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13 **UNITED STATES DISTRICT COURT**

14 **DISTRICT OF NEVADA**

15 JALA HARPER, on behalf of herself
16 and all others similarly situated,

17 Plaintiff,

18 v.

19 SOUTHWEST AIRLINES CO., a
20 foreign corporation; and DOES 1
21 through 50, inclusive,

22 Defendants.

Case No. 2:24-CV-00989-DJA

COMPLAINT FOR DAMAGES

CLASS ACTION COMPLAINT FOR:

1. Failure to Pay Wages for Each Hour Worked in Violation of NRS 608.016;
2. Failure to Pay Overtime in Violation of NRS 608.018;
3. Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.020-050;

COLLECTIVE ACTION COMPLAINT FOR:

4. Failure to Pay Overtime in Violation of the FLSA, 29 U.S.C. § 207;

INDIVIDUAL COMPLAINT FOR:

5. Racial Discrimination;
6. Sexual Discrimination;
7. Hostile Work Environment Harassment
8. Disability Discrimination;
9. Retaliation;
10. Tortious Discharge;
11. Intentional Infliction of Emotional Distress; and
12. Negligent Infliction of Emotional Distress

JURY TRIAL DEMANDED

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1 Plaintiff JALA HARPER alleges as follows:

2 1. This is a class and collective action complaint against SOUTHWEST AIRLINES CO.
3 (“Southwest” or “Defendant”) for unpaid wages, overtime, liquidated damages, attorneys’ fees, costs,
4 and interest under the Nevada Revised States (“NRS”) and the federal Fair Labor Standards Act
5 (“FLSA”), 29 U.S.C. §§ 201 *et seq.*

6 2. This action also seeks relief for Southwest’s discrimination, harassment, and retaliation
7 against Plaintiff in violation of Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §§
8 2000e *et seq.*, and Nevada’s equal employment opportunity (“EEO”) laws, NRS 613.310-613.4383,
9 among other causes of action.

10 3. All allegations in this Complaint are based on information and belief except for those
11 allegations pertaining specifically to Plaintiff, which are based on Plaintiff’s personal knowledge.
12 Each allegation in this Complaint either has evidentiary support or is likely to have evidentiary support
13 after a reasonable opportunity for further investigation and discovery.

14 **PARTIES**

15 4. At all relevant times, Plaintiff JALA HARPER lived in Clark County, Nevada, and
16 was employed by Defendant as a Customer Representative.

17 5. At all relevant times, Defendant SOUTHWEST AIRLINES CO. was a foreign
18 corporation registered and licensed to do business under Nevada law (NV19811014953). Southwest
19 is a major U.S. airline headquartered in Dallas, Texas.

20 6. “Nevada Class Members” are all current and former Customer Representatives
21 employed by Southwest in the State of Nevada at any time within the last two years until the date of
22 judgment (the “Nevada Class Period”).

23 7. “Federal Class Members” are all current and former Customer Representatives
24 employed by Southwest in the United States at any time within the last three years until the date of
25 judgment (the “FLSA Class Period”).

26 8. The identities of Does 1-50 (“Doe Defendants”) are unknown at this time, and this
27 Complaint will be amended at such a time when Plaintiff learns of their identities. Plaintiff is informed
28 and believe that each of the Doe Defendants is responsible in some manner for the acts, omissions, or

1 representations alleged herein.

2 9. Any reference in this Complaint to “Defendant,” “Defendants,” “Doe Defendants,”
3 “Southwest Airlines Co.,” or “Southwest,” or “Restaurant” shall mean “Defendants and each of
4 them.”

5 10. At all relevant times, each Defendant was an agent, manager, employee, joint-venturer,
6 shareholder, director, member, co-conspirator, alter ego, master, or partner of other Defendants, and
7 at all times mentioned herein was acting within the scope and course and in pursuance of his, her,
8 their, or its agency, joint venture, partnership, employment, common enterprise, or actual or apparent
9 authority in concert with other Defendants.

10 11. At all relevant times, the acts and omissions of Defendants concurred and contributed
11 to the various acts and omissions of other Defendants in proximately causing the complaints, injuries,
12 and damages alleged herein. At all relevant times, Defendants approved of, condoned, or otherwise
13 ratified each and every one of the acts or omissions complained of herein. At all relevant times,
14 Defendants aided and abetted the acts and omissions of other Defendants thereby proximately causing
15 the damages herein alleged.

16 12. At all relevant times, Defendants are or were jointly and severally liable for all injuries
17 and damages alleged herein. Further, Plaintiff alleges that Defendants were joint employers regarding
18 Plaintiff in all aspects.

19 **JURISDICTION AND VENUE**

20 13. Plaintiff incorporates and realleges all paragraphs above.

21 14. The Court has jurisdiction over Plaintiff’s discrimination, harassment, and retaliation
22 claims under Title VII, 42 U.S.C. § 2000e-5, which states: “Each United States district court and each
23 United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of
24 actions brought under this subchapter.” Plaintiff exhausted her administrative remedies with the
25 Nevada Equal Rights Commission (“NERC”) and Equal Employment Opportunity Commission
26 (“EEOC”) and was issued a Notice of Right to Sue by the EEOC on June 26, 2024.

27 15. The Court has jurisdiction over Plaintiff’s collective action overtime claim under the
28 FLSA, 29 U.S.C. § 216(b), which states: “An action to recover the liability prescribed ... may be





1 maintained against any employer (including a public agency) in any Federal or State court of
2 competent jurisdiction by any one or more employees for and in behalf of himself or themselves and
3 other employees similarly situated.”

4 16. Because Plaintiff’s Title VII and FLSA claims arise under federal law, the Court has
5 federal question jurisdiction pursuant to 28 U.S.C §1331.

6 17. The Court also has subject matter jurisdiction over this action pursuant to 28 U.S.C §
7 1332(a) because there is complete diversity between the parties and the amount in controversy exceeds
8 seventy-five thousand dollars (\$75,000) exclusive of interest and costs.

9 18. In addition, the Court has supplemental jurisdiction over Plaintiff’s Nevada state-law
10 claims under 28 U.S.C. § 1367 because those claims derive from a common nucleus of operative fact
11 regarding Defendant’s unlawful treatment of Plaintiff, and form part of the same case and controversy.

12 19. Venue is proper in this Court because Plaintiff resided and worked for Defendant
13 within this judicial district, and the events and omissions giving rise to Plaintiff’s claims occurred
14 within this judicial district. *See* 28 U.S.C. § 1391(b).

15 **INDIVIDUAL TITLE VII AND EEO ALLEGATIONS**

16 20. Plaintiff incorporates and realleges all paragraphs above.

17 21. Ms. Harper is a black woman in her thirties.

18 22. Southwest hired Ms. Harper as Customer Representative on or about September 12,
19 2022.

20 23. Following two weeks of training at the Southwest Headquarters Campus in Dallas,
21 Texas, Ms. Harper began working remotely from home in Las Vegas, Nevada.

22 24. On November 14, 2022, Ms. Harper had her first virtual training session with her
23 assigned Team Lead, Mathew Parker.

24 25. Mr. Parker was an older white male in his forties, whereas Plaintiff is a black woman
25 in her thirties.

26 26. The first thing Mr. Parker said to Plaintiff was: “You have such a pretty smile.” This
27 made Plaintiff feel uncomfortable. Ms. Harper did not consider this a professional greeting between
28 a Team Lead and a subordinate during their very first meeting – a “training session.”



1 27. Rather than discussing job duties or work performance, Mr. Parker was more interested
2 in asking Plaintiff personal questions about how she liked to spend nonworking hours. After
3 commenting on Plaintiff’s smile, Mr. Parker then asked her: “Tell me about yourself.”

4 28. When Plaintiff attempted to keep her answers brief and generic (she liked “sports” for
5 example), Mr. Parker dug deeper. He asked Plaintiff if she liked to travel and “what else do you like
6 outside of work?”

7 29. Whereas Plaintiff expected work feedback and training, Mr. Parker treated their virtual
8 Zoom call as if they had just matched on an internet dating website.

9 30. Before the training session concluded, Mr. Parker again commented on Plaintiff’s
10 “pretty smile.”

11 31. Plaintiff’s second “training session” with Mr. Parker was a week later on November
12 21, 2022.

13 32. Concerned by Matthew Parker’s inappropriate behavior at the first session, Ms. Harper
14 decided to keep her camera off on the second meeting to avoid the comments Mr. Parker made in the
15 first meeting, and avoid the concomitant discomfort and anxiety is caused her.

16 33. When Ms. Harper’s camera was off for the second meeting, this instantly enraged
17 Matthew Parker.

18 34. Matthew Parker exclaimed, “I need cameras!”

19 35. Matthew Parker grew more upset over the course of the meeting and yelled at Ms.
20 Harper , demanding that she “shut up and listen to him.”

21 36. The second training session thus turned into a fifty-six minute diatribe as Matthew
22 Parker belittled Ms. Harper’s work ethic, character, and personal views.

23 37. Matthew Parker called her a “liar” and told her to “shut up”

24 38. Ms. Harper tried to de-escalate the situation, saying she never intended their
25 conversation to grow heated.

26 39. Matthew Parker in response accused Ms. Harper of being “manipulative” because she
27 could “speak well for an African American woman.”

28 40. Ms. Harper understood that he did not expect a Black woman to be well-spoken.



1 41. Ms. Harper understood that Matthew Parker thought a well-spoken Black person was
2 rare.

3 42. At that moment and after that, Ms. Harper dreaded working with Matthew Parker and
4 knew her future at Southwest would be limited by his irrational anger at her lack of receptivity to his
5 inappropriate flirtations.

6 43. Ms. Harper knew her future at Southwest would be limited by Matthew Parker's sexist
7 and racist view of her.

8 44. Ms. Harper was truly physiologically and psychologically shaken by that second
9 training session.

10 45. Ms. Harper left the session in tears and with strong feelings of anxiety and dread.

11 46. The dread and anxiety stemmed from Matthew Parker's behavior.

12 47. Matthew Parker had demonstrated to Ms. Harper that he had objectified her and
13 assumed on the basis of her race and gender that she would be performing poorly.

14 48. Matthew Parker demonstrated to Ms. Harper that he assumed on the basis of her gender
15 that she was 'manipulative'

16 49. Ms. Harper reported the harassment to the Manager of Operations at Southwest
17 Meredith Schess by phone and email the next day.

18 50. Schess did not respond the same day, even though Ms. Harper had asked for a response
19 as soon as possible and provided her personal phone number and asked to be contacted on her day
20 off.

21 51. Schess replied that she was sorry Ms. Harper felt bad about the incident.

22 52. Thus Schess reduced this serious incident of race and gender hostility to a belittling
23 and insulting assessment: "I am sorry that you feel your Coaching was a bad experience"

24 53. Eventually Schess suggested that Ms. Harper, rather than the HR department, pursue
25 her complaint with Matthew Parker's supervisor and friend, Manager Gwen Edsall about the incident.

26 54. Ms. Harper did so immediately but Edsall did not respond for five days.

27 55. In the delay in a response from Edsall, which concerned her deeply, Ms. Harper
28 escalated her complaint to VP of Customer Service James Ashworth.



1 56. Before Ms. Harper received a substantive response or corrective action from Schess,
2 Edsall or Ashworth, her harasser Mathew Parker scheduled another training session and told her
3 “NOT TO REMOVE IT”

4 57. At this point, Ms. Harper had only received one training session but her peers had
5 received three.

6 58. Ms. Harper was working remotely, alienated by Parker and cut off from upper
7 management.

8 59. Suddenly Defendant switched Ms. Harper to a new team lead (without disciplining
9 Matthew Parker).

10 60. The cumulative effect of Parker’s harassment, management’s apathy and disbelief and
11 the sudden switch to a new Team Lead took a harsh psychological toll on Ms. Harper – she had a
12 panic attack, broke out in hives and had to go to an emergency room.

13 61. Thus, more than once and beginning in Decemeber 2022, Ms. Harper began to have
14 panic attacks of such severity that trips to the emergency room were required.

15 62. As a result of the first panic attack, Ms. Harper’s doctor required that Ms. Harper have
16 three days off.

17 63. Ms. Harper’s doctor advised Ms. Harper to seek mental health care professional help.

18 64. Ms. Harper did so and the mental health professional advised that Ms. Harper required
19 leave from December 2022 through to February 2023 as an accommodation to her mental health.

20 65. Southwest approved the additional medical leave days advised by the mental health
21 professional.

22 66. Ms. Harper resumed her work with Southwest in March, 2023.

23 67. Ms. Harper did so against advice of the mental health professional, who believed she
24 was not ready to go back to work, but she was concerned about her job.

25 68. Ms. Harper then when she assessed how she was, took the professional advice on board
26 and informed Southwest that she needed additional time off.

27 69. Southwest terminated Ms. Harper’s employment the same week, on March 25, 2023

28 70. Southwest’s stated reason for the termination of Ms. Harper’s employment is that she

1 “greatly exceed[ed] the number of absences Customer Representatives are allowed to have while they
2 are on probation.”

3 71. However Ms. Harper was no longer on probation at the point she was terminated.

4 72. The stated reason for the termination was pretextual.

5 73. Further, Southwest had approved her time off.

6 74. This is another way to demonstrate that the termination was pretextual.

7 75. From December 2022 until her termination date, Ms. Harper had to go to the
8 emergency room four times with panic attacks.

9 **CLASS AND COLLECTIVE WAGE ALLEGATIONS**

10 76. Plaintiff incorporates and realleges all paragraphs above.

11 77. Plaintiff brings this action on behalf of herself and Nevada Class Members and Federal
12 Class Members (collectively “Class Members”).

13 78. At all relevant times, Defendant required Plaintiff and Class Members to clock in and
14 out at the beginning and end of their shifts using a timekeeping program accessible online via their
15 work computers and Southwest’s virtual private network (“VPN”).

16 79. In order to access the timekeeping program at the beginning of their shifts, Plaintiff
17 and Class Members first had to awaken or boot up their computers, log in with their credentials to
18 connect to the VPN, then enter different credentials to sign into the timekeeping program, and finally
19 enter their clock-in time (all such time collectively referred to herein as “Boot Time”).

20 80. This Boot Time process took approximately five minutes.

21 81. Plaintiff and Class Members were expected to be logged into Southwest’s VPN and
22 clocked in before they could start their daily work shifts.

23 82. Indeed, a scheduled work shift could not begin until Plaintiff and Class Members were
24 logged in and clocked in on their computers.

25 83. Defendant did not compensate Plaintiff or Class Members for the Boot Time before
26 their shifts began.

27 84. Boot Time occurred regularly each workday and could have been recorded or
28 compensated by Defendant without any practical administrative difficulty.





1 85. Because Plaintiff and Class Members typically worked 8 hours per shift and 40 hours
2 per week, nearly all Boot Time constituted unpaid overtime.

3 86. In addition, Plaintiff and Class Members who worked remotely were paid a “remote
4 work stipend” of \$75.00 per pay period. However, Defendant did not include the amount of this
5 stipend in Plaintiff’s and Class Members’ regular rate of pay for purposes of calculating and paying
6 overtime.

7 87. During the pay period from 09/16/2022 through 09/30/2022, Plaintiff was paid for 85
8 regular hours without any overtime. Plaintiff was also paid for 2.92 hours of travel time during this
9 pay period, as well as a \$75 “remote work stipend.”

10 88. During the pay period from 11/01/2022 through 11/15/2022, Plaintiff was paid for 1.85
11 hours of overtime as well as a \$75 “remote work stipend.” However, the overtime was paid at 1.5
12 times Plaintiff’s \$17.00 hourly rate – i.e., an overtime rate of \$25.00 per hour – without including the
13 remote stipend amount in the regular rate and overtime calculation.

14 89. Nor did Defendant include non-discretionary bonus amounts in the regular rate of pay
15 for the purpose of paying overtime to Plaintiff and Class Members.

16 90. For example, during the pay period from 01/01/2023 through 01/15/2023, Plaintiff
17 received a \$1,000 bonus as well as a \$75 “remote work stipend.” Yet neither of these amounts were
18 included in the regular rate of pay in paying 67.57 hours of overtime worked by Plaintiff. Instead, all
19 these overtime hours were compensated at 1.5 times Plaintiff’s regular hourly rate.

20 91. By failing to pay Plaintiff and Class Members as hereinabove described, Defendant
21 failed to pay Plaintiff and Class Members all wages and overtime due and owing.

22 92. At all relevant times, Plaintiff and Class Members were regularly scheduled to work 8
23 hours per shift and 40 hours per week.

24 93. At all relevant times, Defendant failed to pay wages to Plaintiff and Class Members
25 for increments of Boot Time.

26 94. At all relevant times, Defendant failed to pay overtime to Plaintiff and Class Members
27 for increments of Boot Time that exceeded 40 hours per week.

28 95. At all relevant times, Defendant failed to include all compensation and remuneration



1 received by Plaintiff and Class Members in their regular rate of pay for purposes of calculating and
2 paying overtime.

3 96. Defendant knew or should have known that Plaintiff and Class Members were not
4 properly compensated for Boot Time or overtime.

5 97. Defendant knew or should have known that Plaintiff and Class Members were entitled
6 to receive compensation for all time and overtime worked, including Boot Time.

7 98. Defendant knew or should have known that Plaintiff and Class Members were entitled
8 to receive overtime compensation based on a regular rate pay that included all forms of remuneration
9 received during a given pay period.

10 99. Defendant had a duty, as well as the financial ability, to compensate Plaintiff and Class
11 Members for all hours and overtime hours worked, but willfully, knowingly, and intentionally failed
12 to do so in order to save money and decrease Defendant's labor costs.

13 100. Despite a wage demand sent to Defendant on September 19, 2023, Defendant
14 continues to refuse to pay Plaintiff and other similarly-situated employees all wages and damages due
15 and owing under Nevada law and the FLSA.

16 **NEVADA CLASS ACTION ALLEGATIONS**

17 101. Plaintiff incorporates and realleges all paragraphs above.

18 102. Plaintiff brings this action as a class action on behalf of Nevada Class Members under
19 Federal Rule of Civil Procedure 23.

20 103. At all relevant times, Plaintiff and Nevada Class Members were each an "employee"
21 within the meaning of Nevada law. *See* NRS 608.010.

22 104. At all relevant times, Defendant was an "employer" of Plaintiff and Nevada Class
23 Members within the meaning of Nevada law. *See* NRS 608.011.

24 105. Plaintiff reserves the right to modify or redefine "Nevada Class Members" for purposes
25 of this action and to add subclasses as appropriate based on further investigation, discovery, and
26 theories of liability.

27 106. Class treatment of Nevada Class Members is appropriate under Rule 23 for the
28 following reasons:

1 A. **Numerosity**: Nevada Class Members are so numerous that joinder would be
2 impractical, and the disposition of their claims on a class (rather than individual) basis will
3 conserve resources of the parties and judicial system. While the number of Nevada Class
4 Members is unknown at this time, this information can be readily ascertained from Defendant’s
5 business records. Upon information and belief, Defendant employs, or has employed, over 25
6 Nevada Class Members during the Nevada Class Period.

7 B. **Commonality**: Common questions of law and fact exist and predominate as to
8 Plaintiff and Nevada Class Members, including, but not limited to:

- 9 i. Whether Plaintiff’s and Nevada Class Members’ Boot Time is compensable time
10 under Nevada law;
- 11 ii. Whether Defendant failed to include stipend and bonus amounts in the regular rate of
12 pay for purposes of calculating and paying overtime to Plaintiff and Nevada Class
13 Members;
- 14 iii. Whether Defendant failed to timely pay Plaintiff and Nevada Class Members all
15 wages due and owing upon separation from their employment.

16 C. **Typicality**: Plaintiff’s claims are typical of the claims of Nevada Class Members
17 because Plaintiff and Nevada Class Members were subject to the same employment policies and
18 practices of Defendant during the Nevada Class Period, and each sustained damages. Proof of a
19 common or single state of facts will therefore establish the right of Plaintiff and Nevada Class
20 Members to recover.

21 D. **Adequacy**: Plaintiff will fairly and adequately represent the interests of Nevada Class
22 Members because Plaintiff is a Nevada Class Member and has the same legal and factual issues as
23 Nevada Class Members and has no interests antagonistic to Nevada Class Members. Plaintiff has
24 retained legal counsel competent and experienced in class actions, including labor and employment
25 litigation. Plaintiff and her counsel are aware of their fiduciary responsibilities to Nevada Class
26 Members and are determined to discharge those duties diligently by vigorously seeking the
27 maximum possible recovery for Nevada Class Members.

28 E. **Superiority**: A class action is superior to other available means for the fair and efficient





1 adjudication of this controversy. Plaintiff and each Nevada Class Member has been damaged and
2 is entitled to recovery by reason of Defendant’s illegal practice of failing to compensate Customer
3 Representatives in accordance with Nevada wage-and-hour law. Class action treatment will permit
4 a relatively large number of similarly situated persons to prosecute their common claims in a single
5 forum simultaneously, efficiently, and without unnecessary duplication of effort and expense.
6 Furthermore, the prosecution of individual lawsuits by each Nevada Class Member would present
7 the risk of inconsistent and contradictory judgments, along with the potential for establishing
8 inconsistent standards of conduct for Defendant and other state employers. Consequently, an
9 important public interest will be served by addressing this matter as a class action.

10 **COLLECTIVE ACTION ALLEGATIONS**

11 107. Plaintiff incorporates and realleges all paragraphs above.

12 108. Plaintiff brings this action on behalf of herself and Federal Class Members as a
13 collective action pursuant to 29 U.S.C. § 216(b).

14 109. Federal Class Members are similarly situated to Plaintiff, and vice versa.

15 110. Plaintiff is similarly situated to Federal Class Members based on the same factors of
16 commonality, typicality, and adequacy enumerated above.

17 111. At all relevant times, Plaintiff and Federal Class Members were each an “employee”
18 within the meaning of the FLSA. *See* 29 U.S.C. § 203(e), (g).

19 112. At all relevant times, Defendant was an “employer” of Plaintiff and Federal Class
20 Members within the meaning of the FLSA. *See* 29 U.S.C. § 203(d), (g).

21 113. Plaintiff reserves the right to modify or redefine “Federal Class Members” for purposes
22 of this action and to add subclasses as appropriate based on further investigation, discovery, and
23 theories of liability.

24 114. Pursuant to 29 U.S.C. § 216(b), Plaintiff has filed her consent to join this FLSA
25 collective action as of September 24, 2024. *See* attached Exhibit A.

26 **FIRST CAUSE OF ACTION**

27 **Failure to Pay Wages for Each Hour Worked in Violation of NRS 608.016**

28 **(On Behalf of Plaintiff and Nevada Class Members)**



1 115. Plaintiff incorporates and realleges all paragraphs above.

2 116. NRS 608.016 states that “An employer shall pay to the employee wages for each hour
3 the employee works.”

4 117. Hours worked means anytime the employer exercises “control or custody” over an
5 employee. *See* NRS 608.011 (defining an “employer” as “every person having control or custody of
6 any employment, place of employment or any employee.”).

7 118. Pursuant to the Nevada Administrative Code, hours worked includes “all time worked
8 by the employee at the direction of the employer, including time worked by the employee that is
9 outside the scheduled hours of work of the employee.” N.A.C. 608.115(1).

10 119. Here, Defendant failed to pay Plaintiff and Nevada Class Members for Boot Time.

11 120. Defendant’s policy and practice violated NRS 608.016, which requires payment for
12 each and every hour worked.

13 121. Wherefore, Plaintiff and Nevada Class Members demand payment by Defendant at
14 their regular hourly rate of pay for each and every hour worked during the Nevada Class Period,
15 together with attorney’s fees, costs, and interest as provided by law.

16 **SECOND CAUSE OF ACTION**

17 **Failure to Pay Overtime in Violation of NRS 608.018**

18 **(On Behalf of Plaintiff and Nevada Class Members)**

19 122. Plaintiff incorporates and realleges all paragraphs above.

20 123. In relevant part, NRS 608.018(2) provides that “An employer shall pay 1 ½ times an
21 employee’s regular wage rate whenever an employee who receives compensation for employment at
22 a rate not less than 1 ½ times the minimum rate set forth in NRS 608.250 works: (a) more than 40
23 hours in any scheduled week of work....”

24 124. Here, Plaintiff and Nevada Class Members worked over 40 hours per workweek
25 without being paid overtime for the hours of compensable time over 40. This includes time spent on
26 uncompensated Boot Time.

27 125. Wherefore, Plaintiff and Class Members demand payment by Defendant at one and
28 one-half times their “regular rate” of pay for all hours worked in excess of 40 hours per workweek

1 during the Nevada Class Period, together with attorney’s fees, costs, and interest as provided by law.

2 **THIRD CAUSE OF ACTION**

3 **Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.020-050**

4 **(On Behalf of Plaintiff and Nevada Class Members)**

5 126. Plaintiff incorporates and realleges all paragraphs above.

6 127. NRS 608.020 provides that “[w]henver an employer discharges an employee, the
7 wages and compensation earned and unpaid at the time of such discharge shall become due and
8 payable immediately.”

9 128. NRS 608.030 similarly provides that an employee who resigns or quits must be paid
10 within seven days or on the next regular payroll date, whichever earlier occurs.

11 129. NRS 608.040(1) states that “Within 3 days after the wages or compensation of a
12 discharged employee becomes due; or...[o]n the day the wages or compensation is due to an employee
13 who resigns or quits, the wages or compensation of the employee continues at the same rate from the
14 day the employee resigned, quit, or was discharged until paid for 30 days, whichever is less.”

15 130. NRS 608.050 grants a “lien” to every employee separated from employment for the
16 purpose of collecting any wages or compensation due and owing, including up to 30 additional days
17 of compensation “without rendering any service therefor.”

18 131. Here, by failing to compensate Plaintiff and Nevada Class Members separated from
19 employment for all hours and overtime hours worked as hereinabove described, Defendant has failed
20 to timely remit all wages due and owing to Plaintiff and those Nevada Class Members.

21 132. Wherefore, Plaintiff and Nevada Class Members separated from Defendant’s
22 employment demand up to thirty (30) days of wages and an “employee lien” pursuant to NRS 608.040
23 and NRS 608.050, together with attorney’s fees, costs, and interest as provided by law. Plaintiff and
24 Nevada Class Members also claim a private cause of action to foreclose a lien against Defendant, if
25 necessary, to collect wages due pursuant to NRS 608.050.

26 **FOURTH CAUSE OF ACTION**

27 **Failure to Pay Overtime in Violation of the FLSA, 29 U.S.C. § 207**

28 **(On Behalf of Plaintiff and Federal Class Members)**





1 133. Plaintiff incorporates and realleges all paragraphs above.

2 134. The FLSA provides that “[N]o employer shall employ any of his employees who in
3 any workweek is engaged in commerce or in the production of goods for commerce, or is employed
4 in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek
5 longer than forty hours unless such employee receives compensation for his employment in excess of
6 the hours above specified at a rate not less than one and one-half times the regular rate at which he is
7 employed.” 29 U.S.C § 207(a)(1).

8 135. At all relevant times, Defendant failed to pay one and one-half times the applicable
9 regular rate of pay for all hours worked by Plaintiff and Federal Class Members in excess of 40 hours
10 in any given workweek.

11 136. Defendant’s violation of the FLSA has been willful, and Defendant knew or should
12 have known that its policies and practices have been unlawful.

13 137. Wherefore, Plaintiff and Federal Class Members demand payment by Defendant at one
14 and one-half times their regular rate of pay for all hours worked in excess of 40 hours a week during
15 the FLSA Class Period, plus an additional equal amount as liquidated damages, together with
16 attorney’s fees, costs, and interest as provided by law.

17 **FIFTH CAUSE OF ACTION**

18 **Race Discrimination**

19 **(On Behalf of Plaintiff)**

20 138. Plaintiff incorporates and realleges all paragraphs above.

21 139. Nevada’s EEO laws also prohibit discrimination against employees based on their race.
22 Specifically, “it is an unlawful employment practice for an employer...[t]o fail or refuse to hire or to
23 discharge any person, or otherwise to discriminate against any person with respect to the person’s
24 compensation, terms, conditions or privileges of employment, because of [their]...race [or t]o limit,
25 segregate or classify an employee in a way which would deprive or tend to deprive the employee of
26 employment opportunities or otherwise adversely affect his or her status as an employee, because of
27 [their]...race.” NRS 613.330(1); *see also* NRS 613.310(8) (defining “race” to include “hair texture
28 and protective hairstyles”). Title VII of the Civil Rights Act of 1964 similarly prohibits discrimination

1 based on an “individual’s race, color. . . or national origin.” 42 U.S.C. § 2000e-2(a).

2 140. Here, Defendant unlawfully discriminated against Plaintiff with respect to the
3 compensation, terms, conditions, and privileges of her employment because of her race. Plaintiff was
4 subject to different terms and conditions of employment than her white counterparts. Defendant
5 ratified, condoned, and failed to take any corrective action against the discriminatory conduct directed
6 toward Plaintiff.

7 141. Defendant acted intentionally, with malice, fraud, or oppression, in discriminating
8 against Plaintiff because of her race.

9 142. As a result of Defendant’s wrongful actions, Plaintiff has sustained significant general
10 and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her
11 under law including, but not necessarily limited to, compensatory, consequential, and punitive
12 damages, attorneys’ fees, costs, and interest.

13 **SIXTH CAUSE OF ACTION**

14 **Sexual Discrimination**

15 **(On Behalf of Plaintiff)**

16 143. Plaintiff incorporates and realleges all paragraphs above.

17 144. Nevada’s EEO laws also prohibit discrimination against employees based on their sex.
18 Specifically, “it is an unlawful employment practice for an employer...[t]o fail or refuse to hire or to
19 discharge any person, or otherwise to discriminate against any person with respect to the person’s
20 compensation, terms, conditions or privileges of employment, because of [their]...sex [or t]o limit,
21 segregate or classify an employee in a way which would deprive or tend to deprive the employee of
22 employment opportunities or otherwise adversely affect his or her status as an employee, because of
23 [their]...sex.” NRS 613.330(1). Title VII of the Civil Rights Act of 1964 similarly prohibits
24 discrimination based on an individual’s sex. *See* 42 U.S.C. § 2000e-2(a).

25 145. Here, Defendant unlawfully discriminated against Plaintiff with respect to the
26 compensation, terms, conditions, and privileges of her employment because of her sex. Plaintiff was
27 subject to different terms and conditions of employment than her male counterparts. Defendant
28 ratified, condoned, and failed to take any corrective action against the harassing and discriminatory



1 conduct directed toward Plaintiff.

2 146. Defendant acted intentionally, with malice, fraud, or oppression, in discriminating
3 against Plaintiff because of her sex.

4 147. As a result of Defendant's wrongful actions, Plaintiff has sustained significant general
5 and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her
6 under law including, but not necessarily limited to, compensatory, consequential, and punitive
7 damages, attorneys' fees, costs, and interest.

8 **SEVENTH CAUSE OF ACTION**

9 **Hostile Work Environment Harassment**

10 **(On Behalf of Plaintiff)**

11 148. Plaintiff incorporates and realleges all paragraphs above.

12 149. Defendant, by its actions alleged above, also subjected Plaintiff to a hostile work environment
13 based on her race and sex.

14 150. During her employment, Defendant repeatedly subjected Plaintiff to unwelcome
15 statements and conduct based on her race and sex. These statements and conduct were sufficiently
16 severe or pervasive to alter the conditions of employment by creating an intimidating, hostile, or
17 offensive work environment. Furthermore, Defendant failed to prevent or remedy the conditions
18 constituting the hostile work environment that Plaintiff was subjected to during her employment.

19 151. Defendant acted intentionally, with malice, fraud, or oppression, in discriminating
20 against Plaintiff because of her sex.

21 152. As a result of Defendant's wrongful actions, Plaintiff has sustained significant general
22 and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her
23 under law including, but not necessarily limited to, compensatory, consequential, and punitive
24 damages, attorneys' fees, costs, and interest.

25 **EIGHTH CAUSE OF ACTION**

26 **Disability Discrimination**

27 **(On Behalf of Plaintiff)**

28 153. Plaintiff incorporates and realleges all paragraphs above.



1 154. 42 U.S.C. § 12112(a) says, in relevant part, “No [employer] shall discriminate
2 against a qualified individual on the basis of disability in regard to job application procedures, the
3 hiring, advancement, or discharge of employees, employee compensation, job training, and other
4 terms, conditions, and privileges of employment.”

5 155. Nevada law also prohibits discrimination against an employee based on her disability.
6 Specifically, “it is an unlawful employment practice for an employer: (a) To fail or refuse to hire or
7 to discharge any person, or otherwise to discriminate against any person with respect to the person’s
8 compensation, terms, conditions or privileges of employment, because of his or her . . . disability . . .
9 or (b) To limit, segregate or classify an employee in a way which would deprive or tend to deprive
10 the employee of employment opportunities or otherwise adversely affect his or her status as an
11 employee, because of his or her . . . disability.” NRS 613.330(1).

12 156. Here, Plaintiff was subject to different terms and conditions of employment based on
13 her disability, without limitation, when Defendant refused to recognize her legitimate need for
14 reasonable accommodations as recommended by her doctors, including absences from work due to
15 emergency room visits for anxiety symptoms related to the workplace environment and harassment
16 described hereinabove. Defendant failed to accommodate Plaintiff or otherwise engage in the
17 interactive process required by the Americans with Disabilities Act (“ADA”) and the ADA
18 Amendments Act of 2008 (“ADAAA”) and eventually terminated Plaintiff based on her need to miss
19 work because of her anxiety and related symptoms.

20 157. Defendants acted intentionally, with malice, fraud, or oppression, in discriminating
21 against Plaintiff because of her sex.

22 158. As a result of Defendants’ wrongful actions, Plaintiff has sustained significant general
23 and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her
24 under law including, but not necessarily limited to, compensatory, consequential, and punitive
25 damages, attorneys’ fees, costs, and interest.

26 **NINTH CAUSE OF ACTION**

27 **Retaliation**

28 **(On Behalf of Plaintiff)**





1 159. Plaintiff incorporates and realleges all paragraphs above.

2 160. Nevada’s EEO laws prohibit employers from retaliating against employees who
3 engage in protected activity regarding a perceived discriminatory employment practice. *See* NRS
4 613.340. Title VII of the Civil Rights Act of 1964 similarly prohibits an employer from retaliating
5 against an employee who has “made a charge, testified, assisted or participated in” any charge of
6 unlawful discrimination under Title VII. 42 U.S.C. § 2000e-3(a).

7 161. Here, Plaintiff suffered adverse employment actions once she had complained of the
8 behavior of Matthew Parker.

9 162. Plaintiff suffered adverse employment actions for seeking accommodation of her
10 disability.

11 163. Defendant’s retaliatory actions thwarted Plaintiff’s professional growth and led to the
12 eventual termination of her employment on March 25, 2023.

13 164. Defendants acted intentionally, with malice, fraud, or oppression, in discriminating
14 against Plaintiff because of her sex.

15 165. As a result of Defendants’ wrongful actions, Plaintiff has sustained significant general
16 and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her
17 under law including, but not necessarily limited to, compensatory, consequential, and punitive
18 damages, attorneys’ fees, costs, and interest.

19 **TENTH CAUSE OF ACTION**

20 **Tortious Discharge**

21 **(On Behalf of Plaintiff)**

22 166. Plaintiff incorporates and realleges all paragraphs above.

23 167. Defendant’s actions, as alleged above, are contrary to substantial and fundamental
24 public policies delineated in both state and federal laws, including but not limited to NRS 613.310-
25 613.4383 (Nevada’s equal employment opportunity laws), Title VII of the Civil Rights Act, and the
26 ADA as amended by the ADAAA. These state and federal laws articulate substantial and fundamental
27 public policies in favor of a workplace environment free from discrimination, harassment, and
28 retaliation based on race, sex, and disability, including the freedom to report discrimination and

1 harassment and to reject the sexual advances of managers,.

2 168. Here, Defendants termination of Plaintiff was wrongful, tortious, and contrary to the
3 public policies of Nevada and of the United States. Defendants acted intentionally, with malice, fraud,
4 or oppression, in terminating Plaintiff.

5 169. As a result of Defendants' wrongful actions, Plaintiff has sustained significant general
6 and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her
7 under law including, but not necessarily limited to, compensatory, consequential, and punitive
8 damages, attorneys' fees, costs, and interest.

9 **ELEVENTH CAUSE OF ACTION**

10 **Intentional Infliction of Emotional Distress**

11 **(On Behalf of Plaintiff)**

12 170. Plaintiff incorporates and realleges all paragraphs above.

13 171. Defendant's conduct, as alleged above, was extreme and outrageous, and Southwest
14 either intended to cause Plaintiff severe emotional distress or acted with reckless disregard for the
15 likely consequences of its conduct.

16 172. Defendant's conduct in this case not only violated Plaintiff's rights but also
17 jeopardized her well-being, mental stability, and peace of mind.

18 173. Ms. Harper suffered and continues to suffer emotional distress. Ms. Harper's
19 emotional distress is manifested by the physical symptoms of severe panic attacks and anxiety.

20 174. Defendants acted intentionally with malice, fraud, or oppression. Defendants either
21 intended to cause Plaintiff severe emotional distress or acted with reckless disregard for the likely
22 consequences of its conduct.

23 175. As a result of Defendants' actions, Plaintiff has sustained significant general and
24 special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her under
25 law including, but not necessarily limited to, compensatory, consequential, and punitive damages,
26 attorneys' fees, costs, and interest.

27 **TWELFTH CAUSE OF ACTION**

28 **Negligent Infliction of Emotional Distress**



(On Behalf of Plaintiff)

176. Plaintiff incorporates and realleges all paragraphs above.

177. As Plaintiff’s employer, Southwest owed a duty of care to Plaintiff. At the very least, this duty included not violating Nevada state law and public policy – i.e., not discriminating against Plaintiff based on her race and sex, not ratifying and condoning her harassment, not retaliating against her, and not terminating her.

178. By engaging in the conduct alleged above, Defendant breached the duty of care it owed to Plaintiff.

179. As a result of Defendants’ actions, Plaintiff has sustained significant general and special damages to be proven at trial. Plaintiff seeks all damages and remedies available to her under law including, but not necessarily limited to, compensatory, consequential, and punitive damages, attorneys’ fees, costs, and interest.

PRAYER FOR RELIEF

WHEREFORE Plaintiff pray for relief as follows:

1. For compensatory damages, including front pay, back pay, lost wages and benefits, out-of-pocket costs and expenses, emotional distress damages, punitive damages, as well as other special and general damages, according to proof;
2. For damages, according to proof for the regular rate of pay under applicable state or federal law for all hours worked;
3. For damages, according to proof for the minimum wage rate under applicable state or federal law for all hours worked;
4. For damages according to proof of overtime compensation at one and one-half the regular rate of pay under applicable state or federal law for all unpaid or underpaid hours worked over 40 in a week, or over 8 hours in a single period of 24 consecutive hours;
5. For 30 days of wages pursuant to NRS 608.040 and 608.050;
6. For liquidated (double) damages pursuant to 29 U.S.C. § 216(b).
7. For an order certifying this action as a class action under FRCP 23 on behalf of



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Nevada Class Members;

- 8. For an order conditionally certifying this action as a collective action under the FLSA on behalf of Federal Class Members;
- 9. For an order appointing Plaintiff as representatives and their counsel as class counsel for Federal Class Members and Nevada Class Members;
- 10. For reasonable attorneys’ fees authorized by statute, common law, or equity;
- 11. For costs of suit incurred herein;
- 12. For pre-judgment and post-judgment interest at the maximum legal rate; and
- 13. For such other and further relief as the Court may deem just and proper.

Respectfully submitted,

DATED: September 24, 2024

RAFII & ASSOCIATES, P.C.



JASON KULLER
 Of Counsel
Attorney for Plaintiff

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