

THIERMAN BUCK LLP  
7287 Lakeside Drive  
Reno, NV 89511  
(775) 284-1500 Fax (775) 703-5027  
Email info@thiermanbuck.com www.thiermanbuck.com

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

8 Christian Gabroy, Nev. Bar No. 8805  
christian@gabroy.com  
9 GABROY LAW OFFICES  
10 170 S. Green Valley Pkwy  
11 Henderson, NV 89012  
12 Tel. (702) 259-7777  
13 Fax. (702) 259-7704

13 Charles A. Jones, Nev. Bar No. 6698  
caj@joneslawfirm.com  
14 JONES LAW FIRM  
15 9585 Prototype Court, Suite B  
16 Reno, NV 89521  
17 Tel. (775) 853-6440  
18 Fax. (775) 853-6445

17 *Attorneys for Plaintiff*

18 **UNITED STATES DISTRICT COURT**

19 **DISTRICT OF NEVADA**

20  
21 ARTHUR F. COYNE., on behalf of himself  
22 and all others similarly situated,

23 Plaintiff,

24 vs.

25 STATION CASINOS LLC, a Nevada  
26 Limited Liability Company, RED ROCK  
27 RESORTS, INC., a Delaware corporation,  
28 and DOES 1 through 50, inclusive,

Defendants.

Case No.: 2:17-cv-01603-JAD-PAL

**FIRST AMENDED COLLECTIVE AND  
CLASS ACTION COMPLAINT**

- 1) Failure to Pay Overtime in Violation of 29 U.S.C. § 207;
- 2) Failure to Pay Minimum Wages in Violation of the Nevada Constitution
- 3) Failure to Compensate for All Hours Worked in Violation of NRS 608.140 and

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608.016;

- 4) Failure to Pay Overtime in Violation of NRS 608.140 and 608.018;
- 5) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.140 and 608.020-050; and
- 6) Breach of Contract.

**JURY TRIAL DEMANDED**

COMES NOW Plaintiff ARTHUR F. COYNE., on behalf of himself and all others similarly situated and alleges the following:

All allegations in the Complaint are based upon information and belief except for those allegations that pertain to the Plaintiff named herein and his counsel. Each allegation in the 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) which states: “An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by any one or more employees for and in behalf of himself or themselves and others employees similarly situated.” Plaintiff has, or will shortly, file with this court a consent to join this action.

2. This Court has supplemental jurisdiction over the state law claims alleged herein pursuant to 28 U.S.C. § 1367 because the state law claims alleged herein all arise out of the same transaction and occurrence, i.e. the failure to properly pay all wages due and there is no conflict between the procedures applicable to the FLSA and State law claims. *Integrity Staffing Solutions, Inc.*, 2013 U.S. App. LEXIS 7397 (9th Cir. Nev. Apr. 12, 2013) (“In sum, we agree with the other circuits to consider the issue that the fact that Rule 23 class actions use an opt-out mechanism while FLSA collective actions use an Opt-in mechanism does not create a conflict warranting dismissal of the state law claims.”).





1 all others similarly situated and has also exercised significant economic control over Station and  
2 the relationship of Plaintiff and all other similarly situated with Station. Further, Red Rock has  
3 approved and ratified all the illegal acts alleged herein.

4 12. At all times relevant herein, Defendants have employed a number of hourly paid  
5 employees at each of their casino/hotel properties, including Plaintiff and all others similarly  
6 situated.

7 13. At all times relevant herein, Defendants have engaged in an illegal, willful and  
8 malicious policy and practice of failing to compensate their hourly employees, including  
9 Plaintiff and all others similarly situated, working for Defendants at their casino/hotels located  
10 in the State of Nevada for all hours worked. This policy and practice was effectuated by  
11 requiring employees to attend a mandatory pre-shift meeting off the clock and without  
12 compensation.

13 14. At the time of his separation of employment from Defendants, Plaintiff was  
14 making \$7.65 per hour. Plaintiff was scheduled for, eight hour shifts, five days per week, and  
15 regularly worked, at least a 40-hour workweek.

16 **DEFENDANTS' PRE-SHIFT WORK REQUIREMENTS**

17 15. Defendants required all employees who worked as dealers to attend a pre-shift  
18 meeting without compensation. These pre-shift meetings are one of the ways that Station  
19 communicates to its employees, as stated in the Station Employee Handbook attached as  
20 Exhibit A, hereinafter "Handbook" at p. 5, "Pre-shift Meetings (Huddles)." The pre-shift  
21 meetings were held in order to have employees check in with the shift manager and/or  
22 supervisor, who would instruct employees on job duties, special events in the area, and at all  
23 Station Casino properties, occupancy, and other job related information. Pre-shift meetings  
24 could take 10 minutes or more and were held off the clock, i.e., before employees logged in for  
25 work using Defendants' automated time keeping system. Despite the fact that Plaintiff and all  
26 others similarly situated were performing compensable work during this period, they were not  
27 paid for said work by Defendants.

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1           16. Plaintiff and all others similarly situated employees were routinely denied  
2 approximately 10 minutes of uncompensated time at least three shifts per week and as many as  
3 four shifts per week, each and every week worked. Since Plaintiff and all others similarly  
4 situated employees were routinely scheduled for, and indeed worked, at least 40 hours per  
5 workweek, the amount of time that was not paid due to Defendants’ off-the-clock pre-shift  
6 policy, should have been paid at the overtime rate of pay of 1.5 times employees’ regular hourly  
7 rate. Plaintiff and all others similarly situated employees were thus deprived of thirty (30) to  
8 forty (40) minutes of uncompensated time per workweek worked, each and every week worked.

9           17. For example, Plaintiff was scheduled for and regularly worked 40 hours (not  
10 including the pre-shift activities). For the pay period beginning March 2, 2015 Plaintiff worked  
11 79.22 regular hours and was paid .33 hours of overtime premium, but was not paid for the pre-  
12 shift meetings. *See* Exhibit B, attached. Plaintiff performed the pre-shift activities identified  
13 above on four occasions during this workweek but was not compensated his regular or overtime  
14 rate for the performance of those activities.

15           18. At all times relevant herein, Defendants have maintained a strict attendance  
16 policy applicable to Plaintiff and all other similarly situated hourly employees employed by  
17 Defendants. Pursuant to Defendants’ attendance policy, Plaintiff and all others similarly  
18 situated were required to be present at their respective work station(s) and “ready to work” by  
19 their scheduled shift start time. Otherwise, Plaintiff and all others similarly situated were  
20 deemed to be tardy and in violation of Defendants’ strict attendance policy. Violations of  
21 Defendants’ attendance policy, i.e., being tardy, could result in Plaintiff and all others similarly  
22 situated being verbally counseled, written up, and ultimately terminated.

23           19. At all times relevant herein, Defendants had an agreement with Plaintiff and all  
24 others similarly situated to pay an agreed upon hourly wage rate of pay for all hours they  
25 worked for Defendants. Indeed, Defendants offered to pay Plaintiff and others similarly  
26 situated a specific rate of pay in exchange for their promise to perform work for Defendants.  
27 Plaintiff accepted Defendants’ offer, showed up for his scheduled shifts, and completed work on  
28 behalf of Defendants in exchange for the agreed upon hourly wage. However, Defendants did

1 not pay Plaintiff and all similarly situated employees for all hours they actually worked on  
2 Defendants' behalf.

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

5 21. Terms of Plaintiff's employment contained in Defendants' Handbook given to  
6 Plaintiff and all others similarly situated specifically states:

7 A. **Employment Status** - All Team Members who are designated as  
8 non-exempt are entitled to be paid at least the minimum wage per hour and  
9 premium for overtime.

10 B. **Overtime Pay Procedures** – To meet business schedules and  
11 needs, it may be necessary to require Team Members to work overtime. All  
12 overtime work must be approved by your Supervisor in advance. Any Team  
13 Member who works unauthorized overtime will be properly compensated for this  
14 time but may be subject to coaching or progressive discipline for failing to  
15 comply with this policy. All overtime is paid consistently with legal requirements.

16 C. **Team Member Work Hours/Work Schedules** – The Company  
17 relies on its Team Members to be present and prompt when reporting for work. ...  
18 It is essential that you adhere to the posted schedule and report to your  
19 workstation at your scheduled time. ... Changes to a team Member's schedule can  
20 only be made with Management approval.

21 D. **Recording Work Hours** – The Company's policy requires that all  
22 Team Members designated as non-exempt accurately record their hours worked  
23 each day and inform Management of any difficulties or problems in doing so. All  
24 non-exempt Team Members are responsible for clocking in at the commencement  
25 of work and clocking out at the conclusion of work. Additionally, non-exempt  
26 Team Members are expected to record any meal breaks. Timekeeping procedures  
27 will be explained to new Team Members prior to beginning his or her first  
28 shift....

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1 The Company prohibits all non-exempt Team Members from performing any  
2 work without recording their time for payroll purposes (i.e., “working off the  
3 clock.”) Team Members will not be directed to work off the clock.

4 22. At all times relevant herein, Defendants have been aware that their policy and  
5 practice of failing to fully compensate Plaintiff and all others similarly situated for all hours  
6 worked was illegal. Further, Defendants’ practice as set forth herein are anti-competitive in  
7 that these illegal practices make one of Defendants’ largest cost items, labor, lower than as  
8 compared to other casino owners/operators who comply with the labor laws.

9 **Defendant’s Policy of Failing to Offer or Provide Health Insurance Benefits Less Than**  
10 **10% of Employees’ Total Gross Income Or For Failing To Pay At Least \$1.00 Per Hour In**  
11 **Benefits For Every Hour Worked**

12 23. Defendant maintains an unlawful payment practice of paying Plaintiff and all  
13 other similarly situated employees the lower tier minimum and overtime wage rate even though  
14 Defendant does not offer or provide insurance that is less than 10% of the total gross income or  
15 at least \$1.00 per hour in benefits for every hour Plaintiff and other similarly situated  
16 employees worked.

17 24. For instance, on the pay period beginning March 2, 2015 (a true and correct  
18 copy of this pay statement is attached hereto as Exhibit B), Defendant paid Plaintiff Coyne a  
19 total gross taxable income of \$609.85 in minimum and overtime wages (\$606.03 in hourly  
20 wages at \$7.65 per hour for 79.22 hours and \$3.79 in overtime wages at \$11.475 per hour for  
21 .33 overtime hours worked during the pay period). Tips are not included in the calculation of  
22 an employee’s total gross taxable income. *See MDC Restaurants, LLC et al v. The Eighth*  
23 *Judicial Dist. Court*, 132 Nev. Op. 76, 419 P.3d 148 (Oct. 27, 2016). During that same period  
24 of time (and indeed during his entire employment), Plaintiff Coyne was not offered or provided  
25 with health benefits of less than the 10% maximum percentage for an employer to qualify for  
26 the lower-tier minimum wage payment. Instead, Plaintiff Coyne paid \$96.00 in medical  
27 insurance for that pay period. Accordingly, Plaintiff paid 15.74% of his gross taxable income  
28 for medical insurance. Since the cost of health insurance greatly exceeded the 10% threshold,

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1 Defendant was required to compensate Plaintiff Coyne at the higher tier minimum wage rate of  
2 \$8.25 per non-overtime hour and \$12.38 per overtime hour worked.

3 25. As a result, of Defendant's failure to pay wages for mandatory pre-shift  
4 meetings equal to approximately 40-minutes of uncompensated overtime pay and at the  
5 incorrect rate for the .33 hours of overtime, Plaintiff Coyne is owed approximately \$14.78 (.33  
6 overtime hours listed on check, plus 80 minutes of overtime for the two weeks of unpaid pre-  
7 shift meetings, equal to approximately 1.5 hours of overtime = \$18.57 minus the 3.79 paid =  
8 \$14.78) for this pay period alone.

9 26. Upon information and belief Defendant did not pay at least \$1.00 per hour in  
10 benefits for every hour worked by Plaintiff and similarly situated employees, nor did Defendant  
11 qualify for the lower-tier minimum wage because the total cost to the employees for health  
12 premiums was more than 10 percent of the employee's gross taxable income from the  
13 employer.

14 27. The policies and practices of Defendant at all relevant times have been  
15 substantially similar, if not identical, for all employees. Defendant is legally required to  
16 maintain all itemized pay statements that will demonstrate the amount of health insurance  
17 premiums paid by Plaintiff and all putative class member and the resulting amount of wages  
18 underpaid to Plaintiff and all members of the putative class during the entire period of time at  
19 issue in this case.

20 **COLLECTIVE AND CLASS ACTION ALLEGATIONS**

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

23 29. Plaintiff brings the action on behalf of himself and all other similarly situated  
24 hourly paid employees employed by Defendants in Nevada as both a collective action under the  
25 FLSA and a true class action under Nevada law.

26 30. The **FLSA CLASS** consists of all hourly paid dealers employed by Defendants,  
27 in the United States within three years immediately preceding the filing of this action until the  
28 date of judgement after trial.

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

A. Plaintiff seeks preliminary and final certification and requests an order from this court that notice of this action be sent to all prospective FLSA CLASS Members so that they may become party plaintiffs in this litigation pursuant to 29 U.S.C. §216(b) if they so desire.

B. Defendants employed Plaintiff as a dealer who did not receive compensated for attending mandatory pre-shift meetings.

C. Plaintiff's situation is similar to those he seeks to represent because Defendants failed to pay Plaintiff and all other FLSA CLASS Members for the time spent attending mandatory pre-shift meetings.

D. Upon information and belief, Defendants employ, and has employed, in excess of 300 FLSA CLASS Members within the applicable statute of limitations.

E. Plaintiff has signed a Consent to Join form, which was attached hereto as Exhibit C.

32. Plaintiff seeks to represent the following Nevada State law Classes and Sub-Classes.

33. The **NEVADA MINIMUM WAGE CLASS** consists of all hourly paid employees employed by Defendants during the relevant time period. The **NEVADA MINIMUM WAGE CLASS** is further divided into the following sub-classes:

A. **MINIMUM WAGE SUB-CLASS:** All hourly paid non-exempt persons employed by Defendants who were paid less than \$8.25 per non-overtime hour worked within 2 years form the filing of this complaint until judgment.

B. **OVERTIME SUB-CLASS:** All hourly paid non-exempt persons employed by Defendants who were paid less than \$12.38 per

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overtime hour worked within 3 years from the filing of this complaint until judgment.

C. **WAGES DUE AND OWING SUB-CLASS:** All members of the NEVADA CLASS who are former employees.

34. The **PRE-SHIFT CLASS** consists of all hourly paid employees employed by Defendants, in the State of Nevada within six years immediately preceding the filing of this action until the date of judgement after trial. The PRE-SHIFT CLASS is further divided into the following sub-class:

A. **WAGES DUE AND OWING SUB-CLASS:** All members of the PRE-SHIFT CLASS who are former employees.

35. Rule 23 treatment is appropriate for the Nevada Class and each subclass specified herein for the following reasons:

A. The NEVADA MINIMUM WAGE and PRE-SHIFT CLASSES and each SUB-CLASS are Sufficiently Numerous. Upon information and belief, Defendants employ, and have employed, in excess of 300 NEVADA MINIMUM WAGE CLASS and PRE-SHIFT CLASS Members and at least several hundred within the sub-classes during the applicable statute of limitations. Because Defendants are legally obligated to keep accurate payroll records, Plaintiff alleges that Defendants' records will establish the identity and ascertainability of members of the NEVADA MINIMUM WAGE and PRE-SHIFT Classes and each SUB-CLASS as well as their numerosity.

B. Plaintiff's Claims are Typical to Those of Fellow Class and Sub-Class Members. Each NEVADA MINIMUM WAGE CLASS and each Sub-Class Member is and was subject to the same practices, plans, and/or policies as Plaintiff, as follows: (1) Whether Defendant can meet its burden of demonstrating that Plaintiff and Minimum Wage Class Members were only entitled to receive the lower tier minimum wage rate; (2) Whether Defendant can meet its burden of demonstrating that Plaintiff and Overtime Class Members were only entitled to

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1 receive the lower tier overtime wage rate; (3) Whether Plaintiff and members of  
2 the Waiting Time Penalty Class are entitled to waiting time penalties for the  
3 failure to pay them minimum, regular, and overtime wages owed.

4 The PRE-SHIFT CLASS and the Sub-Class is and was subject to the same  
5 practices, plans, and/or policies as Plaintiff, as follows: (1) Defendants required  
6 Plaintiff and all PRE-SHIFT CLASS Members to engage in pre-shift activities  
7 without compensation because of a companywide policy of requiring, suffering or  
8 permitting employees to perform work off the clock; and (2) as a result of  
9 working employees off the clock, Defendants failed to pay Plaintiff and WAGES  
10 DUE AND OWING SUB-CLASS Members all wages due and owing at the time  
11 of their termination or separation from employment.

12 C. Common Questions of Law and Fact Exist. Common questions of  
13 law and fact exist and predominate as to Plaintiff and the Nevada Minimum Wage  
14 and Pre-Shift classes, including all sub-classes, including, without limitation the  
15 following: (1) Whether Defendant can meet its burden of demonstrating that  
16 Plaintiff and Minimum Wage Class Members were only entitled to receive the  
17 lower tier minimum wage rate; (2) Whether Defendant can meet its burden of  
18 demonstrating that Plaintiff and Overtime Class Members were only entitled to  
19 receive the lower tier overtime wage rate; (3) Whether Plaintiff and Pre-shift  
20 Class Members must be compensated for the mandatory pre-shift meeting; and (4)  
21 Whether Defendants delayed final payment to Plaintiffs and members of both the  
22 NEVADA MINIMUM WAGE and the PRE-SHIFT WAGES DUE AND  
23 OWING SUB-CLASSES in violation of NRS 608.020-050.

24 D. Plaintiff Is an Adequate Representative of the Classes and each  
25 SUB-CLASS. Plaintiff will fairly and adequately represent the interests of the  
26 NEVADA MINIMUM WAGE CLASS and PRE-SHIFT CLASS and each SUB-  
27 CLASS because Plaintiff is a member of each CLASS and each SUB-CLASS, he  
28 has issues of law and fact in common with all members of each CLASS and each

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SUB-CLASS, and he does not have any interests antagonistic to the members of the class or any SUB-CLASS. Plaintiff and counsel are aware of their fiduciary responsibilities to Members of each CLASS and each SUB-CLASS and are determined to discharge those duties diligently and vigorously by seeking the maximum possible recovery for the class and sub-class as a group.

E. Superiority/Predominance. A class action is superior to other available means for the fair and efficient adjudication of their controversy and common questions predominate over individualized issues. Each Member of the NEVADA MINIMUM WAGE and PRE-SHIFT CLASSES and each SUB-CLASS has been damaged and is entitled to recovery by reason of Defendants’ illegal policy and/or practice of failing to compensate its employees in accordance with federal and Nevada wage and hour law. The prosecution of individual remedies by each member of the NEVADA MINIMUM WAGE and the PRE-SHIFT CLASSES and each SUB-CLASS will be cost prohibitive and may lead to inconsistent standards of conduct for Defendants and result in the impairment of the rights and the disposition of their interest through actions to which they were not parties.

**FIRST CAUSE OF ACTION**

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

(On Behalf of Plaintiff and all members of the FLSA CLASS)

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

37. 29 U.S.C. Section 207(a)(1) provides as follows: “Except as otherwise provided in the 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

1 excess of the hours above specified at a rate not less than one and one-half times the regular  
2 rate at which he is employed.”

3 38. By failing to compensate Plaintiff and FLSA CLASS Members for the time  
4 spent attending the mandatory pre-shift meetings identified above, Defendants failed to pay  
5 Plaintiff and the FLSA CLASS Members for all hours worked.

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

11 **SECOND CAUSE OF ACTION**

12 **Failure to Pay Minimum Wages in Violation of the Nevada Constitution**

13 (On Behalf of Plaintiff and all members of the NEVADA MINIMUM WAGE CLASS and the  
14 NEVADA PRE-SHIFT CLASS)

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

17 41. Article 15, Section 16(A) of the Constitution of the State of Nevada sets forth  
18 the minimum wage requirements in the State of Nevada and further provides that “[t]he  
19 provisions of this section may not be waived y agreement between an individual employee and  
20 an employer. ... An employee claiming violation of this section may bring an action against his  
21 or her employer in the courts of this State to enforce the provisions of this section and shall be  
22 entitled to all remedies available under the law or in equity appropriate to remedy any violation  
23 of this section, including but not limited to back pay, damages, reinstatement or injunctive  
24 relief. An employee who prevails in any action to enforce this section shall be awarded his or  
25 her reasonable attorney’s fees and costs.”

26 42. Article 15 Section 16 of the Nevada Constitution sets forth the requirements the  
27 minimum wage requirements in the State of Nevada (“MWA”). The MWA sets forth a two-  
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1 tiered minimum wage, which were set at \$7.25 and \$8.25 for the relevant time period covered in  
2 this action.

3 43. In order to pay the lower tier minimum wage amount, an employer must offer  
4 health benefits to its employees and the dependents of the employees “at a total cost to the  
5 employee for premiums of not more than 10 percent of the employee’s gross taxable income  
6 from the employer” or must pay at least \$1.00 in benefits per hour for each hour the employee  
7 works.

8 44. As alleged herein, Defendant paid Plaintiff and all other members of the Class at  
9 the lower-tier minimum wage rate but have failed to offer health benefits to its employees and  
10 the employees’ dependents at a total cost to the employee for premiums of not more than 10%  
11 of the employees’ gross taxable income or at least \$1.00 per hour in benefits for every hour  
12 Plaintiff and the Class members worked.

13 45. By unlawfully paying Plaintiff and members of the NEVADA MINIMUM  
14 WAGE Class and SUB-CLASSES the lower-tier minimum wage rate of \$7.25, instead of the  
15 applicable minimum wage rate of \$8.25, Defendant has failed to compensate Plaintiff and  
16 members of the NEVADA MINIMUM WAGE Class at the minimum wage rate for all the  
17 hours that they worked pursuant to the Nevada Constitution.

18 46. By failing to compensate Plaintiff and members of the PRE-SHIFT CLASS and  
19 SUB-CLASS any sort of compensation (zero dollars) for the time spent engaging in pre-shift  
20 meetings identified above, Defendants failed to pay Plaintiff and PRE-SHIFT CLASS  
21 Members for all hours worked in violation of the Nevada Constitution. Indeed, zero dollars is  
22 less than the Nevada minimum wage of \$7.25 per hour worked.

23 47. There is a two-year statute of limitations for Nev. Const. art. 15 § 16.

24 48. Wherefore, Plaintiff demands for himself and for NEVADA MINIMUM WAGE  
25 CLASS and SUB-CLASS Members and the PRE-SHIFT CLASS and SUB-CLASS Members  
26 payment by Defendants at their regular hourly rate of pay or the minimum wage rate, whichever  
27 is higher, for all hours worked for the two years immediately preceding the filing of this  
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1 complaint until the date of judgement after trial, together with attorneys’ fees, costs, and interest  
2 as provided by law.

3 **THIRD CAUSE OF ACTION**

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

5 (On Behalf of Plaintiff and all members of the NEVADA PRE-SHIFT CLASS)

6 49. Plaintiff realleges and incorporates by the reference all the paragraphs above in  
7 the Complaint as though fully set forth herein.

8 50. NRS 608.140 provides that an “employee” shall have the right to bring suit for  
9 unpaid wages. An “employee” in Nevada is any person “in the service of an employer under  
10 any appointment or contract of hire or apprenticeship, express or implied, oral or written,  
11 whether lawfully or unlawfully employed.”

12 51. Nevada Revised Statutes (“NRS”) 608.016 entitled, “Payment for each hour of  
13 work; trial or break-in period not excepted” states that: “An employer shall pay to the employee  
14 wages for each hour the employee works. An employer shall not require an employee to work  
15 without wages during a trial or break-in period.”

16 52. Nevada Administrative Code (“NAC”) 608.115(1), entitled “Payment for time  
17 worked. (NRS 607.160, 608.016, 608.250)” states: “An employer shall pay an employee for all  
18 time worked by the employee at the direction of the employer, including time worked by the  
19 employee that is outside the scheduled hours of work of the employee.”

20 53. By failing to compensate Plaintiff and NEVADA CLASS Members for the time  
21 spent attending the mandatory pre-shift meetings identified above, Defendants failed to pay  
22 Plaintiff and NEVADA CLASS Members for all hours worked in violation of NRS 608.140  
23 and 608.016.

24 54. Wherefore, Plaintiff demands for himself and for all NEVADA CLASS  
25 Members payment by Defendants, payment at the Nevada Constitutional minimum wage, or  
26 their regular rate of pay, or any applicable overtime premium rate, whichever is higher, all  
27 wages due for the times worked each shift but not paid, for three years immediately preceding  
28

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(775) 284-1500 Fax (775) 703-5027  
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1 the filing of this complaint until the date of judgement after trial, together with attorneys' fees,  
2 costs, and interest as provided by law.

3 **FOURTH CAUSE OF ACTION**

4 **Failure to Pay Overtime Wages in Violation of NRS 608.140 and 608.018**

5 (On Behalf of Plaintiff and all members of the NEVADA MINIMUM WAGE OVERTIME  
6 SUB-CLASS and the PRE-SHIFT CLASS)

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

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

11 57. NRS 608.018(1) provides as follows:

12 An employer shall pay 1 1/2 times an employee's regular wage  
13 rate whenever an employee who receives compensation for  
14 employment at a rate less than 1 1/2 times the minimum rate  
15 prescribed pursuant to NRS 608.250 works: (a) More than 40  
16 hours in any scheduled week of work; or (b) More than 8 hours in  
17 any workday unless by mutual agreement the employee works a  
18 scheduled 10 hours per day for 4 calendar days within any  
19 scheduled week of work.

20 58. NRS 608.018(2) provides as follows:

21 An employer shall pay 1 1/2 times an employee's regular wage  
22 rate whenever an employee who receives compensation for  
23 employment at a rate not less than 1 1/2 times the minimum rate  
24 prescribed pursuant to NRS 608.250 works more than 40 hours in  
25 any scheduled week of work

26 59. As alleged herein, Defendant paid Plaintiff and all other members of the  
27 NEVADA MINIMUM WAGE OVERTIME SUB-CLASS at the lower-tier minimum wage  
28 rate but has failed to offer health benefits to its employees and the employees' dependents at a  
total cost to the employee for premiums of not more than 10% of the employees' gross taxable  
income or Defendant did not pay at least \$1.00 per hour in benefits for every hour worked.

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

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

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

8           66. NRS 608.040(1)(a-b), in relevant part, imposes a penalty on an employer who  
9 fails to pay a discharged or quitting employee: “Within 3 days after the wages or compensation  
10 of a discharged employee becomes due; or on the day the wages or compensation is due to an  
11 employee who resigns or quits, the wages or compensation of the employee continues at the  
12 same rate from the day the employee resigned, quit, or was discharged until paid for 30-days,  
13 whichever is less.”

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

19           68. By failing to pay Plaintiff and all members of both the NEVADA MINIMUM  
20 WAGE WAGES DUE AND OWING SUB-CLASS and the PRE-SHIFT WAGES DUE AND  
21 OWING SUB-CLASS for all hours worked in violation of state and federal law, at the correct  
22 legal rate, Defendants have failed to timely remit all wages due and owing to Plaintiff and all  
23 members of both the WAGES DUE AND OWING SUB-CLASSES.

24           69. Despite demand, Defendants willfully refuse and continue to refuse to pay  
25 Plaintiff and all WAGES DUE AND OWING SUB-CLASS Members.

26           70. Wherefore, Plaintiff demands thirty (30) days wages under NRS 608.140 and  
27 608.040, and an additional thirty (30) days wages under NRS 608.140 and 608.050 for all  
28

1 members of both the WAGES DUE AND OWING SUB-CLASSES together with attorneys'  
2 fees, costs, and interest as provided by law.

3 **SIXTH CAUSE OF ACTION**

4 **Breach of Contract**

5 (On Behalf of Plaintiff and the NEVADA MINIMUM WAGE CLASS and the PRE-SHIFT  
6 SUB-CLASS)

7 71. Plaintiff realleges and incorporates by reference all the paragraphs above in the  
8 Complaint as though fully set forth herein.

9 72. At all times relevant herein, Defendants had an agreement with Plaintiff and  
10 with every NEVADA MINIMUM WAGE CLASS Member and PRE-SHIFT CLASS Member  
11 to pay an agreed upon hourly wage rate for all hours they worked for Defendants. Indeed,  
12 Defendants offered to pay Plaintiff and NEVADA MINIMUM WAGE CLASS Members and  
13 the PRE-SHIFT CLASS Members a specific rate of pay in exchange for Plaintiff and Class  
14 Members' promise to perform work for Defendants. That agreement necessarily included the  
15 agreement to be paid in accordance with Nevada's wage and hour laws.

16 73. Plaintiff and every NEVADA MINIMUM WAGE CLASS Member and PRE-  
17 SHIFT CLASS Member were not volunteers. Plaintiff and the Classes complied with their  
18 obligation each and every day by showing up for work and performing labor for Defendants.

19 74. Defendants failed in its obligation to pay Plaintiff and the NEVADA  
20 MINIMUM WAGE CLASS Members the higher tiered minimum wage pursuant to Nevada  
21 law for all the hours that they worked for Defendants.

22 75. Defendants breached its agreement with Plaintiff and NEVADA MINIMUM  
23 WAGE CLASS Members by failing to compensate them at the correct minimum wage rate.

24 76. Defendants failed in its obligation to pay Plaintiff and the PRE-SHIFT CLASS  
25 Members for mandatory pre-shift meetings pursuant to Nevada law for all the hours that they  
26 worked for Defendants.

27  
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7287 Lakeside Drive  
Reno, NV 89511  
(775) 284-1500 Fax (775) 703-5027  
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77. Defendants breached its agreement with Plaintiff and the PRE-SHIFT CLASS Members by failing to compensate them for the time spent attending mandatory pre-shift meetings.

78. As a result of Defendants’ breach, Plaintiff and the NEVADA MINIMUM WAGE CLASS Members and the PRE-SHIFT CLASS Members have suffered economic loss that includes lost wages and interest.

79. The statute of limitations for breach of a written agreement is six years.

80. Wherefore, Plaintiff demands for himself and for NEVADA MINIMUM WAGE CLASS Members and the PRE-SHIFT CLASS Members that Defendants pay Plaintiff and the CLASS Members their agreed upon rate of pay for all hours worked, all overtime hours worked, and including any hours worked off the clock during the relevant time period alleged herein together with attorney’s fees, costs, and interest as provided by law.

**JURY TRIAL DEMANDED**

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

**PRAYER FOR RELIEF**

Wherefore Plaintiff, individually and on behalf of all Members of the FLSA CLASS, the NEVADA CLASS and the SUB-CLASSES alleged herein, prays for relief as follows:

1. For an order conditionally certifying the action under the FLSA and providing notice to all FLSA CLASS members so they may participate in the lawsuit;
2. For an order certifying the action as a traditional class action under Federal Rule of Civil Procedure Rule 23 on behalf of all members of the NEVADA CLASS and each proposed SUB-CLASS;
3. For an order appointing Plaintiff as the Representative of the NEVADA CLASS and SUB-CLASS and his counsel as Class Counsel for the NEVADA CLASS and SUB-CLASS;
4. For damages according to proof at the minimum wage rate, the regular rate or the overtime premium rate, if applicable, for payment under Article 15, Section 16

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(775) 284-1500 Fax (775) 703-5027  
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- of the Constitution of the State of Nevada, NRS 608.140, NRS 608.016, and NRS 608.018 for all hours worked but not paid;
- 5. For damages according to proof at the minimum wage rate, the regular rate or the overtime premium rate, if applicable, under federal laws for all hours worked but not paid;
- 6. For liquidated damages pursuant to 29 U.S. C. § 216(b);
- 7. For waiting time penalties pursuant to NRS 608.140 and 608.040-.050;
- 8. For damages pursuant to Defendants’ breach of contract;
- 9. For interest as provided by law at the maximum legal rate;
- 10. For reasonable attorneys’ fees authorized by statute;
- 11. For costs of suit incurred herein;
- 12. For pre-judgment and post-judgment interest, as provided by law; and
- 13. For such other and further relief as the Court may deem just and proper.

DATED: October 19, 2018

Respectfully Submitted,

**THIERMAN BUCK LLP**

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

*Attorneys for Plaintiff*

**THIERMAN BUCK LLP**  
7287 Lakeside Drive  
Reno, NV 89511  
(775) 284-1500 Fax (775) 703-5027  
Email info@thiermanbuck.com www.thiermanbuck.com

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**Index of Exhibits**

1. Employee Handbook
2. Coyne Paystub
3. Consent to Sue