

CASE NO: A-19-801650-C
Department 28

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Attorneys for Plaintiff

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

NICOLEROSE RAMIREZ, on behalf of
herself and all others similarly situated,

Plaintiff,

vs.

PR RESTAURANT MANAGEMENT, LLC
d/b/a and a/k/a CUT; WP PAYROLL
MANAGEMENT, LLC; DOES 1 through
50; inclusive,

Defendant(s).

Case No.:
Dept. No.:

CLASS ACTION COMPLAINT

**Arbitration Exemption Claimed: Class
Action**

- 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 NicoleRose Ramirez, 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. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev.
13 2017).

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

16 3. Plaintiff made a proper demand for wages due pursuant to NRS 608.140
17 on September 4, 2019.

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

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

22 **PARTIES**

23 6. Plaintiff NicoleRose Ramirez (hereinafter "Plaintiff" or "Ramirez") was at all
24 relevant times a resident of the State of Nevada and was employed by Defendants as a
25 non-exempt hourly employee from November of 2017 to present.

26 7. Defendant PR Restaurant Management, LLC d/b/a and a/k/a Cut
27 ("Defendant Cut") is a foreign corporation registered with the Nevada Secretary of State.
28

1 8. Defendant PR Restaurant Management, LLC holds the fictitious firm name
2 for Cut with Clark County.

3 9. Defendant PR Restaurant Management, LLC d/b/a and a/k/a Cut was
4 doing business in this Judicial District in Clark County, Nevada where the subject
5 incidences occurred.

6 10. At all relevant times, Defendant PR Restaurant Management, LLC d/b/a
7 and a/k/a Cut was Plaintiff's employer.

8 11. Defendant WP Payroll Management, LLC is a domestic limited-liability
9 company registered with the Nevada Secretary of State.

10 12. Defendant WP Payroll Management, LLC was doing business in this
11 Judicial District in Clark County, Nevada where the subject incidences occurred.

12 13. At all relevant times, Defendant WP Payroll Management, LLC was
13 Plaintiff's employer.

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

20 15. At all relevant times, the acts and omissions of Defendants concurred and
21 contributed to the various acts and omissions of each and every one of the other
22 Defendants in proximately causing the complaints, injuries, and damages alleged herein.
23 At all relevant times herein, Defendants approved of, condoned and/or otherwise ratified
24 each and every one of the acts or omissions complained of herein. At all relevant times
25 herein, Defendants aided and abetted the acts and omissions of each and every one of
26 the other Defendants thereby proximately causing the damages as herein alleged.

27 16. The Defendants named herein are the employers of the Plaintiff and all
28 Class Members alleged herein. The Defendants are employers engaged in commerce

1 under the provisions of NRS 608.011. The identity of DOES 1-50 is unknown at the time
2 and the Complaint will be amended at such time when the identities are known to
3 Plaintiff. Plaintiff is informed and believes that each Defendants sued herein as DOE is
4 responsible in some manner for the acts, omissions, or representations alleged herein
5 and any reference to "Defendant" or "Defendants" herein shall mean "Defendants and
6 each of them."

7 **FACTUAL ALLEGATIONS**

8 17. Plaintiff was employed by Defendants as a non-exempt employee from
9 November of 2017 to present.

10 18. Defendants maintain an unlawful policy of not paying daily overtime to non-
11 exempt hourly employees who earn 1 ½ times less than the applicable minimum wage.

12 19. Plaintiff has frequently worked over 8 hours in any 24-hour workday.

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

16 21. For instance, during the workweek of August 13, 2019, Defendants
17 scheduled Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time.
18 See a true and correct copy of Plaintiff's schedule attached hereto as Exhibit I.

19 22. But despite having worked more than 8 hours in a 24-hour period of time,
20 Defendants failed to compensate Plaintiff at 1 ½ times her regular rate of pay for the
21 overtime hours she worked. See a true and correct copy of Plaintiff's paystub attached
22 hereto as Exhibit II.

23 23. Upon information and belief, Defendants maintain a company-wide policy
24 and practice of refusing to pay daily overtime wages to Nevada employees who worked
25 over 8 hours in a workday.

26 24. This "no daily overtime" policy has always been common to all non-exempt
27 hourly paid employees at Defendants' locations in the state of Nevada.
28

CLASS ACTION ALLEGATIONS

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

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

6 27. The **Nevada Overtime Class** is defined as "All hourly paid non-exempt
7 persons employed by Defendants in the state of Nevada who earned less than 1 ½ times
8 the applicable minimum wage and who worked over eight (8) hours in a workday at any
9 time within 3 years from September 4, 2019 until judgment."

10 28. The **Waiting Time Penalty Class** is defined as "All Nevada Overtime
11 Class Members who are former employees of Defendants."

12 29. Class treatment is appropriate under Rule 23's class certification
13 mechanism because:

14 a. The Classes are Sufficiently Numerous: Upon information and belief,
15 Defendants employ, and have employed, in excess of 100 Nevada Overtime Class
16 Members within the applicable time period. Because Defendants are legally obligated to
17 keep accurate payroll records, Plaintiff alleges that Defendants' records will establish the
18 members of the Classes as well as their numerosity.

19 b. Plaintiff's Claim is Typical to Those of Fellow Class Members: Each
20 Class Member is and was subject to the same practices, plans, or policies as Plaintiff:
21 whether Defendants compensated Plaintiff and members of the Class daily overtime
22 wages when they worked over 8 hours in a workday and whether members of the
23 Waiting Time Penalty Class are entitled to waiting time penalties for the failure to pay
24 them minimum, regular, and overtime wages owed.

25 c. Common Questions of Law and Fact Exist: Common questions of
26 law and fact exist and predominate as to Plaintiff and the Class Members, including,
27 without limitation: whether Defendants failed to pay Plaintiff and the Class Members one
28 and one-half times their regular rate for all hours worked in excess of 8 hours a workday

1 and whether Defendants failed to pay the Waiting Time Penalty Class Members all their
2 wages due and owing in violation of NRS 608.020-050.

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

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

18 **FIRST CAUSE OF ACTION**

19 **Failure to Pay Overtime Wages in Violation of NRS 608.018 and 608.140**
20 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

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

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

24 32. NRS 608.018(1) provides as follows:

25 An employer shall pay 1 1/2 times an employee's
26 regular wage rate whenever an employee who receives
27 compensation for employment at a rate less than 1 1/2 times
28 the minimum rate prescribed pursuant to NRS 608.250
works: (a) More than 40 hours in any scheduled week of
work; or (b) More than 8 hours in any workday unless by
mutual agreement the employee works a scheduled 10

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

33. 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.

34. As described above, Defendants maintain a policy and/or practice of illegal shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and Nevada Overtime Class Members have been denied overtime compensation according to Nevada law.

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

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

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

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

38. 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."

39. NRS 608.030 provides that "[w]henver an employee resigns or quits his or her employment, the wages and compensation earned and unpaid at the time of the employee's resignation or quitting must be paid no later than...[t]he day on which the

1 employee would have regularly been paid the wages or compensation; or[s]even days
2 after the employee resigns or quits...whichever is earlier.”

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

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

14 42. By failing to pay Waiting Time Penalty Class Members their minimum,
15 regular, and overtime wages in violation of state and federal law, Defendants have failed
16 to timely remit all wages due and owing to the Waiting Time Penalty Class Members.

17 43. Despite demand, Defendants willfully refused and continues to refuse to
18 pay Waiting Time Penalty Class Members all the wages that were due and owing upon
19 the termination of their employment.

20 44. Wherefore, the Waiting Time Penalty Class Members demand thirty (30)
21 days of pay as waiting penalties under NRS 608.040 and 608.140, and thirty (30) days of
22 pay as waiting penalties under NRS 608.050 and 608.140, together with attorneys’ fees,
23 costs, interest, and punitive damages, as provided by law.

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

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

1 46. As Defendants have failed to compensate Plaintiff and members of the
2 Overtime Class at the correct overtime wage rate for all the overtime hours that they
3 worked pursuant to NRS 608.018, Defendants have wrongfully withheld wages properly-
4 owed to the Plaintiff and the Overtime Class Members.

5 47. Plaintiff and the Nevada Overtime Class will suffer irreparable injury if
6 Defendants are not enjoined from the future wrongful retention of wages owed.

7 48. As a result of the aforementioned unlawful payment practices, Plaintiff
8 submits that there has been a likelihood of success on the merits that Plaintiff and the
9 Class Members have been damaged, that there is irreparable harm, and Plaintiff
10 requests that this Honorable Court enter an Order that restrains Defendants from
11 attempting to enforce the alleged unlawful payment practices.

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

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

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

22 **PRAYER FOR RELIEF**

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

- 25 1. For an order certifying this action as a class action on behalf the
26 proposed Classes and providing notice to all Class Members so they may
27 participate in this lawsuit;

28

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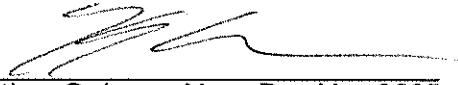
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2. For an order appointing Plaintiff as the Representative of the Classes and her counsel as Class Counsel;
3. For damages according to proof for overtime compensation under NRS 608.018 and 608.140 for all hours worked over 8 hours per day;
4. For 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;
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: September 10, 2019

Respectfully Submitted,

GABROY LAW OFFICES

By: 
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Reno, Nevada 89511

EXHIBIT I

Entire Schedule (29.00hrs)

< Aug 12, 2019 - Aug 18, 2019 >

Assigned to me: 3 of 4 posted

Attendant	POSTED 
Bar Dinner	POSTED 







	Mon 12	Tue 13	Wed 14	Thu 15	Fri 16	Sat 17
Sun 18						
	Bar Din... 5:30PM	Bar Din... 2:30PM	Bar Din... 5:30PM			
						
						
						
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NICOLE RAMIREZ		Bar Din... 5:30PM	Bar Din... 2:30PM		Bar Din... 5:30PM	Bar Dinn... 4:00PM



EXHIBIT II

CO. FILE DEPT. CLOCK VCHR. NO. 070
 9KG 003727 P P P P 0000350040 1

Earnings Statement



PR RESTAURANT MANAGEMENT LLC
 955 KELLY JOHNSON ST
 LAS VEGAS, NV 89119

Period Beginning: 08/12/2019
 Period Ending: 08/25/2019
 Pay Date: 08/30/2019

Taxable Marital Status: Single
 Exemptions/Allowances:
 Federal: 0
 NV: No State Income Tax

NICOLE ROSE MIRANDA RAMIREZ
 [REDACTED]
 [REDACTED]
 [REDACTED]

Earnings	rate	hours	this period	year to date
Regular	10.0000	51.15	511.50	3,626.00
Overtime	15.0000	.60	9.00	43.80
Tips			1,060.17	6,220.82
Ser Charge Ot				46.62
Service Charge				884.76
Gross Pay			\$1,580.67	10,822.00

Important Notes

YOUR COMPANY PHONE NUMBER IS 702-737-9600X0107

Deductions	Statutory		
Federal Income Tax		-164.67	1,220.55
Social Security Tax		-98.00	670.96
Medicare Tax		-22.92	156.92
Other			
Tips		-1,060.17	6,220.82
Net Pay		\$234.91	
CHECKING		-234.91	
Net Check		\$0.00	

Your federal taxable wages this period are
 \$1,580.67

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PR RESTAURANT MANAGEMENT LLC
 955 KELLY JOHNSON ST
 LAS VEGAS, NV 89119

Advice number: 00000350040
 Pay date: 08/30/2019

Deposited to the account of	account number	transit ABA	amount
NICOLE ROSE MIRANDA RAMIREZ	[REDACTED]	XXXX XXXX	\$234.91

THIS IS NOT A CHECK

NON-NEGOTIABLE