



CASE NO: A-19-794956-C
Department 11

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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

SLADJANA DJOKOVIC, on behalf of
herself and all others similarly situated;

Plaintiff,

vs.

DROCK GAMING, LLC d/b/a and a/k/a
THE D also d/b/a and a/k/a THE D
CASINO; DOES 1 through 50, inclusive,

Defendants.

Case No.
Dept.:

CLASS ACTION COMPLAINT

**Arbitration Exemption Claimed:
Class Action**

- 1) Failure to Pay Minimum Wages in Violation of the Nevada Constitution;
- 2) Failure to Pay Overtime in Violation of NRS 608.018 and 608.140;
- 3) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.020-050 and 608.140; and,
- 4) Injunctive Relief.

**LIEN REQUESTED PURSUANT TO
NRS 608.050**

JURY TRIAL DEMANDED

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CLASS ACTION COMPLAINT

COMES NOW Plaintiff Sladjana Djokovic, on behalf of herself and all others similarly situated and alleges the following:

All allegations in the Complaint are based upon information and belief except for those allegations that pertain to the Plaintiff named herein and her counsel. Each allegation in the Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

JURISDICTION AND VENUE

1. This Court has original jurisdiction over the state law claims alleged herein because the amount in controversy exceeds \$15,000 and a party seeking to recover unpaid wages has a private right of action pursuant to the Nevada Constitution, Article 15 Section 16, and Nevada Revised Statute ("NRS") Chapter 608. See *Neville v. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev. 2017).

2. Plaintiff also claims a private cause of action to foreclose a lien against the property owner for wages due pursuant to NRS 608.050.

3. Venue is proper in this Court because the Defendant named herein maintains a principal place of business or otherwise are found in this judicial district and many of the acts complained of herein occurred in Clark County, Nevada.

PARTIES

4. Plaintiff Sladjana Djokovic ("Plaintiff" or "Djokovic") is a person who is and was a resident of the State of Nevada and was employed by Defendant as a non-exempt hourly employee from 2010 to July 2018.

5. Defendant Drock Gaming, LLC d/b/a and a/k/a The D also d/b/a and a/k/a The D Casino ("Defendant") is a domestic limited-liability company registered with the Nevada Secretary of State.

6. Defendant Drock Gaming, LLC holds the fictitious firm name for The D with Clark County and was doing business in this Judicial District in Clark County, Nevada where the subject incidences occurred.

8. At all relevant times, the acts and omissions of Defendants concurred and contributed to the various acts and omissions of each and every one of the other Defendants in proximately causing the complaints, injuries, and damages alleged herein. At all relevant times herein, Defendants approved of, condoned and/or otherwise ratified each and every one of the acts or omissions complained of herein. At all relevant times herein, Defendants aided and abetted the acts and omissions of each and every one of the other Defendants thereby proximately causing the damages as herein alleged.

FACTUAL ALLEGATIONS

10. Plaintiff Djokovic was employed by Defendant as a dealer from 2010 to July 2018.

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12. Plaintiff Djokovic was scheduled for and worked at least 8-hour workdays.

Defendant's Policy of Failing to Offer or Provide Health Insurance Benefits Less Than 10% of Employees' Total Gross Income

13. Defendant maintains an unlawful payment practice of paying Plaintiff and all other similarly situated employees less than the applicable minimum and overtime wage rate even though Defendant does not offer or provide insurance that is less than 10% of the total gross income of Plaintiff and other similarly situated employees.

14. For instance, on the pay period ending July 1, 2018, (a true and correct copy of Plaintiff's earnings statement is attached hereto as Exhibit I) Defendant paid Plaintiff Djokovic a total gross taxable income of \$580.00 in minimum wages for 80 regular hours worked during the pay period. Tips are not included in the calculation of an employee's total gross taxable income. See *MDC Restaurants, LLC et al v. The Eighth Judicial Dist. Court*, 132 Nev. Op. 76 (Oct. 27, 2016). During that same period of time (and indeed during her entire employment), Plaintiff Djokovic was not offered or provided with health benefits of less than the 10% maximum percentage for an employer to qualify for the lower-tier minimum wage payment. See Exhibit I. Accordingly, Defendant failed to compensate Plaintiff Djokovic at the correct legal higher-tier minimum wage rate of \$8.25 per non-overtime hour and \$12.38 per overtime hour worked. Defendant therefore underpaid Plaintiff Djokovic \$80 during that pay period.

15. Similarly, on the pay period ending June 3, 2018, (a true and correct copy of Plaintiff's earnings statement is attached hereto as Exhibit II), Defendant paid Plaintiff Djokovic a total gross taxable income of \$565.50.00 in minimum wages for 78 regular hours worked during the pay period. During that same period of time (and indeed during her entire employment), Plaintiff Djokovic was not offered or provided with health benefits of less than the 10% maximum percentage for an employer to qualify for the lower-tier minimum wage payment. See Exhibit II. Accordingly, Defendant failed to compensate Plaintiff Djokovic at the correct legal higher-tier minimum wage rate of \$8.25 per non-

1 overtime hour and \$12.38 per overtime hour worked. Defendant therefore underpaid
2 Plaintiff Djokovic \$78 during that pay period.

3 16. The policies and practices of Defendant at all relevant times have been
4 substantially similar, if not identical, for all employees. Defendant also purportedly paid
5 the lower-tier minimum wage rate to putative class members even though they did not
6 offer health insurance to employees at a cost of 10% or less than their gross earnings.

7 17. Defendant is are legally required to maintain all itemized pay statements
8 that will demonstrate the amount of health insurance premiums paid by Plaintiff and all
9 putative class member and the resulting amount of wages underpaid to Plaintiff and all
10 members of the putative class during the entire period of time at issue in this case.

11 CLASS ACTION ALLEGATIONS

12 18. Plaintiff realleges and incorporates by this reference all the paragraphs
13 above in this Complaint as though fully set forth herein.

14 19. Plaintiff brings this action on behalf of herself and all others similarly situated
15 employees as a class action under Rule 23 of the Nevada Rules of Civil Procedure.

16 20. The **Classes** are defined as follows:

17 A. **Minimum Wage Class:** "All hourly paid non-exempt persons
18 employed by Defendant who were paid less than \$8.25 per non-
19 overtime hour worked in the state of Nevada within 2 years from the
20 filing of this complaint until judgment."

21 B. **Overtime Class:** "All hourly paid non-exempt persons
22 employed by Defendant who were paid less than \$12.38 per overtime
23 hour worked in the state of Nevada within 3 years from the filing of
24 this complaint until judgment."

25 C. **Waiting Time Penalty Class:** "All members of the Minimum
26 Wage and/or Overtime Wage Classes who are former employees."

27 21. Class treatment is appropriate under Rule 23's class certification
28 mechanism because:

A. The Classes are Sufficiently Numerous: Upon information and belief,
Defendant employs, and has employed, in excess 300 Minimum Wage, Overtime, and
Waiting Time Penalty Class Members within the applicable time period. Because

1 Defendant is legally obligated to keep accurate payroll records, Plaintiff alleges that
2 Defendant's records will establish the members of these Classes as well as their
3 numerosity.

4 B. Plaintiff's Claims are Typical to Those of Fellow Class Members:

5 Each Class Member is and was subject to the same practices, plans, or policies as
6 Plaintiff: (1) Whether Defendant can meet its burden of demonstrating that Plaintiff and
7 Minimum Wage Class Members were only entitled to receive the lower tier minimum wage
8 rate; (2) Whether Defendant can meet its burden of demonstrating that Plaintiff and
9 Overtime Class Members were only entitled to receive the lower tier overtime wage rate;
10 (3) Whether Plaintiff and members of the Waiting Time Penalty Class are entitled to
11 waiting time penalties for the failure to pay them minimum, regular, and overtime wages
12 owed.

13 C. Common Questions of Law and Fact Exist: Common questions of

14 and fact exist and predominate as to Plaintiff and the Class Members, including, without
15 limitation: Whether Defendant offered health insurance to Plaintiff and Class Members
16 that was no more than 10% of employees' gross taxable income and whether Defendant
17 failed to pay the Waiting Time Penalty Class Members all their wages due and owing in
18 violation of NRS 608.020-050.

19 D. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly

20 and adequately represent the interests of the Class because Plaintiff is a member of all
21 the Classes, she has issues of law and fact in common with all members of the Classes,
22 and her interests are not antagonistic to Class members. Plaintiff and her counsel are
23 aware of their fiduciary responsibilities to Class Members and are determined to
24 discharge those duties diligently by vigorously seeking the maximum possible recovery
25 for Class Members.

26 E. Predominance/Superior Mechanism: Class claims predominate and

27 a class action is superior to other available means for the fair and efficient adjudication
28 of this controversy. Each Class Member has been damaged and is entitled to recovery

1 by reason of Defendant's illegal policy and/or practice of failing to compensate their
2 employees in accordance with Nevada wage and hour law. The prosecution of individual
3 remedies by each Class Member will tend to establish inconsistent standards of conduct
4 for Defendant and result in the impairment of Class Members' rights and the disposition
5 of their interest through actions to which they were not parties.

6 **FIRST CAUSE OF ACTION**

7 **Failure to Pay Minimum Wages in Violation of the Nevada Constitution
(On Behalf of Plaintiff and the Minimum Wage Class Against Defendant)**

8 22. Plaintiff realleges and incorporates by this reference all the paragraphs
9 above in this Complaint as though fully set forth herein.

10 23. Article 15 Section 16 of the Nevada Constitution sets forth the requirements
11 the minimum wage requirements in the State of Nevada ("MWA"). The MWA sets forth a
12 two-tiered minimum wage, which were set at \$7.25 and \$8.25 for the relevant time period
13 covered in this action.

14 24. In order to pay the lower tier minimum wage amount, an employer must
15 offer health benefits to its employees and the dependents of the employees "at a total
16 cost to the employee for premiums of not more than 10 percent of the employee's gross
17 taxable income from the employer."

18 25. As alleged herein, Defendant paid Plaintiff and all other members of the
19 Class at the lower-tier minimum wage rate but have failed to offer health benefits to their
20 employees and the employees' dependents at a total cost to the employee for premiums
21 of not more than 10% of the employees' gross taxable income.

22 26. By unlawfully paying Plaintiff and members of the Class less than the
23 applicable minimum wage rate of \$8.25, Defendant has failed to compensate Plaintiff and
24 members of the Class at the minimum wage rate for all the hours that they worked
25 pursuant to the Nevada Constitution.

26 27. Wherefore, Plaintiff demands for herself and for all other Class Members
27 that Defendant pays Plaintiff and Class Members their unpaid minimum wages for all
28 hours worked during the relevant time period alleged herein together with attorneys' fees,

costs, interest, and punitive damages, as provided by law.

SECOND CAUSE OF ACTION

**Failure to Pay Overtime Wages in Violation of NRS 608.018 and 608.140
(On Behalf of Plaintiff and the Overtime Class Against Defendant)**

28. Plaintiff realleges and incorporates by this reference all the paragraphs above in this Complaint as though fully set forth herein.

29. NRS 608.140 provides that an employee has a private right of action for unpaid wages.

30. NRS 608.018(1) provides as follows:

An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works: (a) More than 40 hours in any scheduled week of work; or (b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

31. NRS 608.018(2) provides as follows:

An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate not less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works more than 40 hours in any scheduled week of work.

32. As alleged herein, Defendant paid Plaintiff and all other members of the Class at the lower-tier minimum wage rate but have failed to offer health benefits to its employees and the employees' dependents at a total cost to the employee for premiums of not more than 10% of the employees' gross taxable income.

33. By unlawfully paying Plaintiff and members of the Overtime Class less than the higher-tier minimum wage rate of \$8.25 (with an overtime wage rate of \$12.38), Defendant has likewise failed to compensate Plaintiff and members of the Class at the correct overtime wage rate for all the overtime hours that they worked pursuant to NRS 608.018.

34. Wherefore, Plaintiff demands for herself and all Overtime Class Members that Defendant pay Plaintiff and Overtime Class Members one and one-half times their

1 legally mandated minimum wage rate of pay for all hours worked in excess of eight (8)
2 hours in a workday and/or in excess of forty (40) hours per workweek during the relevant
3 time period together with attorneys' fees, costs, and interest, as provided by law.

4 **THIRD CAUSE OF ACTION**

5 **Waiting Time Penalties Pursuant to NRS 608.020-.050 and 608.140**
6 **(On Behalf of Plaintiff and the Waiting Time Penalty Class Against Defendant)**

7 35. Plaintiff realleges and incorporates by this reference all the paragraphs
8 above in this Complaint as though fully set forth herein.

9 36. NRS 608.140 provides that an employee has a private right of action for
10 unpaid wages.

11 37. NRS 608.020 provides that "[w]henver an employer discharges an
12 employee, the wages and compensation earned and unpaid at the time of such discharge
13 shall become due and payable immediately."

14 38. NRS 608.040(1)(a-b), in relevant part, imposes a penalty on an employer
15 who fails to pay a discharged or quitting employee: "Within 3 days after the wages or
16 compensation of a discharged employee becomes due; or on the day the wages or
17 compensation is due to an employee who resigns or quits, the wages or compensation of
18 the employee continues at the same rate from the day the employee resigned, quit, or
19 was discharged until paid for 30-days, whichever is less."

20 39. NRS 608.050 grants an "employee lien" to each discharged or laid-off
21 employee for the purpose of collecting the wages or compensation owed to them "in the
22 sum agreed upon in the contract of employment for each day the employer is in default,
23 until the employee is paid in full, without rendering any service therefore; but the employee
24 shall cease to draw such wages or salary 30 days after such default."

25 40. By failing to pay Plaintiff and the Waiting Time Penalty Class Members their
26 legally mandated minimum and overtime wages, Defendant has failed to timely remit all
27 wages due and owing to Plaintiff and the Waiting Time Penalty Class Members.

28 41. Defendant willfully refuses and continues to refuse to pay Plaintiff and
Waiting Time Penalty Class Members all the wages that were due and owing upon the

1 termination of their employment.

2 42. Wherefore, Plaintiff and the Waiting Time Penalty Class Members demand
3 thirty (30) days of pay as waiting penalties under NRS 608.040 and 608.140, and thirty
4 (30) days of pay as waiting penalties under NRS 608.050 and 608.140, together with
5 attorneys' fees, costs, and interest, as provided by law.

6 **FOURTH CAUSE OF ACTION**
7 **Injunctive/Declaratory Relief**
8 **(On Behalf of Plaintiff, Minimum Wage Class, and the Overtime Class Against Defendant)**

9 43. Plaintiff realleges and incorporates by this reference all the paragraphs
10 above in this Complaint as though fully set forth herein.

11 44. As Defendant has paid Plaintiff and all other members of the Minimum
12 Wage Class at a rate lower than the higher-tier minimum wage rate but has failed to offer
13 health benefits to its employees and the employees' dependents at a total cost to the
14 employee for premiums of not more than 10% of the employees' gross taxable income,
15 Defendant has wrongfully withheld wages properly-owed to the Plaintiff and the Minimum
16 Wage Class Members.

17 45. As Defendant has likewise failed to compensate Plaintiff and members of
18 the Overtime Class at the correct overtime wage rate for all the overtime hours that they
19 worked pursuant to NRS 608.018, Defendant has wrongfully withheld wages properly-
20 owed to the Plaintiff and the Overtime Class Members.

21 46. Plaintiff, the Minimum Wage Class, and the Overtime Class will suffer
22 irreparable injury if Defendant is not enjoined from the future wrongful retention of wages
23 owed.

24 47. As a result of the aforementioned unlawful payment practices, Plaintiff
25 submits that there has been a likelihood of success on the merits that Plaintiff and the
26 Class Members have been damaged and that there is irreparable harm.

27 48. Plaintiff requests that this Honorable Court enter an Order that restrains
28 Defendant from attempting to enforce the alleged unlawful payment practices.

51. Plaintiff has been required to retain the services of an attorney and is entitled to a reasonable award of attorneys' fees and costs.

Wherefore Plaintiff, by herself and on behalf of Class Members, prays for relief as follows relating to her class action allegations:

1. For an order certifying this action as a class action on behalf the proposed Classes and providing notice to all Class Members so they may participate in this lawsuit;
2. For an order appointing Plaintiff as the Representative of the Classes and her counsel as Class Counsel;
3. For damages according to proof for minimum rate pay under the Nevada Constitution for all hours worked;
4. For damages according to proof for overtime compensation under NRS 608.018 and 608.140 for all hours worked over 8 hours per day and/or over 40 hours in a workweek;
5. For waiting time penalties pursuant to NRS 608.040-.050 and 608.140;
6. For a lien on the property where Plaintiff and all Class Members labored pursuant to NRS 608.050;
7. For injunctive relief;
8. For declaratory relief;
9. For interest as provided by law at the maximum legal rate;

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10. For punitive damages;
11. For reasonable attorneys' fees authorized by statute;
12. For costs of suit incurred herein;
13. For pre-judgment and post-judgment interest, as provided by law; and,
14. For such other and further relief as the Court may deem just and proper.

DATED: May 16, 2019

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By: 

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EXHIBIT I

005613 FILE DEPT. CLOCK NUMBER
P71 005560 000210 1
077.0001

THE D CASINO
301 FREMONT STREET
LAS VEGAS, NV 89101

Taxable Marital Status: Single
Exemptions/Allowances:
Federal 0
NV: No State Income Tax

Earnings Statement



Period Ending: 07/01/2018
Pay Date: 07/06/2018

SLADJANA DJOKOVIC

Earnings	rate	hours	this period	year to date
Regular	7.2500	80.00	580.00	6,844.00
Tips Earned	7.9747	80.00	637.98	10,576.61
Pto				928.00
Gross Pay			\$1,217.98	18,348.61

Deductions	Statutory
Federal Income Tax	-96.25
Social Security Tax	-69.89
Medicare Tax	-16.34
Other	
Dental 125	-8.11*
Ee Contribution	-82.68*
Tips	-637.98
401(K)	-121.80*
Offset Tips	
Adjustment	
Offset Tips	+637.98
Net Pay	\$822.91
CHECKING 2	-700.00
Net Check	\$122.91

Your federal taxable wages this period are
\$1,005.39

Other Benefits and Information
Pto Memo this period 61.68 total to date

Deposits
Account No. xxxxxx
Transit/ABA xxxx xxxx
Amount \$700.00

Time Card Detail	DATE	IN	OUT	IN	OUT	TOTAL
Wed 06/20	5:54pm	1:58am	8:00			8:00
Thu 06/21	5:54pm	1:41am	8:00			8:00
Fri 06/22	5:55pm	1:40am	8:00			8:00
Sat 06/23	5:56pm	1:42am	8:00			8:00
Sun 06/24	5:56pm	2:00am	8:00			8:00
Wed 06/27	5:57pm	1:40am	8:00			8:00
Thu 06/28	5:54pm	1:36am	8:00			8:00
Fri 06/29	5:54pm	1:42am	8:00			8:00
Sat 06/30	5:57pm	1:41am	8:00			8:00
Sun 07/01	5:55pm	1:40am	8:00			8:00

* Excluded from federal taxable wages

EXHIBIT II

004458
CO. FILE DEPT. CLOCK NUMBER
F71 005560 000210 070219672

THE D CASINO
301 FREMONT STREET
LAS VEGAS, NV 89101

075-0001

Earnings Statement



Period Ending: 06/03/2018
Pay Date: 06/03/2018

Taxable Marital Status: Single
Exemptions/Allowances:
Federal: 0
NV: No State Income Tax

SLADJANA DJOKOVIC

Earnings	rate	hours	this period	year to date
Regular	7.2500	78.00	565.50	5,865.25
Tips Earned	7.9899	78.00	623.21	9,180.88
Pto				754.00
Gross Pay			\$1,188.71	15,800.13

Deductions	Statutory
Federal Income Tax	-92.09
Social Security Tax	-68.07
Medicare Tax	-15.92

Other	
Dental 125	-8.11*
Ee Contribution	-82.68*
Tips	-623.21
401(K)	-118.87*
Offset Tips	
Adjustment	
Offset Tips	+623.21

Net Pay	\$801.97
CHECKING 2	-700.00
Net Check	\$101.97

* Excluded from federal taxable wages
Your federal taxable wages this period are \$979.05

Other Benefits and Information
Pto Memo
this period
74.78
total to date

Deposits
Account No. XXXXX
Transit/ABA XXXX XXXX
Amount \$700.00

Time Card Detail

DATE	IN	OUT	IN	OUT	TOTAL
Wed 05/23	5:55pm	12:50am			6:45
Thu 05/24	5:37pm	1:58am			8:00
Fri 05/25	5:34pm	1:58am			8:00
Sat 05/26	5:33pm	1:58am			8:00
Sun 05/27	5:55pm	1:59am			8:00
Wed 05/30	5:56pm	1:09am			7:15
Thu 05/31	5:55pm	1:57am			8:00
Fri 06/01	5:55pm	2:00am			8:00
Sat 06/02	5:54pm	1:58am			8:00
Sun 06/03	5:55pm	1:53am			8:00