

1 CODE NO. 3370
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF WASHOE
8

9 EDDY MARTEL (also known as MARTEL-
10 RODRIGUEZ), MARY ANNE CAPILLA,
11 JANICE JACKSON-WILLIAMS and WHITNEY
12 VAUGHAN on behalf of themselves and all
13 others similarly situated,

Case No. CV16-01264

Dept. No. 6

14 Plaintiffs,

15 vs.

16 HG STAFFING, LLC, MEI-GSR HOLDINGS,
17 LLC d/b/a GRAND SIERRA RESORT, and
18 DOES 1 through 50, inclusive,
19

20 Defendants.
21 _____ /

22 **ORDER GRANTING, IN PART, AND DENYING, IN PART, MOTION TO DISMISS**

23 Before this Court is a *Motion to Dismiss First Amended Complaint* ("Motion") filed by
24 Defendants HG STAFFING, LLC and MEI-GSR HOLDINGS, LLC d/b/a GRAND SIERRA
25 RESORT (collectively, "GSR" unless individually referenced), by and through their counsel,
26 Cohen|Johnson|Parker|Edwards.

27 Plaintiffs EDDY MARTEL (also known as MARTEL-RODRIGUEZ) ("Mr. Martel"),
28 MARY ANNE CAPILLA ("Ms. Capilla"), JANICE JACKSON-WILLIAMS ("Ms. Jackson-
Williams"), and WHITNEY VAUGHAN ("Ms. Vaughan") (collectively, "Plaintiffs"), on behalf of

1 themselves and all others similarly situated, filed *Plaintiffs' Opposition to Defendants' Motion*
2 *to Dismiss Plaintiffs' First Amended Complaint* ("Opposition"), by and through their counsel,
3 Thierman Buck, LLP. GSR filed its *Reply in Support of Motion to Dismiss Amended*
4 *Complaint* ("Reply") and submitted the matter for decision thereafter.

6 **I. FACTUAL AND PROCEDURAL HISTORY**

7 This action arises out of an employment dispute between Plaintiffs and GSR
8 regarding wages paid by GSR to Plaintiffs and similarly situated employees. On June 14,
9 2016, Plaintiffs filed a *Class Action Complaint* ("Complaint") alleging GSR maintained the
10 following policies, practices, and procedures which required various employees to perform
11 work activities without compensation: (1) GSR's Cash Bank Policy, (2) Dance Class Policy,
12 (3) Room Attendant Pre-Shift Policy, (4) Pre-Shift Meeting Policy, (5) Uniform Policy, and (6)
13 Shift Jamming Policy. *Complaint*, pp. 4-8. As a result of said policies, Plaintiffs allege four
14 causes of action against GSR: (1) Failure to Pay Wages for All Hours Worked in Violation of
15 NRS 608.140 and 608.016, (2) Failure to Pay Minimum Wages in Violation of the Nevada
16 Constitution, (3) Failure to Pay Overtime Wages in Violation of NRS 608.140 and 608.018,
17 and (4) Failure to Timely Pay All Wages Due and Owing Upon Termination Pursuant to NRS
18 608.140 and 608.020-.050. *Id.*, pp. 11-15.

19 On October 9, 2018, this Court entered its *Order After Hearing Granting Defendants'*
20 *Motion to Dismiss* ("Order"). The Court found Plaintiffs failed to provide sufficient
21 information to support its claims, and therefore granted GSR's *Motion to Dismiss*.
22 Thereafter, Plaintiffs filed *Plaintiffs' Motion for Reconsideration of the Court's Order Granting*
23 *Defendant's Motion to Dismiss or in the Alternative Leave to File an Amended Complaint*
24 ("Motion for Reconsideration") requesting the Court reconsider its *Order* pursuant to NRCP
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1 Rule 60(b). *Motion for Reconsideration*, p. 2. This Court entered its *Order Re Motion for*
2 *Reconsideration* denying Plaintiffs request on the grounds they failed to state a claim but
3 granting Plaintiffs leave to amend their *Complaint*.
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5 On January 29, 2019, Plaintiffs filed their *First Amended Complaint* (“FAC”) asserting
6 the same four (4) claims. Thereafter, GSR filed the instant *Motion* requesting this Court
7 dismiss the FAC pursuant to NRCP 12(b)(5). *Motion*, p. 2. GSR contends the claims
8 asserted in the FAC “have no more merit than Plaintiffs’ original claims.” *Motion*, p. 2.

9 First, GSR contends all of Plaintiffs’ claims asserted after June 14, 2014 are barred
10 by the two-year statute of limitations pursuant to NRS 608.260. *Motion*, p. 5. GSR asserts
11 the Nevada Supreme Court held claims made under the Minimum Wage Amendment
12 (“MWA”) are governed by a two-year statute of limitations. *Motion*, p. 5; citing Perry v.
13 Terrible Herbst, Inc., 132 Nev. Adv. Op. 75, 383 P.3d 257, 260-62 (2016). GSR further
14 asserts, all individual and class claims brought prior to June 14, 2014 are not tolled pursuant
15 to Archon Corp. v. Eighth Judicial Dist. Court in & for Cty. of Clark, 407 P.3d 702 (Nev.
16 2017) and China Agritech, Inc. v. Resh, 138 S. Ct. 1800, 1804 (2018). *Motion*, p. 9.

17 Second, GSR maintains Plaintiffs’ First, Third, and Fourth claims should be
18 dismissed for failure to exhaust administrative remedies with the labor commissioner as
19 required by NRS Chapter 607. *Motion*, p. 11. GSR argues Plaintiffs were required to first
20 file and pursue their state law wage claims with the Nevada Labor Commissioner before
21 seeking relief from this Court. *Motion*, p. 11; citing NRS 608.016; Allstate Ins. Co. v.
22 Thrope, 123 Nev. 565, 571-72, 170 P.3d 989, 993-94 (2007).

23 Third, GSR argues Plaintiffs First, Third, and Fourth Claims for Relief should be
24 dismissed for failing to make good faith attempt to collect their wages before filing their claim
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1 for wages with the Court. *Motion*, p. 13; citing NAC 608.155(1).

2 Fourth, GSR asserts Plaintiffs lack standing to represent union employees because
3 they are exclusively represented by their respective unions pursuant to 29 U.S.C.A Section
4 159(a). *Motion*, p. 14.

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6 Fifth, GSR contends Plaintiffs have again failed to state a claim for wages, including
7 minimum wages. *Motion*, p. 15. GSR argues Plaintiff do no allege any facts which would
8 show that any plaintiff was paid less than the minimum wage and do not allege how much
9 they were paid in any week. *Motion*, p. 16. GSR asserts Plaintiffs failure to claim how much
10 they worked in a week results in mere speculation as to whether Plaintiffs were underpaid.
11 *Motion*, p. 16.

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13 Sixth, GSR maintains Ms. Jackson-Williams' claims for wages and overtime are
14 barred for failing to exhaust grievance procedures of the collective bargaining agreement.
15 *Motion*, p. 17. GSR argues Ms. Jackson-Williams is subject to a collective bargaining
16 agreement and, therefore, her statutory claims for wages or overtime are dependent upon
17 finding a breach of that agreement to maintain those claims. *Motion*, p. 18. Moreover, GSR
18 asserts Ms. Jackson-Williams is not entitled to overtime pursuant to NRS 608.018 because
19 the collective bargaining agreement provides otherwise. *Motion*, p. 19.

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22 Seventh, GSR contends Plaintiffs' claims are barred by claim and issue preclusion.
23 *Motion*, p. 20. GSR maintains United States District Judge Hicks already determined
24 Plaintiffs' wage claims cannot proceed in a class action; and, they are therefore barred from
25 re-litigating the federal district court's judgment denying class certification. *Motion*, p. 2;
26 citing Five Star Capital Corp. v. Ruby, 124 Nev. 1048, 1054, 194 P.3d 709, 713 (2008).
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28 Lastly, GSR argues Plaintiffs should not be able to re-litigate the federal action on principles

1 of comity and the first-to-file rule. *Motion*, p. 23.

2 In their *Opposition*, Plaintiffs first maintain they are not required to exhaust
3 administrative remedies with the Office of the Labor Commissioner prior to filing suit.
4 *Opposition*, p. 7; citing Neville v. Terrible Herbst, Inc., 133 Nev. Adv. Op. 95, 406 P.3d 499,
5 504 (Dec. 7 2017).
6

7 Second, Plaintiffs assert they meet the pleading standard because they alleged
8 specific work activities for which they are not paid their minimum wage, provided estimated
9 damages owed to Plaintiffs and the putative classes, and provided documentary evidence in
10 their possession and control specifying hours, dates, and times worked without pay.
11 *Opposition*, p. 9.
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13 Third, Plaintiffs maintain their claims are not barred by issue or claim preclusion
14 because their Nevada wage claims were not certified in the Sargant action. *Opposition*, p.
15 13. Specifically, the federal court never reached determination of the state law claims
16 because it dismissed them on the “incorrect premise” that Nevada employees do not have a
17 private right of action for wage claims, at summary judgment, and prior to the court’s
18 decertification order. *Opposition*, p. 13.
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20 Fourth, Plaintiffs contend its claims are not barred by any statutes of limitation.
21 *Opposition*, p. 22. Plaintiffs contend NRS 11.190(3)(a)’s three-year statute of limitation for
22 “an action upon liability created by statute, other than a penalty or forfeiture” applies to this
23 action because NRS Chapter 608 lacks an express limitation period and NRS 11.190
24 provides the three-year statute of limitation applies “unless further limited by specific statute.
25 . . .” *Opposition*, p. 22; citing NRS 11.190.
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1 Plaintiffs further contend Defendants reliance on Perry is impermissibly broad
2 because the Court did not hold a two-year statute of limitation period applicable to the
3 Minimum Wage Amendment, extended to NRS 608 private causes of action claims.
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5 *Opposition*, p. 23.

6 Fifth, Plaintiffs maintain their claims are not preempted by any alleged collective
7 bargaining agreement because they are only trying to enforce the statutory obligation to pay
8 overtime. *Opposition*, p. 29.

9 In their *Reply*, Defendants reiterate that a two-year statute of limitations applies to the
10 claims. *Reply*, p. 2. Defendants assert Plaintiffs concede they did not exhaust
11 administrative remedies or grievance procedures. *Reply*, p. 3. Lastly, Defendants assert
12 Plaintiff do not address or dispute that they are not entitled to seek class certification on
13 behalf of GSR employees represented by a union. *Reply*, p. 3.

14 II. STANDARD OF REVIEW; LAW AND ANALYSIS

15
16 A complaint should be dismissed under NRCP 12(b)(5) “only if it appears beyond a
17 doubt” that the plaintiff is entitled to no relief under any set of facts that could be proved in
18 support of the claim. Buzz Stew, LLC v. City of North Las Vegas, 124 Nev. 224, 228, 181
19 P.3d 670, 672 (2008); Blackjack Bonding v. City of Las Vegas Mun. Court, 116 Nev. 1213,
20 1217, 14 P.3d 1275, 1278 (2000). When analyzing the merits of a 12(b)(5) motion to
21 dismiss, the court recognizes all of the factual allegations in the plaintiff’s complaint as true,
22 and draws all inferences in favor of the non-moving party. *Id.* Dismissal is appropriate
23 “where the allegations are insufficient to establish the elements of a claim for relief.”
24 Stockmeier v. Nevada Dept. of Corr. Psychological Review Panel, 124 Nev. 313, 316, 183
25 P.3d 133, 135 (2008); see also Torres v. Nev. Direct Ins. Co., 131 Nev. Adv. Op. 54, 353
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1 P.3d 1203, 1210 (2015) (same). Nevada is a notice-pleading jurisdiction, therefore, "[t]he
2 test for determining whether the allegations of a cause of action are sufficient to assert a
3 claim for relief is whether the allegations give fair notice of the nature and basis of the claim
4 and the relief requested." Ravera v. City of Reno, 100 Nev. 68, 70, 675 P.2d 407, 408
5 (1984); W. States Const., Inc. v. Michoff, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992);
6 NRCP 8.
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8 **A. All Claims Accruing Prior to June 14, 2014 are Barred by the Statute of**
9 **Limitations**

10 **1. A Two-Year Statute of Limitations Applies to all Claims**

11 The Minimum Wage Act (MWA) guarantees employees payment of a specified
12 minimum wage and gives an employee whose employer violates the MWA the right to bring
13 an action against his or her employer in Nevada. Perry v. Terrible Herbst, Inc., 383 P.3d
14 257, 258 (Nev. 2016). A two-year statute of limitation applies to actions for failure to pay the
15 minimum wage in violation of the Nevada constitution. Id. at 262. This two-year statute of
16 limitation period applies to NRS 608 statutory wage claims that are analogous to a cause of
17 action for failure to pay an employee the lawful minimum wage. Id. Accordingly, a two-year
18 statute of limitation applies to: Plaintiffs' First Cause of Action for Failure to Pay Wages for
19 All Hours Worked in Violation of NRS 608.140 and 608.016; Second Cause of Action for
20 Failure to Pay Minimum Wages in Violation of the Nevada Constitution; Third Cause of
21 Action for Failure to Pay Overtime Wages in Violation of NRS 608.140 and 608.018; and,
22 Fourth Cause of Action for Failure to Timely Pay All Wages Due and Owing Upon
23 Termination Pursuant to NRS 608.140 and 608.020-.050.
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1 **2. Cross Jurisdictional Tolling Does Not Apply**

2 Class-action tolling suspends the statutes of limitation for all purported members of
3 the class until a formal decision on class certification has been made, or until the individual
4 plaintiff opts out of the class. Archon Corp. v. Eighth Judicial Dist. Court in & for Cty. of
5 Clark, 407 P.3d 702 (Nev. 2017). Cross-jurisdictional class-action tolling suspends the
6 statutes of limitation for all purported class members even if the class action was pending in
7 a different jurisdiction than where the later suit is brought. Id.

8
9 The United States Supreme Court in American Pipe held the timely filing of a class
10 action tolls the applicable statutes of limitation for all persons encompassed by the class
11 complaint. The Court further ruled that, where class action status has been denied,
12 members of the failed class could timely intervene as individual plaintiffs in the still-pending
13 action, shorn of its class character.

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15 Recently, however, the United State Supreme Court declined to apply American Pipe
16 tolling to successive class action claims, holding the maintenance of a follow-on class action
17 past the expiration of the statute of limitations is not permitted. China Agritech, Inc. v. Resh,
18 138 S. Ct. 1800, 1803, 201 L. Ed. 2d 123 (2018). The Court explained that allowing tolling
19 for successive class actions would allow the statute of limitation to be extended time and
20 again; as each class is denied certification, a new named plaintiff could file a class
21 complaint that resuscitates the litigation. Id.

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24 Whether cross-jurisdictional tolling applies to a case like the present case is an issue
25 that has not yet been decided by the Nevada Supreme Court. See Archon Corp. v. Eighth
26 Judicial Dist. Court in & for Cty. of Clark, 407 P.3d 702 (Nev. 2017). In Achron Corp, the
27 Court declined to consider the issue, finding an advisory mandamus was not warranted
28 because the issue was not raised in the district court. Id. Nevertheless, the case presented

1 compelling grounds to refrain from recognizing cross-jurisdictional tolling. Specifically,
2 cross-jurisdictional class-action tolling would allow the federal judiciary's actions to
3 indefinitely extend the statutes of limitation beyond a five-year period of repose under NRS
4 11.500. *Id.* Moreover, Achron Corp was considered before the United States Supreme
5 Court's decision in China Agritech, Inc.

6 This issue has been similarly addressed in regards to individual actions. In Clemens
7 v. Daimler Chrysler Corp., 534 F.3d 1017, 1025 (9th Cir. 2008), the Ninth Circuit held
8 American Pipe does not "mandate cross-jurisdictional tolling as a matter of state procedure."
9 The Illinois Supreme Court addressed this issue in Portwood v. Ford Motor Co., 701 N.E.2d
10 1102, 1103-05 (Ill. 1998), holding a state "statute of limitations is not tolled during the
11 pendency of a class action in federal court," even though the court had previously "adopted
12 the American Pipe rule for class actions filed in Illinois state court." The Court reasoned
13 such cross-jurisdictional tolling of a state statute of limitation would "increase the burden on
14 that state's court system" because it would expose the state court system to the evils of
15 "forum shopping." *Id.* at 1104. The court further found that because "state courts have no
16 control over the work of the federal judiciary, . . . [s]tate courts should not be required to
17 entertain stale claims simply because the controlling statute of limitations expired while a
18 federal court considered whether to certify a class action." *Id.* at 1104.

19 Moreover, pursuant to NRS 11.500, the Nevada Legislature has determined that a
20 statute of limitation should only be tolled based on an action filed in another jurisdiction
21 when "the court lacked jurisdiction over the subject matter of the action," (which it did not
22 here), and then limited tolling to "[n]inety days after the action is dismissed."

23 Here, Plaintiffs filed their *Complaint* on June 14, 2016. As such, all claims accruing
24 before June 14, 2014 are barred unless cross-jurisdictional tolling applies. Under the
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1 unique facts of this case, the Court finds cross-jurisdictional tolling does not apply. The
2 Court looks to the history of this litigation. Specifically, Plaintiffs in this case previously
3 brought a substantially similar action in the Second Judicial District Court for the State of
4 Nevada. The case was removed to federal court where class certification was denied and
5 the case dismissed. Plaintiffs again seek recourse in the Second Judicial District Court and
6 assert their claims were tolled by the federal action.

7 To permit tolling claims under these specific circumstances provides for never-ending
8 successive class actions because the statute of limitation would never expire. Newly named
9 plaintiffs could always file a class complaint that would resurrect the litigation. Accordingly,
10 class action claims shouldn't be tolled. Therefore, all of Plaintiffs' class action claims that
11 accrued prior to June 14, 2014, two (2) years before Plaintiffs filed their *Complaint*, are
12 barred and shall be dismissed.

13 Plaintiffs' *Complaint* alleges that Plaintiff Capilla was employed by GSR from "March
14 2011" to "September 2013;" Plaintiff Vaughan was employed by GSR from "August 2012"
15 through "June 2013;" Plaintiff Martel was employed by GSR from "January 2012" to "July
16 2014;" and Plaintiff Williams was employed by GSR from "April 2014" to "December 2015."
17 See Complaint at 3, ¶¶ 5 - 8. Accordingly, all of Ms. Capilla and Ms. Vaughan's claims, all
18 but one (1) month of Mr. Martel's claims, and all but eighteen (18) months of Ms. Jackson-
19 Williams' claims are dismissed.

22 B. Remaining Claims

23 Two Plaintiffs remain pursuant to this Court's dismissal of all claims accrued prior to
24 June 14, 2016. First, Mr. Martel's claims regarding a one-month period remains; and,
25 second, Ms. Jackson-Williams' claims remains regarding an eighteen months period. GSR
26 assert the remaining claims should be dismissed for (1) failure to exhaust administrative
27 remedies of the collective bargaining agreement; (2) issue preclusion; (3) claim preclusion;
28 (4) lack of standing to represent union employees; and, (5) failure to state a claim.

1 The Court addresses each argument in turn.

2 **1. Mr. Martel and Ms. Jackson-Williams are not Required to Exhaust**
3 **Administrative Remedies**

4 Where an administrative agency has exclusive jurisdiction over statutory claims, the
5 failure to exhaust administrative remedies before proceeding in district court renders the
6 matter unripe for district court review. Allstate Ins. Co. v. Thorpe, 123 Nev. 565, 571, 170
7 P.3d 989, 993 (2007). A private cause of action generally cannot be implied when an
8 administrative official is expressly charged with enforcing a section of laws. Baldonado v.
9 Wynn Las Vegas, LLC, 124 Nev. 951, 194 P.3d 96 (2008). However, the Nevada Supreme
10 Court has determined an employee has a private right to pursue claims for unpaid wages
11 pursuant to NRS 608.140. Neville v. Eighth Judicial Dist. Court in & for Cty. of Clark, 406
12 P.3d 499, 504 (Nev. 2017). As such, the Labor Commissioner does not have exclusive
13 jurisdiction over statutory claims. Therefore, Plaintiffs were not required to exhaust
14 administrative remedies before proceeding to district court.
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17 **2. Issue and Claim Preclusion Does not Apply**

18 In Five Star Capital Corp. v. Ruby, the Nevada Supreme Court set forth a three-part
19 test for determining whether claim preclusion applies to a later action: (1) [T]he parties or
20 their privies are the same, (2) the final judgment is valid, and (3) the subsequent action is
21 based on the same claims or any part of them that were or could have been brought in the
22 first case. 124 Nev. at 1054. In Five Star Capital Corp., the Court reasoned, claim
23 preclusion applies to preclude an entire second suit that is based on the same set of facts
24 and circumstances as the first suit. Id.
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27 The Court also set forth a four-part test for determining whether issue preclusion
28 applies to a later action:

1 (1) the issue decided in the prior litigation must be identical to the issue
2 presented in the current action; (2) **the initial ruling must have been on the**
3 **merits and have become final**; ... (3) the party against whom the judgment is
4 asserted must have been a party or in privity with a party to the prior litigation";
5 and (4) the issue was actually and necessarily litigated.

6 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008) (citations omitted) (emphasis added).

7 Here, class certification was never addressed in Sargent for the Nevada wage claims
8 and the Court in Sargent has since reversed the grant of summary judgment in light of
9 Neville. There is no issue or claim preclusion because class certification was never
10 independently decided; there has been no ruling on the merits of any of the employees'
11 FLSA or Nevada wage claims; and, the Plaintiffs' NRS 608 and Nevada Constitution
12 minimum wage claims have not actually and necessarily been litigated.

13 3. Standing to Represent Union Employees

14 Pursuant to 29 U.S.C. § 159(a),

15 Representatives designated or selected for the purposes of collective
16 bargaining by the majority of the employees in a unit appropriate for such
17 purposes, shall be the exclusive representatives of all the employees in such
18 unit for the purposes of collective bargaining in respect to rates of pay, wages,
19 hours of employment, or other conditions of employment.

20 29 U.S.C. § 159(a). In Baker v. IBP, Inc., 357 F.3d 685, 690 (7th Cir. 2004), the Seventh
21 Circuit held that where a "suit is at its core about the adequacy of the wages [the employer]
22 pays," individual employees may not represent union workers in a class action when the
23 Union has not breached its duty of fair representation.

24 The court reasoned that union workers "have a representative—one that under the
25 NLRA is supposed to be 'exclusive' with respect to wages" and therefore "Plaintiffs' request
26 to proceed on behalf of a class of all workers shows that they seek to usurp the union's
27 role." Id. at 686, 690. Moreover, state law rights and obligations that do not exist
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1 independently of private agreements, and that can be waived or altered by agreement as a
2 result, are pre-empted by those agreements. MGM Grand Hotel-Reno, Inc. v. Insley, 102
3 Nev. 513, 517, 728 P.2d 821, 824 (1986).

4 Plaintiffs do not dispute that they may not pursue class actions on behalf of union
5 employees because they are not union representatives, who have the exclusive right to
6 represent members of the union with respect wage. However, Plaintiffs dispute that an
7 enforceable collective bargaining agreement was in place. Specifically, Plaintiffs argue that:
8 (1) the CBA is not valid and has expired by its own terms on or about May 1, 2011 (over
9 seven years ago); (2) because it has expired and no subsequent CBA has been ratified or
10 signed, Plaintiffs may sue in this Court for unpaid wages, overtime wages, and penalties
11 due; and, (3) even if the CBA was valid it does not provide otherwise for overtime wages
12 and Plaintiffs may bring their claims in this Court. See Opposition, generally. The Court
13 declines to consider evidence, such as the collective bargaining agreement, outside the
14 pleadings at this time.¹ Considering the claims in Plaintiffs' *Complaint* as true, and drawing
15 all conclusions in favor of the Plaintiffs, dismissal is not appropriate on these grounds.
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19 **4. Failure to State a Claim**

20 As stated dismissal is appropriate pursuant to NRCP 12(b)(5) "where the allegations
21 are insufficient to establish the elements of a claim for relief." Stockmeier v. Nevada Dept.
22 of Corr. Psychological Review Panel, 124 Nev. 313, 316, 183 P.3d 133, 135 (2008); see
23 also Torres v. Nev. Direct Ins. Co., 131 Nev. Adv. Op. 54, 353 P.3d 1203, 1210 (2015)
24 (same). Nevada is a notice-pleading jurisdiction, therefore, "[t]he test for determining
25 whether the allegations of a cause of action are sufficient to assert a claim for relief is
26 whether the allegations give fair notice of the nature and basis of the claim and the relief
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¹ The Court notes this issue may be more appropriate for a motion for summary judgment.

1 requested." Ravera v. City of Reno, 100 Nev. 68, 70, 675 P.2d 407, 408 (1984); W. States
2 Const., Inc. v. Michoff, 108 Nev. 931, 936, 840 P.2d 1220, 1223 (1992); NRCP 8.

3 Plaintiffs filed their *FAC* on January 29, 2019. This Court finds Plaintiffs have
4 provided sufficient factual allegations regarding hours worked and exacting estimates of
5 shifts and unpaid hours and for the applicable time period to put Defendants on notice of the
6 nature and basis of the claims and relief requested. See FAC, generally.

8 **III. ORDER.**

9 The Court finds a two-year statute of limitation applies to this case. As such, the
10 Court dismisses all of Ms. Capilla and Ms. Vaughan's claims, all but one (1) month of Mr.
11 Martel's claims, and all but eighteen (18) months of Ms. Jackson-Williams' claims.
12 However, the Court declines to dismiss the remaining claims at this time.

14 Based on the foregoing, and good cause appearing thereto,

15 **IT IS HEREBY ORDERED** Defendants' *Motion to Dismiss* is GRANTED, in part, and
16 DENIED, in part.

17 Dated this 7th day of June, 2019.

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21 DISTRICT JUDGE
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