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**DISTRICT COURT
CLARK COUNTY, NEVADA**

23 MARIAH MARTIN, on behalf of herself
24 and all others similarly situated,

25 Plaintiff,

26 vs.

27 DED OPS NV LLC d/b/a and a/k/a
28 WALLFLOWER also d/b/a and a/k/a
WALLFLOWER CANNABIS HOUSE; H &
H MANAGEMENT LLC; DOES 1 through
50; inclusive,

Defendants.

Case No.:
Dept. No.:

CLASS ACTION COMPLAINT

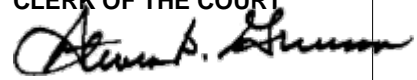
Arbitration Exemption Claimed: Class Action

- 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

Electronically Filed
12/29/2022 9:35 AM
Steven D. Grierson
CLERK OF THE COURT



CASE NO: A-22-863216-C
Department 1

1 COMES NOW Plaintiff Mariah Martin, on behalf of herself and all others similarly
2 situated and alleges the following:

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

7 **JURISDICTION AND VENUE**

8 1. This Court has original jurisdiction over the state law claims alleged herein
9 because the amount in controversy exceeds \$15,000 and a party seeking to recover
10 unpaid wages has a private right of action pursuant to the Nevada Constitution, Article
11 15 Section 16, and Nevada Revised Statute (“NRS”) sections 608.050 and 608.140. See
12 *Neville v. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev.
13 2017); *HG Staffing, LLC, et al. v Second Judicial District Court*, Nevada Supreme Court
14 Case No. 79118 (May 7, 2020).

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

17 3. Plaintiff made a proper demand for wages due pursuant to NRS 608.140
18 on December 23, 2022.

19 4. Venue is proper in this Court because the Defendants named herein
20 maintain a principal place of business or otherwise are found in this judicial district and
21 many of the acts complained of herein occurred in Clark County, Nevada.

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

23 **PARTIES**

24 6. Plaintiff Mariah Martin (hereinafter “Plaintiff” or “Martin”) was at all
25 relevant times a resident of the State of Nevada and was employed by Defendants as a
26 non-exempt hourly employee from June of 2022 to December of 2022.

27 7. Defendant DED Ops NV LLC d/b/a and a/k/a WALLFLOWER also d/b/a
28 and a/k/a Wallflower Cannabis House (“Defendant Wallflower”) is a domestic limited-

1 liability company registered with the Nevada Secretary of State.

2 8. Defendant Wallflower was doing business in this Judicial District in Clark
3 County, Nevada where the subject incidences occurred.

4 9. At all times relevant, Defendant Wallflower was Plaintiff's employer.

5 10. At all times relevant, Defendant DED Ops NV LLC held the fictitious firm
6 name Wallflower with Clark County.

7 11. At all times relevant, Defendant DED Ops NV LLC held the fictitious firm
8 name Wallflower Cannabis House with Clark County

9 12. Defendant H & H Management LLC ("Defendant H & H") is a domestic
10 limited-liability company registered with the Nevada Secretary of State.

11 13. Defendant H & H was doing business in this Judicial District in Clark
12 County, Nevada where the subject incidences occurred.

13 14. At all times relevant, Defendant H & H was Plaintiff's employer.

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

22 **FACTUAL ALLEGATIONS**

23 16. Plaintiff was employed by Defendants as a non-exempt employee from
24 June of 2022 to December of 2022.

25 17. Defendants do not offer or provide insurance that is less than 10% of the
26 total gross income of Plaintiff and other similarly situated employees.

27 18. Defendants maintains an unlawful policy of not paying all daily overtime to
28 non-exempt hourly employees who earn 1 ½ times less than the applicable minimum

1 wage.

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

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

5 21. On many occasions, the number of hours she worked in a workday under
6 Nevada law was even over 10 hours in a 24-hour period of time.

7 22. For instance, during the workweek of July 1, 2022, Defendants scheduled
8 Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time. See true
9 and correct copies of Plaintiff's timesheets attached hereto as Exhibit I.

10 23. But despite having worked more than 8 hours in a 24-hour period of time,
11 Defendants failed to compensate Plaintiff at 1 ½ times her regular rate of pay for the
12 overtime hours she worked. See true and correct copies of Plaintiff's earnings
13 statements attached hereto as Exhibit II.

14 24. Similarly, during the workweek of July 29, 2022, Defendants scheduled
15 Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time. See
16 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 Exhibit II.

20 **CLASS ACTION ALLEGATIONS**

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

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

25 28. The **Nevada Overtime Class** is defined as "All hourly paid non-exempt
26 persons employed by Defendants in the state of Nevada who earned less than 1 ½ times
27 the applicable minimum wage and who worked over eight (8) hours in a workday at any
28 time within 3 years from December 23, 2022 until judgment."

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

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

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

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

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

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

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

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

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

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

16 33. NRS 608.018(1) provides as follows:

17 An employer shall pay 1 1/2 times an employee's
18 regular wage rate whenever an employee who receives
19 compensation for employment at a rate less than 1 1/2 times
20 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.

21 34. NRS 608.018(2) provides as follows:

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

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

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

6 43. By failing to pay Waiting Time Wages Class Members their minimum,
7 regular, and overtime wages in violation of state and federal law, Defendants have failed
8 to timely remit all wages due and owing to the Waiting Time Wages Class Members.

9 44. Despite demand, Defendants willfully refused and continue to refuse to pay
10 Waiting Time Wages Class Members all the wages that were due and owing upon the
11 termination of their employment.

12 45. Wherefore, the Waiting Time Wages Class Members demand thirty (30)
13 days of pay as waiting wages under NRS 608.040 and 608.140, and thirty (30) days of
14 pay as waiting wages under NRS 608.050 and 608.140, together with attorneys’ fees,
15 costs, interest, and punitive damages, as provided by law.

16 **THIRD CAUSE OF ACTION**
17 **Injunctive/Declaratory Relief**
18 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

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

21 47. As Defendants have failed to compensate Plaintiff and members of the
22 Overtime Class at the correct overtime wage rate for all the overtime hours that they
23 worked pursuant to NRS 608.018, Defendants have wrongfully withheld wages properly-
24 owed to the Plaintiff and the Overtime Class Members.

25 48. Plaintiff and the Nevada Overtime Class will suffer irreparable injury if
26 Defendants are not enjoined from the future wrongful retention of wages owed.

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

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;

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- 9. For punitive damages;
- 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: December 29, 2022

Respectfully submitted,

GABROY | MESSER

By: /s/ Christian Gabroy
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Attorneys for Plaintiff

EXHIBIT I

Riah Martin

Regular 56.26 | Overtime 0 | Double OT 0 | Time Off 0 | Paid Total 56.26 | Scheduled vs. Worked -5.24

DAY	IN	OUT	TOTAL	DETAILS	WORKED	SCHEDULED	DIFFERENCE
Mon, Jun 20						1.00	
Tue, Jun 21							
Wed, Jun 22	2:51p	1:05a ⓘ	9.75	☰ 29 min ☰ Wallflower 1 ☑ Delivery - Driver 🕒	9.75	9.50	+0.25
Thu, Jun 23	2:56p	11:32p	8.10	☰ 30 min ☰ Wallflower 1 ☑ Delivery - Driver 🕒	8.10	9.50	-1.40
Fri, Jun 24	2:56p	9:38p	6.70	☰ Wallflower 1 ☑ Curbside - Order Preparation 🕒	6.70	4.50	+2.20
Sat, Jun 25	2:55p	12:14a ⓘ	8.81	☰ 30 min ☰ Wallflower 1 ☑ Curbside - Order Preparation 🕒	8.81	8.50	+0.31
Sun, Jun 26							
Mon, Jun 27							
Tue, Jun 28							
Wed, Jun 29	2:55p	11:39p	8.73	☰ Wallflower 1 ☑ Delivery - Driver 🕒	8.73	9.50	-0.77
Thu, Jun 30						9.50	
Fri, Jul 01	2:54p	1:15a ⓘ	10.35	☰ Wallflower 1 ☑ Curbside - Order Preparation 📄 🕒	10.35	9.50	+0.85
Sat, Jul 02	2:54p	6:43p	3.82	☰ Wallflower 1 ☑ Curbside - Order Preparation 📍 Wallflower 📄 ☰	3.82		+3.82
Sun, Jul 03							
TOTAL			56.26		56.26	61.50	-5.24

Signature: _____

Date: _____

Riah Martin

Regular 58.59 | Overtime 0 | Double OT 0 | Time Off 0 | Paid Total 58.59 | Scheduled vs. Worked -17.41

DAY	IN	OUT	TOTAL	DETAILS	WORKED	SCHEDULED	DIFFERENCE
Mon, Jul 18							
Tue, Jul 19	2:55p	12:46a ⓘ	9.85	🧹 Wallflower 1 🚚 Delivery - Driver ⌚	9.85	9.50	+0.35
Wed, Jul 20	2:56p	12:24a ⓘ	8.97	🕒 30 min 🧹 Wallflower 1 🚚 Curbside - Order Preparation ⌚	8.97	9.50	-0.53
Thu, Jul 21				🧹		9.50	
Fri, Jul 22	2:55p	12:07a ⓘ	9.20	🧹 Wallflower 1 🚚 Delivery - Driver ⌚	9.20	9.50	-0.30
Sat, Jul 23							
Sun, Jul 24							
Mon, Jul 25							
Tue, Jul 26							
Wed, Jul 27	2:59p	12:29a ⓘ	9.00	🕒 30 min 🧹 Wallflower 1 🚚 Curbside - Order Preparation ⌚	9.00	9.50	-0.50
Thu, Jul 28	2:57p	5:45p	2.80	🧹 Wallflower 1 🚚 Delivery - Driver 📄 ⌚	2.80	9.50	-6.70
Fri, Jul 29	2:44p	1:04a ⓘ	10.34	🧹 Wallflower 1 🚚 Delivery - Driver ⌚	10.34	9.50	+0.84
Sat, Jul 30	2:57p	11:53p	8.43	🕒 30 min 🧹 Wallflower 1 🚚 Curbside - Order Preparation ⌚	8.43	9.50	-1.07
Sun, Jul 31							
TOTAL			58.59		58.59	76.00	-17.41

Signature: _____

Date: _____

EXHIBIT II



Earnings Statement

Pay period: Jun 20, 2022 - Jul 3, 2022 Pay Day: Jul 8, 2022
Mariah Martin's bank account (. . .): \$652.21

Company

H&H Management
1980 Festival Plaza Dr
STE 450
Las Vegas, NV 89135
760-899-5066

Employee

Mariah Martin

XXX-XX

Employee Earnings

Description	Rate	Hours	Current	Year To Date
Regular Hours Hourly	\$13.00	56.27	\$731.51	\$1,656.72
Total Hours Worked		56.27		
Gross Earnings			\$731.51	\$1,656.72

Employee Taxes Withheld

Employee Tax	Current	Year To Date
Federal Income Tax	\$23.34	\$66.69
Social Security	\$45.36	\$102.72
Medicare	\$10.60	\$24.02

Employer Taxes

Company Tax	Current	Year To Date
Social Security	\$45.36	\$102.72
Medicare	\$10.60	\$24.02
FUTA	\$4.39	\$9.94
Nevada Career Enhancement Program	\$0.37	\$0.83
Nevada State Unemployment Tax	\$21.95	\$49.71

Employee Deductions

Description	Type	Current	Year To Date
None	-	\$0.00	\$0.00

Employer Contributions

Description	Type	Current	Year To Date
None	-	\$0.00	\$0.00

Summary

Description	Current	Year To Date
Gross Earnings	\$731.51	\$1,656.72
Pre-Tax Deductions/Contributions	\$0.00	\$0.00
Taxes	\$79.30	\$193.43
Post-Tax Deductions/Contributions	\$0.00	\$0.00
Net Pay	\$652.21	\$1,463.29
Total Reimbursements	\$0.00	\$0.00
Check Amount	\$652.21	\$1,463.29



Earnings Statement

Pay period: Jul 18, 2022 - Jul 31, 2022 Pay Day: Aug 5, 2022
Mariah Martin's bank account (. . .): \$676.94

Company

H&H Management
1980 Festival Plaza Dr
STE 450
Las Vegas, NV 89135
760-899-5066

Employee

Mariah Martin
XXX-XX

Employee Earnings

Description	Rate	Hours	Current	Year To Date
Regular Hours Hourly	\$13.00	58.58	\$761.54	\$3,345.55
Total Hours Worked		58.58		
Gross Earnings			\$761.54	\$3,345.55

Employee Taxes Withheld

Employee Tax	Current	Year To Date
Federal Income Tax	\$26.35	\$136.64
Social Security	\$47.21	\$207.42
Medicare	\$11.04	\$48.51

Employer Taxes

Company Tax	Current	Year To Date
Social Security	\$47.21	\$207.42
Medicare	\$11.04	\$48.51
FUTA	\$4.57	\$20.07
Nevada Career Enhancement Program	\$0.38	\$1.67
Nevada State Unemployment Tax	\$22.85	\$100.38

Employee Deductions

Description	Type	Current	Year To Date
None	-	\$0.00	\$0.00

Employer Contributions

Description	Type	Current	Year To Date
None	-	\$0.00	\$0.00

Summary

Description	Current	Year To Date
Gross Earnings	\$761.54	\$3,345.55
Pre-Tax Deductions/Contributions	\$0.00	\$0.00
Taxes	\$84.60	\$392.57
Post-Tax Deductions/Contributions	\$0.00	\$0.00
Net Pay	\$676.94	\$2,952.98
Total Reimbursements	\$0.00	\$0.00
Check Amount	\$676.94	\$2,952.98