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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CATHY BENSON, SAMANTHA
AGUILAR, DINORA BACA, PRICILLA
CALVERT, JOSE CANO, PHUNG CAO,
DINH CAO-TRUONG, MARIA
CARRILLO, MARIA CASTELLANOS,
MAY CHAN, MARIA CHAVARIN,
MARIA CHAVEZ-TRUJILLO, WU CHEN,
GING CHUNG, ISMAELA CRUZ, KAREN
D'AGOSTINO, TERESA DAVIS,
ANJANETTE DAY, ROSALBA DIAZ,
MYRINA DRUMMER, DIANA ELLISON,
SIU FONG, JACQUELINE FORSTER,
LUZVIMINADA GALINDO, BEN
GALLARDO, LETICIA GARCIA, MARIXA
GARCIA, AURORA GARCIA DE
JACINTO, MARIA GARCIA-LEON,
FLOYD GLOVER, MARIA GONZALEZ,
XIU XIA HUANG, QUAN HUANG, CHIU
HUI, MANUELA HURTADO,
EVANGELINE JUAREZ, MARICELA
JUAREZ, CRISTINA KIRK, CUI KUANG,
JIAN KUANG, FONG LAM, YUE LEE,
ZHONG LI, XIU LI, TU LONG, MARIA
MARQUEZ, MARIA MARTINEZ,
MANUEL MEJIA, ROSALBA MENDEZ,
SARA MONTOYA, DENISE, NAVARRO,
MARIA OLIVA, DOMITRINI ORDOVEZA,
ANA ORNELAS, ROSA PADILLA,

Case No.:

**FIRST AMENDED COLLECTIVE
ACTION COMPLAINT**

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

JURY TRIAL DEMANDED

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CECILIA PALACIOS, ANA PALOMINO-DIAZ, CARRI PEARSON, MARGARITA PELAEZ, MARIA RAMIREZ, MARISSA RAMOS, TERESA RAMOS, MARIA RUIZ, MARYBEL RUIZ-CASTILLO, ESTELA SALDANA, KATRINA SCAUBATO, IMEDA SOLORZANO-YANES, AYL A SQUARTSOFF, ELODIA TORRES-DE ARELLANO, DO TRAN, BERNARDA TRUJILLO MARICELA URBINA, DELIA VELIZ-CLAVEL, ZHU WANG, FU WEI, BETTYE WILLIAMS, JIN XIAO, YI XU, JUAN ZHEN, XUELAN ZHONG, and BOQUAN ZHU on behalf of themselves and all others similarly situated,

Plaintiffs,

vs.

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

Defendants.

COME NOW Plaintiff CATHY BENSON, SAMANTHA AGUILAR, DINORA BACA, PRICILLA CALVERT, JOSE CANO, PHUNG CAO, DINH CAO-TRUONG, MARIA CARRILLO, MARIA CASTELLANOS, MAY CHAN, MARIA CHAVARIN, MARIA CHAVEZ-TRUJILLO, WU CHEN, GING CHUNG, ISMAELA CRUZ, KAREN D'AGOSTINO, TERESA DAVIS, ANJANETTE DAY, ROSALBA DIAZ, MYRINA DRUMMER, DIANA ELLISON, SIU FONG, JACQUELINE FORSTER, LUZVIMINADA GALINDO, BEN GALLARDO, LETICIA GARCIA, MARIXA GARCIA, AURORA GARCIA DE JACINTO, MARIA GARCIA-LEON, FLOYD GLOVER, MARIA GONZALEZ, XIU XIA HUANG, QUAN HUANG, CHIU HUI, MANUELA HURTADO, EVANGELINE JUAREZ, MARICELA JUAREZ, CRISTINA KIRK, CUI KUANG, JIAN KUANG, FONG LAM, YUE LEE, ZHONG LI, XIU LI, TU LONG, MARIA MARQUEZ, MARIA MARTINEZ, MANUEL MEJIA, ROSALBA MENDEZ, SARA MONTOYA,

DENISE, NAVARRO, MARIA OLIVA, DOMITRINI ORDOVEZA, ANA ORNELAS, ROSA PADILLA, CECILIA PALACIOS, ANA PALOMINO-DIAZ, CARRI PEARSON, MARGARITA PELAEZ, MARIA RAMIREZ, MARISSA RAMOS, TERESA RAMOS, MARIA RUIZ, MARYBEL RUIZ-CASTILLO, ESTELA SALDANA, KATRINA SCAUBATO, IMEDA SOLORZANO-YANES, AYL A SQUARTSOFF, ELODIA TORRES-DE ARELLANO, DO TRAN, BERNARDA TRUJILLO MARICELA URBINA, DELIA VELIZ-CLAVEL, SHU WANT, FU WEI, BETTYE WILLIAMS, JIN XIAO, YI XU, JUAN ZHEN, XUELAN ZHONG, BOQUAN ZHU (“Plaintiffs”), on behalf of themselves and all others similarly situated, and hereby alleges as follows:

All allegations in this First Amended 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 First Amended 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 CATHY BENSON is natural person who is and was a resident of the State of Nevada at all times relevant herein and was employed as a room attendant by Defendants from on or about July 2006 through on or about August 2015.

4. All other Plaintiffs, each of them, are natural persons who were employed as room attendants by Defendants throughout 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 First Amended 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 of them, were employed by Defendants as non-exempt hourly employees.

10. Lead named Plaintiff Benson and each and every other named Plaintiff were employed by Defendants as room attendants and were scheduled for, and regularly worked, five (5) shifts per week, at least eight (8) hours per shift, and forty (40) hours per workweek, worked hours over eight (8) in a day and/or over forty (40) in a workweek. Upon information and belief, all other persons employed as room attendants by Defendants were scheduled for and regularly worked the same or similar schedules.

11. Defendants required all employees who worked as a room attendant/housekeeper to engage in pre-shift work activities off the clock and without compensation. Room attendants were required to arrive 20 minutes or more prior to their regularly scheduled start time to present themselves to their shift supervisors for room/floor assignments, a uniform inspection, and to retrieve tools necessary to complete their work tasks,

1 including but not limited their caddies filled with room amenities, and their cleaning carts.
2 These tasks were completed off the clock and without compensation.

3 12. Lead named Plaintiff Benson and each and every one of the Plaintiffs listed
4 herein were required to complete these work tasks each and every shift worked and were not
5 paid their overtime wages. Based on Plaintiffs' knowledge and belief all employees who were
6 similarly employed as room attendants/housekeepers followed the same policy and procedure
7 as mandated by Defendants.

8 13. Lead named Plaintiff Cathy Benson was paid \$8.30 per hour. Thus, because
9 Defendants' required Ms. Benson to work at least 20 minutes of uncompensated work time
10 each and every shift worked, she is owed 1.67 hours or more of overtime; i.e., 20 minutes per
11 day at five days per week is equal to 100 minutes or one hour and 40 minutes. At the required
12 one and one half times her regular rate of pay of \$12.45 multiplied by 1.67 hours of overtime
13 she is owed \$20.79 per workweek worked.

14 14. Plaintiffs have attached Exhibit A to this First Amended Complaint which
15 contains a table of the calculation of one week of overtime owed to each additional named
16 Plaintiff herein based on their regular rate of pay.¹

17 15. Extracting unpaid work from Lead named Plaintiff Benson and each and every
18 other Plaintiff named herein, was achieved by either rounding hours so that employees who
19 were technically "on the clock" did not receive pay for all their recorded hours worked or by
20 having employees perform work without being logged in to the timekeeping system. Indeed,
21 Defendants maintain an unlawful rounding policy whereby it rounds the time recorded and
22 worked by all hourly employees to the nearest 15 minutes for purposes of calculating payment
23 of wages owed. Such rounding favors the employer and deprives the employees of pay for
24 time they actually perform work activities.

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27 _____
28 ¹ Plaintiffs do not have hourly wage rate information for the following Plaintiff: Mary Bel Ruiz-Castillo.

PLAINTIFFS' OPT-IN STATUS

16. Lead named Plaintiff Benson and each and every other Plaintiff named herein previously opted-in to *Tiffany Sargent, et. al. v. HG Staffing, LLC*, Case No. 3:13-cv-453-LRH-WGC ("*Sargent Action*"). Accordingly, the statute of limitations involved in this case is tolled from the date in which lead named Plaintiff Benson and all other plaintiffs opted-in to the Sargent Action.

COLLECTIVE ACTION ALLEGATIONS

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

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

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

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

B. Plaintiffs' situation is similar to those they seek to represent because Defendants failed to pay Plaintiffs and all other Class Members for all time they were required to work "off the clock" and without compensation but with the knowledge acquiescence and/or approval (tacit as well as expressed) of Defendants' managers and agents.

C. Common questions exist as to whether the time spent by Plaintiffs and all other Class Members engaging in pre-shift activities "off the clock" is compensable under federal law; and whether Defendants failed to pay Plaintiffs and Class Members

1 overtime at one and one half times their regular rate of pay for all hours worked in
2 excess of 40 hours a week.

3 D. Upon information and belief, Defendants employ, and has employed, in
4 excess of 328 Class Members within the applicable statute of limitations.

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

7 **FIRST CAUSE OF ACTION**

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

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

10 20. Plaintiffs reallege and incorporate by this reference all the paragraphs above in
11 this First Amended Complaint as though fully set forth herein.

12 21. 29 U.S.C. Section 207(a)(1) provides as follows: "Except as otherwise provided
13 in this section, no employer shall employ any of his employees who in any workweek is
14 engaged in commerce or in the production of goods for commerce, or is employed in an
15 enterprise engaged in commerce or in the production of goods for commerce, for a workweek
16 longer than forty hours unless such employee receives compensation for his employment in
17 excess of the hours above specified at a rate not less than one and one-half times the regular
18 rate at which he is employed."

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

22 23. By failing to compensate Plaintiffs and Class Members for the time spent
23 engaging in the pre-shift activities identified above without compensation, Defendants failed to
24 pay Plaintiffs and Class Members overtime for all hours worked in excess of forty (40) hours in
25 a week in violation of 29 U.S.C. Section 207(a)(1).

26 24. Defendants' unlawful conduct has been widespread, repeated, and willful.
27 Defendants knew or should have known that its policies and practices have been unlawful and
28 unfair.

25. Wherefore, Plaintiffs demand for themselves and for all others similarly situated, that Defendants pay Plaintiffs and all members of the Class one and one half times their regular hourly rate of pay for all hours worked in excess of forty (40) hours a week during the relevant time period alleged herein together with liquidated damages, 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.

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PRAYER FOR RELIEF

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

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

DATED: August 12, 2016

Respectfully Submitted,

THIERMAN BUCK LLP

/s/ Joshua D. Buck

Mark R. Thierman

Joshua D. Buck

Leah L. Jones

Attorneys for Plaintiffs

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Index of Exhibits

A. Spreadsheet Regarding Overtime Pay Owed Per Week