

1 Mark R. Thierman, Nev. Bar No. 8285  
2 Joshua D. Buck, Nev. Bar No. 12187  
3 Leah L. Jones, Nev. Bar No. 13161  
4 THIERMAN BUCK LLP  
5 7287 Lakeside Drive  
6 Reno, Nevada 89511  
7 Tel. (775) 284-1500  
8 Fax. (775) 703-5027  
9 mark@thiermanbuck.com  
10 josh@thiermanbuck.com  
11 leah@thiermanbuck.com

12 *Attorneys for Plaintiffs*

13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEVADA**

15 ANTONIO RAMIREZ, HILLARY BAKER,  
16 RADD BATES, CLAIRE BERRY,  
17 BRIGITTE BLISS, FRANCES BOLIN,  
18 ESPERANZA BUEHRLE, PATRICK  
19 BUKOWSKI, LIZETH CARDENAS-  
20 RAMOS, TODD CARNS, TIFFANY  
21 CARTER, JESSICA CLAY, JACKLYN  
22 CURRY, DAVID DURAN, MELVIN  
23 ENGLISH, JAY EYER, LEVI FEUERHERM,  
24 DIANA FLORES, FERNANDO GARCIA,  
25 MATTHEW GEIS, NICOLE GILDEA,  
26 ANDREW GNAGY, ALFRED GORANSON,  
27 KEANU GOVAN, STACI GREESON,  
28 MARILYN HALL, BRETT HENDERSON,  
EBONY HOLMES, PATRICIA HUGHES,  
ASHLIE JONES, SARAH JONES, GERALD  
LARSON III, CHRISTOPHER LOMBARDO,  
KEVIN LONG, TERRY MARHANKA,  
MARY MARSHALL, EDDY MARTEL-  
RODRIGUEZ, CHRISTINA MARTIN,  
BONNIE MASSA, CHRISTINA MCCOY,  
FRANCES MEAGER, KIEL MOORE,  
ROBERT MORGAN, LOUISE NDOLO-  
HERMANN, MELISSA NEHRBASS, INEZ  
NIEGEMANN, STACEY ORNELAS,  
NANCY PALLAS, SEAN PARK, JAYNE  
PARTON, MARIA PELAEZ-ROJAS,  
ARTURO PINEDA, HEATHER RAMIREZ,  
JOA RECORDS, ADAM REIGLE,

Case No.: 3:16-cv-00318-LRH-WGC

**SECOND AMENDED COLLECTIVE  
ACTION COMPLAINT**

- 1) Failure to Pay Overtime in Violation of  
29 U.S.C. § 207.

**JURY TRIAL DEMANDED**

THIERMAN BUCK LLP

7287 Lakeside Drive

Reno, NV 89511

(775) 284-1500 Fax (775) 703-5027

Email info@thiermanbuck.com www.thiermanbuck.com

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Email info@thiermanbuck.com www.thiermanbuck.com

CRYSTELLE RIFE, GLORIA ROBOTHAM,  
MARLENE SANCHEZ, JACQUELINE  
SANCHEZ (PROVENCIO), BRANDON  
SCHULTZ, PAUL SCHULTZ, NICOLE  
SEUFFERT, TRENA SMITH, MICHAEL  
STEVENS, DARLENE VANCE, EMILY  
VANDRIELEN, ESPERANZA VASQUEZ,  
CELENE VASQUEZ, MARIA  
VESLAZQUEZ-DESED, MICHAEL  
WALLS, ANDREW WERTH, KARLA  
WOOLLEY, and MELVIN XITUMUL, on  
behalf of themselves and all others similarly  
situated,

Plaintiffs,

v.

HG STAFFING, LLC, MEI-GSR  
HOLDINGS LLC d/b/a GRAND SIERRA  
RESORT, and DOES 1 through 50, inclusive,

Defendants.

COME NOW Plaintiffs ANTONIO RAMIREZ, HILLARY BAKER, RADD BATES,  
CLAIRE BERRY, BRIGITTE BLISS, FRANCES BOLIN, ESPERANZA BUEHRLE,  
PATRICK BUKOWSKI, LIZETH CARDENAS-RAMOS, TODD CARNS, TIFFANY  
CARTER, JESSICA CLAY, JACKLYN CURRY, DAVID DURAN, MELVIN ENGLISH,  
JAY EYER, LEVI FEUERHERM, DIANA FLORES, FERNANDO GARCIA, MATTHEW  
GEIS, NICOLE GILDEA, ANDREW GNAGY, ALFRED GORANSON, KEANU GOVAN,  
STACI GREESON, MARILYN HALL, BRETT HENDERSON, EBONY HOLMES,  
PATRICIA HUGHES, ASHLIE JONES, SARAH JONES, GERALD LARSON III,  
CHRISTOPHER LOMBARDO, KEVIN LONG, TERRY MARHANKA, MARY  
MARSHALL, EDDY MARTEL-RODRIGUEZ, CHRISTINA MARTIN, BONNIE MASSA,  
CHRISTINA MCCOY, FRANCES MEAGER, KIEL MOORE, ROBERT MORGAN,  
LOUISE NDOLO-HERMANN, MELISSA NEHRBASS, INEZ NIEGEMANN, STACEY

ORNELAS, NANCY PALLAS, SEAN PARK, JAYNE PARTON, MARIA PELAEZ-ROJAS, ARTURO PINEDA, HEATHER RAMIREZ, JOA RECORDS, ADAM REIGLE, CRYSTELLE RIFE, GLORIA ROBOTHAM, MARLENE SANCHEZ, JACQUELINE SANCHEZ (PROVENCIO), BRANDON SCHULTZ, PAUL SCHULTZ, NICOLE SEUFFERT, TRENA SMITH, MICHAEL STEVENS, DARLENE VANCE, EMILY VANDRIELEN, ESPERANZA VASQUEZ, CELENE VASQUEZ, MARIA VESLAZQUEZ-DESED, MICHAEL WALLS, ANDREW WERTH, KARLA WOOLLEY, and MELVIN XITUMUL (“Plaintiffs”), on behalf of themselves and all others similarly situated, and hereby alleges as follows:

All allegations in this Complaint are based upon information and belief except for those allegations that pertain to the Plaintiffs named herein and their counsel. Each allegation in this 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 federal claims alleged herein pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b).

2. Venue is proper in this Court because the Defendants named herein maintain a principal place of business or otherwise is found in this judicial district and many of the acts complained of herein occurred in Washoe County, Nevada.

### **PARTIES**

3. Lead named Plaintiff ANTONIO RAMIREZ is natural person who is and was a resident of the State of Nevada at all times relevant herein and was required to carry a cash bank to complete his job duties by Defendants from on or about summer of 2004 through on or about August 2013.

4. Each and every other Plaintiff named herein are natural persons who were employed by Defendants at all times relevant herein.

5. Defendant HG STAFFING, LLC, is a Nevada Limited Liability Company whose managing member is MEI-GSR HOLDINGS, LLC, located at 2500 East Second Street, Reno, NV 89585.

6. Defendant MER-GSR HOLDINGS, LLC is a Nevada Limited Liability Company located at 2500 East Second Street, Reno, NV 89585 and whose managing members are ALEX MERUELO and LUIS A. ARMONA of 9550 Firestone Blvd., Suite 105, Downey, CA 90241. Defendant MER-GSR HOLDINGS, LLC is doing business under the fictitious business name of Grand Sierra Resorts, or “GSR”, which is located at 200 East Second Street, Reno, NV 89585.

7. Defendants, and each of them, are employers under the FLSA and are engaged in commerce for the purposes of the FLSA, 29 U.S.C. § 201 *et. seq.* For labor relations purposes, Defendants each and together constitute the employer and/or joint employer of Plaintiffs and all Plaintiff class members (hereinafter referred to as “Class Members”).

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

### **FACTUAL ALLEGATIONS**

9. Plaintiffs, each and every one named herein, were employed by Defendants as non-exempt hourly employees.

10. Lead named Plaintiff Antonio Ramirez was scheduled for, and regularly worked, five (5) shifts per week, at least eight (8) hours per shift, and forty (40) hours per workweek. Upon information and belief, all other employees, who were required to carry a cash bank in completing their job duties were scheduled for and regularly worked the same or similar schedules.

11. Defendants required all Plaintiffs named herein and all employees who handle monetary transactions in the regular course of their employment to use or “carry” a cash bank. For example, the following job positions are some of those employees who were required to

1 carry a cash bank: cashiers, bartenders, change persons, slot attendants, retail attendants, arcade  
2 attendants, and front desk agents.

3 12. Defendants required all Plaintiffs named herein and all employees who carry a  
4 cash bank to retrieve and deposit their respective cash bank both before and after the  
5 employees' regularly scheduled shifts without compensation. As an example of this policy,  
6 lead named Plaintiff Ramirez was required to collect his bank of money at the dispatch cage  
7 prior to proceeding to his workstation and without compensation. Similarly, at the end of his  
8 regularly scheduled shifts, lead named Plaintiff Ramirez was required to reconcile and deposit  
9 his cash bank to the same dispatch cage without compensation. Upon information and belief,  
10 all employees who were required to carry a cash bank had to retrieve their cash bank from the  
11 same dispatch cage pre- and post-shift and without compensation.

12 13. Lead named Plaintiff Ramirez estimate it took him approximately 15 minutes  
13 each and every work day to perform his banking activities for which he was not paid his regular  
14 rate or overtime wages. Upon information and belief, all other GSR employees who carry a  
15 cash bank are similarly not compensated for the time in which they spend performing their  
16 banking activities.

17 14. Lead named Plaintiff Antonio Ramirez was paid \$8.00 per hour when he left  
18 Defendants' employ. Thus, because Defendants' required Mr. Ramirez to work at least 15  
19 minutes of uncompensated work time each and every shift worked, he is owed 1.25 hours or  
20 more of overtime (15 minutes per day at five days per week is equal to one hour and 15  
21 minutes). At the required one and one half times his regular rate of pay of \$12.00 multiplied by  
22 1.25 hours of overtime he is owed \$15.00 per workweek worked.

23 15. Plaintiffs have attached Exhibit A to this Complaint which contains a table of  
24 the calculation of one week of overtime owed to each additional named Plaintiff herein based  
25 on their regular rate of pay.

26 16. Extracting unpaid work from lead named Plaintiff Ramirez and all other  
27 Plaintiffs was achieved by either rounding hours so that employees who were technically "on  
28 the clock" did not receive pay for all their recorded hours worked or by having employees

1 perform work without being logged in to the timekeeping system. Indeed, Defendants maintain  
 2 an unlawful rounding policy whereby it rounds the time recorded and worked by all hourly  
 3 employees to the nearest 15 minutes for purposes of calculating payment of wages owed. Such  
 4 rounding favors the employer and deprives the employees of pay for time they actually perform  
 5 work activities.

#### 6 PLAINTIFFS' OPT-IN STATUS

7 17. Lead named Plaintiff Ramirez and all other Plaintiffs named herein previously  
 8 opted-in to the case of *Tiffany Sargent, et. al. v. HG Staffing, LLC*, Case No. 3:13-cv-453-LRH-  
 9 WGC ("*Sargent Action*"). Accordingly, the statute of limitations involved in this case is tolled  
 10 from the date in which lead named Plaintiff Ramirez and all other Plaintiffs opted-in to the  
 11 Sargent Action.

#### 12 COLLECTIVE ACTION ALLEGATIONS

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

15 19. Plaintiffs seek to represent the following class of employees in Defendants'  
 16 employ during the relevant time period: **All current and former non-exempt employees**  
 17 **employed by Defendants, who worked more than forty (40) hours in any workweek, and**  
 18 **who were required to perform banking activities without compensation at any time**  
 19 **during the relevant time period alleged herein.**

20 20. With regard to the conditional certification mechanism under the FLSA,  
 21 Plaintiffs are similarly situated to those that they seek to represent for the following reasons,  
 22 among others:

23 A. Defendants employed Plaintiffs as hourly employees who did not receive  
 24 overtime premium pay of one and one half times their regular rate of pay for all hours  
 25 Defendants suffered or permitted them to work over forty (40) hours in a workweek.

26 B. Plaintiffs' situation is similar to those they seek to represent because  
 27 Defendants failed to pay Plaintiffs and all other Class Members for all time they were  
 28 required to conduct banking activities "off the clock" and without compensation but

1 with the knowledge acquiescence and/or approval (tacit as well as expressed) of  
2 Defendants' managers and agents.

3 C. Common questions exist as to whether the time spent by Plaintiffs and all  
4 other Class Members engaging in banking activities "off the clock" is compensable  
5 under federal law; and whether Defendants failed to pay Plaintiffs and Class Members  
6 overtime at one and one half times their regular rate of pay for all hours worked in  
7 excess of 40 hours a week.

8 D. Upon information and belief, Defendants employ, and has employed, in  
9 excess of 717 Class Members within the applicable statute of limitations.

10 E. Plaintiffs have already filed or will file their consents to sue with the  
11 Court.

### 12 **FIRST CAUSE OF ACTION**

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

14 (On Behalf of All Plaintiffs and Class Members Against All Defendants)

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

17 22. 29 U.S.C. Section 207(a)(1) provides as follows: "Except as otherwise provided  
18 in this section, no employer shall employ any of his employees who in any workweek is  
19 engaged in commerce or in the production of goods for commerce, or is employed in an  
20 enterprise engaged in commerce or in the production of goods for commerce, for a workweek  
21 longer than forty hours unless such employee receives compensation for his employment in  
22 excess of the hours above specified at a rate not less than one and one-half times the regular  
23 rate at which he is employed."

24 23. Once the work day has begun, all time suffered or permitted by the employer to  
25 be worked by the employee is compensable at the employee's regular rate of pay or overtime  
26 rate of pay, whether scheduled or not.

27 24. By failing to compensate Plaintiffs and Class Members for the time spent  
28 engaging in the banking activities identified above without compensation, Defendants failed to



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

3 25. Defendants' unlawful conduct has been widespread, repeated, and willful.  
4 Defendants knew or should have known that its policies and practices have been unlawful and  
5 unfair.

6 26. Wherefore, Plaintiffs demand for themselves and for all others similarly  
7 situated, that Defendants pay Plaintiffs and all members of the Class one and one half times  
8 their regular hourly rate of pay for all hours worked in excess of forty (40) hours a week during  
9 the relevant time period alleged herein together with liquidated damages, attorneys' fees, costs,  
10 and interest as provided by law.

### 11 **JURY TRIAL DEMANDED**

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

### 13 **PRAYER FOR RELIEF**

14 Wherefore Plaintiffs, by themselves and on behalf of all Class Members, pray for relief  
15 as follows relating to their collective action allegations:

- 16 1. For an order conditionally certifying this action under the FLSA and providing
- 17 notice to all members of the Class so they may participate in this lawsuit;
- 18 2. For an order appointing Plaintiffs as the Representatives of the Class and their
- 19 counsel as Class Counsel;
- 20 3. For damages according to proof for overtime compensation at the applicable rate
- 21 under federal law for all hours worked over 40 per week;
- 22 4. For liquidated damages pursuant to 29 U.S. C. § 216(b);
- 23 5. For interest as provided by law at the maximum legal rate;
- 24 6. For reasonable attorneys' fees authorized by statute;
- 25 7. For costs of suit incurred herein;
- 26 8. For pre-judgment and post-judgment interest, as provided by law, and

27 ///

28 ///



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

2  
3       DATED: August 18, 2016

Respectfully Submitted,

4                       **THIERMAN BUCK LLP**

5  
6                       /s/ Leah L. Jones

Mark R. Thierman

7                       Joshua D. Buck

8                       Leah L. Jones

9                       Attorneys for Plaintiffs

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**THIERMAN BUCK LLP**

7287 Lakeside Drive

Reno, NV 89511

(775) 284-1500 Fax (775) 703-5027

Email info@thiermanbuck.com www.thiermanbuck.com