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23 **EIGHTH JUDICIAL DISTRICT COURT**
24 **CLARK COUNTY, NEVADA**

25 AHJANAE BARNETT, on behalf of
26 herself and all others similarly situated,

27 Plaintiff,

28 vs.

29 WBF MCDONALD'S MANAGEMENT
30 LLC d/b/a and a/k/a WBF
31 MANAGEMENT LLC also d/b/a and a/k/a
32 MCDONALD'S; DOES 1 through 50;
33 inclusive,

34 Defendant(s).

Case No.: A-18-777786-C
Dept. No.: Department 11

CLASS ACTION COMPLAINT

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

- 1) Failure to Pay Overtime in Violation of NRS 608.018 and 608.140;
- 2) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.020-050 and 608.140; and,
- 3) Injunctive Relief.

**LIEN REQUESTED PURSUANT TO
NRS 608.050**

JURY TRIAL DEMANDED

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1 COMES NOW Plaintiff Anjanae Barnett, on behalf of herself and all others
2 similarly situated and alleges the following:

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

7 **JURISDICTION AND VENUE**

8 1. This Court has original jurisdiction over the state law claims alleged herein
9 because the amount in controversy exceeds \$15,000 and a party seeking to recover
10 unpaid wages has a private right of action pursuant to the Nevada Constitution, Article
11 15 Section 16, and Nevada Revised Statute (“NRS”) sections 608.050 and 608.140. See
12 *Neville v. Terrible Herbst, Inc.*, 133 Nev. Adv. Op. 95 (Dec. 7, 2017).

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

15 3. Plaintiff made a proper demand for wages due pursuant to NRS 608.140
16 on July 11, 2018.

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

20 5. Plaintiff demands a jury trial on all issues triable by jury herein.

21 **PARTIES**

22 6. Plaintiff Anjanae Barnett (hereinafter “Plaintiff” or “Barnett”) was at all
23 relevant times a resident of the State of Nevada and was employed by Defendant as a
24 non-exempt hourly employee from August of 2015 to June of 2018.

25 7. Defendant WBF McDonald’s Management LLC d/b/a and a/k/a WBF
26 Management LLC also d/b/a and a/k/a McDonald’s is a foreign limited liability company
27 registered with the Nevada Secretary of State.

28 8. Defendant WBF McDonald’s Management LLC holds the fictitious firm

1 name for McDonald's with Clark County and was doing business in this Judicial District
2 in Clark County, Nevada where the subject incidences occurred.

3 9. Defendant WBF McDonald's Management LLC lists its foreign name as
4 WBF Management LLC with the Nevada Secretary of State.

5 10. At all relevant times, each Defendant was an agent, employee, joint-
6 venturer, shareholder, director, member, co-conspirator, alter ego, master, or partner of
7 each of the other Defendants, and at all times mentioned herein were acting within the
8 scope and course and in pursuance of his, her, or its agency, joint venture, partnership,
9 employment, common enterprise, or actual or apparent authority in concert with each
10 other and the other Defendants.

11 11. At all relevant times, the acts and omissions of Defendants concurred and
12 contributed to the various acts and omissions of each and every one of the other
13 Defendants in proximately causing the complaints, injuries, and damages alleged herein.
14 At all relevant times herein, Defendants approved of, condoned and/or otherwise ratified
15 each and every one of the acts or omissions complained of herein. At all relevant times
16 herein, Defendants aided and abetted the acts and omissions of each and every one of
17 the other Defendants thereby proximately causing the damages as herein alleged.

18 12. The Defendants named herein are the employers of the Plaintiff and all
19 Class Members alleged herein. The Defendants are employers engaged in commerce
20 under the provisions of NRS 608.011. The identity of DOES 1-50 is unknown at the time
21 and the Complaint will be amended at such time when the identities are known to
22 Plaintiff. Plaintiff is informed and believes that each Defendants sued herein as DOE is
23 responsible in some manner for the acts, omissions, or representations alleged herein
24 and any reference to "Defendant" or "Defendants" herein shall mean "Defendants and
25 each of them."

26 **FACTUAL ALLEGATIONS**

27 13. Plaintiff Barnett has been employed by Defendant as a non-exempt
28 employee from August of 2015 to June of 2018.

1 14. Defendant maintains an unlawful policy of not paying daily overtime to non-
2 exempt hourly employees who earned 1 ½ times less than the applicable minimum wage.

3 15. Plaintiff has frequently worked over 8 hours in any given workday.

4 16. Plaintiff has frequently worked over 40 hours in any given workweek.

5 17. On many occasions, Plaintiff has worked a shift until the late evening hours
6 and then returned early the next morning to work a day shift. The number of hours she
7 worked in a workday under Nevada law was over 8 hours in a 24-hour period of time.

8 18. For instance, during the workweek of January 22, 2018, Defendant
9 scheduled Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time.

10 19. In addition, during the workweek of April 2, 2018, Defendant scheduled
11 Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time.

12 20. But despite having worked more than 8 hours in a 24-hour period of time,
13 Defendant failed to compensate Plaintiff at 1 ½ times her regular rate of pay for the
14 overtime hours she worked.

15 21. Upon information and belief, Defendant maintains a company-wide policy
16 and practice of refusing to pay daily overtime wages to Nevada employees who worked
17 over 8 hours in a workday.

18 22. This “no daily overtime” policy has always been common to all non-exempt
19 hourly paid employees at Defendant’s locations in the state of Nevada.

20 **CLASS ACTION ALLEGATIONS**

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

23 24. Plaintiff brings this action on behalf of herself and all other similarly situated
24 employees as a class action under Rule 23 of the Nevada Rules of Civil Procedure.

25 25. The **Nevada Overtime Class** is defined as “All hourly paid non-exempt
26 persons employed by Defendant in the state of Nevada who earned less than 1 ½ times
27 the applicable minimum wage and who worked over eight (8) hours in a workday at any
28 time within 3 years from July 11, 2018 until judgment.”

1 26. The **Waiting Time Penalty Class** is defined as “All Nevada Overtime
2 Class Members who are former employees of Defendant.”

3 27. Class treatment is appropriate under Rule 23’s class certification
4 mechanism because:

5 a. The Classes are Sufficiently Numerous: Upon information and
6 belief, Defendant employs, and has employed, in excess of 200 Nevada Overtime Class
7 Members within the applicable time period. Because Defendant is legally obligated to
8 keep accurate payroll records, Plaintiff alleges that Defendant’s records will establish
9 the members of the Classes as well as their numerosity.

10 b. Plaintiff’s Claim is Typical to Those of Fellow Class Members: Each
11 Class Member is and was subject to the same practices, plans, or policies as Plaintiff:
12 whether Defendant compensated Plaintiff and members of the Class daily overtime
13 wages when they worked over 8 hours in a workday and whether members of the Waiting
14 Time Penalty Class are entitled to waiting time penalties for the failure to pay them
15 minimum, regular, and overtime wages owed.

16 c. Common Questions of Law and Fact Exist: Common questions of
17 law and fact exist and predominate as to Plaintiff and the Class Members, including,
18 without limitation: whether Defendant failed to pay Plaintiff and the Class Members one
19 and one-half times their regular rate for all hours worked in excess of 8 hours a workday
20 and whether Defendant failed to pay the Waiting Time Penalty Class Members all their
21 wages due and owing in violation of NRS 608.020-050.

22 d. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly
23 and adequately represent the interests of the Classes because Plaintiff is a member of
24 the Nevada Overtime Class, she has issues of law and fact in common with all members
25 of the Classes, and her interests are not antagonistic to Class members. Plaintiff and her
26 counsel are aware of their fiduciary responsibilities to Class Members and are
27 determined to discharge those duties diligently by vigorously seeking the maximum
28 possible recovery for Class Members.

1 e. Predominance/Superior Mechanism: Class claims predominate and
2 a class action is superior to other available means for the fair and efficient adjudication
3 of this controversy. Each Class Member has been damaged and is entitled to recovery
4 by reason of Defendant's illegal policy and/or practice of failing to compensate its
5 employees in accordance with Nevada wage and hour law. The prosecution of individual
6 remedies by each Class Member will tend to establish inconsistent standards of conduct
7 for Defendant and result in the impairment of Class Members' rights and the disposition
8 of their interest through actions to which they were not parties.

9 **FIRST CAUSE OF ACTION**
10 **Failure to Pay Overtime Wages in Violation of NRS 608.018 and 608.140**
11 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

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

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

16 30. NRS 608.018(1) provides as follows:

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

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

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

29 32. As described above, Defendant maintains a policy and/or practice of illegal
30 shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the
31 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and

1 Nevada Overtime Class Members have been denied overtime compensation according
2 to Nevada law.

3 33. Wherefore, Plaintiff demands for herself and all Nevada Overtime Class
4 Members that Defendant pay Plaintiff and Nevada Overtime Class Members one and
5 one-half times their "regular rate" of pay for all hours worked in excess of eight (8) hours
6 in a workday during the relevant time period together with attorneys' fees, costs, and
7 interest as provided by law.

8 **SECOND CAUSE OF ACTION**
9 **Waiting Time Penalties Pursuant to NRS 608.020-.050 and 608.140**
10 **(On Behalf of Plaintiff and the Waiting Time Penalty Class)**

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

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

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

18 37. NRS 608.030 provides that "[w]henver an employee resigns or quits his
19 or her employment, the wages and compensation earned and unpaid at the time of the
20 employee's resignation or quitting must be paid no later than...[t]he day on which the
21 employee would have regularly been paid the wages or compensation; or[s]even days
22 after the employee resigns or quits...whichever is earlier."

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

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

6 40. By failing to pay Waiting Time Penalty Class Members their minimum,
7 regular, and overtime wages in violation of state and federal law, Defendant has failed
8 to timely remit all wages due and owing to the Waiting Time Penalty Class Members.

9 41. Despite demand, Defendant willfully refused and continues to refuse to pay
10 Waiting Time Penalty Class Members all the wages that were due and owing upon the
11 termination of their employment.

12 42. Wherefore, the Waiting Time Penalty Class Members demand thirty (30)
13 days of pay as waiting penalties under NRS 608.040 and 608.140, and thirty (30) days
14 of pay as waiting penalties under NRS 608.050 and 608.140, together with attorneys’
15 fees, costs, interest, and punitive damages, as provided by law.

16 **THIRD CAUSE OF ACTION**
17 **Injunctive/Declaratory Relief**
18 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

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

21 44. As Defendant has failed to compensate Plaintiff and members of the
22 Overtime Class at the correct overtime wage rate for all the overtime hours that they
23 worked pursuant to NRS 608.018, Defendant has wrongfully withheld wages properly-
24 owed to the Plaintiff and the Overtime Class Members.

25 45. Plaintiff and the Nevada Overtime Class will suffer irreparable injury if
26 Defendant is not enjoined from the future wrongful retention of wages owed.

27 46. As a result of the aforementioned unlawful payment practices, Plaintiff
28 submits that there has been a likelihood of success on the merits that Plaintiff and the
Class Members have been damaged, that there is irreparable harm, and Plaintiff

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requests that this Honorable Court enter an Order that restrains Defendant from attempting to enforce the alleged unlawful payment practices.

47. Plaintiff requests that this Honorable Court enter a declaration of rights/obligations in regards to all such unlawful payment practices in this matter.

48. Further, disputes and controversies have arisen between the parties relative to the lawfulness of the payment practices, and Plaintiff is entitled to have an order entered pursuant to Chapter 30 of the Nevada Revised Statutes construing the payment practices and adjudging and declaring Plaintiff and the Class Members' rights and remedies thereunder including such an Order stating that such payment practices are unlawful.

49. Plaintiff has been required to retain the services of an attorney and is entitled to a reasonable award of attorneys' fees and costs.

PRAYER FOR RELIEF

Wherefore Plaintiff, by herself and on behalf of all Class Members, prays for relief as follows relating to her class action allegations:

1. For an order certifying this action as a class action on behalf the proposed Classes and providing notice to all Class Members so they may participate in this lawsuit;
2. For an order appointing Plaintiff as the Representative of the Classes and her counsel as Class Counsel;
3. For damages according to proof for overtime compensation under NRS 608.018 and 608.140 for all hours worked over 8 hours per day;
4. For waiting time penalties pursuant to NRS 608.040-.050 and 608.140;
5. For a lien on the property where Plaintiff and all Nevada Class Members labored pursuant to NRS 608.050;
6. For interest as provided by law at the maximum legal rate;
7. For injunctive relief;
8. For declaratory relief;


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- 9. For punitive damages;
- 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: July 17, 2018

Respectfully Submitted,
GABROY LAW OFFICES

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