



CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

MARKUS LEVERT and OMAR UNATING,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

TRUMP RUFFIN TOWER I, LLC, d/b/a
Trump International Hotel Las Vegas; and
DOES 1 through 50, inclusive,

Defendant(s).

Case No.: A-14-700559-C

Dept. XXI

Consolidated with

Case No.: A-14-704100-C

Dept. No.: XX

**CONSOLIDATED CLASS ACTION
COMPLAINT**

**(EXEMPT FROM ARBITRATION
PURSUANT TO NAR 5)**

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

JURY TRIAL DEMANDED

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1 KEVIN LAYUG and LORINA JOHNSON,
2 on behalf of themselves and all others
3 similarly situated,

4 Plaintiffs,

5 vs.

6 TRUMP RUFFIN TOWER I, LLC, d/b/a
7 Trump International Hotel Las Vegas; and
8 DOES 1 through 50, inclusive,

9 Defendant(s).

10 COME NOW Plaintiffs MARKUS LEVERT, OMAR UNATING, KEVIN LAYUG and
11 LORINA JOHNSON, on behalf of themselves and all other similarly situated and typical persons
12 and alleges the following:

13 All allegations in this Complaint are based upon information and belief except for those
14 allegations that pertain to the Plaintiffs named herein and their counsel. Each allegation in this
15 Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable
16 opportunity for further investigation and discovery.

17 **JURISDICTION AND VENUE**

18 1. This Court has original jurisdiction over the state law claims alleged herein
19 because the amount in controversy exceeds \$10,000 and a party seeking to recover unpaid wages
20 has a private right of action pursuant to Nevada Revised Statute (“NRS”) sections 608.050,
21 608.250, and 608.140. *See Lucatelli v. Texas De Brazil (Las Vegas) Corp.*, 2:11-CV-01829-RCJ,
22 2012 WL 1681394 (D. Nev. May 11, 2012) (“[T]he Nevada Supreme Court recently held that
23 NRS § 608.040 contains a private cause of action because it is “illogical” that a plaintiff who can
24 privately enforce a claim for attorneys’ fees under NRS § 608.140 cannot privately enforce the
25 underlying claim the fees arose from.”); *Busk v. Integrity Staffing Solutions, Inc.*, 2013 U.S. App.
26 LEXIS 7397 (9th Cir. Nev. Apr. 12, 2013) (“Nevada Revised Statute § 608.140 does provide a
27 private right of action to recoup unpaid wages.”); *Doolittle v. Eight Judicial Dist. Court*, 54 Nev.
28 319, 15 P.2d 684; 1932 Nev. LEXIS 34 (Nev. 1932) (recognizing that former employees have a
private cause of action to sue their employer (as well as third party property owners where the

1 work was performed) for wages and waiting penalties under NRS 608.040 and NRS 608.050).
2 Plaintiffs also claim a private cause of action to foreclose a lien against the property owner for
3 wages due pursuant to NRS 608.050.

4 2. Plaintiffs are seeking to recover unpaid wages pursuant to Nevada statutory
5 authority. Plaintiffs therefore have a private right of action pursuant to NRS 608.040 and 608.140
6 as well as a claim for at least minimum wages for all hours worked “off-the-clock” pursuant to
7 Section 16 of Article 15 of the Nevada State Constitution. Plaintiffs made a proper demand for
8 wages due pursuant to NRS 608.140.

9 3. Venue is proper in this Court because one or more of the Defendants named herein
10 maintains a principal place of business or otherwise is found in this judicial district and many of
11 the acts complained of herein occurred in Clark County, Nevada.

12 **PARTIES**

13 4. Defendant TRUMP RUFFIN TOWER I, LLC, d/b/a Trump International Hotel
14 Las Vegas (hereinafter “Defendant” or “Trump Tower”) is a Nevada corporation with a principal
15 place of business at 2000 Fashion Show Dr., Las Vegas, Nevada. Trump Tower is an employer
16 engaged in commerce under the provisions of the Fair Labor Standards Act, 29 U.S.C. § 201 et
17 seq.

18 5. Plaintiff MARKUS LEVERT (hereinafter “Mr. Levert” or collectively with Mr.
19 Unating, “Plaintiffs”) is a natural person who is and was a resident of the State of Nevada at all
20 relevant times herein and has been employed by Defendant as a non-exempt hourly employee in
21 its Las Vegas property within the last three years.

22 6. Plaintiff OMAR UNATING (hereinafter “Mr. Unating” or collectively with Mr.
23 Levert, “Plaintiffs”) is a natural person who is and was a resident of the State of Nevada at all
24 relevant times herein and has been employed by Defendant as a non-exempt hourly employee in
25 its Las Vegas property within the last three years.

26 7. Plaintiff KEVIN LAYUG (hereinafter “Mr. Layug” or collectively with Ms.
27 Johnson, “Plaintiffs”) is a natural person who is and was a resident of the State of Nevada at all
28

1 relevant times herein and has been employed by Defendant as a non-exempt hourly employee in
2 its Las Vegas property within the last three years.

3 8. Plaintiff LORINA JOHNSON (hereinafter “Ms. Johnson” or collectively with Mr.
4 Layug, “Plaintiffs”) is a natural person who is and was a resident of the State of Nevada at all
5 relevant times herein and has been employed by Defendant as a non-exempt hourly employee in
6 its Las Vegas property within the last three years.

7 9. The identity of DOES 1-50 is unknown at this time and this Complaint will be
8 amended at such time when the identities are known to Plaintiffs. Plaintiffs are informed and
9 believe that each Defendant sued herein as DOE is responsible in some manner for the acts,
10 omissions, or representations alleged herein and any reference to “Defendant,” “Defendants,” or
11 “Trump Tower” herein shall mean “Defendants and each of them.”

12 **FACTUAL ALLEGATIONS**

13 10. Plaintiffs were employed by Defendant as non-exempt hourly employees in its Las
14 Vegas hotel. Mr. Levert was employed as Head Bartender from approximately March 2008
15 through February 2013; Mr. Unating was employed as a bartender from approximately June 2010
16 up to on or about November 11, 2013; Mr. Layug was employed as a Valet and a Doorman from
17 on or about March 2010 through April 2014; Ms. Johnson has been employed as a bartender,
18 hostess and cocktail waitress from on or about February 2012 up to the present date.

19 11. Defendant required Plaintiffs to perform numerous work activities before
20 clocking-in and after clocking-out—i.e., “off-the-clock”—but did not compensate Plaintiffs for
21 engaging in those activities. Plaintiffs and all similarly situated and typical employees (i.e., the
22 putative class) worked over eight (8) hours in a workday and over forty (40) hours in a workweek
23 and did not receive compensations at one and one-half (1 ½) times their regular hourly rate for
24 the hours worked over 8 in a workday and over 40 in a workweek.

25 12. Defendant required Plaintiffs to wear company provided uniforms during their
26 workday. Defendant maintained a company-wide policy all uniforms must stay on property and
27 that all employees provided with a uniform must be in proper uniform prior to clocking-in and
28 must clock-out prior to changing out of their uniform. In compliance with Defendant’s uniform

1 policy, Plaintiffs were required to go to the wardrobe room at the Trump Tower facility, pick up,
2 and change into their work uniforms prior to clocking-in. Similarly, Plaintiffs were required to
3 return to the wardrobe room after clocking-out to change out of their uniforms before leaving the
4 facility. Plaintiffs estimate that it took approximately 20-minutes each and every day both pre
5 and post shift to complete these activities but they were not compensated for this time. Upon
6 personal observation and knowledge, all Trump Tower valets, doormen, bartenders, hostesses,
7 cocktail waitresses, bellmen, desk workers, spa workers, retail workers, cashiers, and other
8 employees who were provided with a uniform had to perform these same activities without
9 compensation.

10 13. In addition to his uniform and tip dividing activities, Mr. Layug was also required
11 to perform a variety of other work-related tasks (including sweeping the garage, cleaning, moving
12 boxes, and reissuing tickets for lost or damaged tickets, and counting/dividing tips) off-the-clock.
13 Mr. Layug estimates that it took approximately 30-40-minutes each and every day to complete
14 these activities but he was not compensated for this time.

15 14. Because Plaintiffs Levert, Unating, and Johnson were responsible for handling
16 money transactions, these Plaintiffs were also required to retrieve and deposit cash money from
17 an “employee bank” before and after their shift each and every day. Like all other employees
18 who handled cash, these Plaintiffs had to go to the employee bank prior to clocking in to retrieve
19 their allotted money—also referred to as their “bank”— and verify the bank amount. Similarly,
20 Plaintiffs Levert, Unating, and Johnson would have to go to the employee bank after clocking out
21 to reconcile and deposit their bank. All cashier and money-handling employees were required to
22 perform these same or similar tasks “off-the-clock” without receiving their regular pay for all
23 hours worked every day of every shift, or time and one half their regular rate of pay if such time
24 was more than eight hours in a day, or 40 in a workweek. These Plaintiffs estimate that it took
25 approximately 15-minutes each and every day both pre and post shift to complete these activities
26 but they were not compensated for this time. Upon personal observation and knowledge, all
27 Trump Tower employees who used a bank had to perform these same activities off-the-clock.
28

1 15. In addition to their uniform and banking activities, Plaintiffs Levert, Unating, and
2 Johnson were also required to pick up keys and set up their bar (including making coffee, getting
3 ice, filling ice wells, juice, fresh fruit, and setting up the pastry station, among other tasks) off-
4 the-clock. These Plaintiffs estimate that it took approximately 45-minutes each and every day
5 both pre shift to complete these activities but they were not compensated for this time.

6 16. Defendant maintained a policy that all its employees who were scheduled to work
7 6 continuous hours or longer would receive a 30-minute unpaid meal period. Plaintiffs, however,
8 were routinely deprived a full uninterrupted 30-minute unpaid meal period. As will be evidenced
9 by Defendant's timekeeping records, Plaintiffs are informed and believe that other non-exempt
10 employees of Defendant were also deprived a full uninterrupted 30-minute unpaid meal period
11 even though a full half hour of time was deducted from their pay. For any break less than 30
12 minutes, Plaintiffs and all class members are entitled to their full compensation.

13 17. At all times relevant hereto, Defendant required, suffered, or permitted such off-
14 the-clock uncompensated time to be worked by all its uniformed, cash-handling, and bartending
15 employees.

16 18. Like all agreements, Defendant's agreement with its employees includes,
17 expressly and/or implicitly, an agreement to pay non-exempt employees in accordance with all
18 state and federal laws, and in particular, the labor laws of the state of Nevada. Defendants'
19 handbook that is provided to Plaintiffs and all putative class members specifically states that "[i]t
20 is the policy of TIHTLV to pay non-exempt associates overtime in accordance with federal, state,
21 and local regulations." A true and correct copy of the relevant portion of Defendants' handbook
22 stating as much is attached hereto as Exhibit A.

23 **CLASS ACTION ALLEGATIONS**

24 19. Plaintiffs reallege and incorporate by reference all the paragraphs above in this
25 Complaint as though fully set forth herein.

26 20. Plaintiffs bring this action on behalf of themselves and all other similarly situated
27 and typical employees as a true class action under Rule 23 of the Nevada Rules of Civil Procedure
28 ("NRCP"). The Classes Plaintiffs seek to represent are defined as follows:

- 1 A. **The Uniform Class:** All current and former hourly paid employees
2 who, at any time during the relevant time period alleged herein, were
3 provided with uniforms by Defendant (collectively “Uniform Class
4 Members”).
- 5 B. **The Bank Class:** All current and former hourly paid employees
6 who, at any time during the relevant time period alleged herein, were
7 required to frequent the “employee bank” pre-shift and/or post-shift
8 (collectively “Bank Class Members”).
- 9 C. **The Bartending Class:** All current and former hourly paid
10 employees who, at any time during the relevant time period alleged
11 herein, were required to collect tools and/or set up the bar pre-shift
12 and/or post-shift (collectively “Bartending Class Members”).
- 13 D. **The Valet/Doorman Class:** All current and former hourly paid
14 employees who, at any time during the relevant time period alleged
15 herein, were employed as a Valet and/or Doorman, or a
16 substantially similar position. (collectively “Valet/Doorman Class
17 Members”);
- 18 E. **The Meal Period Class:** All current and former hourly paid
19 employees who, at any time during the relevant time period alleged
20 herein, did not receive an uninterrupted 30-minute meal period yet
21 were not paid the full thirty minutes for the time deducted as a meal
22 break from their pay (collectively “Meal Period Class Members”).
- 23 F. **The Wages Due and Owing Subclass:** All Uniform, Bank, and
24 Bartending class members, who, at any time during the Class Period,
25 were terminated or otherwise separated from employment
26 (collectively “Wages Due and Owing Class Members”).

27 21. Class treatment under Rule 23 of the NRCP is appropriate in this case for the
28 following reasons:

A. The Classes are Sufficiently Numerous: Upon information and belief,
Defendants employ, and have employed, in excess of 750 Class Members within the
applicable statute of limitations.

B. Plaintiffs’ Claims are Typical to Those of Fellow Class Members: Each
Class Member is and was subject to the same practices, plans, or policies as Plaintiffs—
Defendants required Uniform, Bank, Bartending, and Valet/Doorman Class Members to
perform off-the-clock activities without compensation; failed to provide an uninterrupted

30-minute meal period to Meal Period Class Members; and did not pay Wages Due and Owing Class Members all their wages due and owing at the time of separation.

C. Common Questions of Law and Fact Exist: Common questions of law and fact exist and predominate as to Plaintiffs and the Classes, including, without limitation: Whether the time spent by Plaintiffs and Uniform, Bank, Bartending, and Valet/Doorman Class Members engaging in off-the-clock activities is compensable under Nevada law; Whether Plaintiffs and Meal Period Class Members were deprived an uninterrupted 30-minute meal period; Whether Defendant breached its agreement with Plaintiffs and Class Members; and Whether Plaintiffs and Wages Due and Owing Class Members are entitled to waiting time penalties.

D. Plaintiffs are an Adequate Representative of the Classes: Plaintiffs will fairly and adequately represent the interests of the Classes because Plaintiffs are members of each Class, they have issues of law and fact in common with all members of the Classes, and they do not have interests that are antagonistic to members of the Classes.

E. A Class Action is Superior: A class action is superior to other available means for the fair and efficient adjudication of this controversy, since individual joinder of all members of the Classes is impractical. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of effort and expense. Furthermore, the expenses and burden of individualized litigation would make it difficult or impossible for individual members of the Classes to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Individualized litigation would also present the potential for inconsistent or contradictory judgments.

FIRST CAUSE OF ACTION

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

(On Behalf of Plaintiffs and all members of the Uniform, Bank, Bartending, Valet/Doorman, and Meal Period Classes)

22. Plaintiffs reallege and incorporate by this reference all the paragraphs above in this Complaint as though fully set forth herein.

23. NRS 608.140 provides that an employee has a private right of action for unpaid wages: “Whenever a mechanic, artisan, miner, laborer, servant or employee shall have cause to bring suit for wages earned and due according to the terms of his or her employment, and shall establish by decision of the court or verdict of the jury that the amount for which he or she has brought suit is justly due, and that a demand has been made, in writing, at least 5 days before suit was brought, for a sum not to exceed the amount so found due, the court before which the case shall be tried shall allow to the Plaintiff a reasonable attorney fee, in addition to the amount found due for wages and penalties, to be taxed as costs of suit.” Plaintiffs made a demand for unpaid wages upon Defendant pursuant to NRS 608.140 but satisfactory payment was not received.

24. NRS 608.016 states that: “An employer shall pay to the employee wages for each hour the employee works.” Hours worked means any time 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.”). 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).

25. By failing to compensate Plaintiffs and the Uniform Class Members for the time spent engaging in the pre-shift and post-shift uniform activities described above, Defendant failed to pay Plaintiffs and all other members of the Uniform Class Members for all hours worked.

26. By failing to compensate Plaintiffs Levert, Unating, Johnson, and the Bank Class Members for the time spent engaging in pre-shift and post-shift banking activities, Defendant failed to pay these Plaintiffs Bank Class Members for all hours worked.

27. By failing to compensate Plaintiffs Levert, Unating, Johnson, and the Bartending Class Members for the time spent engaging in the pre-shift and post-shift bartending activities described above, Defendant failed to pay these Plaintiffs and Bartending Class Members for all hours worked.

28. By failing to compensate Mr. Layug and the Valet/Doorman Class Members for the time spent engaging in the pre-shift and post-shift bartending activities described above, Defendant failed to pay Mr. Layug and the Valet/Doorman Class Members for all hours worked.

29. By failing to provide Plaintiffs and Meal Period Class Members a full uninterrupted unpaid meal period even though the meal period was deducted from their pay, Defendant failed to pay Plaintiffs and Meal Period Class Members for all hours worked

30. Because there is no express statute of limitations for violations of NRS 608.140 and 608.016, the three-year statute contained in NRS 11.190(3) for statutory violations applies.

31. Wherefore, Plaintiffs demand for themselves and all other members of the Uniform, Bank, Bartending, Valet/Doorman, and Meal Period Classes payment by Defendant at the regular hourly rate of pay for all hours worked during the relevant time period alleged herein,¹ together with attorneys' fees, costs, and interest as provided by law.

SECOND CAUSE OF ACTION

Failure to Pay Minimum Wages in Violation of the Nevada Constitution

(On Behalf of Plaintiffs and all members of the Uniform, Bank, Bartending, Valet/Doormanm, and Meal Period Classes)

32. Plaintiffs reallege and incorporate by reference all the paragraphs above in this Complaint as though fully set forth herein.

33. Article 15 Section 16 of the Nevada Constitution sets forth the requirements the minimum wage requirements in the State of Nevada and further provides that "[t]he provisions of this section may 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."

¹ This claim relates back from the filing of the original *Layug* action.

1 34. By failing to compensate Plaintiffs and all other Uniform Class Members for the
2 time spent waiting for their uniforms to be distributed each day on-site, changing into and out of
3 their uniforms, walking from the changing area to and from their clock-in locations, and
4 performing the other off-the-clock activities identified above, Defendant failed to pay Plaintiffs
5 and all other Uniform Class Members for all hours worked in violation of the Nevada
6 Constitution.

7 35. By failing to compensate Plaintiffs Levert, Unating, Johnson, and all other Bank
8 Class Members for the time spent engaging in pre-shift and post-shift activities relating to the
9 retrieval of their cash bank at the “employee bank,” Defendant failed to pay these Plaintiffs and
10 Bank Class Members for all hours worked in violation of the Nevada Constitution.

11 36. By failing to compensate Plaintiffs Levert, Unating, Johnson, and the Bartending
12 Class Members for the time spent engaging in the pre-shift and post-shift bartending activities
13 described above, Defendant failed to pay these Plaintiffs and Bartending Class Members for all
14 hours worked in violation of the Nevada Constitution.

15 37. By failing to compensate Mr. Layug and the Valet/Doorman Class Members for
16 the time spent engaging in the pre-shift and post-shift bartending activities described above,
17 Defendant failed to pay Mr. Layug and the Valet/Doorman Class Members for all hours worked
18 in violation of the Nevada Constitution.

19 38. By failing to provide Plaintiffs and Meal Period Class Members a full
20 uninterrupted unpaid meal period even though the meal period was deducted from their pay,
21 Defendant failed to pay Plaintiffs and Meal Period Class Members for all hours worked in
22 violation of the Nevada Constitution.

23 39. Constitutional violations carry a four (4) year statute of limitations. *See* NRS
24 11.220 (“An action for relief, not hereinbefore provided for, must be commenced within 4 years
25 after the cause of action shall have accrued.”).

26 40. Wherefore, Plaintiffs demand for themselves and for the Uniform, Bank,
27 Bartending, Valet/Doorman, and Meal Period Class Members payment by Defendant at their
28 regular hourly rate of pay or the minimum wage rate, whichever is higher, for all hours worked

during the relevant time period alleged herein,² together with attorneys' fees, costs, and interest as provided by law.

THIRD CAUSE OF ACTION

Failure to Pay Overtime Wages in Violation of NRS 608.140 and 608.018

(On Behalf of Plaintiffs and all members of the Uniform, Bank, Bartending, Valet/Doorman, and Meal Period Classes)

41. Plaintiffs reallege and incorporate by reference all the paragraphs above in this Complaint as though fully set forth herein.

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

43. NRS 608.018(1) provides as follows:

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

44. NRS 608.018(2) provides as follows:

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

45. By failing to compensate Plaintiffs and all other Uniform Class Members for the time spent waiting for their uniforms to be distributed each day on-site, changing into and out of their uniforms, walking from the changing area to and from their clock-in locations, and performing the other off-the-clock activities identified above, Defendant failed to pay daily overtime premium pay to Plaintiffs and those Uniform Class Members who were paid a regular rate of less than one and one half times the minimum wage premium pay, and failed to pay a weekly premium overtime rate of pay of time and one half their regular rate for all members of

² This claim relates back from the filing of the original *Layug* action.

1 the Uniform Class who worked in excess of forty (40) hours in a week in violation of NRS
2 608.140 and 608.018.

3 46. By failing to compensate Plaintiffs Levert, Unating, Johnson, and all other Bank
4 Class Members for time spent engaging in pre-shift and post-shift activities relating to the
5 retrieval of their cash bank at the “employee bank,” Defendant failed to pay daily overtime
6 premium pay to these Plaintiffs and those Bank Class Members who were paid a regular rate of
7 less than one and one half times the minimum wage premium pay, and failed to pay a weekly
8 premium overtime rate of pay of time and one half their regular rate for all members of the Bank
9 Class who worked in excess of forty (40) hours in a week in violation of NRS 608.140 and
10 608.018.

11 47. By failing to compensate Plaintiffs Levert, Unating, Johnson, and all other
12 Bartending Class Members for time spent engaging in pre-shift and post-shift activities,
13 Defendant failed to pay daily overtime premium pay to these Plaintiffs and those Bartending Class
14 Members who were paid a regular rate of less than one and one half times the minimum wage
15 premium pay, and failed to pay a weekly premium overtime rate of pay of time and one half their
16 regular rate for all members of the Bartending Class who worked in excess of forty (40) hours in
17 a week in violation of NRS 608.140 and 608.018.

18 48. By failing to compensate Mr. Layug and the Valet/Doorman Class Members for
19 time spent engaging in pre-shift and post-shift activities, Defendant failed to pay daily overtime
20 premium pay to Mr. Layug and the Valet/Doorman Class Members who were paid a regular rate
21 of less than one and one half times the minimum wage premium pay, and failed to pay a weekly
22 premium overtime rate of pay of time and one half their regular rate for all members of the
23 Valet/Doorman Class who worked in excess of forty (40) hours in a week in violation of NRS
24 608.140 and 608.018.

25 49. By failing to provide Plaintiffs and Meal Period Class Members a full
26 uninterrupted unpaid meal period even though the meal period was deducted from their pay,
27 Defendant failed to pay daily overtime premium pay to Plaintiffs and Meal Period Class Members
28 who were paid a regular rate of less than one and one half times the minimum wage premium pay,

1 and failed to pay a weekly premium overtime rate of pay of time and one half their regular rate
2 for all members of the Meal Period Class who worked in excess of forty (40) hours in a week in
3 violation of NRS 608.140 and 608.018.

4 50. Because there is no express statute of limitations for violations for failure to pay
5 overtime rates of pay pursuant to NRS 608.140 and 608.018, the three-year statute contained in
6 NRS 11.190(3) for statutory violations applies.

7 51. Wherefore, Plaintiffs demand for themselves and for the Uniform, Bank,
8 Bartending, Valet/Doorman, and Meal Period Class Members payment by Defendant at one and
9 one half times their “regular rate” of pay for all hours worked in excess of eight (8) hours in a
10 workday for those class members whose regular rate of pay did not exceed the one and one half
11 the minimum wage set by law, and premium overtime rate of one and one half their regular rate
12 for all class members who worked in excess of forty (40) hours a workweek during the relevant
13 time period alleged herein,³ together with attorneys’ fees, costs, and interest as provided by law.

14 **FOURTH CAUSE OF ACTION**

15 **Breach of Contract**

16 (On Behalf of Plaintiffs and all members of the Uniform, Bank, and Bartending Classes
17 Against Defendant)

18 52. Plaintiffs reallege and incorporates by reference all the paragraphs above in this
19 Complaint as though fully set forth herein.

20 53. NRS 608.140 provides that an employee has a private right of action for unpaid
21 wages: “Whenever a mechanic, artisan, miner, laborer, servant or employee shall have cause to
22 bring suit for wages earned and due according to the terms of his or her employment, and shall
23 establish by decision of the court or verdict of the jury that the amount for which he or she has
24 brought suit is justly due, and that a demand has been made, in writing, at least 5 days before suit
25 was brought, for a sum not to exceed the amount so found due, the court before which the case
26 shall be tried shall allow to the Plaintiff a reasonable attorney fee, in addition to the amount found
27

28 _____
³ This claim relates back from the filing of the original *Layug* action.

1 due for wages and penalties, to be taxed as costs of suit.” Plaintiffs made a demand for unpaid
2 wages upon Defendant pursuant to NRS 608.140 but satisfactory payment was not received.

3 54. At all times relevant herein, Defendant had an agreement with Plaintiffs and with
4 every Class Member to pay an agreed upon hourly wage rate for all hours they worked for
5 Defendant. Indeed, Defendant offered and promised to pay Plaintiffs and Class Members a
6 specific rate of pay in exchange for Plaintiffs and Class Members’ performed work for Defendant
7 pursuant to that offer and promise.

8 55. The parties’ employment agreement necessarily incorporated all applicable
9 provisions of both state and federal law, including the labor laws of the State of Nevada, which
10 provides that employees shall be compensated for at least the minimum wage for all the hours
11 they work (Article 15 Section 16 of the Nevada Constitution), employees shall be compensated
12 all the hours they work (NRS 608.016), employees shall be compensated overtime at a rate of 1
13 ½ times their regular rate of pay for all hours worked over 8 in a day and/or over 40 in a workweek
14 (NRS 608.018).

15 56. Furthermore, Defendants maintained an employment handbook that set forth all
16 the compensation policies and procedures by which it would compensate Plaintiffs and putative
17 class members. Plaintiffs and putative class members relied upon the terms of Defendants
18 policies and procedures set forth in the employment handbook.

19 57. Defendant breached its agreement with Plaintiffs and Class Members by failing to
20 compensate them for all non-overtime and overtime hours worked, namely, for hours spent
21 performing work activities off-the-clock, at the agreed upon rate of pay.

22 58. As a result of Defendant’s breach, Plaintiffs and Class Members have suffered an
23 economic loss that includes lost wages and interest.

24 59. Wherefore, Plaintiffs demand for themselves and for Class Members that
25 Defendant pay Plaintiffs and Class Members their agreed upon rate of pay for all hours worked
26 off the clock during the relevant time period alleged herein,⁴ together with attorney’s fees, costs,
27 and interest as provided by law.

28 _____
⁴ This claim relates back from the filing of the original *Levert* action.

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 Plaintiffs and Wages Due and Owing Class)

60. Plaintiffs reallege and incorporate by reference all the paragraphs above in this Complaint as though fully set forth herein.

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

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

63. 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.”

64. 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.”

65. By failing to pay Plaintiffs and all Wages Due and Owing Class Members for all hours worked in violation of state and federal law, at the correct legal rate, Defendant has failed to timely remit all wages due and owing to Plaintiffs and all Wages Due and Owing Class Members upon termination and for sixty days thereafter.

66. Despite demand, Defendant willfully refuses and continues to refuse to pay Plaintiffs and all Wages Due and Owing Class Members who are former employees all the wages that were due and owing upon the termination of their employment.

67. Wherefore, Plaintiffs demand 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, for all Wages Due and Owing Class Members who have terminated employment from Defendant during the relevant time period alleged herein,⁵ together with attorneys' fees, costs, and interest as provided by law.

JURY TRIAL DEMANDED

Plaintiffs hereby demand a jury trial pursuant to Federal Rule of Civil Procedure 38.

PRAYER FOR RELIEF

Wherefore Plaintiffs, individually and on behalf of Class Members, pray for relief as follows relating to their collective and class action allegations:

1. For an order certifying this action as a traditional class action under NRCP 23 on behalf of each of the proposed classes;
2. For an order appointing Plaintiffs as the Representatives of each class and their counsel as Class Counsel for each class;
3. For damages according to proof for regular rate pay under NRS 608.140 and 608.016 for all hours worked;
4. For damages according to proof for minimum wage rate pay under the Nevada Constitution for all hours worked;
5. For damages according to proof for overtime compensation under NRS 608.140 and 608.018 for all hours worked for those employees who earned a regular rate of less than one and one half times the minimum wage for hours worked in excess of 8 hours per day and/or for all class members for overtime premium pay of one and one half their regular rate for all hours worked in excess of 40 hours per week;
6. For damages according to proof for Defendants' breach of contract;

^{5 5} This claim relates back from the filing of the original *Levert* action.

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7. For sixty days of waiting time penalties pursuant to NRS 608.140 and 608.040-.050;
8. For interest as provided by law at the maximum legal rate;
9. For reasonable attorneys' fees authorized by statute;
10. For costs of suit incurred herein;
11. For pre-judgment and post-judgment interest, as provided by law; and
12. For such other and further relief as the Court may deem just and proper.

DATED: November 11, 2015

/s/Joshua D. Buck

Mark R. Thierman
Joshua D. Buck
Leah L. Jones

Attorneys for Plaintiffs

EXHIBIT A

EXHIBIT A

**TRUMP INTERNATIONAL HOTEL & TOWER LAS VEGAS
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HOTEL GATEKEEPER

All Hotel Associates are required to enter and exit the building through the Associate entrance. Upon entering and exiting the building, each Associate is required to swipe their Trump ID badge at the gatekeeper clock outside the security window. The gatekeeper enables security to quickly ascertain who is in the building in the event of an emergency. The gatekeeper is not linked to the time and attendance clocks.

MEAL AND REST PERIODS

All associates who are scheduled to work for 8 continuous hours or longer are provided with a 30 minute "meal" break that will generally begin no later than halfway through the start of the shift. This is unpaid and Associates are required to clock out and back in for meal periods.

OVERTIME

It is the policy of TIHTLV to pay non-exempt associates overtime in accordance with federal, state and local regulations.

Non-exempt associates will receive overtime pay for all hours worked in excess of forty hours in any one work week except for those employees as noted under Nevada law which state: any one making less than 9.82 per hour who are offered benefits, will be paid overtime after 8 hours; and, any one making less than 11.32 per hour without benefits will be paid overtime after 8 hours. Effective July 1, 2010, the rates change to \$10.87 and \$12.37 per hour respectively.

All overtime must be either requested by the associate's supervisor or approved in advance by the associate's supervisor. Failure to obtain such approval may result in discipline, up to and including termination.

For purposes of calculating the payment of overtime, "hours worked" refers only to those hours actually worked. Accordingly, vacation time and other paid or unpaid time off will not be considered as hours worked for the purpose of computing overtime.

Exempt associates are expected to work as many hours as needed to perform the work required. Exempt associates are not eligible for overtime pay.

EXEMPT ASSOCIATE PAY

Exempt associates are paid on a salary basis because they are expected to work as many hours as needed to perform the work required. Because of this expectation, an exempt associate's salary is not subject to reduction because of variations in the quality or quantity of the work performed. Exempt associates will receive their full salary for any week in which they perform any work – without regard to the number of days or hours worked. In limited instances, deductions from the weekly pay of exempt associates may be made. Please direct any questions regarding this area to the Human Resources Department.