

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

Electronically Filed  
Jun 24 2019 01:49 p.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

CASE # 77050

A CAB, LLC, and CREIGHTON J. NADY,	)	District Court
	)	Case No.: A-12-669926-C
Appellants	)	
vs	)	
	)	ERRATA TO
	)	RESPONDENTS' REPLY TO
MICHAEL MURRAY, and MICHAEL	)	APPELLANT CREIGHTON J.
RENO, Individually and on behalf of others	)	NADY'S RESPONSE TO ORDER
similarly situated,	)	TO SHOW CAUSE WHY
	)	APPELLANT CREIGHTON J.
Respondents.	)	NADY'S APPEAL SHOULD NOT
	)	BE DISMISSED
_____	)	

Respondents file this Errata that is a copy of their Reply filed on June 21, 2019 to Appellant Creighton J. Nady's Response to Order to Show Cause Why Appellant Creighton J. Nady's Appeal Should Not Be Dismissed with Exhibit "A" thereto, such Exhibit having been erroneously omitted from the copy filed on June 21, 2019.

Respondents' counsel apologizes for the filing error on June 21, 2019 that it is now correcting via this Errata.

Dated: June 21, 2019

*/s/ Leon Greenberg*

Leon Greenberg, Esq. (Bar # 8094)  
A Professional Corporation  
2965 S. Jones Blvd., Suite E-3  
Las Vegas, Nevada 89146  
(702) 383-6085  
Attorney for Respondents

PROOF OF SERVICE

The undersigned certifies that on June 24, 2019, she served the  
within:

**RESPONDENTS' ERRATA TO REPLY TO APPELLANT  
CREIGHTON J. NADY'S RESPONSE TO  
ORDER TO SHOW CAUSE WHY APPELLANT  
CREIGHTON J. NADY'S APPEAL  
SHOULD NOT BE DISMISSED**

by court electronic service to:

TO:

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Counsel for Appellants

/s/ Sydney Saucier

Sydney Saucier

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

CASE # 77050

A CAB, LLC, and CREIGHTON J. NADY,	)	District Court
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Appellants	)	
vs	)	
	)	
	)	RESPONDENTS' REPLY TO
MICHAEL MURRAY, and MICHAEL	)	APPELLANT CREIGHTON J.
RENO, Individually and on behalf of others	)	NADY'S RESPONSE TO ORDER
similarly situated,	)	TO SHOW CAUSE WHY
	)	APPELLANT CREIGHTON J.
Respondents.	)	NADY'S APPEAL SHOULD NOT
	)	BE DISMISSED
	)	

Respondents agree that the appeal of Appellant Creighton J. Nady (“Nady”) should be dismissed. They also agree that the appeal of A Cab LLC (currently known as A Cab Series LLC) (“A Cab”) is properly ripe as A Cab was subject to a final judgment in the district court, though that appeal is currently stayed by operation of 11 U.S.C. § 362(a) as a result of certain Bankruptcy Court proceedings.

Nady's response to the Court's Order to Show Cause is almost entirely an irrelevant, improper, disrespectful, and untrue recital (really a diatribe) of prior events in this litigation and actions by District Judge Cory. Respondent's counsel is pained that the Court has been burdened with such a submission by a fellow officer of the Court and will not burden the Court further by addressing that portion of such submission.

Nady's argues that the severance order entered by the district court was improper. He insists that the severance order has not been properly respected by the district court; that it created a "manufactured final judgment" against A Cab; that "there has not been an actual severance of the cases into separate cases;" and that the district court is proceeding improperly. He offers no explanation or support for any of those claims and all of them are irrelevant to this appeal. If the district court has engaged in misconduct prejudicial to Nady, or his rights have been improperly impaired by the district court's severance order, his remedy is through a petition for appropriate writ relief.

Ultimately, Nady's concedes that the severance order entered by the district court, if recognized by this Court as effective, means he is not subject to a final judgment and lacks standing to appeal and his appeal should, under such circumstances, be dismissed. Nady's counsel then concludes by arguing that in the alternative the Court "...could simply dismiss this appeal in its entirety by

recognizing the severance as the ineffective legal maneuver that it is, and declaring that the district court's decision is not final as to anyone." No basis exists for this Court to make such a ruling and none is provided by Nady.

As this Court correctly noted in its Order to Show Cause, citing its decision in *Valdez v. Cox Communications Las Vegas, Inc.*, 336 P.3d 969 (2014), the severed claims against A Cab have resulted in a final judgment as to that party but not as to Nady. Adopting Nady's suggestion, and entirely overruling *Valdez*, would deprive district courts of the ability to sever claims and parties to appropriately and efficiently bring litigation to conclusion. The propriety of the severance against Nady in this case is overwhelmingly apparent, which is presumably why Nady has not invoked his right to seek writ relief in respect to the severance order.

The severed claims against Nady are based upon his alleged "alter ego" and "unjust enrichment" liability for the unpaid minimum wages owed by A Cab. Ex. "A" Second Amended and Supplemental Complaint, third and fourth claims for relief. Those claims are completely derivative of A Cab's liability for unpaid minimum wages. If A Cab satisfies the judgment entered against it for those unpaid minimum wages the severed action against Nady will be rendered moot. Nady is urging this Court to rule that the judgment against A Cab is not final so he can continue to delay the course of the proceedings in the district court and A Cab

can delay its day of reckoning for its unpaid minimum wage liability.

## CONCLUSION

Nady's appeal should be dismissed.

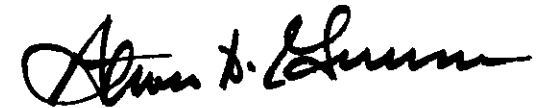
Dated: June 21, 2019

*/s/ Leon Greenberg*

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(702) 383-6085  
Attorney for Respondents

# EXHIBIT "A"





CLERK OF THE COURT

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11 Attorneys for Plaintiffs

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

14 MICHAEL MURRAY and MICHAEL  
15 RENO, Individually and on behalf of  
16 others similarly situated,

17 Plaintiffs,

18 vs.

19 A CAB TAXI SERVICE LLC, A CAB,  
20 LLC, and CREIGHTON J. NADY

21 Defendants.

Case No.: A-12-669926-C

Dept.: I

**SECOND AMENDED AND  
SUPPLEMENTAL  
COMPLAINT**

**ARBITRATION EXEMPTION  
CLAIMED BECAUSE THIS IS  
A CLASS ACTION CASE**

22 MICHAEL MURRAY and MICHAEL RENO, Individually and on behalf of  
23 others similarly situated, by and through their attorney, Leon Greenberg Professional  
24 Corporation, as and for a Complaint against the defendants, state and allege, as  
25 follows:

26 **JURISDICTION, PARTIES AND PRELIMINARY STATEMENT**

27 1. The plaintiffs, MICHAEL MURRAY and MICHAEL RENO, (the  
28 “individual plaintiffs” or the “named plaintiffs”) are residents of the State of Nevada  
and during all relevant times were residents of Clark County, Nevada, and all plaintiffs  
are current employees of the defendants.

2. The defendants A CAB TAXI SERVICE LLC and A CAB, LLC, (hereinafter referred to as “A CAB” or “defendants” or “corporate defendants”) are limited liability companies or corporations existing and established pursuant to the laws of the State of Nevada with their principal place of business in the County of Clark, State of Nevada and conduct business in Nevada.

3. The defendant CREIGHTON J. NADY (“NADY”) either directly, or through other entities that he controls and owns, is the sole owner of the corporate defendants.

4. The defendant NADY exercises complete control over the activities of the corporate defendants, in that he is the highest level manager and decision maker of the corporate defendants and there are no other officers, directors, owners, members, managers, principals or other employees of the corporate defendants who can override or modify against his will any decision he makes in respect to the conduct of the corporate defendants.

## CLASS ACTION ALLEGATIONS

5. The plaintiffs bring this action as a class action pursuant to Nev. R. Civ. P. §23 on behalf of themselves and a class of all similarly situated persons employed by the defendants in the State of Nevada.

6. The class of similarly situated persons consists of all persons employed by defendant in the State of Nevada during the applicable statute of limitations periods prior to the filing of this Complaint continuing until date of judgment, such persons being employed as Taxi Cab Drivers (hereinafter referred to as “cab drivers” or “drivers”) such employment involving the driving of taxi cabs for the defendants in the State of Nevada.

7. The common circumstance of the cab drivers giving rise to this suit is that while they were employed by defendants they were not paid the minimum wage required by Nevada's Constitution, Article 15, Section 16 for many or most of the days that they worked in that their hourly compensation, when calculated pursuant to the

1 requirements of said Nevada Constitutional Provision, did not equal at least the  
2 minimum hourly wage provided for therein.

3       8.     The named plaintiffs are informed and believe, and based thereon allege  
4 that there are at least 200 putative class action members. The actual number of class  
5 members is readily ascertainable by a review of the defendants' records through  
6 appropriate discovery.

7       9.     There is a well-defined community of interest in the questions of law and  
8 fact affecting the class as a whole.

9       10.    Proof of a common or single set of facts will establish the right of each  
10 member of the class to recover. These common questions of law and fact predominate  
11 over questions that affect only individual class members. The individual plaintiffs'  
12 claims are typical of those of the class.

13       11.    A class action is superior to other available methods for the fair and  
14 efficient adjudication of the controversy. Due to the typicality of the class members'  
15 claims, the interests of judicial economy will be best served by adjudication of this  
16 lawsuit as a class action. This type of case is uniquely well-suited for class treatment  
17 since the employers' practices were uniform and the burden is on the employer to  
18 establish that its method for compensating the class members complies with the  
19 requirements of Nevada law.

20       12.    The individual plaintiffs will fairly and adequately represent the interests  
21 of the class and have no interests that conflict with or are antagonistic to the interests  
22 of the class and have retained to represent them competent counsel experienced in the  
23 prosecution of class action cases and will thus be able to appropriately prosecute this  
24 case on behalf of the class.

25       13.    The individual plaintiffs and their counsel are aware of their fiduciary  
26 responsibilities to the members of the proposed class and are determined to diligently  
27 discharge those duties by vigorously seeking the maximum possible recovery for all  
28 members of the proposed class.

14. There is no plain, speedy, or adequate remedy other than by maintenance of this class action. The prosecution of individual remedies by members of the class will tend to establish inconsistent standards of conduct for the defendants and result in the impairment of class members' rights and the disposition of their interests through actions to which they were not parties. In addition, the class members' individual claims are small in amount and they have no substantial ability to vindicate their rights, and secure the assistance of competent counsel to do so, except by the prosecution of a class action case.

**AS AND FOR A FIRST CLAIM FOR RELIEF ON BEHALF OF THE NAMED  
PLAINTIFFS AND ALL PERSONS SIMILARLY SITUATED PURSUANT TO  
NEVADA'S CONSTITUTION**

15. The named plaintiffs repeat all of the allegations previously made and bring this First Claim for Relief pursuant to Article 15, Section 16, of the Nevada Constitution.

16. Pursuant to Article 15, Section 16, of the Nevada Constitution the named plaintiffs and the class members were entitled to an hourly minimum wage for every hour that they worked and the named plaintiffs and the class members were often not paid such required minimum wages.

17. The defendants' violation of Article 15, Section 16, of the Nevada Constitution involved malicious and/or fraudulent and/or oppressive conduct by the defendants sufficient to warrant an award of punitive damages for the following, amongst other reasons:

(a) Defendants despite having, and being aware of, an express obligation under Article 15, Section 16, of the Nevada Constitution, such obligation commencing no later than July 1, 2007, to advise the plaintiff and the class members, in writing, of their entitlement to the minimum hourly wage specified in such constitutional provision, failed to provide such written advisement;

1 (b) Defendants were aware that the highest law enforcement  
2 officer of the State of Nevada, the Nevada Attorney General, had  
3 issued a public opinion in 2005 that Article 15, Section 16, of the  
4 Nevada Constitution, upon its effective date, would require  
5 defendant and other employers of taxi cab drivers to compensate  
6 such employees with the minimum hourly wage specified in such  
7 constitutional provision. Defendants consciously elected to ignore  
8 that opinion and not pay the minimum wage required by Article  
9 15, Section 16, of the Nevada Constitution to its taxi driver  
10 employees in the hope that it would be successful, if legal action  
11 was brought against it, in avoiding paying some or all of such  
12 minimum wages;

13 (c) Defendants, to the extent they believed they had a colorable  
14 basis to legitimately contest the applicability of Article 15, Section  
15 16, of the Nevada Constitution to its taxi driver employees, made  
16 no effort to seek any judicial declaration of its obligation, or lack  
17 of obligation, under such constitutional provision and to pay into  
18 an escrow fund any amounts it disputed were so owed under that  
19 constitutional provision until such a final judicial determination  
20 was made;

21 (d) Defendants were the subject of an investigation by the United  
22 States Department of Labor in respect to defendants' compliance  
23 with the minimum wage requirements of the federal Fair Labor  
24 Standards Act, 29 U.S.C. § 201-219 which investigation was  
25 concluded on April 30, 2009. Such investigation did not  
26 determine if any violations of the Fair Labor Standards Act were  
27 committed by the defendants, and no claim is made in this case  
28 against the defendants under the Fair Labor Standards Act. Such

1 investigation resulted in defendants on April 30, 2009, being  
2 advised by the U.S. Department of Labor that they must keep a  
3 record of the actual hours worked by their taxi driver employees  
4 and that defendants must pay their taxi drivers the minimum  
5 hourly wage, defendants also being told such minimum hourly  
6 wage at that time under Nevada law was \$6.85 an hour. Rather  
7 than follow such advisement, defendants intentionally acted to not  
8 institute any system that would keep an express, confirmed, and  
9 accurate record of the hours worked by such taxi driver employees,  
10 such as a dedicated payroll time clock system. Defendants also  
11 acted to force their taxi driver employees to falsely record their  
12 activities on their daily taxi driver trip sheets so as to make it  
13 appear that the taxi drivers were taking many hours of breaks  
14 during their working days, which was not true and defendants  
15 knew was not true. Defendants fostered such inaccurate and  
16 untrue recording by their taxi drivers of their work activities by  
17 refusing to allow taxi drivers to submit accurate daily taxi driver  
18 trip sheets that did not have such excessive, and untrue, recordings  
19 of break time. Defendants enforced their “break time listings  
20 required” policy on their taxi drivers’ trip sheets with the  
21 intentional goal of making it impossible for those taxi drivers to  
22 collect the minimum wages they were owed and to conceal  
23 defendants’ violations of the Nevada Constitution. Such actions  
24 by the defendants included, among other things, actually reviewing  
25 the “fares booked” per shift on each taxi driver’s trip sheet and  
26 requiring additional break time be listed for those shifts where the  
27 fare bookings were so low that minimum wages would be owed to  
28 the taxi driver if their break times, as listed on their trip sheets,

1                   were not inflated.

2           18. Defendants engaged in the acts and/or omissions and/or fraudulently  
3 conduct detailed in paragraph 17 in an intentional scheme to maliciously, oppressively  
4 and fraudulently deprive its taxi driver employees of the hourly minimum wages that  
5 were guaranteed to those employees by Article 15, Section 16, of the Nevada  
6 Constitution. Defendants so acted in the hope that by the passage of time whatever  
7 rights such taxi driver employees had to such minimum hourly wages owed to them by  
8 the defendants would expire, in whole or in part, by operation of law. Defendant so  
9 acted consciously, willfully, and intentionally to deprive such taxi driver employees of  
10 any knowledge that they might be entitled to such minimum hourly wages, despite the  
11 defendant's obligation under Article 15, Section 16, of the Nevada Constitution to  
12 advise such taxi driver employees of their right to those minimum hourly wages.  
13 Defendants' malicious, oppressive and fraudulent conduct is also demonstrated by its  
14 failure to make any allowance to pay such minimum hourly wages if they were found  
15 to be due, such as through an escrow account, while seeking any judicial determination  
16 of its obligation to make those payments.

17           19. The rights secured to the plaintiffs and the class members under Nevada's  
18 Constitution, Article 15, Section 16, for a minimum level of remuneration for their  
19 labor as defendants' employees, constitute property rights, in that such level of  
20 remuneration constitutes property of the plaintiffs and the class members, to wit, a sum  
21 of money that they have a right to possess for the inalienable value of their labor,  
22 which labor the defendants obtained from them as employers. Defendants have  
23 obtained such property, the minimum wages properly the property of the plaintiffs and  
24 the class members, illegally and defendants still possess the same, the defendants  
25 having also committed a conversion of such property. As a result defendants should  
26 be, and are, subject to all forms of equitable relief and legal sanctions necessary to  
27 return such property to the plaintiffs and the class members and/or make them whole,  
28 including, without limitation, a suitable Court Order directing that the defendants

1 make restitution to the plaintiffs and the class members for the full value of all such  
2 property taken and held by the defendants, with interest and an award of all proper  
3 incidental, consequential and/or punitive damages available under the law or in equity  
4 appropriate to remedy such violations of the plaintiffs' and the class members' rights  
5 under Nevada's Constitution, Article 15, Section 16.

6 20. The named plaintiffs seek all relief available to them and the alleged class  
7 under Nevada's Constitution, Article 15, Section 16 including appropriate injunctive  
8 and equitable relief to make the defendants cease their violations of Nevada's  
9 Constitution and a suitable award of punitive damages.

10 21. The named plaintiffs on behalf of themselves and the proposed plaintiff  
11 class members, seek, on this First Claim for Relief, a judgment against the corporate  
12 defendants for minimum wages and restitution, such sums to be determined based  
13 upon an accounting of the hours worked by, and wages actually paid to, the plaintiffs  
14 and the class members, a suitable injunction and other equitable relief barring the  
15 corporate defendants from continuing to violate Nevada's Constitution, a suitable  
16 award of punitive damages against the corporate defendants, and an award of  
17 attorney's fees, interest and costs, as provided for by Nevada's Constitution and other  
18 applicable laws against the corporate defendants.

19 **AS AND FOR A SECOND CLAIM FOR RELIEF PURSUANT TO NEVADA**  
20 **REVISED STATUTES § 608.040 ON BEHALF OF THE NAMED PLAINTIFFS**  
21 **AND THE PUTATIVE CLASS**

22 22. Plaintiffs repeat and reiterate each and every allegation previously made  
23 herein.

24 23. The named plaintiffs bring this Second Claim for Relief against the  
25 corporate defendants pursuant to Nevada Revised Statutes § 608.040 on behalf of  
26 themselves and those members of the alleged class of all similarly situated employees  
27 of the defendants who have terminated their employment with the defendants.

28 24. The named plaintiffs have been separated from their employment with the



1 defendants and at the time of such separation were owed unpaid wages by the  
2 defendants.

3 25. The defendants have failed and refused to pay the named plaintiffs and  
4 numerous members of the putative plaintiff class who are the defendants' former  
5 employees their earned but unpaid wages, such conduct by such defendants  
6 constituting a violation of Nevada Revised Statutes § 608.020, or § 608.030 and  
7 giving such named plaintiffs and similarly situated members of the putative class of  
8 plaintiffs a claim against the defendants for a continuation after the termination of their  
9 employment with the defendants of the normal daily wages defendants would pay  
10 them, until such earned but unpaid wages are actually paid or for 30 days, whichever is  
11 less, pursuant to Nevada Revised Statutes § 608.040.

12 26. As a result of the foregoing, the named plaintiffs seek on behalf of  
13 themselves and the similarly situated putative plaintiff class members a judgment  
14 against the corporate defendants for the wages owed to them and such class members  
15 as prescribed by Nevada Revised Statutes § 608.040, to wit, for a sum equal to up to  
16 thirty days wages, along with interest, costs and attorneys' fees.

17 **AS AND FOR A THIRD CLAIM AGAINST DEFENDANT**  
18 **NADY FOR CIVIL CONSPIRACY, AIDING AND ABETTING,**  
19 **CONCERT OF ACTION AND AS THE ALTER EGO**  
**OF THE CORPORATE DEFENDANTS**

20 27. Plaintiffs repeat and reiterate each and every allegation previously made  
21 herein.

22 28. The named plaintiffs bring this Third Claim for Relief against the  
23 defendant NADY for civil conspiracy, concert of action, aiding or abetting the actions  
24 of the corporate defendants, and/or as the alter ego of the corporate defendants, on  
25 behalf of themselves and the members of the alleged class of all similarly situated  
26 employees of the corporate defendants.

27 29. The corporate defendants, as the employers of the class members, had a  
28 legal duty to abide by all laws imposed upon the corporate defendants by the State of

1 Nevada in respect to their treatment of the class members as such persons' employers,  
2 including abiding by the provisions of Nevada's Constitution, Article 15, Section 16  
3 and paying such persons the minimum wages required therein.

4 30. Defendant NADY exercised his complete control of the corporate  
5 defendants to purposefully direct and have the corporate defendants violate Article 15,  
6 Section 16 of Nevada's Constitution and not pay the class members the minimum  
7 wages they were entitled to receive as employees from the corporate defendants,  
8 NADY commanding such action by the corporate defendants despite knowing that  
9 such actions were illegal and in violation of Nevada's Constitution.

10 31. The corporate defendants, although established as legal entities, had no  
11 ability to resist NADY's directive to them to violate the provisions of Nevada's  
12 Constitution, Article 15, Section 16 and not pay the class members the minimum  
13 wages they were entitled to thereunder, as NADY completely controlled the corporate  
14 defendants which control he could, and did, use to direct such non-payment of  
15 minimum wages by the corporate defendants.

16 32. Defendant NADY intentionally and knowingly directed the aforesaid  
17 violations of Article 15, Section 16 of Nevada's Constitution by the corporate  
18 defendant and by doing so caused injury to the class members who did not receive  
19 their earned and unpaid minimum wages. NADY directed the corporate defendants  
20 commit those violations for the express purpose of enriching NADY, personally, and  
21 not as part of any legitimate duty he had as an agent or officer of the corporate  
22 defendants. NADY was enriched by those violations as he intended because he  
23 received additional distributions, dividends, salary or other earnings and profits from  
24 the corporate defendants that he would not have received, and could not have received,  
25 except for such violations of Article 15, Section 16 of Nevada's Constitution that he  
26 had the corporate defendants commit.

27 33. While it is alleged in this claim for relief that NADY is personally liable  
28 for all unpaid minimum wages owed by the corporate defendants pursuant to Article

1 15, Section 16 of Nevada's Constitution to the class members, it is also alleged that  
2 NADY is liable for those minimum wages so owed for work performed by the class  
3 members after January 17, 2013 because of certain additional circumstances. The  
4 additional circumstances requiring that NADY be held personally liable for those post  
5 January 17, 2013 earned, but unpaid, minimum wages are the following:

- 6
- 7 (a) On January 17, 2013 the Court in this action held that the class  
8 members were entitled to be paid by the corporate defendants the  
9 minimum wages specified in Article 15, Section 16 of Nevada's  
10 Constitution, which removed any uncertainty that NADY may have  
11 had prior to that date as to whether the corporate defendants were  
12 required to pay the class members such minimum wages;
- 13
- 14 (b) Despite such ruling on such date, and NADY's prompt advisement  
15 of the same, NADY directed the corporate defendants to continue  
16 for over one year to not pay the minimum wages specified in  
17 Article 15, Section 16 of Nevada's Constitution to the class  
18 members, and by doing so continued to enrich himself after January  
19 17, 2013 with additional distributions, dividends, salary or other  
20 earnings and profits from the corporate defendants that he would  
21 not have received, and could not have received, except for such  
22 violations of Article 15, Section 16 of Nevada's Constitution that  
23 he had the corporate defendants continue to commit;
- 24
- 25 (c) To the extent NADY believed or hoped that the Court's ruling on  
26 January 17, 2013, would be overturned or reversed, and the  
27 corporate defendants subsequently found to not be legally obligated  
28 to pay the class members the minimum wages specified by Article

1 15, Section 16 of Nevada’s Constitution, he purposefully took no  
2 steps to have the corporate defendants comply with that January 17,  
3 2013 ruling in the interim. Such steps would have been if not to  
4 pay such minimum wages to the class members to at least make  
5 arrangements, subject to this Court’s approval, for those minimum  
6 wage amounts to be paid into an escrow fund and kept secure, and  
7 available for the class members’ ultimate benefit, until it was  
8 determined whether the January 17, 2013 ruling would be  
9 overturned or reversed. NADY intentionally failed to take any  
10 such steps and directed the corporate defendants to violate this  
11 Court’s ruling so that NADY could enrich himself with additional  
12 distributions, dividends, salary or other earnings and profits from  
13 the corporate defendants that he would not have received, and  
14 could not have received, if the corporate defendants had taken such  
15 proper steps to comply with the Court’s January 17, 2013 ruling;  
16

17 (d) NADY by personally enriching himself with additional  
18 distributions, dividends, salary or other earnings and profits from  
19 the corporate defendants that he would not have received, and  
20 could not have received, if the corporate defendants had taken  
21 proper steps to comply with the Court’s January 17, 2013 ruling has  
22 rendered the corporate defendants financially insolvent and unable  
23 to pay the minimum wages owed to the class members for their  
24 work performed after January 17, 2013.  
25

26 34. Defendant NADY has used the corporate defendants as his “alter ego”  
27 and is personally liable for the claims made in this case, at least to the extent he has  
28 personally enriched himself from the violations of the Nevada Constitution alleged

1 herein that he has commanded and directed the corporate defendants to commit. Such  
2 “alter ego” liability is properly imposed upon him, and the separate legal existence of  
3 the corporate defendants as the class members’ employer ignored for the purpose of  
4 such liability, because (a) NADY has completely influenced and governed the  
5 corporate defendants and compelled them to violate the Nevada Constitution and deny  
6 the class members the minimum wages they are owed so that NADY could be  
7 personally enriched in a commensurate amount, NADY using the corporate defendants  
8 as tools for NADY to accomplish such illegal and unconstitutional goals, NADY also  
9 expressly directing, planning and causing such illegal conduct that took place  
10 including the intentional conduct by the defendants alleged in paragraph 17; (b) There  
11 is no actual or effective separation of interests between NADY and the corporate  
12 defendants as NADY completely owns and controls the corporate defendants; and (c)  
13 The continued adherence to the fiction that NADY and the corporate defendants are  
14 separate legal parties, with separate and different liabilities to the class members under  
15 Nevada’s Constitution, would promote a fraud and an injustice, at least to the extent  
16 that NADY has personally enriched himself from the violations of the Nevada  
17 Constitution alleged in this complaint and the corporate defendants are otherwise  
18 insolvent and unable to make sufficient restitution to the class members to remedy  
19 such violations.

20       35. Defendant NADY has conspired with the corporate defendants to  
21 personally enrich himself from the violations of the Nevada Constitution alleged  
22 herein that he has commanded the corporate defendants to perform. Such civil  
23 conspiracy by NADY occurred, and results in liability by NADY to the class members  
24 for such violations, because NADY acted with the corporate defendants to have such  
25 violations performed and personally took affirmative steps to have them so performed;  
26 NADY intended for such activities to violate Nevada’s Constitution, they did in fact  
27 violate Nevada’s Constitution, and NADY intended for the class members to be  
28 deprived of the minimum wages guaranteed to them under Nevada’s Constitution and

1 the class members were so deprived and damaged by their denial of those minimum  
2 wages; and NADY performed such actions not as an agent or officer of the corporate  
3 defendants or in the furtherance of any duty or lawful goal in his official capacity on  
4 behalf of the corporate defendants but solely for his own personal individual  
5 advantage and enrichment as alleged herein.

6         36. That NADY has acted in concert with or aided and abetted the conduct  
7 of the corporate defendants in that he acted in concert with the corporate defendants to  
8 have them violate their duties to the class members as employers under Nevada's  
9 Constitution and NADY knew such actions that he aided and abetted by the corporate  
10 defendants were breaches of those duties. NADY has also personally enriched himself  
11 from the violations of the Nevada Constitution alleged in this complaint that he aided  
12 and abetted the corporate defendants in performing and acted in concert with them to  
13 perform and as a result is personally liable to the class members for the damages  
14 caused to the class members from such violations, to the extent the corporate  
15 defendants are otherwise insolvent and unable to make sufficient restitution to the  
16 class members to remedy such violations.

17         37. That NADY engaged in the forgoing alleged course of conduct with the  
18 express intent of leaving the corporate defendants insolvent, bereft of assets, and  
19 unable to pay the class members the minimum wages they are owed by the corporate  
20 defendants and to enrich NADY, personally, by an equal amount.

21         38. The named plaintiffs on behalf of themselves and the proposed plaintiff  
22 class members, seek, on this Third Claim for Relief, a judgment against the defendant  
23 NADY for minimum wages and restitution, such sums to be determined based upon an  
24 accounting of the hours worked by, and wages actually paid to, the plaintiffs and the  
25 class members, at least to the extent the corporate defendants are unable to pay such  
26 sums to the class members, along with other suitable equitable relief, a suitable award  
27 of punitive damages, and an award of attorney's fees, interest and costs, as provided  
28 for by Nevada's Constitution and other applicable laws.

**AS AND FOR A FOURTH CLAIM AGAINST  
DEFENDANT NADY FOR UNJUST ENRICHMENT**

39. Plaintiffs repeat and reiterate each and every allegation previously made herein.

40. The minimum wages that were owed to the class members by the corporate defendants, as alleged herein and in paragraph 19, were the property of the class members and the corporate defendants owed such property, which were sums of money, to the class members when those minimum wages were earned; the corporate defendants actually possessed money sufficient to pay those minimum wages to the class members and could have paid those wages to the class members when they were earned by and due to the class members; and the corporate defendants had no legal right to refuse to pay those minimum wages to the class members when they were earned or pay sums of money equal to those minimum wages to someone else besides the class members who were owed those minimum wages without also paying the class members, at that time, those earned and owed minimum wages.

41. The defendant NADY received sums of money from the corporate defendants that were equal to the minimum wages owed by the corporate defendants to the class members but not paid to the class members by the corporate defendants, NADY receiving those sums of money from the corporate defendants only because he used his complete control over the corporate defendants to have such sums of money paid to him, and not the class members, by the corporate defendants.

42. The aforesaid sums of money in paragraph 41 received by NADY should not have been paid to him but used by the corporate defendants to meet their legal obligation under Nevada's Constitution to pay the class members the minimum wages they were owed and NADY would not have received those monies from the corporate defendants if he had not commanded the corporate defendants to pay those monies to him and if the corporate defendants had acted properly and used those monies to pay the class members such owed, but unpaid, minimum wages.

1           43. Although plaintiffs do not allege it was necessary for NADY to have such  
2 knowledge for them to be granted the relief sought in this fourth claim for relief, they  
3 expressly allege, if the Court finds such knowledge must be established for such relief  
4 to be granted, that NADY commanded the payment by the corporate defendants to him  
5 of the monies discussed in paragraphs 41 and 42 with full knowledge that the  
6 corporate defendants only had such funds available to pay him because the class  
7 members had not been paid an equal amount of minimum wages they were owed by  
8 the corporate defendants.

9           44. NADY'S retention of the monies he received from the corporate  
10 defendants as alleged in paragraphs 41 and 42, such monies that should have been  
11 properly used by the corporate defendants to pay the class members their owed, but  
12 unpaid, minimum wages, such monies also being the *de facto* property of the class  
13 members, would be against fundamental principles of equity, justice and good  
14 conscience, to the extent the corporate defendants, owing to their payment of such  
15 monies to NADY, are now insolvent and unable to pay the class members the  
16 minimum wages they are owed.

17           45. The named plaintiffs on behalf of themselves and the proposed plaintiff  
18 class members, seek, on this Fourth Claim for Relief, a judgment against the defendant  
19 NADY for restitution to the class of the amount of NADY'S unjust enrichment, such  
20 amount to be determined based upon how much the corporate defendants are found to  
21 owe the class members for unpaid minimum wages that the corporate defendants are  
22 unable to pay the class members (the "deficiency amount") and how much NADY has  
23 been unjustly enriched as alleged in this claim for relief up to, but not in excess of, that  
24 deficiency amount, along with other suitable equitable relief and an award of  
25 attorney's fees, interest and costs, as provided for by Nevada's Constitution and other  
26 applicable laws.

27  
28           WHEREFORE, plaintiffs demand the relief on each cause of action as alleged



1 aforesaid.

2 Plaintiffs demand a trial by jury on all issues so triable.

3

4 Dated this 22nd day of June, 2015.

5

6 Leon Greenberg Professional Corporation

7

8 By: /s/ Leon Greenberg

9

10 LEON GREENBERG, Esq.  
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14 (702) 383-6085  
15 Attorney for Plaintiff

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CERTIFICATE OF MAILING

The undersigned certifies that on August 19, 2015, she served the within:

**SECOND AMENDED AND SUPPLEMENTAL COMPLAINT**

by court electronic service to:

TO:

Esther C. Rodriguez, Esq.  
RODRIGUEZ LAW OFFICES, P.C.  
10161 Park Run Drive, Suite 150  
Las Vegas, NV 89145

*/s/ Dana Sniegocki*

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Dana Sniegocki