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22 *Attorneys for Plaintiff*

23 **EIGHTH JUDICIAL DISTRICT COURT**

24 **CLARK COUNTY, NEVADA**

25 A-19-788823-C

26 THERESA B. VOZZA, on behalf of  
27 herself and all others similarly situated,

28 Case No.: Department 27  
Dept. No.:

29 Plaintiff,

30 **CLASS ACTION COMPLAINT**

31 vs.

32 **Arbitration Exemption Claimed: Class  
Action**

33 THE MARSHALL RETAIL GROUP, LLC  
34 d/b/a and a/k/a MARSHALL RETAIL  
35 GROUP LLC; DOES 1 through 50;  
36 inclusive,

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

40 Defendant(s).

41 **LIEN REQUESTED PURSUANT TO  
NRS 608.050**

42 **JURY TRIAL DEMANDED**

**GABROY LAW OFFICES**  
170 S. Green Valley Pkwy., Suite 280  
Henderson, Nevada 89012  
(702) 259-7777 FAX: (702) 259-7704

1 COMES NOW Plaintiff Theresa B. Vozza, on behalf of herself and all others  
2 similarly situated and alleges the following:

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

7 **JURISDICTION AND VENUE**

8 1. This Court has original jurisdiction over the state law claims alleged herein  
9 because the amount in controversy exceeds \$15,000 and a party seeking to recover  
10 unpaid wages has a private right of action pursuant to the Nevada Constitution, Article  
11 15 Section 16, and Nevada Revised Statute ("NRS") sections 608.050 and 608.140. See  
12 *Neville v. Eighth Judicial Dist. Court in & for County of Clark*, 406 P.3d 499, 502 (Nev.  
13 2017).

14 2. Plaintiff also claims a private cause of action to foreclose a lien against the  
15 property owner for wages due pursuant to NRS 608.050.

16 3. Plaintiff made a proper demand for wages due pursuant to NRS 608.140  
17 on January 29, 2019.

18 4. Venue is proper in this Court because the Defendant named herein  
19 maintains a principal place of business or otherwise is found in this judicial district and  
20 many of the acts complained of herein occurred in Clark County, Nevada.

21 5. Plaintiff demands a jury trial on all issues triable by jury herein.

22 **PARTIES**

23 6. Plaintiff Theresa B. Vozza (hereinafter "Plaintiff" or "Vozza") was at all  
24 relevant times a resident of the State of Nevada and was employed by Defendant as a  
25 non-exempt hourly employee from January of 2018 to January of 2019.

26 7. Defendant The Marshall Retail Group, LLC d/b/a and a/k/a Marshall Retail  
27 Group LLC ("Defendant") is a foreign limited-liability company registered with the Nevada  
28 Secretary of State.



1 14. Plaintiff has frequently worked over 8 hours in any 24-hour workday.

2 15. On many occasions, Plaintiff has worked a shift until the late evening hours  
3 and then returned early the next morning to work a day shift. The number of hours she  
4 worked in a workday under Nevada law was over 8 hours in a 24-hour period of time.

5 16. For instance, during the workweek of October 23, 2018 Defendant  
6 scheduled Plaintiff to work and Plaintiff did work over 8 hours in a 24-hour period of time.  
7 See a true and correct copy of Plaintiff's schedule attached hereto as Exhibit I.

8 17. But despite having worked more than 8 hours in a 24-hour period of time,  
9 Defendant failed to compensate Plaintiff at 1 ½ times her regular rate of pay for the  
10 overtime hours she worked. See a true and correct copy of Plaintiff's paystub attached  
11 hereto as Exhibit II.

12 18. Upon information and belief, Defendant maintains a company-wide policy  
13 and practice of refusing to pay daily overtime wages to Nevada employees who worked  
14 over 8 hours in a workday.

15 19. This "no daily overtime" policy has always been common to all non-exempt  
16 hourly paid employees at Defendant's locations in the state of Nevada.

17 **CLASS ACTION ALLEGATIONS**

18 20. Plaintiff realleges and incorporates by this reference all the paragraphs  
19 above in this Complaint as though fully set forth herein.

20 21. Plaintiff brings this action on behalf of herself and all other similarly situated  
21 employees as a class action under Rule 23 of the Nevada Rules of Civil Procedure.

22 22. The **Nevada Overtime Class** is defined as "All hourly paid non-exempt  
23 persons employed by Defendant in the state of Nevada who earned less than 1 ½ times  
24 the applicable minimum wage and who worked over eight (8) hours in a workday at any  
25 time within 3 years from January 29, 2019 until judgment."

26 23. The **Waiting Time Penalty Class** is defined as "All Nevada Overtime  
27 Class Members who are former employees of Defendant."  
28

1           24. Class treatment is appropriate under Rule 23's class certification  
2 mechanism because:

3           a. The Classes are Sufficiently Numerous: Upon information and belief,  
4 Defendant employs, and has employed, in excess of 500 Nevada Overtime Class  
5 Members within the applicable time period. Because Defendant is legally obligated to  
6 keep accurate payroll records, Plaintiff alleges that Defendant's records will establish the  
7 members of the Classes as well as their numerosity.

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

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

20           d. Plaintiff is Adequate Representative of the Class: Plaintiff will fairly  
21 and adequately represent the interests of the Classes because Plaintiff is a member of  
22 the Classes, she has issues of law and fact in common with all members of the Classes,  
23 and her interests are not antagonistic to Class members. Plaintiff and her counsel are  
24 aware of their fiduciary responsibilities to Class Members and are determined to  
25 discharge those duties diligently by vigorously seeking the maximum possible recovery  
26 for Class Members.

27           e. Predominance/Superior Mechanism: Class claims predominate and  
28 a class action is superior to other available means for the fair and efficient adjudication of

1 this controversy. Each Class Member has been damaged and is entitled to recovery by  
2 reason of Defendant's illegal policy and/or practice of failing to compensate its  
3 employees in accordance with Nevada wage and hour law. The prosecution of individual  
4 remedies by each Class Member will tend to establish inconsistent standards of conduct  
5 for Defendant and result in the impairment of Class Members' rights and the disposition  
6 of their interest through actions to which they were not parties.

7 **FIRST CAUSE OF ACTION**

8 **Failure to Pay Overtime Wages in Violation of NRS 608.018 and 608.140  
(On Behalf of Plaintiff and the Nevada Overtime Class)**

9 25. Plaintiff realleges and incorporates by this reference all the paragraphs  
10 above in this Complaint as though fully set forth herein.

11 26. NRS 608.140 provides that an employee has a private right of action for  
12 unpaid wages.

13 27. NRS 608.018(1) provides as follows:

14 An employer shall pay 1 1/2 times an employee's  
15 regular wage rate whenever an employee who receives  
16 compensation for employment at a rate less than 1 1/2 times  
17 the minimum rate prescribed pursuant to NRS 608.250  
18 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.

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

20 An employer shall pay 1 1/2 times an employee's regular  
21 wage rate whenever an employee who receives  
22 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.

23 29. As described above, Defendant maintains a policy and/or practice of illegal  
24 shift jamming (i.e., refusing to pay daily overtime when Plaintiff and members of the  
25 Nevada Overtime Class worked over 8 hours in a workday). As a result, Plaintiff and  
26 Nevada Overtime Class Members have been denied overtime compensation according  
27 to Nevada law.  
28



1 until the employee is paid in full, without rendering any service therefore; but the  
2 employee shall cease to draw such wages or salary 30 days after such default.”

3 37. By failing to pay Waiting Time Penalty Class Members their minimum,  
4 regular, and overtime wages in violation of state and federal law, Defendant has failed to  
5 timely remit all wages due and owing to the Waiting Time Penalty Class Members.

6 38. Despite demand, Defendant willfully refused and continues to refuse to pay  
7 Waiting Time Penalty Class Members all the wages that were due and owing upon the  
8 termination of their employment.

9 39. Wherefore, the Waiting Time Penalty Class Members demand thirty (30)  
10 days of pay as waiting penalties under NRS 608.040 and 608.140, and thirty (30) days of  
11 pay as waiting penalties under NRS 608.050 and 608.140, together with attorneys’ fees,  
12 costs, interest, and punitive damages, as provided by law.

13 **THIRD CAUSE OF ACTION**  
14 **Injunctive/Declaratory Relief**  
15 **(On Behalf of Plaintiff and the Nevada Overtime Class)**

16 40. Plaintiff realleges and incorporates by this reference all the paragraphs  
17 above in this Complaint as though fully set forth herein.

18 41. As Defendant has failed to compensate Plaintiff and members of the  
19 Overtime Class at the correct overtime wage rate for all the overtime hours that they  
20 worked pursuant to NRS 608.018, Defendant has wrongfully withheld wages properly-  
21 owed to the Plaintiff and the Overtime Class Members.

22 42. Plaintiff and the Nevada Overtime Class will suffer irreparable injury if  
23 Defendant is not enjoined from the future wrongful retention of wages owed.

24 43. As a result of the aforementioned unlawful payment practices, Plaintiff  
25 submits that there has been a likelihood of success on the merits that Plaintiff and the  
26 Class Members have been damaged, that there is irreparable harm, and Plaintiff  
27 requests that this Honorable Court enter an Order that restrains Defendant from  
28 attempting to enforce the alleged unlawful payment practices.





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- 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: February 5, 2019

Respectfully Submitted,

GABROY LAW OFFICES

By: 

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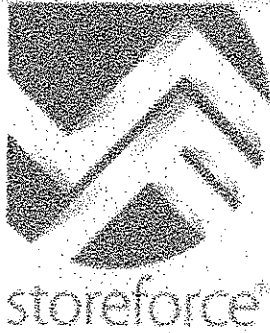
# EXHIBIT I

Theresa Vozza

18600

097 Welcome to LV @ LAS T - 3

9:09:00



# Schedule

Month



## October



Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	Sunday
1 097 8:01 AM - 4:21 PM	2	3	4 097 9:01 AM - 1:39 PM	5 097 6:30 AM - 2:30 PM	6 097 6:30 AM - 2:35 PM	7 097 2:30 PM - 10:45 PM
8 097 2:00 PM - 10:10 PM	9	10	11 097 6:30 AM - 2:30 PM	12 097 6:30 AM - 2:30 PM	13 097 6:30 AM - 2:30 PM	14 146 11:00 AM - 6:36 PM
15 097 2:00 PM - 10:14 PM	16	17	18 097 6:30 AM - 2:30 PM	19 097 6:38 AM - 2:48 PM	20 097 6:29 AM - 2:40 PM	21 097 10:32 AM - 6:02 PM
22 097 1:59 PM - 10:06 PM	23 097 1:30 PM - 8:45 PM	24 097 10:00 AM - 4:30 PM	25 097 6:30 AM - 2:30 PM	26 097 9:15 AM - 5:15 PM	27	28
29 097 9:00 AM - 5:00 PM	30	31				

# EXHIBIT II

CO. FILE DEPT. CLOCK VCHR. NO. 073  
WZJ 018600 097120 0000440237 1

MarshallRetailGroup

THE MARSHALL RETAIL GROUP, LLC  
3755 W. SUNSET ROAD, SUITE A  
LAS VEGAS, NV 89118  
COMPANY PH#:702-385-5233

# Earnings Statement



Period Beginning: 10/15/2018  
Period Ending: 10/28/2018  
Pay Date: 11/02/2018

Taxable Marital Status: Single  
Exemptions/Allowances:  
Federal: 1,310 Additional Tax  
NV: No State Income Tax

**THERESA VOZZA**  
████████████████████  
████████████████████

Earnings	rate	hours	this period	year to date
Regular	11.7500	65.68	771.74	17,164.18
Vacation	11.7500	8.00	94.00	270.25
Overtime				131.70
Meeting				65.21
Retroactive				20.29
<b>Gross Pay</b>			<b>\$865.74</b>	<b>17,651.63</b>

Other Benefits and Information	this period	total to date
Vacation Bal.		33.12

**Important Notes**  
YOUR COMPANY'S PHONE NUMBER IS 702-385-5233

Deductions	Statutory		
Federal Income Tax		-46.70	1,040.74
Social Security Tax		-41.46	895.08
Medicare Tax		-9.69	209.33
<b>Other</b>			
Dental Ee+Spous		-16.09*	257.44
Med Ee+Spouse		-178.57*	2,920.39
Vision Spouse		-2.31*	36.96
<b>Net Pay</b>		<b>\$570.92</b>	
Checking		-570.92	
<b>Net Check</b>		<b>\$0.00</b>	

\* Excluded from federal taxable wages  
Your federal taxable wages this period are \$668.77

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MarshallRetailGroup

THE MARSHALL RETAIL GROUP, LLC  
3755 W. SUNSET ROAD, SUITE A  
LAS VEGAS, NV 89118  
COMPANY PH#:702-385-5233

Advice number: 00000440237  
Pay date: 11/02/2018

Deposited to the account of	account number	transit ABA	amount
THERESA VOZZA	██████████	XXXX XXXX	\$570.92

**THIS IS NOT A CHECK**

**NON-NEGOTIABLE**