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15 *Attorneys for Plaintiffs*

17 **DISTRICT COURT**
18 **CLARK COUNTY, NEVADA**

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

21 Plaintiffs,

22 vs.

23 WHELAN EVENT STAFFING
24 SERVICES, INC. d/b/a and a/k/a BEST
CROWD MANAGEMENT;
25 GARDAWORLD CASHLINK LLC;
UNITED AMERICAN SECURITY, LLC
26 d/b/a and a/k/a GardaWorld Security
Services also d/b/a and a/k/a WESS
Security also d/b/a and a/k/a BEST
27 Crowd Management; GARDAWORLD
SECURITY SERVICES MANAGEMENT
28 COMPANY, INC.; DOES 1 through 50;

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

SECOND 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

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1 inclusive,

2 Defendants.

JURY TRIAL DEMANDED

3
4 **SECOND AMENDED CLASS ACTION COMPLAINT**

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

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

11 **JURISDICTION AND VENUE**

12 1. This Court has original jurisdiction over the state law claims alleged herein
13 because the amount in controversy exceeds \$15,000 and a party seeking to recover
14 unpaid wages has a private right of action pursuant to the Nevada Constitution, Article
15 15 Section 16, and Nevada Revised Statute (“NRS”) sections 608.050 and 608.140. See
16 *Neville v. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev.
17 2017); *HG Staffing, LLC, et al. v Second Judicial District Court*, Nevada Supreme Court
18 Case No. 79118 (May 7, 2020).

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

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

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

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

27 **PARTIES**

28 6. Plaintiff Carol Harris (hereinafter “Plaintiff Harris”) was at all relevant

1 times a resident of the State of Nevada and was employed by Defendants as a non-
2 exempt hourly employee from June of 2022 to Present.

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

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

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

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

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

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

16 13. At all times relevant, Defendant GardaWorld was Plaintiffs’ employer.

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

19 15. United American Security, LLC (“Defendant United”) is a foreign limited-
20 liability company registered with the Nevada Secretary of State.

21 16. Defendant United was doing business in this Judicial District in Clark,
22 County, Nevada where the subject incidences occurred.

23 17. At all times relevant, Defendant United was Plaintiffs’ employer.

24 18. At all times relevant, Defendant United held the fictitious firm name
25 GardaWorld Security Services.

26 19. At all times relevant, Defendant United also held the fictitious firm name
27 WESS Security.

28

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

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

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

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

14 **CLASS ACTION ALLEGATIONS**

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

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

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

24 38. The **Waiting Time Wages Class** is defined as "All Nevada Overtime Class
25 Members who are former employees of Defendants."

26 39. Class treatment is appropriate under Rule 23's class certification
27 mechanism because:

28 a. The Classes are Sufficiently Numerous: Upon information and belief,

1 Defendants employ, and have employed, in excess of 40 Nevada Overtime Class
2 Members within the applicable time period. Because Defendants are legally obligated to
3 keep accurate payroll records, Plaintiffs allege that Defendants' records will establish the
4 members of the Classes as well as their numerosity.

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

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

17 d. Plaintiffs are Adequate Representatives of the Classes: Plaintiffs will
18 fairly and adequately represent the interests of the Class because Plaintiff Harris is a
19 member of the Nevada Overtime Class and Plaintiff Marshall is a member of both
20 classes, they have issues of law and fact in common with all members of the Class, and
21 their interests are not antagonistic to Class members. Plaintiffs and their counsel are
22 aware of their fiduciary responsibilities to Class Members and are determined to
23 discharge those duties diligently by vigorously seeking the maximum possible recovery
24 for Class Members.

25 e. Predominance/Superior Mechanism: Class claims predominate and
26 a class action is superior to other available means for the fair and efficient adjudication of
27 this controversy. Each Class Member has been damaged and is entitled to recovery by
28 reason of Defendants' illegal policy and/or practice of failing to compensate their

1 employees in accordance with Nevada wage and hour law. The prosecution of individual
2 remedies by each Class Member will tend to establish inconsistent standards of conduct
3 for Defendants and result in the impairment of Class Members' rights and the disposition
4 of their interest through actions to which they were not parties.

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

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

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

12 42. NRS §608.018(1) provides as follows:

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

22 43. NRS § 608.018(2) provides as follows:

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

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

45. Wherefore, Plaintiffs demand for themselves and all Nevada Overtime
Class Members that Defendants pay Plaintiffs and Nevada Overtime Class Members
one and one-half times their "regular rate" of pay for all hours worked in excess of eight

1 (8) hours in a workday during the relevant time period together with attorneys' fees,
2 costs, and interest as provided by law.

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

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

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

10 48. NRS § 608.020 provides that “[w]henver an employer discharges an
11 employee, the wages and compensation earned and unpaid at the time of such
12 discharge shall become due and payable immediately.”

13 49. NRS § 608.030 provides that “[w]henver an employee resigns or quits his
14 or her employment, the wages and compensation earned and unpaid at the time of the
15 employee’s resignation or quitting must be paid no later than...[t]he day on which the
16 employee would have regularly been paid the wages or compensation; or [s]even days
17 after the employee resigns or quits...whichever is earlier.”

18 50. NRS §608.040(1) (a-b), in relevant part, imposes additional wages on an
19 employer who fails to pay a discharged or quitting employee: “Within 3 days after the
20 wages or compensation of a discharged employee becomes due; or on the day the
21 wages or compensation is due to an employee who resigns or quits, the wages or
22 compensation of the employee continues at the same rate from the day the employee
23 resigned, quit, or was discharged until paid for 30-days, whichever is less.”

24 51. NRS § 608.050 grants an “employee lien” to each discharged or laid-off
25 employee for the purpose of collecting the wages or compensation owed to them “in the
26 sum agreed upon in the contract of employment for each day the employer is in default,
27 until the employee is paid in full, without rendering any service therefore; but the
28 employee shall cease to draw such wages or salary 30 days after such default.”

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13. For such other and further relief as the Court may deem just and proper.
DATED this 6th day of June 2024

Respectfully submitted,

GABROY | MESSER

By: /s/ Christian Gabroy
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Attorneys for Plaintiffs

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CERTIFICATE OF SERVICE

I, Christian Gabroy, on this 6th day of June 2024, 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 **SECOND AMENDED CLASS ACTION COMPLAINT** addressed to:

All parties registered through the Court's Odyssey system.

GABROY | MESSER

By: /s/ Christian Gabroy
Christian Gabroy
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Kaine Messer
Nev. Bar No. 14240
The District at Green Valley Ranch
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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	
Total						30.00	7.75	

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 Carol Harris	Social Sec # ***-**-████	Fed Exempts \$0	Status Single	Check # 3020621



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

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		
Total						29.25		

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

GARDAWORLD

PAYROLL

Check Number

2688347

Date

03/18/2022

Deposited to the Account of:	Account Number	Amount
	XXXXXX	362.12

JAMES MARSHALL



NON NEGOTIABLE