IN THE SUPREME COURT OF THE STATE OF NEVADA

CHRISTOPHER THOMAS, and CHRISTOPHER CRAIG, Individually and on behalf of others similarly situated,	Sup. Ct. No. 61681
Appellants,	Case No.: A-12-661726-C Dept. No.: XXVIII
Vs.	BEFORE THE COURT EN BANC.
NEVADA YELLOW CAB CORPORATION; NEVADA CHECKER CAB CORPORATION; NEVADA STAR CAB CORPORATION,	
Respondents.	

RESPONDENTS' PETITION FOR REHEARING

MARC C. GORDON, ESQ.
GENERAL COUNSEL
Nevada Bar No. 001866
TAMER B. BOTROS, ESQ.
ASSOCIATE COUNSEL
Nevada Bar No. 012183
YELLOW CHECKER STAR TRANSPORTATION CO. LEGAL DEPT.
5225 W. Post Road
Las Vegas, Nevada 89118
T: 702-873-8012
F: 702-365-7864
mgordon@ycstrans.com
Attorneys for Respondents
NEVADA YELLOW CAB CORPORATION
NEVADA CHECKER CAB CORPORATION
NEVADA STAR CAB CORPORATION

A. INTRODUCTION.

Pursuant to NRAP 40(c)(2)(B), this Court may consider rehearing "[w]hen the court has overlooked, misapplied or failed to consider a statute, procedural rule, regulation or decision directly controlling a dispositive issue in the case." Respondents respectfully submit that this Court, in its June 26, 2014, Opinion: (i) misapplied directly controlling authority in its analysis and application of the standard and presumptions governing an implied repeal of a preexisting statute; (ii) applying the correct standard and presumptions, Respondents respectfully submit that the definition of "employee" in the Amendment and the occupational exemptions set forth in NRS 608.250(2) can exist in harmony, just as they did prior to the enactment of the Amendment; and (iii) Respondents respectfully submit that this Court failed to consider certain Nevada statutes which, as a result of this Court's Opinion, can now only be read as producing absurd results, in violation of this Court's well-settled principles of statutory and constitutional construction. Accordingly, Respondents respectfully request that this Court consider rehearing to address the issues discussed herein.

B. LEGAL ARGUMENT.

1. The applicable standard.

Indisputably, the Constitutional Amendment did not expressly state it was repealing the occupational exemptions contained in NRS 608.250(2). Thus, the issue is whether an implicit repeal occurred. Respondents respectfully submit that this Court misapplied controlling authority in its analysis and application of the standard and presumptions governing an implied repeal of a preexisting statute. As set forth in this Court's opinion, "[t]he presumption is against implied repeal unless the enactment conflicts with existing law to the extent that both cannot logically coexist." Opinion, at 5. Yet, this Court also stated that "[a]n alternative construction

that would attempt to make the Minimum Wage Amendment compatible with NRS 608.250, despite the plain language of the Amendment, would run afoul of the principle of constitutional supremacy." *Id*. at 7. Further, this Court applied an *expressio unius* analysis in reaching its conclusion. *Id*. at 5. Respondents respectfully submit that an application of constitutional supremacy and *expressio unius* is contrary to the implied repeal considerations.

Specifically, Respondents first respectfully submit that this Court misapplied controlling law in its application of the doctrine of constitutional supremacy to the issue of whether a preexisting statute was impliedly repealed. Nevada law demonstrates that the Constitution is treated no differently than any other statute or law when determining whether it has impliedly repealed a preexisting statute. The fact that the subsequently enacted law happens to be a Constitutional provision does not overcome the presumption against implied repeals absent "irreconcilable repugnancy" any more than any other subsequently enacted law. Respectfully, by giving undue weight to the Constitutional provision, this Court misapplied the correct standard and presumptions for an implied repeal. Indeed, the conclusion that a constitutional provision automatically prevails **assumes** an irreconcilable repugnancy between the two laws.

Moreover, Respondents respectfully submit that application of more-generalized canons of construction that contain something other than an "irreconcilable repugnancy" standard cannot be used to address questions of implied repeal.

a. Nevada law already holds that the doctrine of constitutional supremacy is not implicated when addressing the question of implied repeal of a preexisting statute.

The doctrine of constitutional supremacy serves as a restraint on the legislature's ability to enact laws **in conflict with** the constitution. *See, e.g.*, *Galloway v. Truesdell*, 83 Nev. 13, 20, 422 P.2d 237, 242 (1967) ("[L]egislative power is the power of law-making representative bodies to frame and enact laws, and to amend or repeal them. This power is indeed very broad, and, except where limited by Federal or State Constitutional provisions, that power is practically absolute. Unless there are specific constitutional limitations to the contrary, statutes are to be construed in favor of the legislative power."). And when the Legislature enacts a statute **prior to** the enactment of a constitutional provision, there can be no conflict with a constitutional provision which does not yet exist. Where, as here, NRS 608.250(2) was enacted in 1965, long before the Amendment was passed in 2006, there could be no concern that the Legislature was trying to change the Constitution by ordinary enactment, or enact a conflicting statute "pursuant thereto." Opinion, at 7.

More importantly, the doctrine has no application because it is not pertinent to the issue: whether there is an irreconcilable repugnancy between the two laws. Where the preexisting statute and the constitutional provision are both laws of the State of Nevada, it is of no consequence that one is a constitutional provision. Just as a statute can be expressly repealed by both subsequent statute or subsequent constitutional amendment, the implied repeal standard must be applied regardless of whether the subsequent law is a statute or a constitutional amendment. All laws of the State of Nevada must be harmonized, if possible. Any other analysis avoids the implied repeal standard.

Accordingly, Nevada applies the same implied repeal standard where a constitutional amendment is alleged to have impliedly repealed a statute. *Mengelkamp v. List*, 88 Nev. 542, 546, 501 P.2d 1032, 1034 (Nev. 1972) (addressing such an argument, and stating: "[i]mplied repeal of one ***law*** through enactment of another does not occur, save when one is irreconcilably repugnant to the other, or by

some other means intent to abrogate the earlier law is made evident."). In *Mengelkamp*, this Court stated:

> Petitioners suggest that NRS 218.010 was repealed by implication when the people voted in 1971 to amend our Constitution to grant 18-year-olds the right to vote. Implied repeal of one law through enactment of another does not occur, save when one is irreconcilably repugnant to the other, or by some other means intent to abrogate the earlier law is made evident. Thorpe v. Schooling, 7 Nev. 15 (1871). We cannot say that members of the public who cast their ballots to allow 18-year-olds to vote thereby manifested intent to abolish age requirements theretofore imposed on candidates for state office.

Id. at 545-46, 501 P.2d at 1034; *see also State v. Hallock*, 16 Nev. 373, 378 (1882) ("constitutional amendment, adopted subsequent to the enactment of the statute relied on by counsel for petitioner, is controlling" over the statute ***that addresses the same issue—***thus, the pertinent analysis is whether the two laws address the same issue). Indeed, "[w]hen construing constitutional provisions, [this Court] use[s] the same rules of construction used to interpret statutes." *Nevada Mining Ass'n v. Erdoes*, 117 Nev. 531, 538, 26 P.3d 753, 757 (2001); *see also* Landreth v. Malik, 127 Nev. ---, ---, 251 P.3d 163, 166 (2011) (noting that "the interpretation of a . . . constitutional provision will be harmonized with other statutes"); *Rogers v. Heller*, 117 Nev. 169, 176 n.17, 18 P.3d 1034, 1038 n.17 (2001) ("[T]he rules of construction that apply to statutes should also be applied to constitutional provisions.").

The conclusion that a constitutional provision automatically prevails ***assumes*** an irreconcilable repugnancy between the two laws. The argument avoids the issue: whether there is any possible way to reconcile the Amendment with the exemptions. *See, e.g.*, *Martinez v. Maruszczak*, 123 Nev. 433, 448-49, 168 P.3d 720, 730 (2007) (stating that this Court presumes that a statute is constitutional, and a party who challenges the constitutionality of the statute must clearly show its invalidity).

b. The implied repeal standard is a canon of construction, which cannot be eviscerated through application of other, more generalized, canons of construction.

The implied repeal standard requires that, where there has been no express repeal, separate laws be harmonized if at all possible. This standard is, itself, a canon of construction since it dictates how statutes are to be interpreted. Accordingly, application of more-generalized canons of construction that contains something other than an "irreconcilable repugnancy" standard cannot be used to address questions of implied repeal.

The Opinion erroneously adopts Appellants' argument when it states: "Nevada's constitutional minimum wage disregards the canon of construction "'expressio unius est exclusio alterius,' the expression of one thing is the exclusion of another." Appellants' Reply Brief, page 11. Opinion at 8, citing *Galloway v. Truesdell*, 83 Nev. 13, 26, 422 P.2d 237, 246 (1967).[1] Applying a canon that automatically excludes "the other" law fails to follow the implied repeal canon, which requires that the two laws be harmonized if at all possible.

If the Court's Opinion stands, it will allow practitioners, and the District Courts, to find implied repeal wherever some other canon of construction can be argued contrary to the implied repeal canon of construction. Given the many self-conflicting canons of constructions in existence, this will result in avoidance of the implied repeal standard to nullify the State's laws.

The implied repeal standard's "irreconcilable repugnancy" canon is the only canon of construction that applies. Application of alternative canons results in erroneous results.

---

1 Respondents also respectfully note that unlike the present situation, *Galloway v. Truesdell* 83 Nev. 13, 422 P.2d 237 (1967), examined **legislatively-enacted** constitutional provisions rather than constitutional provisions approved by **voters**.

c. The Attorney General's Opinion cited the wrong standard when it cited case law that addressed "express appeal" rather than "implied repeal."

The Opinion references an Attorney General Opinion, 2005 Nev. Op. Atty. Gen. No. 4 ("AG Opinion"), to support the implied repeal argument. The AG Opinion provides no support because it cited the ***express repeal*** standard, rather than the standard that applies to questions of implied repeal. This is the opposite legal standard than that required by this Court. The AG Opinion primarily relied on the following reasoning:

> The effect of the proposed amendment on the NRS 608.250 exclusions is controlled by two presumptions. First, the voters should be presumed to know the state of the law in existence related to the subject upon which they vote. Op. Nev. Att'y Gen. 153 (December 21, 1934). Second, it is ordinarily presumed that "[w]here a statute is amended, provisions of the former statute omitted from the amended statute are repealed." McKay v. Board of Supervisors, 102 Nev. 644, 650, 730 P.2d 438, 442 (1986).[2] In keeping with these presumptions, the people, by acting to amend the minimum wage coverage and failing to include the statutory exclusions in the proposed amendment, are presumed to have intended the repeal of the existing exclusions so that the new minimum wage would be paid to all who meet its definition of "employee." Accordingly, the proposed amendment would effect an implied repeal of the exclusions from minimum wage coverage at NRS 608.250(2).

The AG Opinion never applied the rules required by the Nevada Supreme Court for engaging in an implied repeal analysis.

Rather than apply the presumption against finding an implied repeal, the AG Opinion ***presumes the opposite***, that implied repeal should be presumed. The first

---

[2] This quoted portion of *McKay* ("provisions of the former statute omitted from the amended statute are repealed") states the standard for express repeal. It mirrors the canon of construction that holds that "the expression of one thing is the exclusion of another." Such canon is the ***express repeal*** standard. It is inapplicable here because NRS 608.250 was not expressly repealed.

presumption announced in the AG Opinion is that "the voters should be presumed to know the state of the law in existence related to the subject upon which they vote." The Attorney General cites itself, the Attorney General, as its own authority. Stating that voters are presumed to know the state of the law is just a circular argument that assumes its own conclusion.

The AG Opinion cites *McKay v. Board of Supervisors*, 102 Nev. 644, 730 P.2d 438 (1986), which further shows the improper use of the presumption. In *McKay*, the court reviewed the ***express*** amendment of NRS 241.030. The amendment was of the ***same statute***, NRS 241.030. In 1977, the statute was amended and replaced with a new statute. The new statute eliminated certain provisions. The court held that the provisions omitted from the new statute were repealed. This was because the legislature is presumed to know what was in the prior version of NRS 241.030 that it ***expressly*** amended.

The presumption only applies when the amendment is to the exact same statute. The presumption has no place in the law of implied repeal, i.e., where one law allegedly causes a separate law to no longer have effect.

The same argument represented by the AG Opinion's two "presumptions" was made in the Ninth Circuit case of *Nigg v. U.S. Postal Service*. The argument was rejected by the court because the issue did not concern express amendment of the same statute, but rather, concerned implied repeal of a different statute. The Postal Service made the following argument:

> The Postal Service argues that the Supreme Court's analysis in Lorillard v. Pons, 434 U.S. 575, 580-81, 98 S.Ct. 866, 55 L.Ed.2d 40 (1978), suggests that through § 1003(c) Congress intended to maintain the status quo of denying FLSA overtime to postal inspectors because when "Congress adopts a new law it can be presumed to have had knowledge of the interpretation given to the incorporated law, at least insofar as it affects the new statute." Id. at 581, 98 S.Ct. 866.

Nigg v. U.S. Postal Service, 555 F.3d 781, 787 (9th Cir. 2009) (emphasis added). This is the same argument made in the AG Opinion.

The Ninth Circuit rejected the Postal Service's argument, stating:

> "This argument lacks traction for two reasons. First, the presumption of Congressional awareness of existing interpretations of a given statute ordinarily applies to situations where Congress re-enacts the same statute. See, e.g., Albemarle Paper Co. v. Moody, 422 U.S. 405, 414 n. 8, 95 S.Ct. 2362, 45 L.Ed.2d 280 (1975). Second, as in Lorillard, where awareness of a different statutory scheme is presumed, sections of that other statute were incorporated in the statute in question; such is not the statutory scheme here. 434 U.S. at 580-81, 98 S.Ct. 866."

Id. (emphasis added). The presumption at issue only applies when the legislature in question "re-enacts the same statute".

In this case, the Minimum Wage Amendment was a constitutional amendment. It was not a new NRS 608.250(2). Because of this, the AG Opinion's ***express repeal*** presumptions cannot be used. Instead, the Opinion should have applied the implied repeal analysis, where "the presumption is always against an intention to repeal an earlier statute" *Lemberes v. State*, 97 Nev. 492, 499, 634 P.2d 1219, 1223 (1981). The AG Opinion fails to engage in the proper analysis.

This Court's adoption of the AG Opinion is erroneous. It will invite practitioners and District Courts to apply the express repeal standard to questions of implied repeal, which will result in numerous inappropriate holdings that Nevada laws have been repealed.

2. Application of the "irreconcilable repugnancy" standard.

Applying the correct standard and presumptions, Respondents respectfully submit that the definition of "employee" in the Amendment and the occupational exemptions of NRS 608.250(2) can exist in harmony, just as they did for many years prior to the enactment of the Amendment.

a. The "employee" definition in the Amendment addressing treatment of minors has always been reconcilable with the separate occupational exemptions.

This Court concluded that the "Employee" definition of the Constitutional Amendment is irreconcilably repugnant to the occupational exemptions of NRS 608.250(2). Opinion, at 6. Yet, the employee definition and the occupational exemptions have coexisted harmoniously as part of Nevada law since the inception of Nevada's minimum wage. They have further coexisted under Nevada law since the most recent amendment of NRS 608.250 in 2001, which required the Labor Commissioner to look to the federal law of minimum wage—which also has an employee definition that coexists with occupational exemptions. The provisions cannot be in conflict when they have coexisted harmoniously for decades.

"In making this determination, we look to the text of the statutes, legislative history, the substance of what is covered by both statutes, and when the statutes were amended." *Washington*, 117 Nev. at 739, 30 P.3d at 1170, *citing Jackson v. State*, 93 Nev. 677, 681, 572 P.2d 927, 930 (1977). Applying the proper analysis, the Amendment and the occupational exemptions are easily reconciled.

i. Nevada has always treated the employee definition separately from the occupational exemptions.

Nevada's Minimum Wage Law has historically treated the "employee" definition section different from the occupational exemption section. Because the two items were treated differently under Nevada law, they cannot conflict with one another. The "employee" definition section of the Minimum Wage Amendment deals entirely with one issue: how to treat employees who are minors.[3] In other

[3] The Minimum Wage Amendment's "employee" definition section states: As used in this section, "employee" means any person who is employed by an employer as defined herein but does not include an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summer employment or as a trainee for a period not longer than ninety (90) days.

words, minors will not be treated as "employees" under the Minimum Wage Amendment. The definition section is squarely addressing the issue of how minors are to be treated, even to the point of redundancy, capturing the same minors within its exception to "employee" by age, by "after school" employment, and by employment during summer break.

For most of its existence, the Minimum Wage Law, NRS 608.250, contained both a definition section relating to treatment of minors and a separate section listing occupational exemptions. Prior to 2001, NRS 608.250 stated:

> 1. Except as otherwise provided in this section, the minimum wage which may be paid to employees in private employment within the state is $3.35 per hour. The labor commissioner shall prescribe increases in the minimum wage in accordance with those prescribed by federal law, unless he determines that such increases are contrary to the public interest. ***The minimum amount which may be paid to a minor is 85 percent of that amount.***
> 2. The provisions of subsection 1 do not apply to:
> (a) Casual babysitters.
> (b) Domestic service employees who reside in the household where they work.
> (c) Outside salespersons whose earnings are based on commissions.
> (d) Employees engaged in an agricultural pursuit for an employer who did not use more than 500 man-days of agricultural labor in any calendar quarter of the preceding calendar year.
> (e) Taxicab and limousine drivers.
> (f) Severely handicapped persons whose disabilities have diminished their productive capacity in a specific job and who are specified in certificates issued by the rehabilitation division of the department of employment, training and rehabilitation.
> 3. It is unlawful for any person to employ, cause to be employed or permit to be employed, or to contract with, cause to be contracted with or permit to be contracted with, any person for a wage less than that provided in this section.
>
> NRS 608.250 (2000 version).

The section addressing payment of the minimum wage to minors was totally separate from the section addressing which types of occupations that would be exempt. The "employee" section addresses how minors are treated. The "exemption" section addresses whether there are certain types of occupations that should be exempt. Nevada has historically treated these issues separately. The Minimum Wage Amendment only addresses the "employee" issue and how minors are to be treated. It does nothing to address the occupational "exemptions" of NRS 608.250(2).

Thus, given the presumption against an implied repeal, the presumption that a statute is constitutional unless demonstrated otherwise, and the fact that the occupational "exemptions" and the definition of "employee" have historically been treated differently, have and can coexist, Respondents respectfully request that this Court reconsider its conclusion that the Amendment implicitly repealed NRS 608.250 (2).

ii. Nevada's Wage and Hour Law was repeatedly updated, largely to increase the amount of minimum wage, without ever eliminating the occupational exemptions.

A common scenario that displays the lack of implied repeal is the situation where a statute is merely updated over time. A common reason for updating is to increase the amount referenced in a statute stating an amount. Where the statute is not indexed to inflation or some other key barometer, it must be amended from time to time.

Thus, after NRS 608.250 was established in 1965, it was amended in 1969, 1973, 1975, 1977, 1987, 1989, 1993, and 2001. These updates primarily increased the amount of the minimum wage. None of them eliminated the occupational exemptions that have existed since 1965.

Updating the amount of Nevada's minimum wage has never effectuated an implied repeal of the occupational exemptions. Accordingly, the Amendment's

updating of the amount is not irreconcilably repugnant to the continued vitality of the occupational exemptions.

iii. The 2001 Amendment updated the amount by resorting to federal standards regarding the amount and the employee definition, without eliminating the occupational exemptions; the 2006 Amendment is a return to Nevada's old form by having a set amount and employee definition, without repealing the occupational exemptions.

As stated above, in 2001, NRS 608.250 was amended. Rather than increase the monetary amount in subsection 1, the new law allowed the Labor Commissioner to increase the minimum wage in accordance with federal law. Because the Labor Commissioner was permitted to apply federal standards, the "employee" definition was eliminated, presumably because the Commissioner would look to the federal definition of "employee."

Even at this time, the occupational exemptions were not altered or amended. They continued in force. There was no repeal of the exemptions.

iv. Federal law has an "employee" definition that coexists with occupational exemptions.

In 2001, the Minimum Wage Law, NRS 608.250, was amended, changing NRS 608.250(1).[4] As far as how to treat minor "employees," the Labor Commissioner shall act "in accordance with . . . federal law."

---

[4] This section now states:

> 1. Except as otherwise provided in this section, the Labor Commissioner shall, in accordance with federal law, establish by regulation the minimum wage which may be paid to employees in private employment within the State. The Labor Commissioner shall prescribe increases in the minimum wage in accordance with those prescribed by federal law, unless he determines that those increases are contrary to the public interest.

NRS 608.250(1).

The Minimum Wage Amendment largely follows the structure of the FLSA. Under the FLSA, § 203 defines "employee" and "employer." A completely different section of the FLSA is used to list all of the "exemptions." In that section, § 213, the FLSA lists nearly all the same exemptions, or exclusions, that are listed in NRS 608.250(2).

3. This Court's opinion will likely result in absurd results and implied repeal of many other statutes and laws.

Finally, Respondents respectfully submit that this Court failed to consider certain Nevada statutes which, as a result of this Court's Opinion, can now only be read as producing absurd results, in violation of this Court's well-settled principles of statutory and constitutional construction. In fact, the legal errors contained within the Opinion will likely result in implied repeal of many of Nevada's statutes that would not previously have occurred.

Amendment of a general rule does not ordinarily result in a finding of implied repeal of the various exceptions or exemptions from the rule. Here, the general rule stating an amount of the minimum wage was amended, while the occupational exemptions were not addressed at all. NRS 608.250(2) provides a specific list of exclusions. This Court's Opinion can be read to state that the exemptions are impliedly repealed where they are not included in the amended version of the general rule. This will result in implied repeal of numerous statutes containing exceptions or exemptions from the general rule.

Moreover, respectfully, this Court's interpretation of the Amendment could produce a variety of absurd results in violation of this Court's well-settled principles of statutory and constitutional interpretation. For example, in addition to the absurd result recognized by the dissent, that casual babysitters are now entitled to minimum wage, the implicit repeal of NRS 608.250 would also have an absurd result upon this state's overtime regime. Specifically, NRS 608.018(3)(a) expressly exempts from overtime "[e]mployees who are not covered by the minimum wage provisions of

NRS 608.250," among others. While many of the categories exempted in NRS 608.250(2) are separately exempted in NRS 608.018(3), other categories, such as "casual babysitters," or "domestic service employees who reside in the household where they work," or "persons with severe disabilities whose disabilities have diminished their productive capacity in a specific job," are not. *Id*.; *see also* NRS 608.250(2)(a), (b), and (f). Thus, applying this Court's opinion as it currently stands, this means that either (1) by intending to impliedly repeal NRS 608.250's exemptions, the Amendment also sought to ensure that the aforementioned employees are now also entitled to overtime – a result which would be well beyond the scope of the Amendment; or (2) the formerly-exempted employees listed in NRS 608.250(2) are now entitled to minimum wage, but still not to overtime – a result which would be inexplicable and arbitrary. Either result is absurd, demonstrating that such a reading of the Amendment would be in violation of this Court's well-settled principles of statutory and constitutional construction.

Further, by applying the doctrine of *expressio unis* to conclude that **any** employee not excluded in the Amendment's definition of "employee" is now entitled to minimum wage, one could logically conclude, for example, that public employees are now entitled to minimum wage per the terms of the Amendment. Indeed, while NRS 608.250(1) limited minimum wage to "employees in **private** employment," the Amendment contains no such limitation, even defining employer so broadly as to include any "other entity that may employ individuals or enter into contracts of employment." Similarly, while NRS 608.250(1) limited minimum-wage entitlement to employees "within the State," the Amendment's definition of "employee" is not limited to those within the State. In fact, an employee, with certain exceptions, is "any person who is employed by an employer," and an "employer" is "**any** individual, proprietorship, partnership, joint venture, corporation, limited liability company, trust association, or other entity that may employ individuals or enter into contracts of employment." (Emphasis added). It would be absurd to conclude, based

on *expressio unius* or any other doctrine, that by addressing certain exceptions but by failing to exclude out-of-state employees of Nevada employers, the Nevada voters intended to repeal the NRS 608.250(1) requirement that minimum wage applies to those employees "within the State."[5]

Because this Court seeks to avoid interpretations that yield unreasonable or absurd results, Respondents respectfully request that this Court reconsider the reading of the Amendment to avoid the results set forth herein. *See J.E. Dunn Nw., Inc. v. Corus Const. Venture, LLC*, 127 Nev. ---, ---, 249 P.3d 501, 506 (2011) ("This court seeks to avoid interpretations that yield unreasonable or absurd result[s]."); *State v. Webster*, 102 Nev. 450, 453, 726 P.2d 831, 833 (1986) (noting that "statutory construction should always avoid an absurd result"); case law cited *supra* stating that this Court applies principles of statutory construction in interpreting the Constitution.

C. CONCLUSION

Respondents respectfully request that the Opinion issued on June 26, 2014 should be reconsidered as to all issues presented herein.

///

///

///

[5] Indeed, reading the Amendment in such a way would also render meaningless the scope of the Legislative Declaration of the compensation, wage, and hours statutes: "[t]he Legislature hereby finds and declares that the health and welfare of workers and employment of persons **in private enterprise in this State** are of concern to the State and that the health and welfare of persons required to earn their livings by their own endeavors require certain safeguards as to hours of service, working conditions, and compensation therefor." NRS 608.005 (emphasis added).

DATED this 21st day of July, 2014.

RESPECTFULLY SUBMITTED:

/s/ Marc C. Gordon

MARC C. GORDON, ESQ.
GENERAL COUNSEL
Nevada Bar No. 001866
TAMER B. BOTROS, ESQ.
ASSOCIATE COUNSEL
Nevada Bar No. 012183
YELLOW CHECKER STAR
TRANSPORTATION CO. LEGAL DEPT.
5225 W. Post Road
Las Vegas, Nevada 89118
Attorneys for Respondents

CERTIFICATE OF COMPLIANCE

I hereby certify that this Petition for Rehearing complies with the formatting requirements of NRAP 32(a)(4), the typeface requirements of NRAP 32(a)(5) and the type style requirements of NRAP 32(a)(6) because it has been prepared in a proportionally-spaced typeface using 14-point Times New Roman typeface in Microsoft Word 2013.

I further certify that this brief complies with the page-or-type-volume limitations of NRAP 40 or NRAP 40A because it is proportionately spaced, has a typeface of 14 points or more and it does not exceed 4,667 words.

Finally, I hereby affirm under NRS 239B.030(4) that the Petition for Rehearing has nobody's social security number.

Dated this 21st day of July, 2014.

/s/ Marc C. Gordon

MARC C. GORDON, ESQ.
GENERAL COUNSEL
Nevada Bar No. 001866
TAMER B. BOTROS, ESQ.
ASSOCIATE COUNSEL
Nevada Bar No. 012183
5225 W. Post Road
Las Vegas, Nevada 89118
Attorneys for Respondents

CERTIFICATE OF MAILING

The undersigned certifies that on July 21, 2014, they served the within:

RESPONDENTS' PETITION FOR REHEARING

by depositing the same in the U.S. mail, first class postage, prepaid, addressed as follows:

TO:

Leon Greenberg, Esq.
A Professional Corporation
2965 S. Jones Blvd., Suite E-4
Las Vegas, NV 89146

Dated this 21st day of July, 2014.

/s/ Sheila Robertson

Sheila Robertson