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2022 JAN -6 PM 2:46

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COURT ADMINISTRATOR  
THIRD JUDICIAL DISTRICT

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10 **IN THE THIRD JUDICIAL DISTRICT COURT OF**  
 11 **THE STATE OF NEVADA IN AND FOR THE**  
 12 **COUNTY OF LYON**

13 LAURA SPINDOLA, on behalf of herself  
 14 and all others similarly situated,

15 Plaintiff,

16 vs.

17 DAEHAN SOLUTION NEVADA LLC, and  
 18 DOES 1 through 50, inclusive,

19 Defendant(s).

Case No.: **22-CV-0017**

Dept. No.: **I**

**COLLECTIVE AND CLASS ACTION COMPLAINT**

**(EXEMPT FROM ARBITRATION PURSUANT TO NAR 5)**

- 1) Failure to Compensate for All Hours Worked in Violation of NRS 608.140 and 608.016;
- 2) Failure to Pay Overtime Wages in Violation of NRS 608.140 and 608.018; and
- 3) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.140 and 608.020-050.

**LIEN REQUESTED PURSUANT TO NRS 608.050**

**JURY TRIAL DEMANDED**

26 COMES NOW Plaintiff LAURA SPINDOLA on behalf of herself and all other similarly  
 27 situated and typical persons and alleges the following:  
 28

1 All allegations in the Complaint are based upon information and belief except for those  
2 allegations that pertain to the Plaintiff named herein and her counsel. Each allegation in the  
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. This Court has original jurisdiction over the claims alleged herein because the  
7 amount in controversy exceeds \$15,000 and a party seeking to recover unpaid wages has a private  
8 right of action pursuant to Nevada Revised Statute (“NRS”) sections 608.140, 608.018, and  
9 608.020-.050. *See Neville v. Eighth Judicial Dist., Terrible Herbst, Inc.*, 133 Nev. Adv. Op. 95  
10 (Dec. 7, 2017), 406 P.3d 499 (2017). Plaintiff made a proper demand for wages due pursuant to  
11 NRS 608.140.

12 2. Plaintiff also claims a private cause of action to foreclose a lien against the  
13 property owner for wages due pursuant to NRS 608.050.

14 3. Venue is proper in the Court because the Defendant named herein maintains a  
15 principal place of business or otherwise is found in the judicial district and many of the acts  
16 complained of herein occurred in Lyon County, Nevada, which is located within this district.

### 17 PARTIES

18 4. Plaintiff LAURA SPINDOLA (hereinafter “Plaintiff”) is a natural person who is  
19 and was a resident of the State of Nevada at all relevant times herein. Plaintiff was first employed  
20 by Defendant as a non-exempt hourly employee for a short period beginning in or around  
21 September 2017, and after a short break, was subsequently employed by Defendant from in or  
22 around December 2017 until in or around August 2020.

23 5. Defendant DAEHAN SOLUTION NEVADA LLC (hereinafter “Defendant” or  
24 “Daehan”) is a domestic limited-liability company in the state of Nevada, with a principal place  
25 of business in Fernley, Nevada, and is an employer under NRS 608.011 and the Nevada  
26 Constitution.

27 6. The identity of DOES 1-50 is unknown at the time and the Complaint will be  
28 amended at such time when the identities are known to Plaintiff. Plaintiff is informed and believes

1 that each Defendant sued herein as DOE is responsible in some manner for the acts, omissions,  
2 or representations alleged herein and any reference to “Defendant,” “Defendants,” “Daehan”  
3 herein shall mean “Defendant and each of them.”

4 **FACTUAL ALLEGATIONS**

5 7. Defendant Daehan Solution Nevada LLC operates a motor vehicle parts  
6 manufacturing facility in Fernley, Nevada. The company manufactures products such as noise  
7 cancelling vehicle interiors and represents that it is a “Tesla Tier 1 partner.”

8 8. Plaintiff was employed by Defendant as a non-exempt hourly paid employee at  
9 Defendant’s production facility located at 1600 E Newlands Rd, Fernley, NV 89408.

10 9. At the time she left her employment with Defendant, Plaintiff was employed in  
11 the position of a Quality Control Lead earning approximately \$15.75 per hour, with a base  
12 overtime rate of approximately \$23.63 per hour.

13 10. Plaintiff and similarly situated employees were regularly scheduled to work 50 to  
14 60 hours per week and often worked more than that. Plaintiff and similarly situated employees  
15 routinely worked 10 to 12-hour shifts and frequently worked six or at times even seven days per  
16 week.

17 11. Plaintiff recorded her time on one of Defendant’s biometric uAttend timeclocks,  
18 which Defendant used to record time for all non-exempt hourly paid employees. Defendant’s  
19 uAttend timeclocks recorded time by scanning the employee’s fingerprint to clock them in and  
20 out of their shifts.

21 12. Defendant’s timeclocks frequently malfunctioned; in particular, the fingerprint  
22 reader would often fail in scanning an employee’s fingerprint in order to clock them in or out.  
23 Plaintiff estimates that such failures happened, on average, at least once every other week  
24 throughout the course of her employment.

25 13. To help maintain time records in such instances, uAttend included an electronic  
26 timeclock correction form that English-speaking employees were able to fill out and submit to  
27 request that their time punch be recorded manually. But, because many of Defendant’s non-  
28 exempt hourly employees did not speak English, and the timeclock correction form was only

1 available in English, many employees were unaware and/or unable to complete the timeclock  
2 correction form when Defendant's uAttend timeclock malfunctioned, which would result in the  
3 employee's timecard showing that they had clocked in but never clocked out.

4 14. While English is not Plaintiff's first language, Plaintiff speaks English proficiently  
5 and submitted timeclock correction forms on numerous occasions when the uAttend timeclock  
6 malfunctioned. However, even when Plaintiff submitted a timeclock correction form, Defendant  
7 frequently failed to actually input the missing timeclock data, and Plaintiff's timecard would thus  
8 continue to show that she clocked in but never clocked out on those days.

9 15. Where an employee's timecard shows that they clocked in but does not include  
10 corresponding clock-out data, Defendant's automated payroll process would register that the  
11 employee had not worked any hours that day, despite the existence of the orphan clock-in punch  
12 and known timeclock issues, and Defendant would not pay employees any wages for time worked  
13 on those days.

14 16. Defendant's payroll process treated this situation the same regardless of whether  
15 the affected employee submitted a timeclock correction form (which was often not appropriately  
16 processed, as in Plaintiff's case) or whether the employee (usually due to a language barrier) did  
17 not submit such a form. In both cases, where an employee's timecard record showed a clock-in  
18 punch but no corresponding clock-out punch, Defendant did not pay its employees any wages for  
19 the time worked by the employee during that period.

20 17. For example, in the pay period of October 21, 2019 through November 3, 2019,  
21 Plaintiff's Timecard Report indicates that Plaintiff worked a total of 108 hours and 45 minutes  
22 on-the-clock.<sup>1</sup> In the first workweek that pay period, Plaintiff worked six consecutive days from  
23 Monday, October 21, 2019 through Saturday, October 26, 2019, but was only paid for five of  
24 those days. Specifically, the Timecard Report shows that Plaintiff worked an average of 12 hours  
25 and 15 minutes per day across five recorded workdays (Monday through Thursday, and Saturday)  
26 for a total of 61 hours and 15 minutes on-the-clock. In addition, the Timecard Report shows that,  
27

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28 <sup>1</sup> A true and correct copy of this Timecard Report for the pay period of October 21, 2019  
to November 3, 2019 is attached hereto as Exhibit 1.

1 on Friday, October 25, 2019, Plaintiff clocked in at her usual shift start time of 5:45 a.m. As with  
2 the other days that week, Plaintiff worked a long day of approximately 12 hours that day.  
3 However, because Plaintiff's Timecard Report does not show a clock-out punch for that day,  
4 Defendant did not pay Plaintiff anything for her hours of work that day. Because Plaintiff worked  
5 more than 40 hours on-the-clock that workweek, compensation for Plaintiff's work off-the-clock  
6 that day is owed at Plaintiff's overtime rate of \$23.63, for a total of approximately \$283.56 (12  
7 hours x \$23.63) in unpaid wages.

8 18. While the above exemplar demonstrates one specific workweek and day for which  
9 Plaintiff is owed unpaid wages, Plaintiff seeks all the owed and unpaid wages due and owing to  
10 her and to all other similarly situated employees over the full course of the relevant time period  
11 alleged in this Complaint.

12 19. Plaintiff complained to Defendant that she was not getting paid for all of her hours  
13 on days where the timeclock malfunctioned, even when she submitted a timeclock correction  
14 form, and further informed Defendant that this issue was widely affecting employees who did not  
15 speak English well enough to understand or complete the English-only timeclock correction  
16 forms, who were routinely deprived of pay when the timeclock malfunctioned.

17 20. Defendant knew that it was required to pay its employees for their work but  
18 nonetheless ignored Plaintiff's complaints and did not act to pay employees for all the time that  
19 they worked off-the-clock. Moreover, Defendant refused to change its policies to ensure that  
20 employees would be paid for such work moving forward.

21 21. Based on information and belief, Defendant still has not fixed its timekeeping and  
22 pay practices and continues to take advantage of operating errors in its timekeeping systems to  
23 routinely steal wages from its employees.

24 **CLASS ACTION ALLEGATIONS**

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

1           23. Plaintiff brings this action on behalf of herself and the following classes of  
2 similarly situated individuals employed by Defendant: (hereinafter collectively referred to as the  
3 “Classes”):

4           **A. Off-the-Clock Class:** All nonexempt hourly paid employees employed by  
5 Defendant within Nevada who worked off-the-clock as demonstrated by a  
6 timeclock clock-in punch without a corresponding timeclock clock-out punch.

7           **B. Continuation Wage Class:** All members of the Off-the-Clock Class who are or  
8 were former employees of Defendant at anytime during the relevant time period  
9 alleged herein.

10           24. NRCF Rule 23 Class treatment for all claims alleged in this Complaint is  
11 appropriate in this case for the following reasons:

12           A. The Class is Sufficiently Numerous: Upon information and belief,  
13 Defendant employs, and has employed, in excess of 100 Class Members in each Class within the  
14 applicable statute of limitations period. Because Defendant is legally obligated to keep accurate  
15 payroll records, Plaintiff alleges that Defendant’s records will establish the identity and  
16 ascertainability of members of the Classes as well as their numerosity.

17           B. Common Questions of Law and Fact Exist: Common questions of law and  
18 fact exist and predominate as to Plaintiff and the Classes, including, without limitation, the  
19 following: (1) whether Defendant failed to compensate Plaintiff and members of the Off-the-  
20 Clock Class for all the hours they worked; (2) whether Defendant failed to compensate Plaintiff  
21 and members of the Off-the-Clock Class overtime premiums when they worked over 8 hours in  
22 a day if applicable or over 40 hours in a workweek; whether Defendant failed to pay members of  
23 the Continuation Wage Class all their wages due and owing at the time of termination.

24           C. Plaintiff’s Claims are Typical to Those of Fellow Class Members: Each  
25 member of the Classes is and was subject to the same practices, plans, and/or policies as Plaintiff,  
26 as follows: Defendant directed, suffered and/or permitted Plaintiff and all Off-the-Clock Class  
27 members to perform work without compensation when the Uattend timeclock failed to record a  
28

1 time punch at the end of their shift; and, as a result, Plaintiff and all Continuation Wage Class  
2 members were not compensated their full wages due and owing at the time of their termination  
3 of employment. Because Plaintiff is a victim of all of the same wrongs committed by Defendant  
4 as all members of the Classes that she seeks to represent, her claims are typical.

5 D. Plaintiff is an Adequate Representatives of the Class: Plaintiff will fairly  
6 and adequately represent the interests of the Classes because Plaintiff is a member of both  
7 Classes, she has issues of law and fact in common with all members of the Classes, and she does  
8 not have any interests antagonistic to members of the Classes. Plaintiff and counsel are aware of  
9 their fiduciary responsibilities to Class Members and are determined to discharge those duties  
10 diligently and vigorously by seeking the maximum possible recovery for Class Members as a  
11 group.

12 E. Predominance/Superiority: Common questions predominate over  
13 individualized issues. A class action is also superior to other available means for the fair and  
14 efficient adjudication of this controversy because individual joinder of all members of the Classes  
15 is impractical. Class action treatment will permit a large number of similarly situated persons to  
16 prosecute their common claims in a single forum simultaneously, efficiently, and without  
17 unnecessary duplication of effort and expense. Furthermore, the expenses and burden of  
18 individualized litigation would make it difficult or impossible for individual members of the Class  
19 to redress the wrongs done to them, while an important public interest will be served by  
20 addressing the matter as a class action. Individualized litigation would also present the potential  
21 for inconsistent or contradictory judgments.

22 **FIRST CAUSE OF ACTION**

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

24 (On Behalf of Plaintiff and Members of the Off-the-Clock Class Against Defendant)

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

27 26. Nevada Revised Statutes (“NRS”) 608.140 provides that an employee has a  
28 private right of action for unpaid wages.





works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

34. 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.

35. By failing to compensate Plaintiff and all other members of the Off-the-Clock Class for the time worked on days where Defendant's uAttend timeclocks failed to record a clock-out punch, Defendant failed to pay Plaintiff and members of the Off-the-Clock Class daily overtime premium pay to those members of the Off-the-Clock Class 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 pay of time and one half their regular rate for all members of the Off-the-Clock Class who worked in excess of forty (40) hours in a week in violation of NRS 608.140 and 608.018.

36. Wherefore, Plaintiff demands for herself and for all members of the Off-the-Clock Class payment by Defendant at their applicable overtime premium rate for all hours worked but not paid during the relevant time period alleged herein, together with attorneys' fees, costs, and interest as provided by law.

**THIRD 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 Plaintiff and Members of the Continuation Wage Class Against Defendant)

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

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

39. 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."



1           Wherefore Plaintiff, by herself and on behalf of all members of the Classes, prays for  
2 relief as follows relating to her class action allegations:

- 3           1.     For an order certifying the Classes under Nevada Rule of Civil Procedure 23;
- 4           2.     For an order appointing Plaintiff as the Representative of the Classes and her  
5           counsel as Class Counsel;
- 6           3.     For damages according to proof for regular rate pay under NRS 608.140 and  
7           608.016 for all hours worked;
- 8           4.     For damages according to proof for overtime compensation under NRS 608.140  
9           and 608.018 for all hours worked for those employees who earned a regular rate  
10           of less than one and one-half times the minimum wage for hours worked in excess  
11           of 8 hours per day and/or for all class members for overtime premium pay of one  
12           and one half their regular rate for all hours worked in excess of 40 hours per week;
- 13          5.     For continuation wages pursuant to NRS 608.140 and 608.040-.050;
- 14          6.     For a lien on the property where Plaintiff and all members of the Nevada Classes  
15           labored pursuant to NRS 608.050;
- 16          7.     For interest as provided by law at the maximum legal rate;
- 17          8.     For reasonable attorneys' fees authorized by statute;
- 18          9.     For costs of suit incurred herein;
- 19          10.    For pre-judgment and post-judgment interest, as provided by law, and
- 20          11.    For such other and further relief as the Court may deem just and proper.

21  
22 ///

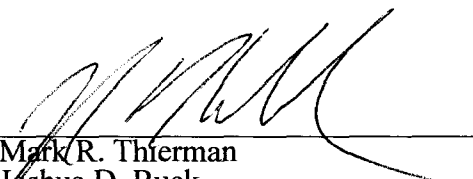
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1  
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3  
4 **AFFIRMATION**

5 *The undersigned does hereby affirm that the preceding document does not contain*  
6 *“Personal Information” and agrees that upon the filing of additional documents in the above*  
7 *matter, an Affirmation will be provided only if the document contains a social security number*  
8 *(NRS 239B.030) or “personal information” (NRS 603A.04).*

9 DATED: 1-3-2022

10   
11 Mark R. Thierman  
12 Joshua D. Buck  
13 Leah L. Jones  
14 Joshua R. Hendrickson  
15 *Attorneys for Plaintiff*

16 **Index of Exhibits**

17

NO.	DESCRIPTION	NO. OF PAGES
1	TIMECARD REPORT - Laura Spindola - 10_21_19 - 11 03 19	2

18  
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21  
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28

**EXHIBIT 1**

Timecard Report - Laura Spindola

**EXHIBIT 1**

From: uAttend Notifications  
 To: lauraspindola56@gmail.com  
 Subject: TIMECARD REPORT - Laura Spindola - 10/21/19 - 11/03/19  
 Date: Monday, November 4, 2019 2:05:39 AM

TIMECARD REPORT - Daehan Solution Nevada, LLC.

Laura Spindola - D1808007


Pay Period: 10/21/19 - 11/03/19

DATE	DEPT	IN	OUT	REG	OT1	OT2	VAC	HOL	SIC	OTH	TOTAL
Mon 10/21/19	11	05:48 AM	07:36 PM	13:45							
			LUNCH DEDUCTION	-:30							13:15
Tue 10/22/19	11	05:50 AM	06:56 PM	13:15							
			LUNCH DEDUCTION	-:30							12:45
Wed 10/23/19	11	05:15 AM	05:21 PM	12:00							
			LUNCH DEDUCTION	-:30							11:30
Thu 10/24/19	11	05:34 AM	04:36 PM	11:00							
			LUNCH DEDUCTION	-:30							10:30
Fri 10/25/19	11	05:45 AM	-----								
Sat 10/26/19	11	05:45 AM	05:01 PM	11:15							
			LUNCH DEDUCTION	-:30							10:45
Sun 10/27/19	11		WEEKLY OVERTIME	-18:45	18:45						
Mon 10/28/19	11	05:42 AM	05:12 PM	11:30							
			LUNCH DEDUCTION	-:30							11:00
Tue 10/29/19	11	05:51 AM	05:31 PM	11:45							
			LUNCH DEDUCTION	-:30							11:15
Wed 10/30/19	11	05:29 AM	05:39 PM	12:15							
			LUNCH DEDUCTION	-:30							11:45
Thu 10/31/19	11	05:58 AM	04:41 PM	10:45							
			LUNCH DEDUCTION	-:30							10:15
Fri 11/01/19											
Sat 11/02/19	11	05:50 AM	11:27 AM	5:45							5:45
Sun 11/03/19	11		WEEKLY OVERTIME	-10:00	10:00						

Hours Worked Week1: 61:15 | Week2: 52:00

	REG	OT1	OT2	VAC	HOL	SIC	OTH	TOTAL
Total Hours	80:00	28:45						108:45

PAY CODE	ACCRUED	USED	AVAIL
VAC	40:00	16:00	24:00
SIC	32:56	27:00	5:56

 This timecard is not yet approved by Laura Spindola.

Approved By / Date

Employee / Date

Disclaimer:  
 The information in the email may or may not have been edited and approved by a supervisor.  
 If you have any questions about the information contained herein, please notify your supervisor prior to the end of the pay period.