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8 UNITED STATES DISTRICT COURT
 9 DISTRICT OF NEVADA

10 BRIELLE MEAGHER, individually, and on
 11 behalf of all others similarly situated,
 12
 13 Plaintiff,
 14
 15 vs.
 16
 17 TELUS INTERNATIONAL (U.S.) CORP.
 18
 19 Defendant.

Case No.:
 COLLECTIVE AND CLASS ACTION
 COMPLAINT WITH JURY DEMAND

16 Plaintiff, BRIELLE MEAGHER, individually and on behalf of all others similarly situated,
 17 by and through her attorneys BROWN, LLC and WOLF, RIFKIN, SHAPIRO, SCHULMAN &
 18 RABKIN, LLP, hereby bring this Collective and Class Action Complaint against Defendant,
 19 TELUS INTERNATIONAL (U.S.) CORP., and states as follows:

20 **INTRODUCTION**

21 1. This is a collective and class action brought pursuant to 29 U.S.C. § 216(b) and
 22 Fed. R. Civ. P. 23 by Plaintiff Brielle Meagher individually and on behalf of all similarly situated
 23 persons employed by Defendant Telus International (U.S.) Corp., arising from Defendant’s willful
 24 violations of the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*, Nev. Rev. Stat.
 25 (hereinafter “N.R.S.”) §§ 608.016, 608.018, and 608.260.

1 2. Defendant provides multilingual customer service outsourcing and digital IT
2 services to global clients in industries including technology, travel and hospitality, financial
3 services and fintech, games, telecommunications, and healthcare.

4 3. Plaintiff and the members of the putative collective and class were employed by
5 Defendant as call center agents, and were responsible for handling inbound telephone calls from
6 Defendant’s clients and customers.

7 4. The U.S. Department of Labor recognizes that customer support jobs, like those
8 held by Defendant’s call center agents, are homogenous and it issued Fact Sheet #64 in July 2008
9 to alert customer support employees to some of the abuses which are prevalent in the industry.

10 5. One of those abuses, which are at issue in this case, is the employer’s refusal to pay
11 call center agents for work “from the beginning of the first principal activity of the workday to the
12 end of the last principal activity of the workday.” *Id.*

13 6. More specifically, Fact Sheet #64 condemns an employer’s non-payment of an
14 employee’s necessary pre-shift activities: “An example of the first principal activity of the day for
15 agents/specialists/representatives working in call centers includes starting the computer to
16 download work instructions, computer applications and work-related emails.” Additionally, the
17 FLSA requires that “[a] daily or weekly record of all hours worked, including time spent in pre-
18 shift and post-shift job-related activities must be kept.” *Id.*

19 7. Defendant failed to pay call center agents for their time spent starting up their
20 computers, logging into required systems and applications, and reviewing work-related e-mails
21 and other information, before their shifts and upon returning from their meal breaks, including
22 time worked in excess of forty (40) hours in a workweek.

23 8. In addition, Plaintiff and other call center workers were victims of Defendant’s
24 common policy of failing to incorporate their non-base compensation (such as “Employee
25 Appreciation” bonuses and shift differentials) into their regular rates of pay, for purposes of
26 calculating their hourly overtime rates. As a result, there were many weeks throughout the statutory
27 period in which Plaintiff and other call center agents received an hourly rate for overtime hours of
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1 less than “one and one-half times the[ir] regular rate,” in violation of the FLSA. 29 U.S.C. §
2 207(a)(1). *See* 29 U.S.C. § 207(e) (“As used in this section the ‘regular rate’ at which an employee
3 is employed shall be deemed to include all remuneration for employment paid to, or on behalf of,
4 the employee”).

5 9. Plaintiff seeks unpaid overtime wages and liquidated damages pursuant to the
6 FLSA on behalf of herself and the “FLSA Collective,” defined as: *all current and former call*
7 *center agents who worked for Defendant in the United States at any time within the three years*
8 *preceding the commencement of this action and the date of judgment.* *See* 29 U.S.C. §§ 207(a)(1);
9 216(b).

10 10. Plaintiff seeks unpaid straight-time and overtime wages and liquidated damages
11 pursuant to the N.R.S. on behalf of herself and the “Rule 23 Nevada Class,” defined as: *all current*
12 *and former call center agents who worked for Defendant Nevada at any time within the two years*
13 *preceding the commencement of this action and the date of judgment.* *See* N.R.S. §§ 608.016,
14 608.018.

15 11. In addition to the foregoing collective and class wage-and-hour claims, Plaintiff
16 also brings individual claims for (a) hostile work environment/sexual harassment in violation of
17 Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, (b) gender discrimination in violation
18 of Title VII, (c) retaliation in violation of Title VII, (d) hostile work environment/sexual
19 harassment in violation of NRS § 613.330, (e) gender discrimination in violation of NRS §
20 613.330, (f) retaliation in violation of NRS § 613.340, (g) constructive discharge, (h) intentional
21 infliction of emotional distress, and (i) negligent retention, supervision and training of supervisors
22 and managers.

23 **JURISDICTION AND VENUE**

24 12. This Court has subject-matter jurisdiction over Plaintiff’s FLSA and Title VII
25 claims pursuant to 28 U.S.C. § 1331 because Plaintiff’s claims raise a federal question under 29
26 U.S.C. § 201, *et seq.*

1 13. The Court has personal jurisdiction over Defendant because it is headquartered in
2 Nevada and because Plaintiff worked for Defendant in Nevada.

3 14. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because Defendant
4 is headquartered in Nevada and because Plaintiff worked for Defendant in Nevada.

5 **PARTIES**

6 15. Plaintiff Brielle Meagher is a resident of Las Vegas, Nevada, and worked for
7 Defendant in its call center in Las Vegas, Nevada as a call center agent from October 2018 to July
8 2019. Her job title was “Travel Counselor” and her rate of pay was \$16.50 per hour. Plaintiff
9 signed a consent form to join this lawsuit. *See Exhibit 1.*

10 16. Defendant TELUS INTERNATIONAL (U.S.) CORP. is a Washington corporation
11 whose principal address is 2251 S Decatur Boulevard, Las Vegas, Nevada, 89102-8586, and whose
12 registered agent for service of process in Nevada is Corporation Service Company, 112 North
13 Curry Street, Carson City, Nevada 89703.

14 **GENERAL ALLEGATIONS**

15 17. Defendant employed call center agents to handle inbound telephone calls from
16 Defendant’s clients and customers.

17 18. Defendant classified call center agents as non-exempt employees and paid them on
18 an hourly basis without any guaranteed, predetermined amount of pay per week.

19 19. In order to perform their jobs, call center agents were required to start up and log
20 in to various computer systems and applications that were necessary for them to retrieve and
21 process information during calls.

22 20. Call center agents performed these actives before their shifts and/or upon returning
23 from their meal breaks.

24 21. However, call center agents were not actually “clocked in” for their shifts until *after*
25 the computer start-up/log-in process was complete, meaning that they performed work for which
26 they were not compensated.

1 22. Defendant failed to pay call center agents for time spent logging into required
2 systems and applications before their shifts.

3 23. The off-the-clock time call center agents spent starting up and logging into required
4 systems and applications directly benefitted Defendant.

5 24. This start-up/log-in process was an essential part of call center agents' job
6 responsibilities.

7 25. At all relevant times, Defendant controlled call center agents' work schedule,
8 duties, protocols, applications, assignments and employment conditions.

9 26. Despite knowing that Plaintiff and other call center agents performed start-up/log-
10 in activities before their shifts and upon returning from their meal breaks, Defendant and their
11 managers did not make any effort to stop or otherwise disallow this off-the-clock work and instead
12 allowed and permitted it to happen.

13 27. Defendant possesses, controls and/or has access to information and electronic data
14 that shows the times call center agents started up and logged into their computer systems and
15 applications each day and the time they logged into their telephone systems.

16 28. Defendant was able to track the amount of time that call center agents spent in
17 connection with start-up/log-in activities; however, Defendant failed to pay call center agents for
18 such time.

19 29. Defendant used its adherence and attendance policies against call center agents by
20 disciplining call center agents if they were not logged into their phones and ready to handle calls
21 by the start of their scheduled shift time.

22 30. These policies coerced call center agents into beginning the process of starting up
23 and logging into their computers systems and applications, and reading company e-mails and
24 instructions prior to their start of their scheduled shift time.

25 31. Defendant's policies and practices deprived call center agents of wages owed for
26 the start-up/log-in activities described above.

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1 32. Because call center agents often worked in excess of 40 hours in a workweek,
2 Defendant’s pay practices also deprived them of overtime pay at a rate of 1.5 times their regular
3 rate of pay.

4 33. Plaintiff regularly worked in excess of forty (40) hours in a workweek and was not
5 paid for all hours worked in such weeks as a result of the violations alleged herein.

6 34. Defendant is a leader in its field, employ hundreds of call center agents, and knew
7 or should have known that call center agents’ time spent in connection with the preliminary start-
8 up/log-in process is compensable under the FLSA, N.R.S. §§ 608.016, 608.018, and 608.260.

9 35. Defendant also failed to incorporate call center agents’ non-base compensation
10 (such as “Employee Appreciation” bonuses and shift differentials) into their regular rates of pay,
11 for purposes of calculating their hourly overtime rates.

12 36. As a result, there were many weeks throughout the statutory period in which
13 Plaintiff and other call center agents received an hourly rate for overtime hours of less than “one
14 and one-half times the[ir] regular rate,” in violation of the FLSA. 29 U.S.C. § 207(a)(1). *See* 29
15 U.S.C. § 207(e) (“As used in this section the ‘regular rate’ at which an employee is employed shall
16 be deemed to include all remuneration for employment paid to, or on behalf of, the employee”).

17 **COLLECTIVE ACTION ALLEGATIONS**

18 37. Plaintiff brings this action pursuant to 29 U.S.C. § 216(b) of the FLSA on her own
19 behalf and on behalf of the FLSA Collective, defined as:

20 *All current and former call center agents who worked for Defendant in the United*
21 *States at any time within the three years preceding the commencement of this*
22 *action and the date of judgment.*

23 38. Plaintiff reserves the right to amend this definition as necessary.

24 39. Excluded from the proposed Collective are Defendant’s executives, administrative,
25 and professional employees, including computer professionals and outside sales persons.

26 40. With respect to the claims set forth in this action, a collective action under the FLSA
27 is appropriate because the putative members of the FLSA Collective are “similarly situated” to
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1 Plaintiffs under 29 U.S.C. § 216(b) because: (a) they have been or are employed in the same or
2 similar positions; (b) they were or are subject to the same or similar unlawful practices, policy, or
3 plan; and (c) their claims are based upon the same factual and legal theories.

4 41. The employment relationships between Defendant and every FLSA Collective
5 member is the same and differ only by name, location, and rate of pay. The key issues – whether
6 Defendant failed to pay call center agents for preliminary start-up/log-in time and whether such
7 time is compensable – do not vary substantially among the FLSA Collective members.

8 42. Plaintiff estimates the FLSA Collective, including both current and former
9 employees over the relevant period, will include over one thousand members. The precise number
10 of FLSA Collective members should be readily available from a review of Defendant’s personnel
11 and payroll records.

12 **RULE 23 NEVADA CLASS ACTION ALLEGATIONS**

13 43. Plaintiff brings this action pursuant to Fed R. Civ. P. 23(b)(2) and (b)(3) on their
14 own behalf and on behalf of the Rule 23 Nevada Class, defined as:

15 *All current and former call center agents who worked for Defendant in Nevada at*
16 *any time within the two years preceding the commencement of this action and the*
17 *date of judgment.*

18 44. Plaintiff reserves the right to amend this definition as necessary.

19 45. The members of the Rule 23 Nevada Class are so numerous that joinder of all Rule
20 23 Nevada Class members in this case would be impractical. Rule 23 Nevada Class members
21 should be easy to identify from Defendant’s computer systems and electronic payroll and
22 personnel records.

23 46. There is a well-defined community of interest among Rule 23 Nevada Class
24 members and common questions of law and fact predominate in this action over any questions
25 affecting individual members of the Rule 23 Nevada Class. These common legal and factual
26 questions, include, but are not limited to, the following:

- 1 a. Whether the time Rule 23 Nevada Class members spend on start-up/log-in
- 2 activities prior to “clocking in” for each shift is compensable time;
- 3 b. Whether Rule 23 Nevada Class members are owed overtime (above the
- 4 federally mandated overtime wages due under the FLSA) for time spent
- 5 performing start-up/log-in activities, and if so, the appropriate amount
- 6 thereof; and
- 7 c. Whether Defendant was required to incorporate Rule 23 Nevada Class
- 8 members’ non-base compensation (such as “Employee Appreciation”
- 9 bonuses and shift differentials) into their regular rates of pay, for purposes of
- 10 calculating their hourly overtime rates.

11 47. Plaintiff’s claims are typical of those of the Rule 23 Nevada Class in that she and
12 all other Rule 23 Nevada Class members suffered damages as a direct and proximate result of the
13 Defendant’s common and systemic payroll policies and practices. Plaintiff’s claims arise from the
14 same policies, practices, promises and course of conduct as all other Rule 23 Nevada Class
15 members’ claims and their legal theories are based on the same legal theories as all other Rule 23
16 Nevada Class members.

17 48. Plaintiff will fully and adequately protect the interests of the Rule 23 Nevada Class
18 and she has retained counsel who are qualified and experienced in the prosecution of nationwide
19 wage and hour class actions. Neither Plaintiff nor her counsel has interests that are contrary to, or
20 conflicting with, the interests of the Rule 23 Nevada Class.

21 49. A class action is superior to other available methods for the fair and efficient
22 adjudication of this controversy, because, *inter alia*, it is economically infeasible for Rule 23
23 Nevada Class members to prosecute individual actions of their own given the relatively small
24 amount of damages at stake for each individual along with the fear of reprisal by their employer.
25 Prosecution of this case as a Rule 23 Class action will also eliminate the possibility of duplicative
26 lawsuits being filed in state and federal courts throughout the nation.

1 50. This case will be manageable as a Rule 23 Class action. Plaintiff and her counsel
2 know of no unusual difficulties in this case and Defendant has advanced, networked computer and
3 payroll systems that will allow the class, wage, and damages issues in this case to be resolved with
4 relative ease.

5 51. Because the elements of Rule 23(b)(3) are satisfied in this case, class certification
6 is appropriate. *Shady Grove Orthopedic Assoc., P.A. v. Allstate Ins. Co.*, 559 U.S. 393; 130 S. Ct.
7 1431, 1437 (2010) (“[b]y its terms [Rule 23] creates a categorical rule entitling a plaintiff whose
8 suit meets the specified criteria to pursue his claim as a class action”).

9 52. Because Defendant acted and refused to act on grounds that apply generally to the
10 Rule 23 Nevada Class and declaratory relief is appropriate in this case with respect to the Rule 23
11 Nevada Class as a whole, class certification pursuant to Rule 23(b)(2) is also appropriate.

12 **COUNT I**

13 **(Brought Individually and as a Collective Action Under 29 U.S.C. § 216(b))**

14 **VIOLATION OF THE FAIR LABOR STANDARDS ACT, 29 U.S.C. § 207(a)(1)**

15 **FAILURE TO PAY OVERTIME WAGES**

16 53. Plaintiff re-alleges and incorporates all previous paragraphs herein.

17 54. At all times relevant to this action, Defendant was an enterprise whose annual gross
18 volume of sales made or business done exceeded \$500,000.

19 55. At all times relevant to this action, Defendant was an enterprise that has had
20 employees engaged in commerce or in the production of goods for commerce, and handling,
21 selling, or otherwise working on goods or materials that have been moved in or produced for
22 commerce.

23 56. In addition, Plaintiff and the FLSA Collective members were themselves engaged
24 in commerce, and thus subject to individual coverage under the FLSA.

25 57. At all times relevant to this action, Defendant was an employer under 29 U.S.C. §
26 203(d) of the FLSA, subject to the provisions of 29 U.S.C. § 201, *et seq.*

1 58. Plaintiff and the FLSA Collective members were “employees” of Defendant within
2 the meaning of 29 U.S.C. § 203(e)(1) of the FLSA.

3 59. Defendant “suffered or permitted” Plaintiff and the FLSA Collective members to
4 work and thus “employed” them within the meaning of 29 U.S.C. § 203(g) of the FLSA.

5 60. Defendant required Plaintiff and the FLSA Collective members to perform start-
6 up/log-in activities before and during their shifts, but failed to pay these employees the federally
7 mandated overtime compensation for all time worked.

8 61. The start-up/log-in activities performed by Plaintiff and the FLSA Collective
9 members every session are an essential part of their jobs and these activities and the time associated
10 with these activities is not *de minimis*.

11 62. In workweeks in which Plaintiff and the FLSA Collective members worked in
12 excess of 40 hours, the uncompensated start-up/log-in time should have been paid at the federally
13 mandated rate of 1.5 times each employee’s regularly hourly wage. 29 U.S.C. § 207.

14 63. Defendant also failed to incorporate Plaintiff and the FLSA Collective members’
15 non-base compensation (such as “Employee Appreciation” bonuses and shift differentials) into
16 their regular rates of pay, for purposes of calculating their hourly overtime rates.

17 64. As a result, there were many weeks throughout the statutory period in which
18 Plaintiff and the FLSA Collective members received an hourly rate for overtime hours of less than
19 “one and one-half times the[ir] regular rate,” in violation of the FLSA. 29 U.S.C. § 207(a)(1). *See*
20 29 U.S.C. § 207(e) (“As used in this section the ‘regular rate’ at which an employee is employed
21 shall be deemed to include all remuneration for employment paid to, or on behalf of, the
22 employee”).

23 65. Defendant’s violations of the FLSA were knowing and willful. Defendant knew or
24 could have easily determined how long it took for its call center agents to perform start-up/log-in
25 activities and Defendant could have properly compensated Plaintiffs and the FLSA Collective
26 members for such time, but did not.

1 66. The FLSA, 29 U.S.C. § 216(b), provides that as a remedy for a violation of the Act,
2 an employee is entitled to his or her unpaid wages (and unpaid overtime if applicable) plus an
3 additional equal amount in liquidated damages (double damages), plus costs and reasonable
4 attorneys' fees.

5 **COUNT II**

6 **(Brought Individually and as a Class Action Under Fed. R. Civ. P. 23)**

7 **VIOLATIONS OF N.R.S. §§ 608.016, 608.018, and 608.260**

8 **FAILURE TO PAY REGULAR AND OVERTIME WAGES**

9 67. Plaintiff re-alleges and incorporates all previous paragraphs herein.

10 68. All members of the Rule 23 Nevada Class are entitled to their regular wages and/or
11 overtime pursuant to Nevada's wage and hour laws, N.R.S. §§ 608.016, 608.018, and 608.260.

12 69. Defendant was an "employer" and Plaintiffs and the Rule 23 Nevada Class members
13 were "employees" for the purposes of N.R.S.

14 70. N.R.S. § 608.016 states that an "employer shall pay to the employee wages for each
15 hour the employee works."

16 71. N.R.S. § 608.018 states that an employee must be paid overtime, equal to 1.5 times
17 the employee's regular rate of pay, for all hours worked in excess of forty (40) hours per week or
18 eight (8) hours per day assuming the employee earns less than 1.5 times the Nevada minimum
19 wages.

20 72. N.R.S. § 608.260 allows employees to "bring a civil action to recover the difference
21 between the amount paid to the employee and the amount of the minimum wage."

22 73. N.R.S. § 608.140 provides employees with a private right of action to recover
23 wages owed under N.R.S. §§ 608.016 and 608.018. *See Neville v. Eighth Judicial Dist. Court of*
24 *Nev.*, 406 P.3d 499 (Nev. 2017).

25 74. By failing to pay Plaintiff and members of the Rule 23 Nevada Class for all of the
26 time they worked (including a payment equal to 1.5 times their ordinary wage on that time),
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1 including the time they worked in connection with the start-up/log-in process, Defendant violated
2 N.R.S. §§ 608.016, 608.018, and 608.260.

3 75. Defendant also failed to incorporate Plaintiff and the Rule 23 Nevada Class
4 members' non-base compensation (such as "Employee Appreciation" bonuses and shift
5 differentials) into their regular rates of pay, for purposes of calculating their hourly overtime rates.

6 76. As a result, there were many weeks throughout the statutory period in which
7 Plaintiff and the Rule 23 Nevada Class members received an hourly rate for overtime hours of less
8 than "one and one-half times the[ir] regular rate," in violation of the N.R.S. § 608.018.

9 77. Defendant's violations of N.R.S. §§ 608.016, 608.018, and 608.260 were
10 intentional and, as such, the three-year statute of limitation found in N.R.S. § 11.190(3) applies to
11 those claims.

12 78. Defendant's actions discussed above were willfully oppressive, fraudulent and
13 malicious, entitling Plaintiffs and the Rule 23 Nevada Class to punitive damages.

14 79. Defendant violated Nevada law, including N.R.S. §§ 608.016, 608.018, and 608.260
15 by regularly and repeatedly failing to compensate Plaintiff and the Rule 23 Nevada Class for the
16 time spent on the work activities described in this Complaint. As a result, Plaintiff and the Rule 23
17 Nevada Class have and will continue to suffer loss of income and other damages. Accordingly,
18 Plaintiff and the Rule 23 Nevada Class are entitled to recover unpaid wages owed, plus costs,
19 interest, attorneys' fees, and other appropriate relief under Nevada law, including, but not limited
20 to all damages, fees and costs, available under N.R.S. §§ 608.005 *et seq.*

21 **COUNT III**

22 **(Brought Individually)**

23 **VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964, 42 U.S.C. § 2000e**

24 **HOSTILE WORK ENVIRONMENT / SEXUAL HARASSMENT**

25 80. Plaintiff re-alleges and incorporates all previous paragraphs herein.
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1 81. Plaintiff is a female and thus is protected by Title VII of the Civil Rights Act of
2 1964 (“Title VII”) from being subjected to sexual harassment, including hostile work environment,
3 in the workplace.

4 82. Plaintiff has fulfilled all conditions precedent to the institution of this action under
5 the federal law. Plaintiff has filed a charge of sexual harassment, gender discrimination, and
6 retaliation with the Equal Employment Opportunity Commission (“EEOC”) and has received a
7 “Right to Sue” letter.

8 83. Starting in or around February 2019, Plaintiff was sexually harassed by her Team
9 Lead.

10 84. Plaintiff’s Team Lead’s sexual harassment included telling Plaintiff that she was
11 “fine as fuck” and telling her to tell another team lead how Plaintiff “want[ed] to be positioned.”

12 85. Plaintiff complained to Defendant about the sexual harassment her Team Lead was
13 committing against her, but Defendant allowed the sexual harassment to continue unabated.

14 86. Through the foregoing acts of Plaintiff’s Team Lead, Defendant subjected Plaintiff
15 to subjected Plaintiff to an unwelcome, severe, and pervasive hostile work environment.

16 87. The hostile work environment altered the terms and conditions of Plaintiff’s
17 employment and had the purpose of effect of unreasonably interfering with Plaintiff’s ability to
18 perform her employment duties.

19 88. Defendants’ discriminatory behavior was continuous throughout Plaintiff’s
20 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
21 in regard to the allegations raised herein.

22 89. As a direct and proximate result of Defendant’s aforementioned conduct, Plaintiff
23 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
24 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

25 90. Defendant had advance knowledge that Plaintiff’s Team Lead was engaging in
26 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
27 Team Lead with conscious disregard of its rights or safety of others.

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1 91. Defendant expressly authorized or ratified its Team Leaders' wrongful acts.

2 92. In permitting Plaintiff's Team Lead to commit tortious actions against Plaintiff as
3 described above, Defendant is guilty of oppression, fraud and/or malice. Alternatively,
4 Defendant's actions constituted or contributed to the intentional discrimination of Plaintiff in the
5 face of a perceived risk that those actions or omissions would violate federal labor law. Therefore,
6 Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish and deter
7 Defendant and all others from harming female employees.

8 93. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

9 **COUNT IV**

10 **(Brought Individually)**

11 **VIOLATION OF TITLE VII - GENDER DISCRIMINATION**

12 94. Plaintiff re-alleges and incorporates all previous paragraphs herein.

13 95. Defendant discriminated against Plaintiff on the basis of her gender by treating her
14 differently from or less preferably than similarly situated male employees and by subjecting
15 Plaintiff to discriminatory policies and practices in regards to pay, promotion, training,
16 performance evaluations, discipline, and other forms of differential treatment in violation of Title
17 VII.

18 96. Defendant's policies and practices and/or procedures produced a disparate
19 treatment against the Plaintiff with respect to the terms and conditions of her employment.

20 97. Defendant's discriminatory behavior was continuous throughout Plaintiff's
21 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
22 in regard to the allegations raised herein.

23 98. As a direct and proximate result of Defendant's aforementioned conduct, Plaintiff
24 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
25 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

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1 99. Defendant had advance knowledge that Plaintiff's Team Lead was engaging in
2 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
3 Team Lead with conscious disregard of its rights or safety of others.

4 100. Defendant expressly authorized or ratified its Team Leaders' wrongful acts.

5 101. In permitting Plaintiff's Team Lead to commit tortious actions against Plaintiff as
6 described above, Defendant is guilty of oppression, fraud and/or malice. Alternatively,
7 Defendant's actions constituted or contributed to the intentional discrimination of Plaintiff in the
8 face of a perceived risk that those actions or omissions would violate federal labor law. Therefore,
9 Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish and deter
10 Defendant and all others from harming female employees.

11 102. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

12 **COUNT V**

13 **(Brought Individually)**

14 **VIOLATION OF TITLE VII – RETALIATION**

15 103. Plaintiff re-alleges and incorporates all previous paragraphs herein.

16 104. Plaintiff engaged in protected activity under Title VII by opposing gender
17 discrimination, complaining Defendant about the sexual harassment her Team Lead was
18 committing against her, and filing a charge of gender discrimination against Defendant with the
19 EEOC.

20 105. Because of Plaintiff's engagement in protected activity under federal law,
21 Defendant retaliated against Plaintiff by subjecting her to adverse employment actions, including
22 but not limited to, her computer access being denied and loss of commissions.

23 106. Defendant's discriminatory behavior was continuous throughout Plaintiff's
24 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
25 in regard to the allegations raised herein.

1 107. As a direct and proximate result of Defendant’s aforementioned conduct, Plaintiff
2 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
3 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

4 108. Defendant had advance knowledge that Plaintiff’s Team Lead was engaging in
5 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
6 Team Lead with conscious disregard of its rights or safety of others.

7 109. Defendant expressly authorized or ratified its Team Leaders’ wrongful acts.

8 110. In permitting Plaintiff’s Team Lead to commit tortious actions against Plaintiff as
9 described above, Defendant is guilty of oppression, fraud and/or malice. Alternatively,
10 Defendant’s actions constituted or contributed to the intentional discrimination of Plaintiff in the
11 face of a perceived risk that those actions or omissions would violate federal labor law. Therefore,
12 Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish and deter
13 Defendant and all others from harming female employees.

14 111. Plaintiff is also entitled to an award of reasonable attorneys’ fees and costs.

15 **COUNT VI**

16 **(Brought Individually)**

17 **VIOLATION OF NRS § 613.330**

18 **HOSTILE WORK ENVIRONMENT / SEXUAL HARASSMENT**

19 112. Plaintiff re-alleges and incorporates all previous paragraphs herein.

20 113. Plaintiff is a female and thus is protected by Nevada law from being subjected to
21 sexual harassment, including hostile work environment, in the workplace.

22 114. Plaintiff has fulfilled all conditions precedent to the institution of this action under
23 the federal law. Plaintiff has filed a charge of sexual harassment, gender discrimination, and
24 retaliation with the Nevada Equal Rights Commission and has received a “Right to Sue” letter.

25 115. Starting in or around February 2019, Plaintiff was sexually harassed by her Team
26 Lead.

1 116. Plaintiff's Team Lead's sexual harassment included telling Plaintiff that she was
2 "fine as fuck" and telling her to tell another team lead how Plaintiff "want[ed] to be positioned."

3 117. Plaintiff complained to Defendant about the sexual harassment her Team Lead was
4 committing against her, but Defendant allowed the sexual harassment to continue unabated.

5 118. Through the foregoing acts of Plaintiff's Team Lead, Defendant subjected Plaintiff
6 to subjected Plaintiff to an unwelcome, severe, and pervasive hostile work environment, in
7 violation of NRS § 613.330, *et seq.*

8 119. The hostile work environment altered the terms and conditions of Plaintiff's
9 employment and had the purpose of effect of unreasonably interfering with Plaintiff's ability to
10 perform her employment duties.

11 120. Defendants' discriminatory behavior was continuous throughout Plaintiff's
12 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
13 in regard to the allegations raised herein.

14 121. As a direct and proximate result of Defendant's aforementioned conduct, Plaintiff
15 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
16 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

17 122. Defendant had advance knowledge that Plaintiff's Team Lead was engaging in
18 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
19 Team Lead with conscious disregard of its rights or safety of others.

20 123. Defendant expressly authorized or ratified its Team Leaders' wrongful acts.

21 124. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

22 **COUNT VII**

23 **(Brought Individually)**

24 **VIOLATION OF NRS § 613.330 – GENDER DISCRIMINATION**

25 125. Plaintiff re-alleges and incorporates all previous paragraphs herein.

26 126. Defendant discriminated against Plaintiff on the basis of her gender by treating her
27 differently from or less preferably than similarly situated male employees and by subjecting
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1 Plaintiff to discriminatory policies and practices in regards to pay, promotion, training,
2 performance evaluations, discipline, and other forms of differential treatment in violation of NRS
3 § 613.330, *et seq.*

4 127. Defendant's policies and practices and/or procedures produced a disparate
5 treatment against the Plaintiff with respect to the terms and conditions of her employment.

6 128. Defendant's discriminatory behavior was continuous throughout Plaintiff's
7 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
8 in regard to the allegations raised herein.

9 129. As a direct and proximate result of Defendant's aforementioned conduct, Plaintiff
10 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
11 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

12 130. Defendant had advance knowledge that Plaintiff's Team Lead was engaging in
13 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
14 Team Lead with conscious disregard of its rights or safety of others.

15 131. Defendant expressly authorized or ratified its Team Leaders' wrongful acts.

16 132. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

17 **COUNT VIII**

18 **(Brought Individually)**

19 **VIOLATION OF NRS § 613.340 - RETALIATION**

20 133. Plaintiff re-alleges and incorporates all previous paragraphs herein.

21 134. Plaintiff engaged in protected activity under NRS § 613.340 by opposing gender
22 discrimination, complaining Defendant about the sexual harassment her Team Lead was
23 committing against her, and filing a charge of gender discrimination against Defendant with the
24 EEOC.

25 135. Because of Plaintiff's engagement in protected activity under state law, Defendant
26 retaliated against Plaintiff by subjecting her to adverse employment actions, including but not
27 limited to, her computer access being denied and loss of commissions.

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1 136. Defendant's discriminatory behavior was continuous throughout Plaintiff's
2 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
3 in regard to the allegations raised herein.

4 137. As a direct and proximate result of Defendant's aforementioned conduct, Plaintiff
5 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
6 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

7 138. Defendant had advance knowledge that Plaintiff's Team Lead was engaging in
8 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
9 Team Lead with conscious disregard of its rights or safety of others.

10 139. Defendant expressly authorized or ratified its Team Leaders' wrongful acts.

11 140. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

12 **COUNT IX**

13 **(Brought Individually)**

14 **CONSTRUCTIVE DISCHARGE**

15 141. Plaintiff re-alleges and incorporates all previous paragraphs herein.

16 142. Plaintiff was forced to resign from Defendant because the gender discrimination,
17 sexual harassment, disparate treatment, hostile work environment, related emotional distress and
18 other harms creates intolerable working conditions, to which Plaintiff was subjected during the
19 course of her employment.

20 143. Defendant's actions demonstrate that it intended to make Plaintiff's working
21 conditions intolerable.

22 144. A reasonable person in Plaintiff's position would have also felt compelled to resign
23 from employment with Defendant in order to escape from the intolerable, discriminatory and
24 retaliatory employment conditions.

25 145. Defendant's discriminatory behavior was continuous throughout Plaintiff's
26 employment. Consequently, Plaintiff is entitled to application of the continuing violation doctrine
27 in regard to the allegations raised herein.

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1 146. As a direct and proximate result of Defendant's aforementioned conduct, Plaintiff
2 was damaged and suffered economic losses, mental anguish, emotional harm and humiliation.
3 Therefore, Plaintiff is seeking all legal and equitable remedies under the law.

4 147. Defendant had advance knowledge that Plaintiff's Team Lead was engaging in
5 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
6 Team Lead with conscious disregard of its rights or safety of others.

7 148. Defendant expressly authorized or ratified its Team Leaders' wrongful acts.

8 149. In permitting Plaintiff's Team Lead to commit tortious actions against Plaintiff as
9 described above, Defendant is guilty of oppression, fraud and/or malice. Alternatively,
10 Defendant's actions constituted or contributed to the intentional discrimination of Plaintiff in the
11 face of a perceived risk that those actions or omissions would violate federal labor law. Therefore,
12 Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish and deter
13 Defendant and all others from harming female employees.

14 150. Plaintiff is also entitled to an award of reasonable attorneys' fees and costs.

15 **COUNT X**

16 **(Brought Individually)**

17 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

18 151. Plaintiff re-alleges and incorporates all previous paragraphs herein.

19 152. Defendant is an international, multi-million dollar company that has vast resources
20 to prevent and remedy unlawful employment discrimination, sexual harassment, and other
21 offensive conduct in the workplace. Nevertheless, Defendant, by failing to prevent, then by
22 acquiescence, toleration, and ultimately ratification of its managers' conduct, permitted its
23 management-level employees to intentionally misuse their positions of power and authority to
24 threaten, humiliate and embarrass Plaintiff.

25 153. The conduct of Defendant's management-level employees as described herein was
26 extreme and outrageous and done with intention to cause emotional distress to Plaintiff.

1 Alternatively, the conduct by Defendant’s management-level employees was done with reckless
2 disregard for causing emotional distress to Plaintiff.

3 154. As a direct and proximate result of Defendant’s conduct, Plaintiff has suffered
4 severe emotional distress and physical manifestations of this distress.

5 155. Pursuant to N.R.S. § 41.130, or alternatively, under the doctrine of *respondeat*
6 *superior*, the Defendant, as an employer, is vicariously liable to Plaintiff for the wrongful, extreme,
7 and outrageous acts of its employees, agents, and managers.

8 156. In addition to the mental anguish, emotional harm and humiliation Plaintiff suffered
9 as a result of Defendant’s conduct, Plaintiff has also suffered economic losses. Therefore, Plaintiff
10 is seeking all legal and equitable remedies under the law.

11 157. Defendant had advance knowledge that Plaintiff’s Team Lead was engaging in
12 unlawful behavior against Plaintiff and other employees at Defendant and continued to employ the
13 Team Lead with conscious disregard of its rights or safety of others.

14 158. Defendant expressly authorized or ratified its Team Leaders’ wrongful acts.

15 159. In permitting Plaintiff’s Team Lead to commit tortious actions against Plaintiff as
16 described above, Defendant is guilty of oppression, fraud and/or malice. Alternatively,
17 Defendant’s actions constituted or contributed to the intentional discrimination of Plaintiff in the
18 face of a perceived risk that those actions or omissions would violate federal labor law. Therefore,
19 Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish and deter
20 Defendant and all others from harming female employees.

21 160. Plaintiff is also entitled to an award of reasonable attorneys’ fees and costs.

22 **COUNT X**

23 **(Brought Individually)**

24 **NEGLIGENT RETENTION, SUPERVISION AND TRAINING**

25 161. Plaintiff re-alleges and incorporates all previous paragraphs herein.

26 162. As Plaintiff’s employer, Defendant owed a duty to Plaintiff to use reasonable care
27 in the selection, training, supervisions, and retention of employees, particularly those vested with
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1 management or supervisory powers. Furthermore, Defendant owed Plaintiff a duty to exercise due
2 care not to subject her or allow her to be subjected to discrimination, mental, emotional, and/or
3 physical injury in the workplace.

4 163. Defendant knew or reasonably should have known that Plaintiff as being subjected
5 to sexual harassment, discriminatory and other wrongful conduct as a result of the actions of the
6 managers and supervisors who controlled the workplace environment and job standards.

7 164. Defendant breached its duty by failing to properly select, train, and educate its
8 managers and supervisors. This includes, but is not limited to, failing to develop, institute and
9 enforce reasonable and common workplace procedures and policies to prevent wrongful conduct
10 such as what happened to Plaintiff or to promptly correct it when it happened, especially conduct
11 which might be the precursor of or rise to the level of sex discrimination, sexual harassment, or
12 retaliation.

13 165. Defendant retained and, on information and belief, even promoted managers and
14 supervisors who subjected Plaintiff to this harmful conduct. Even when alerted to the possibility
15 of wrongful and possibly illegal (discriminatory) conduct by its managerial-level employees,
16 Defendant, who has the power, resources, and legal obligation to do so, failed to properly select
17 managerial employees, institute procedures, implement prevent policies and failed to control,
18 supervise, and discipline those engaging in wrongful conduct.

19 166. Defendant knew or reasonably should have known that the actions and misconduct,
20 as detailed above, were breaches of that duty to Plaintiff and that those breaches were likely to
21 result in mental, emotional, and/or physical injury to Plaintiff. Defendant knew or should have
22 known that the wrongful conduct to which Plaintiff was being subjected would and did result in
23 injury and harm to her.

24 167. Plaintiff is seeking all legal and equitable remedies under the law, including an
25 award of reasonable attorneys' fees and costs.

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RELIEF REQUESTED

WHEREFORE, Plaintiff BRIELLE MEAGHER requests an entry of an Order the following relief:

- a. Certifying this case as a collective action in accordance with 29 U.S.C. § 216(b) with respect to the FLSA claims set forth herein (Count I);
- b. Certifying this action as a class action (for the Rule 23 Nevada Class) pursuant to Rule 23(b)(2) and (b)(3) with respect to Plaintiffs’ state law claim (Count II);
- c. Ordering Defendant to disclose in computer format, or in print if no computer readable format is available, the names and addresses of all FLSA Collective members and Rule 23 Class members, and permitting Plaintiff to send notice of this action to all those similarly situated individuals, including the publishing of notice in a manner that is reasonably calculated to apprise the class members of their rights by law to join and participate in this lawsuit;
- d. Designating Plaintiff as the representative of the FLSA collective action Class and the Rule 23 Nevada Class, and undersigned counsel as Class counsel for the same;
- e. Finding that Defendant willfully violated the FLSA and the Department of Labor’s attendant regulations as cited herein;
- f. Finding that Defendant violated N.R.S. §§ 608.016 and 608.018 and that said violations were intentional, willfully oppressive, fraudulent and malicious;
Finding that Defendant violated Title VII and that said violations were intentional, willfully oppressive, fraudulent and malicious;
- g. Finding that Defendant violated NRS §§ 613.330 and 613.340 and that said violations were intentional, willfully oppressive, fraudulent and malicious;
- h. Granting judgment in favor of Plaintiff and against Defendant and awarding Plaintiff and the FLSA Collective and the Rule 23 Nevada Class the full amount of compensatory damages and liquidated damages available by law;
- i. Assessing punitive damages against Defendant in an amount sufficient to punish and deter Defendant from engaging in any such conduct in the future and as an example to other employers;
- j. Awarding reasonable attorneys’ fees and costs incurred by Plaintiff in filing this action as provided by statute;
- k. Awarding pre- and post-judgment interest to Plaintiff on these damages; and
- l. Awarding such other and further relief as this Court deems appropriate.

JURY DEMAND

1
2 Plaintiff, BRIELLE MEAGHER, individually and on behalf of all others similarly situated,
3 by and through her attorneys, hereby demands a trial by jury pursuant to Rule 38 of the Federal
4 Rules of Civil Procedure and the court rules and statutes made and provided with respect to the
5 above-entitled cause.

6
7
8 DATED November 10, 2020

9 **WOLF, RIFKIN, SHAPIRO,**
10 **SCHULMAN & RABKIN, LLP**

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