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IN THE SUPREME COURT OF THE STATE OF NEVADA

Electronically Filed
Oct 14 2014 03:39 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

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' MOTION TO CORRECT
OPINION OF JUNE 26, 2014 AND STAY
REMITTITUR

Leon Greenberg, Esq. (Bar # 8094)
A Professional Corporation
2965 S. Jones Blvd., Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085
Attorney for Appellants

1 Appellants, Christopher Thomas and Christopher Craig, hereby
2 file this motion seeking to correct this Court’s Opinion of June 26, 2014, by
3 removing any present tense language that can be interpreted as directing such
4 Opinion is only to be applied prospectively.

5
6 **NATURE OF RELIEF SOUGHT**

7
8 The holding of the Court’s Opinion of June 26, 2014 is not in
9 dispute. What is sought by this motion is a correction to the present tense
10 language of two sentences, and three words, of the Opinion which, if
11 uncorrected, will be the subject of further litigation, and a further appeal to this
12 Court, over whether such Opinion’s application is only prospective. These two
13 sentences, with the requested corrected language in brackets and removed
14 words struck through, are set forth below:

15
16 We hold that the district court erred because the text of the
17 Minimum Wage Amendment, by clearly setting out some
18 exceptions to the minimum wage law and not others, ~~supplants~~
19 [supplanted] the exceptions listed in NRS 608.250(2). Opinion,
20 page 2; 327 P.3d at 520.

21
22 The text of the Minimum Wage Amendment, by enumerating
23 specific exceptions that do not include taxicab drivers, ~~supersedes~~
24 [superceded] and ~~supplants~~ [supplanted] the taxicab driver
25 exception set out in NRS 608.250(2). Opinion, page 9; 327 P.3d
26 at 522.

1 **WHY THE RELIEF REQUESTED SHOULD BE GRANTED**

2 The relief requested is sought to conserve judicial resources and
3 promptly secure for the appellants, and many thousands of other employees in
4 the Nevada taxicab industry, the relief afforded to them by the Court’s Opinion
5 of June 26, 2014. Appellants’ counsel is aware of six other pending litigations
6 involving taxi driver plaintiffs seeking minimum hourly wages, including one
7 currently on appeal to this Court, *Gilmore v. Desert Cab, Inc.* No. 62905. *See,*
8 Ex. “A” ¶ 1. This case, the *Gilmore* appeal, and all of those other cases,
9 involve the identical issue resolved by this appeal, the entitlement of taxi
10 drivers to the minimum hourly wage specified by Nevada’s Constitution.

11 This litigation has been most vigorously contested, as evidenced by
12 respondents’ recently denied, and wholly specious, Petition for Rehearing. *See,*
13 Order of September 24, 2014. Despite the speciousness of any claim that the
14 Court’s Opinion of June 26, 2014 only has prospective application, it seems
15 virtually certain that respondents in this case, and one or more defendants in the
16 other taxi driver minimum wage cases, will insist on litigating that issue. They
17 will do so based upon the foregoing enumerated language. If that language is
18 not modified as requested they will insist it establishes that, under the Court’s
19 June 26, 2014 Opinion, the Minimum Wage Amendment has not “superceded”
20 and “supplanted” the exceptions set out in NRS 608.250(2) as of the
21 Amendment’s effective date but only “supercedes” and “supplants” them as of
22 the date of such Opinion. *See,* Ex. “A” ¶ 2.

23 **THE COURT SHOULD STAY REMITTITUR**
24 **TO CORRECT ITS OPINION**

25 Pursuant to NRAP Rule 41(a)(1) this Court is to issue remittitur of this
26 case on October 20, 2014, unless it enlarges the time for it to do so by
27 appropriate Order. It is submitted that the Court should suitably enlarge the
28 time for its remittitur to issue so it can consider and rule upon this motion

1 before it relinquishes jurisdiction over this appeal.

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3 Dated this 14th day of October, 2014.

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6

/s/ Leon Greenberg
Leon Greenberg, Esq. (Bar # 8094)
A Professional Corporation
2965 S. Jones Blvd., Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085
Attorney for Appellant

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EXHIBIT "A"

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4 IN THE SUPREME COURT OF THE STATE OF NEVADA

5 CHRISTOPHER THOMAS and
6 CHRISTOPHER CRAIG,
7 Individually and on behalf of others
8 similarly situated,

9 Appellants,

10 vs.

11 NEVADA YELLOW CAB
12 CORPORATION, NEVADA
13 CHECKER CAB CORPORATION,
14 NEVADA STAR CAB
15 CORPORATION,

16 Respondents,

Sup. Ct. No. 61681
Dist. Ct No.:A-12-661726-C
Dept. No. XXVIII

Declaration

17 Leon Greenberg, an attorney duly licensed to practice law in the State of
18 Nevada, hereby affirms, under penalty of perjury, that:

19 1. I am counsel for the appellants in this case. I am also counsel for the
20 plaintiffs in the following six other cases that also involve claims for unpaid
21 minimum hourly wages allegedly owed to taxi cab driver employees pursuant
22 to the Nevada Constitution: *Murray v. A Cab Taxi Service LLC*, Eighth Judicial
23 District Court, Case No. A-12-669926-C; *Herring v. Boulder Cab, Inc.*, Eighth
24 Judicial District Court, Case No. A-13-691551-C; *Tesema v. Lucky Cab Co.*,
25 Eighth Judicial District Court, Case No. A-12-660700-C; *Golden v. Sun Cab,*
26 *Inc.*, Eighth Judicial District Court, Case No. A-13-678109-C; *Perera v.*
27 *Western Cab Company*, Eighth Judicial District Court, Case No. A-14-707425-
28 C and *Gilmore v. Desert Cab, Inc.*, appeal pending, Nevada Supreme Court No.
62905. In all of these cases, except *Perera* which has yet to be served,

1 defendants have asserted that taxi cab drivers are not subject to the minimum
2 wage protections of Nevada’s Constitution, an issue resolved by this appeal.

3 2. I have engaged in discussions about the Court’s Opinion of June 26,
4 2014 with several of the counsel representing defendants in the cases
5 enumerated in paragraph 1. Such counsel have advised me that defendants in
6 those cases believe that the Court’s Opinion of June 26, 2014 has only
7 prospective application. They claim to base that belief upon the Opinion’s use
8 of the present tense “supercede” and “supplant,” and not the past tense of those
9 words, in its discussion of how the Nevada Constitution has overridden the
10 exceptions set out in NRS 608.250(2). Based upon those conversations it is my
11 belief that defendants in some, or all, of such cases, and in this case as well,
12 intend to argue that the Court’s Opinion of June 26, 2014 found the Nevada
13 Constitution “supercedes” and “supplants” the exceptions set out in NRS
14 608.250(2) only as of the date of such Opinion and not as of its enactment date.

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16
17 Dated this 14th day of October, 2014.

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19
20 /s/ Leon Greenberg
21 Leon Greenberg, Esq. (Bar # 8094)
22 A Professional Corporation
23 2965 S. Jones Blvd., Suite E-3
24 Las Vegas, Nevada 89146
25 (702) 383-6085
26 Attorney for Appellant
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