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Elizabeth A. Brown
Clerk of Supreme Court

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18 *Attorneys for Respondent*

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

20 JACQUELINE FRANKLIN, ASHLEIGH
21 PARK, LILY SHEPARD, STACIE ALLEN,
22 MICHAELA DEVINE, KARINA
23 STRELKOVA, and DANIELLE LAMAR,
24 individually and on behalf of a class of
25 similarly situated individuals,

Case No. 74332

26 Appellants,

27 vs.

28 RUSSEL ROAD FOOD AND BEVERAGE,
LLC,

Respondent.

RESPONDENT, RUSSELL ROAD FOOD AND BEVERAGE, LLC'S
MOTION TO DISMISS APPELLANTS, ASHLEIGH PARK,
DANIELLE LAMAR, LILY SHEPARD, KARINA STRELKOVA,
STACIE ALLEN, AND MICHAELA DIVINE, AKA MICHAELA



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1 **MOORE'S APPEAL OF THE DISTRICT COURT'S ORDER**
2 **GRANTING DEFENDANT'S MOTION TO DISMISS PLAINTIFFS'**
3 **THIRD AMENDED COMPLAINT PURSUANT TO**
4 **N.R.C.P. 12(B)(1) AND N.R.C.P. 12(H)(3) DATED AUGUST 23, 2017**

5 Respondent, Russell Road Food and Beverage, LLC ("Russell Road"),
6 by and through its attorneys of record, Jeffery A. Bendavid, Esq., and
7 Stephanie J. Smith, Esq., of Moran Brandon Bendavid Moran hereby moves
8 for an Order Dismissing Appellants, Ashleigh Park, Danielle Lamar, Lily
9 Shepard, Karina Strelkova, Stacie Allen, and Michaela Divine, aka Michaela
10 Moore's (the "Dismissed Plaintiffs") Appeal of the District Court's Order
11 Granting Defendant's Motion to Dismiss Plaintiffs' Third Amended
12 Complaint Pursuant to N.R.C.P. 12(b)(1) and N.R.C.P. 12(h)(3) Dated
13 August 23, 2017, as untimely in violation of N.R.A.P. 4(a)(1).
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15
16

17 Russell Road's Motion is made and based upon the Memorandum of
18 Points and Authorities submitted herewith, together with the papers and
19 pleadings on file herein, and exhibits attached hereto.
20

21 **MEMORANDUM OF POINTS AND AUTHORITIES**

22 **I. PROCEDURAL HISTORY**

23
24 The Dismissed Plaintiffs commenced an action against Russell Road
25 as a proposed class action alleging violations of Nevada's Minimum Wage
26 Amendment. *See generally, Third Amended Complaint*, a copy of which is
27 attached hereto and incorporated herein as Exhibit "1." Prior to the Order
28



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1 now on appeal, the District Court denied The Dismissed Plaintiffs' first
2 Motion for Class Certification. *See Notice of Entry of Order*, a copy of
3 which is attached hereto and incorporated herein as Exhibit "2."
4 Subsequently, the District Court denied the Dismissed Plaintiffs' Renewed
5 Motion for Class Certification. *See Id.*

6
7
8 Russell Road, on June 2, 2017, filed a Motion with the District Court
9 seeking to dismiss each Complaint asserted against Russell Road for lack of
10 subject matter jurisdiction pursuant to N.R.C.P. 12(b)(1) and 12(h)(3) since
11 none of the Dismissed Plaintiffs alleged in their Third Amended Complaint
12 or demonstrated with actual evidence that each had incurred damages in
13 excess of \$10,000. *See generally, Motion to Dismiss Plaintiffs' Complaint.*

14
15
16 After a hearing on the matter was held on July 11, 2017, the District
17 Court granted Russell Road's Motion to Dismiss as to each of the Dismissed
18 Plaintiffs, thereby dismissing each and their respective Complaint. *See*
19 Exhibit "2," at attached Order, 2-3. The District Court also denied Russell
20 Road's Motion as to Appellant, Jacqueline Franklin, and consequently, her
21 individual case continued onward until the District Court granted Russell
22 Road's Motion for Summary Judgment. *See Id. See also, Notice of Appeal,*
23 a copy of which is attached hereto and incorporated herein as Exhibit "3."
24 Thereafter, the District Court issued a written Order of its July 11, 2017
25
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1 ruling; the entry of which was noticed and served on August 25, 2017. *See*
2 Exhibit "2."

3
4 On October 17, 2017, fifty-three (53) days after the District Court's
5 Order was noticed and served, the Dismissed Plaintiffs filed their individual
6 appeals of the District Court's Order Granting Defendant's Motion to
7 Dismiss Plaintiffs' Third Amended Complaint Pursuant to N.R.C.P. 12(b)(1)
8 and N.R.C.P. 12(h)(3). *See* Exhibit "3." Russell Road now moves for an
9 Order dismissing the appeal as untimely since the Dismissed Plaintiffs filed
10 their appeal of this Order more than thirty (30) days after August 25, 2017,
11 in violation of N.R.A.P. 4(a)(1).
12
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14

15 **II. ARGUMENT**

16 **A. The Dismissed Plaintiffs' Appeals Are Untimely Since The Notice of** 17 **Appeal Was Filed More Than Thirty (30) Days After The Filing And** 18 **Service of The Notice of Entry of the Order.**

19 N.R.A.P. 4(a)(1) requires that an appellant's permitted notice of
20 appeal required by N.R.A.P. 3 must be filed no later than thirty (30) days
21 after the date of the written notice of entry of order appealed from is served.
22

23 Here, the Dismissed Plaintiffs filed their Notice of Appeal on October 17,
24 2017. *See* Exhibit "3." However, the Notice of Entry of Order was filed and
25 served on August 25, 2017. *See* Exhibit "2."
26



27
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1 On its face, the Dismissed Plaintiffs' appeal of District Court's Order
2 Granting Defendant's Motion to Dismiss Plaintiffs' Third Amended
3 Complaint Pursuant to N.R.C.P. 12(b)(1) and N.R.C.P. 12(h)(3), is untimely
4 as fifty-three (53) days elapsed after the August 25, 2017 filing and service
5 of the notice of entry of this Order. *See N.R.A.P. 4(a)(1)*. *See also*, Exhibits
6 "2" and "3." As such, the Dismissed Plaintiffs' appeal of the District
7 Court's Order Granting Defendant's Motion to Dismiss must be dismissed as
8 untimely.

12 Additionally, the time for the Dismissed Plaintiffs to file their
13 individual appeals of the District Court's Order was not tolled or extended
14 for any reason, including the continuation of Appellant, Jacqueline
15 Franklin's case. The Dismissed Plaintiffs commenced an action against
16 Russell Road as a proposed class action alleging violations of Nevada's
17 Minimum Wage Amendment. *See generally*, Exhibit "1." The Dismissed
18 Plaintiffs did not move the District Court to join or merge their individual
19 claims in the manner permitted by N.R.C.P. 20. *See Id.* The Dismissed
20 Plaintiffs also did not allege that any liability on the part of Russell Road
21 was joint and several to the Dismissed Plaintiffs¹. *See Id.*

27 ¹ The Dismissed Plaintiffs could not make such an assertion since the rights
28 of plaintiffs in wage and hour cases are held individually and each alleged
employee "suffers a unique injury that can be addressed without the
involvement of the other." *E.g., Urbino v. Orkin Servs. Of California, Inc.*,



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1 Prior to the Order on appeal, the District Court denied the Dismissed
2 Plaintiffs' first Motion for Class Certification. *See generally*, Exhibit "2."
3
4 Subsequently, the District Court denied the Dismissed Plaintiffs' Renewed
5 Motion for Class Certification. *See Id.* As such, a class action never existed
6 in this matter and certainly did not exist at the time of the District Court's
7 Order on appeal. Consequently, the Dismissed Plaintiffs, at all times
8 relevant to this matter, proceeded individually and separately in the
9 prosecution of their claims against Russell Road. *See* Exhibit "3."

12 The fact that the District Court denied Russell Road's Motion as to a
13 single plaintiff, Jacqueline Franklin, did not toll or extend the
14 commencement of the Dismissed Plaintiffs' time to file their appeals. *See*
15 *e.g.*, *Hall v. Hall*, 2018 U.S. LEXIS 2062 *29-30, 138 S. Ct. 1118, 1131, 200
16 L. Ed. 2d 399, 413-14 (2018). Recently, the United States Supreme Court
17 specifically addressed the issue of when an appellants' time for appeal
18 commences when several individual cases are consolidated and not all of the
19 individual cases are disposed of at the same time². *See e.g.*, *Hall*, 138 S. Ct.
20 at 1122. In *Hall*, the United States Supreme Court made clear that a

26 726 F.3d 1118, 1122 (9th Cir. 2013).

27 ²Federal cases interpreting federal rules are strong persuasive authority in
28 Nevada. *See Exec. Mgmt. v. Ticor Title Ins. Co.*, 118 Nev. 46, 53, 38 P.3d
872, 876(2002).



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1 consolidation of individual cases does not toll or extend the time to file an
2 appeal of any individual party's who is subject to a final decision. *See Id.* at
3 1131. The United States Supreme Court made clear that such a party's time
4 for appeal commences immediately upon the entry of a final decision
5 regardless of whether another consolidated party's action continues. *See Id.*
6
7

8 Since no class was certified, this matter actually is a consolidation of
9 individual actions asserted against Russell Road. *See supra.* As such, the
10 thirty (30) day period for the Dismissed Plaintiffs to file their individual
11 appeals commenced immediately on August 25, 2017, the date that the
12 District Court's Order was entered and served. *See e.g., Hall*, 138 S. Ct. at
13 1131. *See NRAP 4(a)(1).* *See also*, Exhibit "2."
14
15

16 Here, the Dismissed Plaintiffs filed their individual appeals on
17 October 17, 2017, which was fifty-three (53) days after the Notice of Entry
18 was filed and served on August 25, 2017, which is not allowed under
19 N.R.A.P. 4(a)(1). *See* Exhibit "4," at 1. As such, the Dismissed Plaintiffs'
20 October 17, 2017, individual appeals were not filed within the required thirty
21 (30) days prescribed by N.R.A.P. 4(a)(1), and therefore, must be dismissed
22 as untimely.
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III. CONCLUSION

Based on the foregoing, Russell Road respectfully requests that this Court grant its Motion to Dismiss as untimely the Dismissed Plaintiffs' Appeal of the District Court's Order Granting Defendant's Motion to Dismiss Plaintiffs' Third Amended Complaint Pursuant to N.R.C.P. 12(b)(1) and N.R.C.P. 12(h)(3).

DATED this 9th day of August, 2018.

MORAN BRANDON BENDAVID MORAN

/s/ Jeffery A. Bendavid,

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Nevada Bar No. 6220

STEPHANIE J. SMITH, ESQ.

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/s/ Gregory J. Kamer

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1 CERTIFICATE OF SERVICE

2 I hereby certify that on the 9th day of August, 2018, I served the
3
4 foregoing RESPONDENT, RUSSELL ROAD FOOD AND BEVERAGE,
5
6 LLC'S MOTION TO DISMISS APPELLANTS, ASHLEIGH PARK,
7
8 DANIELLE LAMAR, LILY SHEPARD, KARINA STRELKOVA,
9
10 STACIE ALLEN, AND MICHAELA DIVINE, AKA MICHAELA
11
12 MOORE'S APPEAL OF THE DISTRICT COURT'S ORDER GRANTING
13
14 DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' THIRD
15
16 AMENDED COMPLAINT PURSUANT TO N.R.C.P. 12(B)(1) AND
17
18 N.R.C.P. 12(H)(3) DATED AUGUST 23, 2017, upon each of the parties to
19
20 this action via electronic service through the Supreme Court of the State of
21
22 Nevada File & Serve System.

23 Dated this 9th day of August, 2018.

24 Ryan Anderson, Esq.
25 Morris Anderson Law
26 Ryan@morrisandersonlaw.com
27 *Attorney for Appellants*

Michael J. Rusing, Esq.
Rusing & Lopez, P.L.L.C.
mrusing@rllaz.com
Attorney for Appellants

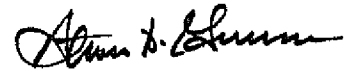
28 /s/ Leilani Gamboa
An Employee of
MORAN BRANDON BENDAVID MORAN



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Exhibit “1”



CLERK OF THE COURT

1 **ACOM**

2 Ryan M. Anderson (NV Bar No. 11040)

3 Daniel R. Price (NV Bar No. 13564)

4 **MORRIS // ANDERSON**

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18 rusinglopez@rllaz.com

19 *Attorneys for Plaintiffs*

14
15 **DISTRICT COURT OF THE STATE OF NEVADA**
16 **IN AND FOR CLARK COUNTY**

17 JACQUELINE FRANKLIN,
18 ASHLEIGH PARK, LILY SHEPARD,
19 STACIE ALLEN, MICHAELA
20 DIVINE, VERONICA VAN
21 WOODSEN, SAMANTHA JONES,
22 KARINA STRELKOVA, LASHONDA
23 STEWART, DANIELLE LAMAR, and
24 DIRUBIN TAMAYO, individually,
25 and on behalf of a class of similarly
26 situated individuals,

27 Plaintiffs,

28 v.

25 RUSSELL ROAD FOOD AND
26 BEVERAGE, LLC, SN INVESTMENT
27 PROPERTIES, LLC (both d/b/a Crazy
28 Horse III Gentlemen's Club), DOE
CLUB OWNERS I-X, and DOE CLUB
EMPLOYERS I-X,

Defendants.

CASE NO.: A-14-709372-C
DEPT. 31

**PLAINTIFFS' THIRD
AMENDED CLASS ACTION
COMPLAINT FOR:**

FAILURE TO PAY WAGES;
UNJUST ENRICHMENT;
ATTORNEY FEES

DEMAND FOR JURY TRIAL

ARBITRATION EXEMPTION: CLASS
ACTION

1 Plaintiffs, on behalf of themselves and a class of all persons similarly situated
2 (collectively, the "Dancers"), allege as follows:

3 **JURISDICTION AND PARTIES**

4 1. This Court has jurisdiction over the subject matter and the person of defendants.
5 Venue is proper in Clark County.

6 2. Defendants Russell Road Food and Beverage and SN Investment Properties are
7 Nevada limited liability companies.

8 3. Russell Road Food and Beverage and SN Investment Properties own and
9 operate "Crazy Horse III Gentlemen's Club" (the "Club"). The Club is a Las Vegas strip club.

10 4. On information and belief, Defendants Doe Club Owners I-X are residents of
11 Clark County, Nevada, and are owners or operators of the Club.

12 5. On information and belief, Defendants Doe Club Employers I-X are residents
13 of Clark County, Nevada, and employed Dancers at the Club.

14 6. Plaintiffs do not know at this time the true names and capacities of defendants
15 Doe Club Owners I-X and Doe Club Employers I-X, but these defendants may include other
16 owners, operators, shareholders, officers, directors, or agents of the Club.

17 7. The defendants are referred to collectively in this complaint as "Crazy Horse."

18 8. Plaintiffs Jacqueline Franklin, Ashleigh Park, Lily Shepard, Stacie Allen,
19 Michaela Divine, Veronica Van Woodsen, Samantha Jones, Karina Strelkova, LaShonda
20 Stewart, Danielle Lamar, and Dirubin Tamayo were, at times relevant to this action, residents
21 of Clark County, Nevada. Each Plaintiff has worked at the Club as an exotic dancer at various
22 relevant times, including times within all applicable statutes of limitations.

23 **CLASS ACTION ALLEGATIONS**

24 9. This proposed class action is brought under NRCP 23(a) and 23(b)(3).

25 10. The proposed class consists of all persons who work or have worked at the Club
26 as dancers at any time during the time period prescribed by applicable statutes of limitations
27 and going forward until the entry of judgment in this action..

28 11. The proposed class is so numerous that joinder of all members is impracticable.

1 The exact number of class members is unknown, but is believed to be in excess of 3000
2 dancers.

3 12. There are questions of law and fact common to the class that predominate over
4 any questions solely affecting individual class members including, but not limited to, whether
5 Crazy Horse violated Nev. Const. Art. XV, Sec. 16 (the "Minimum Wage Amendment") by
6 not paying the class members any wages, and whether Crazy Horse was unjustly enriched at
7 the expense of class members.

8 13. Plaintiffs, like other members of the class, claim they were harmed in the same
9 manner and to the same extent by Crazy Horse's illegal employment practices, and have the
10 same interest in the outcome of the litigation.

11 14. Each class member's claim against Crazy Horse arises from the same course of
12 conduct by Crazy Horse.

13 15. Plaintiffs will fairly and adequately protect the interests of the class. There are
14 no conflicts between the Plaintiffs' claims and the claims of other class members.

15 16. Plaintiffs have retained competent counsel experienced in class action
16 litigation, and they will vigorously pursue the class claims throughout this litigation.

17 17. Individual class members have little interest in controlling the prosecution of
18 separate actions since the amounts of their claims are too small to warrant the expense of
19 prosecuting litigation of this volume and complexity.

20 18. A class action is superior to other available methods for the fair and efficient
21 adjudication of this controversy.

22 19. Plaintiffs anticipate no difficulty in the management of this litigation. Crazy
23 Horse's business records should permit identification of and notice to the class members.

24 **FACTUAL ALLEGATIONS COMMON TO ALL CLAIMS**

25 20. Crazy Horse heavily monitors its dancers, including dictating their appearance,
26 interactions with customers, and work schedules.

27 21. An exotic dancer's opportunity for profit or loss working at the Club does not
28 depend upon her managerial skill, even though individual dancers may use their interpersonal

1 skills to solicit larger tips.

2 22. Crazy Horse provides all the risk capital, funds advertising, and covers facility
3 expenses for its strip club.

4 23. Working as an exotic dancer at the Club does not require the kind of initiative
5 demonstrated by an independent business owner.

6 24. Exotic dancers are integral to the operation and business success of the Club.

7 25. Exotic dancers are employees of the Nevada strip clubs in which they work
8 under Nevada law.

9 26. The Minimum Wage Amendment requires Nevada employers to pay their
10 employees at least a minimum hourly wage.

11 27. Tips or gratuities given to employees by an employer's patrons cannot be
12 credited as being a part of or offset against the wage rates required by the Minimum Wage
13 Amendment.

14 28. A Nevada employer cannot require employees contractually to waive their right
15 to a minimum wage.

16 29. At no time has Crazy Horse paid its Dancers a minimum wage as required by
17 Nevada law.

18 30. Crazy Horse imposed various monetary fines on the Dancers for failure to
19 comply with its rules and regulations.

20 31. Crazy Horse imposed various fees on the Dancers as a condition of
21 employment, such as fees to work a shift and fees for declining to dance on the stage during
22 a shift.

23 32. Crazy Horse required its Dancers, as a condition of employment, to pay fixed
24 sums to Crazy Horse management and other employees, including but not limited to, the
25 "house mom," the DJ, the manager, the bartenders and the bouncers.

26 33. Crazy Horse has retained benefits, including unpaid wages and improper fees
27 and fines described in this complaint. These benefits, in equity and good conscience, belong
28 to the Dancers.

1 34. Crazy Horse has a statutory duty to inform its employees of their legal rights
2 guaranteed under Nevada law. Crazy Horse failed and continues to fail to comply with this
3 statutory duty.

4 35. Crazy Horse, willfully and for its own pecuniary benefit, has refused to pay
5 wages due and payable to its Dancers when demanded.

6 36. Crazy Horse, willfully and for its own pecuniary benefit, failed to pay wages
7 due to its Dancers upon resignation or discharge.

8 37. Crazy Horse intentionally has refused to recognize the Dancers' clear legal
9 status and rights as employees so that it can reap financial benefit at its employees' expense.

10 38. Crazy Horse intentionally has refused to pay its employees a minimum wage
11 so that it can reap financial benefit at its employees' expense.

12 39. Crazy Horse imposes illegal fines and fees on its employees as a condition of
13 employment so that it can reap financial benefit at its employees' expense.

14 40. Crazy Horse intentionally has concealed from its employees their status and
15 rights as employees under Nevada law so that it can reap financial benefit at its employees'
16 expense.

17 41. Crazy Horse's conduct as described herein constitutes oppression, fraud or
18 malice as defined by NRS 42.005.

19 **COUNT ONE**

20 **(Nev. Const. Art. XV, Sec. 16 – Failure to Pay Wages)**

21 42. Plaintiffs incorporate the foregoing allegations as though fully set forth herein.

22 43. Crazy Horse owes the Dancers a sum, to be proven at trial, representing unpaid
23 wages for each hour worked at no less than the hourly rate specified in the Minimum Wage
24 Amendment, plus applicable penalty wages specified by NRS 608.040 for failure to pay
25 wages to discharged or resigning employees when due.

26 44. The Minimum Wage Amendment entitles plaintiffs to an award of their
27 reasonable attorney fees and costs.
28

COUNT TWO

(Unjust Enrichment)

45. Plaintiffs incorporate the foregoing allegations as though fully set forth herein.

46. The fees and fines paid by the Dancers to Crazy Horse as described in this Complaint constitute a benefit conferred on Crazy Horse by the Dancers. Crazy Horse appreciated, accepted, and retained this benefit.

47. The wages earned by Dancers but not paid by Crazy Horse as described in this complaint constitute a benefit conferred on Crazy Horse by the Dancers. Crazy Horse appreciated, accepted, and retained this benefit.

48. Crazy Horse has been unjustly enriched by accepting and retaining benefits from its Dancers, including the unpaid wages, fees and fines described in this complaint. These benefits, in equity and good conscience, belong to the Dancers.

REQUEST FOR RELIEF

Plaintiffs request an award of:

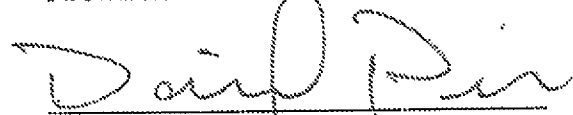
- A. Damages for all unpaid wages for each Plaintiff and class member, in an amount to be determined at trial;
- B. Damages for additional penalty wages specified by Nevada law for failure to pay wages to discharged or resigning employees when due, in an amount to be determined at trial;
- C. Restitution to the Dancers of all fees, fines, and other monies improperly extracted or withheld from them by Crazy Horse and not otherwise accounted for as damages for failure to pay wages;
- D. Pre-judgment and post-judgment interest due on such sums at the highest rate permitted by law;
- E. Reasonable attorney fees and costs; and
- F. Such other and further relief as may be fair and equitable under the circumstances.

1 **REQUEST FOR CLASS ACTION CERTIFICATION**

2 Plaintiffs further request that the Court certify this action as a class action pursuant to NRCP
3 23, and designate plaintiffs as class representatives and their counsel as class counsel.

4 DATED this 16 day of September, 2015.

5 **MORRIS // ANDERSON**

6 

7 **RYAN M. ANDERSON, ESQ.**

8 Nevada Bar No. 11040

9 **DANIEL R. PRICE, ESQ.**

10 Nevada Bar No. 13564

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14 **P. ANDREW STERLING, ESQ.**

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Tucson, Arizona 85718
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Exhibit “2”



1 **NEO**

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18 *Attorneys for Defendant/Counterclaimant*

19 **DISTRICT COURT**
20 **CLARK COUNTY, NEVADA**

21 JACQUELINE FRANKLIN, ASHLEIGH
22 PARK, LILY SHEPARD, STACIE
23 ALLEN, MICHAELA DIVINE,
24 VERONICA VAN WOODSEN,
25 SAMANTHA JONES, KARINA
26 STRELKOVA, LASHONDA,
27 STEWART, DANIELLE LAMAR, and
28 DIRUBIN TAMAYO, individually, and
on behalf of a class of similarly
situated individuals,

Plaintiffs,

vs.

RUSSELL ROAD FOOD AND
BEVERAGE, LLC, a Nevada limited
Liability company (d/b/a CRAZY DOE
CLUB OWNER, I-X, ROE EMPLOYER,
I-X,

Defendants.

AND RELATED COUNTERCLAIMS

Case No.: A-14-709372-C

Dept. No.: 31

NOTICE OF ENTRY OF ORDER



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Steven D. Grierson

1 **ORDR**

2 **JEFFERY A. BENDAVID, ESQ.**

3 Nevada Bar No. 6220

4 **STEPHANIE J. SMITH, ESQ.**

5 Nevada Bar No. 11280

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13 Nevada Bar No. 013625

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17 (702) 259-8640

18 *Attorneys for Defendant/Counterclaimant*

19 **DISTRICT COURT**
20 **CLARK COUNTY, NEVADA**

21 JACQUELINE FRANKLIN,
22 ASHLEIGH PARK, LILY SHEPARD,
23 STACIE ALLEN, MICHAELA DIVINE,
24 VERONICA VAN WOODSEN,
25 SAMANTHA JONES, KARINA
26 STRELKOVA, LASHONDA,
27 STEWART, DANIELLE LAMAR, and
28 DIRUBIN TAMAYO, individually, and
on behalf of a class of similarly
situated individuals,

Plaintiffs,

vs.

RUSSELL ROAD FOOD AND
BEVERAGE, LLC, a Nevada limited
Liability company (d/b/a CRAZY DOE
CLUB OWNER, I-X, ROE
EMPLOYER, I-X,

Defendants.

AND RELATED COUNTERCLAIMS

Case No.: A-14-709372-C

Dept. No.: 31

ORDER GRANTING DEFENDANT'S
MOTION TO DISMISS PLAINTIFFS
ASHLEIGH PARK, DANIELLE
LAMAR, LILY SHEPARD, KARINA
STRELKOVA, STACIE ALLEN, AND
MICHAELA DEVINE AKA MOORE
THIRD AMENDED COMPLAINT
PURSUANT TO N.R.C.P. 12(b)(1) AND
N.R.C.P. 12(h)(3)

ORDER GRANTING DEFENDANT'S
MOTION TO STRIKE PLAINTIFFS'
RENEWED MOTION FOR CLASS
CERTIFICATION

ORDER DENYING PLAINTIFFS'
RENEWED MOTION FOR CLASS
CERTIFICATION



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1 Plaintiffs, JACQUELINE FRANKLIN, ASHLEIGH PARK, LILY SHEPARD,
2 STACIE ALLEN, MICHAELA DEVINE, KARINA STREKLOVA, AND DANIELLE
3 LAMAR'S, individually and on behalf of all persons similarly situated (the "Plaintiffs")
4 RENEWED MOTION FOR CLASS CERTIFICATION, with LAUREN CALVERT, ESQ.
5 of MORRIS//ANDERSON, appearing on behalf of Plaintiffs, and Defendant, RUSSELL
6 ROAD FOOD AND BEVERAGE LLC'S ("Defendant") MOTION TO DISMISS
7 PLAINTIFFS' THIRD AMENDED COMPLAINT PURSUANT TO N.R.C.P. 12(b)(1)
8 AND N.R.C.P. 12(h)(3) and Defendant's MOTION TO STRIKE PLAINTIFFS'
9 RENEWED MOTION FOR CLASS CERTIFICATION, with JEFFERY A. BENDAVID,
10 ESQ. and STEPHANIE J. SMITH, ESQ. of MORAN BRANDON BENDAVID MORAN,
11 appearing for Defendant, came on for hearing and on July 11, 2017, in Department 31 of the
12 above-titled Court, with the Honorable Senior Judge Nancy M. Saitta presiding. The Court
13 having considered the pleadings, papers, and supplements thereto and filed herein, the
14 arguments of counsel, and good cause appearing finds and orders as follows:

15
16
17 **THE COURT FINDS** that Defendant's Motion to Dismiss Plaintiffs' Third
18 Amended Complaint pursuant to N.R.C.P. 12(b)(1) AND N.R.C.P. 12(h)(3), is GRANTED
19 as to Plaintiffs, Ashleigh Park, Danielle Lamar, Lily Shepard, Karina Strelkova, Stacie
20 Allen, and Michaela Devine aka Moore, based on the arguments set forth in Defendant's
21 Motion to Dismiss. Defendant's Motion to Dismiss Plaintiffs' Third Amended Complaint
22 pursuant to N.R.C.P. 12(b)(1) AND N.R.C.P. 12(h)(3), is Denied with respect to Plaintiff,
23 Jacqueline Franklin, only.
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BENDAUID MORAN
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THE COURT FURTHER FINDS that Plaintiffs' Renewed Motion for Class Certification is DENIED, on the bases set forth in Defendant's Opposition to Plaintiffs' Renewed Motion for Class Certification.

DATED this 16 day of Aug, 2017.

HONORABLE JOANNA S. KISHNER
DISTRICT COURT JUDGE, DEPT. XXXI

Approved as to form:

MORRIS//ANDERSON

/s/ Lauren Calvert
RYAN M. ANDERSON, ESQ.

Nevada Bar No.11040

LAUREN CALVERT, ESQ.

Nevada Bar No. 10534

716 South Jones Blvd.

Las Vegas, NV 89107

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Attorneys for Plaintiffs



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Leilani Gamboa

From: efilingmail@tylerhost.net
Sent: Monday, August 28, 2017 7:14 AM
To: Leilani Gamboa
Subject: Filing Accepted for Case: A-14-709372-C; Ashleigh Park, Plaintiff(s)vs.Crazy Horse III Gentleman's Club at The Playground, Defendant(s); Envelope Number: 1411283

Filing Accepted

Envelope Number: 1411283

Case Number: A-14-709372-C

Case Style: Ashleigh Park, Plaintiff(s)vs.Crazy Horse III Gentleman's Club at The Playground, Defendant(s)



The filing below was reviewed and has been accepted by the clerk's office. You may access the file stamped copy of the document filed by clicking on the below link.

Filing Details	
Court	Clark District Criminal/Civil
Case Number	A-14-709372-C
Case Style	Ashleigh Park, Plaintiff(s)vs.Crazy Horse III Gentleman's Club at The Playground, Defendant(s)
Date/Time Submitted	8/25/2017 5:55 PM PST
Date/Time Accepted	8/28/2017 7:13 AM PST
Accepted Comments	
Filing Type	Notice of Entry - NEO
Filing Description	Notice of Entry of Order
Activity Requested	EFileAndServe
Filed By	Jeffery Bendavid
Filing Attorney	Jeffery Bendavid

Document Details	
Lead Document	NEO re Omnibus Order 8.25.17.pdf
Lead Document Page Count	5
File Stamped Copy	Download Document
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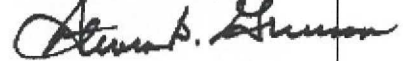
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Exhibit “3”



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DISTRICT COURT

CLARK COUNTY, NEVADA

JACQUELINE FRANKLIN, ASHLEIGH
PARK, LILY SHEPARD, STACIE ALLEN,
MICHAELA DEVINE, SAMANTHA JONES,
KARINA STRELKOVA, DANIELLE LAMAR
individually, and on behalf of Class of similarly
situated individuals,

Plaintiffs,

v.

RUSSELL ROAD FOOD AND BEVERAGE,
LLC, a Nevada limited liability company (d/b/a
CRAZY HORSE III GENTLEMEN'S CLUB)
SN INVESTMENT PROPERTIES, LLC, a
Nevada limited liability company (d/b/a CRAZY
HORSE III GENTLEMEN'S CLUB), DOE
CLUB OWNER, I-X, DOE EMPLOYER, I-X,
ROE CLUB OWNER, I-X, and ROE
EMPLOYER, I-X,

Defendants.

CASE NO.: A-14-709372-C
DEPT. NO.: XXXI

NOTICE OF APPEAL

1 **NOTICE OF APPEAL**

2 Notice is hereby given that Plaintiffs, individually and on behalf of a class of similarly
3 situated individuals, hereby appeal to the Supreme Court of Nevada from the Order Granting
4 Defendant's Motion for Summary Judgment and Denying Plaintiff's Motion for Summary
5 Judgment entered in this action on October 3, 2017; and from the Order Granting Defendant's
6 Motion To Dismiss Plaintiffs' Third Amended Complaint Pursuant To N.R.C.P. 12(B)(1) and
7 N.R.C.P. 12(H)(3); Granting Defendant's Motion to Strike Plaintiffs' Renewed Motion For Class
8 Certification; and Denying Plaintiffs' Renewed Motion for Class Certification, dated August 23,
9 2017.
10

11 DATED this 17th day of October, 2017.
12

13 **MORRIS ANDERSON**

14 By: /s/ Lauren Calvert

15 **RYAN M. ANDERSON, ESQ.**

16 Nevada Bar No.: 11040

17 **LAUREN CALVERT, ESQ.**

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21 **MICHAEL J. RUSING, ESQ.**

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24 Nevada Bar No.: 13769

25 **RUSING LOPEZ & LIZARDI, PLLC**

26 6363 North Swan Road, Suite 151

27 Tucson, Arizona 85718

28 *Attorneys for Plaintiffs*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5, NEFCR 9 and EDCR 8.05, I hereby certify that I am an employee of
3 **MORRIS ANDERSON**, and on the 17th day of October, 2017, I served the foregoing **NOTICE OF**
4 **APPEAL** as follows:

5
6 ☒ Electronic Service – By serving a copy thereof through the Court’s electronic
7 service system; and/or

8 ☐ U.S. Mail—By depositing a true copy thereof in the U.S. mail, first class
9 postage prepaid and addressed as listed below; and/or

10 ☐ Facsimile—By facsimile transmission pursuant to EDCR 7.26 to the facsimile
11 number(s) shown below and in the confirmation sheet filed herewith. Consent to
12 service under NRCP 5(b)(2)(D) shall be assumed unless an objection to service by
13 facsimile transmission is made in writing and sent to the sender via facsimile within
14 24 hours of receipt of this Certificate of Service.

15 Gregory J. Kamer, Esq.
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19 Jeffery A. Bendavid, Esq.
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21 630 S. 4th Street
22 Las Vegas, Nevada 89101

23 *Attorneys for Defendants*

24 /s/ Erickson Finch
25 An employee/agent of **MORRIS ANDERSON**