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8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 STEVEN JAMES, on behalf of himself and all  
11 others similarly situated,

12 Plaintiffs,

13 v.

14 WG-HARMON, LLC; HRHH GAMING  
15 SENIOR MEZZ, LLC dba HARD ROCK  
16 HOTEL & CASINO LAS VEGAS and DOES  
17 1 through 50, inclusive,

18 Defendants.

Case No.: A-17-761091-C

Dept. No.: Department 8

**COLLECTIVE AND CLASS ACTION  
COMPLAINT**

- 1) Failure to Pay Wages for All Hours Worked in Violation of 29 U.S.C. § 201, et. seq;
- 2) Failure to Pay Overtime in Violation of 29 U.S.C. § 207;
- 3) Failure to Pay Overtime at the Correct Rate, 29 U.S.C. § 207
- 4) Failure to Compensate for All Hours Worked in Violation of NRS 608.140 and 608.016;
- 5) Failure to Pay Minimum Wages in Violation of the Nevada Constitution;
- 6) Failure to Pay Overtime in Violation of NRS 608.140 and 608.018;
- 7) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.140 and 608.020-050; and
- 8) Breach of Contract

**JURY TRIAL DEMANDED**

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COME NOW Plaintiff STEVEN JAMES (“Plaintiff”), on behalf of himself and all others similarly situated, and allege the following:

All allegations in this Complaint are based upon information and belief except for those allegations that pertain to the Plaintiff named herein and his 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 state law claims alleged herein because the amount in controversy exceeds \$10,000 and because Plaintiff has a private right of action for minimum wages for all hours worked pursuant to Section 16 of Article 15 of the Nevada State Constitution. Article 15, Section 16(B) of the Constitution of the State of Nevada states in relevant part: “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.”

2. In addition, this court has jurisdiction over the Nevada statutory claims alleged herein because the parties seeking to recover unpaid wages have a private right of action pursuant to the Nevada Constitution, Nevada Revised Statute (“NRS”) sections 608.050 and 608.140, among others. *Baldonado v. Wynn Las Vegas, LLC*, 124 Nev. 951 (Nev. 2008); *Lucatelli v. Texas de Brazil (Las Vegas) Corp.*, 2012 U.S. Dist. LEXIS 66765, \*7 (D. Nev. May 11, 2012) (recognizing that the Nevada Supreme Court stated “it is “illogical” that a plaintiff who can privately enforce a claim for attorneys’ fees under NRS § 608.140 cannot privately enforce the underlying claim the fees arose from”) (citing *Csomos v. Venetian Casino Resort, LLC*, No. 55203, 2011 Nev. Unpub. LEXIS 1629, 2011 WL 4378744, at \*2 (Nev. Sept. 19, 2011)); accord, *Busk v. Integrity Staffing Solutions, Inc.*, 2013 U.S. App. LEXIS 7397 (9th Cir. Nev. Apr. 12, 2013) (“Nevada Revised Statute § 608.140 does provide a private right of action to recoup unpaid

1 wages.”) cert. granted 2014 WL 801096 (Mar. 3, 2014), rev’d on other grounds, No. 13-433, 2014  
2 WL 6885951 (U.S. Dec. 9, 2014); *Evans v. Wal-Mart Stores, Inc.*, No. 14-16566, 2016 WL  
3 4269904 (9th Cir. August 15, 2016) (Terminated employees have a private right of action for  
4 statutorily mandated overtime premium pay both as wages and as compensation under NRS  
5 608.040 and 608.050); *see also Doolittle v. Eight Judicial Dist. Court*, 54 Nev. 319, 15 P.2d 684;  
6 1932 Nev. LEXIS 34 (1932) (recognizing that former employees have a private cause of action  
7 to sue their employer (as well as third party property owners where the work was performed) for  
8 wages and waiting penalties under NRS 608.040 and NRS 608.050).

9 3. This Court also has jurisdiction over the federal claims alleged herein pursuant to  
10 Fair Labor Standards Act (“FLSA”) because 29 U.S.C. § 216(b) states (emphasis supplied): “An  
11 action to recover the liability prescribed in either of the preceding sentences may be maintained  
12 against any employer (including a public agency) in any Federal *or State court of competent*  
13 *jurisdiction* by any one or more employees for and in behalf of himself or themselves and others  
14 employees similarly situated.” Plaintiff has, or will shortly, file with this court a consent to join  
15 this action. This Court also has jurisdiction over the federal claims alleged under the Fair Credit  
16 and Reporting Act (“FCRA”), 15 U.S.C. § 1681b(b)(2)(A)(i).

17 4. Venue is proper in this Court because one or more of the Defendants named herein  
18 maintains a principal place of business or otherwise is found in the judicial district the acts  
19 complained of herein occurred in Clark County, Nevada.

20 **PARTIES**

21 5. Plaintiff STEVEN JAMES (“Plaintiff” or “JAMES”) is a natural person who is  
22 and was a resident of the State of Nevada and who, within the last three years, has been employed  
23 by Defendants as a non-exempt hourly employee at 4455 Paradise Rd, Las Vegas, Nevada.

24 6. Defendant WG-HARMON, L.L.C. is a Nevada Limited Liability Company whose  
25 managing member is WILLIAM W. WARNER, located at 6720 Via Austi Parkway, Suite 400,  
26 Las Vegas, NV 89119.

27 7. Defendant HRHH GAMING SENIOR MEZZ, LLC is a Nevada Limited Liability  
28 Company whose managing member is BREF HR MANAGEMENT L.L.C., located at Brookfield

1 Place, 250 Vesey St., 15th Fl., New York, N.Y. 10281. Defendant HRHH GAMING SENIOR  
2 MEZZ, L.L.C is doing business under the fictitious business name of Hard Rock Hotel & Casino  
3 Las Vegas, which is located at 4455 Paradise Rd, Las Vegas, NV 4455 Paradise Rd, Las Vegas,  
4 NV.

5 8. Defendants, and each of them, are an employer under the provisions of Nevada  
6 Revised Statutes Chapter 608 and are engaged in commerce for the purposes of the Fair Labor  
7 Standards Act, 29 U.S.C. § 201 *et. seq.* For labor relations purposes, Defendants are each and  
8 together constitute the employer and/or joint employer of Plaintiff and all Plaintiff class members  
9 (hereinafter referred to as “Class Members”).

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

15 **FACTUAL ALLEGATIONS**

16 10. At all times relevant herein, Defendant HRHH GAMING SENIOR MEZZ, LLC  
17 has owned and operated the Hard Rock Hotel & Casino Las Vegas.

18 11. Defendant WG-HARMON, L.L.C. is a hospitality management company that  
19 provides management services to the Hard Rock Hotel and Casino Las Vegas. WG HARMON,  
20 L.L.C. provides a wide variety of services for its clients, and contractually assumes exclusive  
21 responsibility and authority to direct the selection, control, promotion, discipline, and discharge  
22 of all employees employed by the client at the managed facility. In line with this responsibility,  
23 WG HARMON, L.L.C. assumes the responsibility and authority to modify and administer  
24 employee policies for the client’s facility.

25 12. At all times relevant herein, Defendant HRHH GAMING SENIOR MEZZ, LLC  
26 has contracted with Defendant WG HARMON, L.L.C. (“Defendants”) to manage the Hard Rock  
27 Hotel & Casino Las Vegas property. The management contract granted Defendant WG  
28 HARMON, L.L.C. exclusive responsibility and authority to direct the selection, control,

1 promotion, discipline, and discharge of all employees employed by Defendants at the Hard Rock  
2 Hotel & Casino Las Vegas property. Likewise, the management contract assigned Defendant WG  
3 HARMON, L.L.C. the responsibility and authority to modify and administer employee policies  
4 for the Hard Rock Hotel & Casino Las Vegas.

5 13. At all times relevant herein, Defendants employed Plaintiff as an hourly paid (non-  
6 exempt) employee at their Hard Rock Hotel and Casinos at their Las Vegas location.

7 **DEFENDANTS' OFF-THE-CLOCK POLICY**

8 14. Pursuant to Defendants HRHH GAMING SENIOR MEZZ, LLC, and WG-  
9 HARMON, LLC's company-wide employment policy and practice, Defendants maintained a rule  
10 requiring Plaintiff James and all other non-exempt hourly paid employees at the Las Vegas  
11 location to arrive three to seven minutes early to complete pre-shift tasks prior to the start of their  
12 regularly scheduled shifts. These tasks included, but were not limited to, picking up equipment  
13 necessary for the performance of the employee's job, walking across the facility to the employee's  
14 designated post, and attending pre-shift meetings with the outgoing employee to receive  
15 instructions and relay any ongoing issues or concerns. These tasks took approximately three to  
16 seven minutes prior to each and every shift and were for Defendants' benefit. Plaintiff James and  
17 all other non-exempt hourly paid employees at the Las Vegas location were not compensated for  
18 the time spent completing these tasks.

19 15. Although Defendants required Plaintiff James and all other non-exempt hourly  
20 paid employees to show up, clock in, and begin work three to seven minutes prior to the start of  
21 their regularly scheduled shift, Defendants did not pay Plaintiff James for this time. Instead,  
22 Defendants knowingly required, suffered or permitted their employees to work without  
23 compensation—i.e., "off the clock." This was achieved by either rounding hours so that  
24 employees who were technically "on the clock" did not receive pay for all their recorded hours  
25 worked or by having employees perform work without being logged in to the timekeeping system.

26 16. Because employees were required to perform work before their shifts, but were  
27 not allowed to clock in more than seven minutes prior to their shift, Defendants' one-sided  
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1 rounding policy consistently rounded to Defendants’ benefit at the expense of Plaintiff James and  
2 all other non-exempt hourly paid employees.

3 **DEFENDANTS’ POLICY OF PAYING OVERTIME AT THE INCORRECT RATE**

4 17. Defendants paid Plaintiff James and certain other Class Members bonuses and/or  
5 other non-discretionary payments without including the amount paid for these bonuses and/or  
6 other non-discretionary payments in the regular rate for purposes of calculation of overtime  
7 payment due. Upon information and belief, all other Class Members employed by Defendants  
8 were paid in the same manner.

9 **COLLECTIVE AND CLASS ACTION ALLEGATIONS**

10 18. Plaintiff realleges and incorporates by this reference all the paragraphs above in  
11 this Complaint as though fully set forth herein.

12 19. Plaintiff brings this action on behalf of himself and all other similarly situated and  
13 typical employees as both a collective action under the FLSA and a true class action under Nevada  
14 law. Plaintiff brings this action on behalf of a class that is defined as follows:

15 a. **The Las Vegas Class: All current and former non-exempt employees who**  
16 **were employed by Defendants during the relevant time period alleged herein.**

17 20. With regard to the conditional certification mechanism under the FLSA, Plaintiff  
18 is similarly situated to those that he seeks to represent for the following reasons, among others:

19 A. Defendants employed Plaintiff as an hourly employee who did not receive  
20 pay for all hours that Defendants suffered or permitted him to work, and did not receive  
21 overtime premium pay of one and one half times their regular rate of pay for all hours  
22 worked over forty (40) hours in a workweek and, to the extent they did receive overtime  
23 pay, they received the pay in an incorrect amount.

24 B. Plaintiff’s situation is similar to those he seek to represent because  
25 Defendants failed to pay Plaintiff and all other members of the class (“Class Members”)  
26 for all time they were required to work “off the clock” and without compensation but with  
27 the knowledge acquiescence and/or approval (tacit as well as expressed) of Defendants’  
28 managers and agents.

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C. Common questions exists whether the time spent by Plaintiff and all other Class Members engaging in pre-shift activities “off the clock” is compensable under federal law; whether Defendants failed to pay Plaintiff and Class Members for all hours worked; and whether Defendants failed to pay Plaintiff and Class Members overtime at one and one half times their correct regular rate of pay for all hours worked in excess of 40 hours a week

D. Upon information and belief, Defendants employ, and have employed, several hundred Class Members within the applicable statute of limitations.

E. Plaintiff has already filed or will file his consent to sue with the Court. Consent to sue are not required for state law claims under NRCPP 23.

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

A. The Class is Sufficiently Numerous: Upon information and belief, Defendants employ, and have employed, several hundred Class Members within the applicable statute of limitations.

B. Plaintiff’s Claims are Typical to Those of Fellow Class Members: Each Class Member is and was subject to the same practices, plans, or policies as Plaintiff— Defendants required Plaintiff to work “off the clock” and without compensation, and Defendants failed to compensate Plaintiff at the legally correct overtime rate.

C. Common Questions of Law and Fact Exist: Common questions of law and fact exist and predominate as to Plaintiff and the Class, including, without limitation: Whether the time spent by Plaintiff and Class Members engaging in the alleged “off-the-clock” work is compensable under Nevada law; and whether Defendants included non-discretionary bonuses, commissions or other types of remuneration into the regular rate for overtime pay calculations.

D. Plaintiff Is An Adequate Representatives of the Class: Plaintiff will fairly and adequately represent the interests of the Class because Plaintiff is a member of the Class, he has issues of law and fact in common with all members of the Class, and he does not have interests that are antagonistic to Class Members.

1 E. A Class Action is Superior/Class Claims Predominate: 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. For these reasons, class claims predominate and  
11 a class action would be a more efficient way of adjudicating these claims.

12 **FIRST CAUSE OF ACTION**

13 Failure to Pay Wages in Violation of the FLSA, 29 U.S.C. § 201, *et seq.*

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

16 23. Pursuant to the FLSA, 29 U.S.C. § 201, *et seq.*, Plaintiff and Class Members are  
17 entitled to compensation at their regular rate of pay or minimum wage rate, whichever is higher,  
18 for all hours actually worked.

19 24. 29 U.S.C. § 206(a)(1) states that “Every employer shall pay to each of his  
20 employees who in any workweek is engaged in commerce or in the production of goods for  
21 commerce, or is employed in an enterprise engaged in commerce or in the production of goods  
22 for commerce, wages at the following rates: (1) except as otherwise provided in this section, not  
23 less than (A) \$5.85 an hour beginning on the 60th day after the enactment of the Fair Minimum  
24 Wage Act of 2007; (B) \$6.55 an hour, beginning 12 months after that 60th day; and C) \$7.25 an  
25 hour, beginning 24 months after that 60th day.”

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



26. By failing to compensate Plaintiff and Class Members for the time spent engaging in off-the-clock activities identified above, Defendants failed to pay Plaintiff and the Class Members for all hours worked.

27. 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.

28. Wherefore, Plaintiff demand for himself and for all others similarly situated, that Defendants pay Plaintiff and all other members of the Class their minimum hourly wage rate or their regular rate of pay, whichever is greater, for all hours worked during the relevant time period alleged herein together with liquidated damages, attorneys' fees, costs, and interest as provided by law.

**SECOND CAUSE OF ACTION**

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

29. Plaintiff realleges and incorporates by this reference all the paragraphs above in this Complaint as though fully set forth herein.

30. 29 U.S.C. Section 207(a)(1) provides as follows: "Except as otherwise provided in this section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an 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."

31. 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.

32. By failing to compensate Plaintiff and Class Members for the time spent engaging in off-the-clock activities identified above, Defendants failed to pay Plaintiff 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).

1 33. Defendants’ unlawful conduct has been widespread, repeated, and willful.  
2 Defendants knew or should have known that its policies and practices have been unlawful and  
3 unfair.

4 34. Wherefore, Plaintiff demands for himself and for all others similarly situated, that  
5 Defendants pay Plaintiff and all members of the Class one and one half times their regular hourly  
6 rate of pay for all hours worked in excess of forty (40) hours a week during the relevant time  
7 period alleged herein together with liquidated damages, attorneys’ fees, costs, and interest as  
8 provided by law.

9 **THIRD CAUSE OF ACTION**

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

11 35. Plaintiff realleges and incorporates by this reference all the paragraphs above in  
12 this Complaint as though fully set forth herein.

13 36. 29 U.S.C. Section 207(e) defines the regular rate “at which an employee is  
14 employed shall be deemed to include all remuneration for employment paid to, or on behalf of,  
15 the employee” (with certain exceptions not relevant here) divided by the hours worked.

16 37. By failing to include bonuses and other non-discretionary payments in the total  
17 sum earned before dividing by hours worked, Defendants failed to pay the correct hourly rate for  
18 overtime hours worked.

19 38. Defendants’ unlawful conduct has been widespread, repeated, and willful.  
20 Defendants knew or should have known that its policies and practices have been unlawful and  
21 unfair.

22 39. Wherefore, Plaintiff demand for himself and for all others similarly situated, that  
23 Defendants pay and reimburse Plaintiff and all members of the Class at the correct overtime rate  
24 one and one half times their regular hourly rate of pay for all hours worked in excess of forty (40)  
25 hours a week during the relevant time period alleged herein together with liquidated damages,  
26 attorneys’ fees, costs, and interest as provided by law.

27 **FOURTH CAUSE OF ACTION**

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

1 40. Plaintiff realleges and incorporates by this reference all the paragraphs above in  
2 this Complaint as though fully set forth herein.

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

5 42. NRS 608.016 states that “An employer shall pay to the employee wages for each  
6 hour the employee works.” Hours worked means anytime the employer exercises “control or  
7 custody” over an employee. See NRS 608.011 (defining an “employer” as “every person having  
8 control or custody . . . of any employee.”). Pursuant to the Nevada Administrative Code, hours  
9 worked includes “all time worked by the employee at the direction of the employer, including  
10 time worked by the employee that is outside the scheduled hours of work of the employee.” NAC  
11 608.115(1).

12 43. By failing to compensate Plaintiff and Class Members for the time spent engaging  
13 in off-the-clock activities identified above, Defendants failed to pay Plaintiff and Class Members  
14 for all hours worked in violation of NRS 608.140 and 608.016.

15 44. Although the statute of limitations for minimum wage violations is two years, there  
16 is no express statute of limitations for violations of NRS 608.140 and 608.016 and, therefore, the  
17 three-year statute contained in NRS 11.190(3) for statutory violations applies.

18 45. Wherefore, Plaintiff demands for themselves and for all Class Members payment  
19 by Defendants at the regular hourly rate of pay for all hours worked during the during the relevant  
20 time period alleged herein together with attorneys’ fees, costs, and interest as provided by law.

21 **FIFTH CAUSE OF ACTION**

22 (Failure to Pay Minimum Wages in Violation of the Nevada Constitution)

23 46. Plaintiff realleges and incorporates by this reference all the paragraphs above in  
24 this Complaint as though fully set forth herein.

25 47. Article 15 Section 16 of the Nevada Constitution sets forth the requirements the  
26 minimum wage requirements in the State of Nevada and further provides that “[t]he provisions  
27 of this section may not be waived by agreement between an individual employee and an employer.

28 . . . An employee claiming violation of this section may bring an action against his or her

1 employer in the courts of this State to enforce the provisions of this section and shall be entitled  
2 to all remedies available under the law or in equity appropriate to remedy any violation of this  
3 section, including but not limited to back pay, damages, reinstatement or injunctive relief. An  
4 employee who prevails in any action to enforce this section shall be awarded his or her reasonable  
5 attorney's fees and costs."

6 48. By failing to compensate Plaintiff and Class Members for the time spent engaging  
7 in off-the-clock activities identified above, Defendants failed to pay Plaintiff and Class Members  
8 for all hours worked in violation of the Nevada Constitution.

9 49. Wherefore, Plaintiff demands for himself and for all Class Members payment by  
10 Defendants at his regular hourly rate of pay or the minimum wage rate, whichever is higher, for  
11 all hours worked during the relevant time period alleged herein together with attorneys' fees,  
12 costs, and interest as provided by law.

13 **SIXTH CAUSE OF ACTION**

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

15 50. Plaintiff realleges and incorporates by this reference all the paragraphs above in  
16 this Complaint as though fully set forth herein.

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

19 52. NRS 608.018(1) provides as follows:

20 An employer shall pay 1 1/2 times an employee's regular wage rate  
21 whenever an employee who receives compensation for employment at a rate  
22 less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250  
23 works: (a) More than 40 hours in any scheduled week of work; or (b) More  
24 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.

25 53. NRS 608.018(2) provides as follows:

26 An employer shall pay 1 1/2 times an employee's regular wage rate  
27 whenever an employee who receives compensation for employment at a rate  
28 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.

1 54. By failing to compensate Plaintiff and Class Members for the time spent engaging  
2 in off-the-clock activities identified above and by failing to include the non-discretionary bonus  
3 into the regular rate of pay in calculating the overtime rate, Defendants failed to pay Plaintiff and  
4 Class Members daily overtime premium pay for all hours worked over eight (8) hours in a  
5 workday to those Class Members who were paid a regular rate of less than one and one half times  
6 the minimum wage premium pay and, failed to pay a weekly premium overtime rate of time and  
7 one half their regular rate for all members of the Class who worked in excess of forty (40) hours  
8 in a week in violation of NRS 608.140 and 608.018.

9 55. Although the statute of limitations for minimum wage violations is two years, there  
10 is no express statute of limitations for violations for failure to pay overtime rates of pay pursuant  
11 to NRS 608.140 and 608.018 and, therefore, the three-year statute contained in NRS 11.190(3)  
12 for statutory violations applies.

13 56. Wherefore, Plaintiff demands for himself and for Class Members that Defendants  
14 pay Plaintiff and Class Members one and one half times their “regular rate” of pay for all hours  
15 worked in excess of eight (8) hours in a workday and in excess of forty (40) hours a workweek  
16 during the relevant time period alleged herein together with attorneys’ fees, costs, and interest as  
17 provided by law.

18 **SEVENTH CAUSE OF ACTION**

19 (Failure to Timely Pay All Wages Due and Owing Upon Termination Pursuant to NRS  
20 608.140 and 608.020-.050)

21 57. Plaintiff realleges and incorporate by this reference all the paragraphs above in this  
22 Complaint as though fully set forth herein.

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

25 59. NRS 608.020 provides that “[w]henver an employer discharges an employee, the  
26 wages and compensation earned and unpaid at the time of such discharge shall become due and  
27 payable immediately.”  
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1           60. NRS 608.040(1)(a-b), in relevant part, imposes a penalty on an employer who fails  
 2 to pay a discharged or quitting employee: “Within 3 days after the wages or compensation of a  
 3 discharged employee becomes due; or on the day the wages or compensation is due to an  
 4 employee who resigns or quits, the wages or compensation of the employee continues at the same  
 5 rate from the day the employee resigned, quit, or was discharged until paid for 30-days, whichever  
 6 is less.”

7           61. NRS 608.050 grants an “employee lien” to each discharged or laid-off employee  
 8 for the purpose of collecting the wages or compensation owed to them “in the sum agreed upon  
 9 in the contract of employment for each day the employer is in default, until the employee is paid  
 10 in full, without rendering any service therefor; but the employee shall cease to draw such wages  
 11 or salary 30 days after such default.”

12           62. By failing to pay Plaintiff and Class Members who are former employees of  
 13 Defendants for all hours worked in violation of the federal and state laws identified herein,  
 14 Defendants have failed to timely remit all wages due and owing to Plaintiff and Class Members  
 15 who are former employees.

16           63. Despite demand, Defendants willfully refuse and continue to refuse to pay Plaintiff  
 17 and Class Members who are former employees all the wages that were due and owing upon the  
 18 termination of their employment.

19           64. Wherefore, Plaintiff demands thirty (30) days wages under NRS 608.140 and  
 20 608.040, and an additional thirty (30) days wages under NRS 608.140 and 608.050, for all Class  
 21 Members who have terminated employment from Defendants during the relevant time period  
 22 alleged herein together with attorneys’ fees, costs, and interest as provided by law.

**EIGHTH CAUSE OF ACTION**

(Breach of Contract)

25           65. Plaintiff realleges and incorporates by this reference all the paragraphs above in  
 26 this Complaint as though fully set forth herein.

27           66. At all times relevant herein, Defendant had an agreement with Plaintiff and with  
 28 every Class Member to pay an agreed upon hourly wage rate for all hours they worked for

1 Defendant. Indeed, Defendant offered to pay Plaintiff and Class Members a specific rate of pay  
2 in exchange for Plaintiff's and Class Members' promise to perform work for Defendant.

3 67. The parties' employment agreement necessarily incorporated all applicable  
4 provisions of both state and federal law, including especially the labor laws of the State of Nevada.

5 68. Defendant breached its agreement with Plaintiff and Class Members by failing to  
6 compensate them for all hours worked, namely all hours spent under the custody and control of  
7 Defendant while not actually driving a client, at the agreed upon rate of pay.

8 69. As a result of Defendant's breach, Plaintiff and Class Members have suffered  
9 economic loss that includes lost wages and interest.

10 70. Wherefore, Plaintiff demand for himself and for Class Members that Defendant  
11 pay Plaintiff and Class Members their agreed upon rate of pay for all hours worked off the clock  
12 during the relevant time period alleged herein together with attorney's fees, costs, and interest as  
13 provided by law.

14 **JURY TRIAL DEMANDED**

15 Plaintiff hereby demands a jury trial pursuant to Nevada Rule of Civil Procedure 38.

16 **PRAYER FOR RELIEF**

17 Wherefore Plaintiff, by himself and on behalf of all Class Members, pray for relief as  
18 follows relating to their collective and class action allegations:

- 19 1. For an order conditionally certifying this action under the FLSA and providing  
20 notice to all members of the two Classes so they may participate in this lawsuit;
- 21 2. For an order certifying this action as a traditional class action under Nevada Rule  
22 of Civil Procedure Rule 23 on behalf of each of the Classes;
- 23 3. For an order appointing Plaintiff as the Representatives of the Classes and their  
24 counsel as Class Counsel;
- 25 4. For damages, according to proof for regular rate pay under federal laws for all  
26 hours worked;
- 27 5. For damages, according to proof for minimum rate pay under federal law for all  
28 hours worked;

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6. For damages, according to proof for overtime compensation at the applicable rate under federal law for all hours worked over 40 per week;
7. For liquidated damages, pursuant to 29 U.S. C. § 216(b);
8. For damages, according to proof for regular rate pay under NRS 608.140 and 608.016 for all hours worked;
9. For damages, according to proof for minimum wage rate pay under the Nevada Constitution for all hours worked;
10. 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;
11. For sixty days of waiting time penalties pursuant to NRS 608.140 and 608.040-.050;
12. For interest as provided by law at the maximum legal rate;
13. For reasonable attorneys' fees authorized by statute;
14. For costs of suit incurred herein;
15. For pre-judgment and post-judgment interest, as provided by law, and

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

DATED: September 6, 2017

THIERMAN BUCK, L.L.P.

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

*Attorneys for Plaintiff*