



CASE NO: A-23-869440-C  
Department 18

1 **COMJD**  
Christian Gabroy  
2 Nev. Bar No. 8805  
Kaine Messer  
3 Nev. Bar No. 14240  
GABROY | MESSER  
4 The District at Green Valley Ranch  
170 South Green Valley Parkway  
5 Suite 280  
Henderson, Nevada 89012  
6 Tel. (702) 259-7777  
Fax. (702) 259-7704  
7 christian@gabroy.com  
kmesser@gabroy.com

8  
9 Mark R. Thierman  
Nev. Bar No. 8285  
Joshua D. Buck  
10 Nev. Bar No. 12187  
Leah L. Jones  
11 Nev. Bar No. 13161  
Joshua R. Hendrickson  
12 Nev. Bar No. 12225  
THIERMAN BUCK LLP  
13 7287 Lakeside Drive  
Reno, Nevada 89511  
14 Tel. (775) 284-1500  
Fax. (775) 703-5027  
15 mark@thiermanbuck.com  
josh@thiermanbuck.com  
16 leah@thiermanbuck.com  
joshh@thiermanbuck.com

17 *Attorneys for Plaintiff*

18  
19 **DISTRICT COURT  
CLARK COUNTY, NEVADA**

20 DENISE TOLLEY, on behalf of herself  
and all others similarly situated,

21 Plaintiff,

22 vs.

23 DOLLAR TREE STORES, INC.; FAMILY  
24 DOLLAR SERVICES, LLC; FAMILY  
DOLLAR, INC.; FAMILY DOLLAR, LLC;  
25 DOES 1 through 50; inclusive,

26 Defendant(s).

Case No.:  
Dept. No.:

27 **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.

**GABROY | MESSER**  
170 South Green Valley Pkwy., Suite 280  
Henderson, Nevada 89012  
(702) 259-7777 FAX: (702) 259-7704

**LIEN REQUESTED PURSUANT TO  
NRS § 608.050**

**JURY TRIAL DEMANDED**

Plaintiff Denise Tolley (“Plaintiff” or “Tolley”) 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”) 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); *HG Staffing, LLC, et al. v Second Judicial District Court*, Nevada Supreme Court Case No. 79118 (May 7, 2020).

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 April 18, 2023.

4. Venue is proper in this Court because the Defendants named herein maintain 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.

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

**PARTIES**

6. Plaintiff was at all relevant times a resident of the State of Nevada and was employed by Defendants as a non-exempt hourly employee from December 2019

1 to January 2023.

2 7. Defendant Dollar Tree Stores, Inc. is a foreign corporation listed with the  
3 Nevada Secretary of State.

4 8. Defendant Dollar Tree Stores, Inc. was doing business in this Judicial  
5 District in Clark County, Nevada where the subject incidences occurred.

6 9. At all times relevant, Defendant Dollar Tree Stores, Inc. was Plaintiff's  
7 employer.

8 10. Defendant Family Dollar Services, LLC is a foreign limited-liability company  
9 listed with the Nevada Secretary of State.

10 11. Defendant Family Dollar Services, LLC was doing business in this Judicial  
11 District in Clark County, Nevada where the subject incidences occurred.

12 12. At all times relevant, Defendant Family Dollar Services, LLC was Plaintiff's  
13 employer.

14 13. Defendant Family Dollar, Inc. is a foreign corporation listed with the  
15 Nevada Secretary of State.

16 14. Defendant Family Dollar, Inc. was doing business in this Judicial District in  
17 Clark County, Nevada where the subject incidences occurred.

18 15. At all times relevant, Defendant Family Dollar, Inc. was Plaintiff's employer.

19 16. Defendant Family Dollar, LLC is a foreign limited-liability company listed  
20 with the Nevada Secretary of State.

21 17. Defendant Family Dollar, LLC was doing business in this Judicial District in  
22 Clark County, Nevada where the subject incidences occurred.

23 18. At all times relevant, Defendant Family Dollar, LLC was Plaintiff's  
24 employer.

25 19. The Defendants named herein are the employer of the Plaintiff and all  
26 Class Members alleged herein. The Defendants are employers engaged in commerce  
27 under the provisions of NRS § 608.011. The identity of DOES 1-50 is unknown at the  
28 time and the Complaint will be amended at such time when the identities are known to

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

5 **FACTUAL ALLEGATIONS**

6 20. Plaintiff was employed by Defendants as a non-exempt employee from  
7 December 2019 to January 2023.

8 21. Defendants maintain an unlawful policy of not paying all daily overtime to  
9 non-exempt hourly employees who earn 1 ½ times less than the applicable minimum  
10 wage.

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

12 23. On many occasions, the number of hours she worked in a workday under  
13 Nevada law was over 8 hours in a 24-hour period of time.

14 24. For instance, during the workweek of May 26, 2022, Defendants scheduled  
15 Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time. See a true  
16 and correct copy of Plaintiff’s timesheet work summary attached hereto as Exhibit I.

17 25. But despite having worked more than 8 hours in a 24-hour period of time,  
18 Defendants failed to compensate Plaintiff at 1 ½ times her regular rate of pay for the  
19 overtime hours she worked. See a true and correct copy of Plaintiff’s statement of  
20 earnings and deductions attached hereto as Exhibit II.

21 **CLASS ACTION ALLEGATIONS**

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

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

26 28. The **Nevada Overtime Class** is defined as “All hourly paid non-exempt  
27 persons employed by Defendants in the state of Nevada who earned less than 1 ½ times  
28 the applicable minimum wage and who worked over eight (8) hours in a workday at any

1 time within 3 years from April 18, 2023 until judgment.”

2 29. The **Waiting Time Wages Class** is defined as “All Nevada Overtime Class  
3 Members who are former employees of Defendants.”

4 30. Class treatment is appropriate under Rule 23’s class certification  
5 mechanism because:

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

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

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

23 d. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly  
24 and adequately represent the interests of the Classes because Plaintiff is a member of  
25 the Classes, she has issues of law and fact in common with all members of the Classes,  
26 and her interests are not antagonistic to Class members. Plaintiff and her counsel are  
27 aware of their fiduciary responsibilities to Class Members and are determined to  
28 discharge those duties diligently by vigorously seeking the maximum possible recovery

1 for Class Members.

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

10 **FIRST CAUSE OF ACTION**  
11 **Failure to Pay Overtime Wages in Violation of NRS §§ 608.018 and 608.140**  
12 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

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

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

17 33. 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  
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.

22 34. NRS § 608.018(2) provides as follows:

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

26 35. As described above, Defendants maintain a policy and/or practice of illegal  
27 shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the  
28 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and

1 Nevada Overtime Class Members have been denied overtime compensation according  
2 to Nevada law.

3 36. Wherefore, Plaintiff demands for herself and all Nevada Overtime Class  
4 Members that Defendants pay Plaintiff and Nevada Overtime Class Members one and  
5 one-half times their “regular rate” of pay for all hours worked in excess of eight (8) hours  
6 in a workday during the relevant time period together with attorneys’ fees, costs, and  
7 interest as provided by law.

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

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

13 38. NRS § 608.140 provides that an employee has a private right of action for  
14 unpaid wages.

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

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

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





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

3 50. 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 51. 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 52. 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 herself and on behalf of all Class Members, prays for  
15 relief as follows relating to her 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 her 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 wages 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;



# EXHIBIT I

Scope: Enterprise 1 | Scope Size: 22796 | Nav: Base | Tue Apr 4, 2023 9:50 AM | Logout | Help | About

**Submit** Timesheet Summary - TOLLEY, DENISE L

**Reset**



FD CSR - 25390 (25390)

Sign Off:  Supervisor [View Audit](#)

Period: [Previous](#) **May 15, 2022 - May 21, 2022 (HISTORICAL)** [Next](#)

[Work Summary](#)

**Timesheet Exceptions**

DESCRIPTION

APPROVAL

AUDIT DATE & TIME

CHANGE BY

No unapproved exceptions exist for this timesheet.

**Timesheet Earnings Summary**

	AMOUNT	ADJUSTMENT	Paid Hours:	Hours	[Decimal]
<b>Regular Pay</b>	<b>16:12</b>	<b>0:00</b>	<b>16:12</b>		<b>[16.20]</b>
25390 (Store 25390)	16:12	0:00	0:00		16:12
					<b>TOTAL</b>
					<b>16:12</b>

**Timesheet Work Summary**

	Sun 5/15	Mon 5/16	Tue 5/17	Wed 5/18	Thu 5/19	Fri 5/20	Sat 5/21	Totals
Sched:	8:00 AM-12:00 PM	12:00 PM-5:00 PM	12:00 PM-5:00 PM			12:00 PM-6:00 PM		20:00
Worked Hours:	4:59		6:01			5:12		16:12
Shift Times:	12:01 PM-5:00 PM		11:09 AM-5:10 PM			11:28 AM-5:18 PM		
Other:	REG: 4:59		REG: 6:01			REG: 5:12		

**Total Projected Hours: 16:12**

Comments:

**Submit** **Reset**

Scope: Enterprise 1 | Scope Size: 22796 | Nav: Base | Tue Apr 4, 2023 9:50 AM | Logout | Help | About



**Submit** Timesheet Summary - TOLLEY, DENISE L

**Reset**

FD CSR - 25390 (25390)

Sign Off:  Supervisor [View Audit](#)

Period: [Previous](#) **May 22, 2022 - May 28, 2022 (HISTORICAL)** [Next](#)

[Work Summary](#)

**Timesheet Exceptions**

DESCRIPTION

APPROVAL

AUDIT DATE & TIME

CHANGE BY

No unapproved exceptions exist for this timesheet.

**Timesheet Earnings Summary**

	AMOUNT	ADJUSTMENT	Paid Hours:	Hours	[Decimal]
<b>Regular Pay</b>	<b>30:18</b>	<b>0:00</b>	<b>30:18</b>		<b>[30.30]</b>
25390 (Store 25390)	30:18			0:00	30:18
<b>Overtime</b>	<b>0:00</b>	<b>0:00</b>			<b>0:00</b>
25390 (Store 25390)	0:00			0:00	0:00

**Timesheet Work Summary**

	Sun 5/22	Mon 5/23	Tue 5/24	Wed 5/25	Thu 5/26	Fri 5/27	Total Projected Hours: 30:18	
							Sat 5/28	Totals
Sched:		7:00 AM-3:00 PM	7:00 AM-3:00 PM	7:00 AM-3:00 PM	7:00 AM-3:00 PM	7:00 AM-3:00 PM		37:30
Worked Hours:		6:07	5:29	5:42	7:54	5:06		30:18
Shift Times:		7:55 AM-2:02 PM	7:58 AM-1:58 PM	7:53 AM-2:27 PM	5:57 AM-2:21 PM	7:40 AM-1:34 PM		
Other:		REG: 6:07	REG: 5:29	REG: 5:42	REG: 7:54	REG: 5:06		
					OVT: 0:00			

Comments:

**Submit** **Reset**

# EXHIBIT II



**Family Dollar, Inc.**

500 Volvo Parkway · Chesapeake VA 23320  
757-321-5000

Wage rates are determined by Family Dollar

**Statement of Earnings and Deductions**

**Pay Statement Number: 2127726179**

**Net Pay: \$442.30**

Name: DENISE L TOLLEY

Social Security Number: XXX-XX-████

Team Member ID: 7023054

Location: 25390

Employee ID: 007023054

Employer: FAMILY DOLLAR 25390

Period Start: 5/15/2022

Period End: 5/28/2022

Payment Date: 6/3/2022

**Federal and State Tax Withholdings**

Type	Status	Allowances	Additional
Federal	Single	0	\$0.00

**Earnings**

Description	Rate	Hours	Current	YTD
REG W	10.30	46.50	\$478.95	\$698.34
<b>TOTAL HOURS WORKED</b>		<b>46.50</b>		
<b>TOTAL EARNINGS</b>			<b>\$478.95</b>	<b>\$698.34</b>

**Tax Deductions**

Description	Current	YTD
SS Tax	\$29.70	\$43.30
FED TAX	\$0.00	\$0.00
MEDI W/H	\$6.95	\$10.1
<b>TOTAL TAX</b>	<b>\$36.65</b>	<b>\$53.43</b>

**Pay Statement Summary**

Description	Current	YTD
TOTAL EARNINGS	\$478.95	\$698.34
TOTAL TAX	-\$36.65	-\$53.43
TOTAL PRE-TAX	-\$0.00	-\$0.00
TOTAL OTHER (DEDUCTIONS)	-\$0.00	-\$0.00
<b>TOTAL NET EARNINGS</b>	<b>\$442.30</b>	<b>\$644.91</b>

**Accruals Balanc**

Balance Type	Hours
PTO	0.000000

**Deposit Information**

Type of Account	Account Number	Amount
DEPOSIT	*****████	\$442.30

If you have enrolled in DailyPay, the account number listed above is the last 4 digits of your DailyPay account number, not your bank account.

**View your pay stub online at <http://www.Doculivery.com/FamilyDollar.com>**

You will need to provide your login ID and your password.