into teams based on the location of  
12 their homes and are assigned a Designated Field Coordinator who is responsible for  
13 dispatching and routing them to job sites.

#### 14           A.      Facts Regarding Payment of Overtime Violations

15           14.       Plaintiffs’ compensation is based on an hourly wage plus non-discretionary  
16 bonuses calculated daily.

17           15.       Plaintiffs, on any given day, could be subject to mandatory overtime causing  
18 them to work in excess of 8 hours in a day and over 40 hours in a week.

19           16.       During the relevant applicable time period, Plaintiffs and the putative class  
20 worked hundreds and possibly thousands of overtime hours in excess of 40 hours in a regular  
21 work week.

22           17.       When Plaintiffs work overtime they are paid one-and-a-half times their base  
23 hourly rate as compensation.

24           18.       Compensation earned in the form of non-discretionary bonuses is not included  
25 in calculating Plaintiffs’ regular hourly rate for determination of overtime pay.

1           19.     Plaintiffs' bonuses are earned based on a written policy related to the value of  
2 the daily revenue work, completed per day, as an incentive to work hard and find efficient  
3 ways of completing their work every day.

4           20.     Plaintiffs' non-discretionary bonuses were required to be included in the  
5 calculation of Plaintiffs' regular hourly rate but were not.

6           21.     Plaintiffs receive these daily bonuses based on the number of jobs they  
7 complete in a day and the value of each job as calculated by Defendants.

8           22.     Plaintiffs receive their bonus payments in every paycheck.

9 **B.     Facts Regarding Failure To Compensate For All Hours Worked**

10          23.     Defendants required Plaintiffs to perform several job related tasks for the  
11 employers' benefit off-the-clock and without any compensation including but not limited to the  
12 tasks detailed below.

13          24.     Plaintiffs begin their work day at their homes where they receive instructions  
14 from Field Coordinators by email with their assigned daily tasks and job sites.

15          25.     Each of the Plaintiffs are required to store a company vehicle at their residences.

16          26.     These company vehicles are required to be driven directly from their residences  
17 to the first job site, and from the last job site of the day back to each of their respective  
18 residences.

19          27.     Defendants do not and have not compensated Plaintiffs for any tasks or time  
20 worked prior to them arriving at the first job site.

21          28.     Defendants also do not and have not compensated Plaintiffs for any tasks or  
22 time worked after leaving the last job site at the end of the day.

23          29.     Plaintiffs must be available and maintain contact with Defendants by cell phone  
24 at home from 7:00AM, and sometimes earlier, until they arrive home after leaving their last job  
25 site of the day. This is an important and integral part of the job.  
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1           30.     Plaintiffs are required to depart their residences in company vehicles with  
2 enough lead time to arrive at the first job site no later than 8:00AM.

3           31.     Plaintiffs are required to answer calls from Defendants' office and respond  
4 quickly to missed calls and text messages at all times, including while in route from their  
5 homes to the first job site.

6           32.     Plaintiffs are frequently rerouted while driving to the first job site by  
7 Defendants.

8           33.     This can be caused by, among other reasons, another Field Technician calling in  
9 sick.

10          34.     Plaintiffs are required to map their own routes to job sites including mapping  
11 the route to their first job site before they leave their homes.

12          35.     Plaintiffs must ensure they have all the required work tools and materials loaded  
13 in the company vehicle before leaving their residences to drive to the first job site.

14          36.     Defendants provide company vehicles to Plaintiffs to store and transport  
15 required and necessary non-personal tools, equipment, and supplies to the job sites.

16          37.     Examples of non-personal required equipment, which is purchased and provided  
17 by Defendants, that Plaintiffs are required to keep and transport to job sites in the company  
18 vehicles includes: a pressure washer and leaf blower, four ladders between 6 and 32 feet, four  
19 garden hoses, rakes, brooms, and shovels, protective gear, and other items for a total of over  
20 162 different tools, supplies, and equipment needed for cleaning windows, gutters and roofs.

21          38.     Company vehicles are provided to Plaintiffs to support their responsibilities  
22 related to performing their work. Plaintiffs regularly use, and are authorized by Defendants to  
23 use, company vehicles to complete required paperwork and daily reports.

24          39.     Plaintiffs are expected to complete job reports in their vehicles before leaving  
25 each job site, and Defendants use GPS tracking devices attached to each company vehicle to  
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1 match the timestamp on the job report with the location of the vehicle to confirm that Plaintiffs  
2 have completed their job reports before leaving each job site.

3 40. Plaintiffs are strictly prohibited from any personal use of company vehicles and  
4 cannot make personal stops or engage in personal activities during the drives between home  
5 and the first or last job site of the day.

6 41. Only specified employee drivers may drive company vehicles.

7 42. Tools, equipment, and supplies provided by Defendants are required to be kept  
8 fully stocked, clean, and well organized in company vehicles.

9 43. Plaintiffs are expected to resupply from Defendants' facilities once a month  
10 with enough supplies and equipment to last the entire month.

11 44. Plaintiffs must keep the company vehicles assigned to them clean, organized,  
12 and safe inside and out, including keeping the cabs free of garbage of any kind and the vehicles  
13 must be washed on a regular basis.

14 a. Ladders must be kept adequately secured at all times;

15 b. Vehicles and canopies must be locked; and,

16 c. A cable must be run through equipment such as the pressure washer and  
17 blowers, and be padlocked to an interior grommet in the bed of the truck  
18 to prevent theft.

19 45. Defendants schedule regular maintenance for the company vehicles and  
20 Plaintiffs are required to bring the vehicles to auto service centers for maintenance which is  
21 arranged by Defendants, and must report any immediate maintenance needs to Defendants so  
22 that service and maintenance can be scheduled.

23 46. Plaintiffs can spend several hours total each day driving company vehicles to  
24 the first job site of the day and home from the last job site of the day, for which they are not  
25 compensated.  
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1           47.     Plaintiffs are also not compensated for the time they spend laundering  
2 Defendant-provided towels, which are items necessary for doing work for Defendants.

3           48.     Plaintiffs are required to launder Defendants' towels on Plaintiffs own personal  
4 time using their own washing machines and detergents without compensation. Defendants'  
5 control extends even to how the towels are washed, including instructing Plaintiffs not to use  
6 fabric softener because doing so makes the towels less absorbent and can cause smears.

7           49.     Plaintiffs spend approximately 30 minutes to one hour each week laundering  
8 Defendants' towels without compensation.

9           50.     They are required to always have an inventory of clean towels prior to each  
10 work day, and must keep several clean towels with them at all times while working.

11 **C.     Facts Regarding Wage Rebates/Deductions**

12           51.     Defendants have a policy of fining and penalizing employees through what are  
13 called Administrative Compliance Penalties, or alternatively Policy Violation Consequences  
14 where Plaintiffs can be assessed fines and penalties of \$25 or more, for things such as mistakes  
15 on submitted paperwork.

16           52.     During the applicable statute of limitations period, Defendants deducted  
17 hundreds of dollars or more from Plaintiffs' earned bonuses without their specific consent,  
18 mostly for alleged disciplinary infractions related to administrative duties.

19           53.     Defendants' deductions come from Plaintiffs' earned bonus wages based on  
20 subjective criteria.

21           54.     The fines and deductions are not recorded as a line item on pay stubs, and are  
22 communicated to Plaintiffs through email.

23           55.     Defendants regularly deducted amounts from Plaintiffs' earned bonus for,  
24 among other things:

- 25                   a.     Having inaccurate or incomplete information in Plaintiffs' daily  
26                                 reports on the day's jobs;

- b. Failing to submit a job report before leaving a job site or before midnight; or,
- c. Not turning in supply requests on time.

56. Whether a penalty will be assessed and an employee gets fined is a subjective decision of Defendants.

57. The above factual allegations are not exhaustive.

**IV. THE REPRESENTATIVE CLASS**

58. Plaintiffs bring this action on behalf of the following classes of persons who are each similarly situated to them:

- a. All current and former employees of Defendants who, during the applicable statute of limitations period, received non-discretionary bonus payments, but whose bonus payments were not included in their regular hourly rates for the purposes of calculating his/her overtime pay.
- b. All current and former employees of Defendants who, during the applicable statute of limitations period, were not compensated for all hours worked in service to Defendants.
- c. All current and former employees of Defendants who, during the applicable statute of limitations period, had deductions taken out of their bonus fund as an Administrative Compliance Penalty or Policy Violation Consequence, and who did not specifically give Defendants express written consent for the deduction at the time the deduction was made.

**V. CLAIMS FOR RELIEF**

59. The actions of Defendants in failing to include all non-discretionary bonus payments into the calculation of Plaintiffs’ and Class Members’ regular hourly rate within the statutory period; failing to compensate Plaintiffs and Class Members for all hours worked within the statutory period; and, penalizing and fining Plaintiffs and Class Members and



1 deducting violations from their earned bonus funds violates RCW 49.46 *et. seq.*, 49.48 *et. seq.*,  
2 and 49.52 *et seq.*

3 60. Defendants' actions were willful.

4 61. Plaintiffs and Class Members are entitled to recover unpaid wages, including  
5 overtime wages.

6 62. Plaintiffs and Class Members are entitled to recover double damages in the  
7 amount of the unpaid wages and overtime wages.

8 63. This action may be properly maintained as a class action pursuant to CR 23 as it  
9 satisfies the numerosity, commonality, typicality, and adequacy requirements of CR 23(a) and  
10 other prerequisites for class action certification pursuant to CR 23(b).

11 64. The class is sufficiently numerous such that joinder of all members is  
12 impractical, as required by CR 23(a)(1). Although the precise number of Class Members is  
13 unknown to Plaintiffs at this time and can be ascertained only through appropriate discovery, it  
14 is estimated that there are more than 100 Class Members. As a result, joinder of all Class  
15 Members in a single action is impracticable.

16 65. Pursuant to CR 23(a)(2) and CR 23(b)(3), there are questions of law and fact  
17 common to the class, and which predominate over questions affecting only individual  
18 members, including, but not limited to the following:

- 19 a. Whether Plaintiffs and Class Members performed compensable work for  
20 which they were not paid;
- 21 b. Whether Defendants failed to properly calculate overtime wages owed to  
22 Plaintiffs and Class Members;
- 23 c. Whether Defendants unlawfully deducted or rebated wages from  
24 Plaintiffs and Class Members;
- 25 d. Whether Defendants violated RCW 49.46 *et. seq.*, 49.48 *et. seq.*, and  
26 49.52 *et seq.*;

- 1 e. Whether Defendants acted willfully to deprive Plaintiffs and Class  
2 Members of earned and owed compensation and overtime;  
3 f. Whether Plaintiffs and Class Members have sustained damages, and the  
4 proper measure of those damages.

5 66. The Class representatives will fairly and adequately protect the interests of the  
6 Class as required by CR 23(a)(4). Plaintiffs are members of the Class, and their interests do not  
7 conflict with the interests of the members of the Class they seek to represent. Plaintiffs have  
8 retained competent and experienced counsel, who has been certified and served as class  
9 counsel in both state and federal court on numerous occasions. Plaintiffs intend to diligently  
10 and vigorously prosecute the claims alleged herein.

11 67. Pursuant to CR 23(b), class certification is appropriate here because questions  
12 of law or fact common to members of the Class predominate over any questions affecting only  
13 individual members, and because a class action is superior with respect to considerations of  
14 consistency, economy, efficiency, fairness and equity, to other available methods for the fair  
15 and efficient adjudication of the state law claims.

16 68. Maintenance of this action as a class action is a fair and efficient method for the  
17 adjudication of this controversy. It would be impracticable and undesirable for each member  
18 of the Class who suffered harm to bring a separate action. In addition, the maintenance of  
19 separate actions would place a substantial and unnecessary burden on the courts and could  
20 result in inconsistent adjudications with respect to individual Class Members that would  
21 substantially impair their ability to protect their interests. In contrast, a single class action can  
22 determine, with judicial economy, the rights of all Class Members.

23 69. Class certification is proper because Defendants have acted or refused to act on  
24 grounds generally applicable to the Class, making final injunctive relief with respect to the  
25 class as a whole appropriate, and any parties who do not wish to participate can opt out.  
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1           70.     Class certification is also proper because question of law or fact common to the  
2 class predominate over any questions affecting only individual Class Members, and a class  
3 action is superior to other available methods for the fair and efficient adjudication of the  
4 controversy between the parties in light of the fact that:

- 5           a.     The Class Members do not have a substantial interest in individually controlling  
6                   the prosecution of separate actions because other than the calculation of the  
7                   amounts owed, the damages of each Class Member are virtually identical, and  
8                   the Class Members thus have no incentive to pursue individual actions.
- 9           b.     There is no known litigation currently pending against Defendant, individually  
10                   or on behalf of the class, other than the present lawsuit.
- 11           c.     The individual Plaintiffs, the Defendants, a number of Class Members, and  
12                   Plaintiffs' counsel are located primarily in the King and Pierce County areas,  
13                   and therefore it is desirable to concentrate the litigation of the claims within the  
14                   selected forum.

15           71.     There are no geographical or logistical issues that would make management of  
16 the class difficult.

## 17                                   **VI.     RESERVATION OF RIGHTS**

18           72.     Plaintiffs and Class Members reserve the right to amend these claims for relief.

19           73.     Under CR 2 and 8, Plaintiffs and the Class Members are not required to plead  
20 every legal theory supporting claims for relief, and through the discovery process expect to  
21 uncover additional evidence of unlawful employment practices. Thus, this short and plain  
22 statement of claims under CR 8 is not exhaustive of the fact and legal theories that will be  
23 presented at trial.

24           74.     **Notice to Defendants To Not Retaliate:** Plaintiffs and Class Members  
25 specifically reserve the right to amend in claims for any retaliation or adverse action taken  
26 against them related in any way to the filing of this lawsuit and the exercise of their rights, or

1 to bring separate actions for retaliation or discharge and seek damages to the fullest extent  
2 allowed by law.

3 **VII. PRAYER FOR RELIEF**

4 Wherefore, Plaintiffs respectfully request that this Court:

5 A. Grant a permanent injunction enjoining Defendants, their officers, successors,  
6 agents, assigns, and all persons in active concert or participation with them, from engaging in  
7 any other employment practice which deprives employees of their wages or violates the law or  
8 public policy;

9 B. Order Defendants to institute and carry out policies, practices, and programs  
10 which eradicate the effects of their past and present unlawful employment practices;

11 C. Order Defendants to make Plaintiffs and Class Members whole for the wrongful  
12 withholding of wages by providing relief under RCW 49.46 *et. seq.*, 49.48 *et. seq.*, and RCW  
13 49.52 *et. seq.*, or any other applicable statute, including awarding exemplary or double  
14 damages;

15 D. Order Defendants to make Plaintiffs and Class Members whole by taking all  
16 other affirmative relief necessary to eradicate the effects of their unlawful employment  
17 practices;

18 E. Order Defendants to pay punitive damages to the fullest extent allowed by law;

19 F. Award Plaintiffs and Class Members the costs of this action, including  
20 attorneys' fees, expert fees, and all other costs to the fullest extent allowed by law;

21 G. Order Defendants to pay for any and all tax ramifications arising from  
22 Plaintiffs' and Class Members' recovery of damages and/or attorney's fees;

23 H. Award pre-judgment interest and post judgment interest; and

24 I. Grant any additional or further relief as provided by law, which this Court finds  
25 appropriate, equitable, or just.  
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DATED this 9th day of December, 2016.

THE BLANKENSHIP LAW FIRM, P.S.

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