

IN THE SUPREME COURT OF THE STATE OF NEVADA

A CAB, LLC; AND A CAB SERIES,
LLC,

Appellants,

v.

MICHAEL MURRAY; AND
MICHAEL RENO, INDIVIDUALLY
AND ON BEHALF OF ALL OTHERS
SIMILARLY SITUATED,

Respondents.

) Supreme Court No. 77050

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**APPENDIX TO
APPELLANTS OPENING BRIEF
VOLUME XI of LII**

Appeal from the Eighth Judicial District Court
Case No. A-12-669926-C

HUTCHISON & STEFFEN, PLLC

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23	Plaintiffs' Response in Opposition to Defendants' Motion for Declaratory Order Regarding Statue of Limitations, filed 08/28/2015	IV	AA000600-AA000650
172	Plaintiffs' Response in Opposition to Defendants' Motion for Dismissal of Claims on an Order Shortening Time, filed 10/17/2018	XLVI	AA009289-AA009297
8	Plaintiffs' Response in Opposition to Defendants' Motion Seeking Reconsideration of the Court's February 8, 2013 Order Denying Defendants' Motion to Dismiss, filed 03/18/2013	I	AA000181-AA000187
154	Plaintiffs' Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OST and Counter-Motion for Appropriate Judgment Enforcement Relief, filed 09/24/2018	XLIV	AA008919-AA008994
109	Plaintiffs' Response to Defendants' Motion in Limine to Exclude Expert Testimony, filed 01/12/2018	XXX, XXXI	AA006002-AA006117
184	Plaintiffs' Response to Special Master's	XLVII	AA009665-

	Motion for an Order for Payment of Fees and Contempt, filed 11/26/2018		AA009667
115	Plaintiffs' Supplement in Connection with Appointment of Special Master, filed 01/31/2018	XXXII	AA006239-AA006331
144	Plaintiffs' Supplement in Reply and In Support of Entry of Final Judgment Per Hearing Held June 5, 2018, filed 07/13/2018	XLI, XLII	AA008416-AA008505
146	Plaintiffs' Supplement in Reply to Defendants' Supplement Dated July 18, 2018, filed 08/03/2018	XLII	AA008576-AA008675
107	Plaintiffs' Supplement in Support of Motion for Partial Summary Judgment, filed 01/09/2018	XXX	AA005833-AA005966
75	Plaintiffs' Supplement to Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 02/23/2017	XX	AA003847-AA003888
156	Plaintiffs' Supplemental Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OSt, filed 09/27/2018	XLIV	AA009009-AA009029
46	Reply in Support of Defendants' Motion for Reconsideration, filed 03/24/2016	VII, VIII	AA001237-AA001416
170	Reply in Support of Defendants' Motion for Reconsideration, Amendment, for New Trial, and for Dismissal of Claims, filed 10/16/2018	XLV	AA009272-AA009277
58	Reply in Support of Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) with Respect to All Claims for Damages Outside the Two-Year Statue of Limitation and Opposition to Counter Motion for Toll of Statue of Limitations and for an Evidentiary Hearing, filed 12/28/2016	XI	AA002179-AA002189

111	Reply in Support of Defendants' Motion in Limine to Exclude the Testimony of Plaintiffs' Experts, filed 01/19/2018	XXXI	AA006180-AA001695
178	Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/05/2018	XLVII	AA009553-AA009578
187	Resolution Economics' Reply to Defendants' Opposition and Plaintiffs' Response to its Application for an Order of Payment of Special Master's Fees and Motion for Contempt, filed 12/03/2018	XLVII	AA009690-AA009696
100	Response in Opposition to Defendant's Motion for Summary Judgment, filed 12/14/2017	XXVII, XXVIII	AA005372-AA005450
31	Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' First Claim for Relief, filed 09/28/2015	V	AA000807-AA000862
3	Response in Opposition to Defendants' Motion to Dismiss, filed 12/06/2012	I	AA000016-AA000059
33	Response in Opposition to Defendants' Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 10/08/2015	V	AA000870-AA000880
34	Response in Opposition to Defendants' Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Reno, filed 10/08/2015	V	AA000881-AA000911
212	Second Amended Notice of Appeal, filed 03/06/2019	L	AA010285-AA010288
22	Second Amended Supplemental Complaint, filed 08/19/2015	III	AA000582-AA000599
130	Second Supplemental Declaration of Class Counsel, Leon Greenberg, Esq., filed	XXXIV	AA007015-AA007064

	05/18/2018		
213	Special Master Resolution Economics' Opposition to Defendants Motion for Reconsideration of Judgment and Order Granting Resolution Economics Application for Order of Payment of Special Master's Fees and Order of Contempt, filed 03/28/2019	LI	AA010289-AA010378
78	Supplement to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 05/24/2017	XXI	AA004024-AA004048
79	Supplement to Defendants' Opposition to Plaintiffs' Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady From Liability of Corporate Defendants or Alternative Relief, filed 05/31/2017	XXI	AA004049-AA004142
72	Supplement to Order For Injunction Filed on February 16, 2017, filed 02/17/2017	XIX	AA003777-AA003780
129	Supplemental Declaration of Class Counsel, Leon Greenberg, Esq., filed 05/16/2018	XXXIV	AA006981-AA007014
38	Transcript of Proceedings, November 3, 2015	VI	AA001002-AA001170
66	Transcript of Proceedings, February 8, 2017	XVII	AA003549-AA003567
70	Transcript of Proceedings, February 14, 2017	XIX	AA003755-AA003774
77	Transcript of Proceedings, May 18, 2017	XX, XXI	AA003893-AA004023
83	Transcript of Proceedings, June 13, 2017	XXII	AA004223-AA004244
101	Transcript of Proceedings, December 14, 2017	XXVIII	AA005451-AA005509

105	Transcript of Proceedings, January 2, 2018	XXIV	AA005720- AA005782
114	Transcript of Proceedings, January 25, 2018	XXXI	AA006203- AA006238
117	Transcript of Proceedings, February 2, 2018	XXXII	AA006335- AA006355
122	Transcript of Proceedings, February 15, 2018	XXXII, XXXIII	AA006427- AA006457
137	Transcript of Proceedings, filed July 12, 2018	XXXVI, XXXVII	AA007385- AA007456
215	Transcript of Proceedings, September 26, 2018	LI	AA010385- AA010452
216	Transcript of Proceedings, September 28, 2018	LI, LII	AA010453- AA010519
175	Transcript of Proceedings, October 22, 2018	XLVI	AA009304- AA009400
189	Transcript of Proceedings, December 4, 2018	XLVIII	AA009701- AA009782
190	Transcript of Proceedings, December 11, 2018	XLVIII	AA009783- AA009800
192	Transcript of Proceedings, December 13, 2018	XLVIII	AA009813- AA009864

CERTIFICATE OF SERVICE

I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this date **APPENDIX TO APPELLANTS OPENING BRIEF VOLUME XI of LII** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

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Attorneys for Respondents

DATED this 5th day of August, 2020.

/s/ Kaylee Conradi

An employee of Hutchison & Steffen, PLLC

1 Q. Are you aware of whether information in that
2 meter -- or excuse me -- those meters is recorded and
3 stored anywhere besides the Cab Manager system?

4 A. And the meters you're referring to are the old
5 meters or the new meters?

6 Q. The old meters, sir.

7 A. So your question then is: Am I aware if the old
8 meters, the Centrons were -- had the capacity to hold
9 information? Is that what your question is?

10 Q. Well, Mr. Nady, they held a certain amount of
11 information because readings were taken from them --

12 A. Right.

13 Q. -- at the end of shifts; correct?

14 A. Correct.

15 Q. Do you know if any information that was stored in
16 those meters was preserved anywhere except in the Cab
17 Manager system? By information I mean, electronic
18 computer records.

19 A. They were probably stored in the meter.

20 Q. Okay. But do you know besides the meter itself
21 and besides Cab Manager if any information from those
22 taxi meters was stored anywhere else by a Cab?

23 A. I am certain that no place else was that
24 information stored besides on the meter itself and on
25 the trip sheets and in the Cab Manager.

1 Q. Are there any other computers in A Cab's taxis 02:47:28
2 besides those meters? 02:47:30

3 A. You call this a computer? 02:47:31

4 Q. The witness is pointing to what looks like a 02:47:40
5 notebook. 02:47:43

6 A. It's not a notebook. It's an iPad. 02:47:44

7 Q. An iPad. That would be a computer, sir. 02:47:47

8 A. There's about 20 of them. 02:47:50

9 Q. When you say 20 of them, what do you mean? 02:47:53

10 A. There's about 20 iPads in the office. 02:47:55

11 Q. No. In the taxis themselves, sir. Is there any 02:47:57
12 computer in the taxis themselves? 02:48:00

13 A. No. Now the DT5 meter is a computer. 02:48:03

14 Q. Okay. But excluding the DT5 meter, are you 02:48:10
15 aware -- 02:48:12

16 A. No, the other one is a digital thing, the 02:48:18
17 Centron. 02:48:20

18 Q. Now, you had mentioned that QuickBooks system is 02:48:24
19 used to produce the pay stubs and the payroll; correct? 02:48:28

20 A. I did. 02:48:34

21 Q. And certain information has to be put into the 02:48:37
22 QuickBooks system so it can produce the payroll for each 02:48:40
23 worker for every pay period; correct? 02:48:44

24 A. It is. 02:48:47

25 Q. And how does that information get into the 02:48:47

1 QuickBooks system?

2 A. By a computer input person.

3 Q. So is it correct that all of the information that
4 QuickBooks uses to produce the payroll for A Cab's taxi
5 drivers is entered manually by someone at a keyboard?

6 A. You can -- yes.

7 Q. And what is the source of the information that
8 that person or persons uses to then type into the
9 QuickBooks system?

10 A. Trip sheets.

11 Q. Do they use any other source of information which
12 they then type into the QuickBooks system?

13 A. They will get the meter readings from the -- Jim
14 Morgan's Cab Manager for the revenue intake, and the
15 rest of it is garnered from the trip sheet.

16 Q. Besides those two references that you just
17 mentioned, do they refer to any other source of
18 information for the data they enter into the QuickBooks
19 system to produce the payroll?

20 A. Everything has got -- if there is a problem, they
21 go back to the trip sheet and analyze it from that on
22 that particular day, but we put together -- we bundle
23 together all the trip sheets for that pay period for
24 each driver, and then it's stored with it. And then we
25 then use that along with the revenue that's generated

1 from Cab Manager, but the -- the data as to how many 02:50:32
2 days and how many trips and that information is garnered 02:50:40
3 from the trip sheets, and part of it is put in there. 02:50:50

4 Q. Now, the information from Cab Manager that you 02:50:58
5 were referring to that is used in the QuickBooks system, 02:50:59
6 you say that's information about fares that were 02:51:00
7 collected? 02:51:09

8 A. That's it. 02:51:09

9 Q. So no other information from QuickBooks is used 02:51:09
10 for purposes of -- excuse me. No other information from 02:51:09
11 Cab Manager is used for purposes of preparing the 02:51:11
12 payroll in QuickBooks; correct? 02:51:15

13 A. I haven't done payroll personally for more than 02:51:17
14 six months, but I don't think we use any other -- 02:51:20
15 anything else besides the money generated and the trip 02:51:23
16 sheets. 02:51:37

17 Q. When you say money generated, you mean the fares 02:51:37
18 collected information from Cab Manager? 02:51:41

19 A. That's correct. 02:51:42

20 Q. Who currently prepares the payroll? 02:51:47

21 A. Donna. 02:51:50

22 Q. Did anybody prepare the payroll before Donna? 02:51:52

23 A. Well, I have for years, and before that, Wendy. 02:51:59
24 I'm sure you know Wendy. I think you spoke with her. 02:52:00

25 Q. Anybody else besides Donna, Wendy, and yourself? 02:52:09

1 A. I don't think so in the last seven or eight or 02:52:11
2 nine years. It's possible there's somebody I don't 02:52:18
3 remember, but I don't remember. Wendy was our payroll 02:52:24
4 manager for years. And then when she ran off with your 02:52:30
5 other client, Donna was -- 02:52:36

6 Q. Now, Mr. Nady, the information from Cab Manager 02:52:39
7 about the fares, is that given on a paper report to the 02:52:45
8 person who enters the QuickBooks data? 02:52:48

9 A. I think they can migrate that, but I'm not 02:52:52
10 certain. I don't -- I never migrated it. I just get it 02:52:58
11 off the reports, and that's easy to do. But it could be 02:52:59
12 migrated, but I don't know how to do that. So when I 02:53:03
13 did -- the last time I did payroll, I did not do it. 02:53:09

14 Q. When was the last time you personally did 02:53:09
15 payroll? 02:53:17

16 A. I don't remember, but it's been more than between 02:53:17
17 six and 12 months. I only do it when Donna goes on 02:53:18
18 vacation. She doesn't go on vacation very often. She 02:53:27
19 went on the vacation last time to teach a class to young 02:53:28
20 Christians in New Mexico. And that was last summer. Or 02:53:29
21 maybe it was the spring. 02:53:37

22 Q. By migrate the data from Cab Manager, do you mean 02:53:39
23 there is a way that Cab Manager can automatically send 02:53:42
24 the information about the fares into the QuickBooks 02:53:47
25 system? 02:53:52

1 A. I don't know. Remember I said I don't know.

2 Q. Well, I just want to be clear what you mean by
3 migrate that that would be a possibility?

4 A. It's a possibility, but I don't know.

5 Q. And who would know that?

6 A. Donna would probably know.

7 Q. Now, in preparing the QuickBooks payroll, was any
8 information entered about the hours that taxi drivers
9 work in a pay period?

10 A. Yes.

11 Q. Where does that information come from?

12 A. From the trip sheets.

13 Q. And when you say from the trip sheets, is there a
14 specific statement on the trip sheets as to the total
15 amount of time the driver worked during each shift?

16 A. No. It's -- we calculate it by looking at the
17 trip sheet.

18 Q. And who calculates that?

19 A. Donna. Whoever is doing the payroll.

20 Q. And how does she do that?

21 A. With a pencil.

22 Q. And what formula does she use to do that?

23 A. There's no formula. You just count the number of
24 hours.

25 Q. So she simply refers to the information on the

1 trip sheet, and that tells her the total amount of time
2 for each shift that a driver should be credited with;
3 correct?

4 A. Exactly.

5 Q. She doesn't modify that information on the trip
6 sheet in any fashion?

7 A. No, nope. It's not her job.

8 Q. So if I'm looking at a trip sheet and it shows a
9 driver started at 10:00 and he stopped at 8:00 and he's
10 listed for one hour break, I would write down if I was
11 Donna that he worked nine hours for that shift; correct?

12 A. Yes, I assume. That's what I would do when I was
13 doing payroll.

14 Q. So, again, there's no other formula or
15 modification she uses. It is literally a translation
16 from what's on the trip sheet into the QuickBooks;
17 correct?

18 A. I think she puts that on -- yes.

19 Q. Now, you say she uses a pencil and paper.

20 A. I didn't say paper.

21 Q. I'm sorry. She uses a pencil. Well, what
22 does -- does she actually enter into the QuickBooks
23 system a number of hours per shift?

24 A. No. I think she puts it on the trip sheet.
25 That's what I did anyway. I'm not sure how she does it,

1 but I think she puts it on the trip sheet. 02:56:21

2 Q. Well, the number of hours per payroll period is 02:56:23
3 used by A Cab in preparing the payroll; correct? 02:56:34

4 A. Of course. 02:56:39

5 Q. Has A Cab always examined the number of hours 02:56:41
6 worked per pay period in preparing its payroll for the 02:56:44
7 cab drivers? 02:56:49

8 A. Not always. I think we started after our first 02:56:51
9 audit. I can't remember the name of the auditor, but he 02:56:54
10 recommended we keep track of every hour. 02:57:03

11 Q. And -- 02:57:07

12 A. And we kept track of hours then also, but we 02:57:09
13 didn't keep records of all of them. So I mean, we had 02:57:12
14 to go back. He didn't like having to go back and look 02:57:17
15 at each trip sheet any more than you will about trying 02:57:21
16 to figure out how many hours they actually worked or any 02:57:28
17 more than the DOL when they did audit us for three and a 02:57:29
18 half years. They kept those things, and they went over 02:57:32
19 every one of them. 02:57:39

20 Q. Well, it's your testimony then that since the 02:57:36
21 time of that audit, A Cab has always examined the number 02:57:38
22 of hours a taxi driver worked during a payroll period in 02:57:42
23 calculating their pay for the period? 02:57:47

24 A. I believe we have, yes. 02:57:50

25 Q. But A Cab has not always kept a record of that 02:57:51

1 number of hours for the entire pay period; correct? 02:58:01

2 A. Well, after the first audit, A Cab -- we didn't 02:58:06
3 measure it up against the minimum wage as cited or as 02:58:10
4 recommended by the DOL. And thus, we took the number of 02:58:20
5 hours off the trip sheets. The trip sheets come -- or 02:58:28
6 they came in two week periods, you know, five, six, ten 02:58:32
7 of them, eleven, sometimes 12 even. And we would put a 02:58:37
8 total on -- staple it together and put a total on the 02:58:42
9 front of the number of hours. Then if that was below 02:58:47
10 minimum wage, we would then increase the wage and the 02:58:50
11 commission to do that. We'd keep track of how much it 02:58:53
12 was. Now we didn't do that. And the reason we didn't 02:58:58
13 do it is we didn't want the drivers -- maybe a stupid 02:58:59
14 thing to do, and it ended up biting us a little bit. We 02:59:03
15 didn't want the drivers to know that if they didn't do 02:59:07
16 well they still get paid a bunch of money. So we didn't 02:59:09
17 tell them that we were keeping that. We did keep a 02:59:12
18 record of it though of how much we supplemented their 02:59:16
19 wages. And then when it became an issue, we started 02:59:19
20 putting it down as a supplement. 02:59:20

21 You guys are passing notes like kids. 02:59:22

22 Q. Now, Mr. Nady, in order to do the calculations 02:59:24
23 you just described, A Cab had to determine each pay 02:59:29
24 period how many hours a cab driver worked during that 02:59:34
25 pay period; correct? 02:59:36

1 A. Yes.

2 Q. So it had to create a total hours worked for the
3 cab driver for that pay period; correct?

4 A. Yes.

5 Q. But it has not actually preserved that total
6 number of hours worked that it calculated; correct?

7 MS. RODRIGUEZ: Objection. Misstates prior
8 testimony.

9 THE WITNESS: No. I don't think -- even
10 though it's misstated, I don't think we kept those.
11 BY MR. GREENBERG:

12 Q. Has A Cab kept that total that it calculated
13 starting at any particular point in time going forward?

14 A. Yes.

15 Q. When did it start keeping --

16 A. Don't know. And if you ask me to narrow it down,
17 I'm going to say I don't know.

18 Q. Since the institution of this lawsuit, has it
19 been keeping that information, the total number of hours
20 of each driver during each pay period?

21 A. I think -- I think you'll find if you look at the
22 trip sheets, you'll find how many hours was on that
23 paycheck. I think if you look at the trip sheets as
24 they're stapled together, there will be a note on each
25 one of those weeks for every person how many hours there

1 was. It's either on a big thing on each page, or it's
2 on a tape from an adding machine with the number of
3 hours added up there. And you could see then the tape
4 where we added 8, 12, 10, 11, 5, 4, 6, 7, whatever we
5 had. We would put that on the tape, put them together,
6 and that would be what we would use as -- when we were
7 calculating payroll. That's the way it was.

8 Q. Okay. So what you're telling me is that if a
9 driver worked ten shifts in a payroll period, the person
10 responsible for payroll would take those ten trip sheets
11 from those shifts, go through each one of them, manually
12 add them up with a calculator for pay period total of
13 hours based upon those ten trip sheets and then staple
14 that piece of paper from the adding machine to those ten
15 trip sheets; is that correct?

16 A. That's how we used to do it, yes.

17 Q. And were those stapled trip sheets with those
18 pieces of paper from the calculator preserved?

19 A. We gave them all to the DOL.

20 Q. Including those stapled --

21 A. We gave all of them to the DOL for the time
22 period that we're discussing here. We gave them all to
23 them.

24 Q. And have they been returned?

25 A. Maybe half and maybe they're not put together and

1 maybe it's a mess because they didn't -- they just threw 03:02:30
2 things around and there's lots of dust on them and you 03:02:38
3 don't know what's there because they didn't put them 03:02:42
4 back in the same order. Our boxes were by date. They 03:02:44
5 were in perfect form. They were in alphabetical by 03:02:48
6 name, by day every day. And when they got them back to 03:02:52
7 us, the ones -- they obviously didn't go through all of 03:02:56
8 them, but the ones that they gave back to us were -- had 03:02:58
9 been tipped over and crushed, and they weren't kept 03:03:00
10 well. 03:03:12

11 Q. You used the word maybe more than once in the 03:03:12
12 answer you were just giving me. 03:03:17

13 Do you know if those trip sheets that were 03:03:20
14 stapled together with those pieces of adding machine 03:03:24
15 paper stapled to them still exist and are in the 03:03:28
16 possession of A Cab? 03:03:32

17 A. I would say I don't know for sure, but I think 03:03:36
18 pretty much they are in a different form of collection. 03:03:39
19 I think now they put -- they've sorted them in a 03:03:41
20 different manner. 03:03:51

21 Q. Well, have they been separated? They were 03:03:54
22 stapled -- 03:03:57

23 A. Yep, they were separated. 03:03:58

24 Q. So do any of them still exist with that piece of 03:04:00
25 adding machine paper stapled to them in pay period 03:04:02

1 groups as you've described to me?

2 A. I don't know.

3 Q. You don't know?

4 A. No, I don't know.

5 Q. Do you know where those trip sheets are stored
6 right now?

7 A. Yep.

8 Q. Where are they?

9 A. At my office. They didn't give us back all of
10 them, Counsel. At least there's a fewer number of
11 boxes, and they were not all full. They were not cared
12 for well.

13 Q. Now, currently does A Cab still prepare the
14 payroll in terms of figuring the hours per pay period
15 that a driver worked in the same fashion that you have
16 described to me, which is the person takes all of the
17 trip sheets for a particular driver for a particular pay
18 period, uses a calculator to print out a piece of paper
19 with the total for that pay period of all the trip
20 sheets, and staples them to the trip sheets as a group?

21 Is that system still used now?

22 A. We may have evolved.

23 Q. When you say may, what do you mean?

24 A. Well, I'm not doing payroll that frequently. I
25 did it that way, but I only had to do one payroll while

1 Donna was on vacation. But I didn't have a lot of
2 complaints either. Mine was done. My checks were
3 almost all right. I think that Donna keeps the number
4 of hours in a different method. Ask me what it is; I'll
5 tell you I don't know. I don't recall how she does it.

6 Q. Is it possible -- withdrawn.

7 Do you know if she uses an Excel file?

8 A. I just said I don't know.

9 Q. Does Donna use Excel in the course of her work?
10 Do you know that?

11 A. I believe she does. She does some things for me
12 using Excel.

13 Q. Do you know what she does in Excel?

14 A. No. She sends me notes on Excel sometimes.

15 Q. Anything else she's done in Excel that you can
16 recall?

17 A. Not that I know of.

18 Q. Why don't we mark this as Exhibit 1.

19 (Exhibit 1 was marked for identification.)

20 BY MR. GREENBERG:

21 Q. Mr. Nady --

22 A. Mr. Greenberg.

23 Q. -- please take a look at Exhibit 1. At the top
24 of this document it says Payroll Detail Report.

25 Do you see that, sir? The first page at the top

1 Mr. Nady.

2 A. Mr. Greenberg, what are you referring to?

3 Q. First page.

4 A. Number 1 or page 9 or page --

5 Q. The first page you're holding in front of you,
6 Mr. Nady, the top of the document.

7 A. Where it says page 9?

8 Q. That's fine. It says Payroll Detail Report.
9 Do you see that?

10 MS. RODRIGUEZ: Have you produced these, Mr.
11 Greenberg?

12 MR. GREENBERG: Yes, I have.

13 MS. RODRIGUEZ: I don't think I've ever seen
14 these before.

15 BY MR. GREENBERG:

16 Q. Mr. Nady --

17 A. Mr. Greenberg.

18 Q. -- the document says Payroll Detail Report on the
19 top left corner of Bates BRAUCHLE 1.

20 A. He's one of your clients.

21 Q. Have you ever seen documents at A Cab that look
22 the same as this document in terms of its format, in
23 terms of it stating payroll detail report at the top of
24 the corner like that?

25 A. This is the second one that I've seen.

1 Q. What is the first one you've seen?

2 A. The one you showed me earlier of somebody else.

3 Q. And when did I show that to you earlier?

4 A. You showed it at the last deposition.

5 Q. So is it correct that you don't know anything
6 about the production of this document by A Cab?

7 A. I didn't say that.

8 Q. Okay. Well, have you ever seen payroll detail
9 reports at A Cab not necessary --

10 A. I've already answered that question just about
11 two minutes ago.

12 Q. -- not necessarily on paper, Mr. Nady. Have you
13 ever seen anything like that on a computer screen at A
14 Cab?

15 A. I've seen this report once before in any form
16 whatsoever, and that was from you.

17 Q. This document was produced from the QuickBooks
18 system.

19 A. Thank you.

20 Q. That is my understanding, Mr. Nady.

21 Do you have any reason to believe that I'm wrong
22 in that understanding?

23 MS. RODRIGUEZ: Objection. Lacks
24 foundation.

25 THE WITNESS: Mr. Greenberg, you're asking

1 me to tell you about something I have seen for the
2 second time, and you're the only one that produced them
3 for me. So the answer to your question is I don't know.

4 BY MR. GREENBERG:

5 Q. Mr. Nady, if you look at this document on the
6 first page, there's a column that says shift credit.

7 A. It says shift --

8 Q. Credit.

9 Does A Cab keep track of anything called a shift
10 credit of its cab drivers?

11 A. Yes.

12 Q. And what is that?

13 A. They get credit for a shift.

14 Q. And what is the purpose of keeping track of that
15 information?

16 A. We know who worked.

17 Q. So if I wanted to find out how many shifts Mr.
18 Brauchle worked for his entire career at A Cab, he would
19 have one shift credit for each shift that he worked?

20 A. That's two questions. If you wanted to find out
21 how many shifts Mr. -- whatever his name is that you
22 mutilated, I'm sure -- how many shifts he worked, I
23 would imagine that we would go to his payroll file and
24 look at that. That's how I would do it. I've never
25 seen this document before.

1 Q. What would I look in the payroll file that would
2 tell me how many shifts he worked?

3 A. Go back and look at his pay stubs or the record
4 that we have for the last two years.

5 Q. By record you're meaning QuickBooks?

6 A. Uh-huh.

7 Q. So you're telling me that the QuickBooks will
8 tell me how many shifts a particular driver worked --

9 A. I'm not saying that. I'm saying that's where I
10 would look. You're misstating my answer again. I don't
11 know that.

12 Q. You don't know if the QuickBooks keeps a record
13 of each of the shifts that the driver works?

14 A. I don't know that, but I think that has something
15 to do with this shift credit, but I don't know because
16 I've never seen this before, the one you gave me last
17 time, and I didn't even look at that that closely.

18 Q. Besides keeping track of a shift credit to see
19 how many shifts a driver worked, does that serve any
20 other purpose for A Cab?

21 A. Well, if I look at the top of this thing it says
22 shift credit 235 of 235. So that would probably tell me
23 how many days he worked, and I think that's probably a
24 total of those at the top. I don't know because I've
25 never seen it before. So that's where I would look, and

1 that's what I would assume, but I don't know. I think
2 that's a logical assumption.

3 Q. Does A Cab use the shift credit for any purpose
4 besides as an indicator for the number of shifts a
5 particular driver has worked?

6 A. Yes.

7 Q. What is that purpose?

8 A. Drivers get a couple of bonuses based on the
9 number of shifts they work annually and semiannually and
10 other periods. I don't remember. I can't remember off
11 the top of my head, but they get a dollar or something
12 to that amount at the end of the year based on the
13 number of shift credits they have as a Christmas bonus.

14 Q. Now, on page 1 of this document, it says shift
15 15-01, and that's in the first box there. And you go
16 down that column there are other numbers.

17 Does that sequence of numbers mean anything
18 particularly?

19 A. Nope. Can't range or guess.

20 Q. Do you know --

21 A. Yeah, I know what that is.

22 Q. Yes.

23 A. That is -- that tells us approximately what hour
24 he should have left or what half hour, I believe, but I
25 don't know. I'm speculating here. I probably shouldn't

1 do that. But I might venture to say that that was 03:15:22
2 number one shift, which would be perhaps one o'clock or 03:15:23
3 twelve o'clock, whichever time the first shift of that 03:15:31
4 day went out, and he was car 15. He was also the first 03:15:36
5 shift on the next day, whatever the one shift was. 03:15:39
6 Because we never go higher than 50, I don't think, and 03:15:42
7 that was how many cars we had. But we only sent out 03:15:47
8 about half of them on a regular basis. 03:15:56

9 Q. So what you're saying is you think the 01 03:15:52
10 digit -- 03:15:59

11 A. Tells you the approximate time he left or should 03:15:58
12 have left. Doesn't mean what time he did leave. 03:15:59
13 Because we numbered our shifts one through, I think, ten 03:16:00
14 or eight, and that was probably it. 03:16:03

15 Q. And the first two digits of that sequence refers 03:16:08
16 to? 03:16:12

17 A. That would be the car he took out, car number. 03:16:17

18 Q. Now, there's also a number there -- a column that 03:16:19
19 says trips. And does that refer to the number of trips 03:16:19
20 the driver completed during a shift? 03:16:22

21 A. Yep. 03:16:28

22 Q. And it says cab, and there's a number underneath 03:16:29
23 that. 03:16:29

24 A. There you go. 03:16:30

25 Q. And what does that refer to? 03:16:31

1 A. The cab number. So there you go.

2 Q. What do you mean by there you go, sir?

3 A. Huh?

4 Q. You said there you go. I'm trying to understand
5 what you mean by that.

6 A. Well, that means my first idea about the shift
7 was full of nonsense because here's the cab numbers. So
8 I don't have any idea what the shift number meant or
9 means, but I would imagine that the cab
10 identification -- those are similar to the cab
11 identification numbers.

12 I would only hope you don't give this to one of
13 my competitors.

14 Q. The next column says R/C.

15 Does that mean radio calls?

16 A. Sure does.

17 Q. And it says PM percentage.

18 Do you know what that means?

19 A. Paid mile percentage.

20 Q. The columns on this particular printout all seem
21 to have zero.

22 Do you know why the records for this particular
23 person might have a zero in that column?

24 A. Don't know what they are.

25 Q. Excuse me? You don't know what they are?

1 A. No, I don't.

2 Q. Well, you said paid mile percentage. You know
3 what paid mile percentage is?

4 A. Of course.

5 Q. And what is that, sir?

6 A. It's the paid mile percentage.

7 Q. That the taxi travels?

8 A. Yeah. Percentage of his miles on his meter, how
9 many miles he went. And on the meter it also tells us
10 how many paid miles he has. So if he's driving around
11 town on his way to a ride, then that's not paid. When
12 he gets somewhere in the cab, and the meter goes on and
13 he's getting paid for it, he tells us those. That's
14 another thing on the meter.

15 And usually we would try to calculate what his
16 percentage of paid miles was.

17 Q. Now, the column that says book, does that refer
18 to the total fares collected during the shift?

19 A. I assume.

20 Q. Well, do you know?

21 A. I said I assume. That means I'm not sure, but I
22 think so.

23 Q. Well, is the term book used at A Cab to mean the
24 total amount of fare as driver collects during their
25 shift?

1 A. That's what I think it meant. That's how I use
2 the term.

3 Q. There's a column that says pretrip charge, or at
4 least that's how I read it.

5 Is that how you would read it? Do you see what
6 I'm referring to, sir?

7 A. Yes.

8 Q. Does A Cab impose any pretrip charges?

9 A. Not that I'm aware of. I don't know see any on
10 this guy's either.

11 Q. Do you know why that information would be kept by
12 A Cab?

13 A. No.

14 Q. There's a column that says split.

15 Do you know what that means by split?

16 A. That would mean that was their percentage of the
17 fare.

18 Q. Now, the split column should equal 42 percent of
19 the book, Mr. Nady?

20 A. Well, add it up and see what you think. Let's
21 just take a look. Let's take a look and find out
22 because I don't know unless we look at it and find out.

23 Q. Mr. Nady --

24 A. Are you asking me not to look and find out?

25 Q. Yes. I'm asking you not to look and find out.

1 A. The answer is I don't know, but I can find out
2 real quickly if you want to know, my.

3 Q. My question is not this document. Let me make it
4 clear.

5 My question is: Does A Cab have a policy whereby
6 the number that it calls the split for the driver is
7 calculated at 42 percent of the book?

8 A. Sometimes it does.

9 Q. And sometimes it doesn't?

10 A. Sometimes it doesn't.

11 Q. And why --

12 A. It does have one though. To answer your
13 question, yes, it does have one of those.

14 Q. It has a policy regarding a split percentage for
15 the driver?

16 A. Yes.

17 Q. And sometimes that policy is 42 percent?

18 A. Yes.

19 Q. And is there reasons why it would be different
20 than 42 percent?

21 A. Depends on the car they drove.

22 Q. And what cars is it not 42 percent?

23 A. In those years, I think all of them were 42
24 percent, but we didn't have -- as soon as we got a
25 Prius, it changed. I think the plural of Prius should

1 be Priai (phonetic), but we didn't have Priai in those 03:20:58
2 days. If you drove a handicap van, you got 45 percent. 03:21:01
3 Mr. Brauchle -- is how you pronounce his name; you 03:21:07
4 should know because he's your client -- didn't drive a 03:21:12
5 handicap van. 03:21:16

6 Q. Did most drivers drive vehicles that are a 42 03:21:17
7 percent split? 03:21:21

8 A. Almost all. There were some guys who got more 03:21:24
9 for various reasons. 03:21:28

10 Q. Now, in this document there's a column that says 03:21:29
11 post trip charge after split. 03:21:33

12 Do you see that, Mr. Nady? That's how I read it. 03:21:34
13 If you think there's a different reading to be given to 03:21:37
14 that information, please tell me. 03:21:41

15 MS. RODRIGUEZ: Well, I'm going to object to 03:21:42
16 that question because I think you're asking him to 03:21:44
17 authenticate this document in each column, and he's 03:21:47
18 already testified you produced this. So it lacks 03:21:51
19 foundation entirely. 03:21:56

20 BY MR. GREENBERG: 03:21:57

21 Q. Well, Mr. Nady, does A Cab use something it calls 03:21:58
22 a post trip charge in calculating its driver's 03:22:02
23 compensation? 03:22:06

24 A. This isn't the way -- the answer to your question 03:22:09
25 is no, but it might be on this thing. It might be a 03:22:11

1 different name on it, and I don't -- we have a --
2 there's other considerations in their wage.

3 Q. Well, once the split is determined for the
4 driver, are different steps taken after that to
5 determine what the driver actually gets paid in wages
6 for the shift?

7 A. We take into consideration a number of things,
8 and I'm sure you've read this in our handbook, but to be
9 sure, I can go -- don't want to forget anything. I
10 should probably look at the handbook to see what that
11 is. Did you bring one along? I didn't.

12 Q. I'm not asking you to tell me what's in the
13 handbook.

14 A. The answer to your question is, yes, there are
15 other things that drivers pay for or should pay for.

16 Q. Well, by things you pay for -- the driver pays
17 for, you mean A Cab takes the split amount, and there
18 certain modifications -- by modifications I mean,
19 deductions from that split amount -- that are applied to
20 determine the wage paid to the driver; correct?

21 A. And that probably has to do with the paid miles.
22 If a driver goes and runs errands for himself or has a
23 below 40 percent paid miles; in other words, if he is
24 below an average number of percentage of paid miles, if
25 he's off on his own using the car for his own private

1 vehicle, which happens because they're under very little 03:23:41
2 control, then they pay for some of that gas. And that's 03:23:44
3 based on -- they don't pay for the gas, but we actually 03:23:47
4 use that as a calculation as to what we call -- we don't 03:23:52
5 call it a post split. We actually just call it a split. 03:23:56
6 We change the split. 03:23:59

7 If they've driven the cab around the town -- in 03:24:03
8 this particular case, it looks as though if it's less 03:24:09
9 than 50 percent, he's going to -- he's probably going to 03:24:16
10 have another -- another charge. Sometimes it is less. 03:24:19
11 Sometimes it's more. Depends on how productive he is. 03:24:23

12 If you're on the street, and you're out there for 03:24:29
13 however many hours it is -- or I don't know what the 03:24:33
14 hours are here, 11 trips. Industry average is, like, 03:24:37
15 24. 03:24:44

16 Q. There is also on this document on page 1 that we 03:24:51
17 were just looking at a column that says S-H-F-T and then 03:24:55
18 the word C-H-R-G, which I read as shift charge. 03:25:01

19 Is the term shift charge used by A Cab in 03:25:05
20 calculating driver's compensation? 03:25:12

21 A. I believe it is. 03:25:17

22 Q. And do you know what that term means to A Cab? 03:25:19

23 A. It's a shift charge. 03:25:27

24 Q. And how is a shift charge calculated? 03:25:33

25 A. The computer does it. 03:25:37

1 Q. And what information does the computer use to do
2 that?

3 A. Paid miles, number of trips, percentage of paid
4 miles, number of total miles. It's a pretty complicated
5 formula.

6 Q. Does the formula vary from driver to driver?

7 A. No, but it varies from day-to-day by number of
8 trips, percentage of paid miles.

9 Q. So you're aware of two pieces of information that
10 go into calculating that, number of trips, paid mile
11 percentage; correct?

12 A. Trips, paid miles, total miles, commission.

13 Q. But sitting --

14 A. And one other thing. I forgot what it is.

15 Q. But sitting here today, you cannot tell me what
16 weight is given to each of those elements or how the
17 formula comes together to actually calculate that
18 charge; correct?

19 A. I probably could if I sat down to work at it, but
20 it would take awhile. I mean, I'm sure that I generated
21 it myself. But it wasn't -- it wasn't original.

22 Q. Has A Cab ever produced a written document
23 setting forth --

24 A. The written document is in our employee manual.

25 Q. And does that written document actually explain

1 to drivers how that calculation is made? 03:27:00

2 A. The document will speak for itself. You can 03:27:03
3 read -- let's look that up. I don't have a document in 03:27:05
4 front of me. 03:27:08

5 Q. Mr. Nady, what I'm asking you is: To your 03:27:09
6 knowledge, has A Cab ever distributed to its drivers or 03:27:12
7 made available to them the document that doesn't just 03:27:15
8 say that there's a charge that takes into account these 03:27:18
9 various elements that you've told me, but also explains 03:27:21
10 how those elements interrelate and the formula that will 03:27:24
11 actually be applied? 03:27:30

12 A. I think it's explained very well in my employees' 03:27:34
13 manual. 03:27:37

14 Q. Well, beyond the employees' manual, are you aware 03:27:39
15 of any other documents that existed -- 03:27:42

16 A. I think it's explained very well and adequately 03:27:45
17 in the employees' manual. So I don't think I needed to, 03:27:48
18 nor do I think I ever have, issued anything besides an 03:27:51
19 explanation in written form in the employees' manual. 03:27:54

20 Q. So it is correct then, except for the employees' 03:27:57
21 manual, you're not aware of any other written 03:27:59
22 information given to the drivers about that; correct? 03:28:02

23 MS. RODRIGUEZ: Objection. Asked and 03:28:05
24 answered. 03:28:08

25 THE WITNESS: I like the way you ask the 03:28:09

1 same question three times, and I don't want you to 03:28:09
2 expect me to change my answer. You think I don't 03:28:09
3 remember what you said. Is that what you think? You 03:28:11
4 think I'm a fool or something where you think you have 03:28:14
5 to ask the same question three times? Is that the 03:28:17
6 purpose of this? 03:28:20

7 MR. GREENBERG: Mr. Nady, if you want this 03:28:23

8 -- 03:28:23

9 THE WITNESS: Mr. Greenberg. 03:28:23

10 MR. GREENBERG: If you want this to go 03:28:23
11 easier and faster, when you answer my question about the 03:28:23
12 reasons you did something and why you did or didn't 03:28:23
13 think about why you needed to do something, that makes 03:28:23
14 it unclear what your answer is. 03:28:31

15 BY MR. GREENBERG: 03:28:31

16 Q. My question, again, was just is there anything 03:28:33
17 that explains to the drivers the application of this 03:28:36
18 shift charge formula we've been discussing besides 03:28:40
19 what's in that employee handbook? Not whether you 03:28:43
20 thought you needed to or you had to or you should have, 03:28:48
21 which is what you were talking about? 03:28:51

22 My question to you is just to your knowledge is 03:28:52
23 there anything else that discusses that that was given 03:28:55
24 to the drivers? 03:28:58

25 A. It discusses it. When they are hired, the 03:28:58

1 employee handbook is actually read to them, the entire
2 handbook. And if they have any questions, then it's
3 explained. The entire handbook is read to every driver
4 before they go to work.

5 Q. And who reads that, sir?

6 A. Whoever is doing the initiation.

7 Q. Can you tell me employees to your knowledge who
8 have been responsible for that?

9 A. Ed is the most recent. And I have done it many
10 times.

11 Q. And you're saying that every page of that manual
12 is read --

13 A. Every single page --

14 Q. -- to the drivers when they're hired?

15 A. -- is what I said, and now you're asking me the
16 question twice.

17 Q. Thank you for answering.

18 Can you mark this as Exhibit 2, please.

19 (Exhibit 2 was marked for identification.)

20 THE WITNESS: So I assume you got this from
21 your -- Mr. Brauchle -- client?

22 MS. RODRIGUEZ: You don't want to talk while
23 she's marking.

24 MR. GREENBERG: You're not here to ask
25 questions anyway.

1 THE WITNESS: This is the one that we saw 03:30:11
2 before. This is the first one that I've seen. 03:30:13

3 BY MR. GREENBERG: 03:30:15

4 Q. Mr. Nady, this shift detail report is in form the 03:30:16
5 same as Exhibit 1 although it does contain some 03:30:22
6 different information. 03:30:24

7 Now if you look on the far left side of this 03:30:34
8 document, there's a total number that says pay followed 03:30:36
9 by a dollar amount, tips, and something called O/S with 03:30:40
10 a minus 1.00 notation. 03:30:52

11 Do you have any idea what O/S might be referring 03:30:54
12 to here? 03:31:00

13 A. Yes. 03:31:04

14 Q. And what would that be referring to here? 03:31:04

15 A. My idea since you're asking for idea is the 03:31:07
16 obvious one: over/short. 03:31:10

17 Q. Over/short, that's a term that A Cab uses in its 03:31:12
18 business; correct? 03:31:16

19 A. Over/short. 03:31:18

20 Q. And does that refer to a driver being over or 03:31:21
21 short of the amount of fares they are calculated to have 03:31:24
22 turned in? 03:31:31

23 A. Precisely. 03:31:32

24 Q. And this O/S negative one implies here that this 03:31:35
25 particular person is short by \$1; correct? 03:31:41

1 A. No.

2 Q. Okay. Then explain to me what you think it
3 implies.

4 A. This is -- 99 percent of them are short. So it's
5 a positive number. So all the shorts are positive, and
6 the overs are negative.

7 Q. Okay. Thank you.

8 Now, on this document the PM percentage column
9 has various percentages in it.

10 Do you see that?

11 A. I do.

12 Q. And when the PM percentage is smaller, the shift
13 charge amount sometimes is bigger, sometimes not. But
14 my question to you is: Is looking at this where it
15 shows a PM percentage and a shift charge amount, can you
16 give me any information about the relationship between
17 those two columns, how the PM percentage is influencing
18 the shift charge?

19 MS. RODRIGUEZ: Objection. Lacks foundation
20 as well as pertains to this Exhibit 2.

21 THE WITNESS: Can I try something on my
22 calculator?

23 MR. GREENBERG: Please.

24 THE WITNESS: Now I get to use it? Last
25 time I couldn't.

1 MR. GREENBERG: I would like a take a brief
2 break. Is that okay with everyone here?

3 MS. RODRIGUEZ: You have a question pending.

4 MR. GREENBERG: I have a question pending,
5 but I'm going to wait for the witness to review the
6 document and provide some calculations.

7 THE WITNESS: I'll review it while you're --

8 MR. GREENBERG: I'm consenting to him
9 engaging in that activity to aid him in answering my
10 question.

11 (A break was taken from 3:34 p.m. through
12 3:41 p.m.)

13 BY MR. GREENBERG:

14 Q. Mr. Nady, we're back on the record.

15 A. I'm still eating.

16 Q. Could you repeat the last question that was asked
17 of the witness?

18 (The last question was read back by the
19 reporter as follows: "But my question to you
20 is: Is looking at this where it shows a FM
21 percentage and a shift charge amount, can you
22 give me any information about the
23 relationship between those two columns, how
24 the FM percentage is influencing the shift
25 charge?")

1 THE WITNESS: I would need more data. I
2 looked at it, and I can't do it without more data.

3 MR. GREENBERG: Thank you.

4 (Exhibit 3 was marked for identification.)

5 BY MR. GREENBERG:

6 Q. Mr. Nady, would you confirm for me that what I am
7 showing you is the form of pay stub that A Cab has
8 produced at some point in time for taxi drivers?

9 A. Looks just like them.

10 Q. Now this particular form of pay stub, has this
11 always been the form of pay stub that A Cab has
12 produced?

13 A. I think you need to be a little more specific
14 with that question.

15 Q. Well, page 1 of this document, which is marked
16 SARGEANT 2, has two pay stubs for pay periods in July
17 2014 to August 1, 2014.

18 Prior to 2014, was there a different form of pay
19 stub that A Cab used?

20 A. Yep.

21 MS. RODRIGUEZ: I'm sorry, Mr. Greenberg,
22 can I take a quick call? Five seconds?

23 MR. GREENBERG: Yes.

24 MS. RODRIGUEZ: Thank you.

25 MR. GREENBERG: Off the record.

1 (A brief break was taken.)

2 MR. GREENBERG: Back on the record.

3 Re-read the question, please.

4 (The last question and answer were read back

5 by the reporter as follows: "Prior to 2014,

6 was there a different form of pay stub that A

7 Cab used?"

8 "A. Yep.")

9 BY MR. GREENBERG:

10 Q. Do you know when A Cab used that different form
11 of pay stub?

12 A. You probably have a different era pay stub, and I
13 don't. So it would be difficult for me to compare the
14 changes without having the one that you have in your
15 mind. And as such, I think that my answer would be
16 inaccurate, so...

17 Q. Well, there was a different form of pay stub;
18 correct?

19 A. Well, I don't know if form is the right word. A
20 different form. There might have been -- I think this
21 is still a QuickBooks form. So I think it's still the
22 same form. So I don't think your choice of words when
23 you say the same form gives, leads me to understand what
24 you're reaching for or what you're asking. But I do
25 think that there may have been changes in some of the

1 calculations made at some time that are not -- either 03:46:14
2 are or aren't or at least were different. 03:46:21

3 Q. Well, were there different itemized pieces of 03:46:28
4 information on this form as opposed to an earlier form 03:46:36
5 that was used by A Cab? 03:46:33

6 A. I'm sure there were, and they change somewhat, 03:46:39
7 with some regularity. 03:46:46

8 Q. When I talk about different forms of pay stubs, 03:46:43
9 I'm talking not about calculations that were made. I'm 03:46:48
10 talking about the itemized information that appears on 03:46:49
11 the pay stub. Okay? 03:46:55

12 So there were two different forms of pay stubs in 03:46:53
13 respect to the itemized information on them; correct, at 03:46:58
14 different times? 03:47:01

15 A. Well, minimum wage subsidy was not included until 03:47:09
16 the DOL audit commenced because we didn't want -- we 03:47:12
17 were forced to reduce into writing the quantity of the 03:47:19
18 subsidy. And the driver commission is what the old one 03:47:26
19 would have been. Incentive five is some bonus amount. 03:47:32
20 Tips supplemental, that would be the amount of tips at 03:47:38
21 5.5 percent, which is the amount that we have with the 03:47:44
22 IRS. And if they went to see somebody about having a -- 03:47:47
23 usually it's because their trip shit sheet is screwed 03:47:55
24 up, and they have to go in there, they get paid one 03:48:03
25 tenth of an hour. But he was there, it looks like, for 03:48:09

1 two tenths of an hour. So we gave him a buck 45 for his 03:48:09
2 time that he spent with somebody reviewing his trip 03:48:14
3 sheet. But we paid them while they were doing that. 03:48:17

4 Is that -- understand what I'm trying to say? So 03:48:20
5 yes. I'm just trying to explain before you ask me what 03:48:26
6 each one of these are. 03:48:30

7 Q. Now, each of the pieces of information that 03:48:33
8 appears at an intersection of a column and row on these 03:48:37
9 pay stubs, some of those intersections are blank, but 03:48:40
10 some of those intersections contain numbers. 03:48:45

11 You understand that? 03:48:52

12 A. Some are blank? 03:48:55

13 Q. Some are blank, sir, and some contain numbers. 03:48:58

14 You understand that? 03:48:59

15 A. Yep. 03:49:00

16 Q. Okay. Now QuickBooks would be able to produce to 03:49:03
17 me in electronic form, to the extent that those files 03:49:06
18 were preserved, all of the numbers that appear at those 03:49:09
19 intersections; correct? 03:49:12

20 A. To the -- with that reservation or with that 03:49:14
21 caveat, yes. 03:49:19

22 Q. Are you familiar with QuickBooks' ability to 03:49:22
23 produce reports in Excel? 03:49:26

24 A. No. 03:49:29

25 Q. Now on this document at the top, it says QTY, and 03:49:31

1 that intersects that column with the line minimum wage
2 subsidy. And the number 57.08 appears at that
3 intersection.

4 A. Right.

5 Q. What does that number 57.08 refer to?

6 A. Well, minimum wage subsidy is based on the fact
7 that our total number of his total wages were not
8 enough; that if we did his calculation based on the
9 number of hours that he had, it was -- that his rate of
10 pay would have been 4.27 an hour. Wait a second. Let
11 me make sure of what I speak here. So we had to -- he
12 had 57.8 hours of hours, and we subsidized it from 4.27.
13 So I think if you add those two together, and you
14 multiply one times the other, you get that. His
15 commission was -- wait a minute here. I'm going to
16 guess, so I don't want to do that right now. It's been
17 so long.

18 Q. I don't want you to guess, Mr. Nady.

19 A. All right. Then I don't know.

20 Q. My question though was limited to the number that
21 appears at that intersection of minimum wage subsidy in
22 QTY where it says 57.08.

23 Does that number refer to the number of hours
24 this person worked during a pay period?

25 A. I just said a minute ago. This will be twice

1 now. I don't know. This is not a current paycheck, so
2 I don't know. But I will grant you this: I think it
3 has something to do with the number of hours, but it
4 might be something else.

5 Q. Well, just to be clear, Mr. Nady, you obviously
6 wouldn't know personally whether this individual worked
7 57.08 hours during the pay period discussed by that pay
8 stub.

9 My question, to you to be more precise, is
10 whether that 57.08 is the number that A Cab uses in
11 terms of its calculations for how many hours this person
12 worked during that pay period?

13 A. Here's one way to figure it out. If you take a
14 look at the current, the 4 -- or the 243.73 and divide
15 it by 4.27, you might get 57.08.

16 Q. And if those numbers do add up as you are
17 saying --

18 A. Would you like me to try it?

19 Q. I will represent to you that they do, Mr. Nady.

20 A. What?

21 Q. I have done that calculation.

22 A. Oh.

23 Q. They do reach --

24 A. There you go.

25 Q. They do reach that result that you've just

1 hypothesized.

2 A. Well, thank you.

3 Q. Are you telling me that because it -- well, you
4 tell me. Go ahead what you're trying to get through
5 from this observation.

6 A. I'm telling you that those two equal that we
7 supplemented his wage by \$243.73 to the commissions that
8 he earned that week in order for him to make minimum
9 wage.

10 Q. So --

11 A. And -- go ahead. I'll stop.

12 Q. So A Cab in making that calculation, has figured
13 that this person worked 57.08 hours for that pay period?

14 A. That's correct.

15 Q. Now, on this pay stub as well you will see that
16 there is an amount that says tips supplemental, and
17 further on down that same column, it says tips out.
18 Both of those numbers are the same except one is
19 negative and one is positive.

20 Do you understand why those numbers appear that
21 way? Could you explain to me why they do?

22 A. Yes.

23 Q. And why do they appear that way?

24 A. We assume -- and we have a contract with the
25 drivers or we did, whether we do now or not, I don't

1 remember, but that they agreed to for us via an 03:54:18
2 agreement with the IRS that would absolve them from 03:54:22
3 audit if they -- if we inputted 5.5 percent of their 03:54:26
4 book as additional earned income. 03:54:30

5 So we add that in so that at the end of the day, 03:54:34
6 we have -- we have a total amount of 460.45 as for 03:54:41
7 calculating how much withholding tax we should withhold 03:54:50
8 from that. 03:54:54

9 So we base the withholding tax based on that, and 03:54:58
10 as you can see, the taxes below the federal withholding, 03:54:59
11 the Social Security, and the Medicare, those are taken 03:55:04
12 out. 03:55:07

13 So it would appear that within -- we took that 03:55:09
14 much taxes out and put them into his Medicare account on 03:55:13
15 his behalf, and from that we -- then we deducted the 03:55:16
16 amount that we added in as a calculation only because he 03:55:21
17 already got that from his tips, and he also paid a loan 03:55:24
18 of \$10. 03:55:29

19 So we reduced his pay by that amount, \$346.52. 03:55:33
20 In other words, I lent the guy ten bucks, which was nice 03:55:40
21 to get back. 03:55:44

22 Q. The pay stub version that you're looking at there 03:56:20
23 in Exhibit 3, that's the version that is currently used 03:56:23
24 by A Cab? 03:56:29

25 A. No. 03:56:30

1 Q. Could you explain to me how the version currently
2 used by A Cab differs from that version?

3 A. No.

4 Q. Well, what makes you think that Exhibit 3 from
5 2014 is different than the version used now?

6 A. Because it's changing all the time.

7 Q. Well, what additional --

8 A. I don't know.

9 Q. -- itemized information --

10 A. I don't know what the additional is without
11 having one. And since I don't have one in front of me,
12 I can't answer that.

13 Q. But you believe that there is a difference in
14 terms of the itemized information that appears on the
15 current pay stubs?

16 A. I am certain there's a difference.

17 Q. Now, the version of the pay stub you're looking
18 at in Exhibit 3 does not include any number that is
19 expressly identified as hours worked during the payroll
20 period.

21 Do you see that?

22 A. Well, it is if you know where to look.

23 Q. Well, when you say it is, what do you mean, sir?

24 A. Well, I mean, it obviously -- you did the
25 calculations. It says 57.08.

1 Q. So the number that appears at that intersection
2 of QTY and minimum wage subsidy on these pay stubs is
3 the hours worked that A Cab has maintained for this
4 person in their records for this pay period; correct?

5 A. Right.

6 Q. On the pay stubs that A Cab currently produces,
7 do they identify a specific number on those pay stubs
8 that they give the employee as the amount of hours that
9 A Cab has determined they worked during the pay period?

10 A. I think it's the -- I don't know, remember?

11 Q. Okay. Has A Cab ever given employees pay stubs
12 that indicate the amount of hours by identifying it as
13 hours or time worked for the pay period?

14 A. I don't know. I would estimate -- I would guess
15 that they know what it is. If it's applicable.

16 See, only about half of our drivers actually have
17 to have a subsidy. Half. Only about 16 drivers last
18 week out of a bunch, out of 200 -- only 16 needed a
19 subsidy. And the week before that -- or the two weeks
20 before that, it was less than 16. I mean, the number of
21 people we have to subsidize is a minuscule number as of
22 the total.

23 Q. Going back to Exhibit 2. That's not Exhibit 2.
24 The other one.

25 A. Oh.

1 Q. This is a document that Mr. Reno, plaintiff in
2 this case, got from A Cab during the course of his
3 employment there.

4 Do you have any idea why he would have received
5 this document from A Cab?

6 A. He would have asked for it.

7 Q. And did A Cab have any procedure in respect to
8 giving employees this document, this type of document?

9 A. Only when it was asked for specifically.

10 Q. And was there any reason A Cab didn't give these
11 documents to employees unless they're asked for?

12 A. No.

13 (Exhibit 4 was marked for identification.)

14 BY MR. GREENBERG:

15 Q. Mr. Nady --

16 A. Mr. Greenberg.

17 Q. -- the document you've been handed, Exhibit 4,
18 are you familiar with this document?

19 A. Yes, I am.

20 Q. If you turn to page 1, which is actually the
21 third page where it says A Cab 00583, there is a
22 statement there that says revised 12-01-2011.

23 Do you see that?

24 A. Yes, I do.

25 Q. Does that refer to the date that this document

1 was last reviewed or updated to your knowledge?

2 A. It speaks for itself, Counselor.

3 Q. Well, do you have any idea that it does not refer
4 to the last time that this document was updated or
5 revised?

6 A. Well, no. This says that it was revised on that
7 date. That's what it says.

8 Q. And I take it you're thoroughly familiar with the
9 contents of this employee manual?

10 A. I'm fairly familiar with it. I'm sure that my
11 old mind doesn't work as well as it should, but...

12 Q. To your knowledge has the employee manual for A
13 Cab been revised or changed since December 1, 2011?

14 A. Yes.

15 Q. Do you know when it was revised?

16 A. No.

17 Q. Was the entire document revised?

18 A. Probably not, but remember, I don't know because
19 I don't have one with me.

20 Q. Are copies of this manual given to employees when
21 they are hired?

22 A. Yes. And they sign for them.

23 Q. If you turn to page A Cab 651 of this document --

24 A. In lawyer language that is page 69?

25 Q. Yes.

1 A. Well, you had one all the time. You could have
2 been useful here.

3 Q. The last sentence of this page says, "The tip
4 credit allowed for tipped employees will not permit
5 wages to be less than 5.12 per hour."

6 Do you see that?

7 A. Yes.

8 Q. Do you have any understanding about what's meant
9 by that statement?

10 A. I don't recall.

11 Q. Does that paragraph --

12 A. That paragraph.

13 Q. -- which includes the sentence I just read to
14 you --

15 A. Thank you.

16 Q. -- set forth a current policy of A Cab?

17 A. No.

18 Q. Could you tell me how the current policy of A Cab
19 is different than the policy recited in that paragraph?

20 A. I think it's pretty much just the first sentence,
21 but since I don't have one, I'll say again I don't know.

22 Q. So this is not the current policy of A Cab, but
23 you are unable to tell me what the current policy of A
24 Cab is with respect to what's stated there; is that
25 correct?

1 A. That's the second time you've asked me. I don't
2 like being asked more than once. It's just not polite.
3 And I'll answer again. No. Please don't ask me the
4 same question twice, please.

5 Q. Now, the second sentence of that paragraph, Mr.
6 Nady, it says, "If the minimum wage is greater than the
7 commission earned, the amount supplemented to commission
8 to realize minimum wage hourly rate will be reduced by
9 the amount of tips that were reported per this IRS
10 agreement."

11 Do you see that sentence?

12 A. I see that sentence.

13 Q. Is that policy still in effect at A Cab?

14 A. That's the third time you've asked me that. I
15 said no the first two times. If you ask me that again,
16 I won't answer it again. We have changed the policy.
17 It's not the policy like I said. So please don't ask me
18 a fourth time, or I will raise my voice.

19 Q. Mr. Nady --

20 A. Mr. Greenberg.

21 Q. -- when did the policy change?

22 A. I don't know. However, at the particular time we
23 got a -- we were following the law of the state of
24 Nevada. We were following that law. We were following
25 the same thing that the state told us to follow, the

1 same reason why other companies are suing the Nevada
2 State Department of -- Labor Department because that was
3 the way they told us to do it. That was the way they
4 informed us we could do it and we should do it on their
5 memos.

6 So this is outdated. It's like -- you're
7 punching at the wrong bag here. This is the way the
8 state told us to do it. We're following the laws of the
9 state. And the state was wrong. We were all wrong.
10 You might have a case for that, but everybody followed
11 the state's law.

12 Q. Mr. Nady --

13 A. Mr. Greenberg.

14 Q. -- is it true that the current system at A Cab
15 does not reduce the amount supplemented to commission to
16 realize minimum wage by tips reported; is that correct?

17 A. That's correct.

18 Q. And when did that current system come into
19 effect?

20 A. I don't know the exact date, but I think it was
21 as soon as the State of Nevada Supreme Court ruled in
22 that particular case. I know of what I speak, that you
23 know what I'm talking about. I think the next payroll
24 was changed. It was changed immediately upon that
25 notice.

1 Q. The ruling you're referring to was in June of 04:07:50
2 2014, Mr. Nady. 04:07:51

3 A. There you go. Bob's your uncle. 04:08:01

4 Q. Are you aware that in this lawsuit, the district 04:08:01
5 judge had ruled in the same fashion as the Nevada 04:08:10
6 Supreme Court but had done so in February of 2013? 04:08:17

7 A. Mr. Greenberg, are you aware that the secretary 04:08:20
8 of labor for the state of Nevada told us differently? 04:08:23
9 You probably are, but you're avoiding that, aren't you? 04:08:27

10 Q. Mr. Nady -- 04:08:30

11 A. Mr. Greenberg. 04:08:31

12 Q. -- you're here to answer questions, not ask them. 04:08:31
13 This deposition is going to take a lot longer if you 04:08:34
14 don't answer questions. 04:08:37

15 A. It's only going to go to eight o'clock, and I'm 04:08:38
16 happy to be here until then. 04:08:41

17 Q. Mr. Nady -- 04:08:41

18 A. Mr. Greenberg. 04:08:41

19 Q. -- if you don't answer the question -- 04:08:44

20 A. I did. I answered the question. I answered the 04:08:46
21 question, Greenberg. You didn't like it. 04:08:49

22 Q. Read back the question, please. 04:08:51

23 A. You keep asking the same question when you get 04:08:53
24 the wrong answer, don't you? 04:08:55

25 (The last question was read back by the 04:09:14

1 reporter as follows: "Are you aware that in 04:08:09
2 this lawsuit, the district judge had ruled in 04:08:09
3 the same fashion as the Nevada Supreme Court 04:08:12
4 but had done so in February of 2013?" 04:08:18

5 THE WITNESS: Nope. 04:09:16

6 BY MR. GREENBERG: 04:09:17

7 Q. The ruling you were referring to from the Nevada 04:09:21
8 Supreme Court found that taxi drivers in Nevada must be 04:09:25
9 paid the full minimum wage, not reduced by any tips they 04:09:31
10 receive. 04:09:34

11 Do you understand that? 04:09:38

12 A. When was that ruling? 04:09:38

13 Q. Again, Mr. Nady, that was in June of 2014. 04:09:39

14 A. And then that's when we started. 04:09:43

15 Q. Okay. You are not aware that in this case the 04:09:48
16 court had ruled in February of 2013, over a year 04:09:50
17 earlier, in the exact same fashion? 04:09:55

18 A. The supreme court didn't rule that. 04:09:57

19 Q. That is correct, Mr. Nady. 04:09:59

20 A. Thank you. See, that's a tricky little question 04:10:01
21 you just did. You're trying to catch me on that, aren't 04:10:04
22 you? It ain't going to work. I'm too smart for you. 04:10:07

23 Q. Mr. Nady, I'm not talking about the supreme 04:10:09
24 court. I'm talking about -- 04:10:10

25 A. But you didn't say that. You used the supreme 04:10:10

1 court in your last question, and then you said the
2 court. Any reasonable person would assume you're
3 talking about the same court. You didn't say another
4 court. You said the court after you used the supreme
5 court in the last question, and that's deceptive.
6 You're being deceptive, Counselor.

7 Q. Mr. Nady --

8 A. Mr. Counselor, Mr. Greenberg.

9 Q. -- I said specifically to you the court in this
10 case. I'm asking you the question again.

11 Were you aware that court in this case had ruled
12 in February of 2013 that A Cab's taxi drivers must be
13 paid the full minimum wage set forth in Nevada's
14 constitution, not reduced by any amount of tips they
15 received?

16 MS. RODRIGUEZ: I'm going to object. It's
17 been asked. He's answered it. You're being
18 duplicative, and I think it's taken out of context and
19 that there was a stay of proceedings following that time
20 period.

21 MR. GREENBERG: Mr. Nady, you need to answer
22 my question.

23 THE WITNESS: No.

24 BY MR. GREENBERG:

25 Q. Does your lawyer keep you informed of the

1 decisions of the court in this case?

2 MS. RODRIGUEZ: Objection. Attorney-client
3 privilege. I think you're being argumentative, and he's
4 not going to testify as to discussions between him and
5 myself. I know you tried to break the privilege three
6 times already.

7 THE WITNESS: Stop it. Just stop it.

8 MR. GREENBERG: Mr. Nady, the privilege --

9 THE WITNESS: Mr. Greenberg.

10 MR. GREENBERG: -- has been asserted. We
11 will move on.

12 BY MR. GREENBERG:

13 Q. Mr. Nady --

14 A. Mr. Greenberg.

15 Q. -- Cab Manager does it record information from
16 bar code scans?

17 A. Yes.

18 Q. What information does it record from bar code
19 scans?

20 A. I've been asked and answered.

21 Q. Mr. Nady, you have not been asked that question
22 in this deposition.

23 A. Well, you have. You've asked me what information
24 is on the trip sheets, and that is generated through the
25 bar codes. And it's the same information I told you

1 before. Do you want to hear that again? 04:12:27

2 Q. Mr. Nady -- 04:12:29

3 A. Mr. Greenberg. 04:12:30

4 Q. -- I would like you to answer my question. I 04:12:31
5 will have the reporter read it back. Please read it 04:12:32
6 back. 04:12:33

7 A. You don't have to read it back. I know exactly 04:12:35
8 what your question was, and I'll remind you that you've 04:12:37
9 asked that question to me now four times. And I'll tell 04:12:40
10 you again for the fifth time. It puts out the driver's 04:12:43
11 ID number. It puts out the number of days since January 04:12:47
12 1, 1900, it puts out the medallion number, and it puts 04:12:51
13 out the cab number. Those four items. That's what's on 04:12:55
14 the bar code. 04:13:00

15 Q. Mr. Nady -- 04:13:04

16 A. Mr. Greenberg. 04:13:05

17 Q. -- my question was what information is stored in 04:13:07
18 Cab Manager from a bar code scan that is conducted? 04:13:10

19 A. That's the fifth time. Now that's the sixth 04:13:13
20 time. That is what is recorded in there. That's it. 04:13:16
21 That's the sixth time you've asked that question. Does 04:13:19
22 anybody ever get tired of you asking the same question 04:13:22
23 besides me? 04:13:25

24 Q. Mr. Nady -- 04:13:28

25 A. Mr. Greenberg. 04:13:31

1 Q. -- you were referring to information that appears 04:13:27
2 on trip sheets, and you're telling me then that that 04:13:31
3 information comes from bar code scans that are put into 04:13:36
4 the Cab Manager system? 04:13:41

5 A. I would assume that's what I'm telling you, Mr. 04:13:44
6 Greenberg. 04:13:48

7 Q. Where are those bar code scans from? 04:13:48

8 A. Huh? 04:13:52

9 Q. Where are those bar code scans from, Mr. Nady? 04:13:55

10 A. The bar code scans where are they from? You need 04:13:58
11 to explain that better to me. 04:13:59

12 Q. Well, a bar code can appear on a can of soup. 04:14:03

13 A. You said the scan. Are you talking about the bar 04:14:07
14 code or the scan? 04:14:09

15 Q. Mr. Nady, a bar code -- 04:14:09

16 A. Mr. Greenberg. 04:14:09

17 Q. -- appears on a physical object. 04:14:09

18 A. Okay. Not the bode scan. Now we're talking 04:14:09
19 about the bar code. 04:14:12

20 Q. It is then scanned. So the question is what 04:14:12
21 physical objects are scanned which then take that 04:14:16
22 information from the bar code on the physical object and 04:14:21
23 place that information in A Cab -- excuse me -- in Cab 04:14:24
24 Manager? 04:14:28

25 A. Start over, please. 04:14:30

1	Q. Mr. Nady --	04:14:3
2	A. Mr. Greenberg.	04:14:3
3	Q. -- what objects containing bar codes --	04:14:3
4	A. What objects?	04:14:3
5	Q. -- are scanned and --	04:14:3
6	A. Objects has to be defined.	04:14:3
7	Q. An object is a physical thing, Mr. Nady.	04:14:4
8	A. It's a physical thing.	04:14:4
9	Q. Yes.	04:14:4
10	A. So is a number a physical thing?	04:14:4
11	Q. If it is --	04:14:4
12	A. Mr. Greenberg?	04:14:4
13	Q. If it appears on a piece of paper, that piece of	04:14:4
14	paper is a physical thing.	04:14:5
15	A. Okay. So if I said it's on a piece of paper --	04:14:5
16	you're not asking the question correctly to get the	04:14:5
17	answer you want because you can't say what a physical	04:14:5
18	thing is if it's information. That's not a physical	04:15:0
19	thing anymore.	04:15:0
20	Q. Mr. Nady --	04:15:0
21	A. Mr. Greenberg.	04:15:0
22	Q. -- a bar code is like a number as you were	04:15:1
23	saying, but it has --	04:15:1
24	A. No, it is not a number.	04:15:1
25	Q. But it has to appear somewhere. It could appear	04:15:1

1 on a computer screen. It could appear on a piece of
2 paper. It could appear on a product label, could appear
3 on someone's identification card. It can appear on a
4 lot of different things.

5 Do you understand?

6 A. Yes, sir.

7 Q. Okay. What things containing bar codes are
8 scanned and the results of those scans put in the Cab
9 Manager system?

10 A. I don't know. Your question makes it impossible
11 for me to answer.

12 Q. Do you want to have the question read back?

13 A. No. I think your question is -- is -- is
14 unintelligible. I don't know what the word is, but I
15 don't think any reasonable person would understand what
16 you're asking.

17 Q. Do you understand that bar codes can appear on
18 different things, Mr. Nady?

19 A. Can you say that again? Do I understand that bar
20 codes what?

21 Q. Can appear on different things?

22 A. Yeah.

23 Q. And those bar codes can be scanned; correct?

24 A. I assume they can be scanned.

25 Q. If you have the proper equipment to --

1 A. If you have the proper equipment.

2 Q. Okay. And my question again is: What things --

3 A. What things.

4 Q. -- having bar codes on them are scanned by A Cab
5 and the results of those scans --

6 A. That's two questions.

7 Q. -- reported in the Cab Manager system?

8 A. I don't want to answer a multiple question here.
9 What things are scanned?

10 Q. You can --

11 A. The trip sheets.

12 Q. Anything else?

13 A. I don't think so.

14 Q. And the information from the trip sheets that is
15 scanned and placed in the Cab Manager system is the
16 information you testified to previously; is that
17 correct?

18 A. Seven times, yes.

19 Q. And to your knowledge there is no other
20 information from those trip sheets scans that goes into
21 the Cab Manager system; correct?

22 A. There is no other information.

23 Q. Do you know if Cab Manager can export information
24 into an Excel file?

25 A. You asked that same question to Jim Morgan, and

1 he said no. And that would be my source of information,
2 and he would know a lot more about it than I do. So I
3 would say, no, it cannot.

4 Q. Besides your understanding of my question to Jim
5 Morgan, have you ever inquired on your own about that?

6 A. No.

7 Q. Does A Cab possess any handbooks or instructional
8 materials about how Cab Manager works?

9 A. No.

10 Q. Does A Cab produce any memos or written
11 instructions that it gives to any of its employees to
12 perform any type of function on Cab Manager?

13 A. I think we have a video.

14 Q. Anything else?

15 A. Not that I'm aware of.

16 Q. And who uses the Cab Manager system at A Cab?

17 A. Cab drivers.

18 Q. You testified as to them entering certain
19 information at the conclusion of their shifts?

20 A. Right.

21 Q. Besides them entering that information in the
22 system at the conclusion of their shifts, do they use
23 Cab Manager for anything else?

24 A. It generates the documents for us. Those are
25 asked for, and I get them -- we get them on a daily

1 basis.

2 Q. But do the cab drivers interact with the Cab
3 Manager system in terms of using the system themselves
4 in any other capacity except entering that information
5 you discussed at the end of their shifts?

6 A. I can't think of any at the moment.

7 Q. Besides the cab drivers, who else uses the Cab
8 Manager system at A Cab?

9 A. Jon, myself, and Donna.

10 Q. Who's Jon?

11 A. Jon Gathright.

12 Q. And what is his position?

13 A. He's kind of like the -- he was a general
14 manager. He's sort of retiring. He's partly retired
15 now. He only works about two days a week, but he gets
16 into it.

17 Q. And you mentioned Donna. What's her full name?

18 A. Donna.

19 Q. You don't know her full name?

20 A. That's what I'm trying to tell you. Yes, I don't
21 know her name, her last name.

22 Q. And what does she use the Cab Manager system for?

23 A. She uses it to put the number of dollars
24 collected when she does the payroll.

25 Q. Does she use it for anything else?

1 A. Not that I'm aware of. I don't think so.

2 Q. And does Jon use the Cab Manager system for
3 anything different than what you use it for?

4 A. Nope. We use the same thing.

5 Q. Does anyone else --

6 A. No.

7 Q. -- use the Cab Manager system?

8 A. I don't believe -- well, no one -- no one that
9 I'm aware of off the top of my head, but probably. It
10 just gives us production reports, and no one really
11 needs that other than the payroll and if I want to
12 analyze a driver.

13 Q. Well, you mentioned a video that was created for
14 the purposes of using Cab Manager.

15 A. I'm not sure we still have it, but I think there
16 was at one time. We had on the wall that showed the
17 drivers how to check out. It was on a screen. I don't
18 know if it's still there or not. I think we changed it
19 now for the new -- I'm certain we changed it. We
20 changed it about three or four months ago that tells the
21 drivers now how to use the new DT5 meters.

22 Q. You had described that you would get certain
23 reports from Cab Manager?

24 A. Yes.

25 Q. And that Jon uses the Cab Manager system in the

1 same fashion as you do, and you also described Donna's
2 use of the Cab Manager system to get certain
3 information.

4 Do you or Donna or Jon put any information into
5 the Cab Manager system?

6 A. No.

7 Q. Does anyone besides the drivers enter information
8 in the Cab Manager system?

9 A. No.

10 Q. Do dispatchers or supervisors at A Cab enter
11 information in the Cab Manager system?

12 A. You're asking the same question again. I just
13 said, no, that no one else does. That means nobody.
14 That's what no one means. It means nobody. No one else
15 does, Counselor. That's the second time you've asked
16 that question, Mr. Greenberg.

17 Q. Exhibit 4, page 649, A Cab 649.

18 A. Is that 9 or 1? 649 or 641?

19 Q. 9.

20 A. There you go. You made a liar out of me. I
21 forgot about this.

22 Q. The second sentence on this document says, "The
23 supervisor will take your TA card and scan the bar code
24 on the back."

25 A. Where are you looking?

1 Q. Second sentence in the page, sir.

2 A. Up on the top, the check-in procedure. Okay.

3 Q. And what happens when that scan of the bar code
4 on the back of the TA card is conducted?

5 A. It goes beep.

6 Q. Does it do anything besides beep?

7 A. Tells us that the driver is here. That's all it
8 does. That he's available to go on to the road.

9 Q. Is that --

10 A. It also tells us that his TA card is up and that
11 it's valid. We check at the time.

12 Q. So it automatically conducts a check to be sure
13 he has not been suspended; correct?

14 A. Well, no. It means that we automatically check
15 that he has it on his person because you have to have it
16 with you. Every day somebody forgets their card. They
17 don't carry it in their wallet. They lose it because it
18 doesn't fit in your wallet. So I imagine every day we
19 send somebody home.

20 Q. The fourth sentence of that paragraph says, "This
21 will show the driver on property and ready to work."

22 A. Yep. That's exactly what it does and that he has
23 his card with him.

24 Q. Do you know if -- well, first of all, that bar
25 code we're referring to is recognized and processed by

1 the Cab Manager system; correct? 04:25:21

2 A. I think it is. Yes, it is. Has to be. 04:25:28

3 Q. And does the Cab Manager system record the date 04:25:30
4 and time that bar code scan was conducted? 04:25:33

5 A. This is the fifth time you've asked me. That 04:25:38
6 does not record any time because it doesn't -- because 04:25:39
7 it's against the law, and Jim Morgan was warned about 04:25:43
8 that. So, no, it does not record the time. 04:25:46

9 Q. Did you expressly have a conversation with Jim 04:25:49
10 Morgan advising him to set up the Cab Manager system in 04:25:52
11 a fashion that it would not record the time of the bar 04:25:55
12 code scan of a driver's TA card? 04:25:58

13 A. Yes. 04:26:01

14 Q. When did you have that conversation with him? 04:26:03

15 A. As soon as the taxi cab authority told him not to 04:26:06
16 do it and told me not to do it when they found out he 04:26:07
17 was coming. 04:26:10

18 Q. And who at the taxi cab authority told you that? 04:26:13

19 A. I don't know. 04:26:15

20 Q. When did you have that communication with the 04:26:18
21 taxi cab authority? 04:26:21

22 A. About 2003. 04:26:23

23 Q. And was that with one person or more than one 04:26:26
24 person from the taxi cab authority? 04:26:29

25 A. I don't recall. 04:26:32

1 Q. Did you have that conversation in person or on
2 the telephone?

3 A. Don't recall.

4 Are you aware of the law, Counselor, that says
5 you can't use it?

6 Q. Mr. Nady --

7 A. Mr. Greenberg.

8 Q. -- you were testifying that you expressly told
9 Mr. Morgan not to have that bar code scan time recorded
10 in the Cab Manager system because it was illegal, I
11 think, that was the term you used; correct, or against
12 the law?

13 A. That's a lie.

14 Q. Well, I'm trying to understand --

15 MS. RODRIGUEZ: I'm going to object. It
16 misstates his testimony.

17 THE WITNESS: That's a damn lie. That's
18 another one of your lies.

19 BY MR. GREENBERG:

20 Q. Mr. Nady --

21 A. Mr. Greenberg.

22 Q. -- I'm trying to understand --

23 A. No, you're not. You're trying to put words in my
24 mouth, and that's not exactly what I said. And you know
25 it. You know it.

1 Q. Mr. Nady, if you want to get this deposition
2 done --

3 A. I don't give a shit if we get the deposition
4 done, Mr. Greenberg, because you're lying. You're
5 lying. You're just flat lying. And you got caught this
6 time.

7 Q. Mr. Nady --

8 A. Mr. Greenberg.

9 Q. You need --

10 A. Mr. Greenberg.

11 Q. -- to answer --

12 A. Mr. Greenberg.

13 Q. -- the question. And if I ask you question --

14 A. I said -- and I said that's a lie. So that means
15 no. You're lying again because you misrepresented what
16 I just said.

17 Q. Mr. Nady --

18 A. Mr. Greenberg.

19 Q. -- I don't wish to misrepresent --

20 A. Yes, you do. You do it intentionally. You do it
21 all the time.

22 Q. Mr. Nady --

23 A. Mr. Greenberg.

24 Q. -- if I ask you a question and I am assuming
25 something that is incorrect --

1 A. Call you liar.

2 Q. -- you should tell me that.

3 A. I did. I called you a damn liar. And you
4 understood exactly what I meant because you knew what
5 you did before you did it.

6 Q. Mr. Nady --

7 A. Mr. Greenberg.

8 Q. -- this is not helping us complete the
9 deposition.

10 A. And you're not going to help us if you continue
11 to lie.

12 Q. If my question is incorrect, you advise me, and
13 we'll get the correct question to you.

14 A. I just did.

15 Q. Okay. Thank you, Mr. Nady.

16 A. You're welcome.

17 Q. Now --

18 A. Do you want to restate my question -- or my
19 answer or not? Do you want to lie again? Do you want
20 to have it read back?

21 Q. Mr. Nady, you disagreed with my question as not
22 being accurate in terms of what you testified.

23 A. You lied. You just lied. You said I said this
24 and I didn't. That's a damn lie.

25 Q. Mr. Nady --

1 A. Mr. Greenberg.

2 Q. -- you had a conversation with Mr. Morgan about
3 not having the Cab Manager system record the time that
4 the bar code scan was conducted of the TA card; is that
5 correct?

6 A. I believe I did.

7 Q. Okay. And what did you tell Mr. Morgan --

8 A. I didn't tell Mr. Morgan anything.

9 Q. Okay. Well, then what did --

10 A. Why do you assume I did?

11 Q. Well, Mr. Nady, you said you had a conversation.

12 A. You're right, but I didn't tell him anything.
13 Why would tell my computer guy how to run my computer?
14 I don't know dick about computers. The man's a special
15 in it.

16 Q. Well, Mr. Nady --

17 A. Mr. Greenberg.

18 Q. -- what was your conversation --

19 A. That's a better question, Mr. Greenberg.

20 Q. -- with Mr. Morgan about --

21 A. You don't have to stretch the truth at all.

22 Q. -- recording bar code TA scans in the Cab Manager
23 system?

24 A. When did we get into bar codes from time? You
25 changed it again, Mr. Greenberg. You changed it again.

1 You sneaky little devil. I had a conversation about 04:29:33
 2 times, not bar codes. You've changed the question, Mr. 04:29:33
 3 Greenberg. You're trying -- why do you do this all the 04:29:40
 4 time? Why? Why do you continually lie and try to 04:29:43
 5 misrepresent what I've said? 04:29:46

6 Q. Mr. Nady -- 04:29:47

7 A. Mr. Greenberg. 04:29:48

8 Q. -- we need to get your testimony clear. I 04:29:48
 9 want -- 04:29:51

10 A. We need to get you to ask the question instead of 04:29:51
 11 changing what I've said into what you think you wanted 04:29:54
 12 to hear. 04:29:57

13 Q. Okay. 04:29:58

14 A. Mr. Greenberg. 04:29:58

15 Q. Then -- Mr. Nady, did you have a conversation 04:29:59
 16 with Mr. Morgan about having the Cab Manager system not 04:30:03
 17 record the time that bar code scans of TA cards was 04:30:08
 18 conducted? 04:30:14

19 A. What was the question? 04:30:18

20 Q. Read it back. 04:30:19

21 (The last question was read back by the 04:30:18
 22 reporter as follows: "Mr. Nady, did you have 04:30:01
 23 a conversation with Mr. Morgan about having 04:30:02
 24 the Cab Manager system not record the time 04:30:06
 25 that bar code scans of TA cards was 04:30:10

1 conducted?") 04:30:14

2 THE WITNESS: No, I didn't have a 04:30:30
3 conversation about that. I had a conversation that 04:30:33
4 included that. So I think you're misrepresented again, 04:30:37
5 Mr. Greenberg. 04:30:41

6 BY MR. GREENBERG: 04:30:44

7 Q. And what was discussed about that subject in the 04:30:47
8 conversation you are referring? 04:30:49

9 A. About that subject of? Mr. Greenberg. 04:30:49

10 Q. Not having Cab Manager record the time of TA 04:30:51
11 cards bar code scans? 04:30:53

12 A. The question was why was it not in there, Mr. 04:30:55
13 Greenberg. 04:31:00

14 Q. That was not the question -- 04:31:04

15 A. I understand, but that was the conversation, Mr. 04:31:07
16 Greenberg. 04:31:09

17 Q. Okay. So who posed that question? 04:31:09

18 A. Me. 04:31:11

19 Q. And did you get an answer to that question? 04:31:13

20 A. I got an answer to that question, Mr. Greenberg. 04:31:15

21 Q. And what was the answer? 04:31:17

22 A. Mr. Greenberg, the answer was the TA doesn't 04:31:19
23 allow it. 04:31:21

24 Q. And that is what Mr. Morgan told you? 04:31:23

25 A. That's what Mr. Morgan told me. 04:31:25

1 Q. Do you remember when you had that conversation? 04:31:28

2 A. No, I don't, but it was early in my career as a 04:31:29
3 cab owner. 04:31:29

4 Q. Was that before 2008? 04:31:30

5 A. Yes, Mr. Greenberg, it was. 04:31:31

6 Q. Did you ask Mr. Morgan what he meant by the TA 04:31:34
7 doesn't allow it? 04:31:39

8 A. I don't recall. 04:31:42

9 Q. Did you have an understanding at that time about 04:31:44
10 what he meant when he said that? 04:31:48

11 A. Yes. 04:31:49

12 Q. And what was your understanding about that? 04:31:49

13 A. That the TA does not want that kind of 04:31:52
14 information on the trip sheets. 04:31:56

15 Q. Okay. Did you have any other understanding about 04:32:02
16 it? 04:32:04

17 A. (No audible response.) 04:32:10

18 Q. You need to answer verbally, sir. 04:32:12

19 A. (No audible response.) 04:32:12

20 Q. That's not a verbal answer. 04:32:12

21 A. That's a verbal. 04:32:13

22 THE COURT REPORTER: I'm going to stop this 04:38:28
23 right now. I'm taking a break. 04:38:29

24 (A break was taken from 4:32 p.m. through 04:38:30
25 4:41 p.m.) 04:41:50

1 MR. GREENBERG: Back on the record.

2 (Exhibit 5 was marked for identification.)

3 BY MR. GREENBERG:

4 Q. Mr. Nady --

5 A. Mr. Greenberg.

6 Q. -- you had mentioned a communication you had with
7 the TA authority, someone from the TA -- excuse me, I
8 said the TA authority. I believe you were referring to
9 the Nevada Taxi Commission; correct?

10 A. Nevada Taxi Cab Authority.

11 Q. Okay. Thank you.

12 And we also talked about this communication you
13 had with Mr. Morgan where he advised you about the bar
14 code scans not being properly printed, TA bar code scans
15 not being properly printed on the trip sheets.

16 Do you recall that?

17 A. That's not what I said, Counselor, Mr. Greenberg.

18 Q. Then please tell me what you said about your
19 conversation with Mr. Morgan.

20 A. It had nothing to do with the bar code scan, Mr.
21 Greenberg.

22 Q. Well, part of your conversation -- and you need
23 to correct me if I'm wrong, Mr. Nady --

24 A. I'd be here all night, Mr. Greenberg.

25 Q. -- that you had with Mr. Morgan was that it would

1 be improper to take a time from a TA card bar code scan 04:43:59
 2 and put it on a trip sheet; is that correct or 04:44:01
 3 incorrect? 04:44:07

4 A. That was what I said, yes. 04:44:09

5 Q. Did you have any similar conversation where you 04:44:11
 6 were told the same thing by anyone from the TA? 04:44:19

7 A. Yes. 04:44:21

8 Q. Did you have that conversation more than once? 04:44:24

9 A. No. 04:44:28

10 Q. Do you know who you had that conversation with? 04:44:29

11 A. No. I'm not certain. 04:44:35

12 Q. Did anyone -- 04:44:38

13 A. I think I had it with the administrator. 04:44:40

14 Q. Do you know who that person would have been? 04:44:44

15 A. No, I don't remember who -- they went through a 04:44:46
 16 bunch of them, but it came right after -- I didn't like 04:44:48
 17 what Morgan told me, so I went to the taxi cab authority 04:44:51
 18 and said what's this information here? Why can't we put 04:44:55
 19 those on there, and he showed me the law. He said you 04:45:00
 20 can't do that. He said it has to be time stamped and 04:45:03
 21 any other thing that conflicts with that would be a 04:45:12
 22 mistake, Mr. Nady. I said oh. And he showed me the 04:45:16
 23 law. He showed me the statute. 04:45:19

24 Q. Did you ever have any conversation with that 04:45:23
 25 person or anyone else from the TA that it would be 04:45:29

1 inappropriate to just retain that date and time 04:45:28
2 information in the own internal records of A Cab and not 04:45:31
3 print it on a trip sheet? 04:45:38

4 A. It was a little doubt in my mind after that 04:45:42
5 conversation that Mr. Morgan had had the same 04:45:49
6 conversation I'd had with the taxi cab authority, and 04:45:53
7 that they didn't like the idea of it at all. And if we 04:45:57
8 wanted to be in compliance that all times their register 04:46:04
9 should be off of the time stamp which is a separate and 04:46:11
10 individual document and a separate individual stamp, I 04:46:17
11 mean, on that document. They were addiment. 04:46:24

12 Q. They were addiment that the bar code time scans 04:46:28
13 should not appear an a trip sheet; correct? 04:46:34

14 A. They were addiment about the information coming 04:46:37
15 from anything but a time stamp for the trip sheets. 04:46:41
16 They were addiment about that. 04:46:48

17 Q. For the trip sheets, you mean actually appearing 04:46:51
18 on the trip sheet; correct? 04:46:57

19 A. No. Or anything to do with the trip sheets they 04:46:58
20 didn't want anything except those bar codes -- I mean 04:46:58
21 except that time stamp. 04:47:01

22 Q. Did they ever discuss with you using that bar 04:47:04
23 code time scan information by A Cab for something else? 04:47:08

24 A. No, I didn't think about it either. 04:47:10

25 Q. Mr. Nady, Exhibit 5. First page of that document 04:47:23

1 at the top right-hand corner it has a time that says -- 04:47:42
 2 it says start, and then there is a time recorded there. 04:47:50
 3 Do you see that? 04:47:52
 4 A. Yes. 04:47:54
 5 Q. And there's also a date above that time? 04:47:54
 6 A. Yep. 04:47:57
 7 Q. Do you know where that comes from? 04:47:58
 8 A. Nope. 04:47:59
 9 Q. But that's printed on -- 04:48:00
 10 A. I do. That came out of the computer. 04:48:03
 11 Q. When you say the computer, you mean the Cab 04:48:03
 12 Manager system? 04:48:03
 13 A. I think so. That was the time the bar code -- 04:48:08
 14 the guy came to the work. 04:48:12
 15 Q. Okay. 04:48:14
 16 A. Or reported in. 04:48:16
 17 Q. Okay. Now, Mr. Nady, if we go back to Exhibit 4. 04:48:17
 18 A. Yes, Mr. Greenberg. Page? 04:48:32
 19 Q. 649. 04:48:42
 20 A. Yes, Mr. Greenberg. 04:48:44
 21 Q. The second and third bullet point on that page 04:48:55
 22 from the top refers to an inspection sheet, vehicle 04:49:03
 23 inspection sheet, that a driver is given and is -- 04:49:05
 24 A. Are we on the top in the check-in? 04:49:12
 25 Q. Yes. 04:49:15

1 A. All right. Would you mind if I read it?

2 Q. Please do.

3 A. Yes.

4 Q. Is that an accurate statement of the procedure
5 that drivers follow at the beginning of their shift in
6 respect to being given a vehicle inspection sheet and
7 then following the procedure with that sheet?

8 A. What you're asking me is -- you're kind of hiding
9 your real question there, Mr. Greenberg.

10 Q. Well --

11 A. Is that what you're doing? Yes, it is. So I'll
12 answer your question. After review of the inspection
13 sheet, the driver will print the appropriate trip sheet.
14 In reality of what happens is that trip sheet is printed
15 when the other cab comes in. That's when we know.

16 Q. Mr. Nady --

17 A. Mr. Greenberg.

18 Q. -- my question is -- it refers to a vehicle
19 inspection sheet being given to the driver, and the
20 vehicle inspection sheet will be completed and will --
21 it says driver will return the form to the supervisor's
22 shack.

23 Is that what happens?

24 A. Yep. He inspects it -- Mr. Greenberg, I've told
25 you before that in reality what happens is the guy shows

1 up and the trip sheets are all done for the whole shift. 04:51:07
2 I mean, from as soon as the cab comes in, the new trip 04:51:11
3 sheet is printed. When the guy comes in, he gets the 04:51:16
4 inspection, gets his trip sheet and goes out and looks 04:51:19
5 around at the cab. He comes back, and then after he's 04:51:23
6 done with that, we give him the -- we give him the trip 04:51:27
7 sheet and he stamps it. Period. 04:51:31

8 Q. That vehicle inspection sheet does the driver 04:51:34
9 sign it? 04:51:38

10 A. Pardon? 04:51:39

11 Q. Does the driver sign the vehicle inspection 04:51:39
12 sheet? 04:51:46

13 A. I think so, yeah. 04:51:46

14 Q. What happens to it after he turns it in? 04:51:49

15 A. After about a month, it's thrown away. Unless 04:51:44
16 he -- if he claims that there's an accident or a mark on 04:51:47
17 it, we save it for a couple of days or until we check it 04:51:49
18 out to see what's wrong with it because the last driver 04:51:51
19 either didn't fill it full of gas or he put a dent or a 04:51:51
20 ding in it. If there's nothing reported, then that trip 04:52:00
21 sheet -- I mean, that inspection sheet goes away. 04:52:04
22 There's no reason to keep it. All it does is say that 04:52:07
23 guy looked at the cab. 04:52:11

24 Q. Is any information on that inspection sheet 04:52:11
25 printed out from Cab Manager? 04:52:17

1 A. No.

2 Q. Is any information from that inspection sheet
3 entered into Cab Manager?

4 A. No. It's a separate document. It's just to make
5 sure the guy doesn't claim that it was there when I got
6 it, meaning the scratch or the dent.

7 Q. Are you aware that A Cab has a policy that is
8 stated in this manual about drivers who have prolonged
9 periods of meter inactivity being determined by A Cab to
10 be on personal time?

11 A. Would you show it to me, please, Mr. Greenberg?

12 Q. Well, I will get to that. I'm just asking you if
13 you're aware of any such policy?

14 A. If you'll show it to me, I'll figure out what
15 you're trying to ask, Mr. Greenberg.

16 MS. RODRIGUEZ: I'm going to object. The
17 question is vague.

18 BY MR. GREENBERG:

19 Q. Without referring to any document, are you aware
20 of any policy whereby A Cab examines a driver's taxi
21 meter and determines based upon a record of inactivity
22 on the taxi meter that the driver wasn't really working
23 for a period of time?

24 A. Mr. Greenberg, if the -- our old meters really
25 didn't keep times, did they? So that wouldn't be a

1 policy we had, is it? So unless you're going to tell me 04:54:07
2 what I'm {sic} talking about, I'm not going to answer 04:54:10
3 any further questions because I'm going to think you 04:54:13
4 don't have an clue of what you asked because the old 04:54:16
5 meters didn't keep track of that. The only way we kept 04:54:20
6 track of drivers when they were unavailable, is when we 04:54:24
7 tried to call them on the radio, which we did every 04:54:28
8 hour, every driver. 04:54:32

9 Q. So prior to getting the DT5 meters, A Cab could 04:54:34
10 not tell from a meter whether a driver had spent two 04:54:41
11 hours or three hours during their shift as a continuous 04:54:44
12 period -- 04:54:51

13 A. That's not what I said. 04:54:53

14 Q. -- without any fare activation on the meter? 04:54:56

15 MS. RODRIGUEZ: Objection. Misstates prior 04:54:58
16 testimony. 04:54:58

17 THE WITNESS: Mr. Greenberg, you've 04:54:58
18 misstated my testimony again. You do that with such 04:54:58
19 regularity and you're so nice about it. We can tell 04:55:01
20 when they weren't active because they have a trip sheet 04:55:01
21 that tells us that. And, Mr. Greenberg, we call them on 04:55:06
22 the radio every hour, and by law, by statute, they have 04:55:14
23 to leave the radios on. And if they refuse to answer, 04:55:20
24 then -- and we then call their cell phone. 04:55:23

25 BY MR. GREENBERG: 04:55:27

1 Q. Mr. Nady --

2 A. Mr. Greenberg.

3 Q. -- my question is about the ability of A Cab to
4 get information from the meters that were used in the
5 cabs prior to the DT5 meters.

6 Do you understand?

7 A. I understand, yes, Mr. Greenberg, yes.

8 Q. It is limited to A Cab's collection of
9 information from those meters, not from any other
10 source.

11 Do you understand that?

12 A. Yes.

13 Q. I will ask the question again, Mr. Nady.

14 A. Ask the question again.

15 Q. The meters that were used prior to DT5 meters
16 when a shift was over for a driver, did A Cab have the
17 ability to go and look at that meter and determine that
18 that meter had not been activated for a specific period
19 of time, be it two hours or three hours?

20 A. Wait, Mr. Greenberg. Because does that mean it
21 was logged in by the driver, which they do when they
22 come in? They have to turn the meter on, and they have
23 to identify themselves with a code and then when they go
24 to check out. So when you say activated, do you mean --
25 you should be more specific here, Mr. Greenberg.

1 Q. The term activated means activated to indicate
2 that a fare was being taken in the cab.

3 A. That information I don't believe we ever got from
4 the old Centron meters.

5 Q. So just to be clear, Mr. Nady, it is your
6 testimony now --

7 A. Jesus, Mr. Greenberg, if you're going to ask me
8 the same question for the fourth time, Mr. Greenberg,
9 please don't. We're going to be here all night if you
10 ask the same question four times.

11 Q. You don't know what my question is.

12 A. I can tell what you're going to do because you do
13 all the time.

14 Q. Mr. Nady --

15 A. Mr. Greenberg.

16 Q. -- we want to complete this deposition.

17 A. I don't care. I didn't call it. You did.

18 Q. Okay. Well --

19 A. If you're going to waste my time asking the same
20 question, it's on you.

21 Q. Mr. Nady --

22 A. Mr. Greenberg.

23 Q. -- we will finish this deposition much faster,
24 and we will finish today if you stop arguing with me.

25 A. You need to stop asking the same --

1 MS. RODRIGUEZ: Mr. Greenberg -- hold on.
2 Mr. Greenberg, I think this is a communication issue
3 because you're not asking a question. Please ask a
4 question. All you're --

5 MR. GREENBERG: That's correct. I don't
6 actually finish asking the question.

7 MS. RODRIGUEZ: You're trying to rephrase
8 his testimony saying so to confirm your testimony.
9 That's where we're having a problem. Is that you're --

10 MR. GREENBERG: And, Counsel, as I've told
11 you --

12 MS. RODRIGUEZ: And you're misstating his
13 prior testimony. So just ask a question.

14 MR. GREENBERG: First of all, Counsel he
15 doesn't know what the question is until I finish.

16 THE WITNESS: I do know what the question is
17 because you misstate it. You've misstated it so many
18 times. I know you're going to misstate it again.

19 MS. RODRIGUEZ: Hold on, Jay. The problem
20 is you're starting every question with confirming his
21 prior testimony. That's where the problem is.

22 MR. GREENBERG: Yes. And that's not a
23 problem, Counsel. He needs to answer the question. We
24 need to move on. Let's continue.

25 BY MR. GREENBERG:

1 Q. Mr. Nady, it is your testimony today that the
2 meters that were used by A Cab prior to the DT5 meters
3 did not allow A Cab after the end of a driver's shift to
4 look at the meter and determine any time period that the
5 cab driver was not having a fare?

6 MS. RODRIGUEZ: And that -- I'm objecting.
7 That misstates his testimony.

8 MR. GREENBERG: If that's not correct,
9 please say that's not correct, Mr. Nady.

10 MS. RODRIGUEZ: Well, he hasn't testified to
11 that. You haven't asked that question.

12 THE WITNESS: Precisely.

13 MR. GREENBERG: I have asked it, and I'm
14 trying to confirm it, but let's just get it clear,
15 please.

16 THE WITNESS: I don't think that old Centron
17 meter could tell the time of the stops.

18 BY MR. GREENBERG:

19 Q. What do you mean by stops?

20 A. The time that they picked up a passenger or they
21 dropped them off.

22 Q. So you're telling -- so --

23 A. Don't, don't re-quote me. I just said what I
24 said.

25 Q. Mr. Nady --

1 A. Mr. Greenberg.

2 Q. -- I'm interested in understanding whether the
3 meters could tell A Cab what the time was between fares
4 being handled by the cab.

5 A. There were two other -- the meters could not, but
6 there were two other methods we used every day, every
7 shift.

8 Q. Mr. Nady, I'm not interested in other methods.
9 I'm only interested in the meters.

10 A. You only want me to answer what you want --

11 Q. I don't want you to answer about anything else
12 that has not been asked to you.

13 A. Okay. Mr. Greenberg. Yes, Mr. Greenberg.

14 The answer is: I don't believe the meters could
15 do that.

16 Q. If you turn to page 651.

17 A. (Complies.)

18 Q. Second paragraph, the first sentence, if you
19 could read that, please.

20 MS. RODRIGUEZ: Did you say second sentence
21 of first paragraph?

22 MR. GREENBERG: Second paragraph, first
23 sentence.

24 MS. RODRIGUEZ: Oh, sorry.

25 BY MR. GREENBERG:

1 Q. Did you read that, sir?

2 A. Yes.

3 Q. Is that an accurate statement of the policy A Cab
4 kept at the time this document was produced?

5 A. Like I said before, it speaks for itself.

6 Q. Well, is that the policy that A Cab actually
7 used?

8 A. No.

9 Q. Okay. What was the policy that A Cab actually
10 used to the extent it differed from what's stated in
11 that sentence?

12 A. Well, I don't believe we ever had any way of
13 finding out whether or not they were actually driving
14 somebody other than using the other methods I've stated
15 earlier when we called them every hour if they had --
16 every time they called in with a fare, we'd log it. And
17 every time we dispatched a cab to that -- cab to a
18 location, we logged it. And at the end of the day, we
19 knew how many times they -- we had dispatched the cab,
20 how many times they called in. And if we didn't talk to
21 them every hour, we would then make a note that that cab
22 was out of service for an hour or two hours or whatever
23 it was. And we would call them on their cell phone to
24 see where they were because they didn't answer the
25 radio. We wanted to know where our cabs were not only

1 for safety, but because if we're going have to pay them 05:02:17
2 supplemental wages, we wanted to make sure they weren't 05:02:20
3 at home sleeping. 05:02:24

4 Q. So pursuant to that process, was record being 05:02:24
5 kept by A Cab of the time that the driver -- and I'm 05:02:29
6 reading from here -- was considered to be on personal 05:02:32
7 time? 05:02:35

8 A. No. We didn't really do much about it. We 05:02:38
9 didn't ever really enforce that unless -- unless there 05:02:40
10 was a huge time period when they admitted to it. And we 05:02:44
11 might say you only booked \$47, and you were out there 05:02:49
12 for ten hours or 11 hours. What happened? And normally 05:02:52
13 they would say, well, I went home to sleep and nap. I 05:02:57
14 got up late or something. And I came and I went here or 05:03:00
15 there. And we would know that pretty much because they 05:03:04
16 actually booked very little. And that's the only time 05:03:07
17 we asked them was when their book was very, very low. 05:03:10
18 And then we'd say what were you doing? And that was 05:03:17
19 where it normally came out. When we asked the drivers 05:03:18
20 what were you doing, why was your book so low compared 05:03:19
21 to everybody else's, they would tell us. They're pretty 05:03:22
22 square guys. 05:03:26

23 Q. So except for a driver telling you -- excuse me 05:03:27
24 -- telling A Cab that, would A Cab make any 05:03:32
25 determination that a certain portion of a driver's shift 05:03:34

1 was personal time as recited in that sentence?

2 A. Without the driver admitting to it, very rarely
3 if ever. We didn't -- we didn't just change their trip
4 sheets. They had to do that. We didn't write on trip
5 sheets.

6 Q. Well, the last sentence of that paragraph says:
7 "That time -- referring to personal time -- will be
8 excluded from any minimum wage computation."

9 A. It was never done without them telling us.
10 Never.

11 Q. So the company never made that determination on
12 its own. Is that what you're telling me?

13 A. Never. Never. I mean, never.

14 Q. Then why is this statement in the handbook in
15 this form if this was not, in fact, a policy?

16 A. To try to keep the drivers busy. We didn't want
17 them to know we couldn't keep track of them or we didn't
18 know where they were. We didn't want them to know that
19 they really had an immense amount of independent time
20 and discretion of their time.

21 Q. Now, you had mentioned that there would be calls
22 that would be made by A Cab's office to the drivers in
23 the field to check on their status?

24 A. Is that a question?

25 Q. Yes.

1 A. Yes, it is.

2 Q. Were those calls made every shift?

3 A. Every shift, every hour, every driver.

4 Q. And was a record kept of whether somebody
5 answered the call?

6 A. Yes, sir.

7 Q. And where was that record kept?

8 A. We kept it with the payroll calculations if we --
9 and more often than not, when the -- when the book came
10 in very low, that was the only time we would go and look
11 at those. We would then go to -- we would go to those
12 documents, which were on a legal sized sheet of paper
13 with a whole bunch of boxes, and it had the drivers --
14 the cabs on them. We would say when we did it, went
15 across 24 times. And we would see how many times we
16 called that person, how many times they answered. If
17 their book was low, we did that. If their book was
18 above what we thought would be minimum wage or somewhere
19 above \$125, we didn't bother.

20 Q. And who was responsible for making those calls?

21 A. Whoever was reviewing those trip sheets. And
22 don't ask me who because I don't remember in that
23 period.

24 Q. Well, you said who was reviewing the trip sheets.

25 Who reviews the trip sheets?

1 A. Somebody in the office at the time.

2 Q. Well, by calls I meant the calls that were made
3 on the hour that you were talking about?

4 A. Dispatch would do that. Call on the radio.

5 Q. And who were the people in dispatch who would do
6 that?

7 A. I could give you a list of my dispatchers. I'll
8 have to do that for you if you like.

9 Q. Would that include dispatchers that are no longer
10 employed by A Cab?

11 A. And some that are dead.

12 MS. RODRIGUEZ: What time frame are you
13 asking, Mr. Greenberg?

14 MR. GREENBERG: I would like the time frame
15 from July 1, 2007, forward.

16 MS. RODRIGUEZ: 2007?

17 MR. GREENBERG: Yes.

18 THE WITNESS: You're not going to get those,
19 Mr. Greenberg.

20 MS. RODRIGUEZ: I think the discovery
21 commissioner has limited the discovery to two years
22 here.

23 MR. GREENBERG: That's my request rather
24 than have the witness try to give answer -- at this
25 point he's offering that he can provide some information

1 on that through another means. So please provide
2 whatever information you believe you are willing to
3 provide through other means, and we'll take it from
4 there. Is that okay?

5 THE WITNESS: They were given to the -- for
6 our particular years were given to the DOL, and I
7 haven't seen them since.

8 MS. RODRIGUEZ: He's just talking about a
9 list of dispatchers.

10 THE WITNESS: Yeah, I am too. The DOL
11 requested those too, and they went through those. I
12 don't know where they put them. We never really went
13 through the stuff they brought back.

14 MS. RODRIGUEZ: I'll give you a list of
15 dispatchers from what the discovery commissioner's
16 ordered, which I believe is 2010 forward.

17 MS. SNIEGOCKI: It was four years, her
18 order.

19 MS. RODRIGUEZ: Pertaining to us?

20 MS. SNIEGOCKI: Correct.

21 MS. RODRIGUEZ: I'll verify that. Whatever
22 she's ordered.

23 BY MR. GREENBERG:

24 Q. Exhibit 5. Mr. Nady, if you turn to the second
25 page of that document.

1 A. Is that 523?

2 Q. 523.

3 Actually turn to page 525. There's a copy of a
4 receipt on that document that says taxipass vouchers and
5 totals.

6 Do you see that receipt copy? It's on the right
7 side.

8 A. Yes.

9 Q. A date and time appears there. Do you see that?

10 A. Yes.

11 Q. Do you know what that copy of receipt I'm
12 referring to is?

13 A. That was printed by the meter.

14 Q. And the time that appears there came from the
15 meter?

16 A. I would imagine, yes.

17 Q. Do you know if the time that's printed on that
18 meter was transmitted into the Cab Manager system?

19 A. I know that it is not.

20 Q. How do you know that?

21 A. Because Cab Manager doesn't keep any times. I
22 think that's eleven now.

23 Q. Well, did you ask -- ever ask anyone specifically
24 about whether the time from the fare -- meter -- excuse
25 me -- was transmitted into the Cab Manager system?

1 A. That was -- that stayed in the meter.

2 Q. It comes from the meter, yes?

3 A. Comes from the meter.

4 Q. Okay. And if we look at page 649 of Exhibit 4.

5 A. Is this 4?

6 Q. Yes.

7 A. Yes.

8 Q. At the fourth bullet point from the bottom, there
9 is an indented bullet point. And please read the entire
10 bullet point there in the indented bullet point.

11 Is that a correct statement of the policy at A
12 Cab --

13 A. You're talking about where it says exceptions?

14 Q. Well, where it says no exceptions.

15 A. Tell me exactly where you're saying. You're
16 looking at the third one from the bottom?

17 Q. It is the fourth bullet point from the bottom.

18 A. So that would be exceptions or the driver --
19 start with -- so it's the second one down after
20 check-out procedure?

21 Q. That's correct.

22 A. Oh. Okay. How can I help you now?

23 Q. This states that the drivers are to activate a
24 process on the meter which it says will first print a
25 receipt of readings and momentarily print a message that

1 reads meter total sent okay.

2 Do you see that?

3 A. Where are you reading that? Where do you see
4 okay?

5 MS. SNIEGOCKI: He's talking about the
6 indented bullet point.

7 THE WITNESS: Oh, okay. Yep, I see that.
8 Thank you. Is there a question?

9 MR. GREENBERG: Yes.

10 BY MR. GREENBERG:

11 Q. It says the printer will first print a receipt of
12 readings and momentarily print a message that reads
13 meter total sent okay.

14 Do you see that?

15 A. Yes.

16 Q. Now, the receipt of readings, is that the same
17 document that we were referring to on page 525 of
18 Exhibit 5?

19 A. I believe so because that's the only thing that
20 comes out of that.

21 Q. Now, have you ever discussed with anyone whether
22 when the meter totals are sent the time that those meter
23 totals are sent is also sent to the computer system?

24 A. They aren't sent to the computer system.

25 Q. Where are they sent?

1 A. They're sent to the printer, which is a different
2 unit.

3 Q. So when it says meter totals sent okay, it is
4 your understanding it's not referring to a dispatch
5 wirelessly of information from the meter to A Cab's
6 offices?

7 A. That goes to the printer, right there.

8 Q. Now, if you look at the following bullet point
9 after that, the second sentence it's referring to
10 vacuum. It says, "Vacuuming will allow time for meter
11 readings to be transmitted to our servers for check
12 out."

13 How does that meter reading get transmitted to a
14 server?

15 A. It -- those old meters sent something via Wi-Fi
16 to the check-out place where they put them in.

17 Q. Well, it says our servers?

18 A. That's the check-out place.

19 Q. Is that information in the Cab Manager software
20 on the server?

21 A. That was where we generated the beginning numbers
22 for the next driver.

23 Q. So the information that was transmitted to the
24 server for check-out was transmitted into the Cab
25 Manager system; correct?

1 A. Yep.

2 Q. And did you ever inquire as to whether Cab
3 Manager kept a record of the time it received those
4 transmissions from the meter in the cab?

5 A. Mr. Greenberg, why do you ask the same questions
6 so many times?

7 Q. Mr. Nady, you need to answer the question.

8 A. No, you need to answer that question because
9 you're delaying us so long by doing this.

10 Q. Mr. Nady --

11 A. Mr. Greenberg.

12 Q. -- you did not answer my question. You asked a
13 question. If your answer is no, it's no. If it's yes,
14 it's yes.

15 A. Thank you for that counseling, Mr. Greenberg.
16 Does that mean I have to pay for it?

17 Q. Mr. Nady --

18 A. Mr. Greenberg.

19 Q. -- I'm waiting for your answer.

20 A. I said no, Mr. Greenberg. Did you not here hear
21 me.

22 Q. Oh, okay. That's the answer to my question.
23 Thank you. I apologize.

24 A. Accepted.

25 Q. Are there any handbooks or instructions for the

1 meters that A Cab used prior to the DT5 meters? 05:17:08

2 A. Not that I'm aware of. 05:17:11

3 Q. Any training materials for those meters? 05:17:12

4 A. Only what we have here. 05:17:16

5 Q. You're pointing to the employee manual? 05:17:18

6 A. Page 67 specifically or 649. We also gave 05:17:21
7 hands-on training. Do you remember we talked about the 05:17:30
8 dollar short? That was not it there for that one. He 05:17:35
9 has an overage. Anyway... 05:17:44

10 Q. Now, if we go to page 650 on Exhibit 4. 05:17:53

11 A. Yes. 05:18:07

12 Q. At the top of the page the first bullet point, it 05:18:09
13 refers to drivers engaging in a step where they go to a 05:18:14
14 driver check-out station and do their paperwork. 05:18:18

15 Do you see that? 05:18:21

16 A. Right. 05:18:23

17 Q. Did anyone in A Cab's office such as a supervisor 05:18:28
18 have to do anything before a driver could proceed to 05:18:29
19 that step? 05:18:29

20 A. Sometimes a driver had to -- I mean, a supervisor 05:18:48
21 if there was something wrong with the cab 05:18:50
22 maintenance-wise, the super -- he would inform the 05:19:00
23 supervisor of a problem with the cab. And then he would 05:19:04
24 go over and verify it or try to get an explanation so he 05:19:07
25 could refer it to a mechanic or someone to repair it. 05:19:12

1 And sometimes there's just a number of things a driver
2 would tell somebody about the shift. So there was
3 always some communication between the driver and the
4 supervisor before they went in.

5 Q. Well, if there was no issues with the cab, there
6 was no out of the ordinary sort of occurrence, is there
7 anything the supervisor or the dispatcher would have to
8 do so that the driver would proceed to the check-out
9 station and do their paperwork after they had completed
10 the meter printing and total step by step we discussed?

11 A. He had to go back by the supervisor to give him
12 the keys and the medallion and to time stamp his trip
13 sheet. And then he went inside to finish. Which took
14 about a minute.

15 Q. Okay. At the bottom of page 649, the last
16 sentence.

17 A. There you go.

18 Q. It refers to the driver turning in the keys, the
19 trip sheet, the medallion if needed. And then the last
20 sentence it says, "The supervisor will clock the driver
21 back in by time stamping the back of the trip sheet."

22 A. Right.

23 Q. What is meant by that?

24 A. It's self-explanatory.

25 Q. Tell me what you understand it means.

1 A. I understand it to me that he would give him the
2 trip sheet. The time stamp was actually just inside the
3 window. So drivers had to sort of give it to them to do
4 it.

5 Q. So that would be a mechanical ink time stamp that
6 would appear on the trip sheet?

7 A. Yep.

8 Q. And after completing that step that supervisor
9 assisted them with, they would then go to the procedure
10 that's on the next page; correct?

11 A. I would assume so.

12 Q. Well, that was the official procedure at least at
13 A Cab; correct?

14 A. That's what we thought we would do when we wrote
15 it. Didn't always pan out the way you plan it. Best
16 plans of mice and men oft go astray. But that was the
17 idea when we reduced it into writing.

18 Q. Now on page 650 at that check-out procedure, the
19 first indented bullet point, it states: "To begin the
20 process -- referring to the process at the driver
21 check-out station -- the driver must scan the bar code
22 near the top of their trip sheet.

23 Do you see that?

24 A. Yes.

25 Q. Where would they scan that bar code?

1 A. I think we had a scanner at the place where they 05:22:08
2 got their trip sheets. 05:22:11

3 Q. And what happened when the driver performed that 05:22:13
4 scan of the trip sheet? 05:22:16

5 A. It would -- it would input to the computer those 05:22:17
6 four items I talked about so many times before. 05:22:24

7 Q. Was the time of that scan recorded in the Cab 05:22:35
8 Manager system? 05:22:39

9 A. Mr. Greenberg, you've asked me that now 17 times, 05:22:39
10 haven't you? 05:22:44

11 Q. No, I haven't, Mr. Nady. You need to answer my 05:22:46
12 question. 05:22:49

13 A. Mr. Greenberg, you have. You have. I'm counting 05:22:49
14 them. 17 times. Why do you ask the same question so 05:22:53
15 many times, Mr. Greenberg? Because you don't like what 05:22:56
16 you hear. Mr. Greenberg, you've asked me that question 05:22:58
17 17 times, and it's still the same big no. 05:23:01

18 Q. Your answer is no. Thank you. 05:23:04

19 A. If you ask me that again, I think I'm going to 05:23:06
20 stand up and leave, Mr. Greenberg. Okay? Understand 05:23:09
21 that. I will not allow you to try to continue to get me 05:23:11
22 to answer the question the way you want them. 05:23:14

23 Q. Now, in respect to that particular bar code trip 05:23:17
24 sheet scan that we've just discussed, did you ever ask 05:23:21
25 anyone as to -- 05:23:25

1 A. If you're going to ask about time, Mr. Greenberg. 05:23:27

2 Q. -- why the time of that scan is not recorded? 05:23:29

3 A. I already told you, Mr. Greenberg. I think we're 05:23:30
4 getting ready to leave, Mr. Greenberg. I think we're 05:23:34
5 getting ready to leave. 05:23:36

6 Q. Mr. Nady -- 05:23:37

7 A. Mr. Greenberg. 05:23:38

8 Q. -- you need to -- 05:23:38

9 Counsel, I can't continue my questioning if I -- 05:23:39

10 THE WITNESS: Yes, you can. 05:23:41

11 MS. RODRIGUEZ: Mr. Greenberg -- 05:23:41

12 THE WITNESS: You just asked the same 05:23:43
13 question. You're about to ask another one the same 05:23:45
14 thing. 05:23:47

15 MR. GREENBERG: Counsel. 05:23:47

16 THE WITNESS: You have no conscious, do you? 05:23:48

17 MS. RODRIGUEZ: Hold on. 05:23:50

18 MR. GREENBERG: Counsel, you know the 05:23:51
19 question is proper. 05:23:52

20 MS. RODRIGUEZ: No, it's not a proper 05:23:52
21 question. You have asked him the same question. 05:23:54

22 THE WITNESS: Jesus Christ. 05:23:56

23 MR. GREENBERG: I'm asking him about this 05:23:58
24 particular bar code scan. This is a new subject. He 05:24:00
25 needs to answer the question. 05:24:03

1 THE WITNESS: Mr. Greenberg --

2 MS. RODRIGUEZ: Hold on, Jay.

3 MR. GREENBERG: If he's not going to answer
4 the question, going to break the deposition, he can do
5 that.

6 MS. RODRIGUEZ: Ask the question one more
7 time.

8 THE WITNESS: And we'll just wait to hear it
9 again.

10 MS. RODRIGUEZ: I think what you're trying
11 to do is -- is -- I don't want to end this because we're
12 at the tail end here, but just to be answering the same
13 question over and over and over is abusive.

14 MR. GREENBERG: Counsel, I never got to ask
15 the question because the witness refuses to allow me to
16 ask the question.

17 THE WITNESS: It's because I can tell what
18 you're going to do. You do it every question. You're
19 so easy to read.

20 BY MR. GREENBERG:

21 Q. Mr. Nady --

22 A. Ask the question, and then I'll say it again. Go
23 ahead.

24 Q. Mr. Nady, the bar code scan of the trip sheet
25 that was conducted at the end of a driver's shift that

1 we were just discussing, you have explained that no
2 record of the time that that bar code scan was done is
3 recorded in the Cab Manager system; correct?

4 MS. RODRIGUEZ: That's been asked and
5 answered.

6 MR. GREENBERG: Yes. Okay. So we have no
7 dispute about your testimony on that point.

8 BY MR. GREENBERG:

9 Q. My question to you, Mr. Nady, is did you ever
10 discuss with anyone to confirm the fact that that
11 particular bar code scan was not recorded in the Cab
12 Manager system?

13 A. Let me rephrase my answer that you asked the
14 first three times. I had the conversation, yes. Guess
15 who with? Oh, gee, it was Mr. Morgan. So I went to
16 Mr. Morgan and said how come we don't keep the times in
17 there? He said because you can't by law, and I said
18 meh. So then I went to the taxi cab authority and asked
19 them how come we can't do that? They said you can't;
20 it's a statute. Do you remember that answer, Mr.
21 Greenberg? Do you remember the answer, Mr. Greenberg?
22 So why are you asking the same question so many times?
23 It was the same answer I gave you before.

24 MR. GREENBERG: Counsel --

25 MS. RODRIGUEZ: He's correct, Mr. Greenberg.

1 I have to agree. If he wasn't going to say it, I was. 05:26:01

2 MR. GREENBERG: Counsel, that's not -- 05:26:02

3 MS. RODRIGUEZ: A whole line of -- 05:26:03

4 THE WITNESS: It's the same damn question. 05:26:04

5 MS. RODRIGUEZ: Hold on, Jay. The court 05:26:05

6 reporter can only get down one of us at a time. 05:26:06

7 He just summarized a whole hour of testimony 05:26:07

8 he gave you on this, and you just summarized his depo 05:26:08

9 saying, oh, so did you ever have a conversation? He 05:26:09

10 just testified about all of that. 05:26:10

11 MR. GREENBERG: No, that was not the 05:26:11

12 question -- 05:26:12

13 THE WITNESS: Why do you do that? 05:26:13

14 MR. GREENBERG: It was not the same 05:26:14

15 question. 05:26:15

16 THE WITNESS: It's the same question put 05:26:16

17 another way, Mr. Greenberg. 05:26:17

18 MR. GREENBERG: Mr. Nady -- 05:26:18

19 THE WITNESS: Mr. Greenberg. 05:26:19

20 MR. GREENBERG: -- this is referring to a 05:26:20

21 particular bar code scan of the trip sheet -- 05:26:21

22 THE WITNESS: Whoa, whoa, whoa, whoa, whoa. 05:26:22

23 You asked about the bar code scan, and now you're 05:26:23

24 talking about a particular bar code scan just to guise 05:26:24

25 or change your question is not fair. You can't do that. 05:26:25

1 You can't ask the same question and say now a particular
2 bar code scan. It's the only one there is.

3 MR. GREENBERG: Mr. Nady --

4 THE WITNESS: Mr. Greenberg.

5 MR. GREENBERG: -- you need to answer my
6 question.

7 THE WITNESS: I did answer it.

8 BY MR. GREENBERG:

9 Q. So it is your testimony, Mr. Nady, that you never
10 discussed -- let's just be clear, Mr. Nady. You had
11 testified --

12 A. I am clear.

13 Q. -- that you had --

14 A. I've been clear on every answer.

15 Q. Mr. Nady --

16 A. Mr. Greenberg.

17 Q. -- we can't continue like this, Counsel.

18 MS. RODRIGUEZ: Well, I think you need to
19 ask a new question. Do you have any more questions
20 left?

21 MR. GREENBERG: I have --

22 THE WITNESS: You're threatening to quit.
23 We ain't coming back. You leave; we're done.

24 BY MR. GREENBERG:

25 Q. Mr. Nady --

1 A. Mr. Greenberg.

2 Q. -- again, my question refers to a bar code scan
3 that was conducted at the end of a driver's shift.

4 Now you had testified before about bar code scan
5 of a TA card conducted at the beginning of a driver's
6 shift.

7 Do you recall that?

8 A. Yes, Mr. Greenberg, I do.

9 Q. Thank you. I'm talking about a different bar
10 code scan.

11 Do you understand that?

12 A. It's the same bar code, Mr. Greenberg.

13 Q. The same bar code appears on a trip sheet is on a
14 TA card?

15 A. Mr. Greenberg --

16 MS. RODRIGUEZ: Mr. Greenberg, that is
17 misstating his testimony. Do you have another question?
18 I mean, he's answered it repeatedly.

19 MR. GREENBERG: He needs to answer.

20 MS. RODRIGUEZ: No, he's not going to answer
21 it.

22 THE WITNESS: Which bar code are you talking
23 about now, Mr. Greenberg?

24 MR. GREENBERG: There's a bar code that
25 appears on the trip sheet.

1 THE WITNESS: I've answered that question 05:28:18

2 every time the same. I'll do it again just so you'll 05:28:19

3 keep going because if I leave here, I'm not ever going 05:28:22

4 to be deposed by you again, Mr. Greenberg, because 05:28:24

5 you've had enough times to ask, and I -- when we get 05:28:28

6 done with this, we're going to anal ize this thing just 05:28:30

7 to see how many times you've asked the same question, 05:28:32

8 and it won't -- it's going to be ugly. 05:28:34

9 MR. GREENBERG: Mr. Nady -- 05:28:39

10 THE WITNESS: Mr. Greenberg. 05:28:39

11 MR. GREENBERG: -- are you going to answer 05:28:40

12 the question? 05:28:42

13 THE WITNESS: Ask it again, please. 05:28:43

14 BY MR. GREENBERG: 05:28:44

15 Q. The scan that is conducted by a driver of the 05:28:44

16 trip sheet at the end of their shift is what I am 05:28:48

17 discussing with you. 05:28:50

18 Do you understand that? 05:28:53

19 A. Keep going. 05:28:56

20 Q. The time that that bar code scan is conducted of 05:28:58

21 that trip sheet, which is performed by the driver at the 05:29:00

22 end of the shift, is the time that that bar code scan 05:29:01

23 conducted recorded in the Cab Manager system? 05:29:11

24 MS. RODRIGUEZ: He's not answering that 05:29:10

25 question. On to the next one. 05:29:11

1 MR. GREENBERG: No, your answer to that
2 question previously was no.

3 THE WITNESS: So why'd you ask it again?

4 MR. GREENBERG: Well, because we have to lay
5 that foundation for the next question.

6 BY MR. GREENBERG:

7 Q. My next question to you, Mr. Nady, is: How did
8 you find out that that time is not recorded in the Cab
9 Manager system?

10 A. The same way you found out from Mr. Morgan, Mr.
11 Greenberg.

12 Q. Okay. So Mr. Morgan told that to you?

13 A. Mr. Morgan stated to you in his deposition while
14 I was present, Mr. Greenberg, that nothing is kept on
15 time in Cab Manager because we were ordered not to, Mr.
16 Greenberg.

17 So why do you continue to ask -- no, the answer
18 to your question is no the first time and no the second
19 time and no the 15th time. No, no, no, Mr. Greenberg.
20 If you ask it again, I don't know what I'm going to do,
21 but be careful.

22 Q. Mr. Nady, I'm not --

23 A. Mr. Greenberg.

24 Q. I'm not interested in why.

25 A. Well, you keep asking the same question.

1 Q. I'm trying to make it easier for you. 05:30:17

2 A. No, you're not. You're trying to confuse me, Mr. 05:30:19
3 Greenberg. It ain't going to work. I'm way too smart 05:30:21
4 for you. 05:30:24

5 Q. Now, except for your understanding from 05:30:25
6 Mr. Morgan that no times -- 05:30:31

7 A. Mr. Greenberg. 05:30:33

8 Q. -- of bar code scans -- 05:30:34

9 A. Mr. Greenberg. 05:30:35

10 Q. -- are recorded -- 05:30:36

11 A. Mr. Greenberg, you're going to ask me the same 05:30:37
12 question. They never have and they never will. They 05:30:39
13 never, ever did it, Mr. Greenberg. Is that okay? 05:30:42

14 Q. They never -- 05:30:43

15 A. They never had any time in there ever, ever, 05:30:47
16 ever, ever, ever. 05:30:49

17 Q. From any bar code? 05:30:49

18 A. From any bar code there never. 05:30:51

19 Q. And -- 05:30:53

20 A. Do you understand? Say, yes, I understand so you 05:30:55
21 won't ask the question anymore. Do you understand what 05:30:56
22 I'm -- I'm trying to be helpful here. 05:30:57

23 Q. Mr. Nady -- 05:31:00

24 A. Mr. Greenberg. 05:31:00

25 Q. -- the source of your belief on that point is 05:31:02

1 Mr. Morgan; correct?

2 A. Mr. Greenberg, you've asked me that five times.

3 Five times. Why?

4 MS. SNIERGOCKI: We are in the same room. We
5 don't need to scream.

6 THE WITNESS: He is infuriating me with his
7 continually asking the same question. And I don't like
8 it. I think you're trying to mess with my mind, and I
9 don't like it, Mr. Greenberg. So please discontinue
10 asking the same question.

11 BY MR. GREENBERG:

12 Q. Mr. Morgan, is the sole source of --

13 A. No, he's not, Mr. Greenberg. That's not what I
14 said you lying little shit. That's not what he said.
15 That's not what I said. It's not what I said. You are
16 misstating it. I said the taxi cab authority was the
17 one that also said it. So he's not the only one, Mr.
18 Greenberg.

19 Q. Mr. Nady, the taxi cab authority told you what
20 information was in fact recorded in Cab Manager?

21 MS. RODRIGUEZ: Objection. Objection.

22 THE WITNESS: Mr. Greenberg.

23 MS. RODRIGUEZ: Hold on.

24 THE WITNESS: You are so bad. You are so
25 bad.

1 MS. RODRIGUEZ: I'm putting my objection on
2 the record here. I think you're badgering the witness,
3 and that is completely misstating his testimony.

4 MR. GREENBERG: Well, Counsel, that was the
5 question. You need to guide your witness here --

6 MS. RODRIGUEZ: No, I'm not guiding --

7 MR. GREENBERG: -- to answer the question
8 that's asked. He likes to testify about other things.
9 Let's move forward.

10 MS. RODRIGUEZ: Mr. Greenberg, perhaps you
11 don't hear yourself. You're asking the same question
12 over and over and over, and you're misstating hours of
13 testimony.

14 MR. GREENBERG: Counsel, the record will
15 deal with that. Let's continue.

16 MS. RODRIGUEZ: Do you have any other areas
17 to ask him about?

18 BY MR. GREENBERG:

19 Q. Now on page 650, Mr. Nady, after that bar code
20 scan is completed by the driver, the next --

21 A. Where are you referring to here, Mr. Greenberg?

22 Q. Top of page 650. The second indented bullet
23 point.

24 A. So that's midway down?

25 Q. It's the first bullet point, second indented

1 bullet point. It says the screen should display that
2 driver's name.

3 A. I would call that little black dot -- okay.

4 Q. Now if that bar code scan that was referred to
5 just in the line above that was not conducted, would
6 that screen display the information discussed there --

7 A. Nope.

8 Q. -- do you know?

9 A. And sometimes it didn't work. So we would have
10 to do everything by hand.

11 Q. Now, if you go down to the next solid bullet
12 point it says, "Drivers must go to drop safes, and it
13 says using the computer on the top of the safe, the
14 drivers must log in." And it provides a procedure for
15 logging in there.

16 Do you see that?

17 A. I do.

18 Q. Is a record of that log-in information kept?

19 A. I think so.

20 Q. Do you know where it's kept?

21 A. It's kept on a sheet, and we enter the sheets on
22 a daily basis.

23 Q. Is it kept in any electronic data file?

24 A. No.

25 Q. How do you know that?

1 A. Because I'm smart. I know what's going on in my
2 company.

3 Q. Is that information loaded into the Cab Manager
4 system?

5 A. No.

6 Q. How do you know that?

7 A. Because I'm smart. I know what goes on in my
8 company, Mr. Greenberg.

9 Q. Have you ever asked anyone whether that
10 information is loaded into the Cab Manager system?

11 A. I don't need to, Mr. Greenberg. I know what's
12 going on.

13 Q. How do you know that?

14 A. Because I'm smart.

15 MS. RODRIGUEZ: I'm going to object. Mr.
16 Greenberg, you've already asked him. Hold on, Jay.

17 THE WITNESS: I own the company. Thank you,
18 Mr. Greenberg.

19 MS. RODRIGUEZ: I'm objecting if you're
20 going to go down the same line of questioning because
21 he's already testified as to what information is in Cab
22 Manager, who he's asked, the same line of questioning.
23 I ask you to move on.

24 BY MR. GREENBERG:

25 Q. Mr. Nady --

1 A. Mr. Greenberg.

2 Q. -- did you ever speak with anyone about whether
3 that information was recorded anywhere else than besides
4 in that safe and then printed out?

5 A. No.

6 Q. Do you know if those safes have any memory that
7 maintains that information in the safe itself in some
8 sort of electronic record?

9 A. No.

10 Q. Okay.

11 A. They're nothing more than a take your money and
12 give you a receipt, Mr. Greenberg.

13 Q. Are there any handbooks or manuals or
14 instructions for those drop safes that A Cab has?

15 A. Just what you have here, Mr. Greenberg.

16 Q. Are you referring to page 650?

17 A. Yes, Mr. Greenberg.

18 Q. Mr. Nady, when the Department of Labor conducted
19 its audit of A Cab -- I'm not referring to the 2009
20 audit. There was a later investigation. Do you
21 understand that?

22 Do you understand, Mr. Nady, that there was an
23 audit of 2009 conducted by the Department of Labor of A
24 Cab --

25 A. Yes.

1 Q. -- which was resolved? Do you recall that? 05:36:41

2 A. Resolved was a poor choice of words, Mr. 05:36:50
3 Greenberg. 05:36:53

4 Q. It was concluded without litigation; correct? 05:36:55

5 A. It was concluded with a nice little plaque saying 05:36:58
6 we're doing a good job. Thank you very much. 05:36:59

7 Q. And then there was a subsequent Department of 05:37:03
8 Labor contact with A Cab that did result in a court case 05:37:04
9 being filed. 05:37:05

10 Do you recall that? 05:37:11

11 A. I don't recall a court case being filed. 05:37:12

12 Q. Well, do you recall that there was a settlement 05:37:14
13 with the Department of Labor which resulted in the entry 05:37:15
14 of a judgment by the court? 05:37:22

15 A. I didn't know it was a judgment. I didn't call 05:37:30
16 it a judgment. 05:37:34

17 Q. Well, there were two separate resolutions of 05:37:35
18 issues with the Department of Labor; correct, Mr. Nady? 05:37:39

19 A. Why don't you tell me what they were, Mr. Nady? 05:37:42

20 Q. Well, one was in 2009 and one was some years 05:37:46
21 later; correct? 05:37:49

22 A. Thank you, Mr. Greenberg. 05:37:50

23 Q. My questions I'm going to ask you are about the 05:37:53
24 second one. 05:37:56

25 Do you understand? 05:37:59

1 A. You're about to ask questions about the second
2 audit by the Department of Labor; is that correct, Mr.
3 Greenberg?

4 Q. Yes.

5 A. Then I understand.

6 Q. Now, in respect to that second audit, did A Cab
7 undertake to collect information on the hours worked by
8 its taxi drivers in response to the DOL's audit?

9 A. We gave most of that information to the
10 Department of Labor, and they took our documents for the
11 most part. But in answer to your question, we did a
12 very thorough audit of, I want to say, four pay periods
13 as an agreed at-random pay periods that the DOL was also
14 going to audit, and we audited at the same -- the same
15 weeks that they did, and we came up with whether or not
16 we thought we had a deficit, and they came up as to
17 whether or not they had a deficit. And we sat down and
18 talked about it.

19 Q. Now, you talked about the audit that A Cab
20 conducted of those four pay periods.

21 What did that involve A Cab doing?

22 A. A Cab reviewed every single trip sheet, every
23 single paycheck, every day, every driver for four pay
24 periods over the audit period. They were four two-pay
25 week periods. I want to say that I think there were

1 almost 30,000 pages of documents that we reviewed. We
2 hired outside staff, outside accountants to come in and
3 do that work.

4 Q. Who were the outside accountants?

5 A. People we hired out of the wanted ads. We needed
6 help. We didn't hire a firm. We just hired
7 individuals.

8 Q. And what did those individuals do? By do, Mr.
9 Nady, you say there was a review conducted. Did they
10 compile information from that review, put it in
11 something? Can you explain please?

12 A. Put it something?

13 Q. Yes.

14 A. Like a wastebasket or something? What are you
15 referring to?

16 Q. You said there was a review conducted of perhaps
17 30,000 or so trip sheets?

18 A. Yes, I did.

19 Q. And did they take information from those trip
20 sheets they reviewed and put it in a grid, on a log, in
21 some other piece of information?

22 A. That we did.

23 Q. And what did they put it into?

24 A. They put it into an Excel.

25 Q. And does A Cab still have that Excel file?

1 A. I believe we do.

2 Q. Now, you mentioned the Department of Labor
3 conducting their own audit for the same four pay periods
4 that A Cab; is that correct?

5 A. Well, they said they did, but I don't think they
6 really did.

7 Q. Did the DOL ever share any information about
8 that --

9 A. No.

10 Q. -- audit that they conducted?

11 A. No, but they said they did, and I think more than
12 anything else they reviewed ours, but they -- we were
13 pretty much agreed on what ours said. We had four
14 separate periods, I think one in each quarter. We had
15 our best month, our worst month, and two of them
16 somewhere in between. And they -- we just -- they just
17 told us which ones to do.

18 Q. Now, that audit that A Cab conducted which took
19 the information from the trip sheets, you believe that
20 that resulted in an accurate set of information in those
21 Excel files for each driver for each pay period in terms
22 of showing how long they were working each pay period?

23 MS. RODRIGUEZ: I'm sorry. Could you please
24 read that question back? I kind of got lost in that.

25 BY MR. GREENBERG:

1 Q. Mr. Nady, the audit you've described for the pay 05:42:17
2 periods that A Cab conducted and put information in the 05:42:20
3 Excel file, do you believe that the result of that was 05:42:24
4 that that Excel file for that pay period showed 05:42:27
5 accurately the amount of time each driver worked in each 05:42:30
6 of those pay periods as originally shown on their trip 05:42:33
7 sheets? 05:42:39

8 A. We went back over every single trip sheet, and I 05:42:39
9 want to tell you we had probably a dozen people working 05:42:44
10 full-time doing this. And the cost was well in the six 05:42:47
11 figures to get these numbers. And we put them in a 05:42:53
12 form, in an Excel form. We sent -- we made copies of 05:42:58
13 every trip sheet we went through. On those trip sheets, 05:43:01
14 we put where our information came from. So when they 05:43:04
15 reviewed our work, they would understand where we got it 05:43:10
16 from and asked if they had any -- if they wanted to 05:43:11
17 review it themselves, if they had any questions, 05:43:17
18 alterations, or suggestions, or changes. And that took 05:43:20
19 us -- I want to say that took us almost eight or nine 05:43:25
20 months to do that because we wanted to be -- we wanted 05:43:31
21 to put a document together that was accurate so they 05:43:38
22 wouldn't think that we were trying to fudge. So we had 05:43:41
23 it -- we did it the first time and then we had another 05:43:44
24 group do another group team do it again, and then we had 05:43:48
25 another team do it again. And then we merged those 05:43:53

1 together to take the worst case scenario, and we sent 05:43:56
2 that to them. And when they reviewed it, which took 05:44:00
3 them -- I want to say a year, they came back and said 05:44:04
4 that they've reviewed our work, and they couldn't find 05:44:12
5 anything that was not true, but they weren't sure that 05:44:16
6 it was -- everything was accurate. But they couldn't 05:44:20
7 find anything that wasn't there, and I told them that we 05:44:24
8 bent over backwards to be fair and square. So I don't 05:44:28
9 think I have a problem. And my cost in that was about 05:44:32
10 a -- when we got done about \$130,000 by the time they 05:44:36
11 got back because now I've got Greg Kamer and wonder 05:44:40
12 woman here behind me. And then that was about the time 05:44:44
13 when they then expanded those, averaged them all out. 05:44:52
14 And I think I got a copy of their work sheet for that, 05:45:00
15 but I'm not certain. But we could certainly figure it 05:45:04
16 out because I think I have all my work sheets still. 05:45:08
17 I'm not sure. Ester may have some. And we came up, and 05:45:12
18 they said after reviewing your work and reviewing our 05:45:16
19 work, we think you owe us about \$140,000. And I said 05:45:18
20 you could have done this at the beginning because I 05:45:22
21 already sent \$140,000 on this. And there was silence. 05:45:26
22 And I said I'll get back to you. And Esther thought it 05:45:30
23 would cost --- Esther and I both believed that if we 05:45:42
24 could get them to -- we thought they had to get us the 05:45:46
25 tip credit, but they declined. They said without the 05:45:50

1 tip -- we were fighting for nothing because we -- with 05:45:50
2 the tip credit we actually had zero liability. They 05:46:00
3 argued the tip credit was \$140,000. And we took about 05:46:04
4 two days and figured the best thing to do was to pay 05:46:17
5 them. 05:46:21

6 But in reality using the tip credit, we had zero 05:46:24
7 liability. And they knew it, and I knew it. And they 05:46:27
8 knew I knew it, and they didn't care. 05:46:32

9 Q. Well, when you say using the tip credit, you 05:46:38
10 think there was no liability, what was the amount of the 05:46:39
11 tip credit that you were using to reach that result? 05:46:45

12 A. \$140,000 give or take. 05:46:51

13 Q. Was that tip credit calculated as a percentage of 05:46:54
14 fares? 05:46:57

15 A. No. It was done actually on every trip sheet. 05:46:58
16 We actually did it. We did the work on it. We have 05:47:02
17 the -- to me it was nothing but the government squashing 05:47:10
18 the small company. They had no business -- because the 05:47:14
19 federal government doesn't require us to -- we get to 05:47:18
20 include a tip credit. 05:47:21

21 Q. Well, the issue of the tip credit as you were 05:47:27
22 discussing with the DOL was it a question of the amount 05:47:30
23 of the tip credit that -- 05:47:34

24 A. No. No, no. The amount was rigid. It was 05:47:34
25 whether or not we would allow it. They wouldn't allow 05:47:38

1 it. You wouldn't believe the -- I think we have -- 05:47:40
2 Esther will show you if -- maybe she will; maybe she 05:47:44
3 won't because it was between the solicitor who stated in 05:47:48
4 his -- in one of his last memos to us that the money 05:47:52
5 that they get from tips belongs to them. It was not 05:47:56
6 reported. And thus, our argument is, and we will 05:48:00
7 maintain, that you cannot use that. And that blew me 05:48:04
8 away. That was when I knew that I couldn't win this 05:48:08
9 fight. These people were overly proud of their work. 05:48:12

10 Q. You mentioned a worst case scenario that you gave 05:48:20
11 to the Department of Labor based on the audit that A 05:48:24
12 Cab -- 05:48:28

13 A. They came up with the number. I didn't. 05:48:32

14 Q. Well, you use this term worst case in your prior 05:48:36
15 answer to me. I'm just trying to understand what you 05:48:40
16 meant by that in terms of your communication with the 05:48:44
17 Department of Labor? 05:48:48

18 A. Huh? 05:48:52

19 Q. You mentioned that as part of the communication 05:48:56
20 process between A Cab and the Department of Labor, A Cab 05:48:59
21 gave to the Department of Labor some set of information 05:49:03
22 which you used the term worse case to describe? 05:49:07

23 A. Right. 05:49:11

24 Q. I'm just trying to understand what you meant by 05:49:15
25 that. 05:49:19

1 A. I meant that if the tip credit was -- was not 05:49:00
2 allowed -- we owed them \$140,000 almost to the dollar 05:49:10
3 within give or take a couple hundred bucks -- and that's 05:49:18
4 when the argument -- and you'll see if we ever get them; 05:49:26
5 I don't know if she still has them or not, the letter 05:49:28
6 when -- that was news to me that they weren't going to 05:49:29
7 do that. And then just like you, they started talking 05:49:34
8 about penalties and willful this and that. And our 05:49:38
9 argument was, hell, we just had an audit two years 05:49:44
10 before, and it came out really smart. And we were 05:49:47
11 pretty smug that we were going to have the same thing 05:49:51
12 when they got through with it, but they stuck that up my 05:49:54
13 wazoo. 05:49:58

14 Q. Besides that audit that A Cab conducted, A Cab 05:49:58
15 provided the Excel files that resulted from that work to 05:50:00
16 the Department of Labor? 05:50:00

17 A. Yeah. We had to send those along with the trip 05:50:00
18 sheets that they reviewed and where our numbers were on 05:50:10
19 those. I don't know if I still have all of those 05:50:18
20 numbers or not, but probably do. 05:50:19

21 Q. Did A Cab provide anything to the Department of 05:50:20
22 Labor besides those trip sheets and the Excel file you 05:50:22
23 just mentioned in connection with that? 05:50:27

24 A. No. They had -- see the Department of Labor here 05:50:30
25 had all of these, but we had a copy of our -- hard copy 05:50:33

1 of our trip sheets. So we went back and regenerated all
2 of our payroll based on the information we had off the
3 trip sheets. The DOL had the originals in this
4 location. The people we were talking to were out of the
5 San Francisco office.

6 Q. When you say regenerated the payroll, what do you
7 mean by that?

8 A. Just what it says.

9 Q. I don't know what that means, Mr. Nady.

10 A. Yes, you do.

11 Q. Regenerated how? With what?

12 A. We went through the trip sheets to see if we owed
13 anybody any money based on the trip sheets for hours
14 that we planned on that we thought we communicated
15 through that. We went back, and we went everywhere we
16 could possibly find the time from the beginning. If
17 they didn't stamp the time clock, which was a regular
18 basis, we went back to the gas station and got that
19 information and plugged that in. It was a bunch of
20 manual things. We put in the beginning of the shift,
21 and then we went through the end of the shift. And if
22 they put a break in there, we took that out. If the
23 breaks were not 20 minutes, we didn't allow not one
24 minute. If the breaks were over 20 minutes, we could
25 take every minute. We reduced it to 100th of an hour

1 for every break. If it was more than 20 minutes, we
2 took the breaks. We only took what was directly on
3 those and viable on those trip sheets for that
4 eight-week period.

5 Q. By regenerate the payroll, do you mean in this
6 Excel we were information --

7 A. We figured out how many hours they had and how
8 many hours they were actually paid for and what they
9 should have been paid versus what they actually got
10 paid.

11 Q. So the Excel file that was credited contained not
12 just information as to the hours worked by the drivers
13 but their compensation that they were paid during a
14 particular day or pay period; correct?

15 A. You're -- no.

16 MS. RODRIGUEZ: Objection. That
17 misstates --

18 THE WITNESS: That -- you're so good at
19 that.

20 MS. RODRIGUEZ: There's --

21 THE WITNESS: The trip sheet, the ones we
22 generated, we put time on them so we could tell how many
23 hours they were. We had to go back and find when they
24 started based on their time stamp, and would log that
25 in. And we did it for every single driver, and we did

1 it three times. And not only that, but then we went
2 back and found the breaks that we used. And we didn't
3 put any breaks in that were less than 20 minutes, and we
4 didn't put any breaks in there that were not signed and
5 autographed by the people. We didn't create breaks. We
6 used exactly what was there. And if there was a doubt
7 about how long it was, we'd ask the driver.

8 BY MR. GREENBERG:

9 Q. You mentioned an Excel file that was created as a
10 result of --

11 A. Yes, it was.

12 Q. -- this audit you've been describing.

13 Did that Excel file just contain information as
14 to the hours worked by drivers?

15 A. No.

16 MS. RODRIGUEZ: Objection. That misstates
17 his testimony. And just so that you're not -- you're
18 not thinking there's so much more to this, I gave you a
19 copy of that very early on.

20 THE WITNESS: You did?

21 MS. RODRIGUEZ: He has a copy of the summary
22 of the Excel, but very early on. But it's for purposes
23 of settlement discussion. It hasn't been produced
24 officially by A Cab, but you have a copy of it.

25 THE WITNESS: I didn't know you had a copy

1 of it. So you know about it. So why are you pushing
2 these questions?

3 BY MR. GREENBERG:

4 Q. Mr. Nady, the Excel file you're referring to
5 would contain a line for each driver for the pay period?

6 A. I got a line for each driver for each pay period.

7 Q. Right.

8 You talked about an audit for four pay periods?

9 A. Yes.

10 Q. Okay. So the end product for each pay period
11 would be an Excel file that would the line for each
12 driver who worked during the pay period?

13 A. Yeah.

14 Q. And that line would contain information showing
15 what hours that person was determined to have worked --

16 A. Yeah, we generated that from the time sheet, the
17 trip sheets, sometimes from when they went to the gas
18 pump, sometimes we pulled it off when they put their
19 money in, but we had to go out and find that data from
20 the back of the trip sheets. And you've seen them here
21 where they came from. And then next to that we put down
22 their gross pay, and then we figured out what we should
23 have paid them and we put a difference. And it equals
24 \$139,800 or something like that.

25 Q. When you say that line would contain a gross pay

1 amount, it would also have an amount -- would it have a
2 separate amount listed for tips or just a gross pay
3 amount?

4 A. We have gross tips in there, but we didn't
5 include them in the computation because at the very last
6 minute, they said no.

7 Q. Does A CAB in its payroll record record tips
8 drivers earn other than as a percentage of the fares
9 that they collect pursuant to the IRS compliance
10 agreement?

11 A. No.

12 Q. So there's no -- okay.

13 A. Thank you.

14 MS. RODRIGUEZ: This is a good stopping
15 point for a quick break.

16 MR. GREENBERG: Sure. Let's take a break.

17 (A break was taken from 5:55 p.m. through
18 6:04 p.m.)

19 MS. RODRIGUEZ: By my calculations we're at
20 six and a half hours excluding break time and being
21 generous in terms -- overestimating the breaks. So I
22 think you got about another 30 minutes with Mr. Nady per
23 the rules. And I'm certainly willing to work with you
24 if you think you're going to go a little bit over, but
25 I've asked to you give us an estimate if you're

1 expecting another two or three hours or what you expect, 06:04:26
2 and you're refusing to respond to that. So with that I 06:04:29
3 think we need to wrap this up by 6:30 p.m. today. 06:04:32

4 MR. GREENBERG: Counsel, I will state for 06:04:36
5 the record that in terms of subject matter that I 06:04:39
6 intended to address with this witness the strong 06:04:42
7 majority has been taken care of, but in terms of how 06:04:45
8 much longer, it's going to take, I don't know. Let's 06:04:48
9 continue. My problem as I was telling you off the 06:04:51
10 record is that we spend a great deal of time with the 06:04:54
11 witness arguing about questions being repetitive and 06:04:57
12 he's not going to answer them, which is fine for an 06:05:00
13 objection to place on the record, Counsel, but it is not 06:05:03
14 appropriate for refusal to answer. And every time we've 06:05:06
15 had to resolve that, it's taken up a great deal of time, 06:05:09
16 and that's where our time has gone. But let's continue 06:05:12
17 and not argue about -- 06:05:15

18 MS. RODRIGUEZ: Well, I disagree with that. 06:05:18
19 You know that. I've told you that. The time has gone 06:05:21
20 with you refusing to accept his answer and asking the 06:05:24
21 same question multiple times, and the transcript will 06:05:27
22 reflect that. 06:05:30

23 MR. GREENBERG: Yes. The transcript will 06:05:33
24 show what's occurred. Let's not argue about history. 06:05:36
25 Let's move forward. 06:05:39

1 BY MR. GREENBERG:

2 Q. Mr. Nady, who was involved in communicating with
3 the Department of Labor with respect to that second
4 audit we were discussing besides yourself and your
5 counsel?

6 A. That's all.

7 Q. Did anyone else have any contact with any
8 representatives at the Department of Labor?

9 A. Kamer, Greg Kamer.

10 Q. Did the Department of Labor request any
11 information from A Cab besides the documents you already
12 testified that they reviewed them and that Excel file
13 that was produced through A Cab's audit?

14 A. They got what they asked for which was the trip
15 sheets and the pay stubs.

16 Q. Did they inquire with A Cab about the existence
17 of any electronic records?

18 A. Nope. They may have. We gave them everything we
19 had.

20 Q. Well, if you don't know, you don't know, Mr.
21 Nady. I don't want to -- I don't want to attribute
22 anything to you that's not correct to the best of your
23 memory. To the best of your knowledge, did they ask for
24 A Cab to produce any electronic records besides that
25 Excel file we discussed?

1 A. I think --

2 MS. RODRIGUEZ: Well, and I'm going to
3 object because that misstates the testimony. The DOL
4 did not ask for the Excel file that he's testified
5 about.

6 THE WITNESS: That's true.

7 MR. GREENBERG: Okay. Well, then they
8 didn't ask for that.

9 BY MR. GREENBERG:

10 Q. Did they ask for any other electronic files of
11 any sort that you're aware of?

12 A. I think that they asked for the pay stubs in
13 electronic format and we had most of them, but we had
14 all of the pay stubs in a nice orderly fashion, and they
15 were -- they were quite happy with that. I don't think
16 they ever used the electronic stuff. They may not have
17 even taken them. I don't know. I don't recall. But
18 what they did get was just the -- I know that they took
19 the truck load of trip sheets and pay stubs, pay
20 vouchers. And then after, I want to say, three years,
21 they got our documents that we had done. I assume they
22 did something with their documents because they had some
23 things to it they wanted to discuss.

24 Q. You're familiar with the earlier first audit of A
25 Cab conducted by the U.S. Department of Labor?

1 A. Yes.

2 Q. Were you personally involved in the
3 communications with the Department of Labor in
4 connection with that audit?

5 A. Yes.

6 Q. And did A Cab make any changes to its
7 recordkeeping policies as a result of that first audit?

8 A. Recordkeeping was not the issue that they were
9 going after. And so I don't remember them requesting me
10 to -- as I remember that audit, and it's, what, eight
11 years ago now? I can't remember his name. He had a
12 familiar name though. The thing that I remember the
13 most about it was that we -- through his recommendation,
14 I think he had four of them. One of them was -- it was
15 the suggestion that we moved to two-week pay periods
16 because then we could have a larger period of time to
17 approximate minimum wage. And if minimum wage was
18 not -- was not paid that we had to supplement it, which
19 we started immediately, and he was pretty happy with the
20 rest of it. I didn't see that audit as a nasty thing at
21 all. I was pretty proud of it.

22 Q. Well, my question, Mr. Nady, was whether changes
23 were made in A Cab's recordkeeping policies as a result
24 of that first DOL audit not what the DOL asked you or
25 told you, whether any changes were made in A Cab's

1 recordkeeping policies as a result of that audit? 06:10:00

2 A. I don't remember. How's that? I don't remember 06:10:01
3 really. But I know we complied. They gave us four 06:10:07
4 requests. I don't remember what they were. I don't 06:10:12
5 have a copy of the audit. But if I had a copy of their 06:10:14
6 request, I could tell you that each one of those was 06:10:18
7 complied with. I don't remember what they were though. 06:10:20

8 Q. Did A Cab make any specific promises to the 06:10:21
9 Department of Labor that it was going to do anything in 06:10:24
10 response to the audit that was -- 06:10:27

11 A. Counsel, you probably have a copy of that. And 06:10:28
12 if you gave it to me, I could answer the question 06:10:32
13 because we responded to that. 06:10:33

14 So you can refresh my memory if you'd like to, 06:10:37
15 but if you want me to continue to guess, I can do that 06:10:40
16 too. 06:10:42

17 Q. Mr. Nady, I don't want you to guess. If your 06:10:43
18 testimony is simply you have no independent memory of 06:10:48
19 anything that was promised to the Department of Labor in 06:10:48
20 respect to that first audit, then that's your answer. 06:10:52

21 A. So you don't really want me to tell you what we 06:10:53
22 did, but I could if you told me what the audit said. 06:10:54

23 Q. Mr. Nady, I'm asking you what you remember. If 06:10:55
24 you don't -- 06:10:59

25 A. I don't remember it. How's that? I don't 06:10:59

1 remember at all.

2 Q. That's a very good answer.

3 A. Thank you, Mr. Greenberg.

4 Q. It's a truthful answer.

5 A. But I could tell you what it was if you told me.

6 Q. If you could mark this, please.

7 (Exhibit 6 was marked for identification.)

8 THE WITNESS: What's the redacted stuff on
9 here, do you know?

10 MS. RODRIGUEZ: I'm sorry. What number are
11 we on on this?

12 THE WITNESS: 6.

13 BY MR. GREENBERG:

14 Q. Mr. Nady, in the course of either of the audits
15 of A Cab, did DOL personnel ever come to A Cab's office
16 and examine their computer system?

17 A. Ask that question again, please.

18 Q. Read back the question, please.

19 (The last question was read back by the
20 reporter as follows: "Mr. Nady, in the
21 course of either of the audits of A Cab, did
22 DOL personnel ever come to A Cab's office and
23 examine their computer system?")

24 THE WITNESS: I don't think so. I don't
25 know, but I don't remember them doing that.

1 BY MR. GREENBERG:

2 Q. If you turn to page 3 of the document you're
3 looking at, the last sentence states -- the last part of
4 that sentence states: "This investigation is being
5 concluded with the firm's assurance of future
6 compliance."

7 A. You're looking at what page?

8 Q. Third page.

9 A. This firm was also advised the state minimum wage
10 is 6.85 an hour. Is that where you're looking at?

11 Q. That is what I'm looking at. I'm asking you just
12 about the last part of that sentence. It says with the
13 firm's assurance of future compliance.

14 Do you have any idea what assurance's A Cab made
15 at the time and this is recorded of future compliance to
16 the Department of Labor?

17 A. Well, no.

18 Q. Now, if you look at page 2, the last full
19 sentence on page 2 of that document, it says, "The firm
20 was advised they must keep a record of actual hours
21 worked."

22 Do you see that?

23 A. Right.

24 Q. Okay. Do you know if A Cab instituted any
25 different policies after this document which refers to a

1 meeting on April 30, 2009, in respect to keeping a
2 record of actual hours worked by drivers?

3 A. I think we did.

4 Q. And what were those different policies?

5 A. We paid them for their hours of work if they
6 didn't work minimum wage. We started right after that.

7 Q. And you gave testimony about that, Mr. Nady, but
8 my question--is it says keep a record of actual hours
9 worked.

10 Did A Cab institute any policy of maintaining or
11 keeping records, not about paying drivers; I'm just
12 saying maintaining for historical purposes records of
13 actual hours worked in a different fashion than existed
14 on April 30, 2009, when this conference took place
15 that's referred to here?

16 A. Well, I'm looking up a little bit here. I'm
17 going to get to your question, and I'll answer it if
18 you'll allow me to -- there was no record kept of actual
19 hours worked. The drivers have scheduled hours and
20 complete trip sheet. The trip sheets have gaps in hours
21 worked. Using the schedules worked from the start shift
22 time to the full shift end and less than estimated
23 period of time for a meal, it was determined that in
24 most workweeks, the driver's received minimum wage based
25 on gross wages paid. Any short base in the schedule

1 were to be offset, blah, blah, blah. 06:16:14

2 But with that statement in addition to what 06:16:15
3 you're asking, it -- I think it made me a little bit 06:16:21
4 more relaxed that by keeping -- making sure that the 06:16:24
5 drivers were paid minimum wage, that that's what they 06:16:30
6 were after was making sure they were paid minimum wage. 06:16:37

7 Now did we keep track of all of those hours? We 06:16:40
8 did by using the trip sheets. So that was adequate 06:16:44
9 because that's what they audited the first time. 06:16:48

10 So, yes, we did because when they didn't have 06:16:51
11 enough hours, we raised it. 06:16:54

12 Q. Right. And you did explain that a review was 06:16:58
13 being conducted to make sure that those payments were 06:16:59
14 made; correct? 06:17:03

15 A. That's true. And the record was on the trip 06:17:07
16 sheets. 06:17:09

17 Q. Okay. So -- and that record of work time existed 06:17:09
18 on the trip sheets before April 30, 2009; correct? 06:17:16

19 A. Huh? No. 06:17:16

20 Q. On the trip sheets? Haven't the trip sheets 06:17:19
21 always indicated driver's start time, stop time, break 06:17:22
22 times? 06:17:26

23 A. Yeah, it did, but I don't know what you're 06:17:28
24 reaching for here. But after this audit, if they 06:17:28
25 were -- we made sure they were making minimum wage. And 06:17:33

1 if they didn't, we simply raised the pay.

2 Q. Right. But you didn't keep for the future a
3 record of the hours they worked --

4 A. Sure, we did. You're not listening.

5 Q. -- outside of the trip sheets?

6 A. So we didn't need to keep one outside of the trip
7 sheets. They said keep a record, and we kept a record.

8 Q. In the trip sheets?

9 A. In trip sheets. And that's exactly what we told
10 them when they showed up.

11 Q. Right. And that was what was going on before
12 this meeting on April 30, 2009, and that's what happened
13 after the meeting on April 30, 2009; correct?

14 A. Yes, sir.

15 Q. My question was just if anything different was
16 done in terms of recording --

17 A. Now you change your question. Different is a new
18 word, but we did keep track of their time.

19 Q. Okay. And you kept track of their time, but my
20 question was not whether you kept track of it and then
21 used it for payroll purposes. My question was: Did you
22 keep a record that would be there a year later or two
23 years later --

24 A. Sure.

25 Q. -- from April -- not in the trip sheets, a

1 different record -- that would be there a year later or
2 two years later after April 30, 2009?

3 A. Let's read this again, Mr. Greenberg. We
4 discussed the findings of the investigation. The firm
5 was advised that they must keep a record of actual hours
6 worked, and the drivers, while exempt from overtime,
7 must be paid at least the applicable minimum wage. And
8 we did that. And they were okay with that when they
9 wrote this letter. They knew exactly. Because they
10 didn't notice anything worse than that. They didn't say
11 that our -- is there anywhere in here, Mr. Greenberg,
12 where it says we didn't keep adequate records? No. It
13 says we will, and we have been. And they didn't say we
14 weren't. Nothing in this report says we did not keep
15 adequate records, Mr. Greenberg. It says --

16 Q. Mr. Nady --

17 A. -- they lack.

18 Q. You're going on about a lot of things that are
19 not responsive to the question that's being asked of
20 you. And this is why it's taking so long, Mr. Nady.

21 A. Mr. Greenberg, your question -- you don't like
22 the answer. So now you're blabbing about something
23 else.

24 Q. Okay. Mr. Nady --

25 A. 15 minutes, Mr. Greenberg.

1 Q. Again, I understand that a change was made to A
2 Cab's policies as you've described about paying the
3 drivers a minimum --

4 A. Wait, wait, wait, wait, Mr. Greenberg, you're
5 making a mistake. There was no change made.

6 Q. Okay.

7 A. So why would you -- I just told you there wasn't
8 a change made. They didn't ask us to change it. It
9 says specifically that we did that.

10 Q. Okay. So there was no change made to the
11 recordkeeping policies of A Cab; correct?

12 A. Nope. Not to the recordkeeping policies.

13 Q. Okay. Thank you.

14 A. We already had good ones on board. That's why
15 they didn't assign us anything like that. That's why it
16 was a good audit.

17 Q. Mr. Nady, during the course of this lawsuit, have
18 you provided information to your attorney about A Cab's
19 ability to produce computer data files?

20 MS. RODRIGUEZ: Hold on for a second. I
21 need to hear that question again to see if you're asking
22 for attorney-client information.

23 BY MR. GREENBERG:

24 Q. During the course of this litigation, has A Cab
25 provided information to its attorney about A Cab's

1 ability to produce computer data files? 06:21:19

2 MS. RODRIGUEZ: I don't think you're 06:21:20
3 entitled to ask him that question, Mr. Greenberg, as to 06:21:20
4 the communications between my client and myself. 06:21:20

5 MR. GREENBERG: To the extent that it is 06:21:34
6 responsive to discovery requests, I don't think it's 06:21:37
7 privileged, and that is the extent to which I'm 06:21:39
8 inquiring. If you're going to direct him not to answer 06:21:42
9 to that extent, then just make it clear on the record 06:21:43
10 and we can move on. 06:21:47

11 MS. RODRIGUEZ: I think you can rephrase the 06:21:48
12 question, and I wouldn't object to a rephrasing of the 06:21:50
13 question. But the way it's posed, you're asking for the 06:21:51
14 communications. So I would instruct him not to answer 06:21:54
15 that question. 06:21:57

16 BY MR. GREENBERG: 06:21:59

17 Q. Mr. Nady, are you aware that requests were made 06:22:00
18 in this case for A Cab to produce computer data 06:22:11
19 information, computer data files? 06:22:14

20 A. Yes. 06:22:18

21 Q. Did you communicate with your attorney about A 06:22:17
22 Cab's ability to produce those files? 06:22:20

23 MS. RODRIGUEZ: That's the same objection. 06:22:23
24 He's not answering that question, Mr. Greenberg. 06:22:23

25 MR. GREENBERG: Okay. That's fine. In 06:22:25

1 response to those requests, Counsel -- I just want the
2 question to be clear -- I take it you're maintaining the
3 same privileged-based objection?

4 MS. RODRIGUEZ: Yes, I am.

5 MR. GREENBERG: Okay. That's fine. We will
6 move on.

7 (Exhibit 7 was marked for identification.)

8 BY MR. GREENBERG:

9 Q. Now, Mr. Nady, what I'm showing you is a copy of
10 a transcript of a hearing that took place in the court
11 where you were present and offered some testimony. I
12 want you to look at page 5 of that. It is printed on
13 two sides.

14 Now Mr. Nady, on line 16 on page 5, you are
15 addressing the discovery commissioner. The beginning of
16 the third sentence you say, "The scans, the time on the
17 scans if you look at their own evidence, the time of the
18 scan is three or four hours apart from the two separate
19 ways that they're suggesting that we use and every -- the
20 -- when they -- the place where they put their money,
21 that machine never had an accurate time ever."

22 Do you see that sentence.

23 A. I see that sentence.

24 Q. Could you explain to me what you were trying to
25 communicate in that sentence to the discovery

1 commissioner?

2 A. Well, if you had the entire document, you will
3 remember that -- I won't even try your name; I'm sorry.
4 But they were referring to the place where the money is
5 put in, and sometime -- that has a clock, but it's -- it
6 doesn't -- hasn't worked. That's what I was referring
7 to, and you are using that for some other document, but
8 the clock on that time scan was intermittent at best.
9 You may find it on some days being perfectly accurate,
10 but the next day it might even have the next day. That
11 thing was down as often as it was up.

12 Q. So in the sentence where you're using the term
13 scan there, are you referring to a bar code scan?

14 A. No. I'm talking about -- here I'm talking about
15 the -- the machine where they put the money in.

16 Q. And you're saying -- correct me if I'm wrong --
17 that the time -- you say the time of the scans. Do you
18 mean the time that something is printed on a receipt
19 from those machines?

20 A. Well, at the time I thought that counsel was
21 referring to the scan times or the -- but there are no
22 such thing that we had, but we did have them on the
23 other things versus the time from the money machine,
24 yeah, the validated cash drops.

25 Q. Well, I understand, Mr. Nady. I just want your

1 testimony to be clear because in this sentence you're 06:26:00
2 referring to scans, time on scans. And if you mean the 06:26:02
3 time of a bar code scan, then that's what you mean. If 06:26:05
4 that was not what you meant, then you meant something 06:26:08
5 different. I just want you to tell us as best as you 06:26:11
6 can today what was meant by that statement? 06:26:12

7 A. I don't remember what -- 06:26:14

8 MS. RODRIGUEZ: Well, I'm going to object. 06:26:14
9 I think then if you're going to ask him what he's 06:26:15
10 meaning in this particular paragraph, you're going to 06:26:18
11 have to give him an opportunity to put it in context 06:26:20
12 because it's clearly in response to Ms. Sniegocki's 06:26:24
13 argument. That's what I was just pointing out to him. 06:26:28
14 It's, like, three pages of argument that he's responding 06:26:32
15 to go. 06:26:36

16 MR. GREENBERG: Well, it's in response to 06:26:36
17 actually your invitation for him to speak on the subject 06:26:39
18 in the prior paragraph which you address as counsel he 06:26:42
19 can take time to read it. It's fine. 06:26:42

20 MS. RODRIGUEZ: All right. 06:26:46

21 THE WITNESS: I'm still going to be gone 06:26:48
22 here in ten minutes. And I'm a slow reader, but I'll 06:26:48
23 read it if you like, but I'm leaving at 35 after the 06:26:52
24 hour. 06:26:54

25 MR. GREENBERG: Mr. Nady -- 06:26:55

1 THE WITNESS: Mr. Greenberg.

2 MR. GREENBERG: -- the appropriate section
3 here is line eight of that page onward where Mr. --

4 THE WITNESS: I don't think it's fair to let
5 me just start off in the middle of a conversation. Do
6 you? No, you don't really. I know you don't.

7 MS. RODRIGUEZ: Mr. Greenberg, I mean, it is
8 -- it says I stated. It's in response to Ms.
9 Sniegocki's argument, and I defer to Mr. Nady so he's
10 answering Ms. Sniegocki's allegations.

11 MR. GREENBERG: Let him read it. Let him
12 read as much as he wants.

13 THE WITNESS: Thanks.

14 MS. RODRIGUEZ: Off the record.

15 (A break was taken from 6:27 p.m. to 6:32
16 p.m.)

17 THE WITNESS: Okay. What's your question?

18 BY MR. GREENBERG:

19 Q. On page 5, line 16 through 18, you mention the
20 word scan three times or scans three times in that
21 sentence.

22 Were you referring to bar code scans when you
23 used that word?

24 A. Yes.

25 Q. What bar code scans were you referring to?

1 A. The ones when they check in. The one where they
2 check in.

3 Q. And part of that statement is "the time of the
4 scans is three or four hours apart from the two separate
5 ways that they're suggesting that we use."

6 Do you see that in that sentence?

7 A. I see that.

8 Q. What were you trying to explain by saying that?

9 A. Counsel mentioned earlier they also she said --
10 they have a sophisticated computer system she said.
11 They operate this system used by a lot of cab companies.
12 It's called Cab Manager. We've researched this. They
13 also utilize time meters in the cabs. If you look at
14 their employee handbook, which is I believe Exhibit B,
15 blah, blah, blah, a lengthy detailed check-out process.
16 It says they have -- they show both our computerized
17 record as to payroll and time. They have handwritten
18 trip sheets. However, the top of the handwritten trip
19 sheets which is discussed in the motion to reply as well
20 as the plaintiff's declaration this is clearly the time
21 the employees start work, clearly something kept in the
22 defendant's computer system. They have a -- she thinks
23 that that's in the computer system because they checked
24 in. And then she goes on to say that not only that but
25 we have another way of doing it which is when they check

1 in when they're done, and then they have the last one
2 which is from the -- another one from the time stamp,
3 and then they have another one from the place where they
4 put their money.

5 So I guess I was starting to address all of them
6 at the same time. The scans are obviously -- there's no
7 other scan besides when we get their downloads. So from
8 the -- from the download -- anyway.

9 And then when they -- what I was saying there is
10 that the money machine always had a lousy time. And
11 what I was trying to say there was that the machine
12 where they take some money which puts a -- prints a time
13 on the back, which they take, never or rarely correlates
14 with any of the other times. So -- I shouldn't say
15 rarely. It wasn't rare, but it was -- we were never
16 surprised when it showed the accurate time, and that's
17 what I was referring to.

18 Q. So the three or four hours apart is referring to
19 a difference between the --

20 A. The bar code scan and the time when they put in
21 their driver number.

22 Q. Okay. And which -- driver number on what? On
23 the drop safe?

24 A. Uh-huh.

25 Q. Okay. And the drop safe prints a receipt?

1 A. Prints a receipt with a time on it.

2 Q. Right. Okay.

3 So you're saying that time printed on that
4 receipt is three or four hours apart from what?

5 A. From what she was referring to as the bar code.

6 Q. Which bar code?

7 A. The only bar code, Counselor. There's only one.
8 There's only one.

9 Q. You mean the bar code that's --

10 A. On the trip sheet.

11 Q. That's printed as the start time on the trip
12 sheet?

13 A. On the trip sheet. There's only one bar code.
14 There's only one bar code, Counselor.

15 Q. And in making that statement at the time you did
16 so in court, what was the basis for you understanding
17 that three or four hours apart exists?

18 A. Experience.

19 Q. So you had actually gone and compared the times
20 on those drop safe receipts with the times on those bar
21 codes?

22 A. When we were doing our audit from the DOL, we
23 noticed a difference because we had -- when it was bad,
24 we had to look three or four different places for it.
25 That's why I noticed it.

1 Q. Three or four different places for what? 06:36:52

2 A. Never mind. When you're looking for a beginning 06:36:55
3 or ending time, and they didn't stamp it, and the bar 06:37:01
4 code -- we know that when they did the bar code, that 06:37:05
5 doesn't necessarily mean when they got there because we 06:37:08
6 may have printed those two or three hours before they 06:37:12
7 got there. That's a regular basis. It still happens 06:37:15
8 today. 06:37:18

9 So when they get there -- when they stamp the 06:37:19
10 time sheet, we had to put that in, but we are normally 06:37:23
11 pretty good at getting the get out time. When they come 06:37:25
12 back in, it was your contention that we could use the 06:37:32
13 check-in time off of that. Well, we can't because we 06:37:36
14 don't have that information. And then it was, well, 06:37:41
15 they also have it from the trip sheet. And then she 06:37:42
16 also said that we had it from the place where they put 06:37:46
17 the time on that. And I was referring to that from the 06:37:49
18 money deposit area that the time on that was just as 06:37:52
19 often wrong as it was right. It was never right, but it 06:37:57
20 was sometimes close. And other times it didn't even 06:38:01
21 show up. 06:38:03

22 Q. Your statement, Mr. Nady, was that -- 06:38:04

23 A. Jesus. 06:38:08

24 Q. -- that three or four hours apart was from the 06:38:08
25 time on that printed receipt from the drop safe from 06:38:11

1 what other time? That's what I'm just trying to
2 understand. That's all.

3 A. What other time is there. Counselor, there's
4 only one other time.

5 Q. Well, if we look at Exhibit 5, Mr. Nady --
6 Exhibit 5, please -- there is a time on the first page
7 there where it says time start.

8 Is that the time you were referring to in your
9 testimony right now?

10 A. No.

11 Q. No, okay. What time are you referring to?

12 A. I'm talking to the ending time. March 6, 2007
13 was the end time, and the drop safe showed it was 3:38
14 p.m. Do you see it?

15 Q. Yes, sir.

16 A. Thank you. I'm saying that the time on the money
17 drop safe was not reliable.

18 Q. Okay.

19 A. And we noticed that when we were doing the audit
20 for the DOL that was not a good source.

21 Q. Did A Cab ever do a systemic study to determine
22 that the time difference was typically three to four
23 hours between those two times?

24 A. It was never systemically anything. It was
25 whatever it wanted to print. It was -- we had to

1 replace them, and we just -- we replaced them about a 06:39:37
2 year ago because they just didn't -- they went down a 06:39:41
3 lot. And when they would put them back up, they never 06:39:44
4 picked up the time. So when it went down for 20 06:39:47
5 minutes, it would just change the time. It was going in 06:39:51
6 and out regularly. And we had people over there trying 06:39:55
7 to repair it many times. 06:39:57

8 Q. I understand. 06:39:59

9 A. And they never repaired the clock. We were just 06:40:00
10 happy to get the money receipted. 06:40:04

11 Q. Did A Cab actually conduct a comparison of any 06:40:06
12 set number of times that those drop safes printed 06:40:09
13 receipts -- 06:40:14

14 A. No. 06:40:18

15 Q. -- versus -- 06:40:19

16 A. No. 06:40:16

17 Q. -- the times that drivers were clocked out on 06:40:16
18 what we just discussed on Exhibit 5? 06:40:20

19 A. After months of trying to recreate these -- the 06:40:24
20 times, we realized they were not a good source, and that 06:40:27
21 just took experience. 06:40:31

22 Q. So there is no actual study of 50 comparisons or 06:40:32
23 100 comparisons or any other set of comparisons that you 06:40:37
24 are aware of that A Cab conducted of those two times? 06:40:41

25 A. No. It was just experience, Counselor. It was 06:40:43

1 not something we wanted to present to the DOL because we
2 couldn't do it with any regularity. It was just as
3 often bad as it wasn't.

4 Q. Now, you referred a little while ago to the fact
5 that the trip sheets would sometimes be printed before
6 the driver came to work; is that correct?

7 A. That's correct. I did.

8 Q. Now, could those trip sheets be printed before
9 the cab that was being assigned had come in and uploaded
10 its meter?

11 A. Well, not before the cab came in, no.

12 Q. Now, if you turn to page 6 of --

13 A. This document?

14 Q. Yes. Exhibit 7.

15 A. Page 6?

16 Q. Yes.

17 The first three sentences there it says, "The
18 times when they picked up their trip sheets, yes, we put
19 it on there."

20 On what did you mean by that?

21 A. Well, Counselor, I think that says when they
22 picked up the trip sheets, we put the time on there.

23 Q. On the trip sheet?

24 A. With the time clock.

25 Q. Thank you.

1 "It says we didn't save it. Doesn't mean we
2 can't retrieve it. We weren't asked to retrieve it, but
3 we'd have to get the same people that you think has
4 everything. We haven't asked them to because it's
5 expensive."

6 Who are the same people that you think has
7 everything that you're referring to there?

8 A. Well, I was referring to having just -- having
9 this audit with these people that did this audit for me,
10 and we retrieved this information. It just took us
11 forever. I'm not going to --

12 Q. You're referring to back to the DOL audit we
13 discussed?

14 A. Yeah. That's where we got this information, and
15 that's how we know what's available and what's not.
16 We...

17 Q. Now in the next paragraph, the first sentence
18 says, "In order for them to rewrite that code to get
19 those things to put on our computer, we'd have to go to
20 them and ask them to give it to us."

21 What do you mean by the use of the word code in
22 that sentence?

23 A. I'm not sure. And, Counselor, this will be my
24 last question because it's a quarter till.

25 Q. We're not finished, Mr. Nady.

1 A. We'll be finished after this question, Counselor
2 because I'm leaving. And you can stick around and ask
3 the wall if you'd like. But we've been here for more
4 than seven hours, and I don't like it any more than you
5 do. So this will be your last question.

6 So, again, you can ask your last question.

7 MS. RODRIGUEZ: You haven't given me an
8 opportunity to do any cross, Mr. Greenberg.

9 MR. GREENBERG: You can have an opportunity.

10 MS. RODRIGUEZ: So I asked you before on any
11 kind of estimate. You still don't have an estimate?

12 MR. GREENBERG: Oh, I certainly do. We are
13 very close to concluding.

14 MS. RODRIGUEZ: It's 6:45 p.m., Counselor.

15 MR. GREENBERG: If I can get cooperation
16 from this witness, we would have been done a long time
17 ago.

18 THE WITNESS: It's 6:45. It's over.

19 MR. GREENBERG: I will state for the record,
20 Counselor, that my notes and preparation for this
21 deposition, much of those notes being material that was
22 not asked and will not be asked have gone -- been gone
23 through about 93 percent at this point.

24 THE WITNESS: I'll meet you downstairs.
25 Would you like to? Otherwise I'll call you.

1 MR. GREENBERG: So if you -- the witness is 06:44:22
2 leaving. Let the record reflect the witness is refusing 06:44:22
3 to continue -- 06:44:23

4 THE WITNESS: At 6:45 exactly. 06:44:24

5 MR. GREENBERG: Is refusing to continue the 06:44:30
6 deposition. 06:44:30

7 MS. RODRIGUEZ: You can't take the exhibits. 06:44:30

8 THE WITNESS: Oh, I can't? 06:44:30

9 MR. GREENBERG: The exhibits need to remain 06:44:31
10 with the court reporter. 06:44:33

11 THE WITNESS: Oh. It's all yours. 06:44:34

12 MR. GREENBERG: Note my objection, Counsel. 06:44:35
13 Goodbye, Mr. Nady. 06:44:37

14 THE WITNESS: Goodbye, Counselor. 06:44:38

15 MR. GREENBERG: His termination of the 06:44:41
16 deposition was not appropriate, Counsel, and as I've 06:44:42
17 stated before, much of the testimony today was his 06:44:43
18 testimony that was not responsive to the question which 06:44:51
19 is why time was consumed on it. If he had not done so, 06:44:54
20 we would have concluded this deposition quite some time 06:44:58
21 ago. You understand we have our remedies so to speak by 06:45:00
22 bringing these issues to the court. 06:45:05

23 MS. RODRIGUEZ: I disagree. I told you that 06:45:08
24 I disagree with that. I mean, you spent a lot of time 06:45:08
25 asking questions that were totally outside the scope of 06:45:11

1 your notice. So I think that's where the waste of time
2 was as well as you continuing to ask the same questions
3 over and over. And, you know, I've asked you for an
4 estimate so that we can conclude this, and so I'll have
5 a chance to at least cross-examine and straighten out a
6 lot of things that were misrepresented. But we've gone
7 way past the seven hours. So I think you need to move
8 the court then for whatever estimate you're refusing to
9 give me.

10 MR. GREENBERG: Counselor, I just want the
11 record to reflect that when your client left, you made
12 no attempt to speak with him or to get him to continue.
13 And that's fine. That was your decision. That was his
14 decision. We're concluded.

15 MS. RODRIGUEZ: He's still in the building.
16 I mean, you're still not telling me how much longer
17 we're going to take. I mean, if we're going to be here
18 another two hours or something, I mean, we're already
19 past the seven hours. I'm trying to be workable with
20 you, Mr. Greenberg, but he hasn't left the building.

21 MR. GREENBERG: Counsel, I gave you a
22 statement on the record as to what portion of my subject
23 matter that I've prepared; I've gone through. I have no
24 subject matter I'm getting into that I haven't prepared.
25 I've told you on the record that I have gone over

1 approximately 93 percent, probably more than that of the
2 subject matter I've prepared for questioning. So
3 there's no very much left. I mean, if it's 7 percent
4 left, you know, that's, what, 10 minutes, 15 minutes?
5 You want to get your client, get him. We'll get this
6 done. I don't want to go to a motion of court on this.
7 It shouldn't be necessary.

8 MS. RODRIGUEZ: Let's go off the record for
9 now, please.

10 (A break was taken from 6:46 p.m. through
11 6:54 p.m.)

12 MS. RODRIGUEZ: So we're back on the record,
13 and we're going to go ahead and conclude the deposition
14 for this evening. My witness is very tired. We took a
15 very short lunch break and have tried to keep the breaks
16 down, but at this point he's afraid that fatigue is
17 not -- it's going to impair his additional testimony,
18 and I think it's our position to conclude at this point.

19 MR. GREENBERG: The conclusion of the
20 deposition is not with consent of plaintiff's counsel.
21 However, we did have a discussion off the record and
22 counsel have agreed to try to explore cooperatively
23 resolving our disagreement regarding the conclusion of
24 this deposition.

25 Is that accurate, counsel? We will make an

1 effort to do that, yes?

2 MS. RODRIGUEZ: I will check with my
3 witness, but I think we're not under an obligation to
4 continue this deposition. I do want a chance to
5 cross-examine my witness, which I did not have a chance
6 at, but I mean, seven o'clock at night. I don't know if
7 the transcript reflects that or not, but at this point
8 as pertains to the defendant, we are tired.

9 MR. GREENBERG: I understand. I just want
10 to be clear on the record that we're not at an impasse
11 in terms of our effort to resolve our difference
12 regarding the conclusion of this deposition; is that
13 correct?

14 MS. RODRIGUEZ: I'm always willing to speak
15 with you on these issues, Mr. Greenberg.

16 MR. GREENBERG: We will speak further. And,
17 again, our positions are noted. We're not adding
18 anything to the record tonight.

19 MS. RODRIGUEZ: Can I have an etran, please?

20 (The proceedings concluded at 6:55 p.m.)

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CERTIFICATE OF DEPONENT

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PAGE	LINE	CHANGE	REASON

I, CREIGHTON NADY, Deponent herein, do hereby certify and declare under penalty of perjury the within and foregoing transcription to be my deposition in said action; that I have read, corrected, and do hereby affix my signature to said deposition, under penalty of perjury.

CREIGHTON NADY, Deponent

1 STATE OF NEVADA)
2) SS:
3 COUNTY OF CLARK)

4 CERTIFICATE OF REPORTER

5 I, Brittany J. Castrejon, a Certified Court
6 Reporter licensed by the State of Nevada, do hereby
7 certify: That I reported the DEPOSITION OF CREIGHTON
8 NADY, on Tuesday, August 18, 2015, at 11:13 a.m.;

9 That prior to being deposed, the witness was duly
10 sworn by me to testify to the truth. That I thereafter
11 transcribed my said stenographic notes into written
12 form, and that the typewritten transcript is a complete,
13 true and accurate transcription of my said stenographic
14 notes. That the reading and signing of the transcript
15 was requested.

16 I further certify that I am not a relative,
17 employee or independent contractor of counsel or of any
18 of the parties involved in the proceeding; nor a person
19 financially interested in the proceeding; nor do I have
20 any other relationship that may reasonably cause my
21 impartiality to be question.

22 IN WITNESS WHEREOF, I have set my hand in my
23 office in the County of Clark, State of Nevada, this
24 31st day of August, 2015.

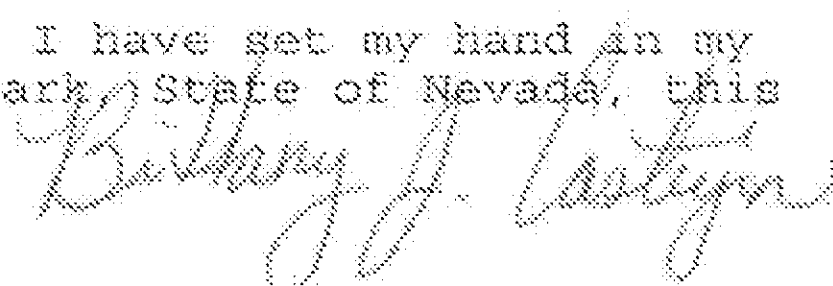
25 
Brittany J. Castrejon, CCR NO. 926

EXHIBIT "C"

1 **DECL**
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3 DANA SNEGOCKI, ESQ., SBN 11715
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Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

8 MICHAEL MURRAY, and MICHAEL)
9 RENO, Individually and on behalf of)
others similarly situated,)

10 Plaintiffs,)

11 vs.)

12 A CAB TAXI SERVICE LLC, A CAB,)
13 LLC and CREIGHTON J. NADY,)

14 Defendants.)
15)

Case No.: A-12-669926-C

Dept.: I

**DECLARATION OF CLASS
COUNSEL, LEON
GREENBERG, ESQ.**

16 Leon Greenberg, an attorney duly licensed to practice law in the State of
17 Nevada, hereby affirms, under the penalty of perjury, that:

18 1. I have been appointed by the Court as class counsel in this matter. I am
19 offering this declaration to explain to the Court the amount of time my firm has
20 expended in connection with preparing a Motion for Sanctions under Nev. R. Civ. P.
21 11 and opposing defendants' Motion for Leave to Amend Answer to File Third-Party
22 Complaint. All of the time expended in connection with that drafted, but not yet filed,
23 Rule 11 motion was necessary to, and such work product was incorporated in, the
24 opposition of class counsel to defendants' motion to bring a third party claim against
25 class counsel and class counsel's counter-motion for sanctions, submitted herewith.
26

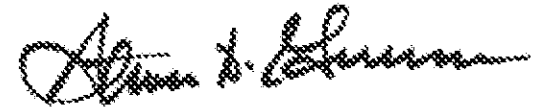
27 2. A review of the contemporaneous time records that I have personally
28 maintained, and those of my associate, Dana Sniegocki, indicates that I have spent no
fewer than 7.3 hours of time in connection with both motions. Dana Sniegocki has

1 spent no fewer than 3.6 hours in connection with both motions. Those time
2 expenditures include reviewing defendants' Motion for Leave to Amend Answer to
3 File Third-Party Complaint, legal research, drafting a proposed Rule 11 motion,
4 drafting correspondence to defendants' counsel in connection with the same, and
5 drafting the annexed Opposition.

6 Affirmed this 16th day of December, 2016

7 /s/ Leon Greenberg
8 Leon Greenberg, Esq.

EXHIBIT "D"



CLERK OF THE COURT

DCRR

LEON GREENBERG, ESQ.

Nevada Bar No.: 8094

DANA SNIEGOCKI, ESQ.

Nevada Bar No.: 11715

Leon Greenberg Professional Corporation

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Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY and
MICHAEL RENO, individually and
on behalf of all others similarly
situated,

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C

DEPT.: I

**DISCOVERY COMMISSIONER'S
REPORT AND RECOMMENDATION**

Hearing Date: November 18, 2015

Hearing Time: 9:00 a.m.

Attorney for Plaintiff Dana Sniegocki, Esq. and Leon Greenberg, Esq. of

Leon Greenberg Professional Corporation

Attorney for Defendant: Esther Rodriguez, Esq. of Rodriguez Law Offices, P.C

I.
FINDINGS

1. This matter was heard before the Discovery Commissioner on Plaintiffs' Motion to Compel the Production of Documents, which was originally heard by the Court on March 18, 2015 and continued for a further hearing on November 18, 2015 and was heard on that date along with Plaintiffs' Motion to Extend the Discovery Schedule. This matter was also heard on a status check to advise the Court of the parties' progress on conducting Rule 30(b)(6) depositions, first recommended by the Discovery Commissioner at the May 20, 2015 status check, on information relevant to the plaintiffs' Motion to Compel Production of Documents.

2. Plaintiffs' motion to compel seeks the production of those portions of the electronic computer data records from defendants' Cab Manager software system which would assist at trial in determining the times that defendants' taxi drivers start and end their shifts, *as well as the location and activity of any given* ~~the defendants not otherwise maintaining any computerized time~~ *Cab. M.* ~~records on their taxi drivers' hours of work.~~ *Plaintiffs position is as follows:* Taxi drivers conduct certain activities at the start and end of their shifts which activities communicate information into the Cab Manager software. Those activities involve having the bar codes on their Taxicab Authority identification cards and trip sheets scanned and uploading their taxi meter totals into the Cab Manager software system. The taxi drivers also deposit money into electronic drop safes at the end of their shifts and information about that activity

1 may also be communicated to the Cab Manager software. The trip sheets the taxi
2 drivers use also come with "start times" printed on them and those "start times" are
3 printed by the Cab Manager software. The times the defendants' taxi drivers
4 conducted the foregoing activities, and the printed "start times" on their trip sheets, if
5 preserved in the Cab Manager computer data records, are relevant and discoverable
6 information that should be produced. In addition, records showing that a particular
7 taxi cab was operated by a particular taxi driver on a particular day, along with the
8 attendant records, if any, of the times during such day such taxi cab was operated, and
9 placed into service and taken out of service, is relevant and discoverable information
10 that should be produced. *Based on the foregoing, &* Defendants are to produce the portion of the Cab Manager
11 computer data records containing the foregoing information for all of defendants'
12 taxicab drivers *and/or cabs &* from October 8, 2008 through the present. Additionally, plaintiffs'
13 request for electronic computer data records from defendants' Quickbooks software
14 system showing the wages paid (excluding tips actually received or credited as gross
15 income), shifts worked, and hours worked (or hours recorded for payroll purposes or
16 minimum wage compliance purposes as having been worked), of defendants' taxicab
17 drivers also seeks relevant information that can be produced and must be produced for
18 the time period of October 8, 2008 through the present.
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27 3. Defendants have not complied with their obligation to respond to
28 *discovery requests timely and in accordance with NAC 161.10*
~~plaintiffs' discovery requests in an informed, good faith, and appropriate manner. The~~

defendants' principal, Creighton J. Nady, ^{told} misrepresented to the Court at the March 18, 2015 hearing the difficulties defendants' faced in producing the information originally sought by plaintiffs in February 2015 and specifically that burdensome computer "code" would have to be written to produce such information. ^{This representation} ~~A conclusion that such~~ ^{was incorrect.} ~~misrepresentation was intentional is supported by the course of events in this case.~~ ~~Even if that misrepresentation was not intentional it was, by defendants' own admission, uninformed, not the product of appropriate due diligence, and without any actual basis in fact.~~ Despite having a duty to do so, defendants never inquired with any knowledgeable person, which clearly should have been their computer consultant James Morgan, about what would be necessary to produce such information. ~~Such dereliction of their responsibility to cooperate with the discovery process, or their affirmative misrepresentation, resulted in the need for plaintiffs' counsel to conduct a Rule 34 inspection that was terminated early by defendants, and ultimately resulted in the unnecessary deposition of non-party James Morgan. The foundational information secured from James Morgan on the Cab Manager system during that deposition was always available to defendants. Defendants should have complied with their duty to inquire with James Morgan about producing the information sought by plaintiffs and taken appropriate action to produce such information. There was no need for the deposition of James Morgan.~~

1 4. Defendants' non-compliance with their obligation to respond to
2 plaintiffs' discovery request in an informed, ~~good faith~~ ^W and appropriate manner, was
3 also manifested in the deposition held of defendants' principal, Creighton J. Nady as
4 an NRCP Rule 30(b)(6) witness. ~~That deposition was required for the same reason,~~
5 ~~defendants' failure to comply with their discovery obligations as specified in~~
6 ~~paragraph 3, supra, as the unnecessary deposition of James Morgan. Many or most of~~
7 ~~the NRCP Rule 30(b)(6) subjects inquired about at that deposition were unnecessary~~
8 ~~for the same reasons the James Morgan deposition was unnecessary.~~ In addition the
9 conduct of Mr. Nady at the deposition was highly inappropriate and inexcusable. He
10 was not a proper NRCP Rule 30(b)(6) deposition witness as he conceded he made no
11 attempt to inform himself as to certain noticed deposition topics, that he was not
12 informed about those topics, and indicated other personnel of the defendants, known
13 to him, had knowledge about those topics. He was abusive to examining counsel,
14 and *Plaintiffs' position is that he was also* evasive and confrontational beyond any appropriate or allowable boundaries, and was
15 *uninformed as to several & PR areas, which has not* ^{conduct} ~~not~~ cautioned or counseled to curb his behavior by defendants' counsel. *yet been*
16 *Unfortunately, it does not appear* *specifically*
17 *based on a review of the record Mr. Nady was* *addressed to*
18 *efficiency*

19 5. An extension of the discovery schedule, as requested by the plaintiffs, is
20 also warranted in light of the plaintiffs' motion to compel the production of
21 documents which has been pending for eight months and the resolution of which was
22 delayed by defendants. Accordingly, the discovery deadlines in this matter will be
23 extended as specified below.

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II.

RECOMMENDATIONS

IT IS THEREFORE RECOMMENDED that Plaintiffs' Motion to Compel the Production of Documents is GRANTED. The electronic computer data records from the Cab Manager software system recording the dates, times, and activities specified in paragraph 2 of the Findings shall be produced by defendants for each of their taxicab drivers, and taxi cabs, from October 8, 2008 through the present must be produced. Such information is to be produced in an Excel spreadsheet format or in an otherwise searchable electronic format and be produced to plaintiffs on or before December 31, 2015.

Defendants' counsel is instructed to work with Cab Manager personnel, including Jim Morgan who provided testimony in this matter regarding the Cab Manager software system and stated he had the ability to review the Cab Manager computer data records and segregate and produce the information, if it existed, specified in paragraph 2 of the Findings.

Difficulties in producing the Cab Manager information
~~Defendants' counsel should also communicate with plaintiffs' counsel should~~
as recommended may result in the Commissioner
~~any issues arise with the production of the records being compelled. As the testimony~~
of Morgan indicates that the entire Cab Manager database can be copied and produced.
The specifics of such production will be
~~in bulk without difficulty, should the portion of the data being compelled by this~~
deferred until such time it becomes necessary in
~~Report and Recommendation be unable to be extracted and provided to the plaintiffs~~
~~counsel, the Court will require the entire contents of the Cab Manager database to be~~

1 ~~turned over to plaintiffs' counsel who must then sort and extract the relevant~~
2 ~~information plaintiffs sought in their motion to compel.~~ *ON* Additionally, defendants
3
4 must also provide to plaintiffs' counsel, no later than December 31, 2015, electronic
5
6 computer data records in Excel spreadsheet or an otherwise searchable electronic
7
8 format from defendants' Quickbooks system as specified in paragraph 2 of the
Findings for the time period of October 8, 2008 through the present.

9
10 No other information contained within defendants' Quickbooks system, such as
11
12 defendants' internal business or accounts payable records, are being compelled in this
Report and Recommendation, provided that defendants produce the information as
13
14 specified in paragraph 2 of the Findings. If they fail to do so, or assert they cannot
extract such information, *Discovery Commissioned will likely require*
15 ~~the Court will require the parties to enter into a suitable~~
16 ~~protective order preserving the confidentiality of the Quickbooks database and~~
17 *for the Applicable time frame to be produced*
~~defendants shall turn over the entire contents of the Quickbooks database to plaintiffs'~~
18 *Subject to an appropriate protective order, the*
~~counsel who must then sort and extract the relevant information plaintiffs sought in~~
19 *specifics of such production will be deferred until*
20 ~~their motion to compel~~ *such time as it becomes necessary.*

21 IT IS FURTHER RECOMMENDED that based upon paragraph 3 of the
22
23 Findings defendants are ordered to pay the costs and fees of plaintiffs' counsel for
24
25 having to proceed with the unnecessary deposition of James Morgan on July 8, 2015.
The Discovery Commissioner has determined that plaintiffs' counsel must be
26
27 reimbursed \$638.95 for court reporter fees, plus \$400 per hour for plaintiffs' counsel's
28
time in connection with the Morgan deposition. The Discovery Commissioner is

1 satisfied that plaintiffs' counsel's time records showing 2.5 hours of preparation, 2.8
2 hours of attendance, and 1.2 hours for travel relating to the Morgan deposition are fair.

3 Accordingly, defendants are required to submit to plaintiffs' counsel, a check for
4 \$3,238.95 to cover the costs and fees associated with the Morgan deposition. *These*
5 *costs and fees will be due and owing within 30 days after this*

6 IT IS FURTHER RECOMMENDED that based upon paragraphs 3 and 4 of the *Report*
7 Findings the imposition of additional fees and costs upon defendants in connection *13 signed by me*
8 with plaintiffs' motion to compel, including but not limited to the deposition of *District Court*
9 Creighton J. Nady, be reserved for further consideration and recommendations by the *Judge W.*

10 Discovery Commissioner at the parties' next status check on January 13, 2016 *at*
11 *9:00 a.m. M*

12 Finally, the discovery deadlines in this matter are extended as follows:

13 **Close of Discovery:** June 29, 2016

14 **Deadline to Amend Pleadings and Add Parties:** April 1, 2016

15 **Deadline to Disclose Expert Reports:** April 1, 2016

16 **Deadline to Disclose Rebuttal Expert Reports:** April 29, 2016

17 **Dispositive Motion Deadline:** July 29, 2015

18 *Further, the case will now be ready for trial on or after*
19 *9-12-16*
20 The parties are further ordered to appear back before the Discovery *and be current*
21 Commissioner on January 13, 2016 at 9:00 a.m. for a status check on compliance
22 with the foregoing. The parties may provide additional briefings to the Discovery
23 Commissioner regarding compliance with this Report and Recommendation no later
24 than January 8, 2016. *trial date*
25 *of 1-4-16 is*
26 *vacated. M*

CASE NAME: *Murray et al. v. A Cab Taxi Service LLC., et al.*

Case No. A-12-669926-C

Hearing Date: November 18, 2015

The Discovery Commissioner, met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.


DATED: December 11, 2015.


DISCOVERY COMMISSIONER

Respectfully submitted:

Approved as to form and content:


LEON GREENBERG, ESQ.
DANA SNIEGOCKI, ESQ.
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Attorney for Defendant

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NOTICE

Pursuant to N.R.C.P. 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

[Pursuant to E.D.C.R. 2.34(f), an objection must be filed and served no more than five (5) days after receipt of the Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days after mailing to a party or his attorney, or three (3) days after the clerk of the court deposits a copy of the Report in a folder of the party's lawyer in the Clerk's office. See E.D.C.R. 2.34(f).]

A copy of the foregoing Discovery Commissioner's Report was:

_____ Mailed to the parties at the following address on the _____ day of _____.

X Placed in the folders of Plaintiff's/Defendant's counsel in the Clerk's Office on the 17 day of Dec.

STEVEN D. GRIERSON

By 
DEPUTY CLERK

CASE NAME: *Murray et al. v. A Cab Taxi Service LLC., et al.*
Case No. A-12-669926-C
Hearing Date: November 18, 2015

ORDER

The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

_____ The parties having waived the right to object thereto,

_____ No timely objections having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34(f),

☒ Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

☒ AND

☒ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

_____ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner:

_____ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report and Recommendations is set for the _____ day of _____ 2015, at _____ a.m./p.m.

Dated this 29 day of Feb, 2015.


DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

The undersigned certifies that on March 4, 2016, she served the
within:

Order on Discovery Commissioner's Report and Recommendation

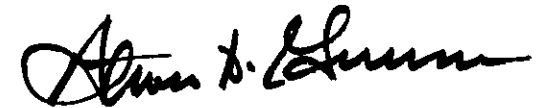
by court electronic service to:

TO:

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

/s/ Dana Sniegocki

Dana Sniegocki



CLERK OF THE COURT

NWM
Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
RODRIGUEZ LAW OFFICES, P.C.
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Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C
Dept. No. I

Hearing Date: January 3, 2017
Hearing Time: 9:00 a.m.

NOTICE OF WITHDRAWAL OF DEFENDANTS' MOTION
FOR LEAVE TO AMEND ANSWER TO ASSERT A THIRD-PARTY COMPLAINT

Defendants A Cab, LLC and Creighton J. Nady, by and through their attorneys of record,
hereby withdraw their Motion for Leave to Amend Answer to Assert a Third Party Complaint filed
on November 29, 2016. No responsive pleading has been filed.

...

...

...

Defendants further request the hearing on this motion set for January 3, 2017 at 9:00 a.m. be vacated.

DATED this 16th day of December, 2016.

RODRIGUEZ LAW OFFICES, P. C.

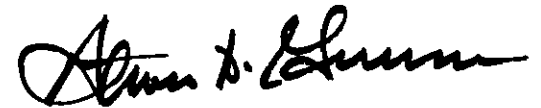
By: /s/ Esther C. Rodriguez, Esq.
Esther C. Rodriguez, Esq.
Nevada State Bar No. 6473
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of December, 2016, I electronically filed the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic filing to the following:

Leon Greenberg, Esq.
Leon Greenberg Professional Corporation
2965 South Jones Boulevard, Suite E4
Las Vegas, Nevada 89146
Counsel for Plaintiff

/s/ Susan Dillow
An Employee of Rodriguez Law Offices, P.C.



CLERK OF THE COURT

RIS

Esther C. Rodriguez, Esq.
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Attorneys for Defendants

**DISTRICT COURT
CLARK COUNTY, NEVADA**

MICHAEL MURRAY and MICHAEL RENO,
Individually and on behalf of others similarly
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Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C
Dept. No. I

Hearing Date: January 3, 2017
Hearing Time: Chambers

**REPLY IN SUPPORT OF DEFENDANTS' MOTION FOR JUDGMENT ON THE
PLEADINGS PURSUANT TO NRCP 12(C) WITH RESPECT TO ALL CLAIMS FOR
DAMAGES OUTSIDE THE TWO-YEAR STATUE OF LIMITATIONS
AND OPPOSITION TO COUNTER MOTION FOR TOLL OF STATUTE OF
LIMITATIONS AND FOR AN EVIDENTIARY HEARING**

Defendants A Cab, LLC and Creighton J. Nady, by and through their attorneys of record,
ESTHER C. RODRIGUEZ, ESQ., of RODRIGUEZ LAW OFFICES, P.C., and MICHAEL K. WALL, ESQ., of
HUTCHISON & STEFFEN, LLC, hereby respectfully submit this Reply in Support of *Defendants'*

Motion for Judgment on the Pleadings Pursuant to NRCP 12(C) with Respect to All Claims for Damages Outside the Two-Year Statute of Limitations, and an Opposition to Plaintiffs' Counter Motion for Toll of Statute of Limitations and for an Evidentiary Hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I.

INTRODUCTION

Plaintiffs do not dispute the two-year statute of limitations is now the law as interpreted by the Supreme Court. However, Plaintiffs nevertheless seek to have this Court circumvent the Supreme Court's ruling, and still allow Plaintiffs to pursue claims stemming back to July 1, 2007. *Plaintiffs' Opp.*, 5:15. Interestingly, this Court had originally determined that a four-year statute of limitations was the appropriate time period which would have been October 8, 2008. *Court Minute Order, Exhibit 1*. However, as Plaintiffs drafted the proposed Order, they unilaterally inserted an extra 9 months into the Court's Order for signature, expanding the time back to July 1, 2007. This is the date they now seek to keep, despite a contrary clear ruling from the Supreme Court.

If the Court were to assume Plaintiffs' arguments are all true, namely that Defendants altogether failed to advise their employees of a **rate** adjustment, that argument lends no support whatsoever for the Court to extend a statute of limitations. In their Complaints and throughout the litigation, Plaintiffs' have maintained that their claims are based upon Defendants' failure to pay for the hours where drivers were forced to insert fraudulent break times into their trip sheets. *Plaintiffs Second Amended Complaint*, para. 17. Whether the minimum wage had a **rate** adjustment would not affect Plaintiffs' claims of fraudulent hours and breaktimes. If this is the basis of the claimed underpayments, Plaintiffs' request to extend the statute of limitations cannot be supported by the fact that there was a rate change in 2007. In other words, there are either fraudulent breaks or there are not; whether there is a rate change is irrelevant to Plaintiffs' claims.

It is an ever further stretch for Plaintiffs to argue that an additional 2 years and 9 months should be added to the statute of limitations based upon Plaintiffs' limited interpretation of "written notice." As support for its request for this Court to toll the statute of limitations, Plaintiffs' cite to cases from other federal circuits and under different federal regulations, such as the Age

1 Discrimination in Employment Act. Of note for those courts, was defendants' "non-advisement"
2 altogether and the "employer who fails to post statutorily required notice in the workplace."
3 *Plaintiffs' Opp.* 21-28. Here, Plaintiffs cite to Defendants' deposition testimony wherein he stated
4 that signs and notices are posted as soon as they are received from the Labor Commissioner; or in
5 his words, "as soon as it came out." *Plaintiffs' Opp.*, Ex. 2, p. 185. Further, the documents
6 demonstrating these written notices have been produced in compliance with NRC 16.1 in this
7 matter. See **Exhibit 2**, photos of A Cab premises displaying all "Minimum Wage Bulletin", and all
8 required notices from State and Federal Government in employee area, produced in Defendants'
9 11th Supplemental Production, August 22, 2016.

10 Plaintiffs' two claims for relief are minimum wage based claims. Pursuant to the guidance
11 provided by the Nevada Supreme Court, all claims arising from the Minimum Wage Amendment to
12 the Nevada Constitution, like those arising under NRS Chapter 608, are limited to a two-year
13 statute of limitations. *Perry v. Terrible Herbst, Inc.*, 132 Nev Adv. Op. No. 75 (October 27, 2016.)
14 Therefore, Plaintiffs' claims for relief prior to October 8, 2010 must be dismissed for failure to state a
15 claim.

16 II.

17 CONCLUSION

18 Based upon the foregoing points and authorities, Defendants respectfully request that this
19 Court grant their Motion for Judgment on the Pleadings and issue an Order dismissing all of
20 Plaintiffs' claims which extend beyond the applicable two-year statute of limitations; and deny
21 Plaintiffs' Countermotion to toll the statute of limitations.

22 DATED this 28th day of December, 2016.

23 **RODRIGUEZ LAW OFFICES, P. C.**

24
25 /s/ Esther C. Rodriguez, Esq.
26 Esther C. Rodriguez, Esq.
27 Nevada State Bar No. 006473
28 10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 28th day of December, 2016, I electronically filed the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic service to the following:

Leon Greenberg, Esq.
Leon Greenberg Professional Corporation
2965 South Jones Boulevard, Suite E4
Las Vegas, Nevada 89146
Counsel for Plaintiff

/s/ Esther C. Rodriguez, Esq.
An Employee of Rodriguez Law Offices, P.C.

EXHIBIT 1

EXHIBIT 1

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Location: District Court Civil/Criminal [Help](#)

REGISTER OF ACTIONS

CASE No. A-12-669926-C

Michael Murray, Plaintiff(s) vs. A Cab Taxi Service LLC,
 Defendant(s)

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Case Type: Other Civil Filing
 Subtype: Other Civil Matters
 Date Filed: 10/08/2012
 Location: Department 1
 Cross-Reference Case Number: A669925

PARTY INFORMATION

Defendant	A Cab LLC	Lead Attorneys Esther C. Rodriguez <i>Retained</i> 7023208400(W)
Defendant	A Cab Taxi Service LLC	Esther C. Rodriguez <i>Retained</i> 7023208400(W)
Defendant	Nady, Creighton J.	Esther C. Rodriguez <i>Retained</i> 7023208400(W)
Plaintiff	Murray, Michael	Leon Greenberg <i>Retained</i> 7023836085(W)
Plaintiff	Reno, Michael	Leon Greenberg <i>Retained</i> 7023836085(W)

EVENTS & ORDERS OF THE COURT

11/03/2015 All Pending Motions (9:00 AM) (Judicial Officer Cory, Kenneth)

Minutes

11/03/2015 9:00 AM

- DEFENDANT'S MOTION TO DISMISS AND FOR SUMMARY JUDGMENT AGAINST PLAINTIFF MICHAEL RENO...
 DEFENDANT'S MOTION TO DISMISS AND FOR SUMMARY JUDGMENT AGAINST PLAINTIFF MICHAEL MURRAY...
 DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' FIRST CLAIM FOR RELIEF... DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' SECOND CLAIM FOR RELIEF... PLAINTIFF'S MOTION TO CERTIFY THIS CASE AS A CLASS ACTION PURSUANT TO NRCP RULE 23 AND APPOINT A SPECIAL MASTER PURSUANT TO NRCP RULE 53... DEFENDANT'S MOTION FOR DECLARATORY ORDER REGARDING STATUTE OF LIMITATIONS Paralegal Susan Dillow present with Attorney Rodriguez. Court noted defendant was requesting a Continuance for Creighton Nady to be present. As he was in Russia and due to the Court's concerns, matter to proceed today. AS TO MOTION REGARDING STATUTE OF LIMITATIONS. Extensive arguments by counsel. Court stated its findings, and ORDERED, that it is governed by a 4-year statute of limitations. Further clarification of the Court's Order. AS TO MOTION TO DISMISS PLAINTIFFS' FIRST CLAIM FOR RELIEF. Extensive arguments by counsel. Court advised it wished to review the matter, and ORDERED, matter CONTINUED to the Chambers Calendar and it will issue a Minute Order. AS TO MOTION TO DISMISS PLAINTIFFS' SECOND CLAIM FOR RELIEF. Extensive arguments by counsel. Court advised it wished to review the matter, and

AA002184

ORDERED, matter CONTINUED to the Chambers Calendar and it will issue a Minute Order. AS TO MOTION TO DISMISS AND FOR SUMMARY JUDGMENT AGAINST RENO AND MURRAY: Extensive arguments by counsel. Ms. Rodriguez argued Discovery was closed. Ms. Rodriguez provided documentation to the Court. Court heard argument as to Summary Judgment Against Murray. Court stated its findings, and ORDERED, both Motions are DENIED WITHOUT PREJUDICE. AS TO MOTION TO CERTIFY THIS CASE AND APPOINT A SPECIAL MASTER: Ms. Rodriguez requested this Motion be Continued as there are issues before the Discovery Commissioner next week regarding extending Discovery. If Granted, she will refile the Motions for Summary Judgment Against Reno and Murray. Court advised it wished to hear this matter today. COURT ORDERED, matter to TRAIL to the afternoon. RECALLED. Extensive arguments by counsel. Mr. Greenberg advised he was before Judge Israel recently who Granted Certification on a similar case. Court inquired what would a Special Master do, how long it would take him to create the records requested, and whether he would become a fact finder. Mr. Greenberg advised he would create records, trip sheets start and end times and practices, and compare hours. There were over 230,000 trip sheets and a Special Master would not be a fact finder as he was doing math. Further arguments by counsel. Court stated its findings, and ORDERED, matter CONTINUED to Monday for a ruling. CONTINUED TO: 11/8 CHAMBERS - DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' FIRST CLAIM FOR RELIEF...DEFENDANT'S MOTION TO DISMISS PLAINTIFFS' SECOND CLAIM FOR RELIEF...PLAINTIFF'S MOTION TO CERTIFY THIS CASE AS A CLASS ACTION PURSUANT TO NRCP RULE 23 AND APPOINT A SPECIAL MASTER PURSUANT TO NRCP RULE 53

Parties Present

Return to Register of Actions

EXHIBIT 2

EXHIBIT 2

EMPLOYEE RIGHTS

UNDER THE FAIR LABOR STANDARDS ACT

THE UNITED STATES DEPARTMENT OF LABOR WAGE AND HOUR DIVISION

FEDERAL MINIMUM WAGE

\$7.25

effective July 1, 2009

- OVERTIME PAY** Employees must be paid one and one-half times the regular rate of pay for all hours worked over 40 in a workweek.
- CHILD LABOR** An employee must be at least 16 years old to work in most non-harmful jobs, and at least 18 to work in non-harmful jobs declared hazardous by the Secretary of Labor.
- Young 14 and 15 year old may work outside school hours in various non-manufacturing, non-mining, non-hazardous jobs under the following conditions:
- no more than
 - 3 hours on a school day or 18 hours in a school week
 - 8 hours on a non-school day or 40 hours in a non-school week
- They may not work before 7 a.m. or after 7 p.m., except from June 1 through Labor Day when evening hours are extended to 9 p.m. for non-hazardous employment.
- TIP CREDIT** Employees in "service occupations" may have a cash wage of at least \$2.13 per hour if they claim a tip credit against their minimum wage. The employer must also be permitted to use the employer's cash wage of at least \$2.13 per hour against the minimum hourly wage. The employer must also be permitted to use the employer's cash wage of at least \$2.13 per hour against the minimum hourly wage. The employer must also be permitted to use the employer's cash wage of at least \$2.13 per hour against the minimum hourly wage.
- ENFORCEMENT** The Department of Labor may recover back wages either administratively or through court action for the employees that have been denied their rights under the law. Employees may also be assessed civil money penalties of up to \$1,100 for each violation of the law. If the minimum wage or overtime pay provisions of the law are violated by an employer, the employer may be assessed a civil money penalty of up to \$11,000. If the minimum wage or overtime pay provisions of the law are violated by an employer, the employer may be assessed a civil money penalty of up to \$11,000. If the minimum wage or overtime pay provisions of the law are violated by an employer, the employer may be assessed a civil money penalty of up to \$11,000.
- ADDITIONAL INFORMATION**
- Certain occupations and establishments are exempt from the minimum wage and overtime pay provisions.
 - Special provisions apply to workers in American Samoa and the Commonwealth of the Northern Mariana Islands.
 - Certain laws have been enacted to protect employee protections, employers must comply with both.
 - The law requires employers to display the poster where employees can easily see it.
 - Employees under 21 years of age may be paid \$4.25 per hour during their first 90 consecutive calendar days of employment but not less than the minimum wage.
 - Certain law enforcement officers, firefighters, and workers with disabilities may be paid less than the minimum wage if a special certificate is issued by the Department of Labor.



For additional information:
1-866-4-USWAGE
 (1-866-467-9243) TTY: (202) 295-2327
WWW.WAGEHOUR.DOL.GOV



U.S. DEPARTMENT OF LABOR

OFFICE OF THE SECRETARY

Equal Employment Opportunity is THE LAW

Private Employer, State and Local Governments, Educational Institutions, Employment Agencies and Labor Organizations

Prohibits employment practices that discriminate on the basis of race, sex, religion, national origin, age, and disability

Prohibits employment practices that discriminate on the basis of race, sex, religion, national origin, age, and disability

Prohibits employment practices that discriminate on the basis of race, sex, religion, national origin, age, and disability

DISCRIMINATION ON BASIS OF NATIONAL ORIGIN The EEOC has issued a series of notices of enforcement policy and guidance regarding national origin discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF SEX The EEOC has issued a series of notices of enforcement policy and guidance regarding sex discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF AGE The EEOC has issued a series of notices of enforcement policy and guidance regarding age discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF RELIGION The EEOC has issued a series of notices of enforcement policy and guidance regarding religion discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF RACE The EEOC has issued a series of notices of enforcement policy and guidance regarding race discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF SEXUAL ORIENTATION The EEOC has issued a series of notices of enforcement policy and guidance regarding sexual orientation discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF GENDER IDENTITY The EEOC has issued a series of notices of enforcement policy and guidance regarding gender identity discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF ANCESTRY The EEOC has issued a series of notices of enforcement policy and guidance regarding ancestry discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF MARITAL STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding marital status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF POLITICAL AFFILIATION The EEOC has issued a series of notices of enforcement policy and guidance regarding political affiliation discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF SOCIAL SECURITY NUMBER The EEOC has issued a series of notices of enforcement policy and guidance regarding social security number discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF CREDIT HISTORY The EEOC has issued a series of notices of enforcement policy and guidance regarding credit history discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF PHYSICAL CHARACTERISTICS The EEOC has issued a series of notices of enforcement policy and guidance regarding physical characteristics discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF GENETIC INFORMATION The EEOC has issued a series of notices of enforcement policy and guidance regarding genetic information discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF HIV STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding HIV status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF IMMIGRATION STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding immigration status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF VETERAN STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding veteran status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF MILITARY SERVICE The EEOC has issued a series of notices of enforcement policy and guidance regarding military service discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF JURY SERVICE The EEOC has issued a series of notices of enforcement policy and guidance regarding jury service discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF PARENTAL STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding parental status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF PREGNANT STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding pregnant status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF BREASTFEEDING STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding breastfeeding status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF FAMILY CAREGIVING STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding family caregiving status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

DISCRIMINATION ON BASIS OF DOMESTIC VIOLENCE STATUS The EEOC has issued a series of notices of enforcement policy and guidance regarding domestic violence status discrimination. These notices are intended to help employers understand the law and to help employees understand their rights. The notices are available on the EEOC website at www.eeoc.gov.

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