


CLERK OF THE COURT

1 **NOA**
2 LEON GREENBERG, ESQ., SBN 8094
3 DANA SNIEGOCKI, ESQ., SBN 11715
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6 2965 South Jones Blvd - Suite E3
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Electronically Filed
Jul 21 2016 10:11 a.m.
Tracie K. Lindeman
Clerk of Supreme Court

12 Attorneys for Plaintiff

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 MICHAEL SARGEANT, Individually and 16 on behalf of others similarly situated,	}	Case No.: A-15-714136-C
17 Plaintiff,		Dept.: XVII
18 vs.		NOTICE OF APPEAL
19 HENDERSON TAXI,		
20 Defendant.		

21 Notice is hereby given that MICHAEL SARGEANT, plaintiff above named, by
22 and through his counsel of record Leon Greenberg, Esq., hereby appeals to the
23 Supreme Court of Nevada from the District Court's order entered on July 8, 2016
24 granting Defendants' Motion for Attorneys' Fees.

25 Dated: Clark County, Nevada
26 July 13, 2016

27 Submitted by

28 Leon Greenberg Professional Corporation

/s/ Leon Greenberg

Leon Greenberg, Esq.
LEON GREENBERG PROFESSIONAL
CORPORATION
Attorney for the Plaintiff
2965 South Jones Boulevard - Suite E3
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(702) 383-6085
leongreenberg@overtimelaw.com


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12 Attorneys for Plaintiff

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DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiff,

vs.

HENDERSON TAXI,

Defendant.

Case No.: A-15-714136-C

Dept.: XVII

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement: MICHAEL SARGEANT

2. Identify the judge issuing the decision, judgment, or order appealed from: Hon.
Michael Villani

3. Identify each appellant and the name and address of counsel for each appellant:

Appellant: Michael Sargeant

Attorneys: Leon Greenberg, Esq. and Dana Sniegocki, Esq., attorneys for
Appellant

1 2965 S. Jones Boulevard, Suite E-3

2 Las Vegas, NV 89146

3 4. Identify each respondent and the name and address of appellate counsel, if
4 known, for each respondent (if the name of a respondent's appellate counsel is
5 unknown, indicate as much and provide the name and address of that respondent's trial
6 counsel):

7 Respondent: Henderson Taxi

8 Attorneys: Anthony L. Hall, Esq., R. Calder Huntington, Esq.

9 HOLLAND & HART, LLP

10 9555 Hillwood Drive, 2nd Floor

11 Las Vegas, NV 89134

12 5. Indicate whether any attorney identified above in response to question 3 or 4 is
13 not licensed to practice law in Nevada and, if so, whether the district court granted that
14 attorney permission to appear under SCR 42 (attach a copy of any district court order
15 granting such permission):

16 All attorneys are licensed to practice in Nevada

17 6. Indicate whether appellant was represented by appointed or retained counsel in
18 the district court:

19 Counsel was retained.

20 7. Indicate whether appellant is represented by appointed or retained counsel on
21 appeal:

22 Counsel was retained.

23 8. Indicate whether appellant was granted leave to proceed in forma pauperis, and
24 the date of entry of the district court order granting such leave:

25 Appellant is not proceeding in forma pauperis.

26 9. Indicate the date the proceedings commenced in the district court (e.g., date
27 complaint, indictment, information, or petition was filed):

28 Complaint was filed February 19, 2015.

1 10. Provide a brief description of the nature of the action and result in the district
2 court, including the type of judgment or order being appealed and the relief granted by
3 the district court:

4 Putative class action for defendant's taxi driver employees for unpaid minimum
5 wages and related damages and relief pursuant to the provisions of Nevada's
6 Constitution. Case proceeded to final judgment in favor of defendant as per district
7 court order entered on February 3, 2016, such final judgment being appealed and
8 assigned Case No. 69773 in the Nevada Supreme Court, such appeal is still pending.
9 This is an appeal of the post-judgment order of the district court, entered July 8, 2016
10 granting an award of attorneys' fees in favor of defendants and against the plaintiff.

11 11. Indicate whether the case has previously been the subject of an appeal to or
12 original writ proceeding in the Supreme Court and, if so, the caption and Supreme
13 Court docket number of the prior proceeding:

14 Yes. Michael Sargeant v. Henderson Taxi, Case No. 69773.

15 12. Indicate whether this appeal involves child custody or visitation:

16 This appeal does not involve child custody or visitation.

17 13. If this is a civil case, indicate whether this appeal involves the possibility of
18 settlement:

19 This case involves a pure issue of law and no settlement is possible.
20

21 Dated: Clark County, Nevada
22 July 13, 2016

23 Submitted by

24 Leon Greenberg Professional Corporation

25 /s/ Leon Greenberg

26 Leon Greenberg, Esq.

27 LEON GREENBERG PROFESSIONAL
28 CORPORATION

Attorney for the Plaintiff

2965 South Jones Boulevard - Suite E3

Las Vegas, Nevada 89146

(702) 383-6085

leongreenberg@overtimelaw.com

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-714136-C

Michael Sargeant, Plaintiff(s)
vs.
Henderson Taxi, Defendant(s)

§
§
§
§
§
§

Location: **Department 17**
Judicial Officer: **Villani, Michael**
Filed on: **02/19/2015**
Cross-Reference Case Number: **A714136**
Supreme Court No.: **69773**

CASE INFORMATION

Case Type: **Other Civil Matters**

Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Automatically Exempt from Arbitration

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-15-714136-C
Court Department 17
Date Assigned 02/19/2015
Judicial Officer Villani, Michael

PARTY INFORMATION

Plaintiff Sargeant, Michael

Lead Attorneys

Greenberg, Leon
Retained
7023836085(W)






Defendant Henderson Taxi

Hall, Anthony L.
Retained
702-669-4650(W)

DATE

EVENTS & ORDERS OF THE COURT




INDEX

02/19/2015	 Complaint With Jury Demand Filed By: Plaintiff Sargeant, Michael <i>Complaint</i>	
02/19/2015	Case Opened	
03/19/2015	 Answer to Complaint Filed by: Defendant Henderson Taxi <i>Answer to Complaint</i>	
03/19/2015	 Initial Appearance Fee Disclosure Filed By: Defendant Henderson Taxi <i>Initial Appearance Fee Disclosure</i>	
05/06/2015	 Joint Case Conference Report Filed By: Plaintiff Sargeant, Michael <i>Joint Case Conference Report</i>	
05/27/2015	 Motion for Class Certification Filed By: Plaintiff Sargeant, Michael <i>Motion to Certify Class, Invalidate Improperly Obtained Acknowledgments, Issue Notice to</i>	











CASE SUMMARY

CASE NO. A-15-714136-C














Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff

05/27/2015	 Notice of Motion Filed By: Plaintiff Sargeant, Michael <i>Notice of Motion to Certify Class, Invalidate Improperly Obtained Acknowledgments, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i>
05/27/2015	 Proof of Service Filed by: Plaintiff Sargeant, Michael <i>Proof of Service</i>
05/28/2015	 Notice of Hearing <i>Notice of Hearing</i>
05/29/2015	 Scheduling Order <i>Scheduling Order</i>
06/03/2015	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial and Calendar Call</i>
06/03/2015	 Amended Joint Case Conference Report Filed By: Plaintiff Sargeant, Michael <i>Amended Joint Case Conference Report</i>
06/09/2015	 Motion for Order Extending Time Filed by: Defendant Henderson Taxi <i>Defendant Henderson Taxi Motion for Continuation of Hearing and Enlargement of Time to Oppose Plaintiff's Motion to Certify - Ex Parte Application for Order Shortening Time and Order Thereon</i>
06/15/2015	 Stipulation and Order Filed by: Defendant Henderson Taxi <i>Stipulation and Order</i>
06/15/2015	 Notice of Entry of Stipulation and Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Stipulation and Order</i>
06/17/2015	CANCELED Motion (8:30 AM) (Judicial Officer: Villani, Michael) <i>Vacated - per Stipulation and Order</i> <i>Defendant Henderson Taxi Motion for Continuation of Hearing and Enlargement of Time to Oppose Plaintiff's Motion to Certify - Ex Parte Application for Order Shortening Time and Order Thereon</i>
07/15/2015	 Certificate of Service Filed by: Defendant Henderson Taxi <i>Certificate of Service</i>
07/15/2015	 Notice of Entry of Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Order</i>
07/15/2015	 Opposition


DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-714136-C

	<p>Filed By: Defendant Henderson Taxi <i>Defendant's Opposition to Motion to Certify Class, Invalidate Improperly Obtained Acknowledgements, Issue Notice to Class Members, and to Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
07/15/2015	<p> Appendix Filed By: Defendant Henderson Taxi <i>Appendix of Exhibits</i></p>
07/15/2015	<p> Ex Parte Filed By: Defendant Henderson Taxi <i>Ex Parte Application for Leave to Exceed Page Limit for Defendant's Opposition to Motion to Certify Class, Invalidate Improperly Obtained Acknowledgements, Issue Notice to Class Members, and to Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
07/15/2015	<p> Order Filed By: Defendant Henderson Taxi <i>Order Granting Ex Parte Application for Leave to Exceed Page Limit for Defendant's Opposition to Motion to Certify Class, Invalidate Improperly Obtained Acknowledgements, Issue Notice to Class Members, and to Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
07/15/2015	<p> Stipulated Protective Order Filed By: Defendant Henderson Taxi <i>Stipulated Protective Order</i></p>
07/16/2015	<p> Notice of Entry of Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Stipulated Protective Order</i></p>
08/05/2015	<p> Reply to Opposition Filed by: Plaintiff Sargeant, Michael <i>Reply to Opposition to Motion to Certify Class, Invalidate Improperly Obtained Acknowledgments, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
08/12/2015	<p> Motion to Certify Class (8:30 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion to Certify Class, Invalidate Improperly Obtained Acknowledgements, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
08/19/2015	<p> Decision (3:00 AM) (Judicial Officer: Villani, Michael) <i>Decision: Plaintiff's Motion to Certify Class, Invalidate Acknowledgements, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
10/08/2015	<p> Order Denying Filed By: Defendant Henderson Taxi <i>Order Denying Plaintiff's Motion to Certify Cass, Invalidate Improperly Obtained Acknowledgements, Issue Notice to Class Members, and to Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff</i></p>
10/13/2015	<p> Notice of Entry of Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Order</i></p>

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-714136-C











10/30/2015	 Motion to Reconsider Filed By: Plaintiff Sargeant, Michael <i>Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment</i>
10/30/2015	 Notice of Motion Filed By: Plaintiff Sargeant, Michael <i>Notice of Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment</i>
11/11/2015	 Appendix Filed By: Defendant Henderson Taxi <i>Appendix of Exhibits</i>
11/11/2015	 Motion for Summary Judgment Filed By: Defendant Henderson Taxi <i>Defendant's Motion for Summary Judgment</i>
11/19/2015	 Stipulation and Order Filed by: Defendant Henderson Taxi <i>Stipulation and Order</i>
11/20/2015	 Notice of Entry of Stipulation and Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Order</i>
12/14/2015	 Opposition Filed By: Defendant Henderson Taxi <i>Defendant's Opposition to Plaintiff's Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment</i>
12/14/2015	 Appendix Filed By: Defendant Henderson Taxi <i>Appendix of Exhibits</i>
12/14/2015	 Opposition to Motion For Summary Judgment Filed By: Plaintiff Sargeant, Michael <i>Opposition to Defendant's Motion for Summary Judgment</i>
12/21/2015	 Declaration Filed By: Plaintiff Sargeant, Michael <i>Declaration of Michael Sargeant, Exhibit "B" to Plaintiff's Opposition to Motion for Summary Judgment</i>
01/06/2016	 Reply in Support Filed By: Defendant Henderson Taxi <i>Defendant's Reply in Support of Motion for Summary Judgment</i>
01/06/2016	 Reply to Opposition Filed by: Plaintiff Sargeant, Michael <i>Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment</i>
01/13/2016	 Motion (3:00 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion for Partial Reconsideration or, Alternatively, for Entry of Final Judgment</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-714136-C



01/13/2016	 Motion for Summary Judgment (8:30 AM) (Judicial Officer: Villani, Michael) <i>Defendant's Motion for Summary Judgment</i>
02/03/2016	 Order Filed By: Defendant Henderson Taxi <i>Order Denying Plaintiff's Motion for Partial Reconsideration or Alternatively For Entry of Final Judgment</i>
02/03/2016	 Findings of Fact, Conclusions of Law and Judgment Filed by: Defendant Henderson Taxi <i>Findings of Fact and Conclusions of Law and Order Granting Motion for Summary Judgment</i>
02/03/2016	Summary Judgment (Judicial Officer: Villani, Michael) Debtors: Michael Sargeant (Plaintiff) Creditors: Henderson Taxi (Defendant) Judgment: 02/03/2016, Docketed: 02/10/2016
02/09/2016	 Notice of Appeal Filed By: Plaintiff Sargeant, Michael <i>Notice of Appeal</i>
02/09/2016	 Case Appeal Statement Filed By: Plaintiff Sargeant, Michael <i>Case Appeal Statement</i>
02/15/2016	 Notice of Entry Filed By: Defendant Henderson Taxi <i>Notice of Entry of Order</i>
02/18/2016	 Memorandum of Costs and Disbursements Filed By: Defendant Henderson Taxi <i>Defendant Henderson Taxi's Memorandum of Costs and Disbursements</i>
02/19/2016	 Errata Filed By: Plaintiff Sargeant, Michael <i>Errata to Defendant Henderson Taxi's Memorandum of Costs and Disbursements</i>
02/22/2016	 Motion to Retax Filed By: Plaintiff Sargeant, Michael <i>Plaintiff's Motion to Deny Costs and/or Retax Costs</i>
02/22/2016	 Notice of Motion Filed By: Plaintiff Sargeant, Michael <i>Notice of Motion</i>
02/23/2016	 Errata Filed By: Plaintiff Sargeant, Michael <i>Errata to Plaintiff's Motion to Deny Costs And/or Retax Costs</i>
03/01/2016	 Declaration Filed By: Plaintiff Sargeant, Michael <i>Declaration of Michael Sargeant</i>
03/07/2016	Motion for Attorney Fees Filed By: Defendant Henderson Taxi

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-714136-C

Defendant Henderson Taxi's Motion for Attorneys' Fees

03/09/2016	 Errata Filed By: Defendant Henderson Taxi <i>Errata to Defendant Henderson Taxi's Motion for Attorneys' Fees</i>
03/09/2016	 Opposition Filed By: Defendant Henderson Taxi <i>Defendant's Opposition to Motion to Deny Costs and/or Retax Costs</i>
03/16/2016	 Stipulation and Order Filed by: Defendant Henderson Taxi <i>Stipulation and Order to Remove Motion for Attorneys' Fees and Continue Chambers Decision</i>
03/16/2016	 Notice of Entry of Stipulation and Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Stipulation and Order</i>
03/23/2016	 Reply Filed by: Plaintiff Sargeant, Michael <i>Plaintiff's Reply to Defendant's Opposition to Plaintiff's Motion to Deny Costs And/or Retax Costs</i>
03/30/2016	 Motion (3:00 AM) (Judicial Officer: Villani, Michael) <i>Plaintiff's Motion to Deny Costs and/or Retax Costs</i>
04/06/2016	 Recorders Transcript of Hearing <i>Transcript of Proceedings Re: Plaintiff's Motion to Certify Class, Invalidate Improperly Obtained Acknowledgments, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff August 12, 2015</i>
04/14/2016	 Opposition to Motion Filed By: Plaintiff Sargeant, Michael <i>Plaintiff's Opposition to Defendant's Motion for An Award of Attorney's Fees Per NRS 18.010 (2)(b)</i>
04/27/2016	 Reply Filed by: Defendant Henderson Taxi <i>Defendant's Reply in Support of Motion for Attorney's Fees</i>
04/28/2016	 Errata Filed By: Defendant Henderson Taxi <i>Errata to Defendant's Motion for Attorney's Fees</i>
05/04/2016	 Motion for Attorney Fees (3:00 AM) (Judicial Officer: Villani, Michael) <i>Defendant Henderson Taxi's Motion for Attorneys' Fees</i>
07/08/2016	 Order Granting Filed By: Defendant Henderson Taxi <i>Order Granting Motion for Attorneys' Fees</i>
07/11/2016	 Notice of Entry of Order Filed By: Defendant Henderson Taxi <i>Notice of Entry of Order Granting Motion for Attorneys' Fees</i>

DEPARTMENT 17
CASE SUMMARY
CASE NO. A-15-714136-C

07/13/2016	 Notice of Appeal Filed By: Plaintiff Sargeant, Michael <i>Notice of Appeal</i>	
07/13/2016	 Case Appeal Statement Filed By: Plaintiff Sargeant, Michael <i>Case Appeal Statement</i>	
01/25/2017	Calendar Call (9:00 AM) (Judicial Officer: Villani, Michael)	
02/06/2017	Jury Trial (9:00 AM) (Judicial Officer: Villani, Michael)	

DATE	FINANCIAL INFORMATION	
	Defendant Henderson Taxi	
	Total Charges	542.00
	Total Payments and Credits	542.00
	Balance Due as of 7/15/2016	0.00
	Plaintiff Sargeant, Michael	
	Total Charges	670.50
	Total Payments and Credits	670.50
	Balance Due as of 7/15/2016	0.00
	Plaintiff Sargeant, Michael	
	Appeal Bond Balance as of 7/15/2016	500.00

DISTRICT COURT CIVIL COVER SHEET

County, Nevada
Case No. A-15-714136-C Dept XVII
(Assigned by Clerk's Office)

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone): Michael Sargeant, 2001 Ramrod Ave., Apt. 2215, Henderson, NV, 89014 702-809-6540	Defendant(s) (name/address/phone): Henderson Taxi 1900 Industrial Road, Las Vegas NV, 89102
Attorney (name/address/phone): Leon Greenberg, Esq. 2965 S. Jones Blvd., Suite E-3, Las Vegas, NV 89146	Attorney (name/address/phone): Unknown

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate Probate (select case type and estate value) <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input checked="" type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

February 18, 2015

Date

Signature of initiating party or representative

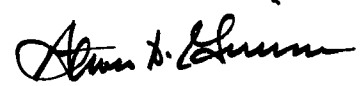
See other side for family-related case filings.

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 669-4600 ♦ Fax: (702) 669-4650

ORDR

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ahall@hollandhart.com
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Nevada Bar No. 11996
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Attorneys for Defendant Henderson Taxi

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07/08/2016 06:33:46 PM



CLERK OF THE COURT

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL SARGEANT, individually and on
behalf of others similarly situated,

Plaintiff,

v.

HENDERSON TAXI,

Defendant.

CASE NO.: A-15-714136-C
DEPT. NO.: XVII

**ORDER GRANTING MOTION FOR
ATTORNEYS' FEES**

Defendant Henderson Taxi's ("Defendant" or "Henderson Taxi") Motion for Attorneys' Fees (the "Motion") came before the Court on Chamber's Calendar on May 4, 2016.

The Court, having read and considered Henderson Taxi's Motion, Plaintiff Michael Sargeant's ("Plaintiff" or "Sargeant") Opposition, Henderson Taxi's Reply, all exhibits attached thereto, and good cause appearing, hereby grants Henderson Taxi's Motion in the amount of \$26,715.00 for the reasons set forth below:

FINDINGS OF FACT

1. Sargeant filed this action on February 18, 2015, alleging that Henderson Taxi failed to pay its taxicab drivers the minimum wage required by the Nevada Constitution.

2. On May 27, 2015, Sargeant filed a motion seeking to certify this case as a class action ("Motion to Certify").

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DEPT 17 ON
JUN 16 2016

1 3. On or about July 8, 2015, Henderson Taxi produced correspondence and a settlement
2 agreement between it and the ITPEU/OPEIU Local 4873, AFL-CIO (the “Union”), the Union
3 representing Henderson Taxi’s taxicab drivers. This settlement agreement with the Union
4 extinguished any claim by Sargeant and the putative class for unpaid minimum wages.

5 4. Shortly thereafter, Henderson Taxi filed its opposition to Sargeant’s Motion to
6 Certify, wherein it fully explained how it had settled Mr. Sargeant’s claim with the Union.

7 5. On October 8, 2015, this Court found that the agreement between Henderson Taxi
8 and the Union “acted as a complete accord and satisfaction of the [Union’s minimum wage]
9 grievance and any claims to minimum wage Henderson Taxi’s cab drivers may have had.”

10 6. On October 30, 2015, Sargeant filed a Motion for Partial Reconsideration or
11 Alternatively for Entry of Final Judgment (“Motion for Reconsideration”). This Motion for
12 Reconsideration sought certification of a class that was not pleaded in Plaintiff’s Complaint and
13 judgment on a claim that was both unsupported and had not been pleaded in Plaintiff’s Complaint.

14 7. On November 11, 2015, Henderson Taxi filed a Motion for Summary Judgment.
15 Sargeant opposed this Motion for Summary Judgment by again attempting to relitigate the accord
16 and satisfaction and settlement issue the Court had already clearly decided. Sargeant failed to even
17 attempt to present facts that might have contradicted the granting of summary judgment in this
18 opposition.

19 8. To the extent any of the forgoing Findings of Fact are properly construed as
20 Conclusions of Law, they will be interpreted as Conclusions of Law.

21 **CONCLUSIONS OF LAW**

22 **I. Recoverability of Attorneys’ Fees**

23 1. “[A]ttorney’s fees are not recoverable absent a statute, rule or contractual provision
24 to the contrary.” *Rowland v. Lepire*, 99 Nev. 308, 315, 662 P.2d 1332, 1336 (1983).

25 2. NRS 18.010(2)(b) provides that attorneys’ fees should be awarded to a prevailing
26 party “when the court finds that the claim ... was brought **or maintained** without reasonable
27 ground or to harass the prevailing party.” (Emphasis added.)
28

1 3. Furthermore, “it is the intent of the Legislature that the court award attorney’s fees
2 pursuant to [NRS 18.010(2)(b)] ... in all appropriate situations to punish for and deter frivolous or
3 vexatious claims and defenses because such claims and defenses overburden limited judicial
4 resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in
5 business and providing professional services to the public.” NRS 18.010(2)(b).

6 4. Here, the Court held on October 8, 2015, that Sargeant lacked any cognizable claim
7 for minimum wage against Henderson Taxi because such claim had been settled by the Union. This
8 order made clear that Sargeant lacked any claim against Henderson Taxi for unpaid minimum
9 wages.

10 5. After receipt of this Order, Sargeant and his counsel were on notice that Sargeant’s
11 claim had no factual or legal basis.

12 6. Sargeant’s continued litigation of this case after October 8, 2015, including filing an
13 entirely unsupported Motion for Reconsideration (seeking judgment on an unpleaded claim and
14 certification of an unpleaded class) and Opposition to Motion for Summary Judgment, demonstrate
15 that he maintained this action “without reasonable ground” because the Court had ruled he had no
16 cognizable claim. This is the exact type of situation wherein the Legislature intended a fee award
17 under NRS 18.010(2)(b): where a plaintiff will not let go of their alleged claim regardless of the
18 evidence, law, and prior judicial orders stacked against them.

19 7. ~~This case did not present novel issues of law.~~ It is well-settled that unions may act on
20 behalf of their members and that agents may settle claims for their principals. *See, e.g., May v.*
21 *Anderson*, 121 Nev. 668, 674-75, 119 P.3d 1254, 1259-60 (2005) (“Schwartz had authority to
22 negotiate on behalf of the Mays and accepted the offer in writing. ... The fact that the Mays refused
23 to sign the proposed draft release document is inconsequential to the enforcement of the
24 documented settlement agreement. The district court ... properly compelled compliance by
25 dismissing the Mays’ action.”); *see also, e.g., St. Vincent Hospital*, 320 NLRB 42, 44-45 (1995)
26 (“as a matter of law, when the parties by mutual consent have modified at midterm a provision
27 contained in their collective-bargaining agreement, that lawful modification becomes part of the
28

1 parties' collective-bargaining agreement, unless the evidence sufficiently establishes that the parties
2 intended otherwise."); *see also Certified Corp. v. Hawaii Teamsters and Allied Workers, Local 996,*
3 *IBT*, 597 F.2d 1269, 1272 (9th Cir. 1979) (approving a union's and an employer's oral modification
4 of a CBA); *International Union v. ZF Boge Elastmetall LLC*, 649 F.3d 641 (7th Cir. 2011)
5 (recognizing mid-term modification to a CBA by a union and an employer).

6 ~~Plaintiff's issues~~
7 8. ~~Further, even had those issues been novel (which they were not), they were settled~~
8 by the Court's October 8, 2015 Order holding that Sargeant had no cognizable claim based on the
9 Union's settlement thereof.

10 9. Sargeant's Motion for Reconsideration was made without reasonable ground. A
11 motion for reconsideration seeking judgment on an unpleaded claim and certification of an
12 unpleaded class is not a motion for reconsideration and inherently has no merit.

13 10. Sargeant's Opposition to Motion for Summary Judgment was also made without
14 ground. In his Opposition, Sargeant failed to even attempt to present facts that might stave off
15 summary judgment, but rather sought to re-litigate the accord and satisfaction issue previously
16 decided.

17 11. For these reasons, the Court finds that Sargeant's claim was maintained without
18 reasonable ground after October 8, 2015.

19 **II. Reasonableness of Fees**

20 12. When awarding attorney's fees, the Court must consider the following factors: (1)
21 the qualities of the advocate; (2) the character of the work to be done; (3) the work actually
22 performed by the advocate; and (4) the result achieved. *Brunzell v. Golden Gate Nat'l Bank*, 85
23 Nev. 345, 349, 455 P.2d 31, 33 (1969). While the Court need not make explicit findings for each
24 factor, the Court must demonstrate that it considered the required factors and an award of attorneys'
25 fees must be supported by substantial evidence. *Logan v. Abe*, 131 Nev. Adv. Op. 31, 350 P.3d
26 1139 (2015).

27 13. Henderson Taxi's attorneys' fees are reasonable and justified under *Brunzell*.
28

1 14. First, Holland & Hart LLP and the attorneys involved in this case possess extensive
2 experience in commercial, labor, and employment litigation and provided high-quality work for
3 Henderson Taxi.

4 15. Second, Plaintiff brought this lawsuit as a putative class action and raised contractual
5 and other issues under the Nevada Constitution which Henderson Taxi (and, thereby, Holland &
6 Hart) had to defend.

7 16. Third, the work performed by Holland & Hart and Holland & Hart's hourly rates
8 were reasonable in light of all the circumstances and as demonstrated by their submissions to the
9 Court.

10 17. Fourth, and finally, Henderson Taxi was ultimately successful defending this matter
11 with the aid of Holland & Hart.

12 18. Accordingly, Henderson Taxi is entitled to an award of attorneys' fees for the time
13 after this Court issued its October 8, 2015, Order holding that Plaintiff and the putative class had no
14 viable claim in the amount of \$26,715.¹

15 19. Plaintiff's claim became frivolous at this time and any maintenance of the claim after
16 this date was unreasonable as a matter of law.

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25

26
27 ¹ Henderson Taxi sought fees either from the date it filed its Opposition to Plaintiff's Motion to
28 Certify in the amount of \$47,739.50 or after the issuance of the October 8, 2015, Order holding that
Plaintiff and the putative class had no viable claim in the amount of \$26,715.


HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 669-4600 ♦ Fax: (702) 669-4650

20. To the extent any of the forgoing Conclusions of Law are properly construed as Findings of Fact, they will be interpreted as Findings of Fact.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Henderson Taxi's Motion for Attorneys' Fees is GRANTED in the amount of \$26,715.00.

DATED this 21 day of June 2016.


DISTRICT COURT JUDGE

Sr J Bonaventura BV

Respectfully submitted by:

HOLLAND & HART LLP

By 

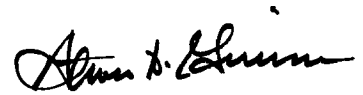
Anthony L. Hall, Esq.
Nevada Bar No. 5977
R. Calder Huntington, Esq.
Nevada Bar No. 11996
9555 Hillwood Drive, 2nd Floor
Las Vegas, Nevada 89134
Attorneys for Defendant Henderson Taxi

Approved as to form:

By 

Leon Greenberg, Esq.
Dana Sniegocki, Esq.
LEON GREENBERG PROFESSIONAL CORPORATION
2965 South Jones Blvd., Suite E3
Las Vegas, Nevada 89146
Attorney for Plaintiff

8396349_1



CLERK OF THE COURT

1 **NEOJ**

2 Anthony L. Hall, Esq.

3 Nevada Bar No. 5977

4 ahall@hollandhart.com

5 R. Calder Huntington, Esq.

6 Nevada Bar No. 11996

7 rchuntington@hollandhart.com

8 **HOLLAND & HART LLP**

9 9555 Hillwood Drive, 2nd Floor

10 Las Vegas, Nevada 89134

11 (702) 669-4600

12 (702) 669-4650 –fax

13 *Attorneys for Defendant Henderson Taxi*

14 **DISTRICT COURT**

15 **CLARK COUNTY, NEVADA**

16 MICHAEL SARGEANT, individually and on
17 behalf of others similarly situated,

18 Plaintiff,

19 v.

20 HENDERSON TAXI,

21 Defendant.

CASE NO.: A-15-714136-C
DEPT. NO.: XVII

**NOTICE OF ENTRY OF ORDER
GRANTING MOTION FOR
ATTORNEYS' FEES**

22 PLEASE TAKE NOTICE, an Order Granting Motion for Attorneys' Fees was entered on
23 the 8th day of July, 2016. A copy is attached hereto.

24 DATED this 11th day of July 2016

25 HOLLAND & HART LLP

26 By /s/ R. Calder Huntington

27 Anthony L. Hall, Esq.

28 Nevada Bar No. 5977

R. Calder Huntington, Esq.

Nevada Bar No. 11996

9555 Hillwood Drive, 2nd Floor

Las Vegas, Nevada 89134

Attorneys for Defendant Henderson Taxi

HOLLAND & HART LLP
9555 Hillwood Drive, 2nd Floor
Las Vegas, NV 89134
Phone: (702) 669-4600 ♦ Fax: (702) 669-4650

CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of July 2016, a true and correct copy of the foregoing
NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ATTORNEYS' FEES was
served by the following method(s):

☒ Electronic: by submitting electronically for filing and/or service with the Eighth Judicial District Court's e-filing system and served on counsel electronically in accordance with the E-service list to the following email addresses:

Leon Greenberg, Esq.
Dana Sniegocki, Esq.
Leon Greenberg Professional Corporation
2965 South Jones Blvd., Suite E3
Las Vegas, Nevada 89146

Leon Greenberg: leongreenberg@overtimelaw.com
Dana Sniegocki: dana@overtimelaw.com

☐ U.S. Mail: by depositing same in the United States mail, first class postage fully prepaid to the persons and addresses listed below:

☐ Email: by electronically delivering a copy via email to the following e-mail address:

☐ Facsimile: by faxing a copy to the following numbers referenced below:

/s/ Valerie Larsen
An Employee of Holland & Hart LLP

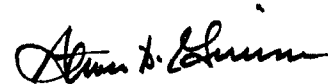
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HOLLAND & HART LLP
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Las Vegas, NV 89134
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1 **ORDR**

2 Anthony L. Hall, Esq.
3 Nevada Bar No. 5977
4 ahall@hollandhart.com
5 R. Calder Huntington, Esq.
6 Nevada Bar No. 11996
7 rchuntington@hollandhart.com
8 HOLLAND & HART LLP
9 9555 Hillwood Drive, 2nd Floor
10 Las Vegas, Nevada 89134
11 (702) 669-4600
12 (702) 669-4650 –fax
13 *Attorneys for Defendant Henderson Taxi*

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CLERK OF THE COURT

8 **DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 MICHAEL SARGEANT, individually and on
11 behalf of others similarly situated,

12 Plaintiff,

13 v.

14 HENDERSON TAXI,

15 Defendant.

CASE NO.: A-15-714136-C
DEPT. NO.: XVII

**ORDER GRANTING MOTION FOR
ATTORNEYS' FEES**

16
17 Defendant Henderson Taxi's ("Defendant" or "Henderson Taxi") Motion for Attorneys'
18 Fees (the "Motion") came before the Court on Chamber's Calendar on May 4, 2016.

19 The Court, having read and considered Henderson Taxi's Motion, Plaintiff Michael
20 Sargeant's ("Plaintiff" or "Sargeant") Opposition, Henderson Taxi's Reply, all exhibits attached
21 thereto, and good cause appearing, hereby grants Henderson Taxi's Motion in the amount of
22 \$26,715.00 for the reasons set forth below:

23 **FINDINGS OF FACT**

24 1. Sargeant filed this action on February 18, 2015, alleging that Henderson Taxi failed
25 to pay its taxicab drivers the minimum wage required by the Nevada Constitution.

26 2. On May 27, 2015, Sargeant filed a motion seeking to certify this case as a class
27 action ("Motion to Certify").

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1 3. On or about July 8, 2015, Henderson Taxi produced correspondence and a settlement
2 agreement between it and the ITPEU/OPEIU Local 4873, AFL-CIO (the "Union"), the Union
3 representing Henderson Taxi's taxicab drivers. This settlement agreement with the Union
4 extinguished any claim by Sargeant and the putative class for unpaid minimum wages.

5 4. Shortly thereafter, Henderson Taxi filed its opposition to Sargeant's Motion to
6 Certify, wherein it fully explained how it had settled Mr. Sargeant's claim with the Union.

7 5. On October 8, 2015, this Court found that the agreement between Henderson Taxi
8 and the Union "acted as a complete accord and satisfaction of the [Union's minimum wage]
9 grievance and any claims to minimum wage Henderson Taxi's cab drivers may have had."

10 6. On October 30, 2015, Sargeant filed a Motion for Partial Reconsideration or
11 Alternatively for Entry of Final Judgment ("Motion for Reconsideration"). This Motion for
12 Reconsideration sought certification of a class that was not pleaded in Plaintiff's Complaint and
13 judgment on a claim that was both unsupported and had not been pleaded in Plaintiff's Complaint.

14 7. On November 11, 2015, Henderson Taxi filed a Motion for Summary Judgment.
15 Sargeant opposed this Motion for Summary Judgment by again attempting to relitigate the accord
16 and satisfaction and settlement issue the Court had already clearly decided. Sargeant failed to even
17 attempt to present facts that might have contradicted the granting of summary judgment in this
18 opposition.

19 8. To the extent any of the forgoing Findings of Fact are properly construed as
20 Conclusions of Law, they will be interpreted as Conclusions of Law.

21 CONCLUSIONS OF LAW

22 I. Recoverability of Attorneys' Fees

23 1. "[A]ttorney's fees are not recoverable absent a statute, rule or contractual provision
24 to the contrary." *Rowland v. Lepire*, 99 Nev. 308, 315, 662 P.2d 1332, 1336 (1983).

25 2. NRS 18.010(2)(b) provides that attorneys' fees should be awarded to a prevailing
26 party "when the court finds that the claim ... was brought **or maintained** without reasonable
27 ground or to harass the prevailing party." (Emphasis added.)
28

1 3. Furthermore, “it is the intent of the Legislature that the court award attorney’s fees
2 pursuant to [NRS 18.010(2)(b)] ... in all appropriate situations to punish for and deter frivolous or
3 vexatious claims and defenses because such claims and defenses overburden limited judicial
4 resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in
5 business and providing professional services to the public.” NRS 18.010(2)(b).

6 4. Here, the Court held on October 8, 2015, that Sargeant lacked any cognizable claim
7 for minimum wage against Henderson Taxi because such claim had been settled by the Union. This
8 order made clear that Sargeant lacked any claim against Henderson Taxi for unpaid minimum
9 wages.

10 5. After receipt of this Order, Sargeant and his counsel were on notice that Sargeant’s
11 claim had no factual or legal basis.

12 6. Sargeant’s continued litigation of this case after October 8, 2015, including filing an
13 entirely unsupported Motion for Reconsideration (seeking judgment on an unpleaded claim and
14 certification of an unpleaded class) and Opposition to Motion for Summary Judgment, demonstrate
15 that he maintained this action “without reasonable ground” because the Court had ruled he had no
16 cognizable claim. This is the exact type of situation wherein the Legislature intended a fee award
17 under NRS 18.010(2)(b): where a plaintiff will not let go of their alleged claim regardless of the
18 evidence, law, and prior judicial orders stacked against them.

19 7. ~~This case did not present novel issues of law.~~ It is well-settled that unions may act on
20 behalf of their members and that agents may settle claims for their principals. *See, e.g., May v.*
21 *Anderson*, 121 Nev. 668, 674-75, 119 P.3d 1254, 1259-60 (2005) (“Schwartz had authority to
22 negotiate on behalf of the Mays and accepted the offer in writing. ... The fact that the Mays refused
23 to sign the proposed draft release document is inconsequential to the enforcement of the
24 documented settlement agreement. The district court ... properly compelled compliance by
25 dismissing the Mays’ action.”); *see also, e.g., St. Vincent Hospital*, 320 NLRB 42, 44-45 (1995)
26 (“as a matter of law, when the parties by mutual consent have modified at midterm a provision
27 contained in their collective-bargaining agreement, that lawful modification becomes part of the
28

1 parties' collective-bargaining agreement, unless the evidence sufficiently establishes that the parties
2 intended otherwise."); *see also Certified Corp. v. Hawaii Teamsters and Allied Workers, Local 996,*
3 *IBT*, 597 F.2d 1269, 1272 (9th Cir. 1979) (approving a union's and an employer's oral modification
4 of a CBA); *International Union v. ZF Boge Elastmetall LLC*, 649 F.3d 641 (7th Cir. 2011)
5 (recognizing mid-term modification to a CBA by a union and an employer).

6 ~~Plaintiff's issues~~
7 8. ~~Further, even had those issues been novel (which they were not), they~~ were settled
8 by the Court's October 8, 2015 Order holding that Sargeant had no cognizable claim based on the
9 Union's settlement thereof.

10 9. Sargeant's Motion for Reconsideration was made without reasonable ground. A
11 motion for reconsideration seeking judgment on an unpleaded claim and certification of an
12 unpleaded class is not a motion for reconsideration and inherently has no merit.

13 10. Sargeant's Opposition to Motion for Summary Judgment was also made without
14 ground. In his Opposition, Sargeant failed to even attempt to present facts that might stave off
15 summary judgment, but rather sought to re-litigate the accord and satisfaction issue previously
16 decided.

17 11. For these reasons, the Court finds that Sargeant's claim was maintained without
18 reasonable ground after October 8, 2015.

19 **II. Reasonableness of Fees**

20 12. When awarding attorney's fees, the Court must consider the following factors: (1)
21 the qualities of the advocate; (2) the character of the work to be done; (3) the work actually
22 performed by the advocate; and (4) the result achieved. *Brunzell v. Golden Gate Nat'l Bank*, 85
23 Nev. 345, 349, 455 P.2d 31, 33 (1969). While the Court need not make explicit findings for each
24 factor, the Court must demonstrate that it considered the required factors and an award of attorneys'
25 fees must be supported by substantial evidence. *Logan v. Abe*, 131 Nev. Adv. Op. 31, 350 P.3d
26 1139 (2015).

27 13. Henderson Taxi's attorneys' fees are reasonable and justified under *Brunzell*.
28

1 14. First, Holland & Hart LLP and the attorneys involved in this case possess extensive
2 experience in commercial, labor, and employment litigation and provided high-quality work for
3 Henderson Taxi.

4 15. Second, Plaintiff brought this lawsuit as a putative class action and raised contractual
5 and other issues under the Nevada Constitution which Henderson Taxi (and, thereby, Holland &
6 Hart) had to defend.

7 16. Third, the work performed by Holland & Hart and Holland & Hart's hourly rates
8 were reasonable in light of all the circumstances and as demonstrated by their submissions to the
9 Court.

10 17. Fourth, and finally, Henderson Taxi was ultimately successful defending this matter
11 with the aid of Holland & Hart.

12 18. Accordingly, Henderson Taxi is entitled to an award of attorneys' fees for the time
13 after this Court issued its October 8, 2015, Order holding that Plaintiff and the putative class had no
14 viable claim in the amount of \$26,715.¹

15 19. Plaintiff's claim became frivolous at this time and any maintenance of the claim after
16 this date was unreasonable as a matter of law.

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27 ¹ Henderson Taxi sought fees either from the date it filed its Opposition to Plaintiff's Motion to
28 Certify in the amount of \$47,739.50 or after the issuance of the October 8, 2015, Order holding that
Plaintiff and the putative class had no viable claim in the amount of \$26,715.

HOLLAND & HART LLP

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20. To the extent any of the forgoing Conclusions of Law are properly construed as Findings of Fact, they will be interpreted as Findings of Fact.

ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that Henderson Taxi's Motion for Attorneys' Fees is GRANTED in the amount of \$26,715.00.

DATED this 21 day of June 2016.

for J. B. Crane
DISTRICT COURT JUDGE

Sc J Bonaventura

Respectfully submitted by:

HOLLAND & HART LLP

By *[Signature]*

Anthony L. Hall, Esq.

Nevada Bar No. 5977

R. Calder Huntington, Esq.

Nevada Bar No. 11996

9555 Hillwood Drive, 2nd Floor

Las Vegas, Nevada 89134

Attorneys for Defendant Henderson Taxi

Approved as to form:

By *Refused to sign*

Leon Greenberg, Esq.

Dana Sniegocki, Esq.

LEON GREENBERG PROFESSIONAL CORPORATION

2965 South Jones Blvd., Suite E3

Las Vegas, Nevada 89146

Attorney for Plaintiff

8396349_1

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

August 12, 2015

A-15-714136-C Michael Sargeant, Plaintiff(s)
vs.
Henderson Taxi, Defendant(s)

August 12, 2015 8:30 AM Motion to Certify Class

HEARD BY: Villani, Michael **COURTROOM:** RJC Courtroom 11A

COURT CLERK: Nora Pena

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:	Greenberg, Leon	Attorney
	Hall, Anthony L.	Attorney
	Huntington, Robert Calder	Attorney
	Sniegocki, Dana	Attorney

JOURNAL ENTRIES

- Argument by Mr. Greenberg in support of his motion. Colloquy. Mr. Greenberg advised payments were owed and he has no idea if the amount was correct; the issue went to the Supreme Court. Mr. Greenberg addressed the exhibit of the acknowledgement form and he believed certification is conditional. Mr. Greenberg requested attorney's fees and asked to certify class, prohibit communication with the employees and restraint Defendant of improper conduct. Colloquy. Opposition by Mr. Hall, he believed Mr. Greenberg made misrepresentations of the fact and the law. Mr. Hall advised there is no evidence of coercion as to acknowledgement and it states for employees to contact their attorney and there is no admission of liability. Mr. Hall addressed exhibit "H" and advised the time period for opting out has pass. Court noted he is not imposing sanctions on either side. Mr. Hall advised they have a binding agreement with the employees for payment with the caveat that there is no class. Mr. Hall addressed waivers and tip issue agreement and noted the two year statute of limitations is being decided 10/6/15 which would make this moot due to settlement with the union and will have an issue with discovery. Reply by Mr. Greenberg for request for certification and it is appropriate to proceed forward as the Plaintiff has not complied and there is conduct of impropriety of the Defendant. COURT ORDERED, DECISION DEFERRED. Court

advised will prepare a written decision on or before next Wednesday, 8/19th.

8/19/15 DECISION: PLAINTIFF'S MOTION TO CERTIFY CLASS, INVALIDATE IMPROPERLY
OBTAINED ACKNOWLEDGMENTS, ISSUE NOTICE TO CLASS MEMBERS, AND MAKE
INTERIM AWARD OF ATTORNEY'S FEES AND ENHANCEMENT PAYMENT TO
REPRESENTATIVE PLAINTIFF - CHAMBER CALENDAR

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters**COURT MINUTES****August 19, 2015**

A-15-714136-C Michael Sargeant, Plaintiff(s)
 vs.
 Henderson Taxi, Defendant(s)

August 19, 2015	3:00 AM	Decision	Plaintiff's Motion to Certify Class, Invalidate Acknowledgements, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff
------------------------	----------------	-----------------	---

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:**

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiff's Motion to Certify Class, Invalidate Acknowledgements, Issue Notice to Class Members, and Make Interim Award of Attorney's Fees and Enhancement Payment to Representative Plaintiff came before this Court on the August 12, 2015, Oral Calendar. After hearing the arguments of counsel, the Court DEFERRED its decision to issue a written minute order, placing this matter on the Court's August 19, 2015, Chamber Calendar. The Court now rules as follows:

An action may be maintained as a class action if "(1) the class is so numerous that joinder of all members is impracticable, (2) there are questions of law or fact common to the class, (3) the claims or

defenses of the representative parties are typical of the claims or defenses of the class, and (4) the representative parties will fairly and adequately protect the interests of the class." NRCP 23(a).

After the Nevada Supreme Court decided *Thomas v. Nevada Yellow Cab Corp.*, 130 Nev. Adv. Op. 52, 327 P.3d 518, 522 (2014), finding that "the Minimum Wage Amendment, by enumerating specific exceptions that [did] not include taxicab drivers," the Union filed a grievance with Henderson Taxi requesting back pay. Henderson Taxi entered into a settlement agreement with the Union, which provided that Henderson Taxi would pay the former and current employees back pay, acting as a complete accord and satisfaction of the grievance. The COURT FINDS, that the Union is the exclusive representation of the former and current taxicab employees of Henderson Taxi, and that there is no evidence of coercion.

Employers cannot enter into an agreement with their employees to waive minimum wages "because of inequality of bargaining power." *D.A. Schulte, Inc., v. Gangi*, 328 U.S. 108, 115, 66 S. Ct. 925, 928-29, 90 L. Ed. 1114 (1946). However, in this instance, the Union entered into negotiations with Henderson Taxi, balancing the bargaining power. Additionally, because there is a dispute as to whether Yellow Cab is to be applied retroactively, it is not clear that these employees were entitled to back pay. Thus, the settlement resolved a fee-dispute grievance and not necessarily a waiver of a minimum wage rights.

Based on the foregoing, the COURT FURTHER FINDS, that Plaintiff has not established the factors to maintain a class action under NRCP 23(a). Therefore, COURT ORDERED, Plaintiff's Motion is DENIED. Counsel for Defendant is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of R. Calder Huntington, Esq. (Holland & Hart LLP).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters**COURT MINUTES****January 13, 2016**

A-15-714136-C Michael Sargeant, Plaintiff(s)
 vs.
 Henderson Taxi, Defendant(s)

January 13, 2016	3:00 AM	Motion	Plaintiff's Motion for Partial Reconsideration or, Alternatively, for Entry of Final Judgment
-------------------------	----------------	---------------	--

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Plaintiff's Motion for Partial Reconsideration or, Alternatively, for Entry of Final Judgment came before this Court on the January 13, 2016, Chamber Calendar. A District Court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or if the prior decision was clearly erroneous. *Masonry & Tile Contractors Ass'n of Southern Nevada v. Jolley, Urga & Wirth, Ltd.*, 113 Nev. 737 (1976); *Moore v. City of Las Vegas*, 92 Nev. 402, 404 (1976). The COURT FINDS Plaintiff has not met the standard for reconsideration nor has this Court made a mistake of fact or law. Therefore, COURT ORDERED Plaintiff's Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment is DENIED. Counsel for Defendant is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order shall set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Anthony L. Hall,

Esq., (Holland & Hart LLP).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

January 13, 2016

A-15-714136-C	Michael Sargeant, Plaintiff(s) vs. Henderson Taxi, Defendant(s)
---------------	---

January 13, 2016	8:30 AM	Motion for Summary Judgment	Defendant's Motion for Summary Judgment
-------------------------	----------------	--	--

HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER: Michelle Ramsey

REPORTER:

PARTIES

PRESENT:	Greenberg, Leon	Attorney
	Hall, Anthony L.	Attorney
	Huntington, Robert Calder	Attorney
	Sniegocki, Dana	Attorney

JOURNAL ENTRIES

- Also Present: Mark Trafton, Esq., a Representative for Henderson Taxi

This is the time set for hearing on Defendant's Motion for Summary Judgment. The Court has reviewed the Defendant's Motion for Summary Judgment and the Plaintiff's Opposition to Defendant's Motion for Summary Judgment. Arguments by Mr. Hall and Mr. Greenberg.

Accord and Satisfaction applies in this case, therefore, COURT ORDERED, Motion for Summary Judgment is GRANTED. Mr. Hall to prepare the Findings of Fact and Conclusions of Law approved as to form and content by Mr. Greenberg.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters

COURT MINUTES

March 30, 2016

A-15-714136-C	Michael Sargeant, Plaintiff(s) vs. Henderson Taxi, Defendant(s)
---------------	---

March 30, 2016	3:00 AM	Motion	Plaintiff's Motion to Deny Costs and/or Retax Costs
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HEARD BY: Villani, Michael

COURTROOM: RJC Courtroom 11A

COURT CLERK: Carol Donahoo

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- Plaintiff's Motion to Deny Costs and/or Retax Costs came before this Court on the March 30, 2016, Chamber Calendar.

"The party in whose favor judgment is rendered, and who claims costs, must file with the clerk, and serve a copy upon the adverse party, within five (5) days after the entry of judgment, or such further time as the court or judge may grant, a memorandum of the items of the costs in the action or proceeding, which memorandum must be verified by the oath of the party, or the party's attorney or agent, or by the clerk of the party's attorney, stating that to the best of his or her knowledge and belief the items are correct, and that the costs have been necessarily incurred in the action or proceeding." NRS 18.110(1). Additionally, a court may then award "[a]ny other reasonable and necessary expense incurred in connection with the action, including reasonable and necessary expenses for computerized services for legal research." NRS 18.005(17).

The COURT FINDS that Plaintiff sought relief that had value in excess of \$2,500 and Defendant is, therefore, entitled to an award of costs. NRS 18.020(3). The COURT FURTHER FINDS that Defendant's (1) \$493.00 in filing fees are proper; (2) \$32.75 in travel and parking costs were reasonable

and necessary, absent the flight to attend the early case conference; (3) \$1,328.50 in computerized services for legal research were reasonable and necessary; and (4) \$162.50 in messenger and runner costs were reasonable and necessary. NRS 18.005(1), (17). Therefore, COURT ORDERED Plaintiff's Motion to Deny Costs and/or Retax Costs is DENIED and Defendant is entitled to costs in the amount of \$2,016.75 Counsel for Defendant is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Michael L. Hall, Esq., (Holland & Hart, LLP).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Matters**COURT MINUTES****May 04, 2016**

A-15-714136-C Michael Sargeant, Plaintiff(s)
 vs.
 Henderson Taxi, Defendant(s)

May 04, 2016	3:00 AM	Motion for Attorney Fees	Defendant Henderson Taxi's Motion for Attorneys' Fees
---------------------	----------------	---------------------------------	--

HEARD BY: Villani, Michael**COURTROOM:** RJC Courtroom 11A**COURT CLERK:** Carol Donahoo**RECORDER:****REPORTER:****PARTIES****PRESENT:**

JOURNAL ENTRIES

- Defendant Henderson Taxi's Motion for Attorneys' Fees came before this Court on the May 4, 2016, Chamber Calendar. Defendant requests attorneys' fees for either the time (a) after Henderson Taxi filed its Opposition to Plaintiff's Motion to Certify in the amount of \$47,739.50; or (b) after this Court issued its October 8, 2015 Order holding that Plaintiff and the punitive class had no viable claim in the amount of \$26,715.

"[A]ttorney's fees are not recoverable absent a statute, rule or contractual provision to the contrary." Rowland v. Lepire, 99 Nev. 308, 315, 662 P.2d 1332, 1336 (1983). NRS 18.010 provides that attorneys' fees should be awarded to a prevailing party when the court finds that the claim was "brought or maintained without reasonable ground or to harass the prevailing party." Furthermore, "it is the intent of the Legislature that the court award attorneys' fees pursuant to [NRS 18.010(b)] . . . in all appropriate situations to punish and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public." NRS 18.010(2)(b). When awarding attorney's fees, the court may consider the following

factors: (1) the qualities of the advocate; (2) the character of the work to be done; (3) the work actually performed by the advocate; and (4) the result. *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969). Explicit findings for each factor are not required, but the court must demonstrate that it considered the required factors and the award must be supported by substantial evidence. *Logan v. Abe*, 131 Nev. Adv. Op. 31, 350 P.3d 1139 (2015).

The COURT FINDS that on or about July 8, 2015, Henderson Taxi produced correspondence with the Union of the Union settlement that extinguished any claim by Plaintiff. Shortly thereafter in Defendant's Opposition to Plaintiff's Motion to Certify Class, Defendant fully explained how Defendant had settled Mr. Sergeant's claim. In its October 8, 2015 Order, this Court found that the agreement between Henderson Taxi and the Union "acted as a complete accord and satisfaction of the grievance and any claims to minimum wage Henderson Taxi's cab drivers may have had." Plaintiff subsequently filed a Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment on October 30, 2015, which this Court denied, and Defendant filed a Motion for Summary Judgment on November 11, 2015, which Plaintiff opposed and this Court granted. Plaintiff's Motion for Partial Reconsideration or Alternatively for Entry of Final Judgment sought certification of unpled class and judgment for an unpled and unsupported claim. Plaintiff's Opposition to Defendant's Motion for Summary Judgment similarly sought to relitigate the accord and satisfaction of the grievance and settlement with Henderson Taxi and the Union. For these reasons, Plaintiff's claim was maintained without reasonable ground.

The COURT ALSO FINDS that Henderson Taxi's attorneys' fees are reasonable and justified under *Brunzell*. First, Holland & Hart LLP possesses extensive experience in commercial, labor, and employment litigation and provided a high quality of work for Defendant. Second, Plaintiff brought the lawsuit as a putative class action and raised contractual issues and other issues under the Nevada Constitution. Third, the work performed by Holland & Hart LLP for Defendant and Holland & Hart LLP's hourly rates were reasonable. Lastly, Defendant was ultimately successful defending this matter. Therefore, COURT ORDERED Motion for Attorneys' Fees is GRANTED. Defendant is entitled to attorney's fees for the time after this Court issued its October 8, 2015, Order holding that Plaintiff and the punitive class had no viable claim in the amount of \$26,715. Plaintiff's claim became frivolous at this time. Defendant is directed to submit a proposed order consistent with the foregoing within ten (10) days after counsel is notified of the ruling and distribute a filed copy to all parties involved pursuant to EDCR 7.21. Such Order should set forth a synopsis of the supporting reasons proffered to the Court in briefing.

CLERK'S NOTE: A copy of this minute order was placed in the attorney folder of Anthony Hall, Esq., (Holland & Hart, LLP).



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

LEON GREENBERG, ESQ.
2965 SOUTH JONES BLVD - SUITE E3
LAS VEGAS, NV 89146

DATE: July 15, 2016
CASE: A-15-714136-C

RE CASE: MICHAEL SARGEANT vs. HENDERSON TAXI

NOTICE OF APPEAL FILED: July 13, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

****Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.**

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING MOTION FOR ATTORNEYS' FEES; NOTICE OF ENTRY OF ORDER GRANTING MOTION FOR ATTORNEYS' FEES; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

MICHAEL SARGEANT,

Plaintiff(s),

vs.

HENDERSON TAXI,

Defendant(s),

Case No: A-15-714136-C

Dept No: XVII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 15 day of July 2016.

Steven D. Grierson, Clerk of the Court

Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk