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DISTRICT COURT

CLARK COUNTY, NEVADA

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STEVEN CSOMOS, Individually and
on behalf of a class of all
similarly situated persons,

Plaintiffs,

v.

VENETIAN CASINO RESORT LLC,

Defendants.

Case No.:

A581365

Dept. No.:

VII

**CLASS ACTION COMPLAINT
FOR VIOLATION OF STATE
LABOR LAWS**

**ARBITRATION EXEMPTION
CLAIMED BECAUSE THIS IS
A CLASS ACTION LAWSUIT**

Now comes Plaintiff, for himself and all others similarly
situated, and allege the following upon personal knowledge as to
themselves and their own acts, and upon information and belief
as to all other matters:

PARTIES AND PRELIMINARY STATEMENT

1. The plaintiff STEVEN CSOMOS is a resident of Clark
County, Nevada, and a former employee of the defendant VENETIAN

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1 CASINO RESORT LLC.

2 2. The defendant is a corporation existing and established
3 pursuant to the laws of the State of Nevada with their principal
4 place of business in the County of Clark, State of Nevada.

5 3. The acts complained of herein took place solely, or
6 primarily, in Clark County Nevada.

7 THE PROPOSED CLASS CLAIMS AND PARTIES

8 4. There are numerous persons who are similarly situated
9 to the named plaintiff in respect to the named plaintiff's
10 claims under Nevada Law, in that such similarly situated
11 persons, like the named plaintiff (such similarly situated
12 persons and the named plaintiff being referred to, collectively,
13 as "plaintiffs"), performed substantial work, labor and services
14 for the defendant and did not receive the overtime compensation
15 required by the Nevada Statute alleged herein and as detailed
16 hereafter such circumstances warrant the granting of class
17 certification on such claims of the plaintiffs pursuant to
18 N.R.C.P. Rule 23.

19 5. That the persons similarly situated to the named
20 plaintiffs and described in paragraph 4 constitute a class of
21 persons that are so numerous that joinder of all such persons
22 individually is impractical, such class consisting of all casino
23 banquet servers, room service workers, hospitality department
24 workers or those holding similar titles and who are more fully
25 described herein in paragraphs 14 to 17, and who since July 1,
26 2005, have not been paid overtime wages as required by N.R.S. §
27 608.018 and upon information and belief such class members
28 exceed 100.

1 plaintiffs seek damages directly under the foregoing statute and
2 also seek declaratory relief from this Court under N.R.S. §
3 30.040 and appropriate supplemental relief to such declaratory
4 relief under N.R.S. § 30.100.

5 11. Commencing July 1, 2005, NRS § 608.018(2) required
6 that the plaintiffs receive overtime pay at one and one-half
7 times their regular wage rate for all hours worked in excess of
8 40 hours per week.

9 12. One of the major purposes of overtime laws, as
10 exemplified in NRS § 608.018(2), is to encourage employers to
11 not work individual employees excessively long hours and to
12 foster full employment and the betterment of society at large
13 and the economy by encouraging employers to hire more employees
14 rather than incur the additional costs of working fewer
15 employees longer hours.

16 13. Defendants have either required or allowed the
17 plaintiffs to work in excess of 40 hours per week without the
18 payment of overtime wages.

19 14. The plaintiffs are not subject to any of the
20 exemptions from the overtime pay requirements of NRS § 608.018.

21 15. The plaintiffs are compensated based upon a "flat
22 hourly" rate, which is paid in full for each hour worked, or in
23 a pro-rata partial hourly amount for partial hours that are
24 worked, each week, such hourly rate may have also been modified
25 on occasion and increased in amount for certain hours or
26 portions thereof worked on certain days or weeks because the
27 plaintiffs worked in excess of 40 hours a week or more than 8
28 hours a day, the plaintiffs in addition to such hourly

1 compensation also receiving "per job" gratuity or service
2 charges that are akin to a commission or piecework payment.

3 16. The plaintiffs perform no sales activities and sell
4 no products or services, the services that they provide (banquet
5 or catering or in room dining or other food and beverage service
6 hospitality services) are already sold, and negotiated and paid
7 for (or payment promised for) between the defendant and their
8 customers, or such services have been ordered by the defendant
9 with the defendant itself paying for them, prior to the
10 plaintiffs performing any work.

11 17. The plaintiffs should have, but did not, receive
12 overtime pay at one and one-half times their "regular rate" of
13 pay for each hour of work that they performed for the defendants
14 that was in excess of 40 hours per week. That "regular rate"
15 for overtime purposes under NRS § 608.018 and for the purposes
16 of this case, was the combined hourly earnings of the plaintiffs
17 from both the non-overtime rate "flat hourly" pay they were
18 actually paid by the defendant and the "per job" gratuity
19 service charges they were actually paid by the defendant on a
20 weekly basis. This means of determining the plaintiffs'
21 "regular rate" for overtime purposes is set forth in N.A.C. §
22 608.125(2) and is otherwise mandated by N.R.S. § 608.018.

23 18. The conduct of the defendant, in failing to pay the
24 plaintiffs the foregoing overtime compensation required by NRS
25 § 608.018, has caused the plaintiffs to incur damages in the
26 form of the loss of the overtime pay owed to them as aforesaid.

27 19. The conduct of the defendant, in failing to pay the
28 plaintiffs the foregoing overtime compensation required by NRS §

1 608.018, gives rise to a right by the plaintiffs to seek a
2 declaration of their rights under such statute and a
3 determination that the defendant has violated such statute and
4 abridged the rights of the plaintiffs as per N.R.S. § 30.040,
5 and upon being granted such declaratory relief the plaintiffs
6 seek appropriate supplemental relief as provided for under
7 N.R.S. § 30.100.

8 20. The named plaintiff on behalf of themselves and the
9 proposed plaintiff class members seeks a judgment against
10 defendant for the unpaid overtime compensation owed to the
11 plaintiffs, along with appropriate declaratory relief pursuant
12 to N.R.S. § 30.040 determining the rights of the parties and the
13 illegality and/or inappropriateness of the defendant's conduct
14 as being in violation of N.R.S. § 608.018 along with appropriate
15 supplemental relief under N.R.S. § 30.100 to remedy the injuries
16 that the plaintiffs have sustained as a result of such violation
17 of their statutory rights, along with an award of attorney's
18 fees, interest and costs, as provided for by Nevada Law.

19 **SECOND CLAIM FOR RELIEF UNDER N.R.S. § 608.040**

20 21. The individual plaintiff repeats the allegations set
21 forth in paragraphs 1 through 20 as if each were separately and
22 completely set forth herein.

23 22. The individual plaintiff brings this Second Claim for
24 Relief pursuant to Nevada Revised Statutes § 608.040 on behalf
25 of himself and on behalf of numerous other members of the class
26 of plaintiffs alleged herein.

27 23. The individual plaintiff, and numerous members of the
28 plaintiff class, prior to the initiation of this litigation,

1 were discharged or resigned from their employment with the
2 defendant and at the time of such discharge or resignation were
3 owed unpaid wages, specifically the unpaid overtime wages
4 alleged herein, by the defendant.

5 24. The defendant has failed and refused to pay the
6 individual plaintiff and numerous members of the plaintiff class
7 their full earned but unpaid wages, such conduct by the
8 defendant constituting a violation of N.R.S. § 608.020, or §
9 608.030 and giving rise to a claim under N.R.S. § 608.040.

10 25. As a result of the foregoing the individual
11 plaintiff seeks on behalf of themselves and numerous similarly
12 situated members the plaintiff class, a judgment against the
13 defendant for the penalty prescribed by Nevada Revised Statutes
14 § 608.040, to wit, for a sum equal to up to thirty days wages,
15 along with interest, costs and attorney's fees.

16 PRAYER FOR RELIEF

17 WHEREFORE, the plaintiffs demand judgment against
18 defendants as hereinafter set forth, including, *inter alia*:

- 19 (a) Declare this action to be maintainable as a class action
20 on behalf of the proposed class of plaintiffs as per
21 N.R.C.P. § 23;
- 22 (b) Declare this action to be maintainable as a class action
23 against the proposed class of defendants as per N.R.C.P.
24 § 23;
- 25 (c) Determine the unpaid overtime wages sustained by the
26 class members as a result of defendant's violations of
27 NRS § 608.018 and award those unpaid overtime wages and
28 interest on such overtime wages against the defendant

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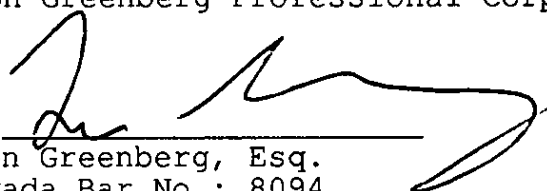
and in favor of the plaintiffs;

- (d) Grant plaintiffs suitable declaratory and supplemental relief pursuant to N.R.S. § 30.100 and § 30.040;
- (e) Award Plaintiffs and Plaintiff class members their costs and disbursements of this suit, including without limitation, reasonable attorneys', accountants' and experts' fees;
- (f) Grant Plaintiff and the Plaintiff class members such other and further relief as the Court may deem just and proper.

Plaintiff further demands a trial by jury on all issues so triable.

Dated: January 29, 2009

Submitted by the attorneys for the
Plaintiffs
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