

# VOLUME 5

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MDC RESTAURANTS, LLC, a Nevada  
limited liability company; LAGUNA  
RESTAURANTS, LLC, a Nevada limited  
liability company; INKA, LLC, a Nevada  
limited liability company,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA  
in and for the County of Clark and THE  
HONORABLE TIMOTHY C.  
WILLIAMS, District Court Judge,  
Respondents,

vs.

PAULETTE DIAZ, an individual;  
LAWANDA GAIL WILBANKS, an  
individual; SHANNON OLSZYNSKI, an  
individual; and CHARITY FITZLAFF, an  
individual, on behalf of themselves and all  
similarly-situated individuals,  
Real Parties in Interest.

**Case No.**

District Court Case No. A-14-  
701633-C

District Court Dept. No. XVI

**PETITIONERS' APPENDIX**

RICK D. ROSKELLEY, ESQ., Nevada Bar # 3192  
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## **PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169. On July 30, 2015, I served the within document:

## **PETITIONERS APPENDIX**

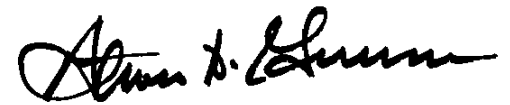
☒ Via **Electronic Service** - pursuant to N.E.F.C.R Administrative Order: 14-2.

Don Springmeyer, Esq.  
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Attorneys for Real Party in Interest

Honorable Timothy C. Williams  
Eighth Judicial District Court, Dept. 16  
200 Lewis Avenue  
Las Vegas, NV 89155  
Respondents

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on July 30, 2015, at Las Vegas, Nevada.

/s/ Erin J. Melwak  
Erin J. Melwak



CLERK OF THE COURT

1 **SB**  
2 **DON SPRINGMEYER, ESQ.**  
3 Nevada State Bar No. 1021  
4 **BRADLEY SCHRAGER, ESQ.**  
5 Nevada State Bar No. 10217  
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10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **IN AND FOR CLARK COUNTY, STATE OF NEVADA**

12 **PAULETTE DIAZ; LAWANDA GAIL**  
13 **WILBANKS; SHANNON OLSZYNSKI;**  
14 **and CHARITY FITZLAFF, all on behalf of**  
15 **themselves and all similarly-situated**  
16 **individuals,**

15 **Plaintiffs,**

16 **vs.**

17 **MDC RESTAURANTS, LLC; LAGUNA**  
18 **RESTAURANTS, LLC; INKA, LLC; and**  
19 **DOES 1 through 100, Inclusive,**

20 **Defendants.**

Case No.: A701633  
Dept. No.: XVI

**SUPPLEMENTAL BRIEF IN SUPPORT  
OF PLAINTIFFS' MOTION FOR CLASS  
CERTIFICATION PURSUANT TO  
N.R.C.P. 23**

Hearing Date: August 13, 2015  
Hearing Time: 9:00 a.m.

21 COME NOW Plaintiffs, by and through their attorneys of record, and here supplement their  
22 motion for an order certifying this action as a class action pursuant to N.R.C.P. 23. The  
23 supplemental brief is based on the Memorandum of Points and Authorities below, the papers and  
24 exhibits on file, the Declaration of Bradley S. Schrager, Esq. (**Exhibit 1**) and any oral argument  
25 this Court sees fit to allow at hearing on this matter.

26 ///

27 ///

28 ///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 To avoid repetitive briefing, Plaintiffs incorporate the arguments and evidence submitted in  
3 support of their original Motion for Class Certification, with the addition of the following:

4 **I. REVISED CLASS DEFINITION**

5 Plaintiffs propose to represent the following Class:

6 **All current and former Nevada employees of Defendants paid less than \$8.25**  
7 **per hour at any time since July 1, 2010, and who were not provided qualifying**  
8 **health insurance pursuant to Nev. Const. Article XV, Section 16 and applicable**  
**Nevada statutory and regulatory provisions.**

9 Plaintiffs submit that the revised definition captures and describes the target Class with  
10 greater precision and specificity than the original definition, as it zeroes in upon those who were  
11 paid below the upper-tier minimum wage under the Minimum Wage Amendment—unlawfully, due  
12 to not having been provided qualifying health insurance under any and all legal provisions  
13 governing same.

14 Plaintiffs have included the date of July 1, 2010, because that was the date upon which the  
15 upper-tier wage increased to \$8.25 per hour in Nevada, the level at which it has remained ever  
16 since. *See Exhibit 2*, an accurate copy of the Nevada Labor Commissioner's Minimum Wage 2010  
17 Annual Bulletin (April 1, 2010). Previous to that date, the upper-tier wage had been \$7.55 per hour.  
18 In discovery and at hearings, Defendants stated that they had been paying employees at the \$7.55  
19 hourly rate, but did not increase wages to \$8.25 per hour after July 1, 2010, deciding instead to  
20 attempt to qualify to pay at least the lower-tier rate by offering health benefits as mandated by the  
21 Amendment. *See Exhibits 3 and 4*, accurate copies of Defendant MDC's and INKA's respective  
22 responses to Plaintiffs' Interrogatory No. 1 ("... all [Defendant] employees were paid at least \$7.55  
23 per hour prior to July 2010."); *Exhibit 5*, an accurate copy of Defendant Laguna's response to  
24 Plaintiffs' Interrogatory No. 1 ("... all Laguna employees were paid at least \$7.55 per hour prior to  
25 January 2010."); *Exhibit 6*, an accurate copy of pertinent portions of the January 28, 2015  
26 Discovery Commissioner Hearing Transcript at 8:11-15 ("... all employees were paid 7.55, which  
27 met the upper tier minimum wage up to July of 2010 ..."). Plaintiffs' investigation has borne out  
28 this course of Defendants' conduct, and therefore Plaintiffs accept Defendants' representation in

1 this respect.

2 This case, as the Court knows, will come down to the ultimate question of whether  
3 Defendants did, in fact, qualify to pay less than \$8.25. Because July 1, 2010 is less than four years  
4 before the filing of the complaint in this action (May 30, 2014), all claims in this action fall within  
5 this Court's previous determination of the appropriate statute of limitations in this matter, and  
6 tolling or other mechanisms that may extend that period are unlikely to apply.

7 All aspects of Plaintiffs' original motion regarding the necessary elements of N.R.C.P. 23  
8 continue to apply to the revised Class definition above, and they are incorporated fully herein.

9 **II. PROPOSED N.R.C.P. 23(C)(4) CLASS OR SUBCLASS**

10 Plaintiffs further propose the certification of a second Class (the "Non-Acceptance Class")  
11 or Subclass, pursuant to N.R.C.P. 23(c)(4)(A) and (B). Under the rule, in the Court's discretion,  
12 "[w]hen appropriate (A) an action may be brought or maintained as a class action with respect to  
13 particular issues, or (B) a class may be divided into subclasses and each subclass treated as a class,  
14 and the provisions of this rule shall then be construed and applied accordingly." N.R.C.P. 23(c)(4).

15 Here, Plaintiffs propose either a secondary Non-Acceptance Class under  
16 N.R.C.P. 23(c)(4)(A), or in the alternative a Subclass under 23(c)(4)(B) that is a divisible portion of  
17 the entire, revised Class. The Non-Acceptance Class or Subclass is defined as follows:

18 **All current and former Nevada employees of Defendants paid less than \$8.25**  
19 **per hour at any time since July 1, 2010, who did not enroll in Defendants'**  
**health benefits plans.**

20 As Defendants' counsel noted at the July 9, 2015 hearing, the Court's ruling that merely  
21 offering health insurance is insufficient to meet the requirements of the Minimum Wage  
22 Amendment for paying employees below \$8.25 per hour means this case now features an added  
23 layer. The revised Class definition, *supra* at 2, targets all those who were underpaid the lawful  
24 minimum wage, whether they accepted Defendants' health benefits plans or not, because Plaintiffs  
25 contend that none of those plans constituted "qualifying health insurance." The Non-Acceptance  
26 Class or Subclass, however, targets those within the revised Class who did not accept Defendants'  
27 health benefits at any time, and therefore were unquestionably not paid lawfully if they received  
28 less than \$8.25 per hour at any time since July 1, 2010.



1           The Non-Acceptance Class or Subclass represents a very large proportion of the revised  
2 Class. Documents and admissions obtained in discovery indicate that of the approximately  
3 2,545 members of the proposed revised Class of underpaid employees, at least **79.4%**, or **2,022**, of  
4 those employees did not accept Defendants' health benefits at any time. *See Exhibit 7 and 8*,  
5 accurate copies of pertinent excerpts of Defendants' Fifth and Seventh Supplemental Disclosure  
6 Statements.<sup>1</sup> All 2,545 underpaid employees will be members of the overall Class; roughly 2,022 of  
7 those also will be members of the Non-Acceptance Class or Subclass. This would leave  
8 approximately 523 Class members still within only the revised Class definition. This group  
9 includes Plaintiff Fitzlaff, the only named Plaintiff who did accept Defendants' health benefits plan  
10 for at least a portion of her employment, while declining it for other periods during which she was  
11 paid less than \$8.25 an hour.

12           Certification of the Non-Acceptance Class or Subclass is appropriate given the particular  
13 posture of the action, and is in keeping with the Court's determination of the legal issues thus far.  
14 Plaintiffs Diaz, Wilbanks, and Olszynski seek appointment by the Court as representatives of the  
15 Non-Acceptance Class or Subclass.

16           Certification of the 23(c)(4) Non-Acceptance Class or Subclass also has the virtue of  
17 ensuring that any potential appellate review of the provide-versus-offer issue will not disturb the  
18 conduct of this class action as to the ultimate question of whether Defendants qualified to pay any  
19 employee less than \$8.25 per hour, while still providing an efficient resolution avenue for the vast

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20  
21 <sup>1</sup> In Defendants' Seventh Supplemental Disclosure Statement (**Exhibit 8**), Defendants stated that,  
22 from July 1, 2010 through December 31, 2013, a total of 413 employees were enrolled in their  
benefits plan. *See Exhibit 8* at MDC001014.

23 In Defendants' Fifth Supplemental Disclosure Statement (**Exhibit 7**), Defendants identify that,  
24 in December 2014, a total of 74 MDC employees and 7 INKA employees were enrolled in  
25 Defendants' benefits plan—a total of 81 employees. *See Exhibit 7* at MDC001004. As of March  
2015, Defendants identified a total of 25 MDC employees and 4 INKA employees that were  
26 enrolled in Defendants' health benefits plan—a total of 29 employees. *See Exhibit 7* at  
MDC001005.

27 Thus, at most, and assuming that none of those identified enrollees is counted more than once  
28 in Defendants' calculations, 523 employees were enrolled in Defendants' benefits plan during the  
Class and Subclass periods, through March of 2015.

1 majority of Class members who did not accept Defendants' benefits plans. Additionally, and also  
2 arguing for the establishment of the Non-Acceptance Class or Subclass, in the unlikely event that  
3 the Court determines Defendants' health benefits plans meet legal requirements for Defendants to  
4 pay employees at the lower-tier wage rate, the existence of the Non-Acceptance Class or Subclass  
5 will ensure that those employees who did not accept those benefits may still proceed with their  
6 claims.

7 **A. Rule 23(a) Requirements**

8 The proposed Non-Acceptance Class or Subclass and its representatives also meet all  
9 necessary elements of N.R.C.P. 23(a) for certification.

10 **1. Numerosity**

11 Asked to state the number of employees enrolled in their successive benefits plans over the  
12 time covered by this action, Defendants responded with lists of enrolled employees totaling 523  
13 over the Class period. *See Exhibits 7, 8; supra* note 1. Given that Defendants identified 2,545 total  
14 employees paid less than \$8.25 per hour since July 1, 2010, that equates to least 2,022 such  
15 employees who did not accept Defendants' health benefits plans. *Id.* The Non-Acceptance Class or  
16 Subclass, therefore, represents 79.5% of the whole revised Class, and easily satisfies the  
17 numerosity requirement for certification. *See* Pls. Mot. for Class Certification at 6-8 (discussing  
18 standards for numerosity); Pls. Reply in Support of Mot. for Class Certification at 7-8 (same).

19 **2. Commonality**

20 Much as the revised Class coheres around the common question of whether Defendants'  
21 health benefits plans qualified them to pay employees below the upper-tier minimum wage at all,  
22 under any circumstances, the Non-Acceptance Class or Subclass coheres around the single  
23 common question of whether, by not accepting and receiving Defendants' health benefits, these  
24 class members are entitled to, and Defendants are liable to them for, back pay and damages on that  
25 basis alone. *See* Pls. Mot. for Class Certification at 8-11 (discussing standards for commonality);  
26 Pls. Reply in Support of Mot. for Class Certification at 5-7 (same). In a single stroke, the answer to  
27 that question can be achieved for each and every member of the Non-Acceptance Class or  
28 Subclass, just as it was for Plaintiff Diaz in the Court's ruling on her Motion for Partial Summary

1 Judgment on that question.

2 **3. Typicality**

3 Plaintiffs Diaz, Wilbanks, and Olszynski are typical of the proposed Non-Acceptance Class  
4 or Subclass, as Defendants admit these Plaintiffs were all paid less than \$8.25 per hour, and each  
5 alleges that she did not accept Defendants' health benefits plans. *See* Defs. Ans. to Amend.  
6 Compl. ¶¶ 14-17, 24, 27, 30, 33; Pls. Mot. for Class Certification at 11; Pls. Mot. for Class  
7 Certification, Ex. 1 (Diaz Decl. ¶¶ 6, 8), Ex. 2 (Olszynski Dec. ¶¶ 6, 7), Ex. 3 (Wilbanks Decl. ¶¶ 7,  
8 9). The claims of the Non-Acceptance Class or Subclass representatives, therefore, arise from the  
9 same facts, events, and conduct that give rise to the claims of the its other members, and are based  
10 on the same legal theories as the other members' claims. *See* Pls. Mot. for Class Certification at 11-  
11 12 (discussing standards for typicality); Pls. Reply in Support of Mot. for Class Certification at 7  
12 (same). Typicality is satisfied.

13 **4. Adequacy**

14 Plaintiffs Diaz, Wilbanks, and Olszynski are factually within the definition of the Non-  
15 Acceptance Class or Subclass, as demonstrated above. Further, there are no conflicts among  
16 themselves, the members of the proposed Non-Acceptance Class or Subclass, or their counsel.  
17 Each has already demonstrated a willingness to pursue her claims on behalf of the Class, and  
18 similarly to the proposed Non-Acceptance Class or Subclass. *See* Pls. Mot. for Class Certification,  
19 Exs. 1-4. Nothing more is required of them to meet the adequacy requirements of Rule 23(a). *See*  
20 Pls. Mot. for Class Certification at 12-13 (discussing standards for adequacy); Pls. Reply in Support  
21 of Mot. for Class Certification at 8-11 (same); *see generally* Pls. Opp. to Defs. Mot. to Disqualify.

22 **B. Rule 23(b)(3) Requirements**

23 The proposed Non-Acceptance Class or Subclass and its representatives also meet all  
24 necessary elements of N.R.C.P. 23(b)(3) for certification.

25 **1. Predominance**

26 Predominance is satisfied by the Non-Acceptance Class or Subclass, because when  
27 considering only the question of Defendants' liability based upon Non-Acceptance Class or  
28 Subclass members' declination of health benefits, its members "are sufficiently cohesive to warrant

1 adjudication by representation” and “the relationship between the common and individual issues”  
2 inherent in the Non-Acceptance Class or Subclass definition clearly argues that resolving  
3 Defendants’ liability to this group in a common fashion overwhelms any individual issues that  
4 might be suggested. *Stearns v. Ticketmaster Corp.*, 655 F.3d 1013, 1019 (9th Cir. 2011). Because  
5 the Court has already answered the question of whether merely offering health insurance is  
6 sufficient to pay employees less than \$8.25 per hour, the common question dominates and will  
7 determine the outcome of the Non-Acceptance Class’s or Subclass’s claims in this action. The  
8 predominance factor, per Rule 23(b)(3), is satisfied. *See* Pls. Mot. for Class Certification at 13-14  
9 (discussing standards for predominance); Pls. Reply in Support of Mot. for Class Certification at  
10 11-12 (same).

## 11 **2. Superiority**

12 As with the revised, entire Class, which numbers more than 2,500 employees of  
13 Defendants, the Non-Acceptance Class or Subclass, numbering at least 2,022 employees, presents a  
14 straightforward argument for superiority. *See* Pls. Mot. for Class Certification at 14-15 (discussing  
15 standards for superiority); Pls. Reply in Support of Mot. for Class Certification at 12-13 (same).  
16 The small size of individual claims effectively precludes individual action. *Local Joint Executive*  
17 *Bd. of Culinary/Bartender Trust Fund v. Las Vegas Sands, Inc.*, 244 F.3d 1152 (9th Cir. 2001).  
18 Also, as with the revised Class, for minimum wage employees it is economically infeasible for  
19 proposed Non-Acceptance Class or Subclass members to prosecute individual actions of their own  
20 given the relatively small amount of damages at stake for each individual, and the alternative of the  
21 group “filing hundreds of individual lawsuits that could involve duplicating discovery and costs  
22 that exceed the extent of the proposed class members’ individual injuries.” *Wolin v. Jaguar Land*  
23 *Rover North America, LLC*, 617 F.3d 1168, 1176 (9th Cir. 2010). The superiority of the class  
24 action mechanism for resolving the claims of the Non-Acceptance Class or Subclass is manifest.

## 25 **III. CONCLUSION**

26 Based upon the foregoing, the requirements of Rules 23(a) and 23(b)(3) are satisfied for  
27 both the proposed Class and the proposed Non-Acceptance Class or Subclass. Plaintiffs request that  
28 the Court grant their Motion for Class Certification, certify the case as a class action using the

1 revised definition proposed herein, and establish the 23(c)(4) Non-Acceptance Class or Subclass as  
2 described herein. Plaintiffs request that all named Plaintiffs be appointed to serve as representatives  
3 of that Class, and that Ms. Diaz, Ms. Wilbanks, and Ms. Olszynski be appointed as representatives  
4 of the Non-Acceptance Class or Subclass, with their attorneys and firm designated as counsel for  
5 all.

6 DATED this 16th day of July, 2015.

7 **WOLF, RIFKIN, SHAPIRO,**  
8 **SCHULMAN & RABKIN, LLP**

9 By: /s/ Bradley Schrager

10 DON SPRINGMEYER, ESQ.

Nevada State Bar No. 1021

11 BRADLEY SCHRAGER, ESQ.

Nevada State Bar No. 10217

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14 *Attorneys for Plaintiffs*

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 16th day of July, 2015, a true and correct copy of **SUPPLEMENTAL BRIEF IN SUPPORT OF PLAINTIFFS’ MOTION FOR CLASS CERTIFICATION PURSUANT TO N.R.C.P. 23** was served by electronically filing with the Clerk of the Court using the Wiznet Electronic Service system and serving all parties with an email-address on record, pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R.

By: /s/ Dannielle Fresquez  
Dannielle Fresquez, an Employee of  
WOLF, RIFKIN, SHAPIRO, SCHULMAN &  
RABKIN, LLP

Exhibit 1

Exhibit 1

1 DON SPRINGMEYER, ESQ.  
Nevada State Bar No. 1021  
2 BRADLEY SCHRAGER, ESQ.  
Nevada State Bar No. 10217  
3 DANIEL BRAVO, ESQ.  
Nevada State Bar No. 13078  
4 **WOLF, RIFKIN, SHAPIRO,**  
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8 *Attorneys for Plaintiffs*

9  
10 **EIGHTH JUDICIAL DISTRICT COURT**  
11 **IN AND FOR CLARK COUNTY, STATE OF NEVADA**

12 PAULETTE DIAZ; LAWANDA GAIL  
13 WILBANKS; SHANNON OLSZYNSKI;  
and CHARITY FITZLAFF, all on behalf of  
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17 MDC RESTAURANTS, LLC; LAGUNA  
18 RESTAURANTS, LLC; INKA, LLC; and  
DOES 1 through 100, Inclusive,

19 Defendants.

Case No.: A701633  
Dept. No.: XVI

**DECLARATION OF BRADLEY  
SCHRAGER, ESQ. IN SUPPORT OF  
PLAINTIFFS' SUPPLEMENTAL BRIEF**

20  
21 **DECLARATION OF BRADLEY SCHRAGER, ESQ.**

22 I, Bradley Schrager, Esq., under penalty of perjury, declare as follows:

23 1. I am an attorney with the law firm Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP,  
24 duly admitted to practice law in the state of Nevada, and counsel for Plaintiffs in the above-  
25 captioned action. I make this declaration of personal, firsthand knowledge and, if called and sworn  
26 as a witness, I could and would testify competently thereto. I have personal knowledge of the facts  
27 stated herein and submit this Declaration in support of Plaintiffs' Supplemental Brief.

28 2. Attached, as **Exhibit 2**, is a true and accurate copy of the Nevada Labor



1 Commissioner's Minimum Wage 2010 Annual Bulletin (April 1, 2010).

2 3. Attached, as **Exhibit 3**, is a true and accurate copy of Defendant MDC Restaurants,  
3 LLC's response to Plaintiffs' Interrogatory No. 1.

4 4. Attached, as **Exhibit 4**, is a true and accurate copy of Defendant INKA, LLC's  
5 response to Plaintiffs' Interrogatory No. 1.

6 5. Attached, as **Exhibit 5**, is a true and accurate copy of Defendant Laguna  
7 Restaurants, LLC's response to Plaintiffs' Interrogatory No. 1

8 6. Attached, as **Exhibit 6**, is a true and accurate copy of pertinent portions of the  
9 January 28, 2015 Discovery Commissioner Hearing Transcript.

10 7. Attached, as **Exhibit 7**, is a true and accurate copy of pertinent portions of  
11 Defendants' Fifth Supplemental Disclosure Statement.

12 8. Attached, as **Exhibit 8**, is a true and accurate copy of pertinent portions of  
13 Defendants' Seventh Supplemental Disclosure Statement.

14 Under penalties of perjury under the laws of the United States of America and the State of  
15 Nevada, I declare that the foregoing is true and correct to my own knowledge, except as to those  
16 matters stated on information and belief, and that as to such matters I believe to be true.

17

18 DATED this 16th day of July, 2015.

19

/s/ Bradley Schrager

20

BRADLEY SCHRAGER, ESQ.

21

22

23

24

25

26

27

28

# Exhibit 2

# Exhibit 2



JIM GIBBONS  
Governor

MENDY ELLIOTT  
Director

MICHAEL TANCHEK  
Labor Commissioner

STATE OF NEVADA  
Department of Business & Industry  
**OFFICE OF THE LABOR COMMISSIONER**  
675 Fairview Drive Suite 226  
Carson City, Nevada 89701  
Telephone (775) 687-4850 Fax (775) 687-6409

**STATE OF NEVADA  
MINIMUM WAGE  
2010 ANNUAL BULLETIN**  
APRIL 1, 2010

PURSUANT TO ARTICLE 15, SECTION 16(A) OF THE CONSTITUTION OF THE STATE OF NEVADA, THE GOVERNOR HEREBY ANNOUNCES THAT THE FOLLOWING MINIMUM WAGE RATES SHALL APPLY TO ALL EMPLOYEES IN THE STATE OF NEVADA UNLESS OTHERWISE EXEMPTED. THESE RATES SHALL BECOME EFFECTIVE ON JULY 1, 2010.

FOR EMPLOYEES TO WHOM QUALIFYING HEALTH BENEFITS HAVE BEEN  
MADE AVAILABLE BY THE EMPLOYER:

**NO LESS THAN \$7.25 PER HOUR**

FOR ALL OTHER EMPLOYEES:

**NO LESS THAN \$8.25 PER HOUR**

Copies may also be obtained from the Labor Commissioner's Offices at

675 Fairview Drive, Suite 226  
Carson City, Nevada 89701  
(775) 687-4850

or

555 East Washington, Suite 4100  
Las Vegas, Nevada 89101  
(702) 486-2650

# Exhibit 3

# Exhibit 3

1 **INTG**  
2 RICK D. ROSKELLEY, ESQ., Bar # 3192  
3 ROGER L. GRANDGENETT II, ESQ., Bar # 6323  
4 KATIE BLAKEY, ESQ., Bar # 12701  
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11 Attorneys for Defendants

8 **EIGHTH JUDICIAL DISTRICT COURT**  
9 **CLARK COUNTY, NEVADA**

11 PAULETTE DIAZ, an individual; and  
12 LAWANDA GAIL WILBANKS, an  
13 individual; SHANNON OLSZYNSKI, and  
14 individual; CHARITY FITZLAFF, an  
15 individual, on behalf of themselves and all  
16 similarly-situated individuals,

17 Plaintiffs,

18 vs.

19 MDC RESTAURANTS, LLC, a Nevada  
20 limited liability company; LAGUNA  
21 RESTAURANTS, LLC, a Nevada limited  
22 liability company; INKA, LLC, a Nevada  
23 limited liability company and DOES 1  
24 through 100, Inclusive,

25 Defendants.

Case No. A701633

Dept. No. XV

**DEFENDANT MDC RESTAURANTS,  
LLC'S RESPONSE TO FIRST SET OF  
INTERROGATORIES BY PLAINTIFFS,  
ON BEHALF OF THE PUTATIVE CLASS**

22 **PROPOUNDING PARTY: PLAINTIFFS, ON BEHALF OF PUTATIVE CLASS**

23 **RESPONDING PARTY: DEFENDANT MDC RESTAURANTS, LLC**

24 **SET NO.: ONE**

25 Defendant MDC Restaurants, LLC ("Defendant" or "MDC") hereby submits its Response to  
26 First Set of Interrogatories by Plaintiffs, on Behalf of the Putative Class as follows:

27 ///

1 **PRELIMINARY STATEMENT**

2 The information contained in the responses set forth below is based only upon the  
3 information and documents currently available to Defendant. Defendant's investigation and  
4 discovery in preparation for trial has not been completed. Additional investigation may disclose  
5 further information and documents relevant to these responses, as could information and documents  
6 obtained by Defendant from Plaintiff or third parties through additional discovery procedures.  
7 Therefore, Defendant expressly reserves the right to alter, amend, supplement, modify or otherwise  
8 revise its responses if, for any reason, such alterations, amendments, supplements, modifications or  
9 revisions become appropriate or warranted or as may be required by Rule 33 of the Nevada Rules of  
10 Civil Procedure.

11 All of Defendant's responses are made subject to this preliminary statement.

12 **INTERROGATORIES**

13 **INTERROGATORY NO. 1:**

14 State the number of employees employed at all Denny's between November 28, 2006, and  
15 June 30, 2007, that were paid less than \$6.15 per hour as a regular hourly wage rate, excluding any  
16 tips, gratuities, or bonuses.

17 **RESPONSE 1:**

18 Objection. Interrogatory No. 1 is overly broad, unduly burdensome, and not likely to lead to  
19 the discovery of admissible evidence. Claims for alleged minimum wage violations before May 30,  
20 2012 are barred by the statute of limitations and, therefore, information about employees prior to  
21 May 30, 2012 is not likely to lead to the discovery of admissible evidence. Moreover, any employee  
22 whose employment with Denny's terminated prior to May 30, 2012 cannot be a part of the alleged  
23 class. Accordingly, this request seeks information outside the scope of this litigation that would be  
24 burdensome to retrieve and not likely to lead to the discovery of admissible evidence. Subject to and  
25 without waiving these objections, Defendant responds that all INKA employees were paid at least  
26 \$7.55 per hour prior to July 2010.

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Dated: November 5, 2014

Respectfully submitted,



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RICK D. ROSKELLEY, ESQ.  
ROGER L. GRANDGENETT II, ESQ.  
KATIE BLAKEY, ESQ.  
LITTLER MENDELSON, P.C.

Attorneys for Defendants

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VERIFICATION

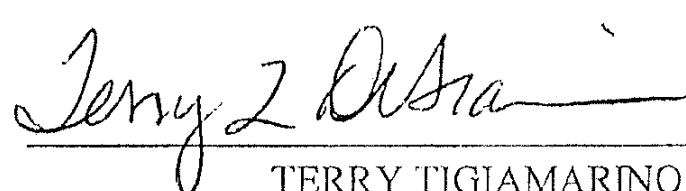
I, TERRY TIGIAMARINO, declare:

I am the Payroll Administrator/Benefits Manager of Mancha Development Companies, which is the Defendant in the above-entitled action, and I have been authorized to make this verification on its behalf.

I have read the foregoing Defendant MDC Restaurants, LLC's Response to First Set of Interrogatories by Plaintiffs, on Behalf of the Putative Class, on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed at Corona, California on this 3 day of November, 2014.

  
TERRY TIGIAMARINO



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**PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169. On November 5, 2014, I served the within document:

**DEFENDANT MDC RESTAURANTS, LLC’S RESPONSE TO FIRST SET OF INTERROGATORIES BY PLAINTIFFS, ON BEHALF OF THE PUTATIVE CLASS**

☒ By CM/ECF Filing – Pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. the above-referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (Wiznet) System:

Don Springmeyer, Esq.  
Bradley Schrager, Esq.  
Daniel Bravo, Esq.  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
3556 E. Russell Road, 2nd Floor  
Las Vegas, NV 89120-2234

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 5, 2014, at Las Vegas, Nevada.

  
\_\_\_\_\_  
Debra Perkins

Firmwide:129180421.1 081404.1002

Exhibit 4

Exhibit 4

**INTG**  
RICK D. ROSKELLEY, ESQ., Bar # 3192  
ROGER L. GRANDGENETT II, ESQ., Bar # 6323  
KATIE BLAKEY, ESQ., Bar # 12701  
LITTLER MENDELSON, P.C.  
3960 Howard Hughes Parkway  
Suite 300  
Las Vegas, NV 89169-5937  
Telephone: 702.862.8800  
Fax No.: 702.862.8811

Attorneys for Defendants

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

PAULETTE DIAZ, an individual; and  
LAWANDA GAIL WILBANKS, an  
individual; SHANNON OLSZYNSKI, and  
individual; CHARITY FITZLAFF, an  
individual, on behalf of themselves and all  
similarly-situated individuals,

Plaintiffs,

vs.

MDC RESTAURANTS, LLC, a Nevada  
limited liability company; LAGUNA  
RESTAURANTS, LLC, a Nevada limited  
liability company; INKA, LLC, a Nevada  
limited liability company and DOES 1  
through 100, Inclusive,

Defendants.

Case No. A701633

Dept. No. XV

**DEFENDANT INKA, LLC'S RESPONSE  
TO FIRST SET OF INTERROGATORIES  
BY PLAINTIFFS, ON BEHALF OF THE  
PUTATIVE CLASS**

**PROPOUNDING PARTY: PLAINTIFFS, ON BEHALF OF PUTATIVE CLASS**

**RESPONDING PARTY: DEFENDANT INKA, LLC**

**SET NO.: ONE**

Defendant INKA Restaurants, LLC ("Defendant" or "INKA") hereby submits its Response  
to First Set of Interrogatories by Plaintiffs, on Behalf of the Putative Class as follows:

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All of Defendant's responses are made subject to this preliminary statement.

**INTERROGATORY NO. 1:**

**RESPONSE 1:**

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///

1 **RESPONSE 18:**

2           Objection. This Interrogatory is overly broad, unduly burdensome, and not likely to lead to  
3 the discovery of admissible evidence. Plaintiffs' claims for alleged minimum wage violations before  
4 May 30, 2012 are barred by the statute of limitations. Therefore, information relating to the  
5 insurance offered to Plaintiffs and/or members of the putative class which permitted Defendant to  
6 pay the lower tier minimum wage prior to May 30, 2012 is outside the scope of this litigation and not  
7 likely to lead to the discovery of admissible evidence. Subject to and without waiving these  
8 objections, Defendant responds that there is no single person employed by INKA with the specific  
9 responsibility of ensuring that the referenced plans and policies complied with Nev. Const. XV, § 16  
10 and all regulations implementing that constitutional provision, between November 28, 2006 and the  
11 present.

12  
13           Dated: November 5, 2014

14  
15           Respectfully submitted,

16  
17           

18           RICK D. ROSKELLEY, ESQ.  
19           ROGER L. GRANDGENETT II, ESQ.  
20           KATIE BLAKEY, ESQ.  
21           LITTLER MENDELSON, P.C.

22           Attorneys for Defendants  
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VERIFICATION

I, TERRY TIGIAMARINO, declare:

I am the Payroll Administrator/Benefits Manager of Mancha Development Companies, which is the Defendant in the above-entitled action, and I have been authorized to make this verification on its behalf.

I have read the foregoing Defendant INKA, LLC's Response to First Set of Interrogatories by Plaintiffs, on Behalf of the Putative Class, on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed at Corona, California on this 3 day of November, 2014.

  
TERRY TIGIAMARINO

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**PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169. On November 5, 2014, I served the within document:

**DEFENDANT INKA, LLC'S RESPONSE TO FIRST SET OF INTERROGATORIES  
BY PLAINTIFFS, ON BEHALF OF THE PUTATIVE CLASS**

☒ By CM/ECF Filing -- Pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. the above-referenced document was electronically filed and served upon the parties listed below through the Court's Case Management and Electronic Case Filing (Wiznet) System:

Don Springmeyer, Esq.  
Bradley Schrager, Esq.  
Daniel Bravo, Esq.  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
3556 E. Russell Road, 2nd Floor  
Las Vegas, NV 89120-2234

I declare under penalty of perjury that the foregoing is true and correct. Executed on November 5, 2014, at Las Vegas, Nevada.

  
\_\_\_\_\_  
Debra Perkins

Firmwide:129188793.1 081404.1002

# Exhibit 5

# Exhibit 5



**INTG**  
RICK D. ROSKELLEY, ESQ., Bar # 3192  
ROGER L. GRANDGENETT II, ESQ., Bar # 6323  
KATIE BLAKEY, ESQ., Bar # 12701  
LITTLER MENDELSON, P.C.  
3960 Howard Hughes Parkway  
Suite 300  
Las Vegas, NV 89169-5937  
Telephone: 702.862.8800  
Fax No.: 702.862.8811  
  
Attorneys for Defendants

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

PAULETTE DIAZ, an individual; and  
LAWANDA GAIL WILBANKS, an  
individual; SHANNON OLSZYNSKI, and  
individual; CHARITY FITZLAFF, an  
individual, on behalf of themselves and all  
similarly-situated individuals,

Plaintiffs,

vs.

MDC RESTAURANTS, LLC, a Nevada  
limited liability company; LAGUNA  
RESTAURANTS, LLC, a Nevada limited  
liability company; INKA, LLC, a Nevada  
limited liability company and DOES 1  
through 100, Inclusive,

Defendants.

Case No. A701633

Dept. No. XV

**DEFENDANT LAGUNA RESTAURANTS,  
LLC'S RESPONSE TO FIRST SET OF  
INTERROGATORIES BY PLAINTIFFS,  
ON BEHALF OF THE PUTATIVE CLASS**

**PROPOUNDING PARTY: PLAINTIFFS, ON BEHALF OF PUTATIVE CLASS**

**RESPONDING PARTY: DEFENDANT LAGUNA RESTAURANTS, LLC**

**SET NO.: ONE**

Defendant Laguna Restaurants, LLC ("Defendant" or "Laguna") hereby submits its  
Response to First Set of Interrogatories by Plaintiffs, on Behalf of the Putative Class as follows:

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///

1 **PRELIMINARY STATEMENT**

2 The information contained in the responses set forth below is based only upon the  
3 information and documents currently available to Defendant. Defendant's investigation and  
4 discovery in preparation for trial has not been completed. Additional investigation may disclose  
5 further information and documents relevant to these responses, as could information and documents  
6 obtained by Defendant from Plaintiff or third parties through additional discovery procedures.  
7 Therefore, Defendant expressly reserves the right to alter, amend, supplement, modify or otherwise  
8 revise its responses if, for any reason, such alterations, amendments, supplements, modifications or  
9 revisions become appropriate or warranted or as may be required by Rule 33 of the Nevada Rules of  
10 Civil Procedure.

11 All of Defendant's responses are made subject to this preliminary statement.

12 **INTERROGATORIES**

13 **INTERROGATORY NO. 1:**

14 State the number of employees employed at all Denny's and CoCo's between November 28,  
15 2006, and June 30, 2007, that were paid less than \$6.15 per hour as a regular hourly wage rate,  
16 excluding any tips, gratuities, or bonuses.

17 **RESPONSE 1:**

18 Objection. Interrogatory No. 1 is overly broad, unduly burdensome, and not likely to lead to  
19 the discovery of admissible evidence. Claims for alleged minimum wage violations before May 30,  
20 2012 are barred by the statute of limitations and, therefore, information about employees prior to  
21 May 30, 2012 is not likely to lead to the discovery of admissible evidence. Moreover, any employee  
22 whose employment with Denny's or Coco's terminated prior to May 30, 2012 cannot be a part of the  
23 alleged class. Accordingly, this request seeks information outside the scope of this litigation that  
24 would be burdensome to retrieve and not likely to lead to the discovery of admissible evidence.  
25 Subject to and without waiving these objections, Defendant responds that it has never owned or  
26 operated any Denny's and it has not owned or operated a Coco's since January 2010. Moreover, all  
27 Laguna employees were paid at least \$7.55 per hour prior to January 2010.

28 ///

1 **INTERROGATORY NO. 17:**

2 For any and all health insurance plans and policies described in Interrogatories Nos. 12-16  
3 above, please identify the person or persons employed by Laguna responsible for having selected,  
4 purchased, contracted for, and/or maintained said plans and policies on behalf of Laguna, "Identify"  
5 with regard to a person shall mean to state that person's name, last known physical address, last  
6 known email address, and last known telephone number.

7 **RESPONSE 17:**

8 Defendant incorporates its response to Interrogatory No. 10.

9 **INTERROGATORY NO. 18:**

10 For any and all health insurance plans and policies described in Interrogatories Nos. 12-16  
11 above, please identify all persons employed by Laguna responsible for ensuring that such plans and  
12 policies complied with Nev. Const. XV, § 16 and all regulations implementing that constitutional  
13 provision, between November 28, 2006 and the present. "Identify" with regard to a person shall  
14 mean to state that person's name, last known physical address, last known email address, and last  
15 known telephone number.

16 **RESPONSE 18:**

17 Defendant incorporates its response to Interrogatory No. 10.

18 Dated: November 5, 2014  
19

20 Respectfully submitted,

21 

22 RICK D. ROSKELLEY, ESQ.  
23 ROGER L. GRANDGENETT II, ESQ.  
24 KATIE BLAKEY, ESQ.  
LITTLER MENDELSON, P.C.

25 Attorneys for Defendants  
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VERIFICATION

I, TERRY TIGIAMARINO, declare:

I am the Payroll Administrator/Benefits Manager of Mancha Development Companies, which is the Defendant in the above-entitled action, and I have been authorized to make this verification on its behalf.

I have read the foregoing Defendant Laguna Restaurants, LLC's Response to First Set of Interrogatories by Plaintiffs, on Behalf of the Putative Class, on file herein and know the contents thereof. The same is true of my own knowledge, except as to those matters which are therein stated on information and belief, and, as to those matters, I believe them to be true.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct.

Executed at Corona, California on this 3 day of November, 2014.

  
TERRY TIGIAMARINO

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**PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169. On November 5, 2014, I served the within document:

**DEFENDANT LAGUNA RESTAURANTS, LLC’S RESPONSE TO FIRST SET OF INTERROGATORIES BY PLAINTIFFS, ON BEHALF OF THE PUTATIVE CLASS**

☒ By CM/ECF Filing – Pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. the above-referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (Wiznet) System:

Don Springmeyer, Esq.  
Bradley Schrager, Esq.  
Daniel Bravo, Esq.  
Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
3556 E. Russell Road, 2nd Floor  
Las Vegas, NV 89120-2234

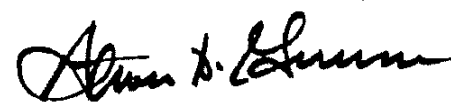
I declare under penalty of perjury that the foregoing is true and correct. Executed on November 5, 2014, at Las Vegas, Nevada.

  
Debra Perkins

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# Exhibit 6

# Exhibit 6



CLERK OF THE COURT

1 **RTRAN**

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5 **DISTRICT COURT**  
6 **CLARK COUNTY, NEVADA**

7  
8 **PAULETTE DIAZ, ET AL.,**

9 **Plaintiffs,**

10 **vs.**

11 **MDC RESTAURANTS LLC, ET AL.,**

12 **Defendants.**

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) **CASE NO. A701633**  
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) **DEPT. 16**  
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13  
14 **BEFORE THE HONORABLE BONNIE A. BULLA, DISCOVERY COMMISSIONER**

15 **WEDNESDAY, JANUARY 28, 2015**

16 **RECORDER'S TRANSCRIPT OF PROCEEDINGS**

17 **MOTION OF PLAINTIFFS TO COMPEL DEFENDANTS MDC RESTAURANTS LLC**  
18 **AND INKA LLC TO RESPOND TO PLAINTIFFS' DISCOVERY REQUESTS**

19  
20 **APPEARANCES:**

21 **For the Plaintiffs:**

**BRADLEY S. SCHRAGER, ESQ.,**  
**DANIEL BRAVO, ESQ.**

22  
23 **For the Defendants:**

**MONTGOMERY Y. PAEK, ESQ.,**  
**KATHRYN B. BLAKEY, ESQ.**

24  
25 **RECORDED BY: FRANCESCA HAAK, COURT RECORDER**

1 Las Vegas, Nevada - Wednesday, January 28, 2015, 9:36 a.m.

2 \* \* \* \* \*

3 DISCOVERY COMMISSIONER: Diaz. Everyone state their appearances, please.

4 MR. PAEK: Good morning, Your Honor. Montgomery Paek, of Littler Mendelson,  
5 for Defendants.

6 MS. BLAKEY: Kathryn Blakey, Littler Mendelson, for Defendants.

7 DISCOVERY COMMISSIONER: Good morning.

8 MR. SCHRAGER: Good morning, Your Honor. Bradley Schrager, for the Plaintiffs.

9 MR. BRAVO: Good morning. Daniel Bravo, for Plaintiffs.

10 DISCOVERY COMMISSIONER: Good morning. This is Plaintiffs' motion to  
11 compel Defendants to respond to certain discovery requests. Now, as I understand it, we do  
12 not yet have class certification, is that correct?

13 MR. SCHRAGER: That is correct. We are in the class discovery phase at the  
14 moment, by Your Honor's order and bifurcation.

15 MR. PAEK: That is correct, Your Honor, phase 1.

16 DISCOVERY COMMISSIONER: All right. So this is what I understand -- and  
17 you're welcome to have a seat. This is my understanding of the issues. In 2010 Nevada  
18 passed a minimum wage legislation that basically said if --

19 MR. SCHRAGER: I'm sorry. It was '06, Your Honor.

20 DISCOVERY COMMISSIONER: Well, I have 2010.

21 MR. SCHRAGER: It was --

22 DISCOVERY COMMISSIONER: Well, I understand, but that's not the issue --

23 MR. SCHRAGER: Right. Okay.

24 DISCOVERY COMMISSIONER: -- in the pleadings. And I read your complaint.  
25 You talk about -- I did. I read it. It talks about the fact that these individuals were not paid



1 wage limits set forth in the 2010 legislation, that's going to be our initial focus.

2 MR. SCHRAGER: Okay.

3 DISCOVERY COMMISSIONER: If, after Judge Williams rules on the statute of  
4 limitations, or if there is other information that becomes known and available that suggests  
5 we need to go back to 2006, if there is information that the Defendant cannot verify, that  
6 there was not underpayment during that timeframe, then I will relook at the issue.

7 MR. SCHRAGER: Sure. Okay.

8 DISCOVERY COMMISSIONER: But I want to start by assuring that we get the  
9 information from 2010 onward, and specifically the applicable timeframe in 2010.

10 Defense counsel.

11 MR. PAEK: And there are just a couple of issues, Your Honor, with your ruling.  
12 First, as to what Plaintiffs' counsel just brought up about the rate issue up to 2010, that's  
13 actually in our response to interrogatory number one. It's in writing that prior to that time all  
14 employees were paid 7.55, which met the upper tier minimum wage up to July of 2010, so  
15 there absolutely cannot be any violation whether or not what was offered up to that point.

16 DISCOVERY COMMISSIONER: I agree with you based on that representation. I'm  
17 just not -- please don't say I'm making a ruling on that today.

18 MR. PAEK: I understand what --

19 DISCOVERY COMMISSIONER: But --

20 MR. PAEK: -- Your Honor is saying, that --

21 DISCOVERY COMMISSIONER: -- in terms of discovery at the present time. I'm  
22 not going to allow you to engage in discovery before 2010.

23 MR. PAEK: And the only issues we have with that, Your Honor, is as to the  
24 paystubs, they haven't actually requested that in writing. In their motion, what they've  
25 requested is --

1 DISCOVERY COMMISSIONER: Of course it is.

2 MR. SCHRAGER: And, of course, the same --

3 DISCOVERY COMMISSIONER: Of course it is.

4 MR. SCHRAGER: -- dispute came up. So we will try to, under the guidelines of  
5 what you've announced today, we will try to work our issues regarding the 30(b)(6), Your  
6 Honor.

7 DISCOVERY COMMISSIONER: Okay. So Plaintiffs' motion to compel is granted  
8 within the parameters that I've discussed. Plaintiffs' counsel, you'll need to prepare my  
9 report and recommendation. No fees or costs. It's very -- these are difficult issues, and I  
10 appreciate it. But I do need my report and recommendation in ten days. Run it by defense  
11 counsel to approve as to form and content. And the status check for the report and  
12 recommendation will be?

13 THE CLERK: March 6<sup>th</sup> at 11.

14 DISCOVERY COMMISSIONER: Don't be here for that.

15 MR. SCHRAGER: Thank you, Your Honor.

16 MR. PAEK: Thank you, Your Honor.

17 DISCOVERY COMMISSIONER: All right. Thank you. Good luck with  
18 everything.

19 [Proceeding concluded at 10:12 a.m.]

20 \* \* \*

21 ATTEST: I do hereby certify that I have truly and correctly transcribed the audio-  
22 video recording of this proceeding in the above-entitled case.

23

24

25

  
FRANCESCA HAAK  
Court Recorder/Transcriber

Exhibit 7

Exhibit 7

1 RICK D. ROSKELLEY, ESQ., Bar # 3192  
ROGER L. GRANDGENETT II, ESQ., Bar # 6323  
2 KATHRYN BLAKEY, ESQ., Bar # 12701  
LITTLER MENDELSON, P.C.  
3 3960 Howard Hughes Parkway  
Suite 300  
4 Las Vegas, NV 89169-5937  
Telephone: 702.862.8800  
5 Fax No.: 702.862.8811

6 Attorneys for Defendants

7  
8 **IN THE DISTRICT COURT OF THE STATE OF NEVADA**  
9 **IN AND FOR THE COUNTY OF CLARK**  
10

11 PAULETTE DIAZ, an individual; and  
LAWANDA GAIL WILBANKS, an  
12 individual; SHANNON OLSZYNSKI, and  
individual; CHARITY FITZLEFF, an  
13 individual, on behalf of themselves and all  
similarly-situated individuals,

14 Plaintiffs,

15 vs.

16 MDC RESTAURANTS, LLC, a Nevada  
17 limited liability company; LAGUNA  
RESTAURANTS, LLC, a Nevada limited  
18 liability company; INKA, LLC, a Nevada  
limited liability company and DOES 1  
19 through 100, Inclusive,

20 Defendants.  
21

Case No. A701633

Dept. No. XV

**DEFENDANTS MDC RESTAURANTS,  
LLC'S, LAGUNA RESTAURANTS, LLC'S,  
AND INKA, LLC'S FIFTH  
SUPPLEMENTAL DISCLOSURE  
STATEMENT**

22 Pursuant to the Nevada Rules of Civil Procedure ("NRCP") Rule 16.1, Defendants MDC  
23 RESTAURANTS, LLC, LAGUNA RESTAURANTS, LLC, and INKA, LLC, ("Defendants") by  
24 and through their attorneys of record, Littler Mendelson, hereby submit its Second Supplemental  
25 Disclosures of documents and witnesses.

26 ///

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1    **A.    Documents, data compilations and tangible things in the possession,**  
2    **custody or control of Defendants.**

3           In addition to those documents listed in Defendants' Initial Disclosures, Defendants hereby  
4    supplements their document list pursuant to the Discovery Commissioner's Report and  
5    Recommendation entered on March 13, 2015. Defendants reserve the right to amend this list as  
6    necessary if it discovers additional information about documents relevant to this matter.

7           1.     Redacted spreadsheet with individual identification numbers that verifies the rate of  
8    pay for all 2,100 employees identified in Defendant MDC Restaurants, LLC's Supplemental  
9    Response to Interrogatory No. 5 (MDC000843 – MDC000992);

10          2.     Redacted spreadsheet with individual identification numbers that verifies the rate of  
11   pay for all 426 employees identified in Defendant Inka, LLC's Supplemental Response to  
12   Interrogatory No. 5 (MDC000843 – MDC000992);

13          3.     Report representing the number of employees enrolled in Defendants' insurance plans  
14   in January 2013 (MDC000993 – MDC000995));

15          4.     Report representing the number of employees enrolled in Defendants' insurance plans  
16   in December 2013 (MDC000996 – MDC001001);

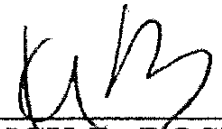
17          5.     Report representing the number of employees enrolled in Defendants' insurance plans  
18   in December 2014 (MDC001002 – MDC001004);

19          6.     Report representing the number of employees enrolled in Defendants' insurance plans  
20   in March 2015 (MDC001005).

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March 26, 2015

Respectfully submitted,



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RICK D. ROSKELLEY, ESQ.  
ROGER L. GRANDGENETT II, ESQ.  
KATHRYN BLAKEY, ESQ.  
LITTLER MENDELSON, P.C.

Attorneys for Defendants

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**PROOF OF SERVICE**


I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169-5937. On March 26, 2015, I served the within document:

**DEFENDANTS MDC RESTAURANTS, LLC'S, LAGUNA RESTAURANTS, LLC'S, AND INKA, LLC'S FIFTH SUPPLEMENTAL DISCLOSURE STATEMENT**

☒ By CM/ECF Filing – Pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. the above-referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (Wiznet) System:

Don Springmeyer, Esq.  
Bradley Schrager, Esq.  
Daniel Bravo, Esq.  
Royi Moas, Esq.  
Wolf Rifkin Shapiro Schulman Rabkin, LLP  
3556 East Russell Road, Second Floor  
Las Vegas, Nevada 89120

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 26, 2015, at Las Vegas, Nevada.

  
\_\_\_\_\_  
Debra Perkins

Firmwide:132447313.1 081404.1002

	A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P
1	Pay Group	Store	Empl ID	File Number	Last Name	First Name	Type	hrs or wk	Rate	Benefit Plan	Coverage Code	Description	rate	Employer Coverage Rate	Employee Status	
83	MD4	Redacted					Hourly	Redacted					Redacted			
84	MD4						Hourly									
85	MDC Count				74											
92	TICI Count				6											
93	VMX	Redacted					Salaried	Redacted					Redacted			
94	VMX						Hourly									
95	VMX						Hourly									
96	VMX						Hourly									
97	VMX						Hourly									
98	VMX						Hourly									
99	VMX						Hourly									
100	INKA Count				7											
101	Grand Count				94											



	A	B	C	D	E	F	G	H	I	J	K
1	Pay Group	Last Name	First Name	Empl ID	File Number	Employee Status	Employee Type	Pay Date	Deduction Code	Amount Field for Payro	Security Deptid
5	JOVI Count	3									
7	MANCHA CA Count	1									
8	MD4	Redacted					Salaried	2/26/2015	Redacted		
9	MD4						Hourly	2/26/2015			
10	MD4						Hourly	2/26/2015			
11	MD4						Salaried	2/26/2015			
12	MD4						Hourly	2/26/2015			
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23	MD4						Hourly	2/26/2015			
24	MD4						Salaried	2/26/2015			
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26	MD4						Hourly	2/26/2015			
27	MD4						Hourly	2/26/2015			
28	MD4						Hourly	2/26/2015			
29	MD4						Salaried	2/26/2015			
30	MD4						Hourly	2/26/2015			
31	MD4						Hourly	2/26/2015			
32	MD4						Hourly	2/26/2015			
33	MDC Count	25									
37	TICI Count	3									
38	VMX	Redacted					Hourly	2/26/2015	Redacted		
39	VMX						Hourly	2/26/2015			
40	VMX						Hourly	2/26/2015			
41	VMX						Hourly	2/26/2015			
42	INKA Count	4									
43	Grand Count	36									

# Exhibit 8

# Exhibit 8

1 RICK D. ROSKELLEY, ESQ., Bar # 3192  
2 ROGER L. GRANDGENETT II, ESQ., Bar # 6323  
3 MONTGOMERY Y. PAEK, ESQ., Bar #10176  
4 KATHRYN BLAKEY, ESQ., Bar # 12701  
5 LITTLER MENDELSON, P.C.  
6 3960 Howard Hughes Parkway  
7 Suite 300  
8 Las Vegas, NV 89169-5937  
9 Telephone: 702.862.8800  
10 Fax No.: 702.862.8811

11 Attorneys for Defendants

12 **DISTRICT COURT**  
13 **CLARK COUNTY, NEVADA**

14 PAULETTE DIAZ, an individual; and  
15 LAWANDA GAIL WILBANKS, an  
16 individual; SHANNON OLSZYNSKI, and  
17 individual; CHARITY FITZLEFF, an  
18 individual, on behalf of themselves and all  
19 similarly-situated individuals,

20 Plaintiffs,

21 vs.

22 MDC RESTAURANTS, LLC, a Nevada  
23 limited liability company; LAGUNA  
24 RESTAURANTS, LLC, a Nevada limited  
25 liability company; INKA, LLC, a Nevada  
26 limited liability company and DOES 1  
27 through 100, Inclusive,

28 Defendants.

Case No. A701633

Dept. No. XV

**DEFENDANTS MDC RESTAURANTS,  
LLC'S, LAGUNA RESTAURANTS, LLC'S,  
AND INKA, LLC'S SEVENTH  
SUPPLEMENTAL DISCLOSURE  
STATEMENT**

21 Pursuant to the Nevada Rules of Civil Procedure ("NRCP") Rule 16.1, Defendants MDC  
22 RESTAURANTS, LLC, LAGUNA RESTAURANTS, LLC, and INKA, LLC, ("Defendants") by  
23 and through their attorneys of record, Littler Mendelson, hereby submit its Seventh Supplemental  
24 Disclosures of documents and witnesses.

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27 ///

1     **A.     Documents, data compilations and tangible things in the possession, custody or control**  
2     **of Defendants.**

3             In addition to those documents listed in Defendants' Initial Disclosures, Defendants hereby  
4     supplements their document list pursuant to the Discovery Commissioner's Report and  
5     Recommendation entered on March 13, 2015. Defendants reserve the right to amend this list as  
6     necessary if it discovers additional information about documents relevant to this matter.

7             1.     List of hourly employees enrolled in Defendants' insurance plan from July 2010  
8     through December 31, 2013 (MDC001014 – MDC001023);

9             June 4, 2015

10                             Respectfully submitted,

11  
12                             /s/ Kathryn Blakey, Esq.  
13                             RICK D. ROSKELLEY, ESQ.  
14                             ROGER L. GRANDGENETT II, ESQ.  
15                             MONTGOMERY Y. PAEK, ESQ.  
16                             KATHRYN BLAKEY, ESQ.  
17                             LITTLER MENDELSON, P.C.

18                             Attorneys for Defendants  
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**PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169-5937. On June 4, 2015, I served the within document:

**DEFENDANTS MDC RESTAURANTS, LLC’S, LAGUNA RESTAURANTS, LLC’S, AND INKA, LLC’S SEVENTH SUPPLEMENTAL DISCLOSURE STATEMENT**

☒ By CM/ECF Filing – Pursuant to Administrative Order 14-2 and Rule 9 of the N.E.F.C.R. the above-referenced document was electronically filed and served upon the parties listed below through the Court’s Case Management and Electronic Case Filing (Wiznet) System:

Don Springmeyer, Esq.  
Bradley Schrager, Esq.  
Daniel Bravo, Esq.  
Wolf Rifkin Shapiro Schulman Rabkin, LLP  
3556 East Russell Road, Second Floor  
Las Vegas, Nevada 89120

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 4, 2015, at Las Vegas, Nevada.

\_\_\_\_\_  
/s/ Debra Perkins

Firmwide:133930339.1 081404.1002



**From:** [no-reply@tylerhost.net](mailto:no-reply@tylerhost.net)  
**To:** [Perkins, Debra A.](#)  
**Subject:** Service Notification of Filing Case(Paulette Diaz, Plaintiff(s)vs. MDC Restaurants LLC, Defendant(s)) Document Code:(SB) Filing Type:(EFS) Repository ID(7190026)  
**Date:** Thursday, July 16, 2015 4:23:42 PM

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This is a service filing for Case No. A-14-701633-C, Paulette Diaz, Plaintiff(s)vs. MDC Restaurants LLC, Defendant(s)

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Submitted: 07/16/2015 01:01:22 PM

Case title: Paulette Diaz, Plaintiff(s)vs. MDC Restaurants LLC, Defendant(s)  
Document title: Supplemental Brief in Support of Plaintiffs' Motion for Class Certification Pursuant to N.R.C.P. 23  
Document code: SB Filing Type: EFS  
Repository ID: 7190026  
Number of pages: 49  
Filed By: Wolf, Rifkin, Shapiro, Schulman & Rabkin,LLP

To download the document, click on the following link shown below or copy and paste it into your browser's address bar.  
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This link will be active until 07/26/2015 01:01:22 PM.

Service List Recipients:

Littler Mendelson  
Debra Perkins  
Erin Melwak  
Katy Blakey, Esq.  
Maribel Rodriguez  
Montgomery Paek  
Rick Roskelley, Esq.

Littler Mendelson, P.C.  
Roger Grandgenett, Esq.

Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP  
Bradley S. Schrager, Esq.  
Christie Rehfeld  
Daniel Bravo  
Dannielle Fresquez  
Don Springmeyer  
E. Noemy Valdez  
Justin Jones, Esq.  
Lorraine Rillera

Non Consolidated Cases  
EFO \$3.50EFS \$5.50  
SO \$3.50

7E914405F8D51A7EF22BFA3BE7236B88C3D43D2D389D489A0A7E7AF433A41855185E82BAB1542626FB0EAA7F8F5B9A4702DB8BF68B14823A  
mail.tylerhost.net

**IN THE SUPREME COURT OF THE STATE OF NEVADA**

MDC RESTAURANTS, LLC, a Nevada  
limited liability company; LAGUNA  
RESTAURANTS, LLC, a Nevada limited  
liability company; INKA, LLC, a Nevada  
limited liability company,  
Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT  
COURT OF THE STATE OF NEVADA  
in and for the County of Clark and THE  
HONORABLE TIMOTHY C.  
WILLIAMS, District Court Judge,  
Respondents,

vs.

PAULETTE DIAZ, an individual;  
LAWANDA GAIL WILBANKS, an  
individual; SHANNON OLSZYNSKI, an  
individual; and CHARITY FITZLAFF, an  
individual, on behalf of themselves and all  
similarly-situated individuals,  
Real Parties in Interest.

**Case No.**

District Court Case No. A-14-  
701633-C Jul 31 2015 10:51 a.m.  
Tracie K. Lindeman  
Clerk of Supreme Court  
District Court Dept. No. XVI

**PETITIONERS' APPENDIX**

RICK D. ROSKELLEY, ESQ., Nevada Bar # 3192  
ROGER L. GRANDGENETT II, ESQ., Nevada Bar # 6323  
MONTGOMERY Y. PAEK, ESQ., Nevada Bar #10176  
KATHRYN B. BLAKEY, ESQ., Nevada Bar # 12701  
LITTLER MENDELSON, P.C.  
3960 Howard Hughes Parkway, Suite 300  
Las Vegas, NV 89169-5937  
Telephone: 702.862.8800  
Fax No.: 702.862.8811  
Attorneys for Petitioners



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April 24, 2015 Plaintiff's Motion for Partial Summary Judgment on Liability as to Plaintiff Paulette Diaz's First Claim for Relief	Vol. 1	043-149
May 22, 2015 Defendants' Opposition to Motion for Partial Summary Judgment on Liability as to Plaintiff Paulette Diaz's First Claim for Relief	Vol. 1	150-167
June 5, 2015 Plaintiff's Reply to Defendants' Opposition to Motion for Partial Summary Judgment on Liability as to Plaintiff Paulette Diaz's First Claim for Relief	Vol. 1	168-207
June 25, 2015 minutes of hearing	Vol. 1	208
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July 30, 2014, Notice of Petition for Writ of Mandamus or Prohibition	Vol. 2	343-345
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July 16, 2015 Supplemental Brief in Support of Plaintiffs' Motion for Class Certification Pursuant to N.R.C.P. 23	Vol. 5	770-819
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## **PROOF OF SERVICE**

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 3960 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169. On July 30, 2015, I served the within document:

## **PETITIONERS APPENDIX**

☒ Via **Electronic Service** - pursuant to N.E.F.C.R Administrative Order: 14-2.

Don Springmeyer, Esq.  
Bradley Schrager, Esq.  
Daniel Bravo, Esq.  
Wolf, Rifkin, Shapiro, Schulman &  
Rabkin, LLP  
3556 E. Russell Road, 2nd Floor  
Las Vegas, NV 89120-2234  
Attorneys for Real Party in Interest

Honorable Timothy C. Williams  
Eighth Judicial District Court, Dept. 16  
200 Lewis Avenue  
Las Vegas, NV 89155  
Respondents

I declare under penalty of perjury that the foregoing is true and correct.  
Executed on July 30, 2015, at Las Vegas, Nevada.

/s/ Erin J. Melwak  
Erin J. Melwak