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8  
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10 **UNITED STATES DISTRICT COURT**  
11 **DISTRICT OF NEVADA**

12  
13 THOMAS READER, JOANNE  
ALEXANDER, MICHAEL ALMARAZ,  
14 CAITLIN ATCHLEY, RICHARD  
AURIERO, SANDRA AURELI, JOHN  
15 BAHURKA, WENDY BASSALLO,  
SHARON BENUM, JUSTINE BRADLEY,  
16 ALEXIS BRYANT, DENA BUCHANAN,  
MICHAEL BUTLER, MICHAEL CAIN,  
17 KATRINA CALLAN, MARY ANNE  
CAPILLA, TIFFANY CARRERA,  
18 TIFFANY CARTER, RICHARD CATLIN,  
III, DEAN COMOLETTI, JAMES CUSICK,  
19 KIMBERLY DIXON, MARQUEZ  
DONALDSON, KATHERINE DOWLING,  
20 NATHAN ERHART, GAVINO  
EVANGELISTA, SHELLEY FAUST,  
21 CLEVELAND GRIFFIN, CAITLIN GUNN,  
LESLIE HALL, KATHLEEN HALLMARK,  
22 BOO HAN, RUSSELL HARRINGTON,  
MANUEL HARRIS, ROBERT HASTINGS,  
23 PATRICK HEERAN, LIZ HEERAN,  
NATALYA HELD, BRIDGETTE HINES,  
24 IMOGEN HOLT, SARAH JONES, NIGEL  
JONES, THERESA KELLY-  
25 MONTGOMERY, STEPHANIE KNAUSS,  
JUSTINE LANG, YULIA LARSON,  
26 JUSTIN LEE, SCOTT LINDSAY, CHRIS

Case No.: 3:16-cv-00392-LRH-VPC

**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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DANNY MCGOWAN, MICHAEL MCKEE,  
MARIA MCKENZIE, CALLIE MIANO,  
RAY MORAIN, KEITH MORRISON, GINA  
NELSON, JENNIFER NICHOLS,  
KAROLINA OLECH, NATALIE ORDAS,  
ARLENE OSORMAN, KATHRYN OWEN,  
KEITH PARKINS, JARROD PEREZ,  
MARCELLA PLASCENCIA, ERIC  
PONSOCK, RICHARD POST, ROXANNE  
PRIMUS, HEATHER RAMIREZ, SCOTT  
REYNOLDS, CRYSTELLE RIFE, JAY  
RITT, GAY ROBERTS, BEVERLY  
RODRIGUEZ, MELISSA ROSINA,  
MARTHA ROYBAL, JODY RUSSELL,  
AMES SABELLANO-CLARK, VICKI,  
SEYLER, MISTY SHELBY, JENNIFER  
SHIELDS, CRAIG SIMON, SHAWN  
SKELTON, BRANDI SMITH, GABRIEL  
SMITH, KRYSTA STEIGLER, JEFFREY  
STEPRO, ROGER STEVENS, MARC  
STRASSNER, JOSIE SUSTIGUER, MARK  
THOMAS, DELLENA THOMPSON,  
SUSAN TIMM, JACKI TRUESDELL,  
CELENE VASQUEZ, WHITNEY  
VAUGHN, RACHEL WERNER, DANA  
WOLFF, MEI-SHING WRATSCHKO, and  
DEAN ZATTERSTROM 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 Plaintiffs THOMAS READER, JOANNE ALEXANDER, MICHAEL  
ALMARAZ, CAITLIN ATCHLEY, RICHARD AURIERO, SANDRA AURELI, JOHN  
BAHURKA, WENDY BASSO, SHARON BENUM, JUSTINE BRADLEY, ALEXIS  
BRYANT, DENA BUCHANAN, MICHAEL BUTLER, MICHAEL CAIN, KATRINA

1 CALLAN, MARY ANNE CAPILLA, TIFFANY CARRERA, TIFFANY CARTER,  
 2 RICHARD CATLIN, III, DEAN COMOLETTI, ROCIO CORIA, JAMES CUSICK,  
 3 KIMBERLY DIXON, MARQUEZ DONALDSON, KATHERINE DOWLING, NATHAN  
 4 ERHART, GAVINO EVANGELISTA, SHELLEY FAUST, CLEVELAND GRIFFIN,  
 5 CAITLIN GUNN, LESLIE HALL, KATHLEEN HALLMARK, BOO HAN, RUSSELL,  
 6 HARRINGTON, MANUEL HARRIS, ROBERT HASTINGS, PATRICK HEERAN, LIZ  
 7 HEERAN, NATALYA HELD, BRIDGETTE HINES, IMOGEN HOLT, SARAH JONES,  
 8 NIGEL JONES, THERESA KELLY-MONTGOMERY, STEPHANIE KNAUSS, JUSTINE  
 9 LANG, YULIA LARSON, JUSTIN LEE, SCOTT LINDSAY, CHRIS LITTLEFIELD,  
 10 SANDRA MARTINEZ, DANNY MCGOWAN, MICHAEL MCKEE, MARIA MCKENZIE,  
 11 CALLIE MIANO, RAY MORAIN, KEITH MORRISON, GINA NELSON, DANIELLE  
 12 NESBITT-ALCORN, JENNIFER NICHOLS, KAROLINA OLECH, NATALIE ORDAS,  
 13 ARLENE OSORMAN, KATHRYN OWEN, KEITH PARKINS, JARROD PEREZ,  
 14 MARCELLA PLASCENCIA, ERIC PONSOCK, RICHARD POST, ROXANNE PRIMUS,  
 15 HEATHER RAMIREZ, SCOTT REYNOLDS, CRYSTELLE RIFE, JAY RITT, GAY  
 16 ROBERTS, BEVERLY RODRIGUEZ, MELISSA ROSINA, MARTHA ROYBAL, JODY  
 17 RUSSELL, AMES SABELLANO-CLARK, VICKI, SEYLER, MISTY SHELBY, JENNIFER  
 18 SHIELDS, CRAIG SIMON, SHAWN SKELTON, BRANDI SMITH, GABRIEL SMITH,  
 19 KRYSTA STEIGLER, JEFFREY STEPPO, ROGER STEVENS, MARC STRASSNER,  
 20 JOSIE SUSTIGUER, MARK THOMAS, DELLENA THOMPSON, SUSAN TIMM, JACKI  
 21 TRUESDELL, CELENE VASQUEZ, WHITNEY VAUGHN, RACHEL WERNER, DANA  
 22 WOLFF, MEI-SHING WRATSCHKO, DEAN ZATTERSTROM ("Plaintiffs"), on behalf of  
 23 themselves and all others similarly situated, and hereby alleges as follows:

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

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**JURISDICTION AND VENUE**

1  
2 1. This Court has original jurisdiction over the federal claims alleged herein  
3 pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 216(b).

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

7 **PARTIES**

8 3. Lead named Plaintiff THOMAS READER is natural person who is and was a  
9 resident of the State of Nevada at all times relevant herein and was employed as a security  
10 guard and was required to attend pre-shift meetings by Defendants from on or about May 2008  
11 through on or about June 2013.

12 4. All other Plaintiffs, each of them, named herein are natural persons who were  
13 employed by Defendants throughout all times relevant herein.

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

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

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

26 8. The identity of DOES 1-50 is unknown at this time and this First Amended  
27 Complaint will be amended at such time when the identities are known to Plaintiffs. Plaintiffs  
28 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 T. Reader 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 similarly situated employees were scheduled for and regularly worked the same or similar schedules.

11. Defendants required all employees who worked as dealers, cocktail waitresses, bartenders, security guards, technicians, construction workers, and retail attendants to attend a pre-shift meeting without compensation. The pre-shift meetings were held in order to instruct employees on job duties, special events in the area and at the GSR, occupancy, and other job related information. Pre-shift meetings could take 10 minutes or more and were either held off the clock or during the period of time that was improperly rounded off of employees’ time cards.

12. Named Plaintiff T. Reader was required to attend these pre-shift meetings without compensation and for which he was not paid his minimum, regular rate, or overtime wages. Based on his knowledge and belief all employees who were similarly employed as dealers, cocktail waitresses, baristas, security guards, bartenders, and retail attendants followed the same policy and procedure as mandated by Defendant

13. Lead named T. Reader was paid \$11.00 per hour. Thus, because Defendants’ required Mr. Reader to work at least 10 minutes of uncompensated work time each and every shift worked, she is owed 50 minutes or more of overtime; i.e., 10 minutes per day at five days per week is equal to 50 minutes or .83. At the required one and one half times her regular rate of pay of \$16.50 multiplied by .83 hours of overtime she is owed \$13.70 per workweek worked.

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

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

#### **PLAINTIFFS’ OPT-IN STATUS**

16. Lead named Plaintiff T. Reader and all other Plaintiffs alleged herein previously opted-in to the case of *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 T. Reader 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 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 employed by Defendants, who worked more than forty (40) hours in any workweek, and who were required to attend a pre-shift meeting without compensation at any time during the relevant time period alleged herein.**

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<sup>1</sup> Plaintiffs do not have hourly wage rate information for the following Plaintiffs: Mary Anne Capilla and Gina Nelson.





enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed.”

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

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

24. Defendants’ unlawful conduct has been widespread, repeated, and willful. Defendants knew or should have known that its policies and practices have been unlawful and 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.

### **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;



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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