

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

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4 NEVADA YELLOW CAB  
CORPORATION, NEVADA  
5 CHECKER CAB CORPORATION,  
and NEVADA STAR CAB  
6 CORPORATION,

7 Petitioners,

8 vs.

9 THE EIGHTH JUDICIAL DISTRICT  
10 COURT OF THE STATE OF  
NEVADA, IN AND FOR THE  
11 COUNTY OF CLARK; AND THE  
HONORABLE RONALD J. ISRAEL,  
DISTRICT COURT JUDGE,

12 Respondents,

13 and

14 CHRISTOPHER THOMAS and  
15 CHRISTOPHER CRAIG,

16 Real Parties in Interest,  
17

Electronically Filed  
Jan 22 2016 01:51 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**Case No. 68975**

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

**MOTION BY PROGRESSIVE  
LEADERSHIP ALLIANCE OF  
NEVADA FOR LEAVE TO FILE  
AMICUS CURIAE BRIEF IN  
SUPPORT OF REAL PARTIES IN  
INTEREST'S ANSWERING BRIEF**

18 Prospective *amicus curiae* the Progressive Leadership Alliance of Nevada  
19 (“PLAN”) hereby files a motion for leave to file its brief in support of Real Parties  
20 in Interest’s answering brief, and in support of denying the present writ petition.  
21 PLAN seeks leave to file an amicus brief to raise legal arguments and highlight the  
22 ramifications of the arguments advanced by Petitioners.

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1 **I. THE COURT SHOULD GRANT LEAVE TO FILE AN AMICUS**  
2 **BRIEF**

3 This Court has the discretion to permit a non-party to file an amicus brief.  
4 *See Nev. R. App. P. 29(a); Nev. R. App. P. 21(b)(3).* Courts “welcome amicus  
5 briefs from non-parties concerning legal issues that have potential ramifications  
6 beyond the parties directly involved or if the amicus has unique information or  
7 perspective that can help the court beyond the help that the lawyers for the parties  
8 are able to provide.” *NVG Gaming, Ltd. v. Upstream Point Molate, LLC*, 355 F.  
9 Supp. 2d 1061, 1067 (N.D. Cal. 2005). PLAN offers its experience in advocating  
10 economic justice for low-wage workers to amplify and reinforce the argument that  
11 legal and equitable principles require a retroactive application of this Court’s  
12 decision in *Thomas v. Nevada Yellow Cab Corp.*, 130 Nev. Adv. Op. 52, 327 P.3d  
13 518 (2014), *reh’g denied* (Sept. 24, 2014).

14 **A. PLAN Has An Interest In Denial Of This Writ Petition**

15 PLAN was founded in 1994 to advocate for, among other things, economic  
16 justice for low-wage workers and the working poor in Nevada. PLAN played in  
17 role in the passage of the Minimum Wage Amendment ultimately at issue in this  
18 writ petition, in 2004 and 2006. It currently is part of a coalition responsible for a  
19 2016 ballot initiative to amend and improve article XV, section 16 of the Nevada  
20 Constitution. PLAN members also regularly testify before the Nevada State  
21 Legislature on matters regarding the minimum wage, on behalf of minimum wage  
22 workers and the economically-disadvantaged. PLAN is keenly aware of the  
23 remedial, pro-employee intent of the Minimum Wage Amendment, and recognizes  
24 that rulings regarding the Amendment potentially affect tens, if not hundreds, of  
25 thousands of minimum wage workers in Nevada.

26 Corporations, like the taxicab companies that are parties to this litigation and  
27 the *amici* who filed to support them, enjoy the resources and organizational

1 structures required to file such briefs and engage in such litigation. Minimum wage  
2 workers, as individuals or even as a group, do not benefit from the same profit  
3 margins, legal budgets, professional associations, or organization. By virtue of  
4 earning the absolute lowest wage allowable by law, minimum wage workers—in  
5 this case workers who have been deprived of any wage at all, minimum or  
6 otherwise—rely on groups such as PLAN to advocate on their behalves. Due to its  
7 long-term engagement in wage issues in Nevada, and in particular to its  
8 involvement in the passage of the Minimum Wage Amendment, PLAN is qualified  
9 and able to provide such advocacy on this issue. These interests qualify proposed  
10 *amicus curiae* to participate in this matter.

11 **B. An Amicus Brief In Support Of Real Parties In Interest Is**  
12 **Desirable For The Court To Consider All Relevant Points And**  
**Authorities Concerning The Issue In The Writ Petition**

13 Several taxicab companies, including the parties and *amici*, have now  
14 weighed in on this writ petition. Each one, in turn, bemoans Real Parties in  
15 Interest’s position “that the defendant taxicab companies were required to pay  
16 drivers the minimum wage since the ratification of the Minimum Wage  
17 Amendment in 2006[.]” *See, e.g.,* Amici Sun Cab, Inc.’s Motion for Leave at 3.  
18 Despite the axiomatic nature of this position—that taxicab companies were  
19 required to pay the minimum wage ever since the state’s constitution required them  
20 to pay the minimum wage—the taxicab companies find this wholly objectionable.  
21 But the taxicab companies wagered, and lost, on a risky defense to liability—  
22 thinking, that the Amendment did not apply to them because of previously-valid  
23 statutory exemptions. This Court should not now pardon the taxicab companies for  
24 their lost wager. That bet was made at the expense of cab-driving employees, and  
25 now the bill has come due.

26 PLAN also maintains that *Thomas* was not “landmark” decision. This Court  
27 did not reverse itself or any longstanding precedent in its *Thomas* opinion; neither

1 did it break with other jurisdictions in its ruling. The voters, by overwhelming  
2 majorities, recast and replaced Nevada’s statutory minimum wage scheme by  
3 enacting the Minimum Wage Amendment to the state constitution. The natural  
4 outcome, as this Court ultimately held in *Thomas*, is exactly what happened: the  
5 old statutes do not control anymore, especially in instances of obvious conflict (as  
6 here in the case of previous and newly-enacted exceptions to minimum wage  
7 coverage). The logic and decision of the majority in *Thomas* were both foreseeable  
8 and expected. The taxicab companies cannot now act as if they could not have  
9 been expected to consider the possibility that their weak and self-serving  
10 interpretation of the interplay between N.R.S. 608.250 and the Minimum Wage  
11 Amendment would crumble upon judicial examination.

12 **II. CONCLUSION**

13 An *amicus curiae* brief on behalf of PLAN is both useful and timely given  
14 the importance of the issue herein to low-wage workers. Accordingly, this Court  
15 should give leave to file the *amicus curiae* brief on behalf of PLAN.

16 Respectfully submitted this 22nd day of January 2016.

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1 **CERTIFICATE OF SERVICE**

2 **STATE OF NEVADA, COUNTY OF CLARK**

3 At the time of service, I was over 18 years of age and not a party to this  
4 action. I am employed in the County of Clark, State of Nevada My business  
5 address is 3556 E. Russell Road, 2nd Floor, Las Vegas, Nevada 89120-2234.

6 On January 22, 2016, I served true copies of the following document(s)  
7 described as **MOTION BY PROGRESSIVE LEADERSHIP ALLIANCE OF  
8 NEVADA FOR LEAVE TO FILE AMICUS CURIAE BRIEF IN SUPPORT  
9 OF REAL PARTIES IN INTEREST'S ANSWERING BRIEF** on the interested  
10 parties in this action as follows:

11 **BY CM/ECF:** Pursuant to N.E.F.R., the above-referenced document was  
12 electronically filed and served upon the parties listed below through the Court's  
13 Case Management and Electronic Case Filing (CM/ECF) system.

14 I declare under penalty of perjury under the laws of the State of Nevada that  
15 the foregoing is true and correct.

16 Executed on January 22, 2016, at Las Vegas, Nevada.

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By: /s/ Dannielle R. Fresquez  
Dannielle R. Fresquez, an Employee of  
WOLF, RIFKIN, SHAPIRO,  
SCHULMAN & RABKIN, LLP