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**EIGHTH JUDICIAL DISTRICT COURT**

**CLARK COUNTY, NEVADA**

JOHN VALENCIA, on behalf of himself  
and all others similarly situated,

Plaintiff,

vs.

P & M HOLDINGS, LLC d/b/a and a/k/a  
GOLDEN STEER STEAKHOUSE; DOES  
1 through 50; inclusive,

Defendant(s).

Case No.:  
Dept. No.:

**CLASS ACTION COMPLAINT**

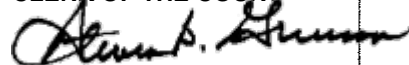
**Arbitration Exemption Claimed: Class  
Action**

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

**LIEN REQUESTED PURSUANT TO  
NRS 608.050**

**JURY TRIAL DEMANDED**

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CASE NO: A-21-830175-C  
Department 25

COMES NOW Plaintiff John Valencia, on behalf of himself 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 his 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") sections 608.050 and 608.140. 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. Plaintiff made a proper demand for wages due pursuant to NRS 608.140 on January 7, 2020.

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

5. Plaintiff demands a jury trial on all issues triable by jury herein.

### PARTIES

6. Plaintiff John Valencia (hereinafter "Plaintiff" or "Valencia") was at all relevant times a resident of the State of Nevada and was employed by Defendant as a non-exempt hourly employee from December of 2018 to December of 2019.

7. Defendant P & M Holdings, LLC d/b/a and a/k/a Golden Steer Steakhouse ("Defendant") is a domestic limited-liability company registered with the Nevada Secretary of State.

1           8. Defendant P & M Holdings, LLC holds the fictitious firm name for Golden  
2 Steer Steakhouse with Clark County.

3           9. Defendant was doing business in this Judicial District in Clark County,  
4 Nevada where the subject incidences occurred.

5           10. At all relevant times, each Defendant was an agent, employee, joint-  
6 venturer, shareholder, director, member, co-conspirator, alter ego, master, or partner of  
7 each of the other Defendants, and at all times mentioned herein were acting within the  
8 scope and course and in pursuance of his, her, or its agency, joint venture, partnership,  
9 employment, common enterprise, or actual or apparent authority in concert with each  
10 other and the other Defendants.

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

18           12. The Defendants named herein are the employers of the Plaintiff and all  
19 Class Members alleged herein. The Defendants are employers engaged in commerce  
20 under the provisions of NRS 608.011. The identity of DOES 1-50 is unknown at the time  
21 and the Complaint will be amended at such time when the identities are known to  
22 Plaintiff. Plaintiff is informed and believes that each Defendants sued herein as DOE is  
23 responsible in some manner for the acts, omissions, or representations alleged herein  
24 and any reference to "Defendant" or "Defendants" herein shall mean "Defendants and  
25 each of them."

26                                   **FACTUAL ALLEGATIONS**

27           13. Plaintiff was employed by Defendant as a non-exempt employee from  
28 December of 2018 to December of 2019.

14. Defendant maintains an unlawful policy of not paying daily overtime to non-exempt hourly employees who earn 1 ½ times less than the applicable minimum wage.

15. Plaintiff has frequently worked over 8 hours in any 24-hour workday.

16. On many occasions, Plaintiff has worked a shift in the late afternoon and evening hours and then returned the next day at an earlier start time than the previous day's shift. The number of hours he worked in a workday under Nevada law was over 8 hours in a 24-hour period of time.

17. For instance, during the workweek of December 10, 2018, Defendant scheduled Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time. See a true and correct copy of Plaintiff's time card report attached hereto as Exhibit I.

18. But despite having worked more than 8 hours in a 24-hour period of time, Defendant failed to compensate Plaintiff at 1 ½ times his regular rate of pay for the overtime hours he worked. See a true and correct copy of Plaintiff's check history detail attached hereto as Exhibit II.

19. Upon information and belief, Defendant maintains a company-wide policy and practice of refusing to pay daily overtime wages to Nevada employees who worked over 8 hours in a workday.

20. This "no daily overtime" policy has always been common to all non-exempt hourly paid employees at Defendant's locations in the state of Nevada.

#### CLASS ACTION ALLEGATIONS

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

22. Plaintiff brings this action on behalf of himself and all other similarly situated employees as a class action under Rule 23 of the Nevada Rules of Civil Procedure.

23. The **Nevada Overtime Class** is defined as "All hourly paid non-exempt persons employed by Defendant in the state of Nevada who earned less than 1 ½ times

1 the applicable minimum wage and who worked over eight (8) hours in a workday at any  
2 time within 3 years from January 7, 2020 until judgment."

3 24. The **Waiting Time Penalty Class** is defined as "All Nevada Overtime  
4 Class Members who are former employees of Defendant."

5 25. Class treatment is appropriate under Rule 23's class certification  
6 mechanism because:

7 a. The Classes are Sufficiently Numerous: Upon information and belief,  
8 Defendant employs, and has employed, in excess of 40 Nevada Overtime Class  
9 Members within the applicable time period. Because Defendant is legally obligated to  
10 keep accurate payroll records, Plaintiff alleges that Defendant's records will establish the  
11 members of the Classes as well as their numerosity.

12 b. Plaintiff's Claim is Typical to Those of Fellow Class Members: Each  
13 Class Member is and was subject to the same practices, plans, or policies as Plaintiff:  
14 whether Defendant compensated Plaintiff and members of the Class daily overtime  
15 wages when they worked over 8 hours in a workday and whether members of the  
16 Waiting Time Penalty Class are entitled to waiting time penalties for the failure to pay  
17 them minimum, regular, and overtime wages owed.

18 c. Common Questions of Law and Fact Exist: Common questions of  
19 law and fact exist and predominate as to Plaintiff and the Class Members, including,  
20 without limitation: whether Defendant failed to pay Plaintiff and the Class Members one  
21 and one-half times their regular rate for all hours worked in excess of 8 hours a workday  
22 and whether Defendant failed to pay the Waiting Time Penalty Class Members all their  
23 wages due and owing in violation of NRS 608.020-050.

24 d. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly  
25 and adequately represent the interests of the Classes because Plaintiff is a member of  
26 the Classes, he has issues of law and fact in common with all members of the Classes,  
27 and his interests are not antagonistic to Class members. Plaintiff and his counsel are  
28 aware of their fiduciary responsibilities to Class Members and are determined to

1 discharge those duties diligently by vigorously seeking the maximum possible recovery  
2 for Class Members.

3 e. Predominance/Superior Mechanism: Class claims predominate and  
4 a class action is superior to other available means for the fair and efficient adjudication of  
5 this controversy. Each Class Member has been damaged and is entitled to recovery by  
6 reason of Defendant's illegal policy and/or practice of failing to compensate its  
7 employees in accordance with Nevada wage and hour law. The prosecution of individual  
8 remedies by each Class Member will tend to establish inconsistent standards of conduct  
9 for Defendant and result in the impairment of Class Members' rights and the disposition  
10 of their interest through actions to which they were not parties.

11 **FIRST CAUSE OF ACTION**

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

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

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

17 28. NRS 608.018(1) provides as follows:

18 An employer shall pay 1 1/2 times an employee's  
19 regular wage rate whenever an employee who receives  
20 compensation for employment at a rate less than 1 1/2 times  
21 the minimum rate prescribed pursuant to NRS 608.250  
22 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.

23 29. NRS 608.018(2) provides as follows:

24 An employer shall pay 1 1/2 times an employee's regular  
25 wage rate whenever an employee who receives  
26 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.

27 30. As described above, Defendant maintains a policy and/or practice of illegal  
28 shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the

1 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and  
2 Nevada Overtime Class Members have been denied overtime compensation according  
3 to Nevada law.

4 31. Wherefore, Plaintiff demands for himself and all Nevada Overtime Class  
5 Members that Defendant pays Plaintiff and Nevada Overtime Class Members one and  
6 one-half times their "regular rate" of pay for all hours worked in excess of eight (8) hours  
7 in a workday during the relevant time period together with attorneys' fees, costs, and  
8 interest as provided by law.

9 **SECOND CAUSE OF ACTION**  
10 **Waiting Time Penalties Pursuant to NRS 608.020-.050 and 608.140**  
11 **(On Behalf of Plaintiff and the Waiting Time Penalty Class)**

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

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

16 34. NRS 608.020 provides that "[w]henver an employer discharges an  
17 employee, the wages and compensation earned and unpaid at the time of such  
18 discharge shall become due and payable immediately."

19 35. NRS 608.030 provides that "[w]henver an employee resigns or quits his or  
20 her employment, the wages and compensation earned and unpaid at the time of the  
21 employee's resignation or quitting must be paid no later than...[t]he day on which the  
22 employee would have regularly been paid the wages or compensation; or[s]even days  
23 after the employee resigns or quits...whichever is earlier."

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





1 requests that this Honorable Court enter an Order that restrains Defendant from  
2 attempting to enforce the alleged unlawful payment practices.

3 45. Plaintiff requests that this Honorable Court enter a declaration of  
4 rights/obligations in regards to all such unlawful payment practices in this matter.

5 46. Further, disputes and controversies have arisen between the parties  
6 relative to the lawfulness of the payment practices, and Plaintiff is entitled to have an  
7 order entered pursuant to Chapter 30 of the Nevada Revised Statutes construing the  
8 payment practices and adjudging and declaring Plaintiff and the Class Members' rights  
9 and remedies thereunder including such an Order stating that such payment practices  
10 are unlawful.

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

13 **PRAYER FOR RELIEF**

14 Wherefore Plaintiff, by himself and on behalf of all Class Members, prays for  
15 relief as follows relating to his class action allegations:

- 16 1. For an order certifying this action as a class action on behalf the  
17 proposed Classes and providing notice to all Class Members so they may  
18 participate in this lawsuit;
- 19 2. For an order appointing Plaintiff as the Representative of the Classes and  
20 his counsel as Class Counsel;
- 21 3. For damages according to proof for overtime compensation under NRS  
22 608.018 and 608.140 for all hours worked over 8 hours per day;
- 23 4. For waiting time penalties pursuant to NRS 608.040-.050 and 608.140;
- 24 5. For a lien on the property where Plaintiff and all Nevada Class Members  
25 labored pursuant to NRS 608.050;
- 26 6. For interest as provided by law at the maximum legal rate;
- 27 7. For injunctive relief;
- 28 8. For declaratory relief;

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

6 DATED: February 26, 2021

7 Respectfully Submitted,

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