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IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER THOMAS and
CHRISTOPHER CRAIG,
Individually and on behalf of others
similarly situated,

Appellants,

vs.

NEVADA YELLOW CAB
CORPORATION, NEVADA
CHECKER CAB CORPORATION,
NEVADA STAR CAB
CORPORATION,

Respondents,

Sup. Ct. No. 61681

Dist. Ct No.:A-12-661726-C

Dept. No. XXVIII

APPELLANTS' RESPONSE IN OPPOSITION
TO MOTION OF LIVERY OPERATORS ASSOCIATION OF LAS
VEGAS FOR LEAVE TO FILE *AMICUS CURIAE BRIEF*
AND TO BE HEARD AT ORAL ARGUMENT

1 AMICUS CURIAE LEAVE SHOULD BE DENIED IN ITS ENTIRETY

2 Appellant opposes the motion of the Livery Operators Association of Las
3 Vegas (“LOA”) on the basis that it is made in an untimely fashion, without any
4 excuse for its untimeliness, and, for the reasons discussed *infra*, presumptively
5 done so intentionally in an attempt to delay the resolution of this appeal.

6 Indeed, it appears the LOA, through its constituent members, was well aware of
7 this appeal when it was initially filed but chose to take no action in a timely
8 fashion to seek *amicus curiae* leave. That leave should have been sought no
9 later than March 8, 2013. The LOA makes no actual claim of such
10 unawareness, but simply emphasizes that the respondents in this case are not
11 members of the LOA.

12 The LOA’s attorneys who have filed the motion for *amicus curiae* leave
13 advised appellant’s counsel via a fax on May 22, 2013, that *their office* had
14 “just” become aware of this appeal. Ex. “A.” They made no claim in such
15 letter *that the LOA* had only recently become aware of this appeal.

16 Appellant’s counsel responded to the LOA’s attorney’s letter of May 22,
17 2013 the same day. Ex. “B.” Appellant’s counsel advised the LOA’s attorneys,
18 in some detail, that there was substantial reason to believe the LOA’s
19 constituent members, and their counsel, were aware of this appeal when it was
20 filed. *Id.* That conclusion was strongly supported the existence of three other
21 litigations against Las Vegas taxi companies concerning the same issue raised in
22 this case, Nevada’s Constitutional Minimum Wage requirements, and the active
23 conferral by the counsel defending those cases. *Id.* That conclusion was also
24 supported by the fact that Jason Awad, who in 2010 was publicly identified as
25 the Secretary of the LOA, is also a director of one of the defendants in one of
26 those lawsuits. *Id.* Appellant’s counsel urged the LOA’s attorneys to investigate
27 with their client when their client became aware of this appeal and advise this
28 Court accordingly in their motion for *amicus curiae* leave. *Id.* The LOA’s

1 attorneys have declined to do so.

2 It is submitted that a presumption is created by the foregoing
3 circumstances, specifically *the LOA's failure to even allege it did not receive*
4 *timely notice of this appeal*, that (1) The LOA had due and timely, if not
5 immediate, notice of this appeal and (2) Makes this motion at this time in a
6 calculated and knowing attempt to delay the resolution of this appeal.

7 Appellant's counsel acknowledges that this Court has a presumption in favor of
8 freely granting *amicus curiae* leave. Nonetheless, that presumption should not
9 be abused. In light of the particular circumstances of this case, and the LOA's
10 attendant failure to even allege, much less demonstrate, to the Court that it
11 lacked prompt, if not immediate, notice of this appeal, such *amicus curiae* leave
12 should be denied as untimely.

13
14 AMICUS CURIAE LEAVE TO
ARGUE ORALLY SHOULD BE DENIED

15 This Court will only grant *amicus curiae* leave to participate in oral
16 argument for "extraordinary reasons." NRAP 29(h). The LOA does not proffer
17 any such extraordinary reasons and that branch of its motion should be denied
18 even if it is otherwise granted leave to file an *amicus curiae* brief.

19
20 Dated this 6th day of June, 2013.

21
22
23 /s/ Leon Greenberg
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EXHIBIT "A"

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May 22, 2013

Via Facsimile 385-1827 and U.S. Mail

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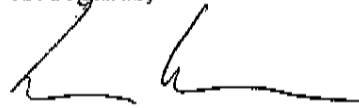
Re: Thomas, et al. v. Nevada Yellow Cab, et al. – Nev. Sup. Ct. No. 61681

Dear Mr. Greenberg:

We represent the Livery Operators Association of Las Vegas. We have just become aware of the above-referenced matter being heard before the Nevada Supreme Court.

Please be advised that it is our intent to file an Amicus Brief in the above-referenced matter in support of Respondents and, as such, that we would request your client's consent to do so. Otherwise, please consider this letter as notice of our intent to do so.

Best regards,



Louis V. Csoka, Esq.

EXHIBIT "B"

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May 22, 2013

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Attention: Louis V. Csoka, Esq.

VIA FIRST CLASS MAIL AND FAX

Re: Thomas v. Nevada Yellow Cab
Nevada Supreme Court #61681

Dear Mr. Csoka:

I am in receipt of your letter of today's date.

Please be advised that while I cannot dispute the representation in your letter that *your office* was previously unaware of this appeal, I do not believe that is true of your client. I firmly believe the Livery Operators Association of Nevada, either directly or through its officers or members, was well aware of the foregoing case and appeal from its inception. For example, Jason Awad is listed as the Secretary of the association on its 2010 IRS form 990. Mr. Awad is also a director of Lucky Cab which is subject to an identical lawsuit. The counsel for Lucky Cab is Mario Lovato who has repeatedly acknowledged the existence of this appeal.

I am also advised that counsel for all of the various Las Vegas taxi companies subject to lawsuits alleging violations of Nevada's Constitutional Minimum Wage (there are currently at least four such lawsuits) regularly confer to discuss strategy.

Indeed, I, personally, saw counsel for certain of those companies attend at least one hearing for a company that they were not representing. In addition, many of the limousine (livery) company operators also operate taxi companies. This high level of conferral among the taxi companies, and the intimate relationships enjoyed by many limousine and taxi companies, make it impossible for me to believe your clients were not previously aware of this appeal.

I intend to oppose any request to file an amicus brief in this appeal as untimely. I also believe you have a duty to thoroughly investigate with your client when they became aware of this appeal and advise the Nevada Supreme Court accordingly when you present your request to file an amicus brief.

Very truly yours,


Leon Greenberg