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9 **UNITED STATES DISTRICT COURT**
 10 **SOUTHERN DISTRICT OF NEVADA**

11 PAMELA LEWIS,

12 Plaintiff,

13 vs.

Case No.: 2:15-cv-01368

14 CASA DI AMORE LLC; JEFF SCHWARTZ,
 15 individually and dba CASA DI AMORE,
 16 LLC; MICHAEL CAMPAGNO, individually
 17 and dba CASA DI AMORE; DOES 1-100 and
 18 ROE ENTITIES 1-100,

19 Defendants.

20 **MOTION AND MEMORANDUM OF LAW FOR AN EXTENTION OF TIME FOR THE**
 21 **DEFENDANTS' TO RESPOND TO PLAINTIFF'S COMPLAINT**

22 Pursuant to Federal Rule of Civil Procedure 6(b), Defendants, CASA DI AMORE LLC;
 23 JEFF SCHWARTZ; MICHAEL CAMPAGNO and CASA DI AMORE, by and through their
 24 attorney, TODD M. LEVENTHAL, ESQ., respectfully submit this Motion for an Extension of
 25 Time for the Defendants

BACKGROUND

On July 17, 2015, Plaintiff filed its Complaint. The Complaint asserts as follows:

(1) a claim that this Court has original jurisdiction over the federal overtime wage claims herein pursuant to Section 16(b) of the Fair Labor Standards Act, 29 U.S.C. § 216(b), which states "An action to recover the liability prescribed in either of the preceding sentences may be maintained against any employer (including a public agency) in any Federal or State court of competent jurisdiction by anyone or more employees for and in behalf of himself or themselves and other employees similarly situated." This Court also has federal question jurisdiction over this action pursuant to 28 U.S.C. § 1331. (2);

(2) a claim that this Court has supplemental jurisdiction under 28 U.S.C. § 1367 over Plaintiff state law wage and hour claims because those claims derive from a common nucleus of operative fact regarding Defendants' failure to pay wages and overtime compensation.;

(3) Under Nevada Revised Statutes, N.R.S. §608.040(1) If an employer fails to pay:(a) Within 3 days after the wages or compensation of a discharged employee becomes due; or (b) On the day the wages or compensation is due to an employee who resigns or quits, the wages or compensation of the employee continues at the same rate from the day the employee resigned, quit or was discharged until paid or for 30 days, whichever is less.;

(4) The State of Nevada has created a cause of action for such wages and attorney's fees, pursuant to NRS 608.140, entitled "Assessment of attorney's fees in action for recovery of wages," which states "Whenever a mechanic, artisan, miner, laborer, servant or employee shall have cause to bring suit for wages earned and due according to the terms of his employment, and shall establish by decision of the court or verdict of the jury that the amount for which he has brought suit is justly due, and that a demand has been made, in writing, at least 5 days before suit was brought, for a sum not to exceed the amount so found due, the

1 court before which the case shall be tried shall allow to the plaintiff a reasonable attorney fee,
2 in addition to the amount found due for wages and penalties, to be taxed as costs of suit." This
3 provision creates a private cause of action for wages alleged to be due with or without sending
4 a demand letter. Plaintiff sent a demand letter to Defendants on July 4, 2015, of which
5 Defendant Campagno acknowledged receipt, telling Plaintiff on July 4, 2015, in a phone
6 message, to not ever call him again;
7

8 (5) The State of Nevada has also created a cause of action for minimum wages and
9 attorney's fees, pursuant to Section 16C of the Article 15 of the Nevada State Constitution which
10 states "An employee claiming violation of this section may bring an action against his or her
11 employer in the courts of this State to enforce the provisions of this section [Section 16 of the
12 Nevada State Constitution] and shall be entitled to all remedies available under the law or in
13 equity appropriate to remedy any violation of this section, including but not limited to back
14 pay, damages, reinstatement or injunctive relief. An employee who prevails in any action to
15 enforce this section shall be awarded his or her reasonable attorney's fees and costs.";
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18 (6) Venue is proper in this court because Plaintiffs and Defendant's principal place of
19 business is located within this Judicial District and Plaintiffs worked and wages were earned at
20 Las Vegas, Clark County, Nevada. See 28 U.S.C. § 1391(b).

21 After several communications with Patricia A. Marr, Esq. to try and settle the matter and
22 requesting time to Answer it was agreed by both that she would extend time to Answer to October 11,
23 2015, with the understanding that the Parties would communicate with each other regarding negotiations
24 in the matter. .Since that date Counsel has been in contact with Mrs. Marr, however, no negotiation were
25 reached.
26

27 Counsel was advised by Mrs. Marr
28

CERTIFICATE OF SERVICE

When all Case Participants are Registered for the Appellate CM/ECF System

I hereby certify that on November 9, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States District Court by using the appellate CM/ECF system. I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

/s/ Todd M. Leventhal
Signature

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ORDER

17 Upon consideration of the Motion and Memorandum of Law for an Extension of Time
18 for the Defendants to Respond to Plaintiff
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