

IN THE SUPREME COURT OF THE STATE OF NEVADA

WESTERN CAB COMPANY,

Petitioner,

vs.

EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, in and for the COUNTY
OF CLARK; and THE HONORABLE
LINDA MARIE BELL, District Judge,

Respondents,

and

LAKSIRI PERERA, Individually and
on behalf of others similarly situated,

Real Party in Interest.

Case No.: 67631

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District Court Case No. A-14-707425-C

**PETITIONER WESTERN CAB COMPANY'S RESPONSE TO REAL
PARTIES IN INTEREST'S RESPONSE TO WESTERN CAB COMPANY'S
MOTION TO CONSOLIDATE**

Malani L. Kotchka
Nevada Bar No. 283
HEJMANOWSKI & McCREA LLC
520 South Fourth Street, Suite 320
Las Vegas, NV 89101
Telephone: (702) 834-8777
Facsimile: (702) 834-5262
Email: mlk@hmlawlv.com

*Attorneys for Petitioner
Western Cab Company*

The Real Parties in Interest have responded to Petitioner Western Cab Company's ("Western Cab's") Motion to Consolidate by agreeing in essence to consolidation of this case with Western Cab Company's writ petition, No. 68796, but opposing it in Case No. 66629, *Lisa Williams et al. v. District Court (Claim Jumper Acquisition, LLC, Real Party in Interest)* (the "Williams Case"). Western Cab urges that good grounds support consolidation of all three cases as each of them requires resolution of the same important issue --- what statute of limitations applies to claims for back minimum wage under the Minimum Wage Amendment to Nevada's Constitution.

Western Cab's Petition raises the unique circumstances in which the employee seeking back minimum wage was previously exempted from minimum wage by operation of NRS 608.250(2) and urges that the Court consider this circumstance and issue an opinion which resolves the statute of limitations issue for all categories of Nevada employees, both employees previously covered by the minimum wage and those statutorily exempted from its application.

Consolidation of cases, whether or not the subject of oral argument, or before or after oral argument in the Williams Case, is in the Court's discretion in the best interests of the parties and the public and to promote judicial efficiency. *See, e.g., Summa Corp. v. Eighth Judicial District Court*, 96 Nev. 600, 601 n. 1, 614 P.2d 4, 4 n. 1 (1980) (consolidating two appeals for purpose of oral argument); *Child v.*

Lomax, 124 Nev. 600, 603 n. 4 188 P.3d 1103, 1106 n. 4 (2008) (consolidating three petitions concerning term-limits and, after considering oral argument, deconsolidating them). Appellate courts in other jurisdictions have consolidated appeals even after oral argument. *See, e.g., Wilson v. U.S.*, 989 F.2d 953, 955 n. 2 (8th Cir. 1992) (consolidating on appeal after oral argument three cases brought by parents of boy scouts involved in accident while visiting an open federal military post: “All parties agree that these cases arose from the same occurrence and are identical in material fact and law”); *In re Steve D. Thompson Trucking, Inc.*, 989 F.2d 1424, 1426 (5th Cir. 1993) (although court only heard argument in one case, it consolidated it with another for purposes of decision); *Klopfenstein v. Pargeter*, 597 F.2d 150, 151 n. 2 (9th Cir. 1979) (consolidating appeals after oral argument in the first appeal); *U.S. v. Rush*, 840 F.2d 580, 581 (8th Cir. 1988) (following oral argument before a panel, the court of its own motion referred the case to the Eighth Circuit *en banc* and consolidated it with another case); *SFK USA Inc. v. U.S.*, 263 F.3d 1369, 1378 (Fed. Cir. 2001) (consolidating cases for purposes of decision following oral arguments in both).

Western Cab is not requesting delay of the currently scheduled oral argument in the Williams Case or demanding that it be allowed to participate in the oral argument. All Western Cab is seeking is to bring to the Court’s attention the interest of employers of employees previously excepted from Nevada’s minimum wage law

and the confusion that has ensued in Nevada's trial courts, both state and federal, as a result of the Minimum Wage Amendment. It is Western Cab's position that consideration of its position will assist the Court in determining a resolution of the statute of limitations issue to the benefit of all Nevada employers and employees, regardless of the employees' previous status under NRS 608.250(2) and that consolidation of its Petition with both the Williams case and the MDC Restaurants, LLC, writ proceeding will be beneficial and efficient.

Respectfully submitted this 15th day of September, 2015.

HEJMANOWSKI & McCREA, LLC

A handwritten signature in cursive script, reading "Malani L. Kotchka", written in black ink over a horizontal line.

MALANI L. KOTCHKA

Nevada Bar No. 283

520 South Fourth Street, Suite 320

Las Vegas, Nevada, 89101

Telephone: (702) 834-8777

Facsimile: (702) 834-5262

Email: mlk@hmlawlv.com

*Attorneys for Petitioner
Western Cab Company*

CERTIFICATE OF SERVICE

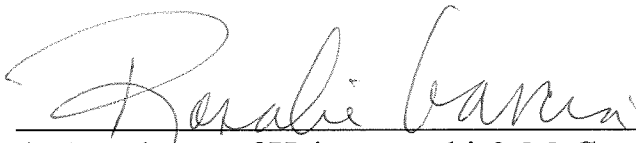
The undersigned does hereby certify that pursuant to NRAP 25(c) a true and correct copy of the foregoing **PETITIONER WESTERN CAB COMPANY'S RESPONSE TO REAL PARTIES IN INTEREST'S RESPONSE TO WESTERN CAB COMPANY'S MOTION TO CONSOLIDATE** was filed electronically with the Nevada Supreme Court Electronic Filing System, and a copy was served electronically on this 15th day of September, 2015, to the following:

Don Springmeyer, Esq.
Bradley Schrager, Esq.
Daniel Bravo, Esq.
WOLF, RIFKIN, SHAPIRO,
SCHULMAN & RABKIN, LLP
3556 E. Russell Road, 2d Floor
Las Vegas, NEvad 89120-2234
Email: dspringmeyer@wrslawyers.com
Email: bschrager@wrslawyers.com
Email: dbravo@wrslawyers.com

Leon Greenberg, Esq.
GREENBERG, P.C.
2965 S. Jones Blvd., Suite E4
Las Vegas, NV 89146
Telephone: (702) 383-6085
Facsimile: (702) 385-1827
Email: leongreenberg@overtimelaw.com

And a true and correct copy of the foregoing **PETITIONER WESTERN CAB COMPANY'S RESPONSE TO REAL PARTIES IN INTEREST'S RESPONSE TO WESTERN CAB COMPANY'S MOTION TO CONSOLIDATE** was served via first class, postage-paid U.S. Mail on this 15th day of September, 2015, to the following:

The Honorable Linda Marie Bell
District Court Judge
Eighth Judicial District Court of Nevada
200 Lewis Avenue, #3B
Las Vegas, NV 89101


An Employee of Hejmanowski & McCrea LLC