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8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 DEMORIO WILLIAMS, on behalf of himself
11 and all others similarly situated,

12 Plaintiff,

13 v.

14 WG-STATELINE, LLC; PARAGON
15 GAMING, INC.; PARAGON HRLT
16 HOLDINGS LLC; PARAGON HRLT
17 MANAGEMENT LLC; NEVA ONE L.L.C.
18 d/b/a HARD ROCK HOTEL & CASINO
LAKE TAHOE, and DOES 1 through 50,
inclusive,

19 Defendants.

Case No.: A-18-769883-C

Dept. No.: Department 31

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 Minimum Wages in Violation of the Nevada Constitution;
- 3) Failure to Pay Overtime in Violation of NRS 608.140 and 608.018; and
- 4) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.140 and 608.020-050; and

JURY TRIAL DEMANDED

22 COME NOW Plaintiff DEMORIO WILLIAMS (“Plaintiff”), on behalf of himself and all
23 others similarly situated, and allege the following:

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

1
2 1. This Court has original jurisdiction over the state law claims alleged herein
3 because the amount in controversy exceeds \$10,000 and because Plaintiff has a private right of
4 action for the Nevada statutory claims alleged herein. *See Neville v. Terrible Herbst, Inc.*, 133
5 Nev. Adv. Op. 95 (Dec. 7, 2017).

6 2. Venue is proper in this Court because one or more of the Defendants named herein
7 maintains a place of business or otherwise is found in the judicial district.

8 3. Plaintiff made a demand for wages on March 20, 2017.

9 **PARTIES**

10 4. Plaintiff DEMORIO WILLIAMS (“Plaintiff” or “WILLIAMS”) is a natural person
11 who is and was a resident of the State of Nevada and who, within the last three years, has been
12 employed by Defendants as a non-exempt hourly employee at 50 Highway 50, Stateline, Nevada.
13 Plaintiff Williams was terminated by Defendants in or around July 2016.

14 5. Defendant WG-STATELINE, LLC is a Nevada Limited Liability Company whose
15 managing member is WILLIAM W. WARNER, located at 6720 Via Austi Parkway, Suite 400,
16 Las Vegas, NV 89119.

17 6. Defendant PARAGON GAMING, INC. is a Nevada corporation with its principal
18 place of business located at 6650 Via Austi Parkway, Suite 150, Las Vegas, NV 89119.

19 7. Defendant PARAGON HRLT HOLDINGS LLC is a Nevada Limited Liability
20 Company whose managing members are DIANA L BENNETT and G. SCOTT MENKE, located
21 at 6650 Via Austi Parkway, Suite 150, Las Vegas, NV 89119.

22 8. Defendant PARAGON HRLT MANAGEMENT LLC is a Nevada Limited
23 Liability Company whose managing members are DIANA L BENNETT and G. SCOTT
24 MENKE, located at 6650 Via Austi Parkway, Suite 150, Las Vegas, NV 89119.

25 9. Defendant NEVA ONE L.L.C. is a Nevada Limited Liability Company whose
26 managing members are DAVID PARK and JON PARK, located at 1300 Buckey Road, Suite A,
27 Minden, NV 89423. Defendant NEVA ONE L.L.C. is doing business under the fictitious business
28

1 name of Hard Rock Hotel & Casino Lake Tahoe, which is located at 50 Highway 50, Stateline, NV
2 89449.

3 10. Defendants, and each of them, are an employer under the provisions of Nevada
4 Revised Statutes Chapter 608. For labor relations purposes, Defendants are each and together
5 constitute the employer and/or joint employer of Plaintiff and all Plaintiff class members
6 (hereinafter referred to as “Class Members”).

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

12 **FACTUAL ALLEGATIONS**

13 12. At all times relevant herein, Defendant NEVA ONE, L.L.C. has owned the Hard
14 Rock Hotel & Casino Lake Tahoe.

15 13. Defendant WG-STATELINE, LLC is a hospitality management company that
16 provided management services to the Hard Rock Hotel and Casino Lake Tahoe during the relevant
17 time period. WG-STATELINE, LLC provides a wide variety of services for its clients, and
18 contractually assumes exclusive responsibility and authority to direct the selection, control,
19 promotion, discipline, and discharge of all employees employed by the client at the managed
20 facility. In line with this responsibility, WG-STATELINE, LLC assumes the responsibility and
21 authority to modify and administer employee policies for the client’s facility.

22 14. In or around July 2014 through in or around October 2015, Defendant NEVA
23 ONE, L.L.C. contracted with WG-STATELINE, LLC (collectively, the “Lake Tahoe
24 Defendants”) to manage the Hard Rock Hotel & Casino Lake Tahoe property. The management
25 contract granted WG-STATELINE, LLC exclusive responsibility and authority to direct the
26 selection, control, promotion, discipline, and discharge of all employees employed by Defendants
27 at the Hard Rock Hotel & Casino Lake Tahoe property. Likewise, the management contract
28 assigned Defendant WG-STATELINE, LLC the responsibility and authority to modify and

1 administer employee policies for the Hard Rock Hotel & Casino Lake Tahoe. Although Defendant
2 NEVA ONE L.L.C. fired Defendant WG-STATELINE, LLC in 2015, it nonetheless maintained
3 WG-STATELINE, LLC’s improper rounding policy, and continues to apply that policy in its
4 management of the Hard Rock Hotel & Casino Lake Tahoe.

5 15. Defendant PARAGON GAMING, INC. is a hospitality management and
6 development company that owns and manages a variety of resorts and gaming properties in
7 conjunction with its subsidiaries, Defendants PARAGON HRLT HOLDINGS LLC and
8 PARAGON HRLT MANAGEMENT LLC (collectively, the “Paragon Defendants”). In or
9 around November 2016, the Paragon Defendants acquired a controlling ownership interest and
10 assumed management of the Hard Rock Hotel and Casino Lake Tahoe.

11 16. At all times relevant herein, Defendants employed Plaintiff as an hourly paid (non-
12 exempt) employee at their Hard Rock Hotel and Casinos at their Lake Tahoe location.

13 **DEFENDANTS’ OFF-THE-CLOCK/ROUNDING POLICY**

14 17. Pursuant to Defendants NEVA ONE, L.L.C., WG-STATELINE, LLC, and the
15 Paragon Defendants’ company-wide employment policy and practice, Defendants maintained a
16 rule requiring Plaintiff Williams and all other non-exempt hourly paid employees at the Lake
17 Tahoe location to arrive three to seven minutes early to complete pre-shift tasks prior to the start
18 of their regularly scheduled shifts. These tasks included, but were not limited to, picking up
19 equipment necessary for the performance of the employee’s job, walking across the facility to the
20 employee’s designated post, and attending pre-shift meetings with the outgoing employee to
21 receive instructions and relay any ongoing issues or concerns. These tasks took approximately
22 three to seven minutes prior to each and every shift and were for Defendants’ benefit. Plaintiff
23 Williams and all other non-exempt hourly paid employees at the Lake Tahoe location were not
24 compensated for the time spent completing these tasks.

25 18. Although Defendants required Plaintiff Williams and all other non-exempt hourly
26 paid employees to show up, clock in, and begin work three to seven minutes prior to the start of
27 their regularly scheduled shift, Defendants did not pay Plaintiff Williams for this time. Instead,
28 Defendants knowingly required, suffered or permitted their employees to work without

1 compensation—i.e., “off the clock.” This was achieved by either rounding hours so that
2 employees who were technically “on the clock” did not receive pay for all their recorded hours
3 worked or by having employees perform work without being logged in to the timekeeping system.

4 19. Because employees were required to perform work before their shifts, but were
5 not allowed to clock in more than seven minutes prior to their shift, Defendants’ one-sided
6 rounding policy consistently rounded to Defendants’ benefit at the expense of Plaintiff Williams
7 and all other non-exempt hourly paid employees.

8 20. Plaintiff hired expert witness Jim Toney to evaluate the effect of Defendants’
9 rounding policy on its non-exempt hourly paid employees. Plaintiff have attached a summary of
10 Mr. Toney’s findings as Exhibit A with this Complaint (hereinafter “Rounding Analysis”). Mr.
11 Toney analyzed Plaintiff Williams’ time card punch records for shifts starting on March 6, 2015
12 and ending on July 17, 2016. Plaintiff Williams’ time cards indicated that his time was
13 unfavorably rounded for 81.1% of all shifts he worked for the Defendants. This rounding resulted
14 in a net unfavorable impact of 5.14 unpaid minutes per shift worked.

15 21. Plaintiff Williams was consistently underpaid as a result of Defendants’ rounding
16 policy. To provide a specific example, for the pay period of April 1, 2015 through April 15, 2015,
17 Plaintiff Williams worked 80 hours of regular time and 1.4 hours of overtime. However, as a
18 result of their one-sided rounding policy, Defendants only paid Plaintiff Williams for 80 hours of
19 regular time and 15 minutes of overtime. In other words, Defendants failed to pay Plaintiff
20 Williams for more than an hour of off-the-clock work that he performed during this pay period.
21 This pay period provides specific examples of weeks in which Plaintiff Williams worked over 40
22 hours in a week and over 8 hours in a day but was not compensated for all hours worked in excess
23 of 40 hours per week and 8 hours per day during those workweeks. Further, this pay period serves
24 as an example of one of the many specific pay periods whereby Plaintiff were not compensated
25 for all hours worked at the minimum hourly wage rate or their regular rate of pay, whichever is
26 greater. Plaintiff Williams’ time card for this pay period is attached as Exhibit B with this
27 Complaint.

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1 22. Analysis of time card punch records will provide a “just and reasonable” inference
2 that Plaintiff and Class Members on average worked approximately three to seven minutes “off-
3 the-clock” and without compensation each and every day they worked at the Lake Tahoe location
4 and the other properties managed by Defendant Warner and its subsidiaries.

5 23. The policies and practices of Defendants at all relevant times have been
6 substantially similar, if not identical, for all of their non-exempt hourly paid employees.

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

8 24. Defendants paid Plaintiff Williams and certain other Class Members bonuses
9 and/or other non-discretionary payments without including the amount paid for these bonuses
10 and/or other non-discretionary payments in the regular rate for purposes of calculation of overtime
11 payment due. Upon information and belief, all other Class Members employed by Defendants
12 were paid in the same manner.

13 **CLASS ACTION ALLEGATIONS**

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

16 26. Plaintiff brings this action on behalf of himself and all other similarly situated and
17 typical employees as a class action under Nevada law. Plaintiff brings this action on behalf of
18 the class defined as follows: **All current and former non-exempt employees who were**
19 **employed by Defendants at any time during the relevant time period alleged herein.**¹

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

21 A. The Class is Sufficiently Numerous: Upon information and belief,
22 Defendants employ, and have employed, in excess of 500 Class Members within the
23 applicable statute of limitations.

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

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¹ The relevant time period is from April 6, 2014 to the present.

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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, they have issues of law and fact in common with all members of the Class, and they do not have interests that are antagonistic to Class Members.

E. A Class Action is Superior/Class Claims Predominate: A class action is superior to other available means for the fair and efficient adjudication of this controversy, since individual joinder of all members of the Class is impractical. Class action treatment will permit a large number of similarly situated persons to prosecute their common claims in a single forum simultaneously, efficiently, and without unnecessary duplication of effort and expense. Furthermore, the expenses and burden of individualized litigation would make it difficult or impossible for individual members of the Class to redress the wrongs done to them, while an important public interest will be served by addressing the matter as a class action. Individualized litigation would also present the potential for inconsistent or contradictory judgments. For these reasons, class claims predominate and a class action would be a more efficient way of adjudicating these claims.

FIRST CAUSE OF ACTION

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

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

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

1 35. By failing to compensate Plaintiff and Class Members for the time spent engaging
2 in off-the-clock activities and subject to the rounding policy identified above, Defendants failed
3 to pay Plaintiff and Class Members for all hours worked in violation of the Nevada Constitution.

4 36. Wherefore, Plaintiff demand for himself and for all Class Members payment by
5 Defendants at their regular hourly rate of pay or the minimum wage rate, whichever is higher, for
6 all hours worked during the relevant time period alleged herein together with attorneys' fees,
7 costs, and interest as provided by law.

8 **THIRD CAUSE OF ACTION**

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

10 37. Plaintiff reallege and incorporate by this reference all the paragraphs above in this
11 Complaint as though fully set forth herein.

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

14 39. NRS 608.018(1) provides as follows:

15 An employer shall pay 1 1/2 times an employee's regular wage rate
16 whenever an employee who receives compensation for employment at a rate
17 less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250
18 works: (a) More than 40 hours in any scheduled week of work; or (b) More
19 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.

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

21 An employer shall pay 1 1/2 times an employee's regular wage rate
22 whenever an employee who receives compensation for employment at a rate
23 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.

24 41. By failing to compensate Plaintiff and Class Members for the time spent engaging
25 in off-the-clock activities and subject to the rounding policy identified above and by failing to
26 include the non-discretionary bonus into the regular rate of pay in calculating the overtime rate,
27 Defendants failed to pay Plaintiff and Class Members daily overtime premium pay for all hours
28 worked over eight (8) hours in a workday to those Class Members who were paid a regular rate

1 of less than one and one half times the minimum wage premium pay and, failed to pay a weekly
2 premium overtime rate of time and one half their regular rate for all members of the Class who
3 worked in excess of forty (40) hours in a week in violation of NRS 608.140 and 608.018.

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

9 **FOURTH CAUSE OF ACTION**

10 (Failure to Timely Pay All Wages Due and Owing Upon Termination Pursuant to NRS
11 608.140 and 608.020-.050)

12 43. Plaintiff reallege and incorporate by this reference all the paragraphs above in this
13 Complaint as though fully set forth herein.

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

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

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

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

3 48. By failing to pay Plaintiff and Class Members who are former employees of
4 Defendants for all hours worked in violation of the state laws identified herein, Defendants have
5 failed to timely remit all wages due and owing to Plaintiff and Class Members who are former
6 employees.

7 49. Despite demand, Defendants willfully refuse and continue to refuse to pay Plaintiff
8 and Class Members who are former employees all the wages that were due and owing upon the
9 termination of their employment.

10 50. Wherefore, Plaintiff demand thirty (30) days wages under NRS 608.140 and
11 608.040, and an additional thirty (30) days wages under NRS 608.140 and 608.050, for all Class
12 Members who have terminated employment from Defendants during the relevant time period
13 alleged herein together with attorneys’ fees, costs, and interest as 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 certifying this action as a traditional class action under Nevada Rule
20 of Civil Procedure Rule 23 on behalf of each of the Classes;
- 21 2. For an order appointing Plaintiff as the Representatives of the Classes and their
22 counsel as Class Counsel;
- 23 3. For damages, according to proof for regular rate pay under NRS 608.140 and
24 608.016 for all hours worked;
- 25 4. For damages, according to proof for minimum wage rate pay under the Nevada
26 Constitution for all hours worked;
- 27 5. For damages, according to proof for overtime compensation at the applicable rate
28 under NRS 608.140 and 608.018 for all hours worked for those employees who

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- earned a regular rate of less than one and one half times the minimum wage for hours worked in excess of 8 hours per day and/or for all subclass members for overtime premium pay of one and one half their regular rate for all hours worked in excess of 40 hours per week;
6. For sixty days of waiting time penalties pursuant to NRS 608.140 and 608.040-.050;
 7. For interest as provided by law at the maximum legal rate;
 8. For reasonable attorneys' fees authorized by statute;
 9. For costs of suit incurred herein;
 10. For pre-judgment and post-judgment interest, as provided by law, and
 11. For such other and further relief as the Court may deem just and proper.

DATED: February 20, 2018

THIERMAN BUCK, L.L.P.

/s/Joshua D. Buck
Mark R. Thierman
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Exhibit List

- A. Rounding Analysis for Demorio Williams
- B. Time Card for Demorio Williams for Pay Period April 1, 2015 Through April 15, 2015.

EXHIBIT A

Rounding Analysis for Demorio Williams

EXHIBIT A



31 CHATEL DR
 LITTLE ROCK, AR 72223
 501-366-4164
 JT@JTCalcs.com

December 14, 2016

Joshua D. Buck Esq.
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 7287 Lakeside Drive
 Reno, NV 89511

Re: Hard Rock Hotel and Casino - Rounding Analysis for Demorio C. Williams

On December 7, 2016 I was provided the PDF file, "Time Cards in Date Order.pdf". This file contained punch records for shifts starting on March 6, 2015 and ending on July 17, 2016. All shifts provided in the referenced file were for employee Demorio C. Williams.

Analysis Needed:

- Impact of rounding policy

Rounding Issues

A total of 338 shifts were available in the data provided. The relevant data fields included on the time sheets were: "Date", "In" - the start of the shift punch, "Out" - the end of the shift punch, and "Amount" or shift hours.

Shifts were analyzed to determine the impact of the rounding policy on the employee. The shifts analyzed yielded the following statistics

	Count of Shifts with Unfavorable Rounding	Count of Shifts with Even Rounding	Count of Shifts with Favorable Rounding	Total
Shift Count	274	10	54	338
Percent of Total	81.1%	2.9%	16.0%	
	Unfavorable Minutes	Even Minutes	Favorable Minutes	Total
Minutes	(1,974.0)	0.0	238.2	(1,735.8)
Average Minutes Per Shift	(7.20)	0.00	4.41	(5.14)

In the data it was observed that D. Williams was negatively impacted by the rounding policy in 81.1% of the shifts worked. The unfavorable impact was calculated to be an average of (7.20) minutes per shift. A shift that was "Even" or resulted in no impact to the employee was seen 2.9% of the time. Finally, in 16% of the shifts observed, the results of the rounding policy was favorable to the employee. When the shift was identified as favorable to the employee, the average minutes per favorable shift was 4.41.

The high ratio of the unfavorable shift count to the favorable shift count, results in a net unfavorable impact to the employee of (5.14) unfavorable minutes per shift worked.

Please let me know if you have any questions on the above explanations.

Thank You,



Jim Toney
 Principal

EXHIBIT B

Time Card for Demorio Williams for Pay Period April 1, 2015 Through April 15, 2015.

EXHIBIT B

Time Cards

Previous Period (04/02/15 to 04/15/15)

Williams, Demorio C.

Employee		ID Number		Badge		Pay Class	
Williams, Demorio C.		1574		1574		8 Daily/40 Wkly Emps	
Date	In	Out	In	Out	Amount	Schedule	Exceptions
04/02/15	11:55p	8:05a			8:00	Unsch	Unsch.
04/03/15	11:55p	8:15a			8:15	Unsch	Unsch.
04/04/15	11:54p	8:02a			8:00	Unsch	Unsch.
04/05/15							
04/06/15							
04/07/15	12:00a	8:00a			8:00	Unsch	Unsch.
04/08/15	11:53p	8:02a			8:00	Unsch	Unsch.
04/09/15	11:53p	8:00a			8:00	Unsch	Unsch.
04/10/15	11:54p	8:01a			8:00	Unsch	Unsch.
04/11/15	11:53p	8:02a			8:00	Unsch	Unsch.
04/12/15							
04/13/15							
04/14/15	11:57p	8:02a			8:00	Unsch	Unsch.
04/15/15	11:53p	8:02a			8:00	Unsch	Unsch.

Pay Desig.	Department, Cost Center	Hours	Rate	Dollars
Regular	2030, 203004	80:00	8.3500	668.0000
Overtime	2030, 203004	0:15	12.5250	3.1313
Totals		80:15		671.1312

Employee Signature

