

IN THE SUPREME COURT OF THE STATE OF NEVADA

BOULDER CAB, INC.,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF
NEVADA, IN AND FOR THE
COUNTY OF CLARK; AND THE
HONORABLE TIMOTHY C.
WILLIAMS, DISTRICT JUDGE,

Respondents,

and

DAN HERRING,

Real Parties in
Interest.

Case No. 68949

District Court Case: A691551-C

Dept. No. XVI

Electronically Filed
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Tracie K. Lindeman
Clerk of Supreme Court

**MOTION BY NEVADA
AFFILIATE OF THE NATIONAL
EMPLOYMENT LAWYERS
ASSOCIATION FOR LEAVE TO
FILE AMICUS CURIAE BRIEF IN
OPPOSITION OF PETITION FOR
WRIT OF MANDAMUS**

Pursuant to NRAP 29(a) and 21(b)(3), the Nevada Employment Lawyers Association (“Nevada NELA”), moves for leave to appear as amicus curie in support of Respondents and the Real Parties in Interest.

Nevada NELA is an organization of attorneys who advance employee rights, justice and equality in the workplace for all Nevada employees. The issue raised in the Petition for Writ of Mandamus—whether *Thomas v. Nevada Yellow Cab Corp.*, 130 Nev. Adv. Op. 52, 327 P.3d 518 (2014) should only be applied

prospectively from the date of that decision—is of great importance to Nevada NELA members and the Nevada employees those members represent. It is the position of Nevada NELA that laws are made by the Voters (through the constitutional amendment process) or the Legislature, not by the courts. The courts interpret the law; they do not make the law. Furthermore, concluding that *Thomas v. Yellow Cab* is “prospective only” would deprive thousands of hardworking Nevadans eight (8) years of minimum wage that the Voters approved. This would be an inequitable result. Therefore, it is the position of Nevada NELA that the District Court correctly concluded that an employer’s obligation to pay the minimum wage mandated by the Nevada Constitution began in 2006—the date the minimum wage amendment went into effect.

Nevada NELA offers legal support and a perspective in favor of the Voters and Nevadans who work at or near the minimum wage. This position is distinctly different from those views offered by the amicus curie filed in support of the taxicab companies. Nevada NELA’s perspective may assist the court in resolving this issue. *See NGV Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F. Supp. 2d 1061, 1067 (N.D. Cal. 2005) (Courts “frequently welcome amicus briefs from non-parties concerning legal issues that have potential ramifications beyond the parties directly involved or if the amicus has ‘unique information or perspective that can help the court beyond the help that the lawyers for the parties are able to

provide.’’’) (citations omitted). Accordingly, Nevada NELA respectfully requests the opportunity to file a brief as amicus curie in support of Respondent and Real Parties in Interest.

Dated: January 21, 2016

Respectfully Submitted,

Nevada NELA

/s/Joshua D. Buck

Joshua D. Buck, President

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CERTIFICATE OF SERVICE

I am a resident of the State of Nevada, over the age of eighteen years, and not a party to the within action. My business address is 7287 Lakeside Drive, Reno, Nevada 89511. On January 21, 2016, the following document was served on the following:

MOTION BY NEVADA AFFILIATE OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN OPPOSITION OF PETITION FOR WRIT OF MANDAMUS

- By **United States Mail** – a true copy of the document listed above for collection and mailing following the firm’s ordinary business practice in a sealed envelope with postage thereon fully prepaid for deposit in the United States mail at Las Vegas, Nevada addressed as set forth below.

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I am readily familiar with the firm's practice of collection and processing correspondence for mailing and for shipping via overnight delivery service. Under that practice, it would be deposited with the U.S. Postal Service or if an overnight delivery service shipment, deposited in an overnight delivery service pick-up box or office on the same day with postage or fees thereon fully prepaid in the ordinary course of business. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 21, 2016 at Reno, Nevada.

/s/ Jasmin Williams
Jasmin Williams