

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, IRSHAD  
AHMED, MICHAEL SARGEANT  
Individually and on behalf of others  
similarly situated,

Real Parties in Interest.

Case No.: 69408

District Court Case No.

Electronically Filed  
May 10 2016 03:38 p.m.  
Tracie K. Lindeman  
Clerk of Supreme Court

**MOTION TO STRIKE AMICUS  
CURIAE BRIEF OF THE NEVADA  
AFFILIATE CHAPTER OF THE  
NATIONAL EMPLOYMENT  
LAWYERS ASSOCIATION IN  
SUPPORT OF RESPONDENTS  
AND THE REAL PARTIES IN  
INTEREST**

Pursuant to NRAP 27, Petitioner Western Cab Company (“Western Cab”) requests that this Court strike the Amicus Curiae brief of the Nevada Affiliated Chapter of the National Employment Lawyers Association (“NELA”) in Support of Respondents and Real Parties in Interest<sup>1</sup> because of its misrepresentations and raising of new issues. NELA filed its Amicus Curiae brief on April 5, 2016. NELA states that Western Cab “cannot complain about the definition of the term

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<sup>1</sup> On the first page of its brief, NELA names the wrong district judge.

health benefits in the Nevada Minimum Wage Amendment because Petitioner has not claimed to have provided its employees with any sort of health insurance at all.” Amicus Brief, p. 14. That is not true. The Appendix at 91 shows that it is undisputed: “Perera started receiving health insurance from Western Cab on February 1, 2011. Western Cab paid the entire health insurance premium on behalf of Perera from February 1, 2011 through October 15, 2012. In 2012, Western Cab paid \$353.07 per month for Perera’s health insurance coverage.”

Perera filed a wage claim with the Nevada Labor Commissioner. Perera’s wage claim states that he started receiving health benefits on March 24, 2011. App. at 282. After that date, Perera requested the lower tier of the minimum wage. App. at 282. On November 13, 2012, the Nevada Labor Commissioner said, “With these evidentiary documents, it appears that you have been paid correctly.” App. at 92.

Moreover, the Appendix shows “Irshad Ahmed became eligible for group health insurance on March 1, 2013 but did not enroll.” App. at 257. NELA’s brief should be stricken since NELA did **not** read the Appendix and has misrepresented facts to this Court.

Moreover, NELA raises issues that were not raised in the Court below. NELA attaches 29 pages of a Los Angeles Minimum Wage Ordinance and attempts to compare it to the one-page Minimum Wage Amendment. They are not

similar and do not have similar provisions. While NELA represents that the City of Los Angeles passed a collection of wage ordinances which were “the product of intense Union lobbying” (NELA Amicus Brief, p. 4), that is not what happened with Nevada’s Minimum Wage Amendment. In Nevada, the AFL-CIO admittedly and undisputedly **drafted** the Minimum Wage Amendment in order to even the playing field between union and non-union employers. App. at 663-64, 666-67. There is a difference between a union lobbying a bill and the AFL-CIO writing a constitutional amendment. NELA’s so-called test of NLRA preemption on pages 4 and 8 of their brief is not accurate and the applicable standards have been set forth in Western Cab’s original petition and reply brief.

If Western Cab had been aware of the misrepresentations and raising of new issues in NELA’s amicus brief, it would have opposed the Court granting NELA’s motion. The only remedy for the misrepresentations and the raising of new issues is to strike the brief. NELA’s brief should be stricken.

HEJMANOWSKI & McCREA, LLC

/s/ Malani L. Kotchka

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*

## CERTIFICATE OF SERVICE

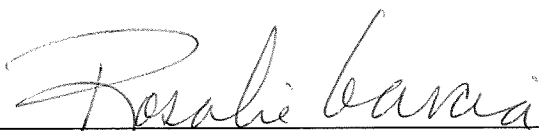
The undersigned does hereby certify that pursuant to NRAP 25(c), a true and correct copy of the foregoing **MOTION TO STRIKE AMICUS CURIAE BRIEF OF THE NEVADA AFFILIATE CHAPTER OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION IN SUPPORT OF RESPONDENTS AND THE REAL PARTIES IN INTEREST** was filed electronically with the Nevada Supreme Court Electronic Filing System, and a copy was served electronically on this 10th day of May, 2016, to the following:

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

Mark R. Thierman  
NEVADA NELA  
7287 Lakeside Drive  
Reno, NV 89511  
Telephone: (775) 284-1500  
Facsimile: (775) 703-5027

And a true and correct copy of the foregoing **MOTION TO STRIKE AMICUS CURIAE BRIEF OF THE NEVADA AFFILIATE CHAPTER OF THE NATIONAL EMPLOYMENT LAWYERS ASSOCIATION IN SUPPORT OF RESPONDENTS AND THE REAL PARTIES IN INTEREST** was served via first class, postage-paid U.S. Mail on this 10th day of May 2016, 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