

EXHIBIT 1

All process, pleadings, and
orders received by Defendant

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orders received by Defendant

1 Code: 4085

2 **IN THE SECOND JUDICIAL DISTRICT COURT OF**
 3 **THE STATE OF NEVADA IN AND FOR THE**
COUNTY OF WASHOE

4 GLENN DEWEESE and JOSHUA HOLTOM,
 5 on behalf of themselves and all others similarly
 6 situated,

Plaintiffs,

7 vs.

8 ITS NATIONAL, LLC., and DOES 1 through
 9 50, inclusive,

Defendant(s).

Case No.: CV18-01156

Dept. No.: 8

10 **SUMMONS**

11 **TO THE DEFENDANT: YOU HAVE BEEN SUED. THE COURT MAY DECIDE AGAINST**
 12 **YOU WITHOUT YOUR BEING HEARD UNLESS YOU RESPOND IN WRITING WITHIN**
20 CALENDAR DAYS. READ THE INFORMATION BELOW VERY CAREFULLY.

13 A civil complaint or petition has been filed by the plaintiff(s) against you for the relief as set
 14 forth in that document (see complaint or petition). When service is by publication, add a brief
 statement of the object of the action. See Nevada Rules of Civil Procedure, Rule 4(b).

15 The object of this action is: _____

- 16 1. If you intend to defend this lawsuit, you must do the following within 20 calendar days after
 service of this summons, exclusive of the day of service:
- 17 a. File with the Clerk of the Court, whose address is shown below, a **formal written**
 18 **answer** to the complaint or petition, along with the appropriate filing fees, in
 accordance with the rules of the Court, and;
 - 19 b. Serve a copy of your answer upon the attorney or plaintiff(s) whose name and
 address is shown below.
- 20 2. Unless you respond, a default will be entered upon application of the plaintiff(s) and this
 Court may enter a judgment against you for the relief demanded in the complaint or petition.

21 Dated this 25 day of JUNE, 20 18

22 Issued on behalf of Plaintiff(s):
 23 Glenn Deweese and Joshua Holtom

JACQUELINE BRYANT
 CLERK OF THE COURT

By: [Signature]
 Deputy Clerk

24 Names: Mark R. Thierman/Thierman Buck LLP
 25 Address: 7287 Lakeside Drive,
 Reno, NV 89511
 26 Phone Number: (775) 281-1500

Second Judicial District Court
 75 Court Street
 Reno, NV 89501

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Clerk of the Court
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**IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE**

GLENN DEWEESE and JOSHUA
HOLTON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

ITS NATIONAL, LLC, and DOES 1 through
50, inclusive,

Defendant(s).

Case No.:

Dept. No.:

**COLLECTIVE AND CLASS ACTION
COMPLAINT**

- 1) Failure to Pay Overtime in Violation of 29 U.S.C. § 207;
- 2) Failure to Pay Overtime in Violation of NRS 608.140 and 608.018; and
- 3) Failure to Timely Pay All Wages Due and Owing in Violation of NRS 608.140 and 608.020-050.

**ARBITRATION EXEMPTION
CLAIMED: CLASS ACTION**

**LIEN REQUESTED PURSUANT TO NRS
608.050**

JURY TRIAL DEMANDED

COMES NOW Plaintiffs GLENN DEWEESE and JOSHUA HOLTON, on behalf of themselves and all others similarly situated and allege 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

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1 Complaint either has evidentiary support or is likely to have evidentiary support after a
2 reasonable opportunity for further investigation and discovery.

3 JURISDICTION AND VENUE

4 1. This Court has original jurisdiction over the state law claims alleged herein
5 because the amount in controversy exceeds \$15,000 and because Plaintiffs have a private right
6 of action for the Nevada statutory claims alleged herein. *See Neville v. Terrible Herbst, Inc.*,
7 406 P.3d 499, 133 Nev. Adv. Op. 95 (Dec. 7, 2017).

8 2. This Court also has jurisdiction over the federal claims alleged herein pursuant to
9 Fair Labor Standards Act ("FLSA"), because 29 U.S.C. § 216(b) states (emphasis supplied):
10 "An action to recover the liability prescribed in either of the preceding sentences may be
11 maintained against any employer (including a public agency) in any Federal *or State court of*
12 *competent jurisdiction* by any one or more employees for and in behalf of himself or
13 themselves and others employees similarly situated." Plaintiffs have, or will shortly, file with
14 this court consents to join this action.

15 3. Venue is proper in this Court because one or more of the Defendants named
16 herein maintains a place of business or otherwise is found in the judicial district and many of
17 the acts complained of herein occurred in Washoe County, Nevada.

18 PARTIES

19 4. Plaintiff GLENN DEWEESE (hereinafter individually referred to as "Plaintiff
20 Deweese" or "DEWEESE") is a natural person who is and was a resident of the State of Nevada
21 and was employed by Defendant during the relevant time period alleged herein.

22 5. Plaintiff JOSHUA HOLTON (hereinafter individually referred to as "Plaintiff
23 HOLTON" or "HOLTON") is a natural person who is and was a resident of the State of Nevada
24 and was employed by Defendant during the relevant time period alleged herein.

25 6. Defendant ITS NATIONAL, LLC (hereinafter "Defendant" or "ITS") is a
26 foreign limited-liability company incorporated in the state of Delaware and is an employer
27 engaged in commerce under the provisions of the Fair Labor Standards Act ("FLSA"), 29
28 U.S.C. § 201 *et. seq.* and is an employer under NRS 608.011.

FACTUAL ALLEGATIONS

A.

8. Plaintiff DEWEESE was employed by ITS as an Account Executive from on or about April 6, 2015 until on or about May 17, 2018. An Account Executive is an exempt inside sales position. Plaintiff DEWEESE was compensated on a salary basis plus commission. In 2016 and 2017, Plaintiff DEWEESE earned an average of \$85,648.84 in total compensation from ITS. Plaintiff DEWEESE routinely worked approximately 65 hours per workweek during his employment with ITS. For example, in his last week of work with ITS, Plaintiff DEWEESE worked more than 40 hours but was not paid overtime premium for the hours worked over 40. Plaintiff DEWEESE is thus owed approximately 25 hours of overtime that he worked per workweek that he was employed by Defendant. Defendant did not track or otherwise record the actual number of hours that Plaintiff DEWEESE worked as an Account Executive. Plaintiff DEWEESE worked approximately 148 workweeks (excluding two weeks each year for time off) during the relevant time period alleged herein and is thus owed an estimated \$228,549.00 in unpaid overtime wages, not including liquidated damages, penalties, interest, attorneys' fees or costs, all of which are recoverable under law.

9. Plaintiff HOLTON was employed by Defendant from on or about August 22, 2016 until on or about May 17, 2018. Plaintiff HOLTON held the job position of Carrier Specialist during his employment with Defendant. Carrier Specialist is an exempt position with ITS. Plaintiff HOLTON was compensated on a salary basis plus commission. In 2017, Plaintiff HOLTON earned \$87,027.95 in total compensation from ITS. Plaintiff HOLTON regularly worked approximately 65 hours per workweek during his employment with ITS. For example,

1 in his last week of work with ITS, Plaintiff HOLTON worked more than 40 hours but was not
 2 paid overtime premium for the hours worked over 40. Plaintiff HOLTON did not receive
 3 overtime compensation when he worked over 40 hours in a workweek. Defendant did not track
 4 or otherwise record the actual number of hours that Plaintiff HOLTON worked as a Carrier
 5 Specialist. Plaintiff HOLTON worked approximately 86 workweeks (excluding two weeks per
 6 year for time off) during the relevant time period alleged herein and is thus owed an estimated
 7 \$134,934 in unpaid overtime wages, not including liquidated damages, penalties, interest,
 8 attorneys' fees or costs, all of which are recoverable under law.

9 **B.**

10 **ITS Freight Brokerage**

11 10. According to its own website, "ITS Logistics is a premier Third-Party Logistics
 12 company (3PL) that provides personalized supply chain solutions with an asset-based dedicated
 13 fleet, warehousing and distribution services, and nationwide multi-modal freight brokerage.
 14 Founded in 1999, ITS Logistics operates daily throughout the U.S. and proudly offers
 15 unparalleled service backed by its strong family values and work ethic."

16 11. ITS is, in part, a freight brokerage firm and advertises itself as a "top 50 freight
 17 brokerage firm."

18 12. ITS's brokerage department advises its customers on available shipping solutions
 19 and then arranges shipments with carriers to meet customer needs. This process involves a two-
 20 step process. **First**, ITS obtains the customer's agreement to ship a product using ITS's services.
 21 **Second**, ITS finds carriers who will agree to ship the products according to the needs of its
 22 customer.

23 13. In other words, ITS's freight brokers match businesses in need of shipping goods
 24 with carriers to ship the goods. For instance, ITS facilitates the shipment of these goods for
 25 business: (i) **Consumer goods** between manufacturers, warehouses, distributors and retailers;
 26 (ii) **Industrial flows** of inbound raw materials and parts, and outbound finished goods; (iii)
 27 **Temperature-sensitive goods**, such as climate-controlled movements of perishable goods,
 28

1 medical equipment, etc.; and (iv) **High value, high security goods** transported with capabilities
 2 for special handling government freight, commodities and second destination shipments.

3 14. ITS's business model is simple—it profits when its customers pay ITS more than
 4 ITS pays its carriers. The difference between what the customer pays and what ITS pays the
 5 carrier is called the “gross margin”.

6 15. ITS employs persons who work in similarly situated jobs throughout the state of
 7 Nevada. The Plaintiffs named herein all worked out of ITS's brokerage office in Reno, Nevada
 8 and all other similarly situated individuals performed the same job duties as Plaintiffs and were
 9 similarly classified as exempt employees.

10 C.

11 Inside Sales Positions

12 (Account Executives, Account Managers, and other similar job positions)

13 16. Plaintiff DEWEESE worked as an inside salesperson at ITS. Plaintiff and all
 14 other similarly situated employees performed the **first** step in the brokerage process. Their
 15 primary duty was to contact businesses (i.e., shippers) to match their shipping needs by finding
 16 a carrier (i.e., transportation) to deliver the businesses goods to the desired destination. Plaintiff
 17 would contact businesses to assess their shipping needs and quote them a price to have those
 18 needs fulfilled. Upon coming to an agreement with the business, Plaintiffs would then hand off
 19 the client's shipment information to the Carrier Specialist to find a carrier to deliver the goods.

20 D.

21 Carrier Specialist

22 (and other similar job positions)

23 17. Plaintiff HOLTON worked as Carrier Specialist. Plaintiff HOLTON and all
 24 other similarly situated employees performed the **second** step in the brokerage process. Carrier
 25 Specialists would assist the inside sales position by matching the business with the carrier.
 26 Plaintiff would post the desired shipment details on a third party posting site and facilitate the
 27 delivery of the shipment with the carrier. Carrier Specialists did not have any authority to
 28 negotiate the cost of the transportation. The cost was already negotiated by the inside sales

1 employees. The Carrier Specialists could only find carriers that were willing to perform under
 2 the negotiated sale price between the inside sales employee and the business customer. Carrier
 3 Specialists could only deviate from prearranged costs with approval from a supervisor.

4 E.

5 These Job Positions Are Non-Exempt

6 18. The Inside Sales Positions (Account Executives, Account Managers, and other
 7 similar job positions) are all non-exempt inside sales.

8 A. These positions do not qualify for the inside sales exemptions under NRS
 9 608.018(3)(c), as guided by 29 U.S.C. § 207(i),¹ because freight brokers are not
 10 involved in “retail” sales. This is a threshold requirement to be classified as an exempt
 11 employee under (7)(i). See 29 C.F.R. § 779.317 (The retail concept does not apply to
 12 “Brokers, custom house; freight brokers; insurance brokers, stock or commodity
 13 brokers”) (emphasis added).

14 B. These positions likewise do not qualify for the administrative exemption
 15 under NRS 608.018(3)(d), as guided by 29 U.S.C. § 213(a)(1),² for two independent
 16 reasons. First, the primary duty of these employees is not related to the performance of
 17 office or non-manual work directly related to the management or general business
 18 operations of the employer or the employer's customers. The primary duty of these
 19 employees is to produce sales that are the core of ITS's business. Indeed, ITS entire
 20 brokerage business is based upon being the “middle man” between business customers
 21 and carriers. This type of sales activity relates directly to producing services that are the
 22 primary output of Defendant's business—connecting customers with carriers—and
 23 therefore is not administrative. Second, employees in these positions do not exercise
 24 discretion and independent judgement with respect to matters of significance. ITS uses

25
 26 ¹ See e.g., *Terry v. Sapphire Gentlemen's Club*, 130 Nev. Adv. Op. 87, 336 P.3d 951
 (2014) (looking to the FLSA when the Nevada Revised Statutes are substantially similar)

27
 28 ² NAC 608.125 provides that (“The Commissioner will refer to 29 C.F.R. §§ 541.1 and
 541.2 to determine if an employee is employed in a bona fide executive or administrative
 capacity for the purposes of paragraph (d) of subsection 3 of NRS 608.018.”)

1 complex software systems (such as Rate View and Aljex) that generate customer quotes
 2 based upon customer shipment specifications. Employees have little to no discretion to
 3 independently negotiate sales outside of the amount quoted by ITS's software
 4 program.

5 19. Carrier Specialists (and other similar positions) are non-exempt positions
 6 because they are the labor behind ITS's brokerage business—they facilitate the shipment of
 7 goods by matching the customer with the carrier and making sure the transportation of goods is
 8 shipped according to the customer's specifications. They likewise do not exercise any
 9 discretion or independent judgment—they post the customer's shipment on a carrier posting site
 10 and arrange for the carrier to pick up and deliver the customer's goods according to the
 11 customer's requirements.

12 **COLLECTIVE AND CLASS ACTION ALLEGATIONS**

13 20. Plaintiffs reallege and incorporate by reference all the paragraphs above in the
 14 Complaint as though fully set forth herein.

15 21. Plaintiffs bring the action on behalf of themselves and all other similarly situated
 16 and typical employees as both a collective action under the FLSA and a class action under
 17 Nevada law.

18 22. The **FLSA CLASSES** are defined as follows:

19 A. **FLSA INSIDE SALES CLASS:** All Inside Sales Positions (Account
 20 Executives, Account Managers, and other similar job positions) employed by Defendant
 21 in the United States at any time within three years immediately preceding the filing of
 22 this action until the date of judgement in this action who were classified as exempt
 23 employees and who worked over 40 hours in a workweek.

24 B. **FLSA CARRIER SPECIALIST CLASS:** All Carrier Specialists (and
 25 other similar job positions) who were employed by Defendant in the United States at any
 26 time within three years immediately preceding the filing of this action until the date of
 27 judgement in this action who were classified as exempt employees and who worked over
 28 40 hours in a workweek.

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1 23. With regard to the conditional certification mechanism under the FLSA,
2 Plaintiffs are similarly situated to those that they seek to represent for the following reasons,
3 among others:

4 A. Plaintiffs seek preliminary and final certification and requests an
5 order from this court that notice of this action be sent to all prospective FLSA
6 CLASS Members so that they may become party plaintiffs in this litigation
7 pursuant to 29 U.S.C. §216(b) if they so desire.

8 B. Defendant employed Plaintiffs as exempt employees, ineligible for
9 overtime when they worked over 40 hours in a workweek. Plaintiffs and all
10 putative class members worked over 40 hours in at least one workweek during the
11 relevant time period alleged herein and were not compensated at 1 ½ times their
12 regular rate of pay.

13 C. Plaintiffs' situation is similar to those they seek to represent
14 because Defendant failed to pay Plaintiffs and all other FLSA CLASS Members
15 overtime pay at 1 ½ times their regular rate of pay when they worked over 40
16 hours in a workweek.

17 D. Common questions exist as to whether Defendant misclassified
18 Plaintiffs and all of FLSA CLASS members as exempt from overtime
19 compensation.

20 E. Upon information and belief, Defendant employs, and has
21 employed, in excess of 100 FLSA CLASS Members within the applicable statute
22 of limitations.

23 F. Plaintiffs have signed Consent to Sue forms, which are attached to
24 the Complaint as Exhibit 1. Consent to sue forms are not required for state law
25 claims under Rule 23 of the Nevada Rules of Civil Procedure.

26 24. Plaintiffs bring the action on behalf of themselves and all other similarly situated
27 and typical employees as class action under Nevada law.

28 25. The **NEVADA CLASSES** are defined as follows:

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1 A. **NEVADA INSIDE SALES CLASS:** All Inside Sales Positions
 2 (Account Executives, Account Managers, and other similar job positions) employed by
 3 Defendant in the State of Nevada at any time within three years immediately preceding
 4 the filing of this action until the date of judgement in this action who were classified as
 5 exempt employees and who worked over 8 hours in a workday and/or over 40 hours in a
 6 workweek.

7 B. **NEVADA CARRIER SPECIALIST CLASS:** All Carrier Specialists
 8 (and other similar job positions) who were employed by Defendant in the state of
 9 Nevada at any time within three years immediately preceding the filing of this action
 10 until the date of judgement in this action who were classified as exempt employees and
 11 who worked over 8 hours in a workday and/or over 40 hours in a workweek.

12 C. **WAGES DUE AND OWING CLASS:** All members of the FLSA and
 13 NEVADA CLASSES who are former employees.

14 26. Rule 23 treatment is appropriate for the Nevada Class and each subclass
 15 specified herein for the following reasons:

16 A. **The NEVADA CLASSES, and each potential SUB-CLASS, are**
 17 **Sufficiently Numerous.** Upon information and belief, Defendant employs, and
 18 has employed, in excess of 100 NEVADA CLASS Members within the applicable
 19 statute of limitations. Because Defendant is legally obligated to keep accurate
 20 payroll records, Plaintiffs allege that Defendant's records will establish the
 21 identity and ascertainability of members of the NEVADA Class as well as their
 22 numerosity.

23 B. **Plaintiff's Claims are Typical to Those of Fellow Class**
 24 **Members.** Each NEVADA CLASS Member is and was subject to the same
 25 practices, plans, and/or policies as Plaintiffs, as follows: 1) Defendant classified
 26 all Plaintiffs as exempt employees under Nevada wage-hour law; and 2) as a
 27 result of Defendant's misclassification, Defendant failed to pay Plaintiffs and
 28

1 WAGES DUE AND OWING CLASS Members all overtime wages due and
2 owing at the time of their termination or separation from employment.

3 C. **Common Questions of Law and Fact Exist.** Common questions
4 of law and fact exist and predominate as to Plaintiffs and the NEVADA CLASS,
5 including all sub-classes, including, without limitation the following: 1) Whether
6 Defendant can meet its burden that Plaintiffs were properly classified as exempt
7 employees under Nevada law and 2) Whether Defendant delayed final payment to
8 Plaintiffs and WAGES DUE AND OWING CLASS Members in violation of
9 NRS 608.020-050.

10 D. **Plaintiffs Are Adequate Representative of the Classes.** Plaintiffs
11 will fairly and adequately represent the interests of the NEVADA CLASS and
12 because Plaintiffs are members of the NEVADA CLASSES, they have issues of
13 law and fact in common with all members of the NEVADA CLASSES, and they
14 do not have any interests antagonistic to the members of the NEVADA
15 CLASSES. Plaintiffs and their counsel are aware of their fiduciary responsibilities
16 to Members of the NEVADA CLASSES and are determined to discharge those
17 duties diligently and vigorously by seeking the maximum possible recovery for
18 the Class.

19 E. **Class Claims Predominate and A Class Action Is A Superior**
20 **Mechanism to Hundreds Of Individual Actions.** Class claims as to whether
21 Plaintiffs and all other putative Class members were correctly classified as being
22 exempt from overtime predominate over individualized issues. A class action is
23 also superior to other available means for the fair and efficient adjudication of
24 their controversy. Each Member of the NEVADA CLASSES has been damaged
25 and is entitled to recovery by reason of Defendant's illegal policy and/or practice
26 of classifying Plaintiffs and members of the NEVADA CLASSES as exempt
27 employees. The prosecution of individual remedies by each member of the
28 NEVADA CLASSES will be cost prohibitive and may lead to inconsistent

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standards of conduct for Defendant and result in the impairment of the 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 the FLSA, 29 U.S.C. § 207

(On Behalf of Plaintiffs and all members of the FLSA CLASSES)

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

31. 29 U.S.C. Section 207(a)(1) provides as follows: "Except as otherwise provided in the section, no employer shall employ any of his employees who in any workweek is engaged in commerce or in the production of goods for commerce, or is employed in an enterprise engaged in commerce or in the production of goods for commerce, for a workweek longer than forty hours unless such employee receives compensation for his employment in excess of the hours above specified at a rate not less than one and one-half times the regular rate at which he is employed."

32. Defendant misclassified Plaintiffs and all members of the FLSA CLASSES as overtime exempt. By doing so, Defendant has failed to pay Plaintiffs and all members of the FLSA CLASSES overtime compensation of 1 ½ times their respective regular rate of pay when they worked over 40 hours in a workweek in violation of 29 U.S.C. Section 207(a)(1).

33. Defendants decision to classify Plaintiffs and all members of the FLSA CLASSES as exempt from overtime compensation was a willful scheme to avoid compliance with the FLSA's requirements. It is readily apparent from the Regulations that freight brokers cannot qualify for the 7(i) exemption because Defendant's business lacks a retail concept. It is likewise readily apparent that Plaintiffs and members of the FLSA CLASSES would not satisfy the administrative exemption. Accordingly, Defendant's uniform company-wide decision to classify these employees as exempt represented a willful decision to avoid its wage responsibilities under the FLSA.

34. Wherefore, Plaintiffs demand for themselves and for all others similarly situated, that Defendant pay Plaintiffs and all FLSA CLASS Members one and one-half times their

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1 regular hourly rate of pay for all hours worked in excess of forty (40) hours a week during the
 2 relevant time period together with liquidated damages, attorneys' fees, costs, and interest as
 3 provided by law.

4 SECOND CAUSE OF ACTION

5 **Failure to Pay Overtime Wages in Violation of NRS 608.140 and 608.018**

6 (On Behalf of Plaintiffs and all members of the NEVADA CLASSES)

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

9 28. NRS 608.140 provides that an employee has a private right of action for unpaid
 10 wages under NRS 608.018. *See Neville v. Terrible Herbst, Inc.*, 406 P.3d 499, 133 Nev. Adv.
 11 Op. 95 (Dec. 7, 2017).

12 29. NRS 608.018(1) provides as follows:

13 An employer shall pay 1 1/2 times an employee's regular wage
 14 rate whenever an employee who receives compensation for
 15 employment at a rate less than 1 1/2 times the minimum rate
 16 prescribed pursuant to NRS 608.250 works: (a) More than 40
 17 hours in any scheduled week of work; or (b) More than 8 hours in
 18 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.

19 30. NRS 608.018(2) provides as follows:

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

24 31. Nevada's retail or service exemption are the same as the 7(i) exemption under
 25 federal law. *See* NRS 608.018(3)(c).

26 32. Nevada's white-collar exemption requirements are the same as the white-collar
 27 exemption requirements under federal law. *See* NRS 608.018 (3)(d); NAC 608.125.
 28

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34. Wherefore, Plaintiffs demand for themselves and for all members of the NEVADA CLASSES, payment by Defendant at one and one half times their "regular rate" of pay for all hours worked in excess of eight (8) hours in a workday for those class members whose regular rate of pay did not exceed the one and one half the minimum wage set by law, and premium overtime rate of one and one-half their regular rate for all class members who worked in excess of forty (40) hours a workweek during the relevant time period alleged herein together with attorneys' fees, costs, and interest as provided by law.

**Failure to Timely Pay All Wages Due and Owing Upon Termination Pursuant to NRS
608.140 and 608.020-.050**

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

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

38. NRS 608.040(1)(a-b), in relevant part, imposes a penalty on an employer who fails to pay a discharged or quitting employee: "Within 3 days after the wages or compensation of a discharged employee becomes due; or 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

1 same rate from the day the employee resigned, quit, or was discharged until paid for 30-days,
2 whichever is less.”

3 39. NRS 608.050 grants an “employee lien” to each discharged or laid-off employee
4 for the purpose of collecting the wages or compensation owed to them “in the sum agreed upon
5 in the contract of employment for each day the employer is in default, until the employee is paid
6 in full, without rendering any service therefor; but the employee shall cease to draw such wages
7 or salary 30 days after such default.”

8 40. By misclassifying Plaintiffs and all members of the NEVADA CLASSES as
9 overtime exempt employees, Defendant has failed to pay Plaintiff and all members of the
10 NEVADA CLASSES overtime compensation of 1 ½ times their respective regular rate of pay
11 when they worked over 8 hours in a workday and/or over 40 hours in a workweek.

12 41. Despite demand, Defendant willfully refuses and continues to refuse to pay
13 Plaintiff and all WAGES DUE AND OWING CLASS Members.

14 42. Wherefore, Plaintiffs demand thirty (30) days wages under NRS 608.140 and
15 608.040, and an additional thirty (30) days wages under NRS 608.140 and 608.050, all
16 members of the WAGES DUE AND OWING CLASS together with attorneys’ fees, costs, and
17 interest as provided by law.

18 **JURY TRIAL DEMANDED**

19 Plaintiffs hereby demand a jury trial pursuant to Nevada Rule of Civil Procedure 38.

20 **PRAYER FOR RELIEF**

21 Wherefore Plaintiffs, individually and on behalf of all Members of the CLASSES
22 alleged herein, pray for relief as follows:

- 23 1. For an order conditionally certifying the action under the FLSA and providing
- 24 notice to all FLSA CLASS members so they may participate in the lawsuit;
- 25 2. For an order certifying the action as a traditional class action under Nevada Rule
- 26 of Civil Procedure Rule 23 on behalf of all members of the NEVADA
- 27 CLASSES;
- 28

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3. For an order appointing Plaintiffs as the Representative of the FLSA and NEVADA CLASSES and their counsel as Class Counsel for the FLSA and NEVADA CLASSES;
4. For damages according to proof for overtime compensation under federal law for all hours worked over 40 per week;
5. For liquidated damages pursuant to 29 U.S. C. § 216(b);
6. For damages according to proof for overtime compensation under Nevada law for all hours worked over 8 hours in a workday and/or over 40 hours in a workweek;
7. For waiting time penalties pursuant to NRS 608.140 and 608.040-.050;
8. For interest as provided by law at the maximum legal rate;
9. For reasonable attorneys' fees authorized by statute;
10. For costs of suit incurred herein;
11. For pre-judgment and post-judgment interest, as provided by law; and
12. For such other and further relief as the Court may deem just and proper.

DATED: June 6, 2018

Respectfully Submitted,

THIERMAN BUCK LLP

/s/Mark R. Thierman

Mark R. Thierman

Joshua D. Buck

Leah L. Jones

Attorneys for Plaintiffs

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AFFIRMATION

The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court of the State of Nevada, County of Washoe, does not contain the social security number of any person.

DATED: June 6, 2018

Respectfully Submitted,

THIERMAN BUCK LLP

/s/Mark R. Thierman

Mark R. Thierman

Joshua D. Buck

Leah L. Jones

Attorneys for Plaintiff

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Exhibit List

Exhibit 1 Consent Forms 3 pages

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2018-06-06 04:50:22 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6716537 : yvilorla

EXHIBIT 1

Consent to Sue Forms

EXHIBIT 1

DocuSign Envelope ID: E72D856F-BB05-492A-AD7E-590CAC34BE1D

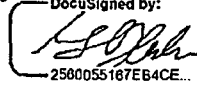
Pursuant to the Fair Labor Standards Act, 29 U.S.C.S. § 216(b), the undersigned hereby gives my consent in writing to become a party plaintiff against my Employer, Former Employer, and/or any and all its affiliated entities identified below. I authorize the filing of a copy of this consent form in Court. I further consent to join this and/or any subsequent or amended suit against the same or related defendant for wage and hour violations.

Dated this 6/6/2018 3:03:43 PM PDT, day of June, 2018

Name: Glen Deweese

(Please Print)
DocuSigned by:

Signature:


2500055167EB4CE...

Employer: ITS National, LLC

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Dated this 6/6/2018 3:52:39 PM PDT, day of June, 2018

Name: Josh Holtom

(Please Print)

Signature: 

DocuSigned by:

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Employer: ITS National, LLC

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CV18-01156
2018-06-22 01:19:58 PM
Jacqueline Bryant
Clerk of the Court
Transaction # 6742841 : japarici

1 1770
2 Mark R. Thierman, Nev. Bar No. 8285
3 mark@thiermanbuck.com
4 Joshua D. Buck, Nev. Bar No. 12187
5 josh@thiermanbuck.com
6 Leah L. Jones, Nev. Bar No. 13161
7 leah@thiermanbuck.com
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9 7287 Lakeside Drive
10 Reno, Nevada 89511
11 Tel. (775) 284-1500
12 Fax. (775) 703-5027

13 *Attorneys for Plaintiffs*

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IN THE SECOND JUDICIAL DISTRICT COURT OF
THE STATE OF NEVADA IN AND FOR THE
COUNTY OF WASHOE

GLENN DEWEESE and JOSHUA
HOLTON, on behalf of themselves and all
others similarly situated,

Plaintiffs,

vs.

ITS NATIONAL, LLC, and DOES 1 through
50, inclusive,

Defendant(s).

Case No.: CV18-01156

Dept. No.: 8

**NOTICE OF FILING OF CONSENTS TO
JOINDER**

PLEASE TAKE NOTICE that annexed hereto are Consents to Joinder pursuant to 29
U.S.C. § 216(b) which is to be filed with the Clerk of the Court as of the date hereof on behalf
of:

1. Zach Chamberlain
2. Bryan Orellana
3. Dustin O'Donnell
4. Jason Suleski

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AFFIRMATION

The undersigned does hereby affirm that the preceding document filed in the Second Judicial District Court of the State of Nevada, County of Washoe, does not contain the social security number of any person.

DATED: June 22, 2018

Respectfully Submitted,

THIERMAN BUCK LLP

/s/Mark R. Thierman

Mark R. Thierman

Joshua D. Buck

Leah L. Jones

Attorneys for Plaintiffs

THIERMAN BUCK LLP
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Exhibit 1

Consents to Join

5 pgs. (including exhibit sheet)

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EXHIBIT 1

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Consents to Join

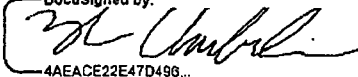
EXHIBIT 1

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Dated this 6/6/2018 6:10:39 PM PDT, day of June, 2018

Name: Zach Chamberlain

(Please Print)

Signature: 
4AEACE22E47D496...

Employer: ITS National, LLC

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Reno, NV 89511

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Dated this 6/13/2018 2:25:55 PM PDT, day of JUNE, 2018

Name: Bryan Orellana

(Please Print)

DocuSigned by:

Signature:

Bryan Orellana

F382C4C55ED141D...

Employer: ITS NATIONAL, LLC

THIERMAN BUCK LLP

7287 Lakeside Drive

Reno, NV 89511

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Dated this 12, day of June, 2018

Name: Dustin O'Donnell
(Please Print)

Signature: 

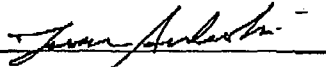
Employer: ITS National LLC

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 3 and/or any and all its affiliated entities identified below. I authorize the filing of a copy of this
 4 consent form in Court. I further consent to join this and/or any subsequent or amended suit
 5 against the same or related defendant for wage and hour violations.

6 Dated this 8th, day of June, 2018

7
 8 Name: Jason Suleski
 (Please Print)

9
 10 Signature: 

11
 12 Employer: ITS NATIONAL, LLC

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