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**DISTRICT COURT
CLARK COUNTY, NEVADA**

CHERYL MORITA, on behalf of herself
and all others similarly situated,

Plaintiff,

vs.

CRESCENT HOTELS & RESORTS, LLC;
DOES 1 through 50; inclusive,

Defendant(s).

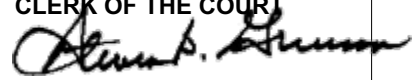
Case No.:
Dept. No.:

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.

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Steven D. Grierson
CLERK OF THE COURT



CASE NO: A-23-868344-C
Department 29

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**LIEN REQUESTED PURSUANT TO
NRS § 608.050**

JURY TRIAL DEMANDED

Plaintiff Cheryl Morita (“Plaintiff” or “Morita”) 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 March 29, 2023.

4. Venue is proper in this Court because the Defendant 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.

1 scheduled Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time.
2 See a true and correct copy of Plaintiff's employee timecard attached hereto as Exhibit I.

3 16. But despite having worked more than 8 hours in a 24-hour period of time,
4 Defendant failed to compensate Plaintiff at 1 ½ times her regular rate of pay for the
5 overtime hours she worked. See a true and correct copy of Plaintiff's pay statement
6 attached hereto as Exhibit II.

7 **CLASS ACTION ALLEGATIONS**

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

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

12 19. The **Nevada Overtime Class** is defined as "All hourly paid non-exempt
13 persons employed by Defendant in the state of Nevada who earned less than 1 ½ times
14 the applicable minimum wage and who worked over eight (8) hours in a workday at any
15 time within 3 years from March 29, 2023 until judgment."

16 20. The **Waiting Time Wages Class** is defined as "All Nevada Overtime Class
17 Members who are former employees of Defendant."

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

20 a. The Classes are Sufficiently Numerous: Upon information and belief,
21 Defendant employ, and have employed, in excess of 40 Nevada Overtime Class
22 Members within the applicable time period. Because Defendant are legally obligated to
23 keep accurate payroll records, Plaintiff alleges that Defendant's records will establish the
24 members of the Classes as well as their numerosity.

25 b. Plaintiff's Claim is Typical to Those of Fellow Class Members: Each
26 Class Member is and was subject to the same practices, plans, or policies as Plaintiff:
27 whether Defendant compensated Plaintiff and members of the Class daily overtime
28 wages when they worked over 8 hours in a workday and whether members of the

1 Waiting Time Wages Class are entitled to waiting time wages for the failure to pay them
2 minimum, regular, and overtime wages owed.

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

9 d. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly
10 and adequately represent the interests of the Classes because Plaintiff is a member of
11 the Nevada Overtime Class, she has issues of law and fact in common with all members
12 of the Classes, and her interests are not antagonistic to Class members. Plaintiff and her
13 counsel are aware of their fiduciary responsibilities to Class Members and are
14 determined to discharge those duties diligently by vigorously seeking the maximum
15 possible recovery for Class Members.

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

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

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

1 23. NRS § 608.140 provides that an employee has a private right of action for
2 unpaid wages.

3 24. NRS § 608.018(1) provides as follows:

4 An employer shall pay 1 1/2 times an employee's
5 regular wage rate whenever an employee who receives
6 compensation for employment at a rate less than 1 1/2 times
7 the minimum rate prescribed pursuant to NRS 608.250
8 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.

9 25. NRS § 608.018(2) provides as follows:

10 An employer shall pay 1 1/2 times an employee's regular
11 wage rate whenever an employee who receives
12 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.

13 26. As described above, Defendant maintains a policy and/or practice of illegal
14 shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the
15 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and
16 Nevada Overtime Class Members have been denied overtime compensation according
17 to Nevada law.

18 27. Wherefore, Plaintiff demands for herself and all Nevada Overtime Class
19 Members that Defendant pays Plaintiff and Nevada Overtime Class Members one and
20 one-half times their "regular rate" of pay for all hours worked in excess of eight (8) hours
21 in a workday during the relevant time period together with attorneys' fees, costs, and
22 interest as provided by law.

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

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

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

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

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

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

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

20 34. By failing to pay Waiting Time Wages Class Members their minimum,
21 regular, and overtime wages in violation of state and federal law, Defendant have failed
22 to timely remit all wages due and owing to the Waiting Time Wages Class Members.

23 35. Despite demand, Defendant willfully refused and continues to refuse to pay
24 Waiting Time Wages Class Members all the wages that were due and owing upon the
25 termination of their employment.

26 36. Wherefore, the Waiting Time Wages Class Members demand thirty (30)
27 days of pay as waiting wages under NRS §§ 608.040 and 608.140, and thirty (30) days
28

1 of pay as waiting wages under NRS §§ 608.050 and 608.140, together with attorneys'
2 fees, costs, interest, and punitive damages, as provided by law.

3 **THIRD CAUSE OF ACTION**
4 **Injunctive/Declaratory Relief**
5 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

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

8 38. As Defendant have failed to compensate Plaintiff and members of the
9 Overtime Class at the correct overtime wage rate for all the overtime hours that they
10 worked pursuant to NRS § 608.018, Defendant have wrongfully withheld wages properly-
11 owed to the Plaintiff and the Overtime Class Members.

12 39. Plaintiff and the Nevada Overtime Class will suffer irreparable injury if
13 Defendant is not enjoined from the future wrongful retention of wages owed.

14 40. As a result of the aforementioned unlawful payment practices, Plaintiff
15 submits that there has been a likelihood of success on the merits that Plaintiff and the
16 Class Members have been damaged, that there is irreparable harm, and Plaintiff
17 requests that this Honorable Court enter an Order that restrains Defendant from
18 attempting to enforce the alleged unlawful payment practices.

19 41. Plaintiff requests that this Honorable Court enter a declaration of
20 rights/obligations in regards to all such unlawful payment practices in this matter.

21 42. Further, disputes and controversies have arisen between the parties
22 relative to the lawfulness of the payment practices, and Plaintiff is entitled to have an
23 order entered pursuant to Chapter 30 of the Nevada Revised Statutes construing the
24 payment practices and adjudging and declaring Plaintiff and the Class Members' rights
25 and remedies thereunder including such an Order stating that such payment practices
26 are unlawful.

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

PRAYER FOR RELIEF

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

1. For an order certifying this action as a class action on behalf the proposed Classes and providing notice to all Class Members so they may participate in this lawsuit;
2. For an order appointing Plaintiff as the Representative of the Classes and her counsel as Class Counsel;
3. For damages according to proof for overtime compensation under NRS §§ 608.018 and 608.140 for all hours worked over 8 hours per day;
4. For waiting time wages pursuant to NRS §§ 608.040-.050 and 608.140;
5. For a lien on the property where Plaintiff and all Nevada Class Members labored pursuant to NRS § 608.050;
6. For interest as provided by law at the maximum legal rate;
7. For injunctive relief;
8. For declaratory relief;
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: April 4, 2023

Respectfully submitted,

GABROY | MESSER

By: /s/ Christian Gabroy

Christian Gabroy
Nev. Bar No. 8805
Kaine Messer
Nev. Bar No. 14240
The District at Green Valley Ranch
170 South Green Valley Parkway

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Attorneys for Plaintiff

EXHIBIT I

Time & Attendance - Employee Timecard

Report Date: 09/12/2022

08/27/2022 - 09/09/2022 [14 days]

Report Time: 1:08:03 PM

000080063-MUAAO [Morita, Cheryl]

Employee ID	000080063-MUAAO	Badge Number	80063	Job Title	
Pay Group (G1)	0492	Location (G2)	0492	Job (G3)	20051109
Pay Policy	41	Shift Number	1	Pay Type	3

Time Card

Date	Pay Code	IN	In Ex	OUT	Out Ex	Reason	Sh/Pay Ex	Location	Reg Hrs	OT Hrs	Daily Total
08/27/2022 Sat		04:44AM		01:24PM			00001-FS	0492	8.00	0.67	8.67
09/02/2022 Fri		07:55AM		02:15PM			00001-FS	0492	6.33		6.33
09/03/2022 Sat		05:55AM		12:30PM			00001-FS	0492	6.58		6.58
09/04/2022 Sun		05:55AM		12:49PM			00001-FS	0492	6.90		6.90
09/05/2022 Mon		05:55AM		01:06PM			00001-FS	0492	7.18		7.18
09/08/2022 Thu		06:02AM		12:42PM			00001-FS	0492	6.67		6.67
09/09/2022 Fri		05:59AM		12:45PM			00001-FS	0492	6.77		6.77

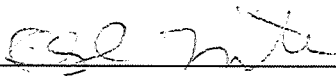
Audit Trail - 000080063-MUAAO [Morita, Cheryl]

User	Date	Action	IN	IN Ex	OUT	OUT Ex	Pay Code	Reg Hours	OT1 - OT-3	I/O Exception
*** NO DATA TO DISPLAY ***										

Summary - 000080063-MUAAO [Morita, Cheryl]

Pay Code	Job	Reg Hrs	OT1 - OT-3	Total Hrs	Accrual				
					Prior Bal	Adjust	Used	Earned	Available
0 [WKHR]	20051109[Concierge]	48.43	0.67	49.10					
117 [PERS]									
124 [VACA]									
TOTALS		48.43	0.67	49.10					

I CERTIFY THE ABOVE INFORMATION TO BE CORRECT

X 
Employee Signature


X 
Supervisor Signature

EXHIBIT II



Crescent Hotels & Resorts LLC
 10306 Eaton Place
 Ste 430
 Fairfax, VA 22030

Pay Statement

Period Start Date 08/27/2022
 Period End Date 09/09/2022
 Pay Date 09/16/2022
 Document 1410778
Net Pay \$558.68

Pay Details

CHERYL EIKO MORITA
 ██████████
 ██████████
 ██████

Employee Number 0080063 Pay Group Springhill Stes Las Vegas
 SSN XXX-XX-XXXX Location Springhill Stes Las Vegas
 Job Concierge Department 200 - Rooms
 Pay Rate \$12.5000 Business Unt 0492 - Springhill Stes Las Vegas
 Pay Frequency Biweekly Sub Dept. FRNTOF - Front Office Staff

Earnings

Pay Type	Week	Job	Hours	Pay Rate	Current	YTD
OT .5 Rate Hrs	1	Concierge	0.6700	\$6.2500	\$4.19	\$37.88
OT Hrs 1.0 Rate	1	Concierge	0.6700	\$12.5000	\$8.38	\$75.76
Regular Hours	1	Concierge	14.3300	\$12.5000	\$179.12	
Regular Hours	2	Concierge	34.1000	\$12.5000	\$426.25	\$2,337.49

Total Hours Worked 49.1000 Total Hours 49.1000

Deductions

Deduction	Pre-Tax	Employee Current	Employee YTD	Employer Current	Employer YTD
No records found					

Taxes

Tax	Current	YTD
Federal Income Tax	\$11.99	\$94.18
Employee Medicare	\$8.96	\$35.54
Social Security Employee Tax	\$38.31	\$151.97

Paid Time Off

Plan	Current	Balance
No records found		

Net Pay Distribution

Account Number	Account Type	Amount
xxxxxxxx██████	Checking	\$558.68
Total		\$558.68

Pay Summary

	Gross	FIT Taxable Wages	Taxes	Deductions	Net Pay
Current	\$617.94	\$617.94	\$59.26	\$0.00	\$558.68
YTD	\$2,451.13	\$2,451.13	\$281.69	\$0.00	\$2,169.44