IN THE SUPREME COURT OF THE STATE OF NEVADA

BOULDER CAB, INC., Petitioner, 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 Party in Interest.	Case No. 68949 District Court Case: A691551 Dept. No. XVI

BRIEF OF *AMICUS CURIAE* OF NEVADA AFFILIATE CHAPTER OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION

NRAP 26.1 DISCLOSURE

Pursuant to NRAP 26.1, the undersigned counsel of record certifies that Amicus Nevada NELA is a non-profit organization and affiliate chapter of the National Employment Lawyers Association ("NELA").

The undersigned counsel of record further certifies that Ms. Dana Sniegocki is the only attorney who has appeared or is expected to appeal for the Real Party of Interest. Ms. Sniegocki is an attorney with Leon Greenberg, P.C. and is the Vice-President of Nevada NELA. Ms. Sniegocki has not participated in the drafting of this brief.

Dated: January 21, 2016

NEVADA NELA

/s/Joshua D. Buck

Joshua D. Buck, President
Michael Balaban, Secretary-Treasurer
Christian Gabroy, Member At-Large
7287 Lakeside Drive
Reno, Nevada 89511
Telephone: (775) 284-1500
Facsimile: (775) 703-5027
Attorneys for Amicus

TABLE OF CONTENTS

TABLE OF AUTHORITIES

Cases

Statutes

Rules

AMICUS CURIAE BRIEF FOR THE NEVADA NELA IN SUPPORT OF RESPONDENTS AND THE REAL PARTIES IN INTEREST

I. STATEMENT OF INTEREST OF AMICUS CURIAE NEVADA NELA

The Nevada Employment Lawyers Association ("Nevada NELA") is a Nevada non-profit organization of attorneys who advance employee rights, justice and equality in the workplace for all Nevada employees. Nevada NELA is a proud affiliate of the National Employment Lawyers Association ("NELA"). NELA was founded in 1985 to provide assistance and support to lawyers in protecting the rights of employees. NELA and its 69 state and local affiliates have more than 4,000 members across each state of the union.[1] It is the position of Amicus Curiae 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.

[1] Nevada NELA members advocate in a wide variety of employment related matters, on both an individual and class basis, including: Wage issues, such as claims involving overtime pay, minimum wage, commissions, prevailing wage claims for state and federal contracts, and other pay related matters; Discrimination on the basis of race, gender, religion, national origin, disability, age, pregnancy, and sexual orientation; Harassment on the basis of race, gender, religion, national origin, disability, age and pregnancy; Sexual harassment; Violations of the family leave laws; Retaliation for engaging in protected activity; Whistleblower for reporting or opposing violations of state or federal laws; Breach of contract claims; Severance package negotiations; Civil Rights violations; Non-compete and confidentiality agreements; Unemployment compensation issues; Employee benefits; Disability benefits based on policies through employment.

II. SUMMARY OF ARGUMENT

> ***"[P]rospective decisionmaking is incompatible with the judicial role, which is to say what the law is, not to prescribe what it shall be."***
>
> -Justice Scalia's concurrence in *Am. Trucking Associations, Inc. v. Smith,* 496 U.S. 167, 201, 110 S. Ct. 2323, 2343, 110 L. Ed. 2d 148 (1990)

(A) The relief Petitioners seek in their writ of mandamus cannot be overstated for its severity and potentially hazardous effect. They ask this Court to conclude that a new law was enacted on September 24, 2014, when this Court issued the *Thomas v. Yellow Cab* decision. *See* 130 Nev. Adv. Op. 52, 327 P.3d 518 (2014), *reh'g denied* (Sept. 24, 2014). Courts do not make the law; they interpret the law. Such a request violates the long-standing separation of powers doctrine.

(B) In attempting to avoid the inherent and obvious problem with asking the Court to only apply prospective application of a Court decision, Petitioners rely on the *Chevron Oil Co. v. Huson* factors for prospective application. *See* 404 U.S. 97, 105, 92 S. Ct. 349, 355, 30 L. Ed. 2d 296 (1971); *Breithaupt v. USAA Prop. & Cas. Ins. Co.*, 110 Nev. 31, 867 P.2d 402 (1994) (citing these factors). These factors have been highly criticized and been all but abandoned by the United States Supreme Court. *See Harper v. Va. Dep't of Taxation,* 509 U.S. 86 (1993).

(C) Even under the *Huson* test of retroactively, there is no good reason Petitioners should not be subject to the Constitutional Amendment as of the date of the Amendment's enactment in 2006. Petitioners cannot claim reasonable reliance on any administrative determination that the Amendment did not apply to everyone, including those previously exempted from the provisions of NRS 608.250(2). In fact, the opposite is true—Petitioners were put on notice by a Nevada Attorney General Opinion that the NRS 608.250(2) exemptions would not apply to the Minimum Wage Amendment. *See* 05–04 Op. Att'y Gen. 12, 18 (2005). Furthermore, the equities at issue here overwhelmingly support a decision in favor of Nevada employees. As held by *Thomas v. Yellow Cab*, taxi cab drivers and other employees previously exempted under NRS 608.250(2) have been entitled to the minimum wage since the voters enacted the Amendment in 2006. To give these employers a "free pass" from their obligation to pay the minimum wage for the time period from 2006 to June 26, 2014, would deprive these employees from the much-needed income that is derived from their labor. The purpose of the Minimum Wage Amendment was to immediately benefit employees like Real Party in Interest, rather than employers like Petitioners. One of the purposes of the Minimum Wage Amendment was to make sure employees earned enough, not to need assistance from the State in terms of wages or medical

payments. The Amendment had a long history of favoring workers, and should be interpreted in light of that history.

III. STATEMENT OF FACTS

In the 2004 and again in the 2006 General Election, the people of the state of Nevada passed the Constitutional Minimum Wage Amendment, now Article XV Section 16, of the Nevada Constitution. On or about March 2, 2005, before the second passage of the Amendment, Nevada Governor Brian Sandoval, then acting as the Attorney General for the State of Nevada, publically issued an official opinion that should the amendment pass (which it did) the exemptions from the minimum wages contained in NRS 608.250(2) would not be applied to the constitutional mandate. The attorney general stated that,

> Thus it unmistakably appears that the voters intended for the proposed amendment to transform the existing statutory framework for minimum wages. . . . A constitutional amendment, ratified subsequent to the enactment of a statute, is controlling on any point covered in the amendment. [citations omitted]. Further, ratification of a constitutional amendment will render void any existing law that is in conflict with the amendment.

See 05–04 Op. Att'y Gen. 12, 18 (2005). Based upon this analysis, the Attorney General informed the Labor Commissioner, the Legislators and the people of the State of Nevada that:

> 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). 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)

Id. (emphasis added).

The meaning of this constitutional amendment was clear to the legal community, especially the employer-defense bar. In November 2006, attorney Rick D. Roskelley of the employer-side firm of Littler Mendelson[2] wrote an article entitled "The Nevada Constitutional Minimum Wage," which confirmed the Nevada Attorney General's assessment of the constitutional minimum wage amendment:

> ***Are certain employees exempt from the new minimum wage law?***
>
> The Amendment increases the number of employees who are entitled to be paid minimum wage. The only exemption allowed under the new Amendment is for employees who are under the age of eighteen and are employed by nonprofit organizations for after-school or summer employment or employed as trainees for a period not longer than 90 days.

[2] Littler Mendelson exclusively represents employers in labor and employment law matters. "Litter is the largest global employment and labor law practice with more than 1,000 attorneys in over 70 offices worldwide." *See* http://www.littler.com/about-littler-0 (last visited Jan. 7, 2016).

> ***No other employees qualify for the exemption***. This will make it necessary for Nevada employers to track the hours of a much broader number of employees, including salaried employees who are exempt from overtime but not the new minimum wage.
>
> ***Employers that have employees who were previously exempt from the minimum wage will need to make the necessary payroll adjustments***. Domestic service employees, outside salespersons, agricultural employees, ***taxicab*** and limousine drivers, and casual baby sitters ***will no longer be exempt from the minimum wage***. In addition, the special minimum wage for severely handicapped persons with certificates issued by the Rehabilitation Division of the Department of Employment, Training and Rehabilitation are not included among the exemptions identified in the Amendment.

http://www.littler.com/files/press/pdf/15281.pdf (last visited Jan. 1, 2016) (emphasis added).

IV. ARGUMENT

A. A "Prospective Only" Application Of *Thomas v. Yellow Cab* Would Violate The Separation Of Powers Doctrine

Only the Legislature can make laws that are prospective. The power to "make law" is vested solely in a Legislature comprised of two bodies, the Senate and Assembly. Nev. Const. art. 4, § 1. Specifically, Article 4, Section 1 provides that "[t]he Legislative authority of this State shall be vested in a Senate and Assembly which shall be designated 'The Legislature of the State of Nevada.'" *See also 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.").

In contrast to the Legislature, the Court finds the law and applies it to the facts of each case; the Courts do not make the law. *Cf. Galloway*, 83 Nev. at 21 ("[J]udicial power, and the exercise thereof by a judicial function, cannot include a power or function that must be derived from the basic Legislative or Executive powers."). It is emphatically "'the province and duty of the judicial department to say what the law *is*' *Marbury v. Madison,* 5 U.S. (1 Cranch) 137, 177, 2 L.Ed. 60 (1803) (emphasis added)—not what the law *shall be*." *Harper v. Virginia Dep't of Taxation,* 509 U.S. 86, 107, 113 S. Ct. 2510, 2523, 125 L. Ed. 2d 74 (1993) (J. Scalia concurring) (emphasis in *Harper* text). As Justice Scalia continued in Harper,

> That original and enduring American perception of the judicial role sprang not from the philosophy of Nietzsche but from the jurisprudence of Blackstone, which viewed retroactivity as an inherent characteristic of the judicial power, a power "not delegated to pronounce a new law, but to maintain and expound the old one." 1 W. Blackstone, Commentaries 69 (1765).

Nevada's Constitution manifests this fundamental division of power between the three branches of government by expressly prohibiting any one branch of government from impinging on the functions of another. *Secretary of State v. Nevada State Legislature*, 120 Nev. 456, 466, 93 P.3d 746, 753 (2004); *see e.g.*,

Comm'n on Ethics v. Hardy, 125 Nev. 285, 292, 212 P.3d 1098, 1104 (2009); *Galloway*, 83 Nev. at 31 ("The courts must be wary not to tread upon the prerogatives of other departments of government or to assume or utilize any undue powers."). Article III, Section 1(1) of the Nevada state constitution provides,

> The powers of the Government of the State of Nevada shall be divided into three separate departments,—the Legislative,—the Executive,—and Judicial; and no persons charged with the exercise of powers properly belonging to one of these departments shall exercise any functions, appertaining to either of the others, except in the cases expressly directed or permitted in this constitution.

Since Judges do not make law, Court decisions presumptively must be retroactive in all civil cases because court decisions merely interpret the law as it always was. *See City of Yerington v. Gutierrez*, No. 62910, 2015 WL 303648, at *3 (Nev. Jan. 22, 2015), *Kaiser Aluminum & Chem. Corp. v. Bonjorno*, 494 U.S. 827, 847, 110 S.Ct. 1570, 108 L.Ed.2d 842 (1990) (Scalia, J., concurring); *United States v. Sec. Indus. Bank*, 459 U.S. 70, 79, 103 S.Ct. 407, 74 L.Ed.2d 235 (1982). In *Harper v. Virginia Dep't of Taxation*, the United States Supreme Court reaffirmed this long standing truism: "[B]oth the common law and our own decisions" have "recognized a general rule of retrospective effect for the constitutional decisions of this Court." 509 U.S. 86 at 94. Indeed, "[n]othing in the Constitution alters the fundamental rule of 'retrospective operation' that has governed '[j]udicial decisions ... for near a thousand years.'" *Id.* at 94 (*quoting Kuhn v. Fairmont Coal Co*., 215

U.S. 349, 372, 30 S.Ct. 140, 148, 54 L.Ed. 228 (1910) (Holmes, J., dissenting). Based upon the separation of powers doctrine, the rule in federal court as stated in *Harper v. Virginia Dep't of Taxation*, should be the same rule in Nevada. *Harper*, 509 U.S. 86 at 94.

B. The *Chevron Oil v. Huson* Factors Have Been All But Abandoned By The United States Supreme Court And Should Be Rejected Here

In *Harper v. Va. Dep't of Taxation*, the United States Supreme Court all but abandoned the factors set forth in *Chevron Oil v. Huson*. "[T]he legal imperative "to apply a rule of federal law retroactively after the case announcing the rule has already done so" must "prevai[l] ***over any claim based on a Chevron Oil analysis***."" *Harper,* 509 U.S. 86 at 98 (citations omitted) (emphasis added). Retroactive application is the de facto rule, regardless of the factors mentioned in *Chevron Oil v. Huson*. Indeed, "a majority of Justices [in *James B. Beam Distilling Co. v. Georgia,* 501 U.S. 529, 111 S.Ct. 2439, 115 L.Ed.2d 481 (1991)] agreed that a rule of federal law, once announced and applied to the parties to the controversy, must be given full retroactive effect by all courts adjudicating federal law." *Harper,* 509 U.S. at 96. The only exception to the general rule of retroactivity is when the court expressly states otherwise. *See Id.* at 97-98 (*citing Beam,* 501 U.S., at 539) ("When [it] does not "reserve the question whether its holding should be applied to the parties before it," however, an opinion

announcing a rule of federal law "is properly understood to have followed the normal rule of retroactive application" and must be "read to hold ... that its rule should apply retroactively to the litigants then before the Court."). In sum, the United States Supreme Court announced a new rule of retroactivity in *Harper*:

> When this Court applies a rule of federal law to the parties before it, that rule is the controlling interpretation of federal law and must be given full retroactive effect in all cases still open on direct review and as to all events, regardless of whether such events predate or postdate our announcement of the rule.

Id. at 97.

There is no reason why this Court's interpretation of a constitutional mandate should be viewed any differently. Indeed, the alternative interpretation—*i.e.*, that any Nevada Supreme Court case that interprets a constitutional or statutory provision can only be applied prospectively as of the date of decision—would lead to absurd results. Litigants who have been harmed by an unlawful interpretation of a constitutional or statutory provision would be deprived of a remedy.

Ultimately, Petitioners' exact same argument was considered by the United States Court of Appeals for the Ninth Circuit in *Greene v. Executive Coach & Carriage*, 591 F. App'x 550 (9th Cir. 2015). In that case, a limousine company tried to raise the same retroactivity argument based upon the date of decision in *Thomas v. Yellow Cab* as Petitioner does in this case. At oral argument, the panel

was openly confused by the limousine company's arguments; the arguments went well beyond common sense as to the role judicial decisions play in interpreting the law.[3] The panel squarely rejected the limousine company's "prospective only" argument without mention of the *Chevron Oil v. Huson* factors and confirmed that *Thomas v. Yellow Cab* simply interpreted the effect of the Minimum Wage Amendment on the exclusions set forth in NRS 608.250(2):

> Because the repeal of § 608.250(2) occurred in 2006 when the amendment was ratified, we reject Executive Coach and Carriage's ("Executive") retroactivity argument. Greene does not allege that he is owed wages for hours worked prior to 2006. We therefore reverse the district court's dismissal of the minimum wage claim.

Greene v. Executive Coach & Carriage, 591 F. App'x 550 (9th Cir. 2015). The same should befall Petitioners' arguments here.

C. A "Prospective Only" Application Of *Thomas v. Yellow Cab* Is Not Supported Even If the *Chevron Oil v. Huson* Factors Are Applied

Lastly, Petitioners' arguments in favor of "prospective only" application of *Thomas v. Yellow* cab should be rejected even if the *Chevron Oil v. Huson* factors are considered because (1) the Court's decision was "clearly foreshadowed" and (2) equities favor voter intent to pay taxi cab drivers the minimum wage.

[3] http://www.ca9.uscourts.gov/media/view_video.php?pk_vid=0000006947, video footage 15:38-31:57 (last visited on Jan. 7, 2016).

First, the March 5, 2005, opinion of the Attorney General "clearly foreshadowed" this Court's ruling in *Thomas v. Nevada Yellow Cab.* After the Attorney General's opinion, no reasonable employer could claim that it was unaware of its potential liability for the constitutional minimum wages even if the employer was previously exempt from the statutory minimum wage provisions of NRS 608.250. A published opinion of the Attorney General, like the one in this case, is presumed notice to everyone. The opinion of the Attorney General made clear that:

> 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).

Petitioner was at least on notice that it had better do more than sit idly by and wait for a favorable ruling from this court in the *Yellow Cab* case. Had Petitioner sought legal advice, that advice would have included at least a mention of the Attorney General's opinion. Indeed, the employer-side law firm of Littler Mendelson unequivocally believed that the minimum wage exemptions under NRS 608.250(2) did not apply to the constitutional minimum wage amendment and cautioned its clients and non-clients alike, "Employers that have employees who were previously exempt from the minimum wage will need to make the necessary

payroll adjustments." *See* http://www.littler.com/files/press /pdf/15281.pdf (last visited Jan. 1, 2016) (emphasis added).

Second, Petitioners' attempt to counter this inequity with their own perceived inequity of not having recorded the hours worked by taxi cab drivers for the eight plus years between the date of enactment and this Court's decision in *Thomas* is as shocking as it is insincere. Indeed, Petitioners' admit that it has not kept time records for taxi cab driver is in direct violation of federal wage and hour laws. Taxi cab driver are, and have always been, entitled to the federal minimum wages for all the hours that they worked. *See* 29 U.S.C. § 206.[4] As a result, Petitioners have always had a duty to keep accurate time records under federal law. *See* 29 U.S.C. §211(c).[5] Under the United States Supreme Court decision in

---

[4] The taxi-cab exemption at 29 U.S.C. § 213(b)(17) relates only to overtime under the Section 7 of the FLSA, 29 U.S.C. § 207, and not to the minimum wage provisions of Section 6 of the FLSA, 29 U.S.C. § 206.

[5] As stated at Section 11(c) of the FLSA, 29 U.S.C. § 211(c):

> Every employer subject to any provision of this chapter or of any order issued under this chapter shall make, keep, and preserve such records of the persons employed by him and of the wages, hours, and other conditions and practices of employment maintained by him, and shall preserve such records for such periods of time, and shall make such reports therefrom to the Administrator as he shall prescribe by regulation or order as necessary or appropriate for the enforcement of the provisions of this chapter or the regulations or orders thereunder. The employer of an employee who performs substitute work described in section 207(p)(3) of this

Anderson v. Mt. Clemens Pottery Co., 328 U.S. 680, 687–88, 66 S.Ct. 1187, 90 L.Ed. 1515 (1946), it would be unjust and contrary to the legislative purpose to penalize employees for lack of exact proof of hours worked when it is the employer who has the responsibility of keeping records of hours under law. 328 U.S. at 687, 66 S.Ct. 1187. Indeed, the long-standing federal rule is if the employer cannot produce accurate records, then the employees can prove their damages in the time honored way of "just and reasonable inferences." *See id.* at 687-688 ([W]here the employer's records [of work hours] are inaccurate or inadequate and the employee cannot offer convincing substitutes .... we hold that an employee has carried out his burden if he proves he has in fact performed work for which he was improperly compensated and if he produces sufficient evidence to show the amount and extent of that work as a matter of just and reasonable inference."). Failing to comply with the federal mandate for keeping accurate time records does not excuse Petitioners from failing to obey the Nevada constitutional mandate to pay the minimum wage. Petitioners cannot equitably argue that retroactive application "could produce substantial inequitable results" because the Petitioners *unlawfully* failed to keep adequate records of hours worked. A party cannot claim estoppel based on its own unlawful behavior.

> title may not be required under this subsection to keep a record of the hours of the substitute work.

In sum, the purpose of the Minimum Wage Amendment was to protect workers like Real Party in Interest, and therefore, it should be interpreted to effectuate that purpose in this case. The prior history of the Minimum Wage Amendment was not just to increase the amount of the minimum wage law, but to increase the coverage of that law to include more workers than the statutory exceptions would allow. The merits of this case also weigh in favor of the Real Party, who are by definition sub-minimum wage earners trying to survive without becoming a burden on the state welfare system as opposed to a wealthy corporation owning a fleet of taxi cabs in the lucrative Las Vegas market.

V. CONCLUSION

For the reasons stated herein, the Court should deny Petitioners' request for prospective only application of the 2006 Constitutional Minimum wage amendment.

Dated: January 21, 2016

NEVADA NELA

/s/Joshua D. Buck

Joshua D. Buck, President
Michael Balaban, Secretary-Treasurer
Christian Gabroy, Member At-Large
7287 Lakeside Drive
Reno, Nevada 89511
Telephone: (775) 284-1500
Facsimile: (775) 703-5027
Attorneys for Amicus

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief 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:

- ■ This brief has been prepared in a proportionally spaced typeface using Microsoft Word 2010 in 14 point font size and Times New Roman.

I further certify that this brief complies with the page length or type volume limitations of NRAP 32(a)(7) and NRAP 29(e) because, excluding the parts of the brief exempted by NRAP 32(a)(7)(C), it is either:

- ■ Proportionately spaced, has a typeface of 14 points or more, and contains 4,088 words:
- □ Monospaced, has 10.5 or fewer characters per inch, and contains ___words or ___lines of text; or
- ■ Does not exceed 15 pages.

Finally, I hereby certify that I have read this amicus brief, and to the best of my knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in particular NRAP 28(e)(1), which requires every assertion in the brief regarding matters in the record to be supported by a

reference to the page and volume number, if any, of the transcript or appendix where the matter relied on is to be found.

I understand that I may be subject to sanctions in the event that the accompanying brief is not in conformity with the requirements of the Nevada Rules of Appellate Procedure.

Dated: January 21, 2016 NEVADA NELA

/s/Joshua D. Buck

Joshua D. Buck, President
Michael Balaban, Secretary-Treasurer
Christian Gabroy, Member At-Large
7287 Lakeside Drive
Reno, Nevada 89511
Telephone: (775) 284-1500
Facsimile: (775) 284-1506
Attorneys for Amicus

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:

AMICUS CURIAE BRIEF FOR THE NEVADA NELA

IN SUPPORT OF RESPONDENTS

■ 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.

Hejmanowski & McCrea LLC
520 S 4th Street #320
Las Vegas, NV 89101
Attorneys for Western Cab Company

Leon Greenberg, Esq.
Dana Sniegocki, Esq.
Leon Greenberg PC
2965 South Jones Blvd., Suite E4
Las Vegas, NV 89146
Attorney for Real Parties in Interest Dan Herring

Honorable Timothy C. Williams
Regional Justice Center
200 Lewis Avenue
Las Vegas, NV 89155

Rick Roskelley, Esq.
Roger L. Grandgenett, Esq.
Montgomery Y. Paek, Esq.
Crystal J. Herrera, Esq.
LITTLER MENDELSON, P.C.
3960 Howard Hughes Parkway,
Suite 300
Las Vegas, NV 89169
Attorneys for Amicus Curiae SUN CAB, INC. dba NELLIS CAB CO.

Robert A. Winner
WINNER & CARSON, P.C.
510 South Eighth Street
Las Vegas, NV 89101
Attorneys for Boulder Cab, Inc.

Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP
3556 East Russell Road, Second Floor
Las Vegas, NV 89120
Attorneys for Progressive Leadership Alliance of Nevada

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