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*Attorneys for Plaintiffs*

IN THE SECOND JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR THE  
COUNTY OF WASHOE

EDDY MARTEL (also known as MARTEL-  
RODRIGUEZ), MARY ANNE CAPILLA,  
JANICE JACKSON-WILLIAMS, and  
WHITNEY VAUGHAN 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.

Case No.:

Dept. No.:

**CLASS ACTION COMPLAINT**

**(EXEMPT FROM ARBITRATION  
PURSUANT TO N.A.R. 5)**

- 1) Failure to Compensate for All Hours  
Worked in Violation of NRS 608.140 and  
NRS 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; and
- 4) Failure to Timely Pay All Wages Due and  
Owing in Violation of NRS 608.140 and  
608.020-050.

**JURY TRIAL DEMANDED**

COME NOW Plaintiffs EDDY MARTEL (also known as MARTEL-RODRIGUEZ),  
MARY ANNE CAPILLA, JANICE JACKSON-WILLIAMS, and WHITNEY VAUGHAN  
("Plaintiffs"), on behalf of themselves and all others similarly situated, and hereby alleges as  
follows:

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

### 5 JURISDICTION AND VENUE

6 1. The Nevada state district court has jurisdiction over the claims alleged herein  
7 because the amount in controversy exceeds \$10,000 and the parties seeking to recover unpaid  
8 wages have a private right of action pursuant to the Nevada Constitution, Nevada Revised Statute  
9 (“NRS”) sections 608.050 and 608.140, among others. *Baldonado v. Wynn Las Vegas, LLC*, 124  
10 Nev. 951 (Nev. 2008); *Lucatelli v. Texas de Brazil (Las Vegas) Corp.*, 2012 U.S. Dist. LEXIS  
11 66765, \*7 (D. Nev. May 11, 2012) (recognizing that the Nevada Supreme Court stated “it is  
12 “illogical” that a plaintiff who can privately enforce a claim for attorneys’ fees under NRS §  
13 608.140 cannot privately enforce the underlying claim the fees arose from”) (citing *Csomos v.*  
14 *Venetian Casino Resort, LLC*, No. 55203, 2011 Nev. Unpub. LEXIS 1629, 2011 WL 4378744,  
15 at \*2 (Nev. Sept. 19, 2011)); accord, *Busk v. Integrity Staffing Solutions, Inc.*, 2013 U.S. App.  
16 LEXIS 7397 (9th Cir. Nev. Apr. 12, 2013)(“Nevada Revised Statute § 608.140 does provide a  
17 private right of action to recoup unpaid wages.”) cert. granted 2014 WL 801096 (Mar. 3, 2014),  
18 rev’d on other grounds, No. 13-433, 2014 WL 6885951 (U.S. Dec. 9, 2014); *see also Doolittle*  
19 *v. Eight Judicial Dist. Court*, 54 Nev. 319, 15 P.2d 684; 1932 Nev. LEXIS 34 (1932) (recognizing  
20 that former employees have a private cause of action to sue their employer (as well as third party  
21 property owners where the work was performed) for wages and waiting penalties under NRS  
22 608.040 and NRS 608.050).

23 2. This Court also has supplemental jurisdiction to all claims for wages resulting  
24 from the same transaction or occurrence of not paying for all hours worked, or working  
25 employees “off the clock” in violation of Article 15 section 16 of the Nevada State Constitution,  
26 for which there is an express private right of action contained therein, and requiring Plaintiffs to  
27 split its causes of action could lead to inconsistent adjudication and would be judicially  
28 inefficient.

3. Venue is proper in the Nevada state district court because one or more of the Defendants named herein maintains its principal place of business, or otherwise is found, in that judicial district, and the acts complained of herein occurred in Washoe County.

4. Pursuant to NRS 608.050(2), the Nevada state district court has jurisdiction to foreclose the lien for the wages alleged due herein on the place of employment, as provided in NRS 108.221 to 108.246, inclusive.

### **PARTIES**

5. Plaintiff EDDY MARTEL (also known as MARTEL-RODRIGUEZ) is natural person who is and was a resident of the State of Nevada at all times relevant herein and was employed as an attendant in the Bowling Center by Defendants from on or about January 2012 through on or about July 2014.

6. Plaintiff MARY ANNE CAPILLA is a natural person who is and was a resident of the State of Nevada at all times relevant herein and was employed as a dealer by Defendants from on or about March 2011 to on or about September 2013.

7. Plaintiff JANICE JACKSON-WILLIAMS 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 April 2014 through on or about December 2015.

8. Plaintiff WHITNEY VAUGHAN is natural person who is and was a resident of the State of Nevada at all times relevant herein and was employed as a dancing dealer (part cards dealer, part go-go dancer) by Defendants from on or about August 2012 through on or about June 2013.

9. 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.

10. Defendant MEI-GSR HOLDINGS, LLC is a Nevada Limited Liability Company located at 2500 East Second Street, Reno, NV 89585. Defendants MEI-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.

11. Defendants, and each of them, are an employer under the provisions of Nevada Revised Statutes Chapter 608. For labor relations purposes, Defendants are each and together constitute the employer and/or joint employer of Plaintiffs and all Plaintiff class members (hereinafter referred to as "Class Members").

12. 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**

13. Plaintiffs were employed by Defendants as non-exempt hourly employees.

14. Plaintiffs Capilla and Jackson-Williams were scheduled for, and regularly worked, five (5) shifts per week, at least eight (8) hours per shift, and forty (40) hours per workweek and worked jammed shifts especially during special events and busy periods such as, but not limited to, concerts, Burning Man, Hot August Nights, and Street Vibrations.

15. Plaintiffs Martel and Vaughan worked shifts over eight hours per shift one or more times a week on a regular basis and worked jammed shifts especially during special events and busy periods such as, but not limited to, concerts Burning Man, Hot August Nights, and Street Vibrations.

16. At all times relevant herein, Defendants maintained the following policies, practices, and procedures of requiring various employees to perform work activities without compensation. This 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.

**A. DEFENDANTS' CASH BANK POLICY**

17. Defendants required 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 the job positions that required employees to carry a cash bank: cashiers, bartenders, change persons, slot attendants, retail attendants, arcade attendants, and front desk agents.

18. Defendants required all employees who carry a cash bank to retrieve and deposit their respective cash bank both before and after the employees' regularly scheduled shifts without compensation. As an example of this policy, Named Plaintiff Martel was required to collect his bank of money at the dispatch cage prior to proceeding to his workstation and without compensation. Similarly, at the end of his regularly scheduled shifts, Plaintiff Martel was required to reconcile and deposit his cash banks to the same dispatch cage without compensation. Upon information and belief, all employees who were required to carry a cash bank had to retrieve their cash bank from the same dispatch cage pre- and post-shift and without compensation.

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

**B. DEFENDANTS' DANCE CLASS POLICY**

20. Defendants required all employees who worked as a servetainer and dancing dealer to learn dance routines and attend rehearsals without compensation. If the employee did not attend dance classes they would be taken off the schedule and written up for misconduct.

21. When named Plaintiff Vaughan was a dancing dealer she was required to attend dance classes of an hour or more, two to four times a week for which she was not paid her minimum, regular rate, or overtime wages and after she had already worked a full shift. Additionally, dance classes were usually held on Saturday mornings and it was not unusual to be

scheduled to work a full shift the Friday night into Saturday, then be required to attend dance class that same morning. Upon information and belief, all other GSR employees who were similarly employed as servetainers and dancing dealers were not compensated for the time in which they attended mandatory dance classes.

### C. DEFENDANTS' ROOM ATTENDANT PRE-SHIFT POLICY

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

23. Named Plaintiff Jackson-Williams was required to complete these work tasks each and every shift worked and was not paid her minimum, regular rate, or overtime wages. Based on her knowledge and belief all employees who were similarly employed as room attendants/housekeepers followed the same policy and procedure as mandated by Defendants.

### D. DEFENDANTS' PRE-SHIFT MEETING POLICY

24. Defendants required all employees who worked as cocktail waitresses, bartenders, dealers, 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.

25. Named Plaintiffs Capilla and Martel were required to attend these pre-shift meetings without compensation and for which they were not paid their minimum, regular rate, or overtime wages. Based on their 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 Defendants.

**E DEFENDANTS' UNIFORM POLICY**

26. Defendants required all employees who worked as dancing dealers, cocktail waitresses, and baristas to change into and out of their uniforms on the GSR premises without compensation.

27. Named Plaintiff Vaughan was required to change into and out of her uniform on the GSR premises without compensation and for which she was not paid her minimum, regular rate, or overtime wages. Changing into and out of uniforms could take 15 minutes or more and employees either changed off the clock and/or were changing during the period of time that was improperly rounded off of employees' time cards.

28. Based on Plaintiff Vaughan's knowledge and belief all employees who were similarly employed as dancer dealers, cocktail waitresses, and baristas followed the same policy and procedure mandated by Defendants.

**F. DEFENDANTS' SHIFT JAMMING POLICY**

29. In addition to requiring employees to perform work activities without compensation, Defendants engaged in the unlawful practice known as "shift-jamming."

30. Pursuant to NRS 608.018(1), employees who are paid less than one and one half times the minimum wage must be paid daily overtime if they work more than 8 hours a day (or 10 hours in a day if they are on a recognized and agreed upon 4-10 workweek—four days a week at ten hours a day).

31. NRS 608.0126 defines a "Workday" as a period of 24 consecutive hours, which begins when the employee begins work.

32. Upon information and belief, Defendants did not offer health insurance to qualify for the lower minimum wage for insured employees.

33. Thus, hourly employees paid less than \$12.375 who the Defendants required, suffered or permitted to return to work before the expiration of 16 hours between when they last worked for the employer and started their next shift, must be paid at overtime rates until the end of that workday.

34. Defendants routinely required employees who were entitled to daily overtime to return to work sooner than 16 hours from when they last worked, whether it to be for their normal job duties or a special event, during high occupancy periods such as for concerts, Burning Man, Hot August Nights, and Street Vibrations, or mandatory meetings, without paying the proper overtime rate.

35. Plaintiffs were scheduled to and did work shifts with less than 16 hours between the end of one shift and the beginning of the next without being paid overtime premium for hours worked over eight in a workday.

36. Defendants have admitted that they did not pay employees for jammed shifts for the period of time between November 4, 2011 and July 11, 2014 for “certain team members.” See Exhibit 1 attached, hereinafter “Audit Letter.”

37. The claim for unpaid overtime wages pursuant to Defendants’ shift jamming policy is only brought on behalf of employees who are not covered by a valid and effective collective bargaining agreement.

### **CLASS ACTION ALLEGATIONS**

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

39. Plaintiffs seek to represent the following classes of employees in Defendants’ employ during the relevant time period<sup>1</sup>:

<sup>1</sup> On June 21, 2013 Plaintiffs Tiffany Sargent and Bailey Cryderman filed a proposed class action for failure to pay wages due and owing in the Second Judicial District Court of the State of Nevada in and for the County of Washoe. (See CV13 01351.) Defendants removed that action to the United States District Court District of Nevada on August 22, 2013. Plaintiffs’ claims asserted in the instant Complaint were dismissed prior to being certified as a class action on January 12, 2016. Thus, pursuant to *American Pipe & Construction Co., v. Utah*, the Plaintiffs’ claims here, and those of the proposed class, have been tolled as of the date of the filing of that complaint. See e.g., *American Pipe & Constr. Companys. Utah*, 414 U.S. 538,554,94 3X1756, 38 L.Ed. 2nd (1974) (Fed.Rules Civ.Proc. rules 23, 23(a), (a)(1–4), (b)(3), (c)(1), (d)(3), 24, 24(a), (a)(2), (b), (b)(2), 28 U.S.C.A.; Clayton Act, §§ 4B, 5(b), 15 U.S.C.A. §§ 15b, 16(b)) (Commencement of class action suspends applicable statute of limitations as to all asserted members of class who would have been parties had the suit been permitted to continue as class action.); *Crown, Cork & Seal Co. v. Parker*, 462 U.S. 345,354,103 S. Ct. 2392, 76 L. Ed. 2nd 628 (1983) (tolling rule of *American Pipe* applies not just to interveners, but also to class



A. **Cash Bank Class:** All Nevada residents who were employed by Defendants at the time of filing the original complaint in this action and who were required to carry a cash bank and performed banking activities without compensation, including (but not limited to), cashiers, bartenders, slot attendants, retail attendants, change attendants, and front desk agents, at any time from March 31, 2011 to the present<sup>2</sup>;

B. **Dance Class:** All Nevada residents who were employed by Defendants at the time of filing the original complaint in this action and who were required to attend dance classes without compensation at any time from March 31, 2011 to the present;

C. **Room Attendant Class:** All Nevada residents who were employed by Defendants at the time of filing the original complaint in this action and who were employed as room attendants and were required to perform pre-shift work activities without compensation at any time from March 31, 2011 to the present;

D. **Pre-shift Meeting Class:** All Nevada residents who were employed by Defendants at the time of filing the original complaint in this action and who were required to attend pre-shift meetings without compensation, including (but not limited to), cocktail waitresses, bartenders, dealers, security guards, technicians, construction workers, and retail attendants, at any time from March 31, 2011 to the present.

E. **Uniform Class:** All Nevada residents who were employed by Defendants at the time of filing the original complaint in this action and who were employed as cocktail waitresses and/or baristas and were required to change into and out of their uniforms on property without compensation at any time from March 31, 2011 to the present.

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members who wish to file separate actions); *Allen v. KB Home Nevada Inc.*, 2013 WL 8609775 (Nev.Dist.Ct.), 1. (“It is determined that pursuant to *Jane Roe Dancer I-VII v. Golden Coin, Ltd.*, 124 Nev. 28, 176 P.3d 271 (2008), that based on the complaint filed on December 2, 2008, which alleges class action status as a remedy, the statute of limitations and/or repose is tolled for all putative class members. Additionally, the *American Pipe* tolling rule applies to putative class members filing individual actions as well as to interveners.) (internal citations omitted).

<sup>2</sup> The current owners, HG STAFFING, LLC, MEI-GSR HOLDINGS LLC purchased the property known as the Grand Sierra Resort (“GSR”), March 31, 2011.

F. **Shift Jamming Class:** All Nevada residents who were employed by Defendants at the time of filing the original complaint in this action and who were employed by Defendants as non-exempt hourly paid employees and were not covered by a valid and effective collective bargaining agreement and who worked subjected to Defendants' shift jamming policy.

40. Class treatment is appropriate in this case for the following reasons:

A. The Class is Sufficiently Numerous<sup>3</sup>: Upon information and belief, Defendants employ, and have employed, approximately 717 Cash Bank Class Members, approximately 55 Dance Class Members, approximately 328 Room Attendant Class Members, approximately 1,377 Pre-Shift Meeting Class Members, approximately 321 Uniform Class Members, and approximately 481 Shift Jamming Class Members.

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 Plaintiffs to work “off the clock” and without compensation; Defendants' engaged in improper shift jamming; and Defendants failed to pay wages due and owing at the time of separation of employment.

C. Common Questions of Law and Fact Exist: Common questions of law and fact exist and predominate as to Plaintiffs and the Class, including, without limitation: Whether the time spent by Plaintiffs and Class Members engaging in the alleged “off-the-clock” work is compensable under Nevada law; whether Defendants' engaged in improper shift jamming; and whether Defendants failed to pay wages due and owing at the time of separation of employment.

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

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<sup>3</sup> Plaintiffs base the approximate class members on number of employees who hold and/or held the positions encompassed by the subclasses, which were provided as part of the Master Class List in the *Sargent* case attached as Exhibit 2.

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

### 11 **FIRST CAUSE OF ACTION**

12 Failure to Pay Wages for All Hours Worked in Violation of NRS 608.140 and 608.016  
13 (On Behalf of All Plaintiffs and the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, and  
14 Uniform Classes Against All Defendants)

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

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

19 42. NRS 608.016 states, "An employer shall pay to the employee wages for each hour  
20 the employee works." Hours worked means anytime the employer exercises "control or custody"  
21 over an employee. See NRS 608.011 (defining an "employer" as "every person having control  
22 or custody . . . of any employee."). Pursuant to the Nevada Administrative Code, hours worked  
23 includes "all time worked by the employee at the direction of the employer, including time  
24 worked by the employee that is outside the scheduled hours of work of the employee." NAC  
25 608.115(1).

26 43. By failing to compensate Plaintiffs and members of the Cash Bank, Dance, Room  
27 Attendant, Pre-shift Meeting and Uniform Classes for the time spent performing the work  
28

activities without compensation identified above, Defendants failed to pay Plaintiffs and members of those classes for all hours worked in violation of NRS 608.140 and 608.016.

44. Wherefore, Plaintiffs demand for themselves and for all members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting and Uniform Classes payment by Defendants at the regular hourly rate of pay for all hours worked during the during the relevant time period alleged herein 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 All Plaintiffs and the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, and Uniform Classes Against All Defendants)

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

46. 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."

47. By failing to compensate Plaintiffs and members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, and Uniform Classes any sort of compensation (zero dollars) for the time spent performing the work activities identified above, Defendants failed to pay Plaintiffs and members of those classes minimum wages for all hours worked in violation of the Nevada Constitution.

48. Wherefore, Plaintiffs demand for themselves and for all for all members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, and Uniform Classes payment by

Defendants at the minimum wage rate for all hours worked during the relevant time period alleged herein 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 All Plaintiffs and the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, Uniform, and Shift Jamming Classes Against All Defendants)

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

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

51. 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.

52. 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.

53. By failing to compensate Plaintiffs and members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, Uniform, and Shift Jamming Classes for the time spent performing the work activities without compensation identified above, Defendants failed to pay Plaintiffs and those class members overtime premium pay for all hours worked over eight (8) hours in a workday to those 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 time and

one half their regular rate for all members of the Class who worked in excess of forty (40) hours in a week in violation of NRS 608.140 and 608.018.

54. Wherefore, Plaintiffs demand for themselves and for and members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, Uniform, and Shift Jamming Classes that Defendants pay Plaintiffs and those class members one and one half times their “regular rate” of pay for all hours worked in excess of eight (8) hours in a workday and in excess of forty (40) hours a workweek during the relevant time period alleged herein together with attorneys’ fees, costs, and interest as provided by law.

#### **FOURTH 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 All Plaintiffs and former employees of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, Uniform, and Shift Jamming Classes Against All Defendants)

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

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

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

58. 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.”

59. 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

1 in the contract of employment for each day the employer is in default, until the employee is paid  
2 in full, without rendering any service therefor; but the employee shall cease to draw such wages  
3 or salary 30 days after such default.”

4 60. By failing to pay Plaintiffs and former employees of the Cash Bank, Dance, Room  
5 Attendant, Pre-shift Meeting, Uniform, and Shift Jamming Classes for all hours worked in  
6 violation of the state laws identified herein, Defendants have failed to timely remit all wages due  
7 and owing to Plaintiffs and all members of those classes who are former employees.

8 61. Despite demand, Defendants willfully refuse and continue to refuse to pay  
9 Plaintiffs and members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, Uniform,  
10 and Shift Jamming Classes who are former employees all the wages that were due and owing  
11 upon the termination of their employment.

12 62. Wherefore, Plaintiffs demand thirty (30) days wages under NRS 608.140 and  
13 608.040, and an additional thirty (30) days wages under NRS 608.140 and 608.050, for all  
14 members of the Cash Bank, Dance, Room Attendant, Pre-shift Meeting, Uniform, and Shift  
15 Jamming Classes who have terminated employment from Defendants during the relevant time  
16 period alleged herein together with attorneys’ fees, costs, and interest as provided by law.

17 **JURY TRIAL DEMANDED**

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

19 **PRAYER FOR RELIEF**

20 Wherefore Plaintiffs, individually and on behalf of all Members of the Classes alleged  
21 herein, pray for relief as follows:

- 22 1. For an order certifying the action as a class action under Nevada Rule of Civil  
23 Procedure Rule 23 on behalf of all members of the Classes;  
24 2. For an order appointing Plaintiffs as the Representative of the Classes and their  
25 counsel as Class Counsel for the Classes;  
26 3. For damages according to proof for regular rate pay under NRS 608.140 and  
27 608.016 for all hours worked;  
28

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

**AFFIRMATION**

*The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court of the State of Nevada, County of Washoe, does not contain the social security number of any person.*

DATED: June 14, 2016.

Respectfully Submitted,

**THIERMAN BUCK LLP**

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

*Attorneys for Plaintiffs*



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2. Master Class List