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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

JAMIE AGUILAR,

Plaintiff,

v.

PROVIDENCE HEALTH & SERVICES -
OREGON,

Defendant.

Case No. _____

CLASS ACTION COMPLAINT

Action for equitable relief (wage
accounting and for payment of all wages
at regular payday)

**CLAIMS NOT SUBJECT TO
MANDATORY ARBITRATION**

Fee Authority: ORS 21.135 (\$281)

Plaintiff alleges:

SUMMARY STATEMENT

1.

Since implementing a new payroll system in July 2022, Providence Health & Services - Oregon has incorrectly paid thousands of its employees. The pay discrepancies caused by the new payroll system are continuing as of the filing of this class action. Plaintiff Jamie Aguilar, on behalf of all similarly situated employees in the State of Oregon, files this action seeking a Court order requiring Providence Health & Services - Oregon to fix its payroll system so that it accurately pays its employees, and to conduct an accounting of wages to ensure its employees have been fully compensated.

///

1 **PARTIES**

2 2.

3 Plaintiff Jamie Aguilar (“Aguilar”) was, and is now, a resident of the State of
4 Oregon. At all material times herein and as of the filing of this class action, Aguilar
5 worked for Providence in its Home Health and Hospice business as an hourly paid,
6 non-exempt employee.

7 3.

8 Defendant Providence Health & Services - Oregon (“Defendant”) was, and is
9 now, a nonprofit corporation incorporated under the laws of the State of Oregon and
10 conducting regular, sustained business activity in Multnomah County. At all material
11 times herein, Defendant employed over 10,000 staff at its medical facilities in the State
12 of Oregon while doing business as Providence Home Health, Providence Hood River
13 Memorial Hospital, Providence Hospice, Providence Medford Medical Center,
14 Providence Medical Group, Providence Milwaukie Hospital, Providence Newberg
15 Medical Center, Providence Portland Medical Center, Providence Seaside Hospital,
16 Providence St. Vincent Medical Center, Providence Willamette Falls Medical Center,
17 and other assumed business names.

18 **CLASS ALLEGATIONS**

19 4.

20 Pursuant to ORCP 32, Plaintiff seeks to have this action maintained as a class
21 comprised of all hourly paid, non-exempt employees of Providence whose wages were
22 incorrectly reduced by Providence’s new payroll system (“Proposed Class”).

23 5.

24 The Proposed Class consists of an estimated more than 10,000 persons. Members
25 of the class are so numerous that joinder of all of them is impracticable.

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6.

Plaintiff's claims are typical of the claims of the Proposed Class and the scope of the Proposed Class as defined in this class action includes Plaintiff.

7.

Plaintiff' claims raise questions of law and fact common to the Proposed Class, including the cause and extent of wage reductions and the legal entitlement to the requested equitable relief.

8.

Plaintiff will fairly and adequately protect the interests of the Proposed Class because there is no conflict of interest between Plaintiff and the Proposed Class, and because Plaintiff is represented by competent counsel who will vigorously pursue the claims in this class action.

9.

For the fair and efficient adjudication of this controversy, a class action is superior to other available methods because:

- (a) This case affects thousands of employees of Defendant. Given the large number of affected persons, it is probable that inconsistent or varying adjudications with respect to the members of the Proposed Class could establish incompatible standards of conduct for Defendant.
- (b) Common questions of law and fact predominate over individual questions.
- (c) All members of the Proposed Class have been treated the same by Defendant so as to make appropriate final relief with respect to the class as a whole.
- (d) It is desirable to concentrate litigation of these claims in a single forum. Multnomah County is the most easily accessible circuit court for the named parties and their counsel.
- (e) Plaintiff knows of no other means available to eliminate or significantly

1 reduce the difficulty of managing this class action. Plaintiff believes that
2 pursuit of these claims as a class action will be significantly more manageable
3 than pursuing the claims through separate adjudications.

4 **FACTS COMMON TO ALL CLAIMS**

5 10.

6 On or around July 8, 2022, Defendant activated an enterprise resource planning
7 software by Genesis that contained a new payroll system (“Genesis”) for its hourly
8 paid, non-exempt employees in Oregon. The implementation of Genesis has caused
9 widespread pay disparities, including but not limited to: (1) payment of incorrect wage
10 rates, (2) missing work hours from paychecks, (3) missing or late paychecks, (4) absent
11 or incorrect overtime wages, (5) incorrect wage deductions or withholdings, (6)
12 reductions from PTO or low census banks, (7) unpaid bonuses and per diems, and (8)
13 absent or incorrect wage rates for various types of premium pay, such as shift
14 differentials, incentive differentials, certification pay, and clinical ladder pay.

15 11.

16 Defendant knew, or should have known, in advance of implementing Genesis
17 that employees would be systemically underpaid. Defendant activated Genesis in July
18 2022 for all Oregon hourly paid employees without first verifying that all employees
19 would be paid accurately. Defendant did not activate Genesis on a rolling basis for
20 different categories of employees so as to ensure correct payment of wages. Defendant
21 also did not conduct adequate testing of Genesis before it went live.

22 12.

23 As a result of the implementation of Genesis, Plaintiff and numerous employees
24 have found errors in their pay. Some employees have been able to identify how they
25 were underpaid. Other employees have concluded they were underpaid but have no
26 reasonable way to identify how exactly they were underpaid and the amounts owed.

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13.

Resolution of this dispute does not require interpretation of any collective bargaining agreement. Defendant has collective bargaining agreements and administrative policies that establish the rates of pay and other benefits for most members of the Proposed Class. However, the amounts of wages owed will not be in dispute upon a proper accounting.

14.

Although Defendant has fixed some of the problems with Genesis, there are still ongoing errors each pay period. Many employees who were underpaid have not received corrected pay and reasonably expect to continue to be underpaid in subsequent pay periods.

15.

The errors caused by Genesis have caused significant disruption and annoyance for Defendant’s employees. For example, Plaintiff and other employees have been unable to rely on the accuracy of their PTO banks and low census banks. Defendant’s employees have also spent significant time reviewing their paystubs, attempting to confirm the accuracy of their pay, and explaining to Defendant’s representatives the various discrepancies in their pay.

16.

Defendant’s implementation and continued use of Genesis violates Oregon wage laws because it systemically underpays employees and fails to pay all wages owed at each regular payday.

FIRST CLAIM FOR RELIEF
Equitable Accounting of Wages

17.

Plaintiff realleges and incorporates paragraphs 1 through 16 as if alleged herein.

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18.

Defendant owes a duty to Plaintiff and members of the Proposed Class to accurately pay wages and to accurately and promptly distribute any funds withheld or diverted from their wages. Defendant’s duty is one of a fiduciary and is based on a relationship of trust that Defendant will comply with its obligations in redistributing the earned wages of its employees.

19.

Given the widespread pay discrepancies caused by Genesis, Defendant has a duty to Plaintiff and members of the Proposed class to render an accounting showing in detail the wages owed since implementation of Genesis, the amounts paid to Plaintiff and members of the Proposed Class since implementation of Genesis, and the amounts redistributed in connection with any diversion, reduction, or withholding of wages since implementation of Genesis.

SECOND CLAIM FOR RELIEF

Payment of All Wages at Regular Paydays—ORS 652.120

20.

Plaintiff realleges and incorporates paragraphs 1 through 16 as if alleged herein.

21.

Defendant owes a duty to Plaintiff and members of the Proposed Class to pay to Plaintiff and members of the Proposed Class all earned wages at each regular payday.

22.

Defendant has not paid Plaintiff and members of the Proposed Class all earned wages at each regular payday since implementing Genesis. Discrepancies in pay have occurred over multiple pay periods, and Plaintiff and members of the Proposed Class reasonably expect Defendant to continue to not pay all wages owed at future regular paydays.

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23.

Pursuant to ORS 652.120, Plaintiff and members of the Proposed Class are entitled to equitable relief to ensure that Defendant will comply with its obligation to pay its employees all wages due and owing to them at each regular payday. Given the widespread pay discrepancies caused by Genesis, appropriate equitable relief may require an order that Defendant fix Genesis or replace it with a new payroll system.

RESERVATION TO AMEND

24.

Plaintiff has given notice to Defendant of an action for damages pursuant to ORCP 32 H and an action for collection of wages pursuant to ORS 652.200. Plaintiff intends to amend this class action complaint accordingly if Defendant fails to remedy the alleged violations. Further, Plaintiff reserves the right to amend this class action complaint at and before trial to conform to available evidence.

REQUEST FOR JURY TRIAL

25.

Plaintiff requests a jury trial on all triable claims and issues alleged herein.

PRAYER

26.

WHEREFORE, Plaintiff prays for relief and judgement against Defendant as follows:

- (a) Pursuant to ORCP 32, an order certifying this matter as a class action;
- (b) A finding that Defendant has failed to accurately pay its employees since implementing its new payroll system in July 2022;
- (c) An order requiring Defendant to conduct an accounting of wages owed, paid, and redistributed since implementing its new payroll system in July 2022;
- (d) An order requiring Defendant to comply with ORS 652.120 by paying its

1 employees all wages due and owing to them at each regular payday, and by
2 fixing or replacing its new payroll system as may be necessary; and
3 (e) All other relief in favor of Plaintiff that this Court deems just and equitable.

4 DATED: August 15, 2022.

5 BENNETT HARTMAN, LLP

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