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Attorneys for Defendant Capital One Services, II, LLC

13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15 NATASHA PORTEOUS, on behalf of herself
16 and all others similarly situated,

17 Plaintiff,

18 vs.

19 CAPITAL ONE SERVICES II, LLC; and
20 DOES 1 through 50, inclusive,
21 Defendant(s).

Case No2:17-CV-02866-JDM-GWF

JOINT STATUS REPORT AND
~~PROPOSED~~ **ORDER SUBMITTED IN**
COMPLIANCE WITH ECF NO. 3

22 Pursuant to this Court’s Order (ECF No. 3) Plaintiff NATASHA PORTEOUS on behalf
23 of herself and all others similarly situated (“Plaintiff”) and Defendant CAPITAL ONE
24 SERVICES II, LLC (“Defendant” or “Capital One”), by and through their respective counsel of
25 record set forth the status of this action as follows:

26 **Procedural History:**

27 Plaintiff filed her original complaint (“Complaint” and ECF No. 1-1) against Capital
28 One in the District Court, Clark County Nevada, on October 5, 2017, for alleged unpaid wages
on behalf of herself and similarly situated individuals as a collective action pursuant to the

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1 federal Fair Labor Standards Act (“FLSA”) and a class action pursuant to Federal Rule of Civil
2 Procedure (“FRCP”) 23 under various Nevada wage and hour laws and Nevada contract law for
3 alleged failure to pay for computer log in/boot up and log out/boot down time, failure to
4 include nondiscretionary bonuses into the calculation of the regular rate of pay for overtime
5 premium, and breach of contract. Capital One removed the action to this court on November
6 15, 2017. (ECF Nos. 1-1-3).

7 Capital One filed its Motion to Dismiss Plaintiff’s Complaint in its entirety on
8 November 22, 2017. (ECF No. 4).

9 Plaintiff filed her First Amended Complaint (“FAC” and operative complaint) on
10 December 6, 2016. (ECF No. 6). Plaintiff alleges seven causes of action on behalf of herself
11 and those similarly situated: (1) failure to pay overtime in violation of 29 U.S.C. § 207; (2)
12 failure to pay the correct overtime rate in violation of 29 U.S.C. § 207(e); (3) failure to
13 compensate for all hours worked in violation of NRS 608.140 and 608.106; (4) failure to pay
14 minimum wages in violation of the Nevada Constitution; (5) failure to pay overtime in
15 violation of NRS 608.140 and 608.018; (6) failure to timely pay all wages due and owing in
16 violation of NRS 608.140 and 608.020-.050; and (7) breach of contract. Plaintiff also included
17 a jury demand.
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19 The Parties are scheduled to hold an in-person 26(f) conference on Tuesday, December
20 19, 2017.

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Action Required By The Court

The Parties request relief from FRCP 26(f)(4) and leave from the Court to file their proposed Discovery Plan and Scheduling Order on or before January 9, 2018 (twenty-one days after the Parties’ 26(f) conference due the to the end of the year Holidays and previously scheduled counsel and staff vacations.

Copies of Pending Motions/Court Orders Requiring Court’s Attention:

Defendant filed its Motion to Dismiss Plaintiff’s Complaint on November 22, 2017. (ECF No. 4). In lieu of a response to Defendant’s Motion to Dismiss, Plaintiff filed her FAC on December 6, 2017. (ECF No. 6). The Parties request that Defendant’s Motion To Dismiss currently before the Court (ECF No. 4) be withdrawn without prejudice and that Defendant be granted leave to file responsive pleadings, including a motion to dismiss, to the operative FAC.

There are no other actions required by the Court at this time.

Respectfully submitted,

Dated: December 15, 2017

Dated: December 15, 2017

THIERMAN LAW FIRM

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

/s/ Leah L. Jones

/s/ Anthony L. Martin

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ORDER

1. The Parties may file their Proposed Discovery Plan and Scheduling Order no later than January 9, 2018.

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2. Defendant's Motion To Dismiss currently before the Court (ECF No. 4) is withdrawn without prejudice and Defendant is granted leave to file responsive pleadings, including a motion to dismiss, to the operative FAC.

IT IS SO ORDERED.

DATED this 15th day of December 2017.


UNITED STATES MAGISTRATE JUDGE