



**FAC**  
Christian Gabroy  
Nev. Bar No. 8805  
Kaine Messer  
Nev. Bar No. 14240  
GABROY | MESSER  
170 South Green Valley Parkway  
Suite 280  
Henderson, Nevada 89012  
Tel: (702) 259-7777  
Fax: (702) 259-7704  
christian@gabroy.com  
kmesser@gabroy.com

Mark R. Thierman  
Nev. Bar No. 8285  
Joshua D. Buck  
Nev. Bar No. 12187  
Leah L. Jones  
Nev. Bar No. 13161  
Joshua R. Hendrickson  
Nev. Bar No. 12225  
THIERMAN BUCK LLP  
7287 Lakeside Drive  
Reno, Nevada 89511  
Tel: (775) 284-1500  
Fax: (775) 703-5027  
mark@thiermanbuck.com  
josh@thiermanbuck.com  
leah@thiermanbuck.com  
joshh@thiermanbuck.com

*Attorneys for Plaintiffs*

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

CAROL HARRIS and JAMES  
MARSHALL, on behalf of themselves and  
all others similarly situated,

Plaintiffs,

vs.

WHELAN EVENT STAFFING  
SERVICES, INC. d/b/a and a/k/a BEST  
CROWD MANAGEMENT;  
GARDAWORLD CASHLINK LLC; DOES  
1 through 50; inclusive,

Defendants.

Case No.: A-23-865293-C  
Dept. No.: 20

**FIRST AMENDED  
CLASS ACTION COMPLAINT**

**Arbitration Exemption Claimed: Class  
Action**

- 1) Failure to Pay Overtime in Violation of  
NRS §§ 608.018 and 608.140;
- 2) Failure to Timely Pay All Wages Due  
and Owing in Violation of NRS §§  
608.020-050 and 608.140; and,
- 3) Injunctive Relief.

**LIEN REQUESTED PURSUANT TO  
NRS § 608.050**

**JURY TRIAL DEMANDED**

**FIRST AMENDED CLASS ACTION COMPLAINT**

Plaintiffs Carol Harris and James Marshall (together “Plaintiffs”), on behalf of themselves and all others similarly situated and alleges the following:

All allegations in the Complaint are based upon information and belief except for those allegations that pertain to the Plaintiffs named herein and their counsel. Each allegation in the Complaint either has evidentiary support or is likely to have evidentiary support after a reasonable opportunity for further investigation and discovery.

**JURISDICTION AND VENUE**

1. This Court has original jurisdiction over the state law claims alleged herein because the amount in controversy exceeds \$15,000 and a party seeking to recover unpaid wages has a private right of action pursuant to the Nevada Constitution, Article 15 Section 16, and Nevada Revised Statute (“NRS”) sections 608.050 and 608.140. See *Neville v. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev. 2017); *HG Staffing, LLC, et al. v Second Judicial District Court*, Nevada Supreme Court Case No. 79118 (May 7, 2020).

2. Plaintiffs also claim a private cause of action to foreclose a lien against the property owner for wages due pursuant to NRS § 608.050.

3. Plaintiff made a proper demand for wages due pursuant to NRS § 608.140 on February 1, 2023.

4. Venue is proper in this Court because the Defendants named herein maintain a principal place of business or otherwise are found in this judicial district and many of the acts complained of herein occurred in Clark County, Nevada.

5. Plaintiffs demand a jury trial on all issues triable by jury herein.

**PARTIES**

6. Plaintiff Carol Harris (hereinafter “Plaintiff Harris”) was at all relevant times a resident of the State of Nevada and was employed by Defendants as a non-

1 exempt hourly employee from June of 2022 to Present.

2 7. Plaintiff James Marshall (hereinafter "Plaintiff Marshall") was at all  
3 relevant times a resident of the State of Nevada and was employed by Defendants as a  
4 non-exempt hourly employee from November of 2021 to June of 2023.

5 8. Defendant Whelan Event Staffing Services, Inc. d/b/a and a/k/a Best  
6 Crowd Management ("Defendant Whelan") is a foreign corporation registered with the  
7 Nevada Secretary of State.

8 9. Defendant Whelan was doing business in this Judicial District in Clark  
9 County, Nevada where the subject incidences occurred.

10 10. At all times relevant, Defendant Whelan was Plaintiffs' employer.

11 11. GardaWorld CashLINK LLC ("Defendant GardaWorld") is a foreign limited-  
12 liability company registered with the Nevada Secretary of State.

13 12. Defendant GardaWorld was doing business in this Judicial District in Clark  
14 County, Nevada where the subject incidences occurred.

15 13. At all times relevant, Defendant GardaWorld was Plaintiffs' employer.

16 14. At all times relevant, Defendant Whelan held the fictitious firm name BEST  
17 Crowd Management with Clark County.

18 15. The Defendants named herein are the employers of the Plaintiffs and all  
19 Class Members alleged herein. The Defendants are employers engaged in commerce  
20 under the provisions of NRS § 608.011. The identity of DOES 1-50 is unknown at the  
21 time and the Complaint will be amended at such time when the identities are known to  
22 Plaintiffs. Plaintiffs are informed and believe that each Defendant sued herein as DOE is  
23 responsible in some manner for the acts, omissions, or representations alleged herein  
24 and any reference to "Defendant" or "Defendants" herein shall mean "Defendant and  
25 each of them."

26 **FACTUAL ALLEGATIONS**

27 16. Plaintiff Harris is employed by Defendants as a non-exempt employee from  
28 June of 2022 to Present.

17. Plaintiff Marshall was employed by Defendants as a non-exempt employee from November of 2021 to June of 2023.

18. Defendants do not offer or provide insurance that is less than 10% of the total gross income of Plaintiffs and other similarly situated employees.

19. Defendants maintain an unlawful policy of not paying all daily overtime to non-exempt hourly employees who earn 1 ½ times less than the applicable minimum wage.

20. Plaintiffs have frequently worked over 8 hours in any 24-hour workday.

21. On many occasions, the number of hours she worked in a workday under Nevada law was over 8 hours in a 24-hour period of time.

22. For instance, during the workweek of August 1, 2022, Defendants scheduled Plaintiff Harris to work and Plaintiff Harris did work over 8 hours in a 24-hour period of time. See a true and correct copy of Plaintiff's paystub attached hereto as Exhibit I.

23. But despite having worked more than 8 hours in a 24-hour period of time, Defendants failed to compensate Plaintiff Harris at 1 ½ times her regular rate of pay for all the overtime hours she worked. See Exhibit I.

24. During the workweek of March 5, 2022, Defendants scheduled Plaintiff Marshall to work and Plaintiff Marshall did work over 8 hours in a 24-hour period of time. See a true and correct copy of Plaintiff Marshall's timecard attached hereto as Exhibit II.

25. But despite having worked more than 8 hours in a 24-hour period of time, Defendants failed to compensate Plaintiff Marshall at 1 ½ times his regular rate of pay for the overtime hours he worked. See Exhibit II.

#### **CLASS ACTION ALLEGATIONS**

26. Plaintiffs reallege and incorporate by this reference all the paragraphs above in this Complaint as though fully set forth herein.

27. Plaintiffs bring this action on behalf of themselves and all other similarly situated employees as a class action under Rule 23 of the Nevada Rules of Civil

1 Procedure.

2 28. The **Nevada Overtime Class** is defined as “All hourly paid non-exempt  
3 persons employed by Defendants in the state of Nevada who earned less than 1 ½ times  
4 the applicable minimum wage and who worked over eight (8) hours in a workday at any  
5 time within 3 years from November 1, 2021 until judgment.”

6 29. The **Waiting Time Wages Class** is defined as “All Nevada Overtime Class  
7 Members who are former employees of Defendants.”

8 30. Class treatment is appropriate under Rule 23’s class certification  
9 mechanism because:

10 a. The Classes are Sufficiently Numerous: Upon information and belief,  
11 Defendants employ, and have employed, in excess of 40 Nevada Overtime Class  
12 Members within the applicable time period. Because Defendants are legally obligated to  
13 keep accurate payroll records, Plaintiffs allege that Defendants’ records will establish the  
14 members of the Classes as well as their numerosity.

15 b. Plaintiffs’ Claim is Typical to Those of Fellow Class Members: Each  
16 Class Member is and was subject to the same practices, plans, or policies as Plaintiffs:  
17 whether Defendants compensated Plaintiffs and members of the Class daily overtime  
18 wages when they worked over 8 hours in a workday and whether members of the  
19 Waiting Time Wages Class are entitled to waiting time wages for the failure to pay them  
20 minimum, regular, and overtime wages owed.

21 c. Common Questions of Law and Fact Exist: Common questions of  
22 law and fact exist and predominate as to Plaintiffs and the Class Members, including,  
23 without limitation: whether Defendants failed to pay Plaintiffs and the Class Members  
24 one and one-half times their regular rate for all hours worked in excess of 8 hours a  
25 workday and whether Defendants failed to pay the Waiting Time Wages Class Members  
26 all their wages due and owing in violation of NRS §§ 608.020-050.

27 d. Plaintiffs are Adequate Representatives of the Classes: Plaintiffs will  
28 fairly and adequately represent the interests of the Class because Plaintiff Harris is a

member of the Nevada Overtime Class and Plaintiff Marshall is a member of both classes, they have issues of law and fact in common with all members of the Class, and their interests are not antagonistic to Class members. Plaintiffs and their counsel are aware of their fiduciary responsibilities to Class Members and are determined to discharge those duties diligently by vigorously seeking the maximum possible recovery for Class Members.

e. Predominance/Superior Mechanism: Class claims predominate and a class action is superior to other available means for the fair and efficient adjudication of this controversy. Each Class Member has been damaged and is entitled to recovery by reason of Defendants' illegal policy and/or practice of failing to compensate their employees in accordance with Nevada wage and hour law. The prosecution of individual remedies by each Class Member will tend to establish inconsistent standards of conduct for Defendants and result in the impairment of Class Members' rights and the disposition of their interest through actions to which they were not parties.

**FIRST CAUSE OF ACTION**  
**Failure to Pay Overtime Wages in Violation of NRS §§ 608.018 and 608.140**  
**(On Behalf of Plaintiffs and the Nevada Overtime Class)**

31. Plaintiffs reallege and incorporate by this reference all the paragraphs above in this Complaint as though fully set forth herein.

32. NRS § 608.140 provides that an employee has a private right of action for unpaid wages.

33. NRS §608.018(1) provides as follows:

An employer shall pay 1 1/2 times an employee's regular wage rate whenever an employee who receives compensation for employment at a rate less than 1 1/2 times the minimum rate prescribed pursuant to NRS 608.250 works: (a) More than 40 hours in any scheduled week of work; or (b) More than 8 hours in any workday unless by mutual agreement the employee works a scheduled 10 hours per day for 4 calendar days within any scheduled week of work.

34. NRS § 608.018(2) provides as follows:

1 An employer shall pay 1 1/2 times an employee's regular  
2 wage rate whenever an employee who receives  
3 compensation for employment at a rate not less than 1 1/2  
times the minimum rate prescribed pursuant to NRS 608.250  
works more than 40 hours in any scheduled week of work.

4 35. As described above, Defendants maintain a policy and/or practice of illegal  
5 shift jamming (i.e., refusing to pay daily overtime when Plaintiffs and members of the  
6 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiffs and  
7 Nevada Overtime Class Members have been denied overtime compensation according  
8 to Nevada law.

9 36. Wherefore, Plaintiffs demand for themselves and all Nevada Overtime  
10 Class Members that Defendants pay Plaintiffs and Nevada Overtime Class Members  
11 one and one-half times their "regular rate" of pay for all hours worked in excess of eight  
12 (8) hours in a workday during the relevant time period together with attorneys' fees,  
13 costs, and interest as provided by law.

14 **SECOND CAUSE OF ACTION**  
15 **Waiting Time Wages Pursuant to NRS §§ 608.020-.050 and 608.140**  
16 **(On Behalf of Plaintiffs and the Waiting Time Wages Class)**

17 37. Plaintiffs reallege and incorporate by this reference all the paragraphs  
above in this Complaint as though fully set forth herein.

18 38. NRS § 608.140 provides that an employee has a private right of action for  
19 unpaid wages.

20 39. NRS § 608.020 provides that "[w]henver an employer discharges an  
21 employee, the wages and compensation earned and unpaid at the time of such  
22 discharge shall become due and payable immediately."

23 40. NRS § 608.030 provides that "[w]henver an employee resigns or quits his  
24 or her employment, the wages and compensation earned and unpaid at the time of the  
25 employee's resignation or quitting must be paid no later than...[t]he day on which the  
26 employee would have regularly been paid the wages or compensation; or [s]even days  
27 after the employee resigns or quits...whichever is earlier."

28 41. NRS §608.040(1) (a-b), in relevant part, imposes additional wages on an

1 employer who fails to pay a discharged or quitting employee: "Within 3 days after the  
2 wages or compensation of a discharged employee becomes due; or on the day the  
3 wages or compensation is due to an employee who resigns or quits, the wages or  
4 compensation of the employee continues at the same rate from the day the employee  
5 resigned, quit, or was discharged until paid for 30-days, whichever is less."

6 42. NRS § 608.050 grants an "employee lien" to each discharged or laid-off  
7 employee for the purpose of collecting the wages or compensation owed to them "in the  
8 sum agreed upon in the contract of employment for each day the employer is in default,  
9 until the employee is paid in full, without rendering any service therefore; but the  
10 employee shall cease to draw such wages or salary 30 days after such default."

11 43. By failing to pay Waiting Time Wages Class Members their minimum,  
12 regular, and overtime wages in violation of state and federal law, Defendants have failed  
13 to timely remit all wages due and owing to the Waiting Time Wages Class Members.

14 44. Despite demand, Defendants willfully refused and continue to refuse to pay  
15 Waiting Time Wages Class Members all the wages that were due and owing upon the  
16 termination of their employment.

17 45. Wherefore, the Waiting Time Wages Class Members demand thirty (30)  
18 days of pay as waiting wages under NRS §§ 608.040 and 608.140, and thirty (30) days  
19 of pay as waiting wages under NRS §§ 608.050 and 608.140, together with attorneys'  
20 fees, costs, interest, and punitive damages, as provided by law.

21 **THIRD CAUSE OF ACTION**  
22 **Injunctive/Declaratory Relief**  
**(On Behalf of Plaintiffs and the Nevada Overtime Class)**

23 46. Plaintiffs reallege and incorporate by this reference all the paragraphs  
24 above in this Complaint as though fully set forth herein.

25 47. As Defendants have failed to compensate Plaintiffs and members of the  
26 Overtime Class at the correct overtime wage rate for all the overtime hours that they  
27 worked pursuant to NRS § 608.018, Defendants have wrongfully withheld wages  
28 properly-owed to the Plaintiffs and the Overtime Class Members.

48. Plaintiffs and the Nevada Overtime Class will suffer irreparable injury if Defendants are not enjoined from the future wrongful retention of wages owed.

49. As a result of the aforementioned unlawful payment practices, Plaintiffs submit that there has been a likelihood of success on the merits that Plaintiffs and the Class Members have been damaged, that there is irreparable harm, and Plaintiffs request that this Honorable Court enter an Order that restrains Defendants from attempting to enforce the alleged unlawful payment practices.

50. Plaintiffs request that this Honorable Court enter a declaration of rights/obligations in regards to all such unlawful payment practices in this matter.

51. Further, disputes and controversies have arisen between the parties relative to the lawfulness of the payment practices, and Plaintiffs are entitled to have an order entered pursuant to Chapter 30 of the Nevada Revised Statutes construing the payment practices and adjudging and declaring Plaintiffs and the Class Members' rights and remedies thereunder including such an Order stating that such payment practices are unlawful.

52. Plaintiffs have been required to retain the services of an attorney and are entitled to a reasonable award of attorneys' fees and costs.

#### **PRAYER FOR RELIEF**

Wherefore Plaintiffs, by themselves and on behalf of all Class Members, pray for relief as follows relating to their class action allegations:

1. For an order certifying this action as a class action on behalf the proposed Classes and providing notice to all Class Members so they may participate in this lawsuit;
2. For an order appointing Plaintiffs as the Representatives of the Classes and their counsel as Class Counsel;
3. For damages according to proof for overtime compensation under NRS §§ 608.018 and 608.140 for all hours worked over 8 hours per day;
4. For waiting time wages pursuant to NRS §§ 608.040-.050 and 608.140;

5. For a lien on the property where Plaintiffs and all Nevada Class Members labored pursuant to NRS § 608.050;
6. For interest as provided by law at the maximum legal rate;
7. For injunctive relief;
8. For declaratory relief;
9. For punitive damages;
10. For reasonable attorneys' fees authorized by statute;
11. For costs of suit incurred herein;
12. For pre-judgment and post-judgment interest, as provided by law; and,
13. For such other and further relief as the Court may deem just and proper.

DATED this 15th day of August 2023

Respectfully submitted,

GABROY | MESSER

By: /s/ Christian Gabroy

Christian Gabroy  
Nev. Bar No. 8805  
Kaine Messer  
Nev. Bar No. 14240  
170 South Green Valley Parkway  
Suite 280  
Henderson, Nevada 89012  
Tel: (702) 259-7777  
Fax: (702) 259-7704

Mark R. Thierman  
Nev. Bar No. 8285  
Joshua D. Buck  
Nev. Bar No. 12187  
Leah L. Jones  
Nev. Bar No. 13161  
Joshua R. Hendrickson  
Nev. Bar No. 12225  
THIERMAN BUCK LLP  
7287 Lakeside Drive  
Reno, Nevada 89511  
Tel: (775) 284-1500  
Fax: (775) 703-5027

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I, Christian Gabroy, on this 15th day of August 2023, electronically served to all registered users on this case in the Eighth Judicial District Court Electronic Filing System, a true and correct copy of this **FIRST AMENDED CLASS ACTION COMPLAINT** addressed to:

*All parties registered through the Court's Odyssey system.*

GABROY | MESSER

By: /s/ Christian Gabroy  
Christian Gabroy  
Nev. Bar No. 8805  
Kaine Messer  
Nev. Bar No. 14240  
The District at Green Valley Ranch  
170 South Green Valley Parkway  
Suite 280  
Henderson, Nevada 89012  
Tel: (702) 259-7777  
Fax: (702) 259-7704  
christian@gabroy.com  
kmesser@gabroy.com  
*Attorneys for Plaintiffs*

# EXHIBIT I

| Date         | Location               | Pay Rate | OT Rate  | In      | Out      | Req          | OT          | XMPT |
|--------------|------------------------|----------|----------|---------|----------|--------------|-------------|------|
| 08/01/22     | MGM Grand Garden Arena | \$14.00  |          | 5:00 pm | 9:45 pm  | 4.75         |             |      |
| 08/02/22     | MGM Grand Garden Arena | \$14.00  |          | 7:00 am | 1:15 pm  | 6.25         |             |      |
| 08/02/22     | MGM Grand Garden Arena | \$14.00  | \$21.000 | 4:00 pm | 9:45 pm  | 1.75         | 4.00        |      |
| 08/03/22     | MGM Grand Garden Arena | \$14.00  |          | 7:00 am | 12:30 pm | 5.50         |             |      |
| 08/03/22     | MGM Grand Garden Arena | \$14.00  |          | 4:00 pm | 8:30 pm  | 4.50         |             |      |
| 08/04/22     | MGM Grand Garden Arena | \$14.00  |          | 7:00 am | 1:15 pm  | 6.25         |             |      |
| 08/04/22     | MGM Grand Garden Arena | \$14.00  | \$21.000 | 3:00 pm | 7:45 pm  | 1.00         | 3.75        |      |
| <b>Total</b> |                        |          |          |         |          | <b>30.00</b> | <b>7.75</b> |      |

**Earnings**

| Type         | Taxable | Non Tax | YTD      |
|--------------|---------|---------|----------|
| Hours/Sal Pd | 582.75  |         | 2,411.50 |
| Total        | 582.75  | 0.00    | 2,411.50 |

**Taxes**

| Type            | Taxes | YTD    |
|-----------------|-------|--------|
| Federal W/H     | 36.09 | 95.25  |
| Social Security | 36.13 | 149.52 |
| Medicare        | 8.45  | 34.97  |
| UT W/H          |       | 6.08   |
| Total           | 80.67 | 285.82 |

Benefit Cut Off Date 8/10/2022

| Benefit Description | Balance | Pay Type |
|---------------------|---------|----------|
| NV Sick Pay         | 0.67    | Hourly   |

|                  | Current  | YTD        |
|------------------|----------|------------|
| Fica Taxable:    | \$582.75 | \$2,411.50 |
| Federal Taxable: | \$582.75 | \$2,411.50 |

| Check Date | Pay Period                    | Gross Wages             | Taxes              | Other Deducts    | Net Pay            |
|------------|-------------------------------|-------------------------|--------------------|------------------|--------------------|
| 08/12/2022 | 07/30/22 thru 08/05/22        | \$582.75                | \$80.67            | \$0.00           | \$502.08           |
| 289584     | Employee Name<br>Carol Harris | Social Sec #<br>***-**- | Fed Exempts<br>\$0 | Status<br>Single | Check #<br>3020621 |

**GARDAWORLD****PAYROLL****Check Number****3020621**

Date

**08/12/2022**

| Deposited to the Account of: | Account Number | Amount |
|------------------------------|----------------|--------|
|                              | XXX            | 502.08 |

Carol Harris

**NON NEGOTIABLE**

# EXHIBIT II

Whelan Event Staffing Services Inc

1699 S Hanley Rd

Saint Louis

MO 63144

(314)644-3227

66

WESS - Las Vegas

| Date         | Location               | Pay Rate | OT Rate | In      | Out      | Reg          | OT | XMPT |
|--------------|------------------------|----------|---------|---------|----------|--------------|----|------|
| 03/05/22     | MGM Grand Garden Arena | \$14.00  |         | 7:00 pm | 12:45 am | 5.75         |    |      |
| 03/08/22     | MGM Grand Garden Arena | \$14.00  |         | 1:30 pm | 5:30 pm  | 4.00         |    |      |
| 03/08/22     | MGM Grand Garden Arena | \$14.00  |         | 8:30 pm | 12:30 am | 4.00         |    |      |
| 03/09/22     | MGM Grand Garden Arena | \$14.00  |         | 1:30 pm | 5:30 pm  | 4.00         |    |      |
| 03/10/22     | MGM Grand Garden Arena | \$14.00  |         | 5:00 am | 10:30 am | 5.50         |    |      |
| 03/11/22     | MGM Grand Garden Arena | \$14.00  |         | 6:00 pm | 12:00 am | 6.00         |    |      |
| <b>Total</b> |                        |          |         |         |          | <b>29.25</b> |    |      |

**Earnings**

| Type         | Taxable | Non Tax | YTD      |
|--------------|---------|---------|----------|
| Hours/Sal Pd | 409.50  |         | 1,169.00 |
| Total        | 409.50  | 0.00    | 1,169.00 |

**Taxes**

| Type            | Taxes | YTD    |
|-----------------|-------|--------|
| Federal W/H     | 16.05 | 37.23  |
| Social Security | 25.39 | 72.48  |
| Medicare        | 5.94  | 16.95  |
| Total           | 47.38 | 126.66 |

Benefit Cut Off Date 3/18/2022

| Benefit Description | Balance | Pay Type |
|---------------------|---------|----------|
| NV Sick Pay         | 0.00    | Hourly   |

|                  | Current  | YTD        |
|------------------|----------|------------|
| Fica Taxable:    | \$409.50 | \$1,169.00 |
| Federal Taxable: | \$409.50 | \$1,169.00 |

| Check Date | Pay Period             | Gross Wages | Taxes   | Other Deducts | Net Pay  |
|------------|------------------------|-------------|---------|---------------|----------|
| 03/18/2022 | 03/05/22 thru 03/11/22 | \$409.50    | \$47.38 | \$0.00        | \$362.12 |

  

|        | Employee Name  | Social Sec # | Fed Exempts | Status | Check # |
|--------|----------------|--------------|-------------|--------|---------|
| 269151 | JAMES MARSHALL | ***-**-      | \$0         | Single | 2688347 |

**GARDNORWORLD****PAYROLL**

Check Number

2688347

Date

03/18/2022

| Deposited to the Account of: | Account Number | Amount |
|------------------------------|----------------|--------|
|                              | XXXXXX         | 362.12 |

JAMES MARSHALL

**NON NEGOTIABLE**