



CASE NO: A-22-851570-C
Department 24

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**EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA**

ANTHONY TURNER on behalf of
themselves and all others similarly situated,

Plaintiff,

v.

CORECIVIC OF TENNESSEE, LLC, and
DOES 1-50,

Defendant.

Case No.:
Dept.:

**COLLECTIVE AND CLASS ACTION
COMPLAINT**

**Arbitration Exemption Claimed: Class
Action**

- 1) Failure to Pay Overtime in Violation of
29 U.S.C. § 207;
- 2) Failure to Pay Minimum Wages in
Violation of the Nevada Constitution and
NRS 608.250;
- 3) Failure to Compensate for All Hours
Worked in Violation of NRS 608.140 and
608.016
- 4) Failure to Pay Overtime in Violation of
NRS 608.018; and
- 5) Failure to Timely Pay All Wages Due and
Owing in Violation of NRS 608.140 and
608.020-.050.

**LIEN REQUESTED PURSUANT TO NRS
608.050**

JURY TRIAL DEMANDED

COMES NOW Plaintiff ANTHONY TURNER ("Plaintiff") on behalf of himself and all
others similarly situated and allege the following:

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

5 **INTRODUCTION**

6 1. This case challenges the policies and practices of Defendant that violate the federal
7 Fair Labor Standards Act (“FLSA”), 29 U.S.C. §§201-219, the Nevada Constitution Minimum
8 Wage Amendment, Article 15 Section 16, and Nevada State wage and hour statutory law, Nevada
9 Revised Statute (“NRS”), §§ 608.250, 608.140, 608.016, 608.018, and 608.020-.050.

10 2. Plaintiff brings this case as a FLSA “collective action” pursuant to 29 U.S.C. §
11 216(b) and as a true class action pursuant to Nevada Rule of Civil Procedure (“NRCPP”) 23.

12 **JURISDICTION AND VENUE**

13 3. This Court has original jurisdiction over the claims alleged herein because the
14 amount in controversy exceeds \$15,000.00 and a party seeking to recover unpaid wages has a
15 private right of action pursuant to NRS sections 608.140, 608.018, and 608.020-.050. *See Neville*
16 *v. Eighth Judicial Dist., Terrible Herbst, Inc.*, 133 Nev. Adv. Op. 95 (Dec. 7, 2017), 406 P.3d
17 499 (2017).

18 4. This Court has jurisdiction over the federal claims alleged herein pursuant to the
19 FLSA, 29 U.S.C. § 216(b) which states: “An action to recover the liability prescribed in either of
20 the preceding sentences may be maintained against any employer (including a public agency) in
21 any Federal or State court of competent jurisdiction by any one or more employees for and in
22 behalf of himself or themselves and other employees similarly situated.”

23 5. This Court also has jurisdiction over the state law claims alleged herein pursuant
24 to 28 U.S.C. § 1367 because the state law claims alleged herein arise out of the same transaction
25 and occurrence as the federal claims (*i.e.*, the failure to pay wages for all hours worked) and there
26 is no conflict between the procedures applicable to the FLSA and State law claims. *See Busk v.*
27 *Integrity Staffing Solutions, Inc.*, 713 F.3d 525, 528-30 (9th Cir. Nev. Apr. 12, 2013) (“In sum,
28 we agree with the other circuits to consider the issue that the fact that Rule 23 class actions use

an opt-out mechanism while FLSA collective actions use an Opt-in mechanism does not create a conflict warranting dismissal of the state law claims.” (reversed on other grounds)).

6. Plaintiff made a proper demand for wages due pursuant to NRS 608.140 on March 31, 2022.

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

8. Venue is proper in this District because the named-Plaintiff lives in this district.

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

PARTIES

10. Plaintiff ANTHONY TURNER is a natural person who is and was a resident of the State of Nevada at all relevant times herein and was employed by Defendant as a non-exempt hourly correctional officer at the Nevada Southern Detention Center, in Pahrump, Nevada from on or about November 2019 to late December 2019. He was then transferred to the CoreCivic Detention Center in Leavenworth, Kansas due to extreme staffing shortages and was employed as a non-exempt hourly-paid correction officer from on or about late December 2019 to on or about June 2020. He was then transferred back to Nevada Southern Detention Center from on or about June 2020 to on or about November 2, 2020 when he was terminated. Plaintiff Turner was paid \$28.25 per hour, plus non-discretionary bonuses and other remunerations.

11. Defendant CORECIVIC OF TENNESSEE, LLC (hereinafter “Defendant” or “CoreCivic”) owns or operates private prisons and detention centers on contract with federal, state, and local governments. CoreCivic operates one-hundred thirteen (113) detention facilities and offers correctional services throughout the United States. CoreCivic is a Tennessee Limited-Liability Company licensed to do business in Nevada and Kansas.

12. Defendant is an employer under the FLSA, 29 U.S.C. § 201 *et. seq.*, Nevada’s wage-hour statutes, NRS Chapter 608, and the Nevada Constitution, Nev. Const. Art. 15 § 16, and is therefore subject to those laws.

13. The identity of DOES 1-50 is unknown at this time and this Complaint will be amended at such time when the identities are known to Plaintiff. Plaintiff is informed and believes

1 that each Defendant sued herein as DOE is responsible in some manner for the acts, omissions,
2 or representations alleged herein and any reference to “Defendant,” “Defendants,” or “CoreCivic”
3 herein shall mean “Defendants and each of them.”

4 **FACTUAL ALLEGATIONS**

5 **Plaintiff Turner**

6 14. Plaintiff Turner is currently and was a resident of Las Vegas, Nevada during his
7 employment with Defendant. Plaintiff Turner was paid \$28.25 per hour. In addition to his hourly
8 rate of pay, Plaintiff Turner, and all other similarly situated individuals also received several non-
9 discretionary bonuses and other remunerations.

10 15. At almost all times alleged herein, Plaintiff worked at least fifty (50) hours per
11 workweek. Plaintiff was regularly scheduled for and did work four (4) ten-hour shifts per
12 workweek. Plaintiff also worked at least one (1) additional 10-hour shift per workweek. Plaintiff
13 cannot recall a single workweek where he worked less than five (5) ten-hour shifts.

14 **Defendant’s Unpaid Security Screening Requirement**

15 16. Plaintiff was employed as a correctional officer at two of Defendant’s
16 correctional/detention facilities, one located in Pahrump, Nevada and one in Leavenworth,
17 Kansas. At all times relevant herein, CoreCivic has operated around 113 detention facilities
18 within the United States. See <https://www.corecivic.com/facilities> (last visited February 17,
19 2022). As will be set forth in more detail below, Plaintiff’s “off the clock” work activities apply
20 to each of these facilities.

21 17. Despite having been employed at different facilities, Plaintiff’s experiences with
22 regard to the claims alleged herein were similar, common, and typical of all other correction and
23 detention officers employed by Defendant throughout the relevant time period alleged herein.
24 Namely, Plaintiff was a non-exempt hourly paid employee of Defendant. By law and by
25 agreement, Defendant is required to pay Plaintiff, and all others similarly situated correction
26 and/or detention officers, for all hours worked. However, Plaintiff and all those similarly situated
27 were required to perform work activities before their regularly scheduled shift for which they
28 were not compensated. Plaintiff and all those similarly situated were required to work

approximately fifteen (15) minutes to twenty (20) minutes per shift without compensation “off-the-clock” at the agreed upon hourly rate of pay. In almost all work weeks, during Plaintiff’s employment with Defendant, the additional time worked “off the clock” was in part or completely in excess of 40 hours a week and thus should have been compensated at an overtime rate of one and one half times the employee’s regular rate of pay, as more fully set forth hereinafter.

18. Plaintiff was required to clock in and out using an electronic timekeeping system. However, Defendant did not properly count or record the time it took to perform the work activities prior to the start of the scheduled work times, a violation of the record keeping requirements of the FLSA, as well as a violation of the overtime provisions of the FLSA.

19. Upon arriving to the detention facility, Plaintiff was required to undergo a thorough screening to ensure that he and other correction/detention officers were not bringing prohibited items into the facilities. Plaintiff and other similarly situated employees were required to empty their bags and pockets, remove their shoes, belts, and jackets, take off all metal objects, and hand over personal items for inspections. After shedding these items for search, correction/detention officers walk through a metal detector. If the device went off/alerted, Plaintiff and other similarly situated employees would be subject to a hand search. Once Plaintiff and other similarly situated employees cleared the metal detector they must put back on all belts, shoes, and other clothing items, retrieve their bags, and replace any other personal items. Once Plaintiff and other similarly situated employees cleared the security screening door, Plaintiff would go to a “duty sergeant” who would instruct Plaintiff and other similarly situated employees which area they were assigned to for the day, such as in the housing units or on the perimeter. Once the correction/detention officers had been given his/her duty assignment by the sergeant, only then would they be allowed to clock into the electronic timekeeping system. The process from arrival at the first security checkpoint to the time clock took between fifteen (15) and twenty (20) minutes of time each and every shift worked.

20. Although these security screenings of Plaintiff and other similarly situated employees are integral and indispensable aspects of a correctional officer’s job because they are necessary for the detention center’s safety and security, the safety and security of Plaintiff and all

of Defendant's employees at the detention center, as well as the safety and security of the inmates and detainees of the correction/detention centers, Defendant does not compensate Plaintiff and other similarly situated employees for this time.

21. On average, Plaintiff estimates that he, and every member of the putative classes, performed fifteen (15) to twenty (20) minutes of compensable work before their regularly scheduled shifts, each and every shift worked, for which they were not paid.

22. Defendant's failure to compensate Plaintiff and the similarly situated correction/detention officers resulted in unpaid overtime in violation of the FLSA. *See Aguilar, et al., v. Management & Training Corporation*, 948 F.3d 1270 (10th Cir. 2020) (pre-shift security screenings of detention officers are integral and indispensable under *Busk*¹ and therefore must be counted as hours worked for the purposes of computing overtime.).

Defendant's Failure To Provide Rest Periods Pursuant To Nevada Law

23. Defendant does not schedule, authorize, and/or permit employees to take their legally mandated rest breaks.

24. NRS 608.019(2), emphasis added, provides as follows:

Every employer shall authorize and permit all his or her employees to take rest periods, which, insofar as practicable, ***shall be in the middle of each work period***. The duration of the rest periods shall be based on the total hours worked daily at the rate of 10 minutes for each 4 hours or major fraction thereof. Rest periods need not be authorized however for employees whose total daily work time is less than 3 and one-half hours. ***Authorized rest periods shall be counted as hours worked***, for which there shall be no deduction from wages.

25. Nevada law requires that employers pay employees for rest periods according to the following schedule:

Unless an employee is exempt pursuant to NRS 608.019, an employee that works at least 3 1/2 continuous hours is permitted:

(a) One 10-minute rest period if the employee works at least 3 1/2 continuous hours and less than 7 continuous hours;

¹ *Integrity Staffing Sols., Inc. v. Busk*, 547 U.S. 27, 135 S. Ct. 513, 190 L.Ed.2d 410 (2014).

- (b) Two 10-minute rest periods if the employee works at least 7 continuous hours and less than 11 continuous hours;
- (c) Three 10-minute rest periods if the employee works at least 11 continuous hours and less than 15 continuous hours; or
- (d) Four 10-minute rest periods if the employee works at least 15 continuous hours and less than 19 continuous hours.

NAC 608.145.

26. Plaintiff and all other similarly situated Nevada employees were never scheduled for, and/or offered/provided with, their legally mandated rest breaks. As a result, Plaintiff and all other similarly situated Nevada employees worked through their legally mandated rest breaks.

27. Because Plaintiff and all other similarly situated Nevada employees worked through their legally mandated rest breaks, Defendant has failed to separately pay Plaintiff and other similarly situated employees their rest break wages. These rest break wages must be paid at the regular and/or overtime rate of compensation or, at the very least, at the applicable minimum wage rate.

Plaintiff Turner's Approximate Damages

28. In example, Plaintiff Turner worked at the Pahrump, Nevada Detention Center from on or about November 12, 2019 to on or about mid-December 2019 (approximately 4 weeks) and then again from on or about mid-June 2020 to on or about November 2, 2020 (approximately 20 weeks). Plaintiff alleges he regularly worked five (5) days a week, ten (10) hours shifts with no rest breaks during both time periods. Thus, Plaintiff worked 50-hour workweeks, which is over the overtime threshold under both the FLSA and Nevada law. Plaintiff's rate of pay was \$28.25 per hour not including bonuses or per diem.

- a. Because he was not paid for fifteen (15) to twenty (20) minutes of security screening time for each of the five shifts worked (approximately 75 to 100 minutes or approximately 1.5 hours), he is entitled to one and one half times his regular rate of pay per workweek worked, or approximately \$2,542.50 ($\$28.25 \times .5 = \$14.125 \times 1.5 = \$21.1875 \times 5 \text{ days per week} = \$105.9375 \times 24 \text{ weeks} = \$2,542.50$).²

² Plaintiff's "regular rate of compensation" would be his base hourly rate plus any and all other non-discretionary payments issued to him during the particular workweek.

b. In addition, under Nevada law he is entitled to rest break wages for two (2) ten minute rest periods for an additional \$47.08 per workweek worked (\$28.25/60 minutes = .4708 X 20 minutes = \$9.416 X 5 = \$47.083 X 24 = \$1,129.99) or \$1,129.99.

c. Thus, because Plaintiff Turner was not compensated for these work activities, Plaintiff Turner has suffered damages equal to approximately \$3,672.49 for the weeks he was employed in Nevada alone, not including NRS 608.020-.050 waiting time penalties. These same types of calculations can be made for the approximately twenty-one (21) weeks he was employed in Kansas.

COLLECTIVE AND CLASS ACTION ALLEGATIONS

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

30. Plaintiff brings this action on behalf of himself and all other similarly situated and typical employees as both a collective action pursuant to the FLSA and a true class action under Nevada law.

31. The **FLSA Class** is defined as follows: **All persons who were employed by Defendant as correction and/or detention officers or similar job titles at any time within three years of filing of this complaint with the exception of any persons who opted-in to *Ballard v. CoreCivic of Tennessee, LLC*, Case No. 3:20-cv-00418 (M.D. Tenn. 2022).**

32. With regard to the conditional certification mechanism under the FLSA, Plaintiff is similarly situated to those he seeks to represent and for the following reasons, among others:

A. Defendant employed Plaintiff as a non-exempt hourly paid employee who did not receive pay for all hours that Defendant suffered or permitted him to work, and did not receive overtime premium pay of one and one-half times his regular rate of pay for all hours worked in excess of forty (40) hours in a workweek. Plaintiff was scheduled for and did work at least 40-hours but was not compensated for the time spent performing

the off-the-clock activities set forth above. The time spend performing off-the-clock activities was in excess of the scheduled for, and worked, 40 hours per workweek.

B. Plaintiff's situation is similar to those he seeks to represent because Defendant failed to pay Plaintiff and all other FLSA Class Members for all the time they were required to work, including time spent performing off-the-clock activities, pursuant to a uniform policy, plan and/or practice of Defendant.

C. Common questions of fact and/or law exist whether the time spent by Plaintiff and all other FLSA Class Members engaging in off-the-clock activities is compensable under federal law and whether Defendant failed to pay Plaintiff and FLSA Class Members one and one half times their regular rate of pay for all hours worked in excess of 40 hours a week.

D. Upon information and belief, Defendant employs, and has employed, in excess of 1,000 Class Members within the applicable statute of limitations.

E. Plaintiff has signed a Consent to Sue form which is attached as Exhibit A, hereto. Consent to Sue forms are not required for state law claims under Rule 23 of the Nevada Rules of Civil Procedure.

F. Defendant has known or should have known its policies alleged herein were unlawful and that they owe employees these wages, and have willfully failed to pay their employees properly. Indeed, paying employees for engaging in work-related activities such as clearing mandatory security screening and receiving assignments, are generally understood to be compensable activities and the failure to pay for such activities represents willful misconduct on part of the Defendant. Defendant's actions or omissions giving rise to this complaint were thus not in good faith and/or were not based upon an informed, reasonable belief that Defendant's behavior was lawful.

33. The **NEVADA CLASS** is defined as follows: **All current and former correction and/or detention officers or similar job titles who were employed by Defendant in Nevada during the relevant time period.** The NEVADA CLASS is further divided into the following sub-class:

1 34. **NEVADA WAGES DUE AND OWING SUB-CLASS:** All members of the
2 NEVADA CLASS who were employed in Nevada and who were terminated or otherwise
3 separated from employment at any time during the Class Period.

4 35. Pursuant to the decision of the Ninth Circuit Court of Appeals in *Busk v. Integrity*
5 *Staffing Solutions, Inc.*, 2013 U.S. App. LEXIS 7397 (9th Cir. Nev. Apr. 12, 2013), both opt-in
6 collective or representative treatment of claims under the federal FLSA and Rule 23 Class
7 treatment of pendant state law claims may be maintained in the same action. Therefore, NRCP
8 Rule 23(b)(3) Class treatment for all non-FLSA claims alleged in this complaint is appropriate in
9 this case for the following reasons:

10 A. The Class is Sufficiently Numerous: Upon information and belief,
11 Defendant employs, and has employed, in excess of 100 Nevada Class Members within
12 the applicable statute of limitations.

13 B. Plaintiff's Claims are Typical to Those of Fellow Class Members: Each
14 Nevada Class Member is and was subject to the same practices, plans, or policies as
15 Plaintiff—Defendant required Nevada Class Members to perform off-the-clock activities
16 without compensation.

17 C. Common Questions of Law and Fact Exist: Common questions of law and
18 fact exist and predominate as to Plaintiff and the Nevada Class, including, without
19 limitation: (1) Whether the time spent by Plaintiff and Nevada Class Members engaging
20 in off-the-clock activities is compensable under Nevada law, and (2) Whether Plaintiff
21 and Nevada Class Members are entitled to reimbursement for missed rest periods.

22 D. Plaintiff is an Adequate Representative of the Class: Plaintiff will fairly
23 and adequately represent the interests of the Nevada Class because Plaintiff is a member
24 of the Nevada Class and Wages Due and Owing Sub Class, he has issues of law and fact
25 in common with all members of the Nevada Class and Wages Due and Owing Sub Class,
26 and he does not have interests that are antagonistic to Nevada Class members.

27 E. A Class Action is Superior/Common Claims Predominate: A class action
28 is superior to other available means for the fair and efficient adjudication of this

1 controversy, since individual joinder of all members of the Nevada Class is impractical,
2 and common claims of whether Plaintiff and Nevada Class Members are entitled to
3 compensation for the work activities performed predominate over individual issues. Class
4 action treatment will permit a large number of similarly situated persons to prosecute their
5 common claims in a single forum simultaneously, efficiently, and without unnecessary
6 duplication of effort and expense. Furthermore, the expenses and burden of individualized
7 litigation would make it difficult or impossible for individual members of the Nevada
8 Class to redress the wrongs done to them, while an important public interest will be served
9 by addressing the matter as a class action. Individualized litigation would also present the
10 potential for inconsistent or contradictory judgments.

11 **FIRST CAUSE OF ACTION**

12 Failure to Pay Overtime Wages in Violation of the FLSA, 29 U.S.C. § 207

13 (On Behalf of Plaintiff and the FLSA Class Against Defendant)

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

16 37. 29 U.S.C. § 207(a)(1) provides as follows: "Except as otherwise provided in this
17 section, no employer shall employ any of his employees who in any workweek is engaged in
18 commerce or in the production of goods for commerce, or is employed in an enterprise engaged
19 in commerce or in the production of goods for commerce, for a workweek longer than forty hours
20 unless such employee receives compensation for his employment in excess of the hours above
21 specified at a rate not less than one and one-half times the regular rate at which he is employed."

22 38. Once the workday has begun, all time suffered or permitted by the employer to be
23 worked by the employee is compensable at the employee's applicable rate of pay, whether
24 scheduled or not.

25 39. By engaging in the conduct explained above, Defendant paid Plaintiff and FLSA
26 Class Members \$0 for pre-shift work completed off-the-clock.

27 40. By failing to compensate Plaintiff and FLSA Class Members for the time spent
28 engaging in off-the-clock activities identified above, Defendant failed to pay Plaintiff and FLSA

1 Class Members overtime for all hours worked in excess of forty (40) hours in a week in violation
2 of 29 U.S.C. § 207(a)(1).

3 41. As set forth above, the time spent performing the pre-shift activities that are the
4 subject of this action was performed after Plaintiff and all other similarly situated individuals had
5 worked at least 40 hours in a workweek. Therefore, the uncompensated activities in question
6 were performed during overtime hours for which Plaintiff and similarly situated FLSA Class
7 Members were denied overtime compensation by Defendant as a result of its unlawful pay
8 practices.

9 42. Defendant's unlawful conduct has been widespread, repeated, and willful.
10 Defendant knew or should have known that its policies and practices have been unlawful and
11 unfair. Indeed, the 10th Circuit has expressly stated that security screening activities for
12 correction/detention officers are compensable under the FLSA. *See Aguilar, et al., v.*
13 *Management & Training Corporation*, 948 F.3d 1270 (10th Cir. 2020). Therefore, the actions
14 complained of herein were willful and deliberate and without good cause, from the relevant time
15 period until the date of judgment after trial.

16 43. Wherefore, Plaintiff demands for himself and for all others similarly situated, that
17 Defendant pay Plaintiff and all members of the FLSA Class one and one half times their regular
18 hourly rate of pay for all hours worked in excess of forty (40) hours a week during the relevant
19 time period alleged herein together with liquidated damages, attorneys' fees, costs, and interest
20 as provided by law.

21 **SECOND CAUSE OF ACTION**

22 Failure to Pay Minimum Wages in Violation of the Nevada Constitution and/or NRS 608.250

23 (On Behalf of Plaintiff and the Nevada Class Against Defendant)

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

26 45. Article 15 Section 16 of the Nevada Constitution sets forth the minimum wage
27 requirements in the State of Nevada and further provides that "[t]he provisions of this section may
28 not be waived by agreement between an individual employee and an employer. ... An employee

claiming violation of this section may bring an action against his or her employer in the courts of this State to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to back pay, damages, reinstatement or injunctive relief. An employee who prevails in any action to enforce this section shall be awarded his or her reasonable attorney's fees and costs."

46. Once the workday has begun, all time suffered or permitted by the employer to be worked by the employee is compensable at the employee's applicable rate of pay, whether scheduled or not.

47. Pursuant to the Nevada Administrative Code, hours worked includes "all time worked by the employee at the direction of the employer, including time worked by the employee that is outside the scheduled hours of work of the employee." NAC 608.115(1).

48. Nevada law does not permit the averaging of minimum wages over the course of the workweek. *See In re: Amazon.com, Inc. v. Integrity Staffing Sols., Inc.*, 905 F.3d 387 (6th Cir., 2018). Each hour worked must be compensated at least at the requisite minimum wage rate.

49. NRS 608.250 provides the following minimum wage rates to be paid, without discount, to all Nevada employees:

(a) Beginning July 1, 2019:

(1) If the employer offers health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$7.25 per hour worked.

(2) If the employer does not offer health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$8.25 per hour worked.

(b) Beginning July 1, 2020:

(1) If the employer offers health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$8.00 per hour worked.

(2) If the employer does not offer health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$9.00 per hour worked.

(c) Beginning July 1, 2021:

(1) If the employer offers health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$8.75 per hour worked.

(2) If the employer does not offer health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$9.75 per hour worked.

(d) Beginning July 1, 2022:

(1) If the employer offers health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$9.50 per hour worked.

(2) If the employer does not offer health benefits to the employee in the manner described in Section 16 of Article 15 of the Nevada Constitution, \$10.50 per hour worked.

50. By engaging in the conduct explained above, Defendant paid Plaintiff and Nevada Class Members \$0 for pre-shift work completed off the clock.

51. By failing to compensate Plaintiff and Nevada Class Members for the time spent engaging in “off-the-clock” work activities as described above, Defendant failed to pay Plaintiff and Nevada Class Members the Nevada minimum wage in violation of the Nevada Constitution.

52. Wherefore, Plaintiff demands for himself and for all Nevada Class Members payment by Defendant at their regular hourly rate of pay or the minimum wage rate, whichever is higher, for all hours worked during the relevant time period alleged herein together with attorneys’ fees, costs, and interest, and all other damages, as provided by law.

THIRD CAUSE OF ACTION

Failure to Pay Wages for All Hours Worked in Violation of NRS 608.140 and 608.016

(On Behalf of Plaintiff and the Nevada Class Against Defendant)

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

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

55. NRS 608.016 states, “An employer shall pay to the employee wages for each hour the employee works.” Hours worked means anytime the employer exercises “control or custody”

over an employee. See NRS 608.011 (defining an “employer” as “every person having control or custody . . . of any employee.”).

56. Pursuant to the Nevada Administrative Code, hours worked includes “all time worked by the employee at the direction of the employer, including time worked by the employee that is outside the scheduled hours of work of the employee.” NAC 608.115(1).

57. By failing to compensate Plaintiff and the Nevada Class Members for the time spent engaging in the work activities identified above, Defendant failed to pay Plaintiff and Nevada Class Members for all hours worked in violation of NRS 608.140 and 608.016.

58. In addition, as a result of Defendant’s rest break policy and practice (as set forth above), Plaintiff and Nevada Class Members were deprived of their legally mandated rest breaks and are thus entitled to recover 10 minutes of rest break wages at their regular hourly rate of compensation and/or overtime rate of compensation or, at the very least, at the applicable minimum wage rate for every 3.5 hours that they worked.

59. Wherefore, Plaintiff demands for himself and for all Nevada Class Members that Defendant pay Plaintiff and Nevada Class Members their regular hourly rate of pay for all hours worked (off-the-clock work and unpaid rest break hours) during the relevant time period alleged herein together with attorneys’ fees, costs, and interest as provided by law.

FOURTH CAUSE OF ACTION

Failure to Pay Overtime in Violation of NRS 608.018

(On Behalf of Plaintiff and the Nevada Class Against Defendant)

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

61. NRS 608.018 provides that employees such as Plaintiff and members of the Nevada Class shall receive overtime pay for hours worked in excess of 40 hours in a workweek.

62. Once the workday has begun, all time suffered or permitted by the employer to be worked by the employee is compensable at the employee’s applicable rate of pay, whether scheduled or not.

63. Pursuant to the Nevada Administrative Code, hours worked includes “all time worked by the employee at the direction of the employer, including time worked by the employee that is outside the scheduled hours of work of the employee.” NAC 608.115(1).

64. By engaging in the conduct explained above, Defendant paid Plaintiff and Nevada Class Members \$0 for pre-shift work completed off-the-clock.

65. By failing to compensate Plaintiff and Nevada Class Members for the time spent engaging in “off-the-clock” work activities identified above, Defendant failed to pay Plaintiff and Nevada Class Members overtime for all hours worked in excess of 40 hours per workweek.

66. Plaintiff and all other similarly situated Nevada employees were never scheduled for, and/or offered/provided with, their legally mandated rest breaks. As a result, Plaintiff and all other similarly situated Nevada employees worked through their legally mandated rest breaks. Because Plaintiff and all other similarly situated Nevada employees worked through their legally mandated rest breaks, in addition to the excess of 40 hour per workweek, these rest break wages must be paid overtime rate of compensation or, at the very least, at the minimum wage rate.

67. As set forth above, the time spent performing the pre-shift activities that are the subject of this action was performed after Plaintiff and all other similarly situated individuals worked at least 40 hours in a workweek. Therefore, the uncompensated activities in question were performed during overtime hours for which Plaintiff and similarly situated class members were denied overtime compensation by Defendant as a result of its unlawful pay practices.

68. Wherefore, Plaintiff demands for himself and for all others similarly situated, that Defendant pay Plaintiff and all members of the Nevada Class one and one half times their regular hourly rate of pay for all hours worked in excess of forty (40) hours during the relevant time period alleged herein together with liquidated damages, attorneys’ fees, costs, and interest as provided by law.

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FIFTH CAUSE OF ACTION

Failure to Timely Pay All Wages Due and Owing Upon Termination Pursuant to NRS 608.140
and 608.020-.050

(On Behalf of Plaintiff and the Nevada Wages Due and Owing Sub-Class)

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

70. NRS 608.140 provides that an employee has a private right of action for unpaid
wages. Plaintiff has made a demand for unpaid wages upon Defendant pursuant to NRS 608.140,
but satisfactory payment was not received.

71. NRS 608.020 provides that “[w]henver an employer discharges an employee, the
wages and compensation earned and unpaid at the time of such discharge shall become due and
payable immediately.”

72. NRS 608.040(1)(a-b), in relevant part, imposes a penalty on an employer who
fails to pay a discharged or quitting employee: “Within 3 days after the wages or compensation
of a discharged employee becomes due; or on the day the wages or compensation is due to an
employee who resigns or quits, the wages or compensation of 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.”

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

74. By failing to pay Plaintiff and all members of the Nevada Wages Due and Owing
Sub-class one and one half times the minimum wage or regular wage rate, Defendant has failed
to timely remit all wages due and owing to Plaintiff and all members of the Nevada Wages Due
and Owing Sub-class.

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75. Despite demand, Defendant willfully refuses and continues to refuse to pay Plaintiff and all Nevada Wages Due and Owing Sub-class Members.

76. Wherefore, Plaintiff demand for himself and all members of the Nevada Wages Due and Owing Sub-class thirty (30) days wages under NRS 608.140 and 608.040, and an additional thirty (30) days wages under NRS 608.140 and 608.050, together with attorneys' fees, costs, and interest as provided by law.

PRAYER FOR RELIEF

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

1. For an order conditionally certifying this action under the FLSA and providing notice to all members of the Class so they may participate in this lawsuit;
2. For an order certifying this action as a class action under Nevada Rule of Civil Procedure Rule 23 for all other claims presented in this complaint;
3. For an order appointing Plaintiff as the Representative of the Class and his counsel as Class Counsel;
4. For damages according to proof for overtime compensation under federal law for all hours worked over 40 per week;
5. For liquidated damages pursuant to 29 U.S.C. § 216(b);
6. For damages according to proof for minimum wages under the Nevada Constitution for all hours worked;
7. For damages according to proof for regular rate pay under Nevada law for all hours worked;
8. For damages according to proof for overtime compensation under Nevada law for all hours worked over 40 per week;
9. For interest as provided by law at the maximum legal rate;
10. For reasonable attorneys' fees authorized by statute;
11. For costs of suit incurred herein;
12. For pre-judgment and post-judgment interest, as provided by law, and

13. For such other and further relief as the Court may deem just and proper.

DATED: April 22, 2022

THIERMAN BUCK LLP

/s/ Joshua D. Buck

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