

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 XXV of LII**

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

HUTCHISON & STEFFEN, PLLC

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11	Plaintiffs' Response in Opposition to Defendants' Motion to Strike First Amended Complaint and Counter-Motion for a Default Judgment or Sanctions Pursuant to EDCR 7.60(b), filed 04/11/2013	II	AA000202-AA000231
24	Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 08/28/2015	IV	AA000651-AA000668
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 XXV 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:

Leon Greenberg, Esq.
Dana Sniegocki, Esq.
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Dana@overtimelaw.com

Attorneys for Respondents

DATED this 5th day of August, 2020.

/s/ Kaylee Conradi

An employee of Hutchison & Steffen, PLLC

	B	C	D	E	F	G	H	I	J	K	L	M
13704	8/23/2013	28160	Wong	Wanjin	8/1/2013	8/3/2013	8/16/2013	66.39	\$416.30	\$65.03	\$131.42	\$65.03
13705	9/6/2013	28160	Wong	Wanjin	8/1/2013	8/17/2013	8/30/2013	75.34	\$458.62	\$87.60	\$162.94	\$87.60
13706	9/20/2013	28160	Wong	Wanjin	8/1/2013	8/31/2013	9/13/2013	76.37	\$480.93	\$72.75	\$149.12	\$72.75
13707	10/4/2013	28160	Wong	Wanjin	8/1/2013	9/14/2013	9/27/2013	75.37	\$552.90	\$0.00	\$68.90	\$0.00
13708	10/18/2013	28160	Wong	Wanjin	8/1/2013	9/28/2013	10/11/2013	75.20	\$487.26	\$57.94	\$133.14	\$57.94
13709	11/1/2013	28160	Wong	Wanjin	8/1/2013	10/12/2013	10/25/2013	75.79	\$482.79	\$66.69	\$142.48	\$66.69
13710	11/15/2013	28160	Wong	Wanjin	8/1/2013	10/26/2013	11/8/2013	94.76	\$623.78	\$63.23	\$157.99	\$63.23
13711	11/29/2013	28160	Wong	Wanjin	8/1/2013	11/9/2013	11/22/2013	84.49	\$521.48	\$91.07	\$175.56	\$91.07
13712	12/13/2013	28160	Wong	Wanjin	8/1/2013	11/23/2013	12/6/2013	95.59	\$600.89	\$92.14	\$187.73	\$92.14
13713	12/27/2013	28160	Wong	Wanjin	8/1/2013	12/7/2013	12/20/2013	85.60	\$605.62	\$14.98	\$100.58	\$14.98
13714	1/10/2014	28160	Wong	Wanjin	8/1/2013	12/21/2013	1/3/2014	76.40	\$542.15	\$11.75	\$88.15	\$11.75
13715	1/24/2014	28160	Wong	Wanjin	8/1/2013	1/4/2014	1/17/2014	94.23	\$644.07	\$39.10	\$133.33	\$39.10
13716	2/7/2014	28160	Wong	Wanjin	8/1/2013	1/18/2014	1/31/2014	83.20	\$554.27	\$48.93	\$132.13	\$48.93
13717	2/21/2014	28160	Wong	Wanjin	8/1/2013	2/1/2014	2/14/2014	83.46	\$614.33	\$0.00	\$74.21	\$0.00
13718	3/7/2014	28160	Wong	Wanjin	8/1/2013	2/15/2014	2/28/2014	105.05	\$873.11	\$0.00	\$0.00	\$0.00
13719	3/21/2014	28160	Wong	Wanjin	8/1/2013	3/1/2014	3/14/2014	104.78	\$823.67	\$0.00	\$40.77	\$0.00
13720	4/4/2014	28160	Wong	Wanjin	8/1/2013	3/15/2014	3/28/2014	95.86	\$808.38	\$0.00	\$0.00	\$0.00
13721	4/18/2014	28160	Wong	Wanjin	8/1/2013	3/29/2014	4/11/2014	94.61	\$815.03	\$0.00	\$0.00	\$0.00
13722	5/2/2014	28160	Wong	Wanjin	8/1/2013	4/12/2014	4/25/2014	96.06	\$664.70	\$31.74	\$127.80	\$31.74
13723	5/16/2014	28160	Wong	Wanjin	8/1/2013	4/26/2014	5/9/2014	64.24	\$593.15	\$0.00	\$0.00	\$0.00
13724	5/30/2014	28160	Wong	Wanjin	8/1/2013	5/10/2014	5/23/2014	47.62	\$368.80	\$0.00	\$24.06	\$0.00
13725	6/13/2014	28160	Wong	Wanjin	8/1/2013	5/24/2014	6/6/2014	53.01	\$320.27	\$64.05	\$117.06	\$64.05
13726	6/27/2014	28160	Wong	Wanjin	8/1/2013	6/7/2014	6/20/2014	67.40	\$623.09	\$0.00	\$0.00	\$0.00
13727	7/11/2014	28160	Wong	Wanjin	8/1/2013	6/21/2014	7/4/2014	84.35	\$699.01	\$0.00	\$0.00	\$0.00
13728	7/25/2014	28160	Wong	Wanjin	8/1/2013	7/5/2014	7/18/2014	74.44	\$539.57	\$0.12	\$74.56	\$0.12
13729	8/8/2014	28160	Wong	Wanjin	8/1/2013	7/19/2014	8/1/2014	63.57	\$460.73	\$0.15	\$63.72	\$0.15
13730	8/22/2014	28160	Wong	Wanjin	8/1/2013	8/2/2014	8/15/2014	48.10	\$348.96	\$0.00	\$47.87	\$0.00
13731	9/5/2014	28160	Wong	Wanjin	8/1/2013	8/16/2014	8/29/2014	81.72	\$592.81	\$0.00	\$81.38	\$0.00
13732	9/19/2014	28160	Wong	Wanjin	8/1/2013	8/30/2014	9/12/2014	75.75	\$549.52	\$0.00	\$75.42	\$0.00
13733	10/3/2014	28160	Wong	Wanjin	8/1/2013	9/13/2014	9/26/2014	74.49	\$552.99	\$0.00	\$61.55	\$0.00
13734	10/17/2014	28160	Wong	Wanjin	8/1/2013	9/27/2014	10/10/2014	73.69	\$579.38	\$0.00	\$28.56	\$0.00
13735	10/31/2014	28160	Wong	Wanjin	8/1/2013	10/11/2014	10/24/2014	73.46	\$594.06	\$0.00	\$11.99	\$0.00
13736	11/14/2014	28160	Wong	Wanjin	8/1/2013	10/25/2014	11/7/2014	66.41	\$578.02	\$0.00	\$0.00	\$0.00
13737	11/28/2014	28160	Wong	Wanjin	8/1/2013	11/8/2014	11/21/2014	75.96	\$665.95	\$0.00	\$0.00	\$0.00
13738	12/12/2014	28160	Wong	Wanjin	8/1/2013	11/22/2014	12/5/2014	75.05	\$699.54	\$0.00	\$0.00	\$0.00
13739	12/26/2014	28160	Wong	Wanjin	8/1/2013	12/6/2014	12/19/2014	73.87	\$640.01	\$0.00	\$0.00	\$0.00
13740	1/9/2015	28160	Wong	Wanjin	8/1/2013	12/20/2014	1/2/2015	76.14	\$573.35	\$0.00	\$54.80	\$0.00
13741	1/23/2015	28160	Wong	Wanjin	8/1/2013	1/3/2015	1/16/2015	75.43	\$715.61	\$0.00	\$0.00	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
13742	2/6/2015	28160	Wong	Wanjin	8/1/2013	1/17/2015	1/30/2015	75.56	\$698.67	\$0.00	\$0.00	\$0.00
13743	2/20/2015	28160	Wong	Wanjin	8/1/2013	1/31/2015	2/13/2015	57.27	\$567.46	\$0.00	\$0.00	\$0.00
13744	3/6/2015	28160	Wong	Wanjin	8/1/2013	2/14/2015	2/27/2015	75.22	\$753.03	\$0.00	\$0.00	\$0.00
13745	3/20/2015	28160	Wong	Wanjin	8/1/2013	2/28/2015	3/13/2015	47.86	\$420.30	\$0.00	\$0.00	\$0.00
13746	4/3/2015	28160	Wong	Wanjin	8/1/2013	3/14/2015	3/27/2015	83.47	\$817.41	\$0.00	\$0.00	\$0.00
13747	4/17/2015	28160	Wong	Wanjin	8/1/2013	3/28/2015	4/10/2015	83.96	\$759.42	\$0.00	\$0.00	\$0.00
13748	5/1/2015	28160	Wong	Wanjin	8/1/2013	4/11/2015	4/24/2015	93.16	\$887.66	\$0.00	\$0.00	\$0.00
13749	5/15/2015	28160	Wong	Wanjin	8/1/2013	4/25/2015	5/8/2015	91.80	\$969.29	\$0.00	\$0.00	\$0.00
13750	5/29/2015	28160	Wong	Wanjin	8/1/2013	5/9/2015	5/22/2015	109.07	\$903.85	\$0.00	\$0.00	\$0.00
13751	6/12/2015	28160	Wong	Wanjin	8/1/2013	5/23/2015	6/5/2015	88.11	\$712.81	\$0.00	\$14.10	\$0.00
13752	6/26/2015	28160	Wong	Wanjin	8/1/2013	6/6/2015	6/19/2015	99.92	\$877.18	\$0.00	\$0.00	\$0.00
13753	7/10/2015	28160	Wong	Wanjin	8/1/2013	6/20/2015	7/3/2015	66.10	\$479.05	\$0.17	\$66.27	\$0.17
13754	2/1/2013	108239	Wright	Edward	11/1/2011	1/5/2013	1/18/2013	0.00	\$961.27	\$0.00	\$0.00	\$0.00
13755	2/8/2013	108239	Wright	Edward	11/1/2011	1/19/2013	2/1/2013	86.60	\$796.72	\$0.00	\$0.00	\$0.00
13756	2/22/2013	108239	Wright	Edward	11/1/2011	2/2/2013	2/15/2013	83.55	\$802.12	\$0.00	\$0.00	\$0.00
13757	3/8/2013	108239	Wright	Edward	11/1/2011	2/16/2013	3/1/2013	78.03	\$720.79	\$0.00	\$0.00	\$0.00
13758	3/22/2013	108239	Wright	Edward	11/1/2011	3/2/2013	3/15/2013	99.46	\$947.16	\$0.00	\$0.00	\$0.00
13759	4/5/2013	108239	Wright	Edward	11/1/2011	3/16/2013	3/29/2013	90.27	\$1,015.91	\$0.00	\$0.00	\$0.00
13760	4/19/2013	108239	Wright	Edward	11/1/2011	3/30/2013	4/12/2013	96.38	\$1,023.54	\$0.00	\$0.00	\$0.00
13761	5/3/2013	108239	Wright	Edward	11/1/2011	4/13/2013	4/26/2013	100.76	\$1,040.55	\$0.00	\$0.00	\$0.00
13762	5/17/2013	108239	Wright	Edward	11/1/2011	4/27/2013	5/10/2013	98.32	\$1,088.28	\$0.00	\$0.00	\$0.00
13763	5/31/2013	108239	Wright	Edward	11/1/2011	5/11/2013	5/24/2013	98.54	\$1,058.55	\$0.00	\$0.00	\$0.00
13764	6/14/2013	108239	Wright	Edward	11/1/2011	5/25/2013	6/7/2013	80.70	\$786.64	\$0.00	\$0.00	\$0.00
13765	6/28/2013	108239	Wright	Edward	11/1/2011	6/8/2013	6/21/2013	30.09	\$287.36	\$0.00	\$0.00	\$0.00
13766	7/12/2013	108239	Wright	Edward	11/1/2011	6/22/2013	7/5/2013	29.55	\$267.78	\$0.00	\$0.00	\$0.00
13767	7/26/2013	108239	Wright	Edward	11/1/2011	7/6/2013	7/19/2013	95.99	\$831.02	\$0.00	\$0.00	\$0.00
13768	8/9/2013	108239	Wright	Edward	11/1/2011	7/20/2013	8/2/2013	87.12	\$726.05	\$0.00	\$0.00	\$0.00
13769	8/23/2013	108239	Wright	Edward	11/1/2011	8/3/2013	8/16/2013	106.34	\$915.01	\$0.00	\$0.00	\$0.00
13770	9/6/2013	108239	Wright	Edward	11/1/2011	8/17/2013	8/30/2013	106.72	\$821.39	\$0.00	\$59.05	\$0.00
13771	9/20/2013	108239	Wright	Edward	11/1/2011	8/31/2013	9/13/2013	86.52	\$754.10	\$0.00	\$0.00	\$0.00
13772	1/25/2013	3092	Yabut	Gerry	6/1/2009	1/5/2013	1/18/2013	95.00	\$628.57	\$60.18	\$155.18	\$60.18
13773	2/8/2013	3092	Yabut	Gerry	6/1/2009	1/19/2013	2/1/2013	95.23	\$591.38	\$99.04	\$194.27	\$99.04
13774	2/22/2013	3092	Yabut	Gerry	6/1/2009	2/2/2013	2/15/2013	99.51	\$624.83	\$96.62	\$196.13	\$96.62
13775	3/8/2013	3092	Yabut	Gerry	6/1/2009	2/16/2013	3/1/2013	97.60	\$646.91	\$60.69	\$158.29	\$60.69
13776	3/22/2013	3092	Yabut	Gerry	6/1/2009	3/2/2013	3/15/2013	88.26	\$575.49	\$64.40	\$152.66	\$64.40
13777	4/5/2013	3092	Yabut	Gerry	6/1/2009	3/16/2013	3/29/2013	96.33	\$726.55	\$0.00	\$68.17	\$0.00
13778	4/19/2013	3092	Yabut	Gerry	6/1/2009	3/30/2013	4/12/2013	88.51	\$726.82	\$0.00	\$3.39	\$0.00
13779	5/3/2013	3092	Yabut	Gerry	6/1/2009	4/13/2013	4/26/2013	96.85	\$715.48	\$0.00	\$83.53	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
13780	5/17/2013	3092	Yabut	Gerry	6/1/2009	4/27/2013	5/10/2013	96.95	\$700.18	\$2.71	\$99.66	\$2.71
13781	5/31/2013	3092	Yabut	Gerry	6/1/2009	5/11/2013	5/24/2013	95.80	\$649.06	\$45.49	\$141.29	\$45.49
13782	6/14/2013	3092	Yabut	Gerry	6/1/2009	5/25/2013	6/7/2013	93.27	\$678.64	\$0.00	\$90.84	\$0.00
13783	6/28/2013	3092	Yabut	Gerry	6/1/2009	6/8/2013	6/21/2013	95.95	\$694.98	\$0.66	\$96.61	\$0.66
13784	7/12/2013	3092	Yabut	Gerry	6/1/2009	6/22/2013	7/5/2013	114.00	\$793.56	\$32.94	\$146.94	\$32.94
13785	7/26/2013	3092	Yabut	Gerry	6/1/2009	7/6/2013	7/19/2013	92.38	\$632.30	\$37.45	\$129.84	\$37.45
13786	8/9/2013	3092	Yabut	Gerry	6/1/2009	7/20/2013	8/2/2013	92.81	\$573.87	\$99.00	\$191.81	\$99.00
13787	8/23/2013	3092	Yabut	Gerry	6/1/2009	8/3/2013	8/16/2013	88.92	\$545.72	\$98.95	\$187.87	\$98.95
13788	9/6/2013	3092	Yabut	Gerry	6/1/2009	8/17/2013	8/30/2013	96.48	\$592.61	\$106.87	\$203.35	\$106.87
13789	9/20/2013	3092	Yabut	Gerry	6/1/2009	8/31/2013	9/13/2013	93.10	\$571.95	\$103.03	\$196.13	\$103.03
13790	10/4/2013	3092	Yabut	Gerry	6/1/2009	9/14/2013	9/27/2013	95.03	\$697.23	\$0.00	\$86.77	\$0.00
13791	10/18/2013	3092	Yabut	Gerry	6/1/2009	9/28/2013	10/11/2013	102.82	\$696.27	\$49.18	\$152.00	\$49.18
13792	11/1/2013	3092	Yabut	Gerry	6/1/2009	10/12/2013	10/25/2013	81.71	\$555.46	\$36.94	\$118.65	\$36.94
13793	11/15/2013	3092	Yabut	Gerry	6/1/2009	10/26/2013	11/8/2013	96.74	\$786.65	\$0.00	\$11.45	\$0.00
13794	11/29/2013	3092	Yabut	Gerry	6/1/2009	11/9/2013	11/22/2013	94.52	\$669.17	\$16.10	\$110.62	\$16.10
13795	12/13/2013	3092	Yabut	Gerry	6/1/2009	11/23/2013	12/6/2013	91.29	\$567.84	\$94.01	\$185.30	\$94.01
13796	12/27/2013	3092	Yabut	Gerry	6/1/2009	12/7/2013	12/20/2013	100.74	\$801.70	\$0.00	\$29.40	\$0.00
13797	1/10/2014	3092	Yabut	Gerry	6/1/2009	12/21/2013	1/3/2014	91.25	\$563.73	\$97.83	\$189.08	\$97.83
13798	1/24/2014	3092	Yabut	Gerry	6/1/2009	1/4/2014	1/17/2014	92.59	\$659.33	\$11.95	\$104.54	\$11.95
13799	2/7/2014	3092	Yabut	Gerry	6/1/2009	1/18/2014	1/31/2014	87.86	\$540.55	\$96.44	\$184.30	\$96.44
13800	2/21/2014	3092	Yabut	Gerry	6/1/2009	2/1/2014	2/14/2014	90.46	\$565.06	\$90.78	\$181.24	\$90.78
13801	3/7/2014	3092	Yabut	Gerry	6/1/2009	2/15/2014	2/28/2014	109.94	\$739.64	\$57.43	\$167.37	\$57.43
13802	3/21/2014	3092	Yabut	Gerry	6/1/2009	3/1/2014	3/14/2014	109.28	\$967.91	\$0.00	\$0.00	\$0.00
13803	4/4/2014	3092	Yabut	Gerry	6/1/2009	3/15/2014	3/28/2014	103.18	\$838.57	\$0.00	\$12.67	\$0.00
13804	4/18/2014	3092	Yabut	Gerry	6/1/2009	3/29/2014	4/11/2014	79.86	\$640.62	\$0.00	\$18.23	\$0.00
13805	5/2/2014	3092	Yabut	Gerry	6/1/2009	4/12/2014	4/25/2014	97.65	\$631.14	\$76.82	\$174.47	\$76.82
13806	5/16/2014	3092	Yabut	Gerry	6/1/2009	4/26/2014	5/9/2014	99.57	\$957.35	\$0.00	\$0.00	\$0.00
13807	5/30/2014	3092	Yabut	Gerry	6/1/2009	5/10/2014	5/23/2014	91.57	\$748.03	\$0.00	\$7.42	\$0.00
13808	6/13/2014	3092	Yabut	Gerry	6/1/2009	5/24/2014	6/6/2014	90.88	\$646.45	\$12.43	\$103.31	\$12.43
13809	6/27/2014	3092	Yabut	Gerry	6/1/2009	6/7/2014	6/20/2014	82.42	\$576.26	\$21.29	\$103.71	\$21.29
13810	7/11/2014	3092	Yabut	Gerry	6/1/2009	6/21/2014	7/4/2014	116.82	\$856.49	\$0.00	\$107.28	\$0.00
13811	7/25/2014	3092	Yabut	Gerry	6/1/2009	7/5/2014	7/18/2014	117.68	\$854.16	\$0.00	\$116.70	\$0.00
13812	8/8/2014	3092	Yabut	Gerry	6/1/2009	7/19/2014	8/1/2014	109.04	\$790.61	\$0.00	\$108.97	\$0.00
13813	8/22/2014	3092	Yabut	Gerry	6/1/2009	8/2/2014	8/15/2014	106.53	\$772.54	\$0.00	\$106.33	\$0.00
13814	9/5/2014	3092	Yabut	Gerry	6/1/2009	8/16/2014	8/29/2014	121.34	\$880.17	\$0.00	\$120.89	\$0.00
13815	9/19/2014	3092	Yabut	Gerry	6/1/2009	8/30/2014	9/12/2014	106.80	\$774.63	\$0.00	\$106.47	\$0.00
13816	10/3/2014	3092	Yabut	Gerry	6/1/2009	9/13/2014	9/26/2014	117.92	\$1,018.43	\$0.00	\$0.00	\$0.00
13817	10/17/2014	3092	Yabut	Gerry	6/1/2009	9/27/2014	10/10/2014	116.04	\$905.40	\$0.00	\$51.93	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
13818	10/31/2014	3092	Yabut	Gerry	6/1/2009	10/11/2014	10/24/2014	116.07	\$977.68	\$0.00	\$0.00	\$0.00
13819	11/14/2014	3092	Yabut	Gerry	6/1/2009	10/25/2014	11/7/2014	107.75	\$949.18	\$0.00	\$0.00	\$0.00
13820	11/28/2014	3092	Yabut	Gerry	6/1/2009	11/8/2014	11/21/2014	117.99	\$1,006.06	\$0.00	\$0.00	\$0.00
13821	12/12/2014	3092	Yabut	Gerry	6/1/2009	11/22/2014	12/5/2014	115.86	\$840.09	\$0.00	\$115.76	\$0.00
13822	12/26/2014	3092	Yabut	Gerry	6/1/2009	12/6/2014	12/19/2014	117.58	\$918.35	\$0.00	\$51.68	\$0.00
13823	1/9/2015	3092	Yabut	Gerry	6/1/2009	12/20/2014	1/2/2015	116.25	\$867.51	\$0.00	\$91.55	\$0.00
13824	1/23/2015	3092	Yabut	Gerry	6/1/2009	1/3/2015	1/16/2015	114.96	\$1,273.34	\$0.00	\$0.00	\$0.00
13825	2/6/2015	3092	Yabut	Gerry	6/1/2009	1/17/2015	1/30/2015	118.76	\$1,589.26	\$0.00	\$0.00	\$0.00
13826	2/20/2015	3092	Yabut	Gerry	6/1/2009	1/31/2015	2/13/2015	116.96	\$1,323.67	\$0.00	\$0.00	\$0.00
13827	3/6/2015	3092	Yabut	Gerry	6/1/2009	2/14/2015	2/27/2015	118.58	\$1,276.63	\$0.00	\$0.00	\$0.00
13828	3/20/2015	3092	Yabut	Gerry	6/1/2009	2/28/2015	3/13/2015	116.10	\$1,096.23	\$0.00	\$0.00	\$0.00
13829	4/3/2015	3092	Yabut	Gerry	6/1/2009	3/14/2015	3/27/2015	116.25	\$1,136.72	\$0.00	\$0.00	\$0.00
13830	4/17/2015	3092	Yabut	Gerry	6/1/2009	3/28/2015	4/10/2015	114.41	\$1,020.88	\$0.00	\$0.00	\$0.00
13831	5/1/2015	3092	Yabut	Gerry	6/1/2009	4/11/2015	4/24/2015	116.41	\$1,174.13	\$0.00	\$0.00	\$0.00
13832	5/15/2015	3092	Yabut	Gerry	6/1/2009	4/25/2015	5/8/2015	117.00	\$1,231.20	\$0.00	\$0.00	\$0.00
13833	5/29/2015	3092	Yabut	Gerry	6/1/2009	5/9/2015	5/22/2015	115.94	\$1,060.44	\$0.00	\$0.00	\$0.00
13834	6/12/2015	3092	Yabut	Gerry	6/1/2009	5/23/2015	6/5/2015	115.15	\$1,147.09	\$0.00	\$0.00	\$0.00
13835	6/26/2015	3092	Yabut	Gerry	6/1/2009	6/6/2015	6/19/2015	116.41	\$1,208.86	\$0.00	\$0.00	\$0.00
13836	7/10/2015	3092	Yabut	Gerry	6/1/2009	6/20/2015	7/3/2015	114.40	\$1,050.24	\$0.00	\$0.00	\$0.00
13837	7/24/2015	3092	Yabut	Gerry	6/1/2009	7/4/2015	7/17/2015	116.43	\$1,016.91	\$0.00	\$0.00	\$0.00
13838	8/7/2015	3092	Yabut	Gerry	6/1/2009	7/18/2015	7/31/2015	113.91	\$1,049.43	\$0.00	\$0.00	\$0.00
13839	8/21/2015	3092	Yabut	Gerry	6/1/2009	8/1/2015	8/14/2015	105.67	\$1,000.73	\$0.00	\$0.00	\$0.00
13840	9/4/2015	3092	Yabut	Gerry	6/1/2009	8/15/2015	8/28/2015	114.31	\$943.04	\$0.00	\$0.02	\$0.00
13841	9/18/2015	3092	Yabut	Gerry	6/1/2009	8/29/2015	9/11/2015	114.33	\$1,218.68	\$0.00	\$0.00	\$0.00
13842	10/2/2015	3092	Yabut	Gerry	6/1/2009	9/12/2015	9/25/2015	116.04	\$1,395.88	\$0.00	\$0.00	\$0.00
13843	10/16/2015	3092	Yabut	Gerry	6/1/2009	9/26/2015	10/9/2015	114.24	\$1,451.31	\$0.00	\$0.00	\$0.00
13844	10/30/2015	3092	Yabut	Gerry	6/1/2009	10/10/2015	10/23/2015	116.79	\$1,252.66	\$0.00	\$0.00	\$0.00
13845	11/13/2015	3092	Yabut	Gerry	6/1/2009	10/24/2015	11/6/2015	109.60	\$1,116.79	\$0.00	\$0.00	\$0.00
13846	11/27/2015	3092	Yabut	Gerry	6/1/2009	11/7/2015	11/20/2015	116.76	\$1,291.47	\$0.00	\$0.00	\$0.00
13847	12/11/2015	3092	Yabut	Gerry	6/1/2009	11/21/2015	12/4/2015	115.77	\$1,247.18	\$0.00	\$0.00	\$0.00
13848	12/25/2015	3092	Yabut	Gerry	6/1/2009	12/5/2015	12/18/2015	112.47	\$1,075.46	\$0.00	\$0.00	\$0.00
13849	1/25/2013	108389	Yamaguchi	Alicia	12/1/2012	1/5/2013	1/18/2013	89.25	\$665.53	\$0.00	\$70.78	\$0.00
13850	2/8/2013	108389	Yamaguchi	Alicia	12/1/2012	1/19/2013	2/1/2013	98.06	\$615.68	\$95.26	\$193.32	\$95.26
13851	2/22/2013	108389	Yamaguchi	Alicia	12/1/2012	2/2/2013	2/15/2013	77.54	\$516.74	\$45.43	\$122.97	\$45.43
13852	3/8/2013	108389	Yamaguchi	Alicia	12/1/2012	2/16/2013	3/1/2013	122.92	\$767.56	\$123.61	\$246.53	\$123.61
13853	3/22/2013	108389	Yamaguchi	Alicia	12/1/2012	3/2/2013	3/15/2013	98.96	\$618.40	\$99.06	\$198.02	\$99.06
13854	4/5/2013	108389	Yamaguchi	Alicia	12/1/2012	3/16/2013	3/29/2013	96.23	\$592.81	\$104.86	\$201.09	\$104.86
13855	4/19/2013	108389	Yamaguchi	Alicia	12/1/2012	3/30/2013	4/12/2013	98.02	\$607.10	\$103.55	\$201.57	\$103.55

	B	C	D	E	F	G	H	I	J	K	L	M
13856	5/3/2013	108389	Yamaguchi	Alicia	12/1/2012	4/13/2013	4/26/2013	99.45	\$680.19	\$40.82	\$140.27	\$40.82
13857	5/17/2013	108389	Yamaguchi	Alicia	12/1/2012	4/27/2013	5/10/2013	96.85	\$706.21	\$0.00	\$92.80	\$0.00
13858	5/31/2013	108389	Yamaguchi	Alicia	12/1/2012	5/11/2013	5/24/2013	98.35	\$688.36	\$24.68	\$123.03	\$24.68
13859	6/14/2013	108389	Yamaguchi	Alicia	12/1/2012	5/25/2013	6/7/2013	98.94	\$604.64	\$112.68	\$211.62	\$112.68
13860	6/28/2013	108389	Yamaguchi	Alicia	12/1/2012	6/8/2013	6/21/2013	98.10	\$688.29	\$22.93	\$121.04	\$22.93
13861	7/12/2013	108389	Yamaguchi	Alicia	12/1/2012	6/22/2013	7/5/2013	107.54	\$672.13	\$107.54	\$215.08	\$107.54
13862	7/26/2013	108389	Yamaguchi	Alicia	12/1/2012	7/6/2013	7/19/2013	96.59	\$591.62	\$108.66	\$205.25	\$108.66
13863	8/9/2013	108389	Yamaguchi	Alicia	12/1/2012	7/20/2013	8/2/2013	96.20	\$594.98	\$102.47	\$198.67	\$102.47
13864	8/23/2013	108389	Yamaguchi	Alicia	12/1/2012	8/3/2013	8/16/2013	85.50	\$522.86	\$97.02	\$182.52	\$97.02
13865	9/6/2013	108389	Yamaguchi	Alicia	12/1/2012	8/17/2013	8/30/2013	102.54	\$622.98	\$120.44	\$222.98	\$120.44
13866	9/20/2013	108389	Yamaguchi	Alicia	12/1/2012	8/31/2013	9/13/2013	94.58	\$603.24	\$82.47	\$177.05	\$82.47
13867	10/4/2013	108389	Yamaguchi	Alicia	12/1/2012	9/14/2013	9/27/2013	95.55	\$693.11	\$0.00	\$95.18	\$0.00
13868	10/18/2013	108389	Yamaguchi	Alicia	12/1/2012	9/28/2013	10/11/2013	82.47	\$527.96	\$69.95	\$152.42	\$69.95
13869	11/1/2013	108389	Yamaguchi	Alicia	12/1/2012	10/12/2013	10/25/2013	92.18	\$615.34	\$52.97	\$145.15	\$52.97
13870	11/15/2013	108389	Yamaguchi	Alicia	12/1/2012	10/26/2013	11/8/2013	84.93	\$642.47	\$0.00	\$58.20	\$0.00
13871	11/29/2013	108389	Yamaguchi	Alicia	12/1/2012	11/9/2013	11/22/2013	73.26	\$452.87	\$78.27	\$151.53	\$78.27
13872	12/13/2013	108389	Yamaguchi	Alicia	12/1/2012	11/23/2013	12/6/2013	64.39	\$410.94	\$55.89	\$120.28	\$55.89
13873	12/27/2013	108389	Yamaguchi	Alicia	12/1/2012	12/7/2013	12/20/2013	69.18	\$675.76	\$0.00	\$0.00	\$0.00
13874	1/10/2014	108389	Yamaguchi	Alicia	12/1/2012	12/21/2013	1/3/2014	96.47	\$610.92	\$88.49	\$184.96	\$88.49
13875	1/24/2014	108389	Yamaguchi	Alicia	12/1/2012	1/4/2014	1/17/2014	92.19	\$569.49	\$98.89	\$191.08	\$98.89
13876	2/7/2014	108389	Yamaguchi	Alicia	12/1/2012	1/18/2014	1/31/2014	77.38	\$533.66	\$27.35	\$104.73	\$27.35
13877	2/21/2014	108389	Yamaguchi	Alicia	12/1/2012	2/1/2014	2/14/2014	85.66	\$534.63	\$86.41	\$172.07	\$86.41
13878	3/7/2014	108389	Yamaguchi	Alicia	12/1/2012	2/15/2014	2/28/2014	83.23	\$511.08	\$92.34	\$175.57	\$92.34
13879	3/21/2014	108389	Yamaguchi	Alicia	12/1/2012	3/1/2014	3/14/2014	89.40	\$643.16	\$4.99	\$94.39	\$4.99
13880	4/4/2014	108389	Yamaguchi	Alicia	12/1/2012	3/15/2014	3/28/2014	78.30	\$648.58	\$0.00	\$0.00	\$0.00
13881	4/18/2014	108389	Yamaguchi	Alicia	12/1/2012	3/29/2014	4/11/2014	97.10	\$770.89	\$0.00	\$30.18	\$0.00
13882	5/2/2014	108389	Yamaguchi	Alicia	12/1/2012	4/12/2014	4/25/2014	99.96	\$618.12	\$106.59	\$206.55	\$106.59
13883	5/16/2014	108389	Yamaguchi	Alicia	12/1/2012	4/26/2014	5/9/2014	63.79	\$508.71	\$0.00	\$17.56	\$0.00
13884	5/30/2014	108389	Yamaguchi	Alicia	12/1/2012	5/10/2014	5/23/2014	102.38	\$746.98	\$0.00	\$97.66	\$0.00
13885	6/13/2014	108389	Yamaguchi	Alicia	12/1/2012	5/24/2014	6/6/2014	82.63	\$505.65	\$93.42	\$176.05	\$93.42
13886	6/27/2014	108389	Yamaguchi	Alicia	12/1/2012	6/7/2014	6/20/2014	76.44	\$469.51	\$84.68	\$161.12	\$84.68
13887	7/11/2014	108389	Yamaguchi	Alicia	12/1/2012	6/21/2014	7/4/2014	51.26	\$381.81	\$0.00	\$41.09	\$0.00
13888	9/19/2014	108389	Yamaguchi	Alicia	12/1/2012	8/30/2014	9/12/2014	47.69	\$411.62	\$0.00	\$0.00	\$0.00
13889	10/3/2014	108389	Yamaguchi	Alicia	12/1/2012	9/13/2014	9/26/2014	101.04	\$756.65	\$0.00	\$76.93	\$0.00
13890	10/17/2014	108389	Yamaguchi	Alicia	12/1/2012	9/27/2014	10/10/2014	72.40	\$570.09	\$0.00	\$27.21	\$0.00
13891	10/31/2014	108389	Yamaguchi	Alicia	12/1/2012	10/11/2014	10/24/2014	93.73	\$797.41	\$0.00	\$0.00	\$0.00
13892	11/14/2014	108389	Yamaguchi	Alicia	12/1/2012	10/25/2014	11/7/2014	87.42	\$661.99	\$0.00	\$59.23	\$0.00
13893	11/28/2014	108389	Yamaguchi	Alicia	12/1/2012	11/8/2014	11/21/2014	79.28	\$700.77	\$0.00	\$0.00	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
13894	12/12/2014	108389	Yamaguchi	Alicia	12/1/2012	11/22/2014	12/5/2014	83.39	\$658.77	\$0.00	\$29.20	\$0.00
13895	12/26/2014	108389	Yamaguchi	Alicia	12/1/2012	12/6/2014	12/19/2014	80.23	\$619.14	\$0.00	\$42.76	\$0.00
13896	1/9/2015	108389	Yamaguchi	Alicia	12/1/2012	12/20/2014	1/2/2015	99.18	\$718.82	\$0.24	\$99.42	\$0.24
13897	1/23/2015	108389	Yamaguchi	Alicia	12/1/2012	1/3/2015	1/16/2015	90.20	\$699.67	\$0.00	\$44.48	\$0.00
13898	2/6/2015	108389	Yamaguchi	Alicia	12/1/2012	1/17/2015	1/30/2015	87.38	\$912.36	\$0.00	\$0.00	\$0.00
13899	2/20/2015	108389	Yamaguchi	Alicia	12/1/2012	1/31/2015	2/13/2015	88.61	\$797.71	\$0.00	\$0.00	\$0.00
13900	3/6/2015	108389	Yamaguchi	Alicia	12/1/2012	2/14/2015	2/27/2015	83.55	\$678.21	\$0.00	\$11.08	\$0.00
13901	3/20/2015	108389	Yamaguchi	Alicia	12/1/2012	2/28/2015	3/13/2015	91.36	\$681.75	\$0.00	\$71.97	\$0.00
13902	4/3/2015	108389	Yamaguchi	Alicia	12/1/2012	3/14/2015	3/27/2015	99.74	\$824.43	\$0.00	\$0.00	\$0.00
13903	4/17/2015	108389	Yamaguchi	Alicia	12/1/2012	3/28/2015	4/10/2015	93.55	\$678.40	\$0.00	\$93.39	\$0.00
13904	5/1/2015	108389	Yamaguchi	Alicia	12/1/2012	4/11/2015	4/24/2015	97.55	\$868.65	\$0.00	\$0.00	\$0.00
13905	5/15/2015	108389	Yamaguchi	Alicia	12/1/2012	4/25/2015	5/8/2015	90.06	\$886.77	\$0.00	\$0.00	\$0.00
13906	5/29/2015	108389	Yamaguchi	Alicia	12/1/2012	5/9/2015	5/22/2015	85.14	\$736.17	\$0.00	\$0.00	\$0.00
13907	6/12/2015	108389	Yamaguchi	Alicia	12/1/2012	5/23/2015	6/5/2015	92.88	\$758.75	\$0.00	\$7.51	\$0.00
13908	6/26/2015	108389	Yamaguchi	Alicia	12/1/2012	6/6/2015	6/19/2015	89.87	\$783.15	\$0.00	\$0.00	\$0.00
13909	7/10/2015	108389	Yamaguchi	Alicia	12/1/2012	6/20/2015	7/3/2015	88.07	\$771.67	\$0.00	\$0.00	\$0.00
13910	7/24/2015	108389	Yamaguchi	Alicia	12/1/2012	7/4/2015	7/17/2015	88.18	\$768.31	\$0.00	\$0.00	\$0.00
13911	8/7/2015	108389	Yamaguchi	Alicia	12/1/2012	7/18/2015	7/31/2015	87.53	\$708.70	\$0.00	\$13.42	\$0.00
13912	8/21/2015	108389	Yamaguchi	Alicia	12/1/2012	8/1/2015	8/14/2015	97.99	\$933.03	\$0.00	\$0.00	\$0.00
13913	9/4/2015	108389	Yamaguchi	Alicia	12/1/2012	8/15/2015	8/28/2015	92.79	\$710.41	\$0.00	\$55.11	\$0.00
13914	9/18/2015	108389	Yamaguchi	Alicia	12/1/2012	8/29/2015	9/11/2015	83.18	\$727.97	\$0.00	\$0.00	\$0.00
13915	10/2/2015	108389	Yamaguchi	Alicia	12/1/2012	9/12/2015	9/25/2015	110.69	\$979.90	\$0.00	\$0.00	\$0.00
13916	10/16/2015	108389	Yamaguchi	Alicia	12/1/2012	9/26/2015	10/9/2015	38.65	\$407.90	\$0.00	\$0.00	\$0.00
13917	2/6/2015	113044	Yazdian	Ali	4/1/2015	1/17/2015	1/30/2015	79.34	\$575.20	\$0.01	\$79.35	\$79.35
13918	2/20/2015	113044	Yazdian	Ali	4/1/2015	1/31/2015	2/13/2015	108.92	\$1,133.91	\$0.00	\$0.00	\$0.00
13919	3/6/2015	113044	Yazdian	Ali	4/1/2015	2/14/2015	2/27/2015	96.87	\$885.27	\$0.00	\$0.00	\$0.00
13920	3/20/2015	113044	Yazdian	Ali	4/1/2015	2/28/2015	3/13/2015	91.07	\$832.50	\$0.00	\$0.00	\$0.00
13921	4/3/2015	113044	Yazdian	Ali	4/1/2015	3/14/2015	3/27/2015	89.58	\$722.83	\$0.00	\$16.20	\$16.20
13922	4/17/2015	113044	Yazdian	Ali	4/1/2015	3/28/2015	4/10/2015	104.69	\$857.05	\$0.00	\$6.64	\$0.00
13923	5/1/2015	113044	Yazdian	Ali	4/1/2015	4/11/2015	4/24/2015	102.47	\$1,011.42	\$0.00	\$0.00	\$0.00
13924	5/15/2015	113044	Yazdian	Ali	4/1/2015	4/25/2015	5/8/2015	131.93	\$1,346.59	\$0.00	\$0.00	\$0.00
13925	5/29/2015	113044	Yazdian	Ali	4/1/2015	5/9/2015	5/22/2015	140.04	\$1,154.75	\$0.00	\$0.58	\$0.00
13926	6/12/2015	113044	Yazdian	Ali	4/1/2015	5/23/2015	6/5/2015	122.79	\$1,020.02	\$0.00	\$0.00	\$0.00
13927	6/26/2015	113044	Yazdian	Ali	4/1/2015	6/6/2015	6/19/2015	128.34	\$1,065.49	\$0.00	\$0.00	\$0.00
13928	7/10/2015	113044	Yazdian	Ali	4/1/2015	6/20/2015	7/3/2015	130.67	\$1,174.55	\$0.00	\$0.00	\$0.00
13929	7/24/2015	113044	Yazdian	Ali	4/1/2015	7/4/2015	7/17/2015	130.09	\$1,206.71	\$0.00	\$0.00	\$0.00
13930	8/7/2015	113044	Yazdian	Ali	4/1/2015	7/18/2015	7/31/2015	137.17	\$1,185.27	\$0.00	\$0.00	\$0.00
13931	8/21/2015	113044	Yazdian	Ali	4/1/2015	8/1/2015	8/14/2015	112.69	\$941.81	\$0.00	\$0.00	\$0.00

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13932	9/4/2015	113044	Yazdian	Ali	4/1/2015	8/15/2015	8/28/2015	138.33	\$1,293.54	\$0.00	\$0.00	\$0.00
13933	9/18/2015	113044	Yazdian	Ali	4/1/2015	8/29/2015	9/11/2015	34.62	\$330.80	\$0.00	\$0.00	\$0.00
13934	5/15/2015	114275	Yerima	Mollah	7/1/2015	4/25/2015	5/8/2015	75.83	\$550.03	\$0.00	\$75.57	\$75.57
13935	5/29/2015	114275	Yerima	Mollah	7/1/2015	5/9/2015	5/22/2015	95.25	\$708.55	\$0.00	\$77.26	\$77.26
13936	6/12/2015	114275	Yerima	Mollah	7/1/2015	5/23/2015	6/5/2015	112.11	\$812.76	\$0.04	\$112.15	\$112.15
13937	6/26/2015	114275	Yerima	Mollah	7/1/2015	6/6/2015	6/19/2015	101.97	\$776.43	\$0.00	\$64.82	\$64.82
13938	7/10/2015	114275	Yerima	Mollah	7/1/2015	6/20/2015	7/3/2015	100.04	\$735.12	\$0.00	\$90.21	\$0.00
13939	7/24/2015	114275	Yerima	Mollah	7/1/2015	7/4/2015	7/17/2015	100.43	\$727.93	\$0.19	\$100.62	\$0.19
13940	8/7/2015	114275	Yerima	Mollah	7/1/2015	7/18/2015	7/31/2015	100.17	\$726.54	\$0.00	\$99.86	\$0.00
13941	8/21/2015	114275	Yerima	Mollah	7/1/2015	8/1/2015	8/14/2015	109.87	\$796.42	\$0.14	\$110.01	\$0.14
13942	9/4/2015	114275	Yerima	Mollah	7/1/2015	8/15/2015	8/28/2015	109.94	\$797.20	\$0.00	\$109.81	\$0.00
13943	9/18/2015	114275	Yerima	Mollah	7/1/2015	8/29/2015	9/11/2015	89.54	\$748.54	\$0.00	\$0.00	\$0.00
13944	10/2/2015	114275	Yerima	Mollah	7/1/2015	9/12/2015	9/25/2015	109.78	\$1,150.12	\$0.00	\$0.00	\$0.00
13945	10/16/2015	114275	Yerima	Mollah	7/1/2015	9/26/2015	10/9/2015	89.29	\$975.76	\$0.00	\$0.00	\$0.00
13946	10/30/2015	114275	Yerima	Mollah	7/1/2015	10/10/2015	10/23/2015	96.45	\$1,043.78	\$0.00	\$0.00	\$0.00
13947	11/13/2015	114275	Yerima	Mollah	7/1/2015	10/24/2015	11/6/2015	98.15	\$1,017.50	\$0.00	\$0.00	\$0.00
13948	11/27/2015	114275	Yerima	Mollah	7/1/2015	11/7/2015	11/20/2015	100.56	\$934.26	\$0.00	\$0.00	\$0.00
13949	12/11/2015	114275	Yerima	Mollah	7/1/2015	11/21/2015	12/4/2015	96.15	\$1,005.30	\$0.00	\$0.00	\$0.00
13950	12/25/2015	114275	Yerima	Mollah	7/1/2015	12/5/2015	12/18/2015	89.81	\$933.37	\$0.00	\$0.00	\$0.00
13951	10/16/2015	114673	Yu	Lu	12/1/2015	9/26/2015	10/9/2015	10.08	\$99.28	\$0.00	\$0.00	\$0.00
13952	10/30/2015	114673	Yu	Lu	12/1/2015	10/10/2015	10/23/2015	38.60	\$338.16	\$0.00	\$0.00	\$0.00
13953	7/10/2015	113075	Yu	Mary	9/1/2015	6/20/2015	7/3/2015	76.14	\$552.19	\$0.00	\$75.97	\$75.97
13954	7/24/2015	113075	Yu	Mary	9/1/2015	7/4/2015	7/17/2015	110.91	\$804.38	\$0.00	\$110.63	\$110.63
13955	8/7/2015	113075	Yu	Mary	9/1/2015	7/18/2015	7/31/2015	128.67	\$962.49	\$0.00	\$99.04	\$99.04
13956	8/21/2015	113075	Yu	Mary	9/1/2015	8/1/2015	8/14/2015	120.54	\$904.97	\$0.00	\$89.49	\$89.49
13957	9/4/2015	113075	Yu	Mary	9/1/2015	8/15/2015	8/28/2015	121.04	\$894.55	\$0.00	\$104.03	\$104.03
13958	9/18/2015	113075	Yu	Mary	9/1/2015	8/29/2015	9/11/2015	110.19	\$871.33	\$0.00	\$37.74	\$0.00
13959	10/2/2015	113075	Yu	Mary	9/1/2015	9/12/2015	9/25/2015	112.93	\$1,022.30	\$0.00	\$0.00	\$0.00
13960	10/16/2015	113075	Yu	Mary	9/1/2015	9/26/2015	10/9/2015	112.71	\$993.95	\$0.00	\$0.00	\$0.00
13961	10/30/2015	113075	Yu	Mary	9/1/2015	10/10/2015	10/23/2015	115.46	\$1,088.99	\$0.00	\$0.00	\$0.00
13962	11/13/2015	113075	Yu	Mary	9/1/2015	10/24/2015	11/6/2015	116.57	\$910.98	\$0.00	\$50.72	\$0.00
13963	11/27/2015	113075	Yu	Mary	9/1/2015	11/7/2015	11/20/2015	115.42	\$970.80	\$0.00	\$0.00	\$0.00
13964	12/11/2015	113075	Yu	Mary	9/1/2015	11/21/2015	12/4/2015	103.12	\$747.17	\$0.45	\$103.57	\$0.45
13965	12/25/2015	113075	Yu	Mary	9/1/2015	12/5/2015	12/18/2015	112.58	\$834.68	\$0.00	\$94.11	\$0.00
13966	2/8/2013	17259	Yurckonis	Hilbert	5/1/2013	1/19/2013	2/1/2013	19.89	\$128.62	\$15.58	\$35.47	\$35.47
13967	2/22/2013	17259	Yurckonis	Hilbert	5/1/2013	2/2/2013	2/15/2013	99.02	\$627.54	\$90.36	\$189.38	\$189.38
13968	3/8/2013	17259	Yurckonis	Hilbert	5/1/2013	2/16/2013	3/1/2013	99.52	\$614.67	\$106.85	\$206.37	\$206.37
13969	3/22/2013	17259	Yurckonis	Hilbert	5/1/2013	3/2/2013	3/15/2013	85.68	\$533.78	\$87.40	\$173.08	\$173.08

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13970	4/5/2013	17259	Yurckonis	Hilbert	5/1/2013	3/16/2013	3/29/2013	81.46	\$635.57	\$0.00	\$36.48	\$36.48
13971	4/19/2013	17259	Yurckonis	Hilbert	5/1/2013	3/30/2013	4/12/2013	93.22	\$644.49	\$31.36	\$124.58	\$124.58
13972	5/3/2013	17259	Yurckonis	Hilbert	5/1/2013	4/13/2013	4/26/2013	94.00	\$601.45	\$80.05	\$174.05	\$174.05
13973	5/17/2013	17259	Yurckonis	Hilbert	5/1/2013	4/27/2013	5/10/2013	92.78	\$663.69	\$8.96	\$101.75	\$8.96
13974	5/31/2013	17259	Yurckonis	Hilbert	5/1/2013	5/11/2013	5/24/2013	93.88	\$625.68	\$54.95	\$148.83	\$54.95
13975	6/14/2013	17259	Yurckonis	Hilbert	5/1/2013	5/25/2013	6/7/2013	90.93	\$555.26	\$103.98	\$194.91	\$103.98
13976	6/28/2013	17259	Yurckonis	Hilbert	5/1/2013	6/8/2013	6/21/2013	90.35	\$563.60	\$91.44	\$181.79	\$91.44
13977	7/12/2013	17259	Yurckonis	Hilbert	5/1/2013	6/22/2013	7/5/2013	90.95	\$604.63	\$54.76	\$145.71	\$54.76
13978	7/26/2013	17259	Yurckonis	Hilbert	5/1/2013	7/6/2013	7/19/2013	91.24	\$570.54	\$90.95	\$182.19	\$90.95
13979	8/9/2013	17259	Yurckonis	Hilbert	5/1/2013	7/20/2013	8/2/2013	92.21	\$574.51	\$94.01	\$186.22	\$94.01
13980	8/23/2013	17259	Yurckonis	Hilbert	5/1/2013	8/3/2013	8/16/2013	87.76	\$552.22	\$84.04	\$171.80	\$84.04
13981	9/6/2013	17259	Yurckonis	Hilbert	5/1/2013	8/17/2013	8/30/2013	89.62	\$562.09	\$87.66	\$177.28	\$87.66
13982	9/20/2013	17259	Yurckonis	Hilbert	5/1/2013	8/31/2013	9/13/2013	86.87	\$542.91	\$86.90	\$173.77	\$86.90
13983	10/4/2013	17259	Yurckonis	Hilbert	5/1/2013	9/14/2013	9/27/2013	91.35	\$641.36	\$20.93	\$112.28	\$20.93
13984	10/18/2013	17259	Yurckonis	Hilbert	5/1/2013	9/28/2013	10/11/2013	90.19	\$556.14	\$97.74	\$187.93	\$97.74
13985	11/1/2013	17259	Yurckonis	Hilbert	5/1/2013	10/12/2013	10/25/2013	85.22	\$531.97	\$85.88	\$171.10	\$85.88
13986	11/15/2013	17259	Yurckonis	Hilbert	5/1/2013	10/26/2013	11/8/2013	83.59	\$516.36	\$89.67	\$173.26	\$89.67
13987	11/29/2013	17259	Yurckonis	Hilbert	5/1/2013	11/9/2013	11/22/2013	68.84	\$426.54	\$72.55	\$141.39	\$72.55
13988	12/13/2013	17259	Yurckonis	Hilbert	5/1/2013	11/23/2013	12/6/2013	67.18	\$431.85	\$55.21	\$122.39	\$55.21
13989	12/27/2013	17259	Yurckonis	Hilbert	5/1/2013	12/7/2013	12/20/2013	72.97	\$674.96	\$0.00	\$0.00	\$0.00
13990	1/10/2014	17259	Yurckonis	Hilbert	5/1/2013	12/21/2013	1/3/2014	57.70	\$369.75	\$48.58	\$106.28	\$48.58
13991	1/24/2014	17259	Yurckonis	Hilbert	5/1/2013	1/4/2014	1/17/2014	85.07	\$601.47	\$15.29	\$100.36	\$15.29
13992	2/7/2014	17259	Yurckonis	Hilbert	5/1/2013	1/18/2014	1/31/2014	69.34	\$445.43	\$57.29	\$126.63	\$57.29
13993	2/21/2014	17259	Yurckonis	Hilbert	5/1/2013	2/1/2014	2/14/2014	76.74	\$477.72	\$78.65	\$155.39	\$78.65
13994	3/7/2014	17259	Yurckonis	Hilbert	5/1/2013	2/15/2014	2/28/2014	75.77	\$465.44	\$83.89	\$159.66	\$83.89
13995	3/21/2014	17259	Yurckonis	Hilbert	5/1/2013	3/1/2014	3/14/2014	74.12	\$499.07	\$38.30	\$112.42	\$38.30
13996	4/4/2014	17259	Yurckonis	Hilbert	5/1/2013	3/15/2014	3/28/2014	74.29	\$495.25	\$43.35	\$117.64	\$43.35
13997	4/18/2014	17259	Yurckonis	Hilbert	5/1/2013	3/29/2014	4/11/2014	75.86	\$497.39	\$52.60	\$128.46	\$52.60
13998	5/2/2014	17259	Yurckonis	Hilbert	5/1/2013	4/12/2014	4/25/2014	73.23	\$454.90	\$76.02	\$149.25	\$76.02
13999	5/16/2014	17259	Yurckonis	Hilbert	5/1/2013	4/26/2014	5/9/2014	68.61	\$471.86	\$25.56	\$94.17	\$25.56
14000	5/30/2014	17259	Yurckonis	Hilbert	5/1/2013	5/10/2014	5/23/2014	82.93	\$507.03	\$94.21	\$177.14	\$94.21
14001	6/13/2014	17259	Yurckonis	Hilbert	5/1/2013	5/24/2014	6/6/2014	90.65	\$552.18	\$105.03	\$195.68	\$105.03
14002	6/27/2014	17259	Yurckonis	Hilbert	5/1/2013	6/7/2014	6/20/2014	79.72	\$494.20	\$83.77	\$163.49	\$83.77
14003	7/11/2014	17259	Yurckonis	Hilbert	5/1/2013	6/21/2014	7/4/2014	90.36	\$654.76	\$0.35	\$90.71	\$0.35
14004	7/25/2014	17259	Yurckonis	Hilbert	5/1/2013	7/5/2014	7/18/2014	83.00	\$611.71	\$0.00	\$73.04	\$0.00
14005	8/8/2014	17259	Yurckonis	Hilbert	5/1/2013	7/19/2014	8/1/2014	70.56	\$511.54	\$0.02	\$70.58	\$0.02
14006	8/22/2014	17259	Yurckonis	Hilbert	5/1/2013	8/2/2014	8/15/2014	79.83	\$578.43	\$0.34	\$80.17	\$0.34
14007	9/5/2014	17259	Yurckonis	Hilbert	5/1/2013	8/16/2014	8/29/2014	73.70	\$534.27	\$0.06	\$73.76	\$0.06

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14008	9/19/2014	17259	Yurckonis	Hilbert	5/1/2013	8/30/2014	9/12/2014	66.51	\$482.47	\$0.00	\$66.24	\$0.00
14009	10/3/2014	17259	Yurckonis	Hilbert	5/1/2013	9/13/2014	9/26/2014	66.95	\$485.50	\$0.00	\$66.84	\$0.00
14010	10/17/2014	17259	Yurckonis	Hilbert	5/1/2013	9/27/2014	10/10/2014	94.37	\$684.48	\$0.00	\$94.07	\$0.00
14011	10/31/2014	17259	Yurckonis	Hilbert	5/1/2013	10/11/2014	10/24/2014	85.56	\$620.03	\$0.28	\$85.84	\$0.28
14012	11/14/2014	17259	Yurckonis	Hilbert	5/1/2013	10/25/2014	11/7/2014	111.43	\$808.39	\$0.00	\$110.91	\$0.00
14013	11/28/2014	17259	Yurckonis	Hilbert	5/1/2013	11/8/2014	11/21/2014	82.92	\$600.78	\$0.39	\$83.31	\$0.39
14014	12/12/2014	17259	Yurckonis	Hilbert	5/1/2013	11/22/2014	12/5/2014	80.34	\$582.81	\$0.00	\$80.00	\$0.00
14015	12/26/2014	17259	Yurckonis	Hilbert	5/1/2013	12/6/2014	12/19/2014	65.79	\$476.85	\$0.13	\$65.92	\$0.13
14016	1/9/2015	17259	Yurckonis	Hilbert	5/1/2013	12/20/2014	1/2/2015	88.48	\$641.92	\$0.00	\$88.04	\$0.00
14017	1/23/2015	17259	Yurckonis	Hilbert	5/1/2013	1/3/2015	1/16/2015	90.27	\$654.54	\$0.00	\$90.19	\$0.00
14018	2/6/2015	17259	Yurckonis	Hilbert	5/1/2013	1/17/2015	1/30/2015	92.72	\$672.28	\$0.00	\$92.66	\$0.00
14019	2/20/2015	17259	Yurckonis	Hilbert	5/1/2013	1/31/2015	2/13/2015	93.04	\$674.26	\$0.28	\$93.32	\$0.28
14020	3/6/2015	17259	Yurckonis	Hilbert	5/1/2013	2/14/2015	2/27/2015	92.24	\$668.79	\$0.00	\$92.19	\$0.00
14021	3/20/2015	17259	Yurckonis	Hilbert	5/1/2013	2/28/2015	3/13/2015	77.91	\$670.14	\$0.00	\$0.00	\$0.00
14022	4/3/2015	17259	Yurckonis	Hilbert	5/1/2013	3/14/2015	3/27/2015	100.72	\$730.47	\$0.00	\$100.47	\$0.00
14023	4/17/2015	17259	Yurckonis	Hilbert	5/1/2013	3/28/2015	4/10/2015	40.57	\$294.18	\$0.00	\$40.52	\$0.00
14024	2/1/2013	30374	Zafar	John	6/1/2010	1/5/2013	1/18/2013	0.00	\$1,103.27	\$0.00	\$0.00	\$0.00
14025	2/15/2013	30374	Zafar	John	6/1/2010	1/19/2013	2/1/2013	0.00	\$1,126.64	\$0.00	\$0.00	\$0.00
14026	3/1/2013	30374	Zafar	John	6/1/2010	2/2/2013	2/15/2013	0.00	\$1,095.54	\$0.00	\$0.00	\$0.00
14027	3/8/2013	30374	Zafar	John	6/1/2010	2/16/2013	3/1/2013	97.50	\$1,158.56	\$0.00	\$0.00	\$0.00
14028	3/22/2013	30374	Zafar	John	6/1/2010	3/2/2013	3/15/2013	97.44	\$1,099.23	\$0.00	\$0.00	\$0.00
14029	4/5/2013	30374	Zafar	John	6/1/2010	3/16/2013	3/29/2013	86.74	\$996.78	\$0.00	\$0.00	\$0.00
14030	4/19/2013	30374	Zafar	John	6/1/2010	3/30/2013	4/12/2013	65.07	\$809.38	\$0.00	\$0.00	\$0.00
14031	5/3/2013	30374	Zafar	John	6/1/2010	4/13/2013	4/26/2013	92.21	\$934.33	\$0.00	\$0.00	\$0.00
14032	5/17/2013	30374	Zafar	John	6/1/2010	4/27/2013	5/10/2013	94.64	\$1,127.72	\$0.00	\$0.00	\$0.00
14033	5/31/2013	30374	Zafar	John	6/1/2010	5/11/2013	5/24/2013	76.94	\$864.42	\$0.00	\$0.00	\$0.00
14034	6/14/2013	30374	Zafar	John	6/1/2010	5/25/2013	6/7/2013	98.08	\$1,017.58	\$0.00	\$0.00	\$0.00
14035	6/28/2013	30374	Zafar	John	6/1/2010	6/8/2013	6/21/2013	95.38	\$1,070.10	\$0.00	\$0.00	\$0.00
14036	7/12/2013	30374	Zafar	John	6/1/2010	6/22/2013	7/5/2013	75.32	\$979.67	\$0.00	\$0.00	\$0.00
14037	7/26/2013	30374	Zafar	John	6/1/2010	7/6/2013	7/19/2013	96.76	\$982.09	\$0.00	\$0.00	\$0.00
14038	8/9/2013	30374	Zafar	John	6/1/2010	7/20/2013	8/2/2013	96.22	\$879.19	\$0.00	\$0.00	\$0.00
14039	8/23/2013	30374	Zafar	John	6/1/2010	8/3/2013	8/16/2013	67.16	\$601.27	\$0.00	\$0.00	\$0.00
14040	9/6/2013	30374	Zafar	John	6/1/2010	8/17/2013	8/30/2013	87.59	\$695.37	\$0.00	\$27.25	\$0.00
14041	9/20/2013	30374	Zafar	John	6/1/2010	8/31/2013	9/13/2013	94.77	\$982.91	\$0.00	\$0.00	\$0.00
14042	10/4/2013	30374	Zafar	John	6/1/2010	9/14/2013	9/27/2013	104.43	\$1,134.38	\$0.00	\$0.00	\$0.00
14043	10/18/2013	30374	Zafar	John	6/1/2010	9/28/2013	10/11/2013	92.95	\$904.31	\$0.00	\$0.00	\$0.00
14044	11/1/2013	30374	Zafar	John	6/1/2010	10/12/2013	10/25/2013	78.15	\$857.86	\$0.00	\$0.00	\$0.00
14045	11/15/2013	30374	Zafar	John	6/1/2010	10/26/2013	11/8/2013	94.29	\$954.68	\$0.00	\$0.00	\$0.00

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14046	11/29/2013	30374	Zafar	John	6/1/2010	11/9/2013	11/22/2013	84.22	\$861.21	\$0.00	\$0.00	\$0.00
14047	12/13/2013	30374	Zafar	John	6/1/2010	11/23/2013	12/6/2013	95.10	\$836.87	\$0.00	\$0.00	\$0.00
14048	12/27/2013	30374	Zafar	John	6/1/2010	12/7/2013	12/20/2013	94.29	\$1,082.96	\$0.00	\$0.00	\$0.00
14049	1/10/2014	30374	Zafar	John	6/1/2010	12/21/2013	1/3/2014	91.81	\$619.40	\$46.22	\$138.03	\$46.22
14050	1/24/2014	30374	Zafar	John	6/1/2010	1/4/2014	1/17/2014	104.78	\$1,085.24	\$0.00	\$0.00	\$0.00
14051	2/7/2014	30374	Zafar	John	6/1/2010	1/18/2014	1/31/2014	97.94	\$902.13	\$0.00	\$0.00	\$0.00
14052	2/21/2014	30374	Zafar	John	6/1/2010	2/1/2014	2/14/2014	94.41	\$981.17	\$0.00	\$0.00	\$0.00
14053	3/7/2014	30374	Zafar	John	6/1/2010	2/15/2014	2/28/2014	84.53	\$857.64	\$0.00	\$0.00	\$0.00
14054	3/21/2014	30374	Zafar	John	6/1/2010	3/1/2014	3/14/2014	88.88	\$962.71	\$0.00	\$0.00	\$0.00
14055	4/4/2014	30374	Zafar	John	6/1/2010	3/15/2014	3/28/2014	91.17	\$988.81	\$0.00	\$0.00	\$0.00
14056	4/18/2014	30374	Zafar	John	6/1/2010	3/29/2014	4/11/2014	72.51	\$762.17	\$0.00	\$0.00	\$0.00
14057	5/2/2014	30374	Zafar	John	6/1/2010	4/12/2014	4/25/2014	18.45	\$171.27	\$0.00	\$0.00	\$0.00
14058	5/16/2014	30374	Zafar	John	6/1/2010	4/26/2014	5/9/2014	57.09	\$730.92	\$0.00	\$0.00	\$0.00
14059	5/30/2014	30374	Zafar	John	6/1/2010	5/10/2014	5/23/2014	105.61	\$1,157.15	\$0.00	\$0.00	\$0.00
14060	6/13/2014	30374	Zafar	John	6/1/2010	5/24/2014	6/6/2014	103.53	\$1,108.24	\$0.00	\$0.00	\$0.00
14061	6/27/2014	30374	Zafar	John	6/1/2010	6/7/2014	6/20/2014	76.91	\$840.86	\$0.00	\$0.00	\$0.00
14062	7/11/2014	30374	Zafar	John	6/1/2010	6/21/2014	7/4/2014	104.48	\$1,173.06	\$0.00	\$0.00	\$0.00
14063	7/25/2014	30374	Zafar	John	6/1/2010	7/5/2014	7/18/2014	96.04	\$898.83	\$0.00	\$0.00	\$0.00
14064	8/8/2014	30374	Zafar	John	6/1/2010	7/19/2014	8/1/2014	95.80	\$943.14	\$0.00	\$0.00	\$0.00
14065	8/22/2014	30374	Zafar	John	6/1/2010	8/2/2014	8/15/2014	104.91	\$1,145.80	\$0.00	\$0.00	\$0.00
14066	9/5/2014	30374	Zafar	John	6/1/2010	8/16/2014	8/29/2014	96.26	\$1,136.97	\$0.00	\$0.00	\$0.00
14067	9/19/2014	30374	Zafar	John	6/1/2010	8/30/2014	9/12/2014	106.17	\$1,146.73	\$0.00	\$0.00	\$0.00
14068	10/3/2014	30374	Zafar	John	6/1/2010	9/13/2014	9/26/2014	91.77	\$1,308.30	\$0.00	\$0.00	\$0.00
14069	10/17/2014	30374	Zafar	John	6/1/2010	9/27/2014	10/10/2014	95.34	\$1,192.67	\$0.00	\$0.00	\$0.00
14070	10/31/2014	30374	Zafar	John	6/1/2010	10/11/2014	10/24/2014	94.12	\$1,126.42	\$0.00	\$0.00	\$0.00
14071	11/14/2014	30374	Zafar	John	6/1/2010	10/25/2014	11/7/2014	99.68	\$1,353.11	\$0.00	\$0.00	\$0.00
14072	11/28/2014	30374	Zafar	John	6/1/2010	11/8/2014	11/21/2014	98.45	\$1,218.28	\$0.00	\$0.00	\$0.00
14073	12/12/2014	30374	Zafar	John	6/1/2010	11/22/2014	12/5/2014	104.49	\$1,312.66	\$0.00	\$0.00	\$0.00
14074	12/26/2014	30374	Zafar	John	6/1/2010	12/6/2014	12/19/2014	102.81	\$1,344.77	\$0.00	\$0.00	\$0.00
14075	1/9/2015	30374	Zafar	John	6/1/2010	12/20/2014	1/2/2015	94.08	\$1,179.95	\$0.00	\$0.00	\$0.00
14076	1/23/2015	30374	Zafar	John	6/1/2010	1/3/2015	1/16/2015	116.21	\$1,833.65	\$0.00	\$0.00	\$0.00
14077	2/6/2015	30374	Zafar	John	6/1/2010	1/17/2015	1/30/2015	94.14	\$1,429.44	\$0.00	\$0.00	\$0.00
14078	2/20/2015	30374	Zafar	John	6/1/2010	1/31/2015	2/13/2015	95.35	\$1,443.01	\$0.00	\$0.00	\$0.00
14079	3/6/2015	30374	Zafar	John	6/1/2010	2/14/2015	2/27/2015	104.61	\$1,496.61	\$0.00	\$0.00	\$0.00
14080	3/20/2015	30374	Zafar	John	6/1/2010	2/28/2015	3/13/2015	27.24	\$376.65	\$0.00	\$0.00	\$0.00
14081	4/3/2015	30374	Zafar	John	6/1/2010	3/14/2015	3/27/2015	58.37	\$829.90	\$0.00	\$0.00	\$0.00
14082	4/17/2015	30374	Zafar	John	6/1/2010	3/28/2015	4/10/2015	114.89	\$1,657.49	\$0.00	\$0.00	\$0.00
14083	5/1/2015	30374	Zafar	John	6/1/2010	4/11/2015	4/24/2015	115.93	\$1,620.39	\$0.00	\$0.00	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
14084	5/15/2015	30374	Zafar	John	6/1/2010	4/25/2015	5/8/2015	116.16	\$1,855.84	\$0.00	\$0.00	\$0.00
14085	5/29/2015	30374	Zafar	John	6/1/2010	5/9/2015	5/22/2015	117.75	\$1,567.84	\$0.00	\$0.00	\$0.00
14086	6/12/2015	30374	Zafar	John	6/1/2010	5/23/2015	6/5/2015	116.68	\$1,511.00	\$0.00	\$0.00	\$0.00
14087	6/26/2015	30374	Zafar	John	6/1/2010	6/6/2015	6/19/2015	115.14	\$1,598.38	\$0.00	\$0.00	\$0.00
14088	7/10/2015	30374	Zafar	John	6/1/2010	6/20/2015	7/3/2015	93.01	\$1,276.66	\$0.00	\$0.00	\$0.00
14089	7/24/2015	30374	Zafar	John	6/1/2010	7/4/2015	7/17/2015	111.96	\$1,375.37	\$0.00	\$0.00	\$0.00
14090	8/7/2015	30374	Zafar	John	6/1/2010	7/18/2015	7/31/2015	118.11	\$1,354.40	\$0.00	\$0.00	\$0.00
14091	8/21/2015	30374	Zafar	John	6/1/2010	8/1/2015	8/14/2015	94.19	\$1,264.37	\$0.00	\$0.00	\$0.00
14092	9/4/2015	30374	Zafar	John	6/1/2010	8/15/2015	8/28/2015	118.08	\$1,375.63	\$0.00	\$0.00	\$0.00
14093	9/18/2015	30374	Zafar	John	6/1/2010	8/29/2015	9/11/2015	114.44	\$1,498.53	\$0.00	\$0.00	\$0.00
14094	10/2/2015	30374	Zafar	John	6/1/2010	9/12/2015	9/25/2015	102.77	\$1,397.37	\$0.00	\$0.00	\$0.00
14095	10/16/2015	30374	Zafar	John	6/1/2010	9/26/2015	10/9/2015	112.78	\$1,760.84	\$0.00	\$0.00	\$0.00
14096	10/30/2015	30374	Zafar	John	6/1/2010	10/10/2015	10/23/2015	101.49	\$1,445.79	\$0.00	\$0.00	\$0.00
14097	11/13/2015	30374	Zafar	John	6/1/2010	10/24/2015	11/6/2015	92.62	\$1,176.26	\$0.00	\$0.00	\$0.00
14098	11/27/2015	30374	Zafar	John	6/1/2010	11/7/2015	11/20/2015	120.78	\$1,805.76	\$0.00	\$0.00	\$0.00
14099	12/11/2015	30374	Zafar	John	6/1/2010	11/21/2015	12/4/2015	103.52	\$1,236.67	\$0.00	\$0.00	\$0.00
14100	12/25/2015	30374	Zafar	John	6/1/2010	12/5/2015	12/18/2015	113.99	\$1,532.48	\$0.00	\$0.00	\$0.00
14101	9/18/2015	114189	Zaldivar	Maikel	11/1/2015	8/29/2015	9/11/2015	53.22	\$431.75	\$0.00	\$7.32	\$7.32
14102	10/2/2015	114189	Zaldivar	Maikel	11/1/2015	9/12/2015	9/25/2015	84.10	\$782.37	\$0.00	\$0.00	\$0.00
14103	10/16/2015	114189	Zaldivar	Maikel	11/1/2015	9/26/2015	10/9/2015	71.98	\$610.22	\$0.00	\$0.00	\$0.00
14104	10/30/2015	114189	Zaldivar	Maikel	11/1/2015	10/10/2015	10/23/2015	81.63	\$946.02	\$0.00	\$0.00	\$0.00
14105	11/13/2015	114189	Zaldivar	Maikel	11/1/2015	10/24/2015	11/6/2015	76.54	\$808.11	\$0.00	\$0.00	\$0.00
14106	11/27/2015	114189	Zaldivar	Maikel	11/1/2015	11/7/2015	11/20/2015	61.73	\$588.46	\$0.00	\$0.00	\$0.00
14107	12/11/2015	114189	Zaldivar	Maikel	11/1/2015	11/21/2015	12/4/2015	62.31	\$510.22	\$0.00	\$3.84	\$0.00
14108	12/25/2015	114189	Zaldivar	Maikel	11/1/2015	12/5/2015	12/18/2015	69.12	\$576.73	\$0.00	\$0.00	\$0.00
14109	2/1/2013	2273	Zawoudie	Masfen	7/1/2008	1/5/2013	1/18/2013	0.00	\$702.25	\$0.00	\$0.00	\$0.00
14110	2/8/2013	2273	Zawoudie	Masfen	7/1/2008	1/19/2013	2/1/2013	85.01	\$558.91	\$57.41	\$142.42	\$57.41
14111	3/1/2013	2273	Zawoudie	Masfen	7/1/2008	2/2/2013	2/15/2013	0.00	\$793.64	\$0.00	\$0.00	\$0.00
14112	3/8/2013	2273	Zawoudie	Masfen	7/1/2008	2/16/2013	3/1/2013	85.10	\$748.04	\$0.00	\$0.00	\$0.00
14113	3/22/2013	2273	Zawoudie	Masfen	7/1/2008	3/2/2013	3/15/2013	111.64	\$945.96	\$0.00	\$0.00	\$0.00
14114	4/5/2013	2273	Zawoudie	Masfen	7/1/2008	3/16/2013	3/29/2013	96.10	\$895.92	\$0.00	\$0.00	\$0.00
14115	4/19/2013	2273	Zawoudie	Masfen	7/1/2008	3/30/2013	4/12/2013	99.96	\$965.33	\$0.00	\$0.00	\$0.00
14116	5/3/2013	2273	Zawoudie	Masfen	7/1/2008	4/13/2013	4/26/2013	82.35	\$752.20	\$0.00	\$0.00	\$0.00
14117	5/17/2013	2273	Zawoudie	Masfen	7/1/2008	4/27/2013	5/10/2013	107.12	\$1,102.16	\$0.00	\$0.00	\$0.00
14118	5/31/2013	2273	Zawoudie	Masfen	7/1/2008	5/11/2013	5/24/2013	79.59	\$591.60	\$0.00	\$65.02	\$0.00
14119	6/14/2013	2273	Zawoudie	Masfen	7/1/2008	5/25/2013	6/7/2013	83.91	\$664.59	\$0.00	\$27.67	\$0.00
14120	6/28/2013	2273	Zawoudie	Masfen	7/1/2008	6/8/2013	6/21/2013	103.84	\$890.32	\$0.00	\$0.00	\$0.00
14121	7/12/2013	2273	Zawoudie	Masfen	7/1/2008	6/22/2013	7/5/2013	65.80	\$493.67	\$0.00	\$49.18	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
14122	7/26/2013	2273	Zawoudie	Masfen	7/1/2008	7/6/2013	7/19/2013	114.58	\$855.95	\$0.00	\$89.33	\$0.00
14123	8/9/2013	2273	Zawoudie	Masfen	7/1/2008	7/20/2013	8/2/2013	102.93	\$795.30	\$0.00	\$53.87	\$0.00
14124	8/23/2013	2273	Zawoudie	Masfen	7/1/2008	8/3/2013	8/16/2013	107.52	\$699.62	\$79.90	\$187.42	\$79.90
14125	9/6/2013	2273	Zawoudie	Masfen	7/1/2008	8/17/2013	8/30/2013	19.17	\$155.47	\$0.00	\$2.68	\$0.00
14126	9/20/2013	2273	Zawoudie	Masfen	7/1/2008	8/31/2013	9/13/2013	47.43	\$323.70	\$20.17	\$67.60	\$20.17
14127	10/4/2013	2273	Zawoudie	Masfen	7/1/2008	9/14/2013	9/27/2013	93.85	\$792.83	\$0.00	\$0.00	\$0.00
14128	10/18/2013	2273	Zawoudie	Masfen	7/1/2008	9/28/2013	10/11/2013	105.99	\$746.74	\$21.69	\$127.68	\$21.69
14129	11/1/2013	2273	Zawoudie	Masfen	7/1/2008	10/12/2013	10/25/2013	65.55	\$518.44	\$0.00	\$22.35	\$0.00
14130	11/15/2013	2273	Zawoudie	Masfen	7/1/2008	10/26/2013	11/8/2013	96.57	\$893.24	\$0.00	\$0.00	\$0.00
14131	11/29/2013	2273	Zawoudie	Masfen	7/1/2008	11/9/2013	11/22/2013	96.53	\$670.78	\$29.06	\$125.59	\$29.06
14132	12/13/2013	2273	Zawoudie	Masfen	7/1/2008	11/23/2013	12/6/2013	93.75	\$578.24	\$101.45	\$195.20	\$101.45
14133	12/27/2013	2273	Zawoudie	Masfen	7/1/2008	12/7/2013	12/20/2013	101.69	\$853.22	\$0.00	\$0.00	\$0.00
14134	1/10/2014	2273	Zawoudie	Masfen	7/1/2008	12/21/2013	1/3/2014	77.85	\$480.19	\$84.22	\$162.07	\$84.22
14135	1/24/2014	2273	Zawoudie	Masfen	7/1/2008	1/4/2014	1/17/2014	92.48	\$716.63	\$0.00	\$46.33	\$0.00
14136	2/7/2014	2273	Zawoudie	Masfen	7/1/2008	1/18/2014	1/31/2014	94.86	\$629.48	\$58.26	\$153.12	\$58.26
14137	2/21/2014	2273	Zawoudie	Masfen	7/1/2008	2/1/2014	2/14/2014	111.77	\$886.51	\$0.00	\$35.59	\$0.00
14138	3/7/2014	2273	Zawoudie	Masfen	7/1/2008	2/15/2014	2/28/2014	90.98	\$735.85	\$0.00	\$14.74	\$0.00
14139	3/21/2014	2273	Zawoudie	Masfen	7/1/2008	3/1/2014	3/14/2014	99.97	\$818.33	\$0.00	\$6.42	\$0.00
14140	4/4/2014	2273	Zawoudie	Masfen	7/1/2008	3/15/2014	3/28/2014	91.99	\$939.82	\$0.00	\$0.00	\$0.00
14141	4/18/2014	2273	Zawoudie	Masfen	7/1/2008	3/29/2014	4/11/2014	107.67	\$992.17	\$0.00	\$0.00	\$0.00
14142	5/2/2014	2273	Zawoudie	Masfen	7/1/2008	4/12/2014	4/25/2014	71.89	\$537.73	\$0.00	\$55.36	\$0.00
14143	5/16/2014	2273	Zawoudie	Masfen	7/1/2008	4/26/2014	5/9/2014	85.11	\$857.35	\$0.00	\$0.00	\$0.00
14144	5/30/2014	2273	Zawoudie	Masfen	7/1/2008	5/10/2014	5/23/2014	86.15	\$711.86	\$0.00	\$0.00	\$0.00
14145	6/13/2014	2273	Zawoudie	Masfen	7/1/2008	5/24/2014	6/6/2014	36.53	\$303.70	\$0.00	\$0.00	\$0.00
14146	6/27/2014	2273	Zawoudie	Masfen	7/1/2008	6/7/2014	6/20/2014	36.52	\$311.41	\$0.00	\$0.00	\$0.00
14147	7/11/2014	2273	Zawoudie	Masfen	7/1/2008	6/21/2014	7/4/2014	62.83	\$496.39	\$0.00	\$21.96	\$0.00
14148	7/25/2014	2273	Zawoudie	Masfen	7/1/2008	7/5/2014	7/18/2014	51.79	\$441.64	\$0.00	\$0.00	\$0.00
14149	8/8/2014	2273	Zawoudie	Masfen	7/1/2008	7/19/2014	8/1/2014	17.35	\$154.00	\$0.00	\$0.00	\$0.00
14150	8/22/2014	2273	Zawoudie	Masfen	7/1/2008	8/2/2014	8/15/2014	36.55	\$271.88	\$0.00	\$29.66	\$0.00
14151	9/5/2014	2273	Zawoudie	Masfen	7/1/2008	8/16/2014	8/29/2014	78.30	\$653.12	\$0.00	\$0.00	\$0.00
14152	9/19/2014	2273	Zawoudie	Masfen	7/1/2008	8/30/2014	9/12/2014	91.09	\$812.89	\$0.00	\$0.00	\$0.00
14153	10/3/2014	2273	Zawoudie	Masfen	7/1/2008	9/13/2014	9/26/2014	110.37	\$995.15	\$0.00	\$0.00	\$0.00
14154	10/17/2014	2273	Zawoudie	Masfen	7/1/2008	9/27/2014	10/10/2014	84.18	\$868.56	\$0.00	\$0.00	\$0.00
14155	10/31/2014	2273	Zawoudie	Masfen	7/1/2008	10/11/2014	10/24/2014	72.47	\$665.00	\$0.00	\$0.00	\$0.00
14156	11/14/2014	2273	Zawoudie	Masfen	7/1/2008	10/25/2014	11/7/2014	102.80	\$988.92	\$0.00	\$0.00	\$0.00
14157	11/28/2014	2273	Zawoudie	Masfen	7/1/2008	11/8/2014	11/21/2014	51.86	\$572.35	\$0.00	\$0.00	\$0.00
14158	12/12/2014	2273	Zawoudie	Masfen	7/1/2008	11/22/2014	12/5/2014	67.67	\$678.34	\$0.00	\$0.00	\$0.00
14159	12/26/2014	2273	Zawoudie	Masfen	7/1/2008	12/6/2014	12/19/2014	53.26	\$557.91	\$0.00	\$0.00	\$0.00

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14160	1/9/2015	2273	Zawoudie	Masfen	7/1/2008	12/20/2014	1/2/2015	69.95	\$607.81	\$0.00	\$0.00	\$0.00
14161	1/23/2015	2273	Zawoudie	Masfen	7/1/2008	1/3/2015	1/16/2015	88.17	\$1,093.47	\$0.00	\$0.00	\$0.00
14162	2/6/2015	2273	Zawoudie	Masfen	7/1/2008	1/17/2015	1/30/2015	107.00	\$1,406.45	\$0.00	\$0.00	\$0.00
14163	2/20/2015	2273	Zawoudie	Masfen	7/1/2008	1/31/2015	2/13/2015	77.05	\$805.74	\$0.00	\$0.00	\$0.00
14164	3/6/2015	2273	Zawoudie	Masfen	7/1/2008	2/14/2015	2/27/2015	91.24	\$1,159.06	\$0.00	\$0.00	\$0.00
14165	3/20/2015	2273	Zawoudie	Masfen	7/1/2008	2/28/2015	3/13/2015	90.82	\$913.91	\$0.00	\$0.00	\$0.00
14166	4/3/2015	2273	Zawoudie	Masfen	7/1/2008	3/14/2015	3/27/2015	84.94	\$891.78	\$0.00	\$0.00	\$0.00
14167	4/17/2015	2273	Zawoudie	Masfen	7/1/2008	3/28/2015	4/10/2015	90.34	\$918.36	\$0.00	\$0.00	\$0.00
14168	5/1/2015	2273	Zawoudie	Masfen	7/1/2008	4/11/2015	4/24/2015	82.44	\$863.42	\$0.00	\$0.00	\$0.00
14169	5/15/2015	2273	Zawoudie	Masfen	7/1/2008	4/25/2015	5/8/2015	104.66	\$1,087.68	\$0.00	\$0.00	\$0.00
14170	5/29/2015	2273	Zawoudie	Masfen	7/1/2008	5/9/2015	5/22/2015	73.18	\$724.15	\$0.00	\$0.00	\$0.00
14171	6/12/2015	2273	Zawoudie	Masfen	7/1/2008	5/23/2015	6/5/2015	74.48	\$807.73	\$0.00	\$0.00	\$0.00
14172	6/26/2015	2273	Zawoudie	Masfen	7/1/2008	6/6/2015	6/19/2015	94.32	\$965.63	\$0.00	\$0.00	\$0.00
14173	7/10/2015	2273	Zawoudie	Masfen	7/1/2008	6/20/2015	7/3/2015	92.05	\$942.81	\$0.00	\$0.00	\$0.00
14174	7/24/2015	2273	Zawoudie	Masfen	7/1/2008	7/4/2015	7/17/2015	61.39	\$708.78	\$0.00	\$0.00	\$0.00
14175	8/7/2015	2273	Zawoudie	Masfen	7/1/2008	7/18/2015	7/31/2015	104.52	\$1,066.79	\$0.00	\$0.00	\$0.00
14176	8/21/2015	2273	Zawoudie	Masfen	7/1/2008	8/1/2015	8/14/2015	72.82	\$704.84	\$0.00	\$0.00	\$0.00
14177	9/4/2015	2273	Zawoudie	Masfen	7/1/2008	8/15/2015	8/28/2015	90.36	\$801.31	\$0.00	\$0.00	\$0.00
14178	9/18/2015	2273	Zawoudie	Masfen	7/1/2008	8/29/2015	9/11/2015	83.78	\$934.43	\$0.00	\$0.00	\$0.00
14179	10/2/2015	2273	Zawoudie	Masfen	7/1/2008	9/12/2015	9/25/2015	102.18	\$1,164.17	\$0.00	\$0.00	\$0.00
14180	10/16/2015	2273	Zawoudie	Masfen	7/1/2008	9/26/2015	10/9/2015	98.91	\$1,105.83	\$0.00	\$0.00	\$0.00
14181	10/30/2015	2273	Zawoudie	Masfen	7/1/2008	10/10/2015	10/23/2015	73.81	\$915.20	\$0.00	\$0.00	\$0.00
14182	11/13/2015	2273	Zawoudie	Masfen	7/1/2008	10/24/2015	11/6/2015	69.09	\$744.09	\$0.00	\$0.00	\$0.00
14183	11/27/2015	2273	Zawoudie	Masfen	7/1/2008	11/7/2015	11/20/2015	62.20	\$694.36	\$0.00	\$0.00	\$0.00
14184	12/11/2015	2273	Zawoudie	Masfen	7/1/2008	11/21/2015	12/4/2015	63.96	\$721.57	\$0.00	\$0.00	\$0.00
14185	12/25/2015	2273	Zawoudie	Masfen	7/1/2008	12/5/2015	12/18/2015	81.02	\$794.35	\$0.00	\$0.00	\$0.00
14186	11/15/2013	17936	Zekichev	Nick	9/1/2010	10/26/2013	11/8/2013	48.34	\$303.17	\$47.30	\$95.64	\$47.30
14187	11/29/2013	17936	Zekichev	Nick	9/1/2010	11/9/2013	11/22/2013	94.99	\$599.63	\$89.05	\$184.04	\$89.05
14188	12/13/2013	17936	Zekichev	Nick	9/1/2010	11/23/2013	12/6/2013	65.22	\$409.00	\$63.85	\$129.07	\$63.85
14189	12/27/2013	17936	Zekichev	Nick	9/1/2010	12/7/2013	12/20/2013	65.93	\$420.79	\$57.20	\$123.13	\$57.20
14190	1/10/2014	17936	Zekichev	Nick	9/1/2010	12/21/2013	1/3/2014	67.50	\$422.60	\$66.78	\$134.28	\$66.78
14191	2/1/2013	3235	Zelege	Abraham	1/1/2010	1/5/2013	1/18/2013	0.00	\$759.08	\$0.00	\$0.00	\$0.00
14192	2/15/2013	3235	Zelege	Abraham	1/1/2010	1/19/2013	2/1/2013	0.00	\$664.93	\$0.00	\$0.00	\$0.00
14193	2/22/2013	3235	Zelege	Abraham	1/1/2010	2/2/2013	2/15/2013	81.75	\$704.66	\$0.00	\$0.00	\$0.00
14194	3/8/2013	3235	Zelege	Abraham	1/1/2010	2/16/2013	3/1/2013	26.32	\$197.45	\$0.00	\$19.69	\$0.00
14195	9/4/2015	111519	Zghaier	Hassan	11/1/2015	8/15/2015	8/28/2015	53.10	\$420.54	\$0.00	\$17.54	\$17.54
14196	9/18/2015	111519	Zghaier	Hassan	11/1/2015	8/29/2015	9/11/2015	89.52	\$809.61	\$0.00	\$0.00	\$0.00
14197	10/2/2015	111519	Zghaier	Hassan	11/1/2015	9/12/2015	9/25/2015	104.84	\$1,223.30	\$0.00	\$0.00	\$0.00

	B	C	D	E	F	G	H	I	J	K	L	M
14198	10/16/2015	111519	Zghaier	Hassan	11/1/2015	9/26/2015	10/9/2015	91.15	\$1,117.08	\$0.00	\$0.00	\$0.00
14199	10/30/2015	111519	Zghaier	Hassan	11/1/2015	10/10/2015	10/23/2015	99.64	\$870.99	\$0.00	\$0.00	\$0.00
14200	11/13/2015	111519	Zghaier	Hassan	11/1/2015	10/24/2015	11/6/2015	92.20	\$807.75	\$0.00	\$0.00	\$0.00
14201	11/27/2015	111519	Zghaier	Hassan	11/1/2015	11/7/2015	11/20/2015	95.46	\$1,052.91	\$0.00	\$0.00	\$0.00
14202	12/11/2015	111519	Zghaier	Hassan	11/1/2015	11/21/2015	12/4/2015	92.78	\$732.38	\$0.00	\$33.05	\$0.00
14203	12/25/2015	111519	Zghaier	Hassan	11/1/2015	12/5/2015	12/18/2015	109.50	\$1,119.17	\$0.00	\$0.00	\$0.00

EXHIBIT "E"

	A	B	C	D	E	F
1				MINIMUM WAGES OWED OF AT LEAST \$10 ROUNDED DOWN OWED FROM 1/1/13 TO 12/31/15 PER CLASS MEMBER USING AS HOURS WORKED THE HOURS RECORDED IN A- CAB'S PAYROLL RECORDS		
2			TOTALS	\$174,839	\$651,262	\$274,621
3	Payroll Records Employee Account Number	First Name	Last Name	Minimum Wages Owed at \$7.25 an Hour for all Hours	Minimum Wages Owed at \$8.25 an Hour for all Hours	Minimum Wages Owed at \$8.25 an Hour for Pay Periods Prior to Date Qualified for Insurance and at \$7.25 an Hour after that date
4	113993	Paolo	Afonso	\$0	\$91	\$91
5	109164	Steven	Alardi	\$0	\$51	\$51
6	114470	Meer	Ali	\$0	\$303	\$303
7	100662	Farid	Alizadeh	\$0	\$261	\$193
8	24802	Keith	Altamirano	\$0	\$39	\$39
9	29709	Jason	Andersen	\$0	\$366	\$0
10	114697	Neal	Anderson	\$0	\$131	\$131
11	114669	Nelson	Anon	\$0	\$391	\$320
12	111600	Reynaldo	Aparicio	\$0	\$75	\$75
13	106151	Orlando	Apodaca	\$0	\$1,380	\$527
14	8812	Peter	Arnold	\$0	\$125	\$83
15	113714	Robert	Arrandt	\$0	\$457	\$275
16	113763	Carlos	Arroyo	\$0	\$130	\$130
17	114195	Juan	Arzola	\$0	\$149	\$149
18	28649	Chaudhry	Asghar	\$0	\$486	\$376
19	113535	Josip	Astalos	\$0	\$223	\$209
20	103560	Edward	Awad	\$0	\$231	\$55

	A	B	C	D	E	F
21	112197	Mickieal	Bachelor	\$0	\$534	\$93
22	114706	Shaun	Bagley	\$0	\$199	\$199
23	113134	Jason	Baker	\$0	\$82	\$82
24	112978	Michael	Bancod	\$0	\$1,270	\$418
25	16654	John	Barnhart	\$0	\$567	\$163
26	26073	Rafael	Barnola	\$0	\$57	\$57
27	113542	Lucia	Basoalto-Sanchez	\$0	\$214	\$214
28	2454	Eugenio	Batista	\$0	\$42	\$0
29	100286	Belay	Bedane	\$0	\$1,089	\$242
30	112830	Vladimir	Bestard-Sanchez	\$0	\$336	\$261
31	105871	Haji	Bilal	\$0	\$79	\$79
32	110126	Brian	Bones	\$0	\$451	\$349
33	106621	Deborah	Booth	\$0	\$212	\$174
34	3723	Christopher	Bowen	\$0	\$79	\$0
35	101034	Terry	Bower	\$0	\$146	\$146
36	106299	Michael	Brown	\$0	\$792	\$131
37	2660	Sonny	Carracedo	\$0	\$100	\$0
38	23673	Willer	Castro	\$0	\$432	\$385
39	103777	Lazaro	Castro-Jaen	\$0	\$13	\$13
40	21398	Surapan	Chenpanas	\$0	\$171	\$62
41	29301	Michael	Cicerchi	\$0	\$20	\$0
42	112446	Reginald	Clarke	\$0	\$21	\$21
43	106890	Pedro	Co	\$0	\$274	\$58
44	102415	Ella	Collier	\$0	\$218	\$0
45	108716	Steven	Collins	\$0	\$252	\$252
46	21803	Danilo	Coloma-Guerra	\$0	\$28	\$4
47	15756	Mason	Craddock	\$0	\$385	\$265
48	112510	Dustin	Crawford	\$0	\$400	\$166
49	109193	Janine	Cursoli	\$0	\$54	\$54
50	112564	Billy	Cyiark	\$0	\$743	\$371
51	103226	Eric	Dash	\$0	\$456	\$357

	A	B	C	D	E	F
52	109293	Carmine	Delligatti	\$0	\$116	\$116
53	112508	William	Demick Jr.	\$0	\$1,280	\$326
54	31358	Getu	Deresu	\$0	\$149	\$129
55	111351	Almamy	Diomande	\$0	\$195	\$0
56	3395	Julius	Dixon	\$0	\$56	\$0
57	111077	Carlos	Dominguez	\$0	\$506	\$413
58	114946	Gary	Dopson	\$0	\$277	\$277
59	113058	Michael	Douzat	\$0	\$251	\$169
60	113030	Anna	Dubaniewicz	\$0	\$165	\$165
61	110273	John	Dufton	\$0	\$604	\$416
62	2006	Jeffrey	Durtschi	\$0	\$13	\$0
63	115072	Dionne	Dutton	\$0	\$34	\$34
64	112745	Michael	Ebert	\$0	\$36	\$4
65	105512	Richard	Eckersley	\$0	\$176	\$165
66	113958	Danielle	Estes	\$0	\$26	\$26
67	14595	Jorge	Estrada	\$0	\$30	\$30
68	104153	Anthony	Feller	\$0	\$435	\$213
69	108011	Alexander	Fernandez-Leon	\$0	\$44	\$34
70	113485	Caluquette	Fields	\$0	\$595	\$364
71	114873	Carr	Flournoy	\$0	\$497	\$308
72	30746	Gil	Foronda	\$0	\$36	\$36
73	25493	Michael	Fragoza	\$0	\$300	\$109
74	111531	Phillip	Gay	\$0	\$869	\$439
75	107680	Osawonyi	Gbajumo	\$0	\$285	\$0
76	31780	David	Gilbert	\$0	\$168	\$0
77	114627	Osbaldo	Gomez	\$0	\$125	\$125
78	115000	Latia	Goree	\$0	\$171	\$171
79	102141	Charles	Gray	\$0	\$75	\$75
80	111916	Kenneth	Gray	\$0	\$434	\$272
81	112337	Carlos	Gutierrez	\$0	\$1,129	\$484
82	16636	William	Hallowell	\$0	\$48	\$48

	A	B	C	D	E	F
83	27832	David	Harding	\$0	\$148	\$148
84	115097	James	Harris	\$0	\$86	\$86
85	113504	Charlene	Harris	\$0	\$468	\$282
86	19800	Ronald	Hasbrouck Jr.	\$0	\$27	\$27
87	112912	Davoud	Hassanzadehalibeikk	\$0	\$432	\$314
88	102378	Frank	Hatch Jr.	\$0	\$433	\$170
89	115043	Devin	Hawkins	\$0	\$81	\$81
90	114928	Curt	Herrlich	\$0	\$182	\$182
91	32082	Gary	Hoffman	\$0	\$341	\$0
92	3809	James	Hollis	\$0	\$134	\$0
93	111071	Charles	Horton	\$0	\$310	\$240
94	113402	Torgom	Hovhannisyan	\$0	\$283	\$283
95	111522	Sidney	Huene	\$0	\$1,024	\$454
96	3187	Edsel	Isaac	\$0	\$78	\$0
97	15638	Shaikh	Jawaid	\$0	\$190	\$0
98	28842	Jo A	Jimerson-Cessna	\$0	\$513	\$437
99	29542	Chong	Kang	\$0	\$60	\$0
100	27999	Zia-Ur-Rehman	Khan	\$0	\$1,021	\$17
101	107692	Chang	Kim	\$0	\$225	\$194
102	114375	Kuen	Ko	\$0	\$91	\$0
103	107625	Jeannine	Lafarge	\$0	\$17	\$17
104	114766	Charles	Laughinghouse	\$0	\$193	\$124
105	108034	Kevin	Leonardi	\$0	\$65	\$0
106	29012	Natalie	Lin	\$0	\$10	\$10
107	112296	Roxana	Loebig	\$0	\$274	\$274
108	112729	Lashawn	Logan	\$0	\$87	\$87
109	27467	Luis	Maciel	\$0	\$378	\$378
110	18640	Ratan	Mahtani	\$0	\$1,072	\$434
111	100830	Yamine	Mahyar	\$0	\$94	\$94
112	31483	Roberto	Malapira	\$0	\$1,004	\$457
113	113874	Joseph	Marino	\$0	\$217	\$217

	A	B	C	D	E	F
114	25853	Samuel	Mari-Santa Cruz	\$0	\$705	\$440
115	112241	Thomas	Martin	\$0	\$117	\$117
116	110395	Charles	Maxwell	\$0	\$407	\$193
117	103078	Zygmond	Mayer	\$0	\$92	\$92
118	111443	Mary	McDonald	\$0	\$665	\$319
119	113696	Randall	McGinn	\$0	\$68	\$36
120	107915	Russell	McLaren	\$0	\$916	\$209
121	101698	Robert	Mecke	\$0	\$432	\$432
122	29265	Emilio	Micu	\$0	\$489	\$193
123	114922	Shawn	Middleton	\$0	\$305	\$115
124	101935	Hamza	Mohamed	\$0	\$17	\$17
125	30777	Jimmy	Moore	\$0	\$209	\$0
126	112561	Sherryl	Morgan	\$0	\$444	\$166
127	109569	Ariel	Munoz-Fernandez	\$0	\$136	\$116
128	108427	Joseph	Murray	\$0	\$10	\$10
129	113865	Jack	Nelson	\$0	\$79	\$79
130	3868	Eric	Olson	\$0	\$43	\$0
131	107567	Guillermo	Ordaz	\$0	\$959	\$264
132	110552	Rosemarie	Padilla	\$0	\$673	\$322
133	113324	Louis	Palomo	\$0	\$51	\$51
134	111204	George	Papania	\$0	\$1,026	\$408
135	22498	John	Paris	\$0	\$240	\$240
136	15968	Kenneth	Peterson	\$0	\$125	\$0
137	109615	Benjamin	Pham	\$0	\$340	\$260
138	109904	Gary	Phillips	\$0	\$170	\$155
139	2826	Amir	Pitts	\$0	\$18	\$0
140	110913	Koosha	Pouyan	\$0	\$791	\$447
141	106825	Rowena	Preza	\$0	\$615	\$150
142	109600	Gregory	Prince	\$0	\$745	\$103
143	109845	Charles	Pruitt	\$0	\$1,014	\$232
144	23178	Jeffrey	Raffensparger	\$0	\$176	\$17

	A	B	C	D	E	F
145	113507	Omar	Ramirez-Ramos	\$0	\$16	\$16
146	3812	William	Ray	\$0	\$127	\$0
147	110975	Joseph	Reynolds	\$0	\$17	\$17
148	113964	Ryan	Rezaei	\$0	\$178	\$131
149	114453	Seyedmohammadali	Riazi	\$0	\$12	\$12
150	113948	Seyedmohammadhossein	Riazi	\$0	\$169	\$152
151	111648	Jeffrey	Robinson	\$0	\$1,612	\$169
152	3629	Mark	Robles	\$0	\$174	\$0
153	114033	Thomas	Rodde	\$0	\$684	\$434
154	111882	Jose	Rojas-Perez	\$0	\$1,454	\$321
155	114618	James	Romero	\$0	\$375	\$375
156	115163	Frank	Rozowski	\$0	\$54	\$54
157	107934	John	Ryan	\$0	\$263	\$263
158	30644	Ali	Sabitian	\$0	\$105	\$105
159	112826	Abdul	Sameh	\$0	\$115	\$34
160	108213	Christopher	Savino	\$0	\$878	\$200
161	108167	Christopher	Schell	\$0	\$189	\$165
162	3359	Otto	Sevillet	\$0	\$177	\$0
163	110768	Seyed	Seyed-Mousavi	\$0	\$124	\$124
164	105416	Mahesh	Sharma	\$0	\$143	\$143
165	30308	Sheriff	Sheriff	\$0	\$125	\$125
166	112711	Mark	Shockley	\$0	\$471	\$397
167	114568	William	Simms	\$0	\$178	\$178
168	111778	Shaun	Sims	\$0	\$155	\$155
169	114747	David	Slayton	\$0	\$61	\$61
170	110015	Donna	Smith	\$0	\$32	\$0
171	108547	Domingo	Solano	\$0	\$450	\$450
172	106034	Charles	Stagg	\$0	\$137	\$137
173	15032	Alfred	Tafesh	\$0	\$12	\$12
174	109384	Jose	Tarango	\$0	\$11	\$11
175	111463	Fredrick	Taylor	\$0	\$1,035	\$550

	A	B	C	D	E	F
176	18537	Mekonen	Tewolde	\$0	\$309	\$156
177	102232	Lou	Thetprasit	\$0	\$136	\$136
178	23143	Marc	Thomas	\$0	\$568	\$322
179	114361	Alexis	Toledano	\$0	\$30	\$30
180	107060	Bernardino	Trujillo-Campos	\$0	\$219	\$219
181	20386	Carl	Tucker	\$0	\$437	\$0
182	22597	James	Turner	\$0	\$27	\$27
183	112175	Eduard	Utorov	\$0	\$328	\$282
184	18577	Alex	Vaghefi	\$0	\$167	\$72
185	111338	Pedro	Valiente	\$0	\$990	\$319
186	114386	Alan	Vargo	\$0	\$336	\$336
187	30850	Edward	Villarreal	\$0	\$21	\$21
188	104958	Boris	Volchek	\$0	\$226	\$176
189	31413	Gilbert	Wainwright	\$0	\$972	\$318
190	3058	James	Wallace	\$0	\$213	\$0
191	100619	Charles	Walls	\$0	\$331	\$133
192	105823	Robert	Ward	\$0	\$898	\$276
193	113682	Gregory	Wible	\$0	\$485	\$234
194	108239	Edward	Wright	\$0	\$59	\$0
195	113044	Ali	Yazdian	\$0	\$102	\$95
196	114275	Mollah	Yerima	\$0	\$840	\$330
197	113075	Mary	Yu	\$0	\$765	\$479
198	114189	Maikel	Zaldivar	\$0	\$11	\$7
199	3235	Abraham	Zelege	\$0	\$19	\$0
200	111519	Hassan	Zghaier	\$0	\$50	\$17
201	107492	Jimmy	Brown	\$1	\$1,815	\$430
202	3899	Anthony	Casiello	\$1	\$533	\$1
203	108744	Francisco	Esparza	\$1	\$1,676	\$449
204	30616	Abner	Flores	\$1	\$1,250	\$570
205	113914	Anthony	Gazzara	\$1	\$988	\$392
206	105627	Arthur	Kronenberg	\$1	\$1,269	\$329

	A	B	C	D	E	F
207	112009	Karen	Mock	\$1	\$1,270	\$362
208	27001	David	Olson	\$1	\$555	\$420
209	112670	Keith	Parry	\$1	\$540	\$243
210	112644	Michael	Partipilo	\$1	\$1,275	\$483
211	110625	Joseph	Patricio	\$1	\$1,244	\$174
212	112342	Santo	Pizzimenti	\$1	\$692	\$267
213	103060	David	Ramos	\$1	\$1,340	\$289
214	109604	John	Richards	\$1	\$806	\$313
215	111456	Roger	Riek	\$1	\$1,536	\$414
216	112238	Anthony	Rojas	\$1	\$875	\$174
217	111078	Sherman	Ross	\$1	\$1,072	\$373
218	29249	Abbas	Sameni	\$1	\$1,622	\$375
219	106103	Linn	Smallwood	\$1	\$1,529	\$498
220	112181	Alex	Smith	\$1	\$889	\$258
221	113920	Keli	Vargo	\$1	\$1,316	\$412
222	113891	Kenneth	Washington	\$1	\$1,461	\$374
223	109248	Thomas	Waymark	\$1	\$1,260	\$434
224	29297	Yohannes	Gebremicheal	\$2	\$768	\$323
225	105577	Steven	Seidman	\$2	\$52	\$13
226	24791	Anthony	Garcia	\$6	\$666	\$6
227	113529	Zoltan	Horvath	\$7	\$79	\$79
228	110770	Thomas	Bosley	\$8	\$335	\$335
229	3835	Leykun	Hussien	\$8	\$154	\$8
230	13237	Timothy	Wideman	\$8	\$115	\$8
231	108405	David	Mcarthur	\$9	\$39	\$39
232	106642	Abdelkrim	Kadri	\$10	\$231	\$231
233	112193	Pedram	Bandi	\$11	\$294	\$294
234	112394	Rosemarie	Chavez	\$13	\$39	\$39
235	20466	Moharram	Jafarian	\$13	\$146	\$126
236	22809	Ted	Manitien	\$13	\$33	\$33
237	3671	Miguel	Arellano	\$16	\$185	\$16

	A	B	C	D	E	F
238	111199	Claudia	McCarroll-Jones	\$17	\$36	\$36
239	111068	Andrey	Filatov	\$20	\$44	\$44
240	26636	Kathleen	Garrett	\$20	\$50	\$50
241	111813	Tura	Kadir	\$23	\$62	\$62
242	25454	Jeffrey	Bell	\$26	\$56	\$56
243	111257	Ciprian	Petculescu	\$28	\$56	\$56
244	27059	Joseph	Mottaghian	\$30	\$533	\$167
245	31847	Armando	Rodriguez	\$30	\$909	\$459
246	106897	Dale	Goettsche	\$31	\$270	\$31
247	109641	Paul	Emling	\$35	\$313	\$35
248	109637	Danny	Park	\$38	\$260	\$184
249	23774	Darryl	Crawford	\$41	\$217	\$41
250	3402	Jordan	Hansen	\$44	\$303	\$44
251	110579	Jose	Brooks	\$46	\$96	\$96
252	30374	John	Zafar	\$46	\$165	\$46
253	112455	Arthur	Blum III	\$47	\$94	\$94
254	30300	Antonio	Cruz-Decastro	\$47	\$92	\$92
255	104938	Paul	Ortega	\$47	\$428	\$302
256	3151	Kennard	Johnson	\$50	\$345	\$50
257	3903	Luis	Gonzalez	\$51	\$106	\$51
258	111283	Sean	Kissel	\$51	\$796	\$159
259	3945	Francisco	Lombana	\$51	\$107	\$107
260	31149	David	Pony	\$51	\$341	\$341
261	103413	Miheret	Tsegaye	\$51	\$108	\$108
262	102328	Ronald	Meyer	\$53	\$396	\$340
263	107792	Danilo	Barrameda	\$56	\$312	\$246
264	3864	Alfonso	Holler	\$56	\$200	\$56
265	110936	James	Daniels	\$57	\$473	\$241
266	110687	James	Berger	\$58	\$182	\$182
267	101103	Monica	Davila-Romero	\$58	\$119	\$119
268	100046	Ernest	Dymond	\$62	\$159	\$159

	A	B	C	D	E	F
269	107940	Khamkhrung	Maharit	\$63	\$141	\$141
270	106666	Arturo	Martinez	\$63	\$128	\$128
271	19858	Charles	Passera	\$65	\$683	\$203
272	110334	Luis	Michilena	\$66	\$138	\$138
273	3624	Michael	Patry	\$66	\$151	\$66
274	24737	Ivaylo	Charov	\$67	\$159	\$159
275	3652	Miguel	Garcia	\$68	\$651	\$68
276	31467	Michael	Clarke	\$69	\$136	\$136
277	108041	Brian	Comeau	\$70	\$308	\$308
278	3391	Natasha	Grafton	\$72	\$501	\$72
279	107191	Yordan	Ivanov	\$74	\$164	\$164
280	22120	Brian	Travis	\$80	\$303	\$80
281	111405	Fidel	Lopez-Silvero	\$81	\$324	\$324
282	3947	Roland	Wing	\$81	\$170	\$170
283	31112	Yuda	Peer	\$82	\$232	\$82
284	3944	James	Sadler	\$82	\$223	\$223
285	6832	John	Dionas	\$87	\$168	\$168
286	3701	Willie	Jackson	\$88	\$164	\$88
287	103822	Santiago	Alvarado	\$94	\$429	\$233
288	15804	Dennis	Little	\$95	\$1,476	\$95
289	111822	Mohamed	Elgendy	\$96	\$202	\$202
290	3874	Anthony	Romano	\$97	\$684	\$97
291	31840	Guney	Gokcek	\$99	\$198	\$198
292	17189	Muhammad	Imran	\$104	\$262	\$154
293	108404	James	Baca	\$105	\$274	\$274
294	25935	Carlos	Delgado	\$105	\$1,510	\$484
295	28989	Eamonn	Nolan	\$107	\$212	\$212
296	26679	Paul	Polchinski	\$111	\$855	\$512
297	28448	Arthur	Walker	\$114	\$252	\$252
298	3766	Terrance	Warner	\$116	\$294	\$116
299	3890	Quincy	Manor	\$117	\$253	\$117

	A	B	C	D	E	F
300	29536	Paula	Peacock	\$118	\$373	\$373
301	111670	Brittany	Burns	\$122	\$322	\$322
302	25411	Tewoldebrhan	Adhanom	\$124	\$250	\$250
303	29914	Valerie	Bliss	\$124	\$251	\$251
304	106698	Christopher	Emter	\$124	\$305	\$305
305	107427	Jeffrey	McDougle	\$124	\$719	\$355
306	14261	Karl	Riipi	\$126	\$1,822	\$499
307	109475	Mark	Vonkageler	\$130	\$257	\$257
308	25362	Joseph	Lathan	\$131	\$411	\$190
309	25832	Victor	Osterman	\$133	\$951	\$133
310	103826	William	Kull Jr.	\$135	\$341	\$286
311	3567	William	Ernst	\$137	\$281	\$137
312	31648	Karl	Hu	\$137	\$314	\$314
313	20936	Adam	Madi	\$137	\$300	\$300
314	2638	Jacob	Soto	\$137	\$2,199	\$137
315	111290	Gilbert	Lay	\$139	\$659	\$517
316	27315	Marco	Bakhtiari	\$140	\$1,398	\$140
317	17855	Darrol	Milliron	\$140	\$344	\$140
318	100299	Louis	Briski	\$141	\$608	\$141
319	107704	Abdulrahman	Muhtari	\$141	\$1,133	\$141
320	3191	Victor	Rivas	\$143	\$371	\$143
321	3477	Travis	Ruiz	\$148	\$1,014	\$148
322	100128	James	Sampson	\$148	\$1,208	\$148
323	31076	Stephen	Glaser	\$153	\$506	\$506
324	111878	Prinest	White II	\$153	\$356	\$356
325	24038	Kamol	Anantagul	\$154	\$343	\$343
326	21457	Maximillian	Crawford	\$156	\$501	\$403
327	24039	Brandi	Hart	\$162	\$311	\$311
328	26687	Michael	Sargeant	\$164	\$453	\$453
329	105408	Abdirashid	Abdulle	\$165	\$356	\$356
330	2057	William	DeMarco	\$168	\$437	\$168

	A	B	C	D	E	F
331	111284	Melvin	McCall	\$169	\$385	\$385
332	108742	Lee	Ross	\$174	\$419	\$419
333	3822	John	Holt	\$178	\$409	\$178
334	28917	Kamran	Motazedi	\$181	\$389	\$389
335	109584	Tracie	Hosley	\$185	\$389	\$389
336	109457	Stephen	Hearne	\$188	\$382	\$382
337	109502	Oscar	Rios-Lopez	\$189	\$390	\$390
338	105794	Ryan	Kimler	\$198	\$404	\$404
339	108273	Claro	Isanan	\$199	\$433	\$433
340	3882	Oscar	Monteagudo	\$200	\$380	\$200
341	110836	Chima	Uba	\$201	\$1,018	\$629
342	29609	Valko	Haralambov	\$203	\$866	\$203
343	3913	Aileen-Louise	Moore	\$205	\$1,458	\$205
344	111729	Mary	Flanders	\$208	\$760	\$562
345	104747	Robert	Trumpp	\$211	\$2,887	\$789
346	2871	Ivan	Draper	\$212	\$476	\$212
347	107440	Peter	Nantista	\$212	\$2,002	\$520
348	107072	Amilcar	Hernandez-Ocampo	\$219	\$593	\$559
349	107548	James	Rainey	\$219	\$897	\$816
350	29040	Robert	Timko	\$224	\$499	\$499
351	3879	Alexis	Sexner	\$227	\$764	\$227
352	107624	Daniel	Witte	\$228	\$575	\$575
353	2736	Brian	Kenary	\$230	\$1,647	\$230
354	110618	Pamela	Mastrio	\$234	\$2,229	\$629
355	3931	Francis	Arena	\$235	\$491	\$431
356	26363	Luciano	Punzalan	\$236	\$584	\$584
357	3549	Teabe	Fesehazion	\$237	\$2,251	\$237
358	105273	Jamil	Sayed	\$238	\$1,767	\$238
359	112811	Kimberly	Peace	\$241	\$467	\$467
360	104732	Hasan	Thomas	\$247	\$529	\$529
361	109066	Brock	Webster	\$254	\$594	\$594

	A	B	C	D	E	F
362	3916	Lawrence	Duna	\$259	\$508	\$259
363	111390	Pedro	Gonzalez	\$263	\$577	\$577
364	3905	Corey	Dillard	\$267	\$600	\$267
365	107590	Frank	Galtieri	\$269	\$517	\$517
366	3583	Maria	Maras	\$271	\$1,696	\$271
367	18678	George	Eliades	\$272	\$564	\$564
368	101555	Rene	Hernandez	\$272	\$563	\$563
369	111062	Jeffrey	Diamond	\$273	\$618	\$618
370	2031	Ildiko	Dinok	\$283	\$588	\$283
371	2926	Alemayehu	Awalom	\$284	\$540	\$284
372	3650	Janeid	Anif	\$285	\$1,756	\$285
373	111364	John	Stanley	\$286	\$748	\$748
374	104109	Raul	Rivero-Vera	\$288	\$767	\$767
375	109349	Natasha	Sanchez-Ramos	\$288	\$814	\$572
376	3943	William	Anderson	\$289	\$576	\$576
377	3933	Mark	Hendricks	\$290	\$581	\$562
378	3622	Christian	Benel	\$293	\$715	\$293
379	112038	Douglas	Hill	\$294	\$620	\$620
380	112766	Christopher	Sibre	\$294	\$1,005	\$856
381	3595	Ayi	Ekoue	\$297	\$1,339	\$297
382	3941	Andrew	Harrison	\$297	\$860	\$393
383	110108	George	Mathis	\$297	\$573	\$573
384	2097	Dana	Hinks	\$298	\$1,755	\$298
385	100287	Julio	Martins	\$298	\$870	\$870
386	22804	Istvan	Solymer	\$303	\$703	\$703
387	106763	William	Doyle	\$304	\$616	\$616
388	109792	Monroe	Hinds	\$304	\$1,017	\$1,017
389	110476	Glenn	Auberry Jr.	\$309	\$749	\$749
390	3847	Richard	Murawski	\$313	\$1,540	\$313
391	102656	Atanas	Nedyalkov	\$321	\$764	\$764
392	2785	Paul	Welborn	\$322	\$1,078	\$322

	A	B	C	D	E	F
393	109745	David	Taylor	\$324	\$1,485	\$601
394	17936	Nick	Zekichev	\$324	\$666	\$324
395	3912	James	Rousseau	\$325	\$616	\$325
396	109381	Marc	Fitzsimmons	\$327	\$1,819	\$886
397	3721	Ramon	Viado	\$332	\$2,516	\$332
398	3753	Virginia	Olen	\$334	\$1,075	\$334
399	105304	Jack	Sorkin	\$336	\$691	\$691
400	112015	Matthew	Bambenek	\$337	\$1,733	\$985
401	3770	Juan	Sorrosa	\$339	\$915	\$339
402	111494	Zoltan	Nemeth	\$353	\$1,696	\$926
403	104910	Bert	Archer	\$362	\$753	\$753
404	2637	Jeffrey	Edwards	\$366	\$2,594	\$366
405	108758	Mark	Regans	\$379	\$791	\$791
406	3806	Jon	Pearson	\$380	\$1,663	\$380
407	100221	Charles	Ackman	\$385	\$1,439	\$791
408	2051	Brad	Costello	\$390	\$2,466	\$390
409	106153	Roger	Keller	\$390	\$2,213	\$871
410	109028	Muridi	Secondo	\$391	\$931	\$931
411	104171	Mikalani	Robinson	\$398	\$3,815	\$891
412	3792	Anthony	Urbanski	\$399	\$2,335	\$399
413	3762	Kelly	Godsey	\$410	\$1,363	\$410
414	105863	Becir	Siljkovic	\$414	\$888	\$414
415	102334	Joaquin	Castellanos	\$419	\$3,002	\$1,091
416	3207	Kenlon	Tucker	\$420	\$1,156	\$420
417	31400	Cator	Thomas	\$427	\$856	\$856
418	110796	Tamas	Toka	\$445	\$970	\$970
419	2412	Vladko	Jelancic	\$446	\$1,216	\$446
420	3696	David	Gillett	\$452	\$1,975	\$452
421	2273	Masfen	Zawoudie	\$452	\$1,681	\$452
422	31622	Wossen	Asefa	\$456	\$1,195	\$910
423	3478	Nedeltcho	Dontchev	\$456	\$1,441	\$456

	A	B	C	D	E	F
424	3597	David	Pariso	\$456	\$1,153	\$456
425	2630	Charles	Smale	\$457	\$1,378	\$457
426	3838	Timothy	Baker	\$462	\$1,195	\$462
427	110194	Lloyd	Henderson	\$467	\$1,382	\$1,224
428	18960	Melvin	Lee	\$469	\$1,530	\$972
429	3738	James	Conway	\$490	\$1,197	\$490
430	29981	Kirby	Fair	\$496	\$1,719	\$809
431	3717	Tunc	Ozgulgec	\$499	\$3,027	\$499
432	3121	John	Gleason	\$504	\$2,244	\$504
433	25522	Peter	Link	\$505	\$1,643	\$505
434	26783	Dennis	Clark	\$513	\$1,322	\$1,218
435	109130	Liza	Dacayanan	\$515	\$3,016	\$901
436	109013	Thomas	Stearns	\$528	\$1,240	\$945
437	101942	Gaston	Kalimba	\$530	\$1,295	\$931
438	3685	Jill	Leal	\$536	\$2,312	\$536
439	3381	Joseph	Egan	\$538	\$3,540	\$538
440	25979	Abdul	Alnaif	\$548	\$1,281	\$548
441	19451	Abdolreza	Shafiei	\$552	\$1,064	\$1,064
442	111756	Pedro	Risco	\$554	\$1,684	\$1,049
443	27788	Donald	Hurd	\$562	\$1,534	\$562
444	104887	Nisaburo	Miyazaki	\$563	\$1,503	\$563
445	28249	Tommy	Bunns	\$564	\$1,929	\$1,124
446	106913	Scott	Schraeder	\$569	\$1,126	\$1,126
447	3790	Rilwan	Shoyombo	\$574	\$1,468	\$574
448	2237	Craig	Relopez	\$584	\$3,390	\$584
449	112063	Agustin	Tapia-Vergara	\$587	\$1,338	\$1,171
450	3861	Enrique	Abarca	\$593	\$1,357	\$593
451	26553	Howard	Arnwine	\$602	\$2,433	\$602
452	3730	Isam	Arar	\$607	\$3,839	\$607
453	3610	Willie	Smith Jr.	\$613	\$1,438	\$613
454	32238	Rudolph	Daggett Jr.	\$618	\$1,374	\$1,058

	A	B	C	D	E	F
455	111568	Wissam	Hammoud	\$618	\$1,276	\$1,206
456	3935	Richard	Craffey	\$620	\$2,265	\$824
457	103096	Phea	Sam	\$625	\$2,076	\$1,192
458	3756	Ronald	Disbrow	\$627	\$3,388	\$627
459	111807	Brent	Taylor	\$632	\$1,285	\$1,285
460	25981	William	Schroeder	\$636	\$3,469	\$636
461	101317	Willie	Rivers	\$642	\$1,279	\$1,279
462	21446	Michael	Handlon	\$649	\$2,226	\$779
463	104310	Chen	Chana	\$657	\$2,083	\$1,108
464	111137	Giovanna	Dejacto	\$660	\$2,391	\$1,238
465	3523	Margaret	Pilkington	\$664	\$1,913	\$664
466	23373	Ronald	Bey	\$682	\$2,599	\$682
467	111231	Mark	Lant	\$693	\$1,440	\$1,132
468	24757	Andrew	Granchelle	\$700	\$2,643	\$1,175
469	31977	Marvin	Taylor	\$714	\$1,547	\$1,314
470	2056	Michael	Brauchle	\$718	\$1,757	\$718
471	110866	Thomas	Wolfe	\$726	\$1,928	\$1,198
472	3808	Larry	Hays	\$729	\$2,357	\$729
473	3949	Daniel	Brown	\$730	\$2,962	\$1,016
474	3606	Tamrat	Abebe	\$744	\$2,231	\$744
475	27963	Michael	Thompson	\$746	\$3,697	\$746
476	29769	Thomas	Sans	\$769	\$1,569	\$1,332
477	1076	Steven	Peterson	\$774	\$2,779	\$774
478	112398	Fernando	Corona	\$775	\$2,591	\$1,397
479	3165	John	Stevenson	\$777	\$2,424	\$777
480	106828	Calvin	Anderson	\$802	\$3,206	\$971
481	3936	Donald	Dial	\$807	\$2,615	\$1,192
482	27358	Sergio	Baca-Paez	\$809	\$2,501	\$809
483	3496	Gerie	Weaver	\$863	\$3,924	\$863
484	106089	Larry	Phillips	\$881	\$4,401	\$1,548
485	105813	Daniel	Abt	\$891	\$1,943	\$1,500

	A	B	C	D	E	F
486	3854	Mladen	Soree	\$899	\$2,234	\$899
487	25641	John	McSkimming	\$901	\$2,677	\$1,539
488	21811	Sabino	Sameli	\$921	\$1,840	\$1,463
489	103219	Mike	Berichon	\$947	\$2,472	\$1,265
490	3828	Mulubahan	Aseffa	\$978	\$2,301	\$978
491	3939	Todd	Ford	\$982	\$3,869	\$1,410
492	30196	Jason	Miller	\$983	\$2,835	\$1,524
493	3872	Clarence	Stockton	\$1,006	\$3,855	\$1,006
494	108839	Frederick	Jackson	\$1,013	\$4,767	\$1,013
495	107430	Karl	Cobon	\$1,023	\$2,061	\$1,643
496	3042	Jemal	Saleh	\$1,041	\$3,450	\$1,041
497	2464	Lee	Hodge	\$1,043	\$4,713	\$1,043
498	107701	Clifford	Risby	\$1,060	\$2,254	\$1,654
499	3742	William	Haskell	\$1,070	\$2,664	\$1,070
500	2903	Otis	Allen	\$1,087	\$2,367	\$1,087
501	106025	Chris	Paone	\$1,093	\$2,468	\$1,622
502	3796	Christopher	Vongthep	\$1,101	\$4,078	\$1,101
503	28160	Wanjin	Wong	\$1,115	\$3,537	\$1,549
504	2596	Paul	Meloro	\$1,116	\$3,099	\$1,116
505	106703	David	Mosely	\$1,143	\$2,121	\$1,665
506	3055	Mark	Spilmon	\$1,144	\$2,685	\$1,144
507	3855	Dennis	Harris	\$1,157	\$5,326	\$1,157
508	107992	Donald	Jacobi	\$1,157	\$3,881	\$1,707
509	106463	Gary	Capone	\$1,177	\$3,040	\$1,657
510	3859	Mikael	Nazarov	\$1,198	\$3,543	\$1,198
511	3884	William	Parmenter	\$1,198	\$2,955	\$1,198
512	18964	Daniel	Guerrero	\$1,211	\$5,492	\$2,046
513	23388	John	Simmons	\$1,215	\$3,659	\$1,215
514	23948	Daniel	Daffron	\$1,242	\$4,065	\$1,943
515	31966	Ilko	Mitrikov	\$1,243	\$3,600	\$1,243
516	20210	Awa	Ba	\$1,270	\$3,430	\$1,270

	A	B	C	D	E	F
517	3877	Kamal	Filfel	\$1,272	\$2,809	\$1,272
518	25190	Tuan	Ngo	\$1,290	\$3,185	\$1,290
519	2899	Azmy	Shallufa	\$1,305	\$2,844	\$1,305
520	3867	Glen	Thompson	\$1,308	\$4,701	\$1,308
521	3778	Jaime	Macato	\$1,330	\$4,713	\$1,330
522	3814	Polly	Rohlas	\$1,375	\$4,103	\$1,375
523	3885	Thomas	Cphoon	\$1,385	\$4,147	\$1,385
524	16676	Gary	Parker	\$1,387	\$2,808	\$1,857
525	104525	Yusnier	Allegue	\$1,414	\$3,584	\$1,705
526	100821	Nicholas	Agostino	\$1,436	\$4,700	\$2,766
527	2782	John	Garcia	\$1,477	\$5,833	\$1,477
528	3772	Chaipan	Kaiyoorawongs	\$1,477	\$3,722	\$1,477
529	3092	Gerry	Yabut	\$1,569	\$5,414	\$1,569
530	3910	Jorge	Wong	\$1,579	\$4,903	\$1,579
531	2751	Hubert	Hurtado	\$1,593	\$4,909	\$1,593
532	3784	Leroy	Joseph	\$1,616	\$3,728	\$1,616
533	100158	Benjamin	Barnes	\$1,629	\$4,849	\$1,629
534	110053	Francisco	Martinez	\$1,713	\$5,137	\$2,127
535	3630	Martin	Kogan	\$1,797	\$4,668	\$1,797
536	3909	Ion	Barbu	\$1,817	\$5,195	\$1,817
537	109796	Ronald	Curtin	\$1,891	\$5,672	\$2,339
538	2587	Patrick	McCarter	\$1,912	\$6,167	\$1,912
539	3820	Roy	Wallace	\$1,945	\$6,915	\$1,945
540	3664	James	Moreno	\$1,953	\$6,360	\$1,953
541	19253	Gary	Gray	\$2,076	\$5,303	\$2,076
542	8321	Thomas	Morris	\$2,085	\$5,974	\$2,085
543	108389	Alicia	Yamaguchi	\$2,331	\$6,131	\$2,331
544	105284	Peter	Monforte II	\$2,358	\$5,904	\$2,358
545	17259	Hilbert	Yurckonis	\$2,395	\$6,937	\$2,923
546	3893	Phillip	Klein	\$2,443	\$7,054	\$2,443
547	2757	John	Majors	\$2,690	\$7,595	\$2,690

	A	B	C	D	E	F
548	3484	Gary	Kern	\$2,969	\$8,111	\$2,969
549	107617	Carlos	Pineda	\$2,994	\$6,482	\$3,633
550	3876	Chris	Norvell	\$3,062	\$6,518	\$3,062
551	3757	Gregory	Steck	\$3,176	\$8,894	\$3,176

EXHIBIT “F”

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4
5 MICHAEL MURRAY, and MICHAEL) Case No.: A-12-669926-C
6 RENO, individually and on) Dept. No.: I
7 Behalf of others similarly)
8 Situated,)
9 Plaintiffs,)
10 vs)
11 A CAB TAXI SERVICE LLC, A CAB,)
12 LLC and CREIGHTON J. NADY,)
13 Defendants.)
14 _____)

15
16
17
18 RECORDED DEPOSITION OF CREIGHTON J. NADY
19 Taken on June 16, 2017
20 At 1:10 p.m.
21 Evolve Downtown
22 400 South 4th Street, 3rd Floor
23 Las Vegas, Nevada 89101
24
25

Evolve Deposition and Trial Services

7473 West Lake Mead Blvd, Suite 100
Las Vegas, Nevada 89128
(Main) 702-421-DEPO (3376)



AA004855

1 Q: And do you have any recollection as
2 to what that good reason might have been?

3 A: I thought it was a fair deal.

4 Q: When you say ``deal,`` are you
5 referring to something specific?

6 A: Maybe as a poor choice of words. I
7 thought it was a fair agreement to pay the employees
8 what I might owe them.

9 Q: Are you referring to an agreement
10 that was understood by you to be worked out in the
11 Dubric case between A Cab and Dubric and her
12 attorneys?

13 A: Worked out? I don't think worked
14 out is the correct deal. They hired an accountant, I
15 hired an accountant, and they went through the
16 records, similar to what you have done with your
17 ``expert`` and they came up with that number. And
18 since my accountant came up with the same number or
19 approximate to that independently, I thought I owed
20 the drivers that and I agreed to pay it. I would
21 have done the same for you, had you been a little
22 nicer about it but... remember the first day you came
23 into my office, I said to you then in my office, my
24 conference room, that, ``I agree. I do have some
25 liability here and I think I know what it is.`` And

1 CERTIFICATE OF RECORDER

2 STATE OF NEVADA)

3 COUNTY OF CLARK)

4 NAME OF CASE: MICHAEL MURRAY vs A CAB TAXI SERVICE LL

5I, Peter Hellman, a duly commissioned

6 Notary Public, Clark County, State of Nevada, do hereby

7 certify: That I recorded the taking of the

8 deposition of the witness, Creighton Nday,

9 commencing on 06/16/2017.

10That prior to being examined the witness was

11 duly sworn to testify to the truth. That I thereafter

12 transcribed or supervised transcription from Recorded

13 Audio-and-Visual Record and said deposition is a complete,

14 true and accurate transcription.

15I further certify that I am not a relative or

16 employee of an attorney or counsel of any of the

17 parties, nor a relative or employee of an attorney or

18 counsel involved in said action, nor a person

19 financially interested in the action.

20IN WITNESS WHEREOF, I have hereunto set my

21 hand in my office in the County of Clark, State of

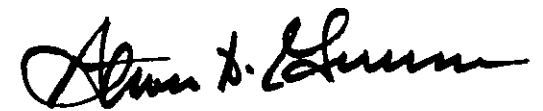
22 Nevada, this 06/16/2017.

23

24_____

25Peter J. Hellman Notary (12-9031-1)

EXHIBIT "G"



CLERK OF THE COURT

1 DCRR

2 LEON GREENBERG, ESQ.

Nevada Bar No.: 8094

3 DANA SNIEGOCKI, ESQ.

Nevada Bar No.: 11715

4 Leon Greenberg Professional Corporation

2965 South Jones Boulevard - Suite E-3

5 Las Vegas, Nevada 89146

(702) 383-6085

6 (702) 385-1827(fax)

leongreenberg@overtimelaw.com

7 dana@overtimelaw.com

Attorneys for Plaintiffs

8
9 **DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 MICHAEL MURRAY and
12 MICHAEL RENO, individually and
13 on behalf of all others similarly
situated,

14 Plaintiffs,

15 vs.

16 A CAB TAXI SERVICE LLC, A
17 CAB, LLC, and CREIGHTON J.
NADY,

Defendants.

Case No.: A-12-669926-C

DEPT.: I

18
19 **DISCOVERY COMMISSIONER'S**
20 **REPORT AND RECOMMENDATION**

21
22 Hearing Date: November 18, 2015

23 Hearing Time: 9:00 a.m.

24 Attorney for Plaintiff Dana Sniegocki, Esq. and Leon Greenberg, Esq. of

25
26 Leon Greenberg Professional Corporation

27 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

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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, A* 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 in* 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 NACF 161. A*
~~plaintiffs' discovery requests in an informed, good faith, and appropriate manner. The~~

1 defendants' principal, Creighton J. Nady, ^{told} ~~misrepresented~~ to the Court at the March 18,
2 2015 hearing the difficulties defendants' faced in producing the information originally
3 sought by plaintiffs in February 2015 and specifically that burdensome computer
4 "code" would have to be written to produce such information. ^{This representation} ~~A conclusion that such~~
5 ~~was incorrect.~~ ^{was incorrect.}
6 ~~misrepresentation was intentional is supported by the course of events in this case.~~
7
8 ~~Even if that misrepresentation was not intentional it was, by defendants' own~~
9 ~~admission, uninformed, not the product of appropriate due diligence, and without any~~
10 ~~actual basis in fact.~~ ^{was} Despite having a duty to do so, defendants never inquired with
11 any knowledgeable person, which clearly should have been their computer consultant
12 James Morgan, about what would be necessary to produce such information. ~~Such~~
13 ~~dereliction of their responsibility to cooperate with the discovery process, or their~~
14 ~~A previous~~
15 ~~affirmative misrepresentation, resulted in the need for plaintiffs' counsel to conduct a~~
16 Rule 34 inspection that was terminated early by defendants, ^{and} ultimately resulted in
17 ^{the Discovery Commissioner recommending the Plaintiffs take the}
18 ~~the unnecessary~~ deposition of non-party James Morgan. The foundational information
19 ^{to determine the accessibility of the information at issue.}
20 secured from James Morgan on the Cab Manager system during that deposition was
21 always available to defendants. Defendants should have ^{been able to consult} ~~complied with their duty to~~
22 ~~inquire~~ ^{or} with James Morgan about producing the information sought by plaintiffs and
23 taken appropriate action to produce such information. There was no need for the
24 deposition of James Morgan.
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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~~^W 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~~
15 ~~evasive and confrontational beyond any appropriate or allowable boundaries, and was~~
16 ~~uninformed as to several & pre areas, which has not~~
17 ~~not cautioned or counseled to curb his behavior by defendants' counsel.~~ ^{Conduct} ~~yet been~~
18 ~~Unfortunately, it does not appear~~ ^{specifically}
19 ~~based on a review of the record Mr. Nady was~~ ^{addressed to}

20 5. An extension of the discovery schedule, as requested by the plaintiffs, is
21 also warranted in light of the plaintiffs' motion to compel the production of
22 documents which has been pending for eight months and the resolution of which was
23 delayed by defendants. Accordingly, the discovery deadlines in this matter will be
24 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~~
is requiring
~~of Morgan indicates that the entire Cab Manager database can be copied and produced.~~
to be
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.
~~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.~~ *DM* Additionally, defendants
3 must also provide to plaintiffs' counsel, no later than December 31, 2015, electronic
4 computer data records in Excel spreadsheet or an otherwise searchable electronic
5 format from defendants' Quickbooks system as specified in paragraph 2 of the
6 Findings for the time period of October 8, 2008 through the present.
7

9 No other information contained within defendants' Quickbooks system, such as
10 defendants' internal business or accounts payable records, are being compelled in this
11 Report and Recommendation, provided that defendants produce the information as
12 specified in paragraph 2 of the Findings. If they fail to do so, or assert they cannot
13 extract such information, the *Discovery Commission will likely require*
14 ~~Court will require the parties to enter into a suitable~~
15

16 ~~protective order preserving the confidentiality of the Quickbooks database and~~
17 *for the applicable time frame to be produced*
18 ~~defendants shall turn over the entire contents of the Quickbooks database to plaintiffs'~~
19 *Subject to an appropriate protective order. The*
20 ~~counsel who must then sort and extract the relevant information plaintiffs sought in~~
21 *specifics of such production will be deferred until*
22 ~~their motion to compel~~ *such time as it becomes necessary.* *DM*

23 IT IS FURTHER RECOMMENDED that based upon paragraph 3 of the
24 Findings defendants are ordered to pay the costs and fees of plaintiffs' counsel for
25 having to proceed with the unnecessary deposition of James Morgan on July 8, 2015.
26 The Discovery Commissioner has determined that plaintiffs' counsel must be
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 *Report*

7 IT IS FURTHER RECOMMENDED that based upon paragraphs 3 and 4 of the *Recommendation*
8 Findings the imposition of additional fees and costs upon defendants in connection *is signed by me*
9 with plaintiffs' motion to compel, including but not limited to the deposition of *District Court Judge*

10 Creighton J. Nady, be reserved for further consideration and recommendations by the
11 Discovery Commissioner at the parties' next status check on January 13, 2016. *at*
12 *9:00 a.m. M*

13 Finally, the discovery deadlines in this matter are extended as follows:

14 **Close of Discovery:** **June 29, 2016**

15 **Deadline to Amend Pleadings and Add Parties:** **April 1, 2016**

16 **Deadline to Disclose Expert Reports:** **April 1, 2016**

17 **Deadline to Disclose Rebuttal Expert Reports:** **April 29, 2016**

18 **Dispositive Motion Deadline:** **July 29, 2015**

19 *Further, the case will now be ready for trial on or after*
20 *9-12-16*
21 *The parties are further ordered to appear back before the Discovery*
22 *and be current*

23 Commissioner on January 13, 2016 at 9:00 a.m. for a status check on compliance
24 with the foregoing. The parties may provide additional briefings to the Discovery
25 Commissioner regarding compliance with this Report and Recommendation no later
26 than January 8, 2016.

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28 8.

trial date
of 1-4-16 is
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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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.

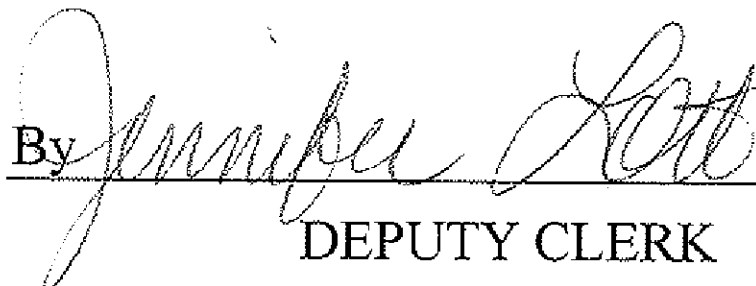
[Pursuant to E.D.C.R. 2.34(f), an objection must be filed and served no more than five (5) days after receipt of the Discovery Commissioner's Report. The Commissioner's Report is deemed received when signed and dated by a party, his attorney or his attorney's employee, or three (3) days after mailing 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

EXHIBIT “H”

SUPP

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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

DEFENDANTS' SUPPLEMENT TO REBUTTAL EXPERT WITNESS DISCLOSURE

Defendants A Cab, LLC and CREIGHTON J. NADY, by and through their attorney of
record, ESTHER C. RODRIGUEZ, ESQ., of RODRIGUEZ LAW OFFICES, P.C., and pursuant to NRC
16.1(a)(2), hereby submit their rebuttal expert witness disclosures as follows (additions are **bolded**):

WITNESSES

1. Scott Leslie, CPA/ABV, CVA, CEF
Scott Leslie & Associates, Inc.
9107 West Russell Road
Las Vegas, Nevada 89148
(702) 878-2476

Mr. Leslie is a Certified Public Accountant, accredited in Business Valuations, and certified
in Financial Forensics. He is an expert in the field of forensic accounting, public accounting, and

business valuations, and is expected to testify in an expert/rebuttal expert capacity with respect to the reports prepared by Plaintiffs' Experts Terrence M. Clauretie, Ph.D./CPA, and Charles Bass, in addition to other matters identified in his rebuttal. Mr. Leslie's qualifications, list of deposition and trial testimony, and fee schedule are attach as A CAB 02325 - 02329. Mr. Leslie's rebuttal report is attached hereto as A CAB 02330 - 02365.

Pursuant to NRCP (a)(2)(B), Mr. Leslie has billed a total of 192.60 hours in testing, analysis and report writing, for total compensation in the amount of \$47,203.00 through September 9, 2017 in this matter.

DOCUMENTS

1. Curriculum Vitae, Prior Testimony and Fee Schedule of Scott Leslie, CPA/ABV, CVA, CEF, numbered A CAB 02325 - 02329;
2. Rebuttal Report prepared by Scott Leslie, CPA/ABV, CVA, CEF, numbered A CAB 02330 - 02365.

Defendants have produced all documents that are currently known and available. However, Defendants reserve the right to supplement this list of documents and witnesses to add documents if subsequent information and investigation so warrant. Defendants further reserve the right to use the documents identified by the Plaintiffs. This designation is intended to supplement all discovery requests made by any other party to this matter regarding Defendants' expert witnesses.

As discovery is continuing, Defendants reserve the right to supplement this list to add documents, including expert reports, if subsequent information and investigation so warrant.

DATED this 13th day of September, 2017.

RODRIGUEZ LAW OFFICES, P.C.

By: /s/ Esther C. Rodriguez, Esq.
Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 13th day of September, 2017, I electronically *served* 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/ Susan Dillow
An Employee of Rodriguez Law Offices, P.C

EXHIBIT "I"

**District Court
Clark County, Nevada**

**Case No. A-12-669926-C
Dept. I**

**Michael Murray and Michael Reno,
Individually and on behalf of all others similarly situated,
Plaintiffs**

v.

**A Cab, LLC and Creighton J. Nady
Defendants**

**Critique and Rebuttal to the Report
prepared by Terrence M. Clauretie, Ph.D. dated July 18, 2017**

by

**SCOTT LESLIE
CPA/ABV, CVA, CFF**

August 30, 2017

I. Introduction

The taxi cab industry in Nevada had traditionally paid their tax cab drivers on a commission system based on the amount of fares they produced during a given shift. The amount of compensation paid by a cab company to a cab driver was specifically exempted by minimum wage rules under Nevada law¹.

A voter initiative was ratified in 2006 which increased the amount of the minimum wage. An interpretation of the initiative was that it did not just increase the minimum wage, but what employees were subject to the minimum wage. Since taxi cabs drivers were not specifically excluded under the initiative as they were under the statute, they were therefore now subject to the minimum wage rules.

A Cab LLC and related individuals and entities (collectively “A Cab”) is a taxi cab company operating in Clark County, Nevada. Under the interpretation that taxi cab companies lost their minimum wage exemption as a result of the initiative, the Company was sued in 2012 by two former A Cab drivers for underpayment of wages². The attorney for the two cab drivers, Leon Greenberg (“Greenberg”), subsequently sought and was granted class action status in the case.

A Cab was one of several cab companies sued. In 2014, as a result of a class action lawsuit filed by taxi cab drivers of Yellow Cab, another cab company operating in Nevada, the Nevada Supreme Court agreed that the 2006 initiative did not specifically exempt taxi cab drivers and that they were subject to the minimum wage rules retroactively³.

For several years the A Cab lawsuit has been moving through the Court system. The period initially covered by the Greenberg lawsuit has been expanded. A Cab provided information on payroll to Greenberg’s team for the period October 8, 2010 to December 31, 2015. The payroll records for this period are massive and Greenberg hired a technology expert, Charles Bass (“Bass”), to organize the data and calculate whether the class was underpaid.

¹ *Nevada Revised Statutes, Section 608.250(2)(e).*

² *Murphy and Reno v A Cab Taxi Service and A Cab LLC*, District Court, Clark County, Nevada, October 8, 2012.

³ *Christopher Thomas and Christopher Craig, Individually and on behalf of others similarly situated, Appellants, v. Nevada Yellow Cab Corporation; Nevada Checker Cab Corporation; and Nevada Start Cab Corporation, Respondents*; Supreme Court of the State of Nevada , No. 61681, June 16, 2014

number of hours for each shift they worked, as shown by Cab Manager records. This variable also allows the insertion of the average hours per shift from the Cab Manager data for the period 2013 - 2015, which was 11.03 hours³⁷. The use of average hours per shift to calculate damages in the earlier period could result in a biased estimate of damages. This is because the loss attributed to drivers that worked less than the assumed average could be increased with no commensurate offset from drivers that worked more than average. To test this possibility I recalculated the damage estimates in the 2013-2015 period (for the cab manager data) assuming for each driver a shift the average hours (11.03) for all driver shifts in this time frame³⁸.

Assessing the hours a driver works

Assessing if the way that Dr. Clauretie and Bass calculated hours realistically models how hours are worked by cab drivers requires that the entire process of how a cab driver uses a cab and he/she records his/her time be understood. The key to understanding that process is to:

- Understand how a trip sheet works and how hours worked are calculated
- Understand what Cab Manager's reporting capabilities are at a given point in time and that the software has and is continuing to evolve over time
- Understand the independence level of cab drivers
- Understand how a cab operates during a shift
- Calculate hours worked per shift and per payroll period

An A Cab taxi cab driver checks out a cab for up to twelve hours. He may work twelve hours or he may work some other amount depending on the driver's needs and preferences. He may keep the cab for up to the maximum time but use personal time while in possession of the cab. He may also turn in the cab early. The point is the cab driver operates the cab as an independent entity during the time he/she has the cab. There are few uniform rules (relevant to this case) other than to tell the base if the cab is available for rides. Cab Manager prints out the trip sheet for the cab driver to track various aspects of his shift including hours worked. However, for the time periods included in here the Cab Manager does not record the hours actually worked or the breaks taken.

The payroll hours test

I used the 123 payroll periods described earlier to test if Dr. Clauretie's and Bass's assumptions are realistically valid. Continuing with our testing procedure, after the A Cab personnel completed their tasks they turned the data over to me. My procedures were as follows:

- a. I first calculated the implied minimum wage deficit from the Calculation Report for the sample of employees selected. I used the information from ACAB-ALL to determine which

³⁷ Calculation Report, p 27.

³⁸ Calculation Report, pp 27-29.

- of the samples were subject to the minimum wage adjustment using the Dr. Clauretie's and Bass's criteria³⁹.
- b. I reviewed each trip sheet for each payroll period for each sample selected. I recalculated the break times to conform to Nevada law using the provisions of NRS 608.145 and NAC 608.145⁴⁰. Under these provisions, I recalculated hours paid to include twenty minutes of break time IF the cab driver took breaks. If the cab driver chose not to take any breaks, we did not accrue any additional payments for missed breaks.
 - c. I calculated net time worked from the trip sheets (adjusted for a. above) in minutes for each shift. I added all the time from all the shifts in the payroll period to determine the total number of minutes worked. I divided the number of minutes by 60 to determine the number of hours worked to two decimal places (one-hundredth of an hour). This apparently conformed to the Bass calculations.
 - d. I then used the information developed in the HR/payroll department regarding employee status on health insurance to determine if they should be paid at the higher or lower tier.
 - e. I multiplied the number of hours worked by the appropriate minimum wage tier. This becomes the minimum wage threshold amount.
 - f. The minimum wage threshold amount was compared to the actual payroll paid. If the payroll actually paid was more than our minimum threshold amount, the cab driver was paid more than the minimum wage and no further action is taken. If the payroll paid less than the minimum threshold amount, the difference is recorded as an underpayment.

Analysis of the test results

Exhibits 3 through 6 shows the detailed results for the period. Exhibit 3 shows the results from the earlier spreadsheets (adjusted for ACAB-ALL assumptions) for the period 2010-2012. Exhibit 4 shows the detailed results for the 2013-2015 period that again were developed using the original Bass spreadsheets. Exhibits 5 and 6 shows the results from the additional testing I did when the new spreadsheets came out with the Calculation report. Exhibit 5 covers the 2010 -2012 period. Exhibit 6 covers the 2013 to 2015 period.

Observations:

- a. The first item noted is that in aggregate, wages in total exceed the minimum wage threshold. Therefore, the sample selections that do not exceed the minimum threshold should be isolated and reviewed.
- b. The average shift length (weighted for the number of observations per analysis) is 9.7 hours in the sample. It is 9.8 hours for those not subject to the minimum wage and 9.5

³⁹ The data from the earlier spreadsheets was as a base to random sample the trip sheets. However, since the ACAB-ALL spreadsheet used different criteria for calculating the minimum wage deficits, I used the ACAB-ALL amounts to determine the Calculation Report's estimate of minimum wage deficits for the sample. I also included in the Exhibits both the original and ACAB-ALL line numbers that the random samples were drawn from.

⁴⁰ Under these statutes and regulations, unless exempted, an employee is entitled to two 10 minute rest periods if they work 7 to 11 continuous hours. See the statute and regulations for breaks required working other hours.

hours for those subject to the minimum wage threshold (both using the SLA calculations of minimum wage hours).

Table 4			
Weighted average shift lengths			
	Total	Shift average (not subject to minimum wage)	Shift average (subject to minimum wage)
Exh 3	3.1	3.2	3.0
Exh 4	4.3	4.4	4.2
Exh 5	0.9	0.9	0.9
Exh 6	1.4	1.4	1.3
Weighted Average	9.7	9.8	9.5
Note: Based on analysis by Scott Leslie			

- c. The estimated total payroll hours for the Calculation Report is about 11,574 hours or about 1,411 hours (or 13.9%) more than the hours I calculated using the trip sheets (10,162 hours).
- d. The estimated total payroll hours screened for drivers subject to the minimum wage threshold was about 2,374 hours more for the Calculation Report (or 58% more) than what I calculated this screen of hours to be (Exhibit 7).
- e. The suggested minimum wage adjustment (using the Calculation Report's \$7.25 minimum wage column) was about \$6,376 more (or 266% more) than what I calculated this screen of minimum wages to be (Exhibit 7). What this shows is that when the assumed hours are exaggerated (as they are here because shift length is overstated), the effect on the population of those subject to minimum wage threshold is leveraged higher which not only overstates but truly distorts the minimum wage deficit.

The reason why is this: The amount of wage paid is fixed. As you vary the number of hours worked the average wage rate relative to the fixed amount changes. The more hours you add the lower the average wage rate goes. The reduction of the average wage rate of the population not only adds amounts owed to the original cab drivers subject to the minimum wage threshold but also adds additional drivers that should not be part of the calculation. That is the leverage effect.

As an illustration, see Exhibit 8 which is a further analysis of information in Exhibit 6 and Exhibit 7. When the actual hours worked by cab drivers is used, three of the 17 drivers in the sample are subject to the minimum wage threshold. However, if Dr. Clauretie's hours assumption is used, not only are the three subjects in my sample subject to the

minimum wage threshold, but another three now fall into the minimum wage threshold (because their "average wage" now drops below \$7.25 when their payroll amount is divided by more hours). So not only does the number of cab drivers that meet the minimum wage threshold double, the number of hours subject to the minimum wage increases by 266% and in this example the amount to the minimum wage increases by 626%. All of this because the hours worked is distorted.

- f. Exhibit 8 also illustrates the problem with using the idea of "average hours" and "uniform" work time for this industry. As this exhibit shows and as my general analysis revealed, there is nothing "average" about hours worked because there is so much independence given the drivers. The assumptions stated in the Calculation Report state that they use 11.04 hours for each shift. Our study of actual hours as reported above is 9.7 hours and the hours worked by those subject to the minimum wage threshold is 9.5 hours. That is one and one half hours less per shift (13.6%) than what the Calculation Report assumes.

If averages are used as they are in this report, it would be expected that a 13.6% difference in hours would add in the neighborhood of 13.6% to the minimum wage deficit. Except as this small sample shows it actually increased the minimum wage deficit adjustment by over 600%. As shown in Exhibit 7, similar though not as extreme results are shown for all of the test sample.

We therefore conclude that our final test shows the methodology used to estimate hours worked is not reliable. Therefore the methodology cannot be relied upon to produce a reasonable estimate of the minimum wage deficit for not only the lower tier test in the Calculation Report but any of the tests done in the Calculation Report.

Finally, we conclude that because of the way the A Cab tracked time during the examination period, the only reliable way to determine the minimum wage deficit of the cab drivers of A Cab during the period in question is to analyze the trip sheets. The trip sheets were provided to the Greenburg team and they chose instead to use this methodology to estimate the minimum wage deficit.

Prepare by:



Scott Leslie, CPA/ABV, CVA, CFF
Scott Leslie & Associates, Inc.

PAYROLL TEST
RESULTS OF TEST OF PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2015
USING DATA FROM BASS TESTS PROVIDED IN FEBRUARY, 2017
Assumption for Scott Leslie calculation: Drivers are subject to general rest period rules of NRS 608.145 and NAC 608.145 (i.e. 20 minutes of breaks)

Employee Test No.	2013-2015	Bass original analysis line no.	Bass ACAB- ALL line no.	Pay period and date	Health Insurance	Empl Status	[A]	Test Status	Wage per hour (see report)	Payroll		Payroll system hours	Bass assumed hours	Implied Bass (under) minimum wage amount			Amount over subject to minimum wage adjustment			SLA recalculated hours using actual Trip sheet data	SLA implied minimum wage amount		Amount over (under) minimum wage adjustment	Amount subject to minimum wage adjustment	Per Trip sheet data & SLA		
										Gross Payroll	System			SLA	SLA	SLA	SLA	SLA	SLA		SLA	SLA			SLA	SLA	Average hours worked
1555		54	37423	36620	11/22/2013	N	2H		7.25		563.33	66.23	116.37	843.68	(280.35)	280.35	68.36	640.61	(77.28)	77.28	8.5						
1556		12	39167	3930/2013	N	2H		[4]	7.25								46.94	340.32	104.59		9.1						
1557		49	38625	39297	1/31/2014	Y	2C	00	7.25		444.90	45.55	55.57	402.88	42.02		55.43	401.87	223.53		7.9						
1558		20	40092	40350	10/23/2015	N	2H		7.25		625.40	54.11	71.11	515.55	109.85												
1559		19	41929		1/18/2013	N	2H	[2]	7.25								101.82	840.02	513.10		8.9						
1560		60	42598	42037	11/17/2014	N	NONE		8.25		1,353.11	99.68	121.70	1,004.03	349.09												
									\$ 42,859.84 4,716.36 5,484.85 \$ 40,234.98 \$ 2,624.86 \$ 3,358.76										\$ 4,831.47 \$ 35,428.29 \$ 7,431.51 \$ 833.61				\$ 9.5 9.6 9.2				

Legend:

Employee health insurance status at time of payroll date _____ [A] Coverage Elected by Employee

2D = WAITING PERIOD [blank]: Declined coverage

2B = PARTTIME ee: Employee only

2C = INSURANCE ees: Employee and spouse elected

2H = WAIVER

NONE = NO WAIVER IN FILE

NO FILE = NOT ABLE TO LOCATE EMPLOYEE FILE

Test Status

[1] Tripsheets for all shifts could not be located. Alternate record chosen

[2] Data in Bass spreadsheet was inconsistent with other records. Alternate record chosen

[3] Employee file could not be located. Alternate record chosen.

[4] Tripsheets were not complete when received for SLA testing. No alternate chosen

PAYROLL TEST - on ALL CAB DATA

RESULTS OF TEST OF PERIOD OCTOBER 8, 2010 TO DECEMBER 31, 2012

Assumption for Scott Leslie calculation: Drivers are subject to general rest period rules of NRS 608.145 and NAC 608.145 (i.e. 20 minutes of breaks)

							Calculation Report (Dr. Claudette and Mr. Bass)				SLA calculations				Per trip sheet data & SLA					
2010-2012	Line No.	Pay period end date	Insurance	Empl Status	Elected Coverage	Test Status	Wage per hour (see report)	Payroll System Gross Payroll	Bass Assumed Hours	Implied Bass minimum wage amount	Amount over (under) minimum wage minimum	Amount subject to minimum wage adjustment	SLA recalculated hours using actual Trip sheet data	SLA implied minimum wage amount	Amount over (under) minimum wage minimum	Amount subject to minimum wage adjustment	Average hours worked during pay period	Average Hours worked (not s/t min wage)	Avg hours worked (s/t min age)	
			Y or N																	
	6	1823	7/20/2012	N	2H		\$ 7.25	\$ 371.73	77.00	\$ 558.25	\$ (186.52)	\$ 186.52	74.40	\$ 539.40	\$ (167.67)	\$ 167.67	10.6		10.6	
	3	3991	7/22/2011	Y	2C	ee	7.25	653.5	88.00	638.00	15.50		88.70	643.08	10.43		11.1	11.1		
	7	5850	8/31/2012	N	2H		7.25	493.44	99.00	717.75	(224.31)	224.31	74.67	541.36	(47.92)	47.92	8.3		8.3	
	11	8820	7/6/2012	Y	2C	ee	7.25	772.23	132.00	957.00	(184.77)	184.77	116.38	843.76	(71.53)	71.53	11.6		11.6	
	9	14008	4/15/2011	N	2H*		7.25	625.85	121.00	877.25	(251.40)	251.40	107.58	779.96	(154.11)	154.11	10.8		10.8	
	1	15552	2/18/2011	Y	2C	ee	7.25	501.21	88.00	638.00	(136.79)	136.79	79.08	573.33	(72.12)	72.12	9.9		9.9	
	12	19091	11/12/2010	Y	2C	ee	7.25	762.37	77.00	558.25	204.12		74.17	537.73	224.64		10.6	10.6		
	4	21426	12/24/2010	N	NONE		8.25	108.15	11.00	90.75	17.40		10.37	85.55	22.60		10.4	10.4		
	8	22306	8/31/2012	Y	2C	ee	7.25	660.59	99.00	717.75	(57.16)	57.16	84.67	613.86	46.73		9.4	9.4		
	5	22489	7/20/2012	N	2H		7.25	140.82	22.00	159.50	(18.68)	18.68	18.53	134.34	6.48		9.3	9.3		
	10	25579	6/8/2012	N	2H		7.25	925.19	99.00	717.75	207.44		90.23	654.17	271.02		10.0	10.0		
	2	25651	10/29/2010	Y	2C	ee														
							\$ 6,015.08		913.00	\$ 6,630.25	\$ (615.17)	\$ 1,059.63	818.78	\$ 5,946.53	\$ 68.56	\$ 513.34		10.2	10.1	10.2

Legend

[A] Coverage Elected by Employee

- [blank]: Declined coverage
- ee: Employee only
- ees: Employee and spouse elected

Employee health insurance status at time of payroll date

- 2D = WAITING PERIOD
- 2B = PARTTIME
- 2C = INSURANCE
- 2H = WAIVER

Test Status

- [1] Tripsheets for this record could not be retrieved from Cab Manager. Alternate record chosen
- [2] Employee file could not be located. Alternate record chosen
- [3] This is an alternate record to replace a record that could not be presented (see [1] and [2] above)
- [4] Tripsheets were not complete when received for SLA testing. No alternate chosen
- [5] Tripsheet provided did not correspond with name or number of shifts in ALL CAB. No alternate chosen

PAYROLL TEST - on ALL CAB DATA
RESULTS OF TEST OF PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2015
Assumption for Scott Leslie calculations: Drivers are subject to general rest period rules of NRS 608.145 and NAC 608.145 (i.e. 20 minutes of breaks)

										Calculation Report (Dr. Claudette and Mr. Bass)				SLA calculations				Per trip sheet data & SLA				
Employee Test No.	2013-2015	Line No.	Pay period end date	Insurance	Empl Status	Elected Coverage	Test Status	Wage per hour (see report)	Payroll system hours	Payroll System Gross Payroll	Bass assumed hours	Implied Bass minimum wage amount	Amount over (under) minimum wage minimum	Amount subject to minimum wage adjustment	SLA recalculated hours using actual Trip sheet data	SLA Implied minimum wage amount	Amount over (under) minimum wage minimum	Amount subject to minimum wage adjustment	Average hours worked during pay period	Average Hours worked (not s/t min wage)	Avg hours worked (s/t min age)	
1525		10	3865	7/3/2015	Y	2C	ee	\$ 7.25	63.30	\$ 609.60	71.55	\$ 518.74	\$ 90.86		81.75	\$ 592.69	\$ 16.91		9.08	9.08		
1526		16	8317	7/3/2015	Y	2C	ee	7.25	87.34	712.44	78.29	567.60	144.84		81.38	590.01	122.44		10.17	10.17		
1527		3	13357	11/6/2015	Y	2C	ee	7.25	96.23	844.21	112.23	813.67	30.54		98.37	713.18	131.03		10.93	10.93		
1528		8	13544	6/7/2013	Y	2C	ee	7.25	58.65	436.54	70.60	511.85	(75.31)	\$ 75.31	60.18	436.31	0.24		10.03	10.03		
1529		11	14122	1/3/2014	Y	2C	ee	7.25	73.32	644.94	78.08	566.08	78.86		64.53	467.84	177.10		9.22	9.22		
1530		5	14135	2/28/2014	Y	2C	ee	7.25	95.42	1,074.78	115.38	836.51	238.28		97.58	707.46	367.33		10.84	10.84		
1531		15	14203	1/16/2015	Y	2C	ee	7.25	87.00	1,032.22	106.01	768.57	263.65		89.07	645.76	386.46		9.90	9.90		
1532		4	17389	7/5/2013	Y	2C	ee	7.25	87.07	738.87	105.03	761.47	(22.60)	22.60	89.83	651.27	87.60		9.98	9.98		
1533		13	18355	4/26/2013	Y	2C	ee	7.25	98.38	1,283.47	117.27	850.21	433.26		90.47	655.91	627.56		10.05	10.05		
1534		14	23884	9/12/2014	N	2H		7.25	18.68	167.07	93.18	675.56	(508.49)	508.49	19.2	139.20	27.87		9.60	9.60		
1535		9	27270	11/22/2013	N	2D		7.25	77.85	480.16	97.85	709.41	(229.25)	229.25	80.38	582.76	(102.60)	\$ 102.60	8.93		8.93	
1536		7	28539	11/8/2013	Y	2C	ee	7.25	105.75	943.00	116.08	841.58	101.42		106.73	773.79	169.21		11.86	11.86		
1537		18	28301	8/30/2013	Y	2C	ee	7.25	73.85	726.03	89.85	651.41	74.62		75.38	546.51	179.53		9.42	9.42		
1538		1	30599	6/6/2014	Y	2C	ee	7.25	66.75	533.03	80.65	584.71	(51.68)	51.68	69.13	501.19	31.84		9.88	9.88		
1539		2	31377	12/19/2014	N	2D		7.25	70.14	508.55	103.63	751.32	(242.77)	242.77	71.98	521.86	(13.31)	13.31	8.10		8.10	
1540		12	34130	11/8/2013	Y	2C	ee	7.25	82.41	996.21	99.42	720.80	275.42		84.85	615.16	381.05		9.43	9.43		
1541		6	35515	11/21/2014	N	2H*	[1]															
1542		17	37327	9/13/2013	N	2D		7.25	99.93	642.08	121.17	878.48	(236.40)	236.40	102.58	743.71	(101.63)	101.63	11.40		11.40	
										1,342.07	\$ 12,373.20	1,656.27	\$ 12,007.96	\$ 365.24	\$ 1,366.50	1,363.39	\$ 9,884.58	\$ 2,488.62	\$ 217.53	9.93	10.03	9.48

Test status

[1] Records provided did not match name in spreadsheet. No alternate chosen.

Employee Helath Insurance Status at time of payroll date

2D = WAITING PERIOD

2B = PARTTIME

2C = INSURANCE

2H = WAIVER

2H* = WAIVER IN FILE, BUT DATED AFTER PAY PERIOD DATE

Coverage Elected by Employee

[blank] Declined coverage

ee Employee only

ee spouse Employee and spouse elected

**ANALYSIS OF EFFECT OF OVERSTATING HOURS FOR EMPLOYEES
SUBJECT TO THE MINIMUM WAGE THRESEHOLD
Based on testing by Scott Leslie (see Exhibits noted)**

	Bass assumed hours	Bass amount s/t minimum wage	Scott Leslie Calculated hours	Scott Leslie amount s/t minimum wage
Exhibit 3	2,706	\$ 4,437	1,827	\$ 2,283
Exhibit 4	2,448	3,359	1,556	833
Exhibit 5	638	1,060	452	513
Exhibit 6	672	1,367	255	218
	<u>6,464</u>	<u>\$ 10,223</u>	<u>4,090</u>	<u>\$ 3,847</u>
Difference in the number of hours			2,374	
Size of difference (as a pct of SLA hours)			1.58	
Difference in minimum wage owed			\$ 6,376	
Size of difference (as a pct of SLA wages)			2.66	
Leverage: relative value of an additional hour and an additional dollar of wages			1.68	

EXHIBIT “J”

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

* * *

DENNIS TALLMAN,

Plaintiff(s),

v.

CPS SECURITY (USA), INC., et al.,

Defendant(s).

Case No. 2:09-CV-944 JCM (PAL)

ORDER

Presently before the court is plaintiff Dennis Tallman's unopposed motion for entry of an additional judgment. (ECF Nos. 284, 288).

On September 8, 2016, the Ninth Circuit clerk amended the court's mandate, ordering that plaintiff's unopposed motion for an award of attorney's fees and expenses on appeal in the amount of \$36,560 be granted. (App. Docket No. 42). Plaintiff's counsel, Leon Greenberg, states that he attempted to contact defendants' counsel and had reason to believe that the matter of payment would be resolved. (*Id.* at 284 at 2–3). However, over a month and a half has elapsed since Greenberg commenced these communications, and there has been no indication to the court that defendants have complied with the Ninth Circuit's order. (*Id.*).

Plaintiff on November 17, 2016, submitted a notice of non-opposition to this court. (ECF No. 288). Plaintiff argues therein that defendants have failed to comply with the Federal Rules of Civil Procedure and this court's Local Rules of Practice. This court concurs that there has been no response from defendants within the deadlines promulgated by Local Rule 7-2. (*Id.*).

Title 29 U.S.C. § 216(b) authorizes a court to "allow a reasonable attorney's fee to be paid by the defendant" Additionally, a "party seeking an award of fees must submit evidence supporting the hours worked and the rates claimed." *Van Gerwen v. Guarantee Mut. Life Co.*, 214 F.3d 1041, 1045 (9th Cir. 2000). Although Local Rule 7-2(d) may be procedurally dispositive, this court, in fairness, will nevertheless examine the merits of this motion,

1 Plaintiff's counsel declares under penalty of perjury that he has spent an hour generating
2 the present motion and communicating with defendants' counsel. (ECF No. 284). Greenberg
3 requests that an hourly rate of \$720 be applied to this time and that the product be added to the
4 sum granted in the Ninth Circuit's order. (ECF No. 284). The total pecuniary sum requested by
5 plaintiff in this motion for additional judgment is therefore \$37,280. (*Id.*).

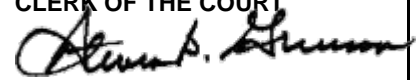
6 Plaintiff's underlying motion for attorney fees was granted by a Ninth Circuit clerk's order
7 regarding an unopposed motion for an award of attorney's fees and expenses on appeal. (App.
8 Docket No. 42). Defendants have failed to contest plaintiff's calculation of the appropriate fee in
9 either that motion or the present one. (*See id.*; ECF No. 284). Upon review of the record and the
10 affirmation of plaintiff's counsel, this court does not believe that it should deviate from the fee rate
11 permitted by the Ninth Circuit order. (App. Docket No. 42). Furthermore, one hour appears to be
12 a reasonable calculation of the time required by plaintiff's counsel to draft the present motion and
13 attempt to contact defendants' counsel by email and phone. (*See* ECF No. 284); *see also* 29 U.S.C.
§ 216(b).

14 Accordingly,

15 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED that plaintiff Dennis
16 Tallman's motion for entry of an additional judgment, (ECF No. 284) be, and the same hereby is,
17 GRANTED.

18 DATED November 29, 2016.

19 
UNITED STATES DISTRICT JUDGE



1 **MPSJ**

2 LEON GREENBERG, ESQ., SBN 8094
3 DANA SNIEGOCKI, ESQ., SBN 11715
4 Leon Greenberg Professional Corporation
5 2965 South Jones Blvd- Suite E3
6 Las Vegas, Nevada 89146
7 (702) 383-6085
8 (702) 385-1827(fax)
9 leongreenberg@overtimelaw.com
10 dana@overtimelaw.com
11 Attorneys for Plaintiffs

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 MICHAEL MURRAY, and MICHAEL
11 RENO, Individually and on behalf of
12 others similarly situated,

12 Plaintiffs,

13 vs.

14 A CAB TAXI SERVICE LLC, A CAB,
15 LLC, and CREIGHTON J. NADY,

16 Defendants.

Case No.: A-12-669926-C

Dept.: I

**MOTION FOR PARTIAL
SUMMARY JUDGMENT**

and

**MOTION TO PLACE
EVIDENTIARY BURDEN ON
DEFENDANTS TO
ESTABLISH "LOWER TIER"
MINIMUM WAGE AND
DECLARE NAC 608.102(2)(b)
INVALID**

18 Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,
19 hereby move this Court for an Order granting partial summary judgment as specified
20 herein pursuant to Nev. R. Civ. P. 56(a) and awarding fees and costs to class counsel.
21 Plaintiffs also seek a ruling that defendants bear the burden of establishing that they
22 only need to have paid the "lower tier" ("health benefits provided") minimum wage
23 specified by Nevada's Constitution and that NAC 608.102(2)(b) is invalid.

24 Plaintiffs' motion is made and based upon the annexed declaration of counsel,
25 the memorandum of points and authorities submitted with this motion, the attached
26 exhibits, and the other papers and pleadings in this action.

27 ///

28 ///

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NOTICE OF MOTION

PLEASE TAKE NOTICE THAT the plaintiffs, by and through their attorneys of record, will bring the foregoing **MOTION FOR PARTIAL SUMMARY JUDGMENT and MOTION TO PLACE EVIDENTIARY BURDEN ON DEFENDANTS TO ESTABLISH “LOWER TIER” MINIMUM WAGE AND DECLARE NAC 608.102(2)(b) INVALID** which was filed in the above-entitled case for hearing before the _____ on 12-5-17, 2017, at the hour of 9:00A.

Dated: November 1, 2017

Leon Greenberg Professional Corporation

By: /s/ Leon Greenberg
Leon Greenberg, Esq.
Nevada Bar No.: 8094
2965 South Jones Boulevard - Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
Attorney for Plaintiffs

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MEMORANDUM OF POINTS AND AUTHORITIES

OVERVIEW

The Court (probably much to its chagrin) is very familiar with this extremely contentious class action certified case (set for the February 5, 2018 trial stack) for minimum wages owed to A-Cab's taxi drivers under the Nevada's Constitution's Minimum Wage Amendment (the "MWA"). This motion seeks:

Partial Summary Judgment for Undisputed Minimum Wages Owed -

Defendants admit their own records confirm they owe at least \$174,839 in precisely identified amounts of at least \$10 each to certain class members under the MWA's "lower tier" (\$7.25 an hour "health benefits made available") minimum wage rate; \$651,262 under the MWA's "higher tier" (\$8.25 an hour "no health benefits made available") minimum wage rate; and \$274,621 if the higher tier \$8.25 an hour rate was only applied during work weeks the class member was under a "new hire" waiting period and was ineligible for health insurance. Partial summary judgment should be granted for whatever quantum of such damages (at least \$174,839, plus interest, costs and attorney' fees) the Court finds applicable.

Order Placing Proof of "Lower Tier" Minimum Wage on Defendants -

The MWA's "higher tier" (currently \$8.25 an hour) is a default or presumptive minimum wage, with those employers who make MWA qualified health insurance available entitled to pay the "lower tier" (\$7.25 an hour) minimum wage. Accordingly, every class member should be entitled to the higher tier minimum wage unless the defendants prove they made available to them MWA compliant insurance.

Order Holding NAC 608.102(2)(b) is Invalid and the "Higher Tier"

Minimum Wage Applies During all Health Insurance "Waiting Periods" - The Nevada Labor Commissioner, in NAC 608.102, has interpreted the MWA as allowing the payment of the lower tier minimum wage during a employee's new hire insurance waiting period that is not in excess of six months. This interpretation of the MWA is in

1 error and the MWA's higher tier minimum wage should be paid during all periods that
2 health insurance is unavailable to the employee, including such new hire "waiting
3 periods" irrespective of their length.

4 **PART ONE**

5 **MOTION FOR PARTIAL SUMMARY JUDGMENT**

6 **NATURE OF PARTIAL SUMMARY JUDGMENT REQUESTED**

7 Defendants have admitted that for the period January 1, 2013 through December
8 31, 2015 they owe, at the \$7.25 an hour minimum wage rate, and as established by
9 their own records, at least \$10.00 and in certain instances in excess of \$3,000 in unpaid
10 minimum wages to at least 319 class members. The total amount of such unpaid
11 minimum wages owed to those 319 class members at such \$7.25 an hour minimum
12 wage rate is at least \$174,839. For the reasons discussed in Parts II and III, *infra*, the
13 proper minimum wage rate for summary judgment purposes is \$8.25 an hour, either for
14 the entirety of the foregoing time period or for workweeks that newly hired class
15 members were on insurance waiting periods. Using that necessary \$8.25 an hour
16 minimum wage rate requires the entry of a judgment for such time period on behalf of
17 the class members to be in the amount of either \$651,262 or \$274,621 plus interest.

18 **THE PRIOR MOTION FOR PARTIAL SUMMARY JUDGMENT**

19 The request for partial summary judgment made in this motion was previously
20 made and denied by the Court, without prejudice to its re-submission upon the
21 conclusion of expert discovery. Ex. "A"¹, Order of July 14, 2017, as modified by
22 Minute Order of September 5, 2017. The Court did not preclude granting partial
23 summary judgment, based upon defendants' records. *Id.* It felt that the presentation of
24 expert testimony about the proposed conclusions the Court was being asked to reach
25 from those records, and upon which partial summary judgment would be based, would
26 be helpful. *Id.* Accordingly, expert witness discovery was conducted and an expert
27

28 ¹ All Exhibits are annexed to the support declaration of Leon Greenberg, Esq.

1 report is now furnished (Ex. "B") confirming the validity of the conclusions drawn
2 from defendants' records, such records providing the basis for the partial summary
3 judgment sought.

4 **UNDISPUTED MATERIAL FACTS**

5 Defendants do not dispute, and have confirmed via sworn deposition testimony,
6 that their Quickbooks records (computer data files) produced in this case contain a
7 fully accurate record of: (1) The amount of wages they paid each pay period to every
8 class member from January 1, 2013 through December 31, 2015 for work performed
9 during each such pay period; and (2) The hours each class member worked during each
10 such pay period.

11 **ARGUMENT**

12 **I. THE DEFENDANTS ADMIT THAT THEIR QUICKBOOKS**
13 **RECORDS FOR JANUARY 1, 2013 THROUGH DECEMBER 31,**
14 **2015 CONTAIN THE HOURS WORKED AND WAGES PAID TO**
THE CLASS MEMBERS AND THE MINIMUM WAGES SHOWN
TO BE OWED BY THOSE RECORDS CANNOT BE DISPUTED

15 **A. When the hours worked, wages paid, and minimum wage rate**
16 **are known, there can be no disputed issues of material fact.**

17 Determining whether an employer owes unpaid minimum hourly wages requires
18 knowledge of three things: (1) The wages the employer paid the employee during the
19 pay period; (2) The number of hours the employee worked in exchange for those
20 wages; and (3) The applicable minimum hourly wage rate. Once those three things are
21 known whether any minimum wages are owed for an individual pay period is a
22 question of law: Was the amount paid, divided by the hours worked, less than the
23 minimum wage? And if was less, how much less?

24 **B. Defendants admit that the records produced from their**
25 **Quickbooks payroll system set forth the amount of wages**
they paid to the class members and their hours of work for
the time period of January 2013 through December of 2015.

26 **1. The defendants have produced their complete**
27 **Quickbooks payroll records for the class members**
and those records have been accurately summarized.

28 The defendants have produced two Excel computer files that they represent

1 contain all of the details of their payroll records, meaning wages paid and hours
2 worked, as contained in their Quickbooks software files. Declaration of Leon
3 Greenberg in support of motion. ¶ 2. Those two Excel files were provided to
4 plaintiffs' consultant, Charles Bass, for summarization. *Id.* As discussed in Exhibit
5 "B" the expert report of Dr. Terrence Claurette, Charles Bass placed that Quickbooks
6 information into an Excel file called "2013-2015 Payroll Analysis." That Excel file
7 was incorporated into Dr. Claurette's report and furnished to defendants.

8 Charles Bass is not a testifying expert but a technical consultant who took the
9 information in the Quickbooks records produced by defendants and placed that
10 information into the "2013-2015 Payroll Analysis" Excel file. The arithmetical
11 operations performed on that information in that Excel file (division, addition,
12 subtraction, multiplication) are visible from the formulas themselves in that file. He
13 cannot furnish any expert opinion testimony. Dr. Claurette has confirmed the
14 arithmetical correctness of the calculations performed by "2013-2015 Payroll
15 Analysis" Excel file, and of the methodology used by Charles Bass to place the
16 defendants' information in that Excel file. Dr. Claurette will also offer an expert
17 witness opinion about matters not germane to this partial summary judgment motion.

18 As confirmed by Dr. Claurette the "2013-2015 Payroll Analysis" Excel file
19 assembled from defendants' Quickbooks payroll records indicates (a) The total wages,
20 not including tips, paid to each class member each pay period as recorded in the
21 Quickbooks records; (b) The total number of hours each class member worked during
22 that pay period as recorded in the Quickbooks records; and (c) The amount, if any, that
23 the class members' wages (not including tips), based on those Quickbooks records, was
24 below the minimum wage rate of \$7.25 every pay period; below the \$8.25 an hour
25 minimum wage rate every pay period; and below \$8.25 an hour for pay periods prior to
26 the end of the class member's insurance waiting period and \$7.25 an hour after that
27 date. Dr. Claurette has rigorously reviewed (Ex. "B" pages 7-25) how Charles Bass
28 placed defendants' Quickbooks information into the "2013-2015 Payroll Analysis"

1 Excel file and concludes such methodology was correct. Ex. “B,” p. 25.

2
3 **2. The summarization of the defendants’ records performed**
4 **by class counsel accurately calculates the amount of**
5 **unpaid minimum wages owed to each class member**
6 **based upon the defendants’ Quickbooks records.**

7 As discussed in Dr. Claurette’s report, Ex. “B,” the “2013-2015 Payroll
8 Analysis” Excel file performs arithmetically correct calculations on defendants’
9 Quickbooks records. Ex. “B” p. 6. Dr. Claurette confirms that if defendants’
10 Quickbooks records are accurate the “2013-2015 Payroll Analysis” Excel file
11 establishes, with mathematical certainty, that \$175,057 is owed to the class members at
12 a constant \$7.25 an hour minimum wage rate and \$651,567 at a constant \$8.25 an hour
13 minimum wage rate.² Ex. “B” p. 25.

14 Defendants have been provided with the “2013-2015 Payroll Analysis” Excel
15 file. Partial summary judgment must be granted if defendants do not establish the
16 existence of a material issue of fact regarding the accuracy of their Quickbooks
17 records; the accuracy of the placement of their Quickbooks information in that Excel
18 file; or the accuracy of the calculations made in that Excel file.

19
20 **3. Defendants have confirmed that the Quickbooks**
21 **records forming the basis for this partial summary**
22 **judgment motion are accurate.**

23 As discussed in Dr. Claurette’s report, the “2013-2015 Payroll Analysis” Excel
24 file places on a single line of a spreadsheet the amount of wages paid by A-Cab to each
25 class member each pay period and their hours of work, as recorded in the Quickbooks
26 records. Ex. “B” p. 9-10, 14. Defendants have sworn under oath that this hours of
27 work information in their Quickbooks files was fully accurate. Ex. “C” relevant
28

² As discussed, *infra*, the request for partial summary judgment in this case is for amounts slightly less than the totals in the “2013-2015 Payroll Analysis” Excel file, for example \$174,839 at the constant \$7.25 an hour rate. This is because class counsel is rounding all individual amounts of damages down, to the nearest dollar, and not seeking judgments for class members owed *de minimis* amounts of less than \$10.

1 deposition excerpts.

2
3 **C. The Quickbooks records and correct calculations upon**
4 **which partial summary judgment is based are properly**
5 **set forth in the record of these proceedings.**

6 The “2013-2015 Payroll Analysis” Excel file upon which partial summary
7 judgment is based has been furnished to defendants. That file contains a table
8 (spreadsheet) that is named “2013-2015” (the “per payroll period” table) analyzing on
9 each line the minimum wages potentially owed for one pay period for one employee.
10 Greenberg Dec. ¶ 5. There are 14,200 such pay periods that are so analyzed. *Id.* It
11 also contains a separate table (spreadsheet) that is named “2013-2015 per EE” (the “per
12 employee” table) that tallies on a single line the total amount, if any, of minimum
13 wages owed to each class member from those 14,200 pay periods. *Id.* There are 583
14 employees and lines on the per employee table. *Id.*

15 For this partial summary judgment motion only a portion of the “2013-2015
16 Payroll Analysis” Excel file is necessary. Class counsel is willing to place the entire
17 “2013-2015 Payroll Analysis” Excel file in the record of these proceedings, either in its
18 electronic form or fully printed out with all unnecessary information included. There
19 does not appear to be any standing procedure by which an electronic Excel file can be
20 made part of the docketed record of these proceedings (that file cannot be uploaded and
21 placed in the docket through Odyssey)³. It also seems needlessly burdensome to print
22 out many additional pages of information from that file that are not germane to this
23 motion. Accordingly, Class Counsel provides the following for the record, as verified
24 in the Greenberg Dec. :

- 25 (1) The full relevant excerpts of 14,200 lines (pay periods), printed on
26 375 pages, from the “2013-2015 Payroll Analysis” Excel file
27 per payroll period table. Ex. “D.” This excerpt does not include

28 ³ An electronic copy of the “2013-2015 Payroll Analysis” Excel file is being
provided to Chambers on a DVD with the Chambers copy of this motion.

1 the check number on each line, or calculations involving additional
2 minimum wages that may be owed because an employee's
3 insurance premium exceed the 10% of wages limit set by the MWA,
4 that are in that original Excel file. That information is irrelevant to
5 this motion.

- 6
- 7 (2) The amounts, rounded down to the nearest dollar, owed to each of
8 the 548 class members who are owed at least \$10 in unpaid
9 minimum wages based upon defendants' Quickbooks records. Ex.
10 "E." This list is derived from the "2013-2015 Payroll Analysis"
11 Excel file per employee table. There are 583 class members on that
12 table in that original Excel file " but 35 of those persons are owed
13 either no unpaid minimum wages or a *de minimis* amount of less
14 than \$10 based upon defendants' Quickbooks records and for that
15 reason are excluded from this partial summary judgment request.

16 **D. Appropriate judgments, with interest accrued since January 1,**
17 **2016, should be entered for each of the aggrieved class members**
18 **whose unpaid minimum wages are established by**
defendants' Quickbooks records.

- 19
- 20 **1. Judgment for \$651,262 plus interest should be**
21 **entered and a special master appointed to process**
22 **any claims by defendants that certain class**
members were only entitled to the \$7.25 an hour
lower tier minimum wage.

23 As discussed, *infra*, it should be defendants' burden to establish their right to
24 pay the "lower tier" \$7.25 an hour minimum wage to a class member in a pay period.
25 As a result, judgment should now be entered for all class members using, for every pay
26 period, the higher tier \$8.25 an hour minimum wage rate, which would be for a total
27 \$651,262 plus interest owed in varying amounts to 548 class members. *See*, Column
28 "E" of Ex. "D." Those funds would be deposited with the Clerk of the Court.

1 Defendants would then have the opportunity to prove what pay periods, if any, during
2 which they claim the lower \$7.25 an hour minimum wage was applicable. A claims
3 administrator (special master) paid for by the defendants would be appointed to
4 oversee the collection and submission of relevant evidence and information from the
5 defendants and the class members on that issue for a 180 day period or some other
6 specified period of time. In every instance where a class member and the defendants
7 disputed whether MWA qualified health insurance was available to the class member
8 the special master would submit the evidence gathered to the Court for a determination
9 of that issue. At the conclusion of that process defendants would be entitled to a
10 return of whatever portion of the \$651,262 plus interest they proved was not owed to
11 the class members only entitled to the lower \$7.25 an hour rate during some or all of
12 their pay periods.

13
14 **2. Judgments in amounts immediately payable**
15 **and indisputably owed to each class member**
16 **should be entered and those funds immediately**
17 **released to each class member.**

18 It is not disputed that at least \$174,839 is owed to the class members at the \$7.25
19 an hour lower tier minimum wage rate. *See*, Column “D” of Ex. “D.” As discussed,
20 *infra*, class members should also entitled to \$8.25 an hour when they were under a
21 “waiting period” to qualify for health insurance as NAC 608.102(2)(b) is invalid. If
22 the Court agrees with that contention it should enter judgment for the \$274,621 owed
23 to the class members at the \$8.25 an hour higher tier minimum wage for those “waiting
24 period” pay periods and at the \$7.25 an hour lower tier minimum wage rate during
25 other pay periods. *Id.*, Column “F.”

26 The Court should direct judgment of least \$174,839 or \$274,621 plus interest on
27 behalf of the aggrieved class members and the immediate payment of those amounts to
28 such persons. In the event the Court agrees that a judgment for \$651,262 plus interest
and a claims administration process, as discussed, *supra*, is appropriate, such amounts

1 (\$174,839 or \$274,621 plus interest) would be subsumed within that larger judgment.
2 Such amounts would be immediately disbursed to the aggrieved class members by the
3 claims administrator without waiting for the conclusion of the claims administration
4 process.

5
6 **E. The Court should make an immediate interim award**
7 **of at least \$135,000 in costs and fees to Class Counsel.**

8
9 The Court is well aware of the intractable conduct of the defendants in this case.
10 Senior Class Counsel, Leon Greenberg, has, to date, personally expended over 850
11 hours of attorney time litigating this case with his associate counsel expending over
12 500 hours (1,350 hours in total). Greenberg Dec. ¶ 13. He has also, personally,
13 expended over \$35,000 of costs (expert fees, court reporter fees, class notice costs)
14 necessary to the prosecution of this case. *Id.* He has incurred many thousands of
15 dollars more of costs in the form of associate attorney and paralegal time expenses.

16 Defendants' conduct in making this litigation so protracted and expensive is, by
17 their own sworn testimony, not based upon any dispute over the amounts owed and at
18 issue in this motion. Defendants agree that their Quickbooks records for the 2013-
19 2015 period are fully accurate. Those records, incontrovertibly, establish at least
20 \$174,839 in unpaid minimum wages are owed. Defendant Nady, at his deposition,
21 acknowledged he was aware of the defendants' liability for unpaid minimum wages ("I
22 do have some liability here and I think I know what it is.") and that he is refusing to pay
23 that known liability unless class counsel was a "little nicer about it." Deposition
24 excerpt, p. 118, l. 17-l. 25, Ex. "F." This litigation is maintained by defendants, in
25 respect to defendants' failure to pay the damages at issue in this motion, solely to
26 gratify defendant Nady's ego and as an abusive litigation tactic.

27 Class counsel requests, at a minimum, an interim fee and expense award of
28 \$135,000 as part of the judgment immediately entered. While interim awards of

1 attorney's fees are not made in most class action cases, they are proper in this case, or
2 any other case, where some measure of relief has been secured prior to final judgment
3 and attorneys fees are awarded to prevailing plaintiffs (as under the MWA). *See, Texas*
4 *State Teachers Ass'n v. Garland Indep. Sch. Dist.*, 489 U.S. 782, 790 (1989). Class
5 counsel also asks for leave to make a motion, prior to trial, for a full award of fees and
6 costs based upon such grant of partial summary judgment. The requested immediate
7 award of less than \$100,000 in fees is less than \$75 an hour for the over 1,350 hours
8 class counsel has expended (senior Class Counsel Leon Greenberg was previously
9 awarded motion related fees in this case at \$400 an hour, Ex. "G" Order).

10 Class counsel makes this diminutive interim fee award request because it
11 understands that the Court must be cautious in awarding attorney's fees. Defendants
12 have engaged in their protracted course of abusive conduct because Class Counsel's
13 resources are limited. Defendants intend to exhaust Class Counsel's personal resources
14 and make their continued, and successful, representation of the class members
15 impossible. Such conduct by defendants, and the need to not allow defendants to
16 frustrate the remedial goals of the MWA, overwhelmingly support the requested
17 interim fee award. *See, Avera v. Sec'y of HHS*, 515 F.3d 1343, 1351-52 (D.C. Cir.
18 2008) (Discussing Supreme Court cases on the issue; explaining importance of
19 granting interim fee awards when failing to do so would cause hardship or deter
20 counsel from prosecuting cases; and denying fees as such circumstances were not
21 shown)⁴. The requested interim fee award is a small fraction of the amount expended
22 by defendants (in excess of \$500,000)⁵ in their abusive defense of this litigation.

25 ⁴ That *Avera* was a Vaccine Act case, where a party need not prevail to receive
26 an attorney's fee award, is immaterial.

27 ⁵ This \$500,000 sum is supported by certain confidential information that
28 cannot be publicly disclosed. Defendants have publicly disclosed that they have spent
at least \$47,203 for the services of an expert witness. Ex. "H", p. 2, l. 6-8.

1 **II. PARTIAL SUMMARY JUDGMENT SHOULD ALSO**
2 **BE GRANTED CONSISTENT WITH DEFENDANTS’**
3 **EXPERT’S REVIEW OF 123 PAY PERIODS THAT**
4 **FOUND \$3,847 IS OWED TO CLASS MEMBERS FOR**
5 **WORK PERFORMED DURING THOSE PAY PERIODS**

6 Defendants commissioned an expert report from Scott Leslie, CPA, to rebut the
7 expert report of Dr. Claurette. Most of Mr. Leslie’s report is irrelevant to this motion,
8 and a portion relies upon mediation privilege protected materials that were improperly
9 provided to him by defendants’ counsel (that issue will be the subject of a future
10 motion). In that report Mr. Leslie examined the hours worked, and wages earned, by a
11 sample of class members for 123 pay periods. The portion of his report discussing
12 that examination, and his conclusion that a total of \$3,847 in unpaid minimum wages
13 was owed to those drivers for those 123 pay periods, is set forth at Ex. “I.” Exhibits 4
14 to 6 of Leslie’s report (included at Ex. “I”) show his conclusions regarding minimum
15 wage underpayments for each of those 123 shifts. Some of the minimum wage under
16 payments he found occurred from 2010-2012 (\$2,796 in Exhibits 3 and 5) and some
17 from 2013-2015 (\$1,051 in Exhibits 4 and 6), with Exhibit 7 of his report concluding
18 \$3,847 is owed for those 123 pay periods.

19 It is requested the Court direct defendants to identify the class members whom
20 they have found are owed \$2,796 in unpaid minimum wages for the 2010-2012 period
21 and enter a judgment for those amounts accordingly. Those class members are not
22 identified by name in Leslie’s report. Plaintiffs’ counsel could identify them by
23 referencing the information disclosed in that report but should not be burdened with
24 spending the time to do so. No request is made for entry of any judgment on the 2013-
25 2015 findings in Leslie’s report. It is more efficient to subsume the amount he found
26 owed for that period (\$1,051) into the plaintiffs’ request for partial summary judgment
27 based on the Quickbooks records for 2013-2015.
28

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ARGUMENT

A. The language of the MWA places a mandatory burden on employers to “pay” the minimum wage, meaning, as found in analogous decisions under the Federal Minimum Wage law, employers should bear the burden of showing they are entitled to pay the “lower tier” minimum wage.

Each employer shall pay a wage to each employee of not less than the hourly rates set forth in this section. The rate shall be five dollars and fifteen cents (\$5.15) [now \$7.25] per hour worked, if the employer provides health benefits as described herein, or six dollars and fifteen cents (\$6.15) [now \$8.25] per hour if the employer does not provide such benefits.

The MWA sets forth a lower minimum wage that an employer may take advantage of *if the employer does something it is not required to do under the MWA*. It does not require an employer to provide health insurance benefits. Instead it grants the employer some additional advantages, in respect to what the MWA otherwise does

1 require, if the employer provides those benefits. This is exactly what the federal
2 minimum wage law, the Fair Labor Standards Act (the “FLSA”) does with granting
3 employers an option to secure a “tip credit” and pay a lower FLSA minimum wage.
4 *See*, 29 U.S.C. § 203(m), which, after explaining how the lower “tipped employee”
5 minimum wage rate is calculated, specifies:

6 The preceding 2 sentences [explaining the calculation of the lower “tipped
7 employee” minimum wage rate] shall not apply with respect to any tipped
8 employee unless such employee has been informed by the employer of the
9 provisions of this subsection, and all tips received by such employee have been
10 retained by the employee, except that this subsection shall not be construed to
11 prohibit the pooling of tips among employees who customarily and regularly
12 receive tips.

13 This provision of the FLSA operates in a functionally identical fashion to the
14 MWA’s “two tier” minimum wage rate. Both the FLSA and the MWA afford
15 employers an option to pay a lower minimum wage rate if they do things not required
16 by those laws (under the FLSA if they agree on certain rules for employee tips, under
17 the MWA if they provide certain health insurance benefits). They both require
18 express *action* by the employer to pay those lower minimum wage rates (under the
19 FLSA the employee “must be informed by the employer” about the rate, under the
20 MWA the “employer provides health benefits”). Accordingly, this Court should look
21 to the analogous FLSA decisions on the burden of proof to establish 29 U.S.C.
22 203(m)’s lower “tipped employee” minimum wage rate to determine where the
23 MWA’s “lower tier” minimum wage burden of proof should be placed.

24 Under the FLSA it is the *employer’s burden* to establish it has complied with the
25 pre-requisites specified under 29 U.S.C. 203(m) so it can enjoy the benefit of paying
26 the FLSA’s lower “tipped employee” minimum wage. *See, Barcellona v. Tiffany*
27 *English Pub, Inc.*, 597 F.2d 464, 467 (5th Cir. 1979) (Language in 29 U.S.C. 203(m)
28 stating that tip credit is only available if the employee “has been informed by the
employer” about the tip credit and that “all tips received by such employee have been
retained” by the employee places the burden of establishing such facts on the

1 employer); *Perez v. Lorraine Enters.*, 769 F.3d 23, 27 (1st Cir. 2014) (The FLSA
2 “requires that an employer take affirmative steps to inform affected employees of the
3 employer’s intent to claim the tip credit” and placing burden of proving such facts
4 upon the employer, citing *Barcellona*); and *Kilgore v. Outback Steakhouse*, 160 F.3d
5 294, 298 (6th Cir. 1998) (“Subsection [29 U.S.C.] 203(m) [of the FLSA] also requires
6 ***an employer to satisfy*** two other conditions to use a tip credit toward an employee's
7 minimum wage” (emphasis provided, language indicates burden is being placed upon
8 the employer)).

9 **B. The Nevada Supreme Court’s MWA jurisprudence strongly**
10 **supports the conclusion employers bear the burden of proving**
11 **their entitlement to pay the MWA “lower tier” minimum wage.**

12 The Nevada Supreme Court has not expressly addressed who has the burden of
13 proving an employer’s right to pay the “lower tier” MWA minimum wage. But its
14 other MWA decisions strongly support the burden placement conclusions adopted by
15 the federal courts for the FLSA’s lower tier “tipped employee” minimum wage rate.
16 In *MDC Rests. LLC v. Eighth Judicial Dist. Ct.*, 383 P.3d 262, 266-67 (Nev. Sup. Ct.
2016) in discussing the purpose of the MWA, the Court stated:

17 Article 15, Section 16 [the MWA] was approved by the voters through a
18 ballot initiative entitled “Raise the Minimum Wage for Working
19 Nevadans.” The stated purpose of that measure was to ensure that
20 “workers who are the backbone of our economy receive fair paychecks
21 that allow them and their families to live above the poverty line.” Nevada
22 Ballot Questions 2006, Nevada Secretary of State, Question No. 6, § 2(6).
23 Our conclusion does not detract from this purpose. Under the MWA,
24 **employers must either offer qualifying health care coverage or pay a**
25 **higher wage** to better enable workers to afford these types of
26 cost-of-living expenses. (Emphasis provided).

27 As *MDC* observed, it is the “employers” who “must either offer qualified health
28 care coverage or pay a higher wage.” It would be inconsistent with this language to
29 then place the burden of proof under the MWA upon the employee to *prove a negative*,
30 that the employer did *not* offer “qualifying health care coverage” and as a result must
31 pay the higher tier minimum wage.

32 The Nevada Supreme Court has also, quite correctly, described the higher tier

1 MWA minimum wage as a “base wage” right granted to all Nevada employees, with
2 the MWA’s lower tier minimum wage being something an employer “may” enjoy if it
3 provides health benefits:

4 Article 15, Section 16 of the Nevada Constitution, commonly known as the
5 Minimum Wage Amendment (MWA), guarantees a base wage to Nevada
6 workers. Under the MWA, if an employer provides health benefits, it may pay
7 its employees a lower minimum wage than if no such health benefits are
provided. *Western Cab v. Eight Jud. Dist. Ct.*, 390 P.3d 662, 665 (Nev. Sup. Ct. 2017).

8 This “base wage” terminology for the MWA’s higher tier is synonymous with
9 the term “default wage” and makes the presumptive minimum wage the MWA’s higher
10 tier rate. It would be inconsistent with this language, indeed it would turn such
11 language on its head, to make the MWA’s lower tier minimum wage the presumptive
12 rate unless *the employee* proved they were entitled to the higher tier (“base”) minimum
13 wage. Such an approach cannot be reconciled with this “base wage” language.

14 The view that the MWA has created a higher minimum wage as its default
15 application, subject to reduction to a lower rate if an employer establishes it has
16 provided health insurance, is also implicit in the language used in *Thomas v. Nevada*
17 *Yellow Cab*, 372 P.3d 518, 520 (Nev. Sup. Ct. 2014). *Thomas* characterized the MWA
18 as imposing both a “mandatory minimum wage pertaining to all employees” and as
19 having “raised the state minimum wage rate to a rate higher than the minimum
20 imposed in Nevada by the Labor Commissioner.” *Id.* That “higher” rate achieved by
21 the MWA, above the rate imposed by the Labor Commissioner, is *not* the “lower tier”
22 rate applicable to employers who provide MWA compliant health insurance. That
23 MWA lower tier rate is the same rate applied by the FLSA and that the Labor
24 Commissioner would also impose if the MWA did not exist. *See*, NRS 608.250(1).

25 **C. Pragmatic considerations also militate in favor of placing the**
26 **burden upon employers to prove they are entitled to pay the**
27 **MWA’s “lower tier” minimum wage.**

28 Employees invoking the protections of the MWA are, by definition, those
earning the lowest of wages. If not living in penury they are only spared from that

1 existence by the MWA's protections. The MWA's allowance of a lower minimum
2 wage rate is solely determined by an *employer's action* in "providing" health benefits
3 to the employee. And such "providing" of health benefits does not require any actual
4 participation by the employee in any health insurance program. It only requires that
5 such insurance, as specified by the MWA, be an "option" that is made available to the
6 employee by the employer. See, *MDC Rests., Id.*

7 The pragmatic problem posed by forcing the employee to prove an employer *did*
8 *not* have the right to pay the MWA's "lower tier" minimum wage rate is manifest.
9 Whether an employer's health insurance program meets the MWA's "lower tier"
10 minimum wage requirements involves proof of a number of different facts. Those
11 include the cost of the insurance premiums to the employee (that cost cannot be more
12 than 10% of the wages paid by the employer) and that such insurance is also available
13 (at the required cost) for the employee and their "dependents." It is the employer, not
14 the employee, who is in a far better position to prove these issues. Indeed, some of
15 such information is, in the first instance, solely within the purview of the employer,
16 who makes the decision to secure particular forms of insurance, with particular
17 qualification criteria, and that involve particular employee costs.

18 Enforcement of the MWA on a class action basis, as in this case, may also be
19 greatly frustrated by placing the burden of establishing entitlement to the "higher tier"
20 minimum wage upon the employee. Employers would argue, as no doubt defendants
21 will in this case, that such burden of proof renders *any* class action recovery for *any*
22 group of employees at the "higher tier" rate impossible when an employer provides
23 health insurance that *may* render certain employees only eligible for the "lower tier"
24 rate. They will argue such "higher" v. "lower" tier rate is an individual issue, that must
25 be established by each class member, and therefore no class wide award of damages at
26 the "higher tier" rate is possible.

27 **D. The purpose of the MWA would be frustrated if employees**
28 **the burden of proving that no health benefits were provided.**

The purpose of the MWA was to "Raise the Minimum Wage for Working

1 Nevadans.” *MDC Rests. Id.* Requiring employees to show they were *not* provided
2 with health insurance would be contrary to this purpose. Rather than receive a “raise”
3 Nevadans would, as a matter of a legal presumption, receive *nothing* under the MWA.
4 Their minimum wage rate would remain at the “lower tier,” identical to what it would
5 be under the FLSA or Nevada’s minimum wage law prior to the MWA’s enactment.

6 **PART THREE**

7 **MOTION FOR AN ORDER DETERMINING THAT NAC 608.102(2)(B)** 8 **IS INVALID AND THAT THE MWA’S “HIGHER TIER” MINIMUM** 9 **WAGE RATE APPLIES DURING THE HEALTH INSURANCE** 10 **“WAITING PERIODS” OF ALL CLASS MEMBERS**

11 **ARGUMENT**

12 **I. HEALTH INSURANCE IS NOT “PROVIDED” UNDER THE** 13 **MWA DURING PERIODS INSURANCE BENEFITS CANNOT BE** 14 **ACCESSED BY THE EMPLOYEE, NAC 608.102(2)(B) IS INVALID** 15 **AND THE CLASS MEMBERS ARE ENTITLED TO THE MWA’S** 16 **HIGHER RATE DURING INSURANCE “WAITING PERIODS”**

17 **A. NAC 608.102(2)(B) violates the MWA by allowing employers** 18 **to pay the lower tier minimum wage during time periods that** 19 **employees have no option to receive health insurance benefits.**

20 The issue in *MDC Rests.* was whether the MWA’s use of the term “provide
21 health benefits” meant the employee must actually *receive* such benefits from the
22 employer by participating in an insurance plan or such benefits must merely *be*
23 *available* to the employee. *MDC Rests.* held the latter. An employer gains the
24 advantage of paying the MWA’s lower tier minimum wage when it makes available to
25 the employee insurance that complies with the MWA’s requirements, irrespective of
26 whether the employee avails himself of the right to participate in such insurance:

27 Thus, the support for workers provided through passage of the MWA
28 simply requires that employees who have the option to receive health
benefits take advantage of those rights. In essence, obtaining relief rests
with the workers. *MDC Rests., Id.*

Despite this holding that “health benefits” under the MWA means benefits that
the employee the “option” to “take advantage of,” the Nevada Labor Commissioner, in

1 NAC 608.102(2),⁶ provides that newly hired employees can be paid at lower tier rate
2 MWA rate for up to six months even though they have *no option* to receive such health
3 benefits. This regulation is invalid. That health insurance waiting periods may be the
4 norm for newly hired employees is irrelevant to what the MWA requires. Employers
5 cannot seek aid from invalid Labor Commissioner regulations that conflict with the
6 MWA. This was also determined in *MDC Rests*, which held another branch of NAC
7 608.102, subsection (3), to be invalid. That subsection purports to allow employers to
8 include employee tips in calculating the employee's "gross wages" under the MWA
9 and determining the permissible insurance premium cost to the employee. Such
10 regulation, being contrary to the MWA's language, has no force. *Id.*, 383 P.3d at 267.

11 **B. The class members should receive an immediate judgment for**
12 **their unpaid minimum wages, as established by defendants'**
13 **Quickbooks records, at the "higher tier" MWA rate for their**
14 **insurance waiting periods.**

15 As discussed, the "2013-2015 Payroll Analysis" Excel file has calculated the
16 amounts owed to the class members at the \$8.25 an hour rate during insurance waiting
17 time periods and at \$7.25 an hour after those periods. Not all of the class members
18 were under insurance waiting periods during the 2013-2015 time periods, but for those
19 who were, the minimum wages they were owed under the \$8.25 an hour rate should be
20 awarded to them. The Court should grant partial summary judgment accordingly,
21 irrespective of whether it agrees to place the burden of establishing the "lower tier"

22 ⁶ NAC 608.102(2): The health insurance plan must be made available to the
23 employee and any dependents of the employee. The Labor Commissioner will consider
24 such a health insurance plan to be available to the employee and any dependents of the
25 employee when:

26 (a) An employer contracts for or otherwise maintains the health insurance plan for
27 the class of employees of which the employee is a member, subject only to fulfillment
28 of conditions required to complete the coverage which are applicable to all similarly
situated employees within the same class; and

(b) The waiting period for the health insurance plan is not more than 6 months.

1 MWA rate upon the defendants and enter judgment, as requested, for all class members
2 at the higher tier rate for all time periods (subject to defendants establishing the lower
3 tier rate applied for certain pay periods).

4 **CONCLUSION**

5 For all the foregoing reasons, plaintiffs' motion should be granted in its entirety
6 together with such other further and different relief that the Court deems proper.

7 Dated: November 2, 2017

8 LEON GREENBERG PROFESSIONAL CORP.

9
10 /s/ Leon Greenberg
11 Leon Greenberg, Esq.
12 Nevada Bar No. 8094
13 2965 S. Jones Boulevard - Ste. E-3
14 Las Vegas, NV 89146
15 Tel (702) 383-6085
16 Attorney for the Class
17
18
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CERTIFICATE OF MAILING

The undersigned certifies that on November 2, 2017, she served the within:

Motion for Partial Summary Judgment

And

**Motion to Place Evidentiary Burden on Defendants to Establish
“Lower Tier” Minimum Wage and Declare Nac 608.102(2)(B)
Invalid**

by court electronic service to:

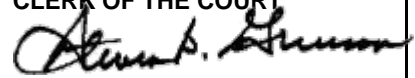
TO:

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

/s/ Dana Sniegocki

Dana Sniegocki

AA004910



MOT

LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
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leongreenberg@overtimelaw.com
dana@overtimelaw.com
Attorneys for Plaintiffs

**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, A CAB,
LLC, and CREIGHTON J. NADY,

Defendants.

Case No.: A-12-669926-C

Dept.: I

**MOTION FOR
BIFURCATION AND/OR
TO LIMIT ISSUES FOR
TRIAL PER NRCP 42(b)**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation, hereby move this Court for an Order bifurcating the trial of this matter pursuant to NRCP Rule 42(b), with the trial of this matter limited to determining the hours worked each shift by each class member and the damages owed being calculated by the Court based upon that determination as a matter of law after trial based upon defendants' records.

Plaintiffs' motion is made and based upon the annexed declaration of counsel, the memorandum of points and authorities submitted with this motion, the attached exhibits, and the other papers and pleadings in this action.

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NOTICE OF MOTION

PLEASE TAKE NOTICE THAT the plaintiffs, by and through their attorneys of record, will bring the foregoing **MOTION FOR BIFURCATION AND/OR TO LIMIT ISSUES FOR TRIAL** which was filed in the above-entitled case for hearing before the _____ on **Dec. 07**, 2017, at the hour of **In Chambers**.

Dated: November 3, 2017

Leon Greenberg Professional Corporation
By: /s/ Leon Greenberg
Leon Greenberg, Esq.
Nevada Bar No.: 8094
2965 South Jones Boulevard - Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
Attorney for Plaintiffs

1

2 **MEMORANDUM OF POINTS AND AUTHORITIES**

3 **OVERVIEW AND FACTUAL BACKGROUND**

4 In this class action case for unpaid minimum wages two facts must be known to

5 determine the minimum wages owed to the class members. The first is the amount,

6 each pay period, paid to each class member by the defendant A-Cab (their gross

7 wages). The second is the number of hours they worked for A-Cab during the pay

8 period. The first item is known and not disputed, it is contained in A-Cab's payroll

9 records. It is the second item, the hours worked, that is a disputed issue of fact (though

10 defendants have admitted that certain hours were worked by the class members in the

11 2013-2015, that admission forming the basis for the plaintiffs' partial summary

12 judgment motion to be heard on December 5, 2017).

13 Except for the 2013-2015 period, A-Cab preserved no records of the total hours

14 worked, each pay period, by each class member. They failed to do so even though they

15 are required by law to keep such records. *See*, NRS 608.115. The class members also

16 dispute the accuracy of A-Cab's record of hours worked for the 2013-2015 period

17 (those hours worked were considerably longer than recorded by A-Cab). The number

18 of shifts worked every pay period by each class member is known and not in dispute,

19 as that information was recorded in A-Cab's Cab Manager computer system.

20 Defendants have provided records showing (1) The amount they paid each class

21 member each pay period; and (2) The number of shifts that class member worked each

22 pay period. The trial of this case should be limited to determining the **average length**

23 **(working time) of each shift worked by the class members.** Once that determination

24 is made, the amount of unpaid minimum wages owed each pay period is determined as

25 a matter of law. That would be done by (1) Noting the number of shifts worked during

26 a pay period as recorded in A-Cab's records; (2) Multiplying that number by the shift

27 length determined at trial, the resulting number being the total hours worked during the

28 pay period; (3) Dividing the wages paid for the pay period as recorded in A-Cab's

1 records by the determined amount of total hours worked for the pay period to ascertain
2 if the wages paid were less than the minimum wage, and if less by how much.

3 ARGUMENT

4 5 **I. WHEN EMPLOYERS FAIL TO KEEP THE REQUIRED** 6 **RECORDS OF HOURS WORKED BY THEIR EMPLOYEES** 7 **COURTS MUST MAKE APPROXIMATE FINDINGS AS TO** 8 **THOSE HOURS OF WORK ON A CLASS BASIS**

9 Employers cannot evade their obligation to pay large groups of employee
10 minimum wages by failing to keep proper records. The seminal case addressing this
11 issue was *Anderson v. Mt. Clemons Pottery*, 328 U.S. 680, 688-89 (1946), involving
12 the federal Fair Labor Standards Act (the “FLSA”). Any different approach would
13 reward employers for not keeping proper working time records. *Id.* There is no
14 requirement that each employee prove their precise hours of work. *Id.* Rather, if a
15 “reasonable inference” can be made, based upon the employees’ evidence, unpaid
16 minimum wages are properly awarded even though the resulting amount is only an
17 approximation of what is owed:

18 When the employer has kept proper and accurate records, the employee
19 may easily discharge his burden [of proving the wages he is owed] by securing
20 the production of those records. But where the employer's records are inaccurate
21 or inadequate and the employee cannot offer convincing substitutes, a more
22 difficult problem arises. The solution, however, is not to penalize the employee
23 by denying him any recovery on the ground that he is unable to prove the precise
24 extent of uncompensated work. Such a result would place a premium on an
25 employer's failure to keep proper records in conformity with his statutory duty; it
26 would allow the employer to keep the benefits of an employee's labors without
27 paying due compensation as contemplated by the Fair Labor Standards Act. In
28 such a situation we hold that an employee has carried out his burden if he proves
that he has in fact performed work for which he was improperly compensated
and if he produces sufficient evidence to show the amount and extent of that
work as a matter of just and reasonable inference. The burden then shifts to the
employer to come forward with evidence of the precise amount of work
performed or with evidence to negative the reasonableness of the inference to be
drawn from the employee's evidence. If the employer fails to produce such
evidence, the court may then award damages to the employee, even though the
result be only approximate. *Id.*

This need to make approximate, or average, findings in minimum wage cases, as
discussed in *Mt. Clemons*, has been universally embraced, for obvious reasons, by state

1 courts adjudicating non-FLSA cases. While this issue has not been addressed by
2 Nevada's state courts in respect to Article 15, Section 16 of the Nevada Constitution
3 (the Minimum Wage Act or "MWA"), it is apparent that Nevada must follow the same
4 approach.

5 The California Court of Appeals acknowledged the shortcomings of the
6 approach used in *Mt. Clemons*, as relying upon an estimate of the hours worked by
7 each employee in a group, and then determining the unpaid wages owed to each based
8 upon such an estimate, "...necessarily yields an average figure that will overestimate or
9 underestimate the right to relief of individual employees." *Bell v. Farmers Ins.*
10 *Exchange*, 115 Cal. App. 4th 715, 750 (Cal. Ct. App., 1st Dist. 2004). Yet, as *Bell*
11 noted, and as aptly recognized in *Mt. Clemons*, there is no other practical way to
12 effectively enforce minimum wage or other wage and hour protections for groups of
13 employees when employers fail to maintain proper records:

14 Weighing against this disadvantage is the consideration that statistical
15 inference offers a means of vindicating the policy underlying the Industrial
16 Welfare Commission's wage orders without clogging the courts or deterring
17 small claimants with the cost of litigation. In a particular case, the alternative to
18 the award of classwide aggregate damages may be the sort of random and
19 fragmentary enforcement of the overtime laws that will fail to effectively assure
20 compliance on a classwide basis. In *Mt. Clemens*, the court held that "the
21 remedial nature of this statute and the great public policy which it embodies"
22 justified a reduced standard of proof of damages. *Mt. Clemens*, supra, 328 U.S.
23 680, 687. The same consideration militates in favor of a reasonably expeditious
24 means of calculating and distributing classwide aggregate damages if individual
25 adjudication of the entitlements of all class members, or a substantial portion of
26 the members, would impose impossible burdens on the courts and litigants.
27 *Id.*, 115 Cal. App. 4th at 751.

28 To discharge its duty to vindicate the MWA rights of the class members, this
Court must resolve this case based upon an average or approximate finding of the hours
worked by the class members.

1 **II. THE TRIAL OF THIS CASE SHOULD BE LIMITED TO**
2 **DETERMINING THE AVERAGE LENGTH OF THE**
3 **CLASS MEMBERS' WORK SHIFTS WITH DAMAGES**
 THEN DETERMINED AS A MATTER OF LAW FROM
 DEFENDANTS' RECORDS

4 **A. There are no fact findings to be made at trial aside from the**
5 **hours worked by the class members, the class members wages**
6 **are known and their damages flow as a matter of law based**
 upon the wages they were paid and hours that they worked.

7 Once the hours worked per shift by each class member is determined at trial no
8 additional fact finding is necessary. That average hours of work each shift will then be
9 converted, based upon A-Cab's record of the number of shifts worked each pay period,
10 into an amount of hours worked each pay period for each class member. The hours
11 worked each pay period so calculated, when divided into the amount paid for the pay
12 period (as recorded in A-Cab's records) will demonstrate, as a matter of law, the
13 unpaid minimum wages owed to the class member for the pay period. No "fact"
14 finding is involved in that process, the amount owed for the pay period (if any) is
15 determined as a matter law using an unvarying arithmetical calculation.

16 **B. The fact finding at trial should be limited to determining**
17 **the average amount of time each class member worked during**
 each shift since the total amount of shifts they worked is known.

18 A-Cab, in addition to producing their complete payroll records for the class
19 members setting forth their gross wages for every pay period, has produced records
20 showing the number of shifts each class member worked each week. Ex. "A"
21 declaration. As a result, the total hours worked each pay period for each class member
22 can easily estimated if the length of each shift is known (average shift length times
23 number of shifts per pay period equals total hours worked each pay period).

24 Having the trier of fact make a finding regarding the average length (working
25 time) of each class member's shift is the necessary, and only, finding to be made at trial
26 in this case. From A-Cab's records the wages paid to each class member are known
27 (that portion of those records is not disputed) along with the total shifts they worked
28 each pay period (which likewise is not disputed). As a result, the minimum wages

owed to the class member is easily calculated, based upon those undisputed records as a matter of arithmetic and law, from that average shift length determination.

This case must be resolved based upon an approximation of hours worked. The most accurate way to do so is by limiting that approximation to the shift length, with all other determinations being made based upon the available records. The following chart summarizes how this case would proceed under the requested bifurcation:

Issue to be Determined	How Determined	Determination Based Upon
Hours Worked Per Shift TRIAL STEP 1	At trial as based upon the “reasonable inferences” that may be drawn by the finder of fact on the evidence presented, under <i>Anderson v. Mt. Clemons</i>	The evidence submitted by the parties, including expert witness testimony, other witness testimony, and defendants’ records.
Hours Worked Per Pay Period POST TRIAL STEP 2	By multiplying the shifts worked each pay period by the hours worked per shift found at Step 1.	The trial finding at Step 1 of the hours worked per shift and the defendants’ cab manager record of the shifts worked during the pay period.
Minimum Wages Owed POST TRIAL STEP 3	By dividing the wages paid for the pay period by the hours worked during the pay period found at Step 2.	Defendants’ record of wages paid, as divided by the hours worked found at Step 2.
Determination if “lower tier” Minimum Wage Rate Should be Used POST TRIAL STEP 4	Defendant would have to prove that MWA compliant insurance was offered to a class member.	Documentary evidence of insurance policy terms and costs of coverage to class member.

III. ONCE THE TRIAL IS CONCLUDED DAMAGES CAN BE CALCULATED USING THE SPREADSHEETS CREATED BY PLAINTIFFS’ COUNSEL’S CONSULTANT OR DEFENDANTS MAY PAY FOR A SPECIAL MASTER TO CREATE A DIFFERENT SPREADSHEET

Once the length of each shift worked is determined at trial, the calculation of damages is a repetitive and mechanical exercise. The wages paid every pay period to

1 each class member, as set forth in A-Cab's records, must be reviewed against the hours
2 the class member worked. Then the minimum wages owed (if any) for the pay period
3 can be calculated. This could be done by a clerk (or a team of clerks) on paper (such as
4 on traditional printed ledger sheets), though that would be highly inefficient as over
5 40,000 pay periods need to be reviewed. The sensible and efficient way to do this is
6 using a computerized ledger paper, *e.g.*, an Excel spreadsheet.

7 Class counsel has spent over \$17,000 having a technical consultant construct two
8 Excel spreadsheets that have been provided to defendants. Ex. "A." Those
9 spreadsheets¹ place on a single line of an Excel file the number of shifts worked by,
10 and the gross wages paid to, each class member for one pay period. Those
11 spreadsheets will calculate the minimum wages owed to each class member, for each of
12 those over 40,000 pay periods, once the shift length is determined at trial. The
13 correctness of the methodology used in those spreadsheets has been confirmed by
14 plaintiffs' expert (see expert report of Dr. Claurette, submitted with plaintiffs' motion
15 for partial summary judgment, hearing scheduled for December 5, 2017). Defendants,
16 and their expert, have not disputed the correctness of those spreadsheets. Accordingly,
17 those spreadsheets ("ACAB-ALL" and "Damages 2007-2010") should be used to
18 determine the class members' damages after trial. If defendants now dispute the
19 accuracy of those spreadsheets or their use after trial to calculate damages, class
20 counsel has no objection to the Court appointing a Special Master, paid for by the
21 defendants, to perform the necessary calculations on the over 40,000 pay periods.

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28 ¹ By separate letter class counsel will provide a copy of those Excel files to
Chambers with a brief explanation of how they would be utilized.

1
2 **IV. ONCE THE CLASS MEMBERS' MINIMUM WAGE DAMAGES**
3 **ARE CALCULATED, THE COURT CAN AND SHOULD**
4 **RESOLVE ALL OTHER DAMAGES ISSUES AS A MATTER OF**
5 **LAW AT THAT TIME**

6 **A. The Court can and should resolve the “lower tier” minimum wage**
7 **issue after trial based upon documentary evidence submissions.**

8 Plaintiffs have filed a motion set for hearing on December 5, 2017 seeking to
9 have the Court determine it is defendants' burden to establish A-Cab's entitlement to
10 the pay the “lower tier” MWA minimum wage rate. The Court should also bifurcate
11 any determination of that issue (whether it agrees to place the “lower tier” burden of
12 proof upon the defendants or not) until after a trial that determines the shift length
13 issue.

14 **1. It would be very wasteful to consider the “lower tier”**
15 **minimum wage issue prior to knowing if class members**
16 **are even owed any “higher tier” minimum wages.**

17 It is senseless for the parties, and the Court, to expend time and resources
18 determining whether any class members were only entitled to the “lower tier”
19 minimum wage until it is known whether they are even owed any unpaid minimum
20 wages under the MWA's “higher tier.” Making that “lower” versus “higher” tier
21 determination, when the class member is owed no unpaid minimum wages under the
22 “higher tier,” is pointless. Class members owed nothing under the “higher” tier will, of
23 course, also be owed nothing under the “lower” tier. Accordingly, whether any
24 minimum wages are even owed under the “higher” tier should first be considered, as
25 that determination may render the “lower tier” determination unnecessary (or at least
26 unnecessary for some significant group of class members).

27 **2. The “lower tier” minimum wage issue can be resolved**
28 **based upon documentary evidence submissions after**
trial, it requires no credibility based fact findings.

Whether the MWA's “lower tier” minimum wage can be invoked in this case
requires the consideration of two issues: (1) Was health insurance made available to the

1 class member by A-Cab?; and (2) If yes, what did it cost the class member to
2 participate in that insurance and was that cost more than 10% of the wages A-Cab paid
3 them (and did they have any dependents that influenced that cost)? These questions
4 can be resolved solely with documentary evidence.

5 A-Cab has produced various documents and discovery setting forth the cost of
6 insurance to the class members and the limitations (new hire waiting periods)
7 associated with that insurance. Plaintiffs accept that information as accurate. A-Cab's
8 payroll records can be used to determine if those costs are in excess of 10% of the class
9 member's wages. In respect to the dependent status of the class members, they can file
10 post-trial claims setting forth the names and other relevant information of their
11 dependents. If defendants dispute that information they can prove to the Court that the
12 relevant public records corroborating the existence of those dependents (marriage or
13 birth records) do not exist. Alternatively, if the Court declines to place the evidentiary
14 burden upon defendants to establish the lower tier minimum wage, class members can
15 be required to come forward with marriage or birth certificate documents to claim their
16 "higher tier" minimum wage. Either way, the resolution of this issue would be upon a
17 documentary record, there would be no need for any trial (though the Court might want
18 to empower a Special Master or class action claims administrator to summarize and
19 submit the evidence to it for appropriate rulings).

20 **B. The Court can and should resolve the NRS 608.040 "30 day**
21 **severance wages" subclass claims after trial in a uniform fashion.**

22 A subclass of claims exist in this case for class members who have terminated
23 their employment with A-Cab but were owed unpaid minimum wages on the date of
24 that termination. Those subclass members have "continuing" or "severance" wage
25 claims for 30 days wages under NRS 608.040. The precise calculation of those 30
26 days of unpaid wages due would be made by examining each subclass member's daily
27 commission earnings, as this Court has found in *Valdez v. Video Internet Phone*
28 *Installs, Inc.*, A-09-597433-C, Order of October 18, 2013 (Ex. "B", p. 4).

1 While the individual “daily earnings” determination used in *Valdez* could be
2 made, with arithmetic precision in a suitable Excel spreadsheet, from defendants’
3 payroll records, Class Counsel should not be burdened with the expense of hiring a
4 consultant to do so. Either such a consultant should be hired, at defendants’ expense,
5 or the Court should award these damages to the subclass members at the minimum
6 hourly wage rate times the “average shift length” determination made at trial times 30
7 (for 30 shifts or 30 days work). In the event the Court elects the latter course of action
8 it should also grant the subclass members leave to pursue individual claims for any
9 greater amount they believe they would be owed under NRS 608.040.

10 CONCLUSION

11 For all the foregoing reasons, plaintiffs’ motion should be granted in its entirety
12 together with such other further and different relief that the Court deems proper.

13 Dated: November 3, 2017

14
15 LEON GREENBERG PROFESSIONAL CORP.

16
17 /s/ Leon Greenberg
18 Leon Greenberg, Esq.
19 Nevada Bar No. 8094
20 2965 S. Jones Boulevard - Ste. E-3
21 Las Vegas, NV 89146
22 Tel (702) 383-6085
23 Attorney for the Class
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28

CERTIFICATE OF MAILING

The undersigned certifies that on November 3, 2017, she served the within:

Motion for Bifurcation And/or to Limit Issues for Trial per NRCP 42(b)

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

EXHIBIT "A"

1 **DECL**
2 LEON GREENBERG, ESQ., SBN 8094
3 DANA SNIEGOCKI, ESQ., SBN 11715
4 Leon Greenberg Professional Corporation
5 2965 South Jones Blvd- Suite E3
6 Las Vegas, Nevada 89146
7 (702) 383-6085
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9 leongreenberg@overtimelaw.com
10 dana@overtimelaw.com

11 Attorneys for Plaintiffs

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

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

17 Plaintiffs,

18 vs.

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

21 Defendants.

Case No.: A-12-669926-C

Dept.: I

**DECLARATION OF
PLAINTIFFS' COUNSEL,
LEON GREENBERG, ESQ.**

Re: Motion to Bifurcate Trial

22 Leon Greenberg, an attorney duly licensed to practice law in the State of
23 Nevada, hereby affirms, under the penalty of perjury, that:

24 1. I, along with Dana Sniegocki, have been appointed class counsel in this case
25 for the plaintiff class. That class is composed of defendants' current and former taxi
26 driver employees.

27 2. As discussed in the motion for partial summary judgment filed by my office
28 in this case (hearing scheduled for December 5, 2017), I have retained a consultant to
create spreadsheets that incorporate the information from defendants' Quickbooks
computer system records and Cab Manager computer system records. Quickbooks
contains information on the gross wages paid to each class member during each one or
two week pay period; Cab Manager contains a record of every day that a class member

1 worked a shift driving a taxi cab. The Cab Manager information, for the period 2013-
2 2015, also indicates a start and end time for each shift worked by the class member, but
3 defendants do not agree those start and end time accurately record when the class
4 member started and stopped working each day.

5 3. The consultant, Charles Bass, to whom I have paid in excess of \$17,000 for
6 his work in this case, has created two Excel files, "A-CAB ALL" and "Damages 2007-
7 2010" incorporating the above Cab Manager and Quickbooks information furnished by
8 the defendants. I have provided both of those spreadsheets to the defendants' counsel.
9 Those spreadsheets arrange, on a single line of each Excel file, the total amount of
10 wages paid to a class member for a pay period and the number of shifts they worked
11 during that pay period. They also include a "variable" that allows one to assign a "shift
12 length" to those shifts (be it 8 or 12 hours or any other number or fractional number)
13 and calculate a "total hours" worked for the pay period (multiplying that chosen "shift
14 length" by the "shifts" for the pay period).¹ They also, based upon that information
15 (calculated hours worked and wages paid), calculate the amount of minimum wages
16 owed, if any, for the pay period.

17 4. Defendants and their expert do not dispute that the "A-CAB ALL" and
18 "Damages 2007-2010" Excel files accurately contain the information that I describe
19 above and that those files purport to contain from defendants' Quickbooks and Cab
20 Manager records. Nor do they dispute that those Excel files accurately, and correctly,
21 perform the mathematical functions I describe and that they purport to perform.
22 Defendants only dispute some of the underlying assumptions in some of those
23 calculations (such as how an insurance "waiting period" influences the minimum wage
24 rate). It is undisputed that those Excel files will fully, accurately, and precisely,
25 calculate the unpaid minimum wages owed to the class members, based upon

26 ¹ For the time period 2013-2015 they also allow that "total hours for the pay
27 period" to be calculated based upon the Cab Manager recorded "start" and "stop" times
28 for each shift or by adjusting, up or down, each of those individual shifts by a uniform
length of 1 hour or any other desired number.

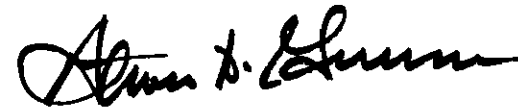
1 defendants' records of wages paid, and shifts worked, once it is determined at trial the
2 length of the class members' work shifts. Those spreadsheets will make those
3 calculations based upon the class members being subject to a constant "lower tier"
4 (currently \$7.25 an hour) minimum wage; a constant "higher tier" (currently \$8.25 an
5 hour) minimum wage; and a "higher tier" minimum wage when they were under an
6 insurance "waiting period" as a new employee and at the "lower tier" minimum wage
7 after that date. A demonstration of those calculations was provided as an Exhibit to
8 the plaintiffs's motion for partial summary judgment set for hearing on December 5,
9 2017.

10 I have read the foregoing and affirm the same is true and correct.

11
12 Affirmed this 3rd day of November, 2017

13 /s/ Leon Greenberg
14 Leon Greenberg
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EXHIBIT "B"



CLERK OF THE COURT

ORDR

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Attorney for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

JOE VALDEZ, individually and on behalf
of all others similarly situated,

Plaintiff,

v.

VIDEO INTERNET PHONE INSTALLS,
INC.,

Defendant.

Case No. A-09-597433-C

Dept. No. I

ORDER

THIS MATTER having come before the Court for hearing on September 3, 2013 on
plaintiff's Motion for Summary Judgment and defendant's Countermotion for Summary
Judgment, after due consideration of all supporting and opposing briefs submitted by counsel

<input type="checkbox"/> Voluntary Dis	<input type="checkbox"/> Sup Dis	<input type="checkbox"/> Sum Jdgmt	<input type="checkbox"/> FINAL DISPOSITIONS
<input type="checkbox"/> Involuntary (stat) Dis	<input type="checkbox"/> Sup Jdgmt	<input type="checkbox"/> Non-Jury Trial	<input type="checkbox"/> Time Limit Expired
<input type="checkbox"/> Jdgmt on Acft Award	<input type="checkbox"/> Default Jdgmt	<input type="checkbox"/> Jury Trial	<input type="checkbox"/> Dismissed (with or without prejudice)
<input type="checkbox"/> Min to Dis (by defn)	<input type="checkbox"/> Transferred		<input type="checkbox"/> Judgment Satisfied/Paid in full

1 for the parties, the oral argument by counsel, and the record of these proceedings, and good
2 cause appearing, now therefore:

3 **THE COURT FINDS:**

4 Plaintiff sought an Order granting summary judgment on his remaining claim for 30
5 days of continuing wages under N.R.S. 608.040 for defendant's failure to pay him all wages
6 owed and due at the time of his separation from employment and for his claim under N.R.S.
7 99.040 for prejudgment interest. Plaintiff's unpaid wages for purposes of his N.R.S. 608.040
8 claim concerned defendant's failure to pay him overtime wages calculated at time and one-
9 half his "regular rate" of pay. The parties do not dispute that Plaintiff received no waiting-
10 time penalties under NRS 608.040 at the time of his separation from the Defendant.
11

12
13 In the parties' companion federal litigation, the parties entered into a Settlement and
14 Release of Claims in March 2013. Through such Settlement and Release, defendant satisfied
15 a payment of \$20,000.00 to plaintiff, which was inclusive of all "taxable costs, attorneys'
16 fees, and prejudgment interest" in the companion federal litigation. Prior to such Settlement
17 and Release, the plaintiff had also accepted an Offer of Judgment in the amount of \$4194.20
18 which was entered on November 14, 2012 in the federal litigation. Thus, plaintiff's only
19 remaining claims concerned his entitlement to damages under N.R.S. 608.040 and
20 prejudgment interest on his unpaid wages claims.
21

22 **Conclusions of Law**

23
24 The Court accepts both parties' position that no triable issues of material fact exist
25 and only questions of law remain before the Court. The Court finds that it is undisputed that
26 plaintiff has accepted an offer of judgment for the unpaid overtime wages owed to him at the
27 time of his separation of employment from the defendant and that such offer of judgment
28

1 acceptance establishes, for the purposes of NRS 608.040, that the plaintiff was owed unpaid
2 overtime at the time of his employment termination. Thus, plaintiff's entitlement to the
3 requested 30 days of continuing wages as a penalty under N.R.S. 608.040 rests on a pure
4 issues of law concerning whether unpaid overtime wages, due under a piece rate payment
5 system, constitute the unpaid "compensation" or "wages" contemplated by the legislature
6 under N.R.S. 608.040 and whether N.R.S. 608.040 contains a private right of action. The
7 Court finds that in both instances it does.

9 In so finding, the Court disagrees with the federal district court decisions that the
10 later complications by statute obliterate the earlier meaning. The Court reaches its
11 conclusion regardless of whether the Court would construe this statute the way the Supreme
12 Court has indicated in *General Motors v. Jackson*, saying that giving meaning to their parts
13 and language read each sentence, phrase and word to render it meaningful within the context
14 of the purpose of the legislation. *General Motors v. Jackson*, 99 Nev. 739, 670 P.2d 102
15 (Nev. 1983). Thus, the Court would arrive at the same conclusion it arrived at if it did go to
16 the secondary method, which is where the statutory language does not speak to the issue
17 before the Court, the Court should construe it according to that which reason and public
18 policy would indicate the legislature intended, and the Court finds they intended employees
19 to be paid the agreed-upon contractual rate, which was, in this case, the average of the
20 piecemeal rate.

22 The Court further finds that plaintiff is entitled to thirty days of continuing wages
23 under N.R.S. 608.040 for defendant's failure to pay plaintiff all overtime wages owed and
24 due at the time of his separation from employment. Because plaintiff was employed under a
25 piecework payment system, such "continuing wages" are to be calculated based upon his
26
27
28

1 average earnings while employed by defendant, which the Court finds to be at a rate of
2 \$115.20 per day for a total award of \$3,456.00 for a period of 30 days.

3 In respect to plaintiffs' request for prejudgment interest on his unpaid overtime
4 wages, the Court finds that such prejudgment interest was satisfied and foreclosed as a result
5 of the parties' Settlement and Release in the companion federal district court case in March
6 2013. The Court concludes that nothing in the settlement could be read to have parceled out,
7 or excluded out, some later consideration by this Court as to prejudgment interest.
8

9 **Conclusion**

10 Based on the foregoing, it is hereby ORDERED that plaintiffs' Motion for Summary
11 Judgment is **GRANTED** in part and **DENIED** in part. Plaintiff is entitled to thirty days of
12 continuing wages under N.R.S. 608.040. Summary judgment on such claim is **GRANTED**
13 and plaintiff is entitled to a judgment in the amount of \$3,456.00. Plaintiff's Motion for
14 Summary Judgment under N.R.S. 99.040 for prejudgment interest is **DENIED** for the
15 reasons stated above.
16

17 It is hereby further ORDERED that defendant's Counter Motion for Summary
18 Judgment is **GRANTED** in part and **DENIED** in part. Defendant's Motion for Summary
19 Judgment on plaintiff's claim under N.R.S. 99.040 for prejudgment interest is **GRANTED**
20 pursuant to the parties' Settlement and Release satisfied in the companion federal district
21 court litigations. Defendant's Motion for Summary Judgment on plaintiff's claim under
22 N.R.S. 608.040 is **DENIED** for the reasons stated above.
23

24 Dated this 16 day of Oct, 2013.

25
26 
27 DISTRICT COURT JUDGE
28 THE HONORABLE KENNETH CORY

Submitted:

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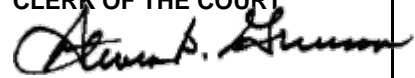
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DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

A CAB TAXI SERVICE LLC and A CAB, LLC,

Defendants.

Case No.: A-12-669926-C
Dept. No. I

Hearing Date: December 5, 2017
Hearing Time: 9:00 a.m.

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR PARTIAL SUMMARY
JUDGMENT AND MOTION TO PLACE EVIDENTIARY BURDEN ON DEFENDANTS
TO ESTABLISH "LOWER TIER" MINIMUM WAGE AND DECLARE
NAC 608.102(2)(b) INVALID

Defendants, by and through their attorneys of record, hereby submit this Opposition to
Plaintiffs' "Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on
Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid."
This Opposition is based upon NRCP 56(c), and the Points and Authorities herein.

...

POINTS AND AUTHORITIES

I. OVERVIEW IN RESPONSE:

Defendants will be seeking a continuation of the hearing of this motion for several reasons. Firstly, Defendants anticipate filing motions *in limine* that are relevant to the alleged basis for Plaintiffs' motion herein, specifically Plaintiffs' experts which are subject to exclusion. The Court should consider the motions *in limine*, as well as Defendants' anticipated motion for summary judgment, in conjunction with each other in order to properly consider all of the issues. Such motions will be filed in compliance with the deadlines established by this Court.

Secondly, Defendants' trial counsel Rodriguez sought a stipulation from Plaintiffs' counsel Greenberg due to her being out of the country on December 5, 2017, the scheduled hearing of this matter (a trip which was scheduled more than 8 months ago). Despite professional courtesies being extended to Plaintiffs' counsel Greenberg for his prior requests for continuances, Plaintiffs' counsel Greenberg has refused to move the hearing date absent the trade that Defendants agree to continue the February trial date. Defendants do not agree to losing the trial date of February 5, 2018.

1. Plaintiffs' Motion for Partial Summary Judgment Is a Duplicate of that Already Ruled Upon and Denied by the Court.

In Plaintiffs' motion for partial summary judgment, Plaintiffs have practically xerox'd the same motion that was previously before this Court with statements that "*Defendants admit this*" and "*Defendants admit that,*" with no citation whatsoever. One is left scratching one's head as to how such representations can be made to a Court with no citation or reference.

NRCP 56(c) mandates that motions for summary judgment shall include:

"a concise statement setting forth each fact material to the disposition of the motion which the party claims is or is not genuinely in issue, citing the particular portions of any pleading, affidavit, deposition, interrogatory, answer, admission, or other evidence upon which the party relies. The judgment sought shall be rendered forthwith if the pleadings, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law."

1 **NRCP 56(c)**

2 Plaintiffs' motion falls woefully short of this standard and rule requirement. Defendants
3 highlighted to the Court this failure to cite to any authority most recently at the May 25th hearing --
4 the last time Plaintiffs brought the same motion, and which the Court denied at that time. Plaintiffs
5 now bring the same arguments again (and again with no citations as to the alleged "admissions" of
6 Defendants) and merely add that now Plaintiffs have hired a couple of experts to rubber stamp the
7 figures previously proposed by Mr. Greenberg.

8 In fact, as will be detailed below as well as in Defendants' motions to strike¹, Plaintiffs' two
9 experts' testimony together is quite comical in that 1 expert says on the record, I don't really have
10 opinions, I just did what Mr. Greenberg told me to do; and the other expert in essence says, what the
11 other guy did looks right to me².

12 The common factor in Plaintiffs' experts reports is that all sources of information for any
13 expert opinions came directly from Mr. Greenberg. He now comes before this Court demanding
14 payment simply based on the old notion of "because I said so." The further irony in this situation is
15 that Plaintiffs' counsel has objected to the disclosure of the entirety of the experts' files as "attorney-
16 client privilege" and "attorney-work product."³ Therefore, when the depositions revealed by the
17 experts' testimonies that they were merely plugging in numbers as instructed by Mr. Greenberg, it's
18 no wonder Plaintiffs' counsel did not want to reveal communications with his experts.

19 Plaintiffs label "Undisputed Material Facts" in their motion to the Court, but provide no
20

21 ¹ To be filed in compliance with this Court's trial setting order.

22 ² Mr. Bass: "I'm not really giving opinions. What I did was I did calculations based on
23 the information that was given to me." **Exhibit 1**, *Deposition of Charles Bass* 16:20-22.

24 Dr. Clauretie: "Therefore, my assignment was to say I want you to take Mr. Bass'
25 calculations and see if in your opinion the calculations were made correctly in terms of what I
26 just described to you is my understanding of minimum wage loss. **Exhibit 2**, *Deposition of*
Terrence Clauretie, 35:13-8.

27 ³ **Exhibit 3**, Plaintiffs' Objections to subpoena duces tecum served on Terrence M.
28 Clauretie and Charles Bass.

1 citation whatsoever, and do not disclose to the Court that there is ample evidence that refutes the
2 requested relief, including the expert report prepared by Scott Leslie, CPA.

3 **2. Plaintiffs' Second Request Depicts Plaintiffs' Continuous Attempts to Shift Their**
4 **Burden of Proof, in Contravention to the Rule of Law.**

5 Throughout this litigation, Plaintiffs have continually filed motion after motion seeking to
6 shift their burden of proof to the Defendants. Plaintiffs pull out all of the stops in this current
7 request to the Court arguing that it has taken a lot of money for them to litigate the case; and
8 therefore that would justify shifting the burden of proof upon Defendants. The expenditures in this
9 litigation have always been run up exorbitantly by the acts of Plaintiffs. Plaintiffs have repeatedly
10 filed motions to compel and motions for sanctions seeking irrelevant information, which information
11 Defendants continuously indicated to this Court and to the Discovery Commissioner was not
12 relevant but was only being sought for purposes of harassment and escalation of fees and costs.

13 Such proof is now in the pudding. When Plaintiffs' experts were deposed, they each
14 confirmed they had **never even looked at**, much less considered, the thousands of documents which
15 Defendants were forced to produce at the demands of Plaintiffs.⁴ And now Plaintiffs stand before
16 this Court crying that the cost of litigation has been too costly for them? Defendants consist of a
17 sole owner and a struggling business, which Plaintiffs have made no secret that they intend to
18 bankrupt.

19 Either way, the cost of litigation for either side is not a basis for shifting the burdens of proof
20 as required by the rule of law. In this instance, it is Plaintiffs' burden to prove not only liability, but
21

22 ⁴ Q. The defendants in this matter produced to the plaintiffs over 235,000 trip sheets in
23 this matter on a hard drive, an external hard drive. Are you aware of that fact?

24 A. No.

25 Q. Did you ever have occasion to review any of those trip sheets in preparation of your
26 opinions in this matter?

27 A. No.

28 Q. Also, in May and June of this year 2017, the Defendants A Cab produced over 2000 W-4s
for each of their drivers. Did you review any of those W-4s for any of A Cab drivers in
preparation of your opinions in this matter?

A. I don't think so. I don't think so. Furthermore, I don't know what a W-4 is. **Exhibit 2**,
Deposition of Clauretie, 45:15 to 46:5. *See also*, **Exhibit 1**, *Deposition of Bass*, 28:22 to 29:14.

1 to prove their damages. Plaintiffs are in danger of an adverse summary judgment as they have never
2 bothered to prove *any* damage for any individual driver (including the representative plaintiffs),
3 much less the damages for the class. This fact is admitted by Plaintiffs' experts:

4 Q. And are you rendering any type of opinion that this would represent actual damages that
5 the plaintiffs incurred?

6 A. **No.** I mean, it's -- is it reasonable, that's the question. **Exhibit 1, Deposition of Bass, 97:15-**
7 **19.**

8 Q. If you were able to review and analyze the actual trip sheets which contain the break times,
9 wouldn't that be an -- a more accurate representation of any underpayments as opposed to just using
10 an average?

11 A. **Absolutely.** *Id.*, 108:1-6

12 Plaintiffs are ill-prepared to proceed with the trial of this matter, having taken on too many
13 lawsuits against too many companies at the same time. They have not done the necessary work to
14 determine what facts apply to which of their clients; and therefore seek the Court to shift this burden
15 to the Defendants. There is no support for this request. This would be the equivalent of having an
16 injured Plaintiff come before the Court, and then instructing the alleged tortfeasor: now prove that
17 your fender bender did *not* cause all of the injuries the Plaintiff suffers. Common sense and rule of
18 law dictates that the Plaintiff must prove liability and prove his damages. Relying upon the same
19 analogy, it's the same as the Plaintiff saying I have too many medical records and too much of a
20 medical history to go through it, so Defendant *you* prove that you are not responsible for all of my
21 injuries. The argument is nonsensical, and would be an error of law.

22 **3. Plaintiffs' Third Request is to have this Court deem NAC 608.102(2)(b) invalid.**

23 The Nevada Labor Commissioner has interpreted the Constitutional Amendment as allowing
24 the payment of the lower tier minimum wage during a new hire's waiting period, not to exceed six
25 months. Without supporting authority, Plaintiffs request this Court to invalidate this regulation
26 which the Nevada Supreme Court has already thoroughly evaluated. In the *MDC Restaurants* case,
27 the Nevada Supreme Court looked at this same regulation, NAC 608.102(2), and followed the
28 guidance provided by the Labor Commissioner as to a business' duty to offer health insurance. The

1 Court did not invalidate, revise, or strike any portion of NAC 608.102(2) as sought herein. In fact,
2 the Court specifically declined to buy into the policy arguments made here in Plaintiffs' motion,
3 stating it would not allow the "bootstrapping" of broad definitions to distort the constitutional
4 directive. *MDC Rests. LLC v. Eighth Judicial Dist. Ct.*, 383 P.3d 262 (Nev. 2016)

5 **II. STANDARD FOR SUMMARY JUDGMENT.**

6 Summary judgment shall be granted when there are no genuine issues of material fact and the
7 moving party is entitled to judgment as a matter of law. NRCP 56(a). Trial judges are to exercise
8 great caution in granting summary judgment, which is not to be granted if there is the slightest doubt
9 as to the operative facts. *Posadas v. City of Reno*, 109 Nev. 448, 851 P.2d 438 (1993). The trial
10 judge may not in granting summary judgment pass upon the credibility or weight of the opposing
11 affidavits or evidence; that function is reserved for the trial. *Hidden Wells Ranch, Inc. v. Strip*
12 *Realty, Inc.*, 83 Nev. 143, 425 P.2d 599 (1967). In their motion, Plaintiffs assert several "facts" in
13 their request for summary judgment which are not only not established, they are not even supported
14 by the evidence in the record.

15 Plaintiffs are seeking summary judgment on damages, and skipping right over any questions
16 of liability; further, they do not even address which Defendant they believe would be liable for the
17 damages claimed herein.

18 **III. LEGAL ARGUMENT**

19 Plaintiffs have combined three separate motions for summary judgment into one omnibus
20 pleading, titling the separate motions as Part One, Part Two and Part Three. Defendants oppose
21 each separate motion as follows.

22 **PART ONE**

23 **PLAINTIFFS' MOTION SEEKING MONEY NOW**

24 **SHOULD BE DENIED BY THE COURT.**

25 By concession, Plaintiffs argue that they are resubmitting the same materials which have
26 already been submitted to and denied by the Court, but this time with an expert report "confirming
27 the validity of the conclusions drawn." *Plaintiffs' Motion*, 3:1-3. In essence, Plaintiffs are
28 requesting the Court to accept the experts' opinions at face value, and to entirely disregard the

1 rebuttal opinions offered by Defendants' expert.

2 The curriculum vitae of Defendants' expert Scott Leslie is attached hereto as **Exhibit 4**.
3 Mr. Leslie is the only certified public accountant; the only forensic accountant; and the only expert
4 qualified to testify at the trial of this matter. Contrarily, Plaintiffs' expert Terrence Clauretie utilizes
5 "CPA" in his curriculum vitae but admitted he has **never** been licensed in Nevada, and has not
6 practiced as a CPA for 36 years. **Exhibit 2, Deposition of Clauretie, 57:10-17.**

7 Mr. Leslie is the only expert who conducted an actual review of the wage and hour
8 documents; and can therefore testify as to the numerous problems with the methodology utilized and
9 relied upon by Plaintiffs' experts Charles Bass and Terrence Clauretie. Mr. Leslie's expert report is
10 attached hereto as **Exhibit 5** (without attachments for the sake of brevity). As an example to the
11 Court, Mr. Leslie explains:

- 12 • "Developing an average hours calculation does not accurately capture the amount of
13 minimum wage owed. That is because the way cab drivers operate for A Cab there is no
14 uniform or standard amount of time that easily and accurately be used in a model." **Exhibit**
15 **5, Leslie report, p. 5.**
- 16 • Plaintiffs' Experts' Reliance on Assumptions: "Dr. Clauretie repeatedly states in the body of
17 the Calculation Report that he is assessing whether the math in the ACAB-ALL model
18 accurately reflects the assumptions given to him. He states at several points he is not opining
19 of the assumptions made in the model." **Exhibit 5, Leslie report, p. 3.**
- 20 • No Testing Whatsoever: "Dr. Clauretie never attempts to test the theory that 11 hours is
21 reasonable or test if the assumptions about what Cab Manager is doing is what they think it is
22 doing. Instead, Dr. Clauretie assumes apparently that the assumptions provided him by the
23 plaintiffs are correct and he analyzes the data from that perspective. Dr. Clauretie also
24 appears to dance around the issue of why he did not attempt to test the assumptions behind
25 the number of hours." *Id.*, p. 4.

26 Mr. Leslie conducted extensive "hands-on" calculations and study, as opposed the work performed
27 by Plaintiffs' experts, and concluded: "**We therefore conclude that our final test shows the**
28 **methodology used to estimate hours worked is not reliable.**" **Exhibit 5, Leslie report, p. 23.**

1. **Plaintiffs' Request for Money Relies Upon Experts Which Are Subject to Motions To Strike.**

As stated above, Plaintiffs' motion as written is the same thing that this Court has already denied, with the exception of adding the rubber stamp by their hired experts. Procedurally, Plaintiffs were required to bring this a motion for reconsideration, as they have only added the expert reports to their prior arguments. Plaintiffs' motion must still be denied by this Court in that Plaintiffs' experts are subject to exclusion altogether.

Firstly, the report of Mr. Bass was late and outside of all deadlines set by this Court; and therefore will be the subject of a motion to strike. (See **Exhibit 6**, Plaintiffs' 10th Supplemental Disclosure served September 29, 2017, when the expert deadline was extended by this Court to June 30, 2017. Plaintiffs' counsel Greenberg requested an additional extension of July 24, 2017, which Defense counsel Rodriguez granted as a professional courtesy.)

Secondly, neither Dr. Clauretie nor Mr. Bass meet the standard for admission by the Court as outlined in *Hallmark v. Eldridge*, 124 Nev. 492, 498, 189 P.3d 646, 650 (2008). Again, Defendants will file the motions relative to each of these experts in compliance with this Court's trial setting order. This Court should not grant summary judgment without ruling upon these motions.⁵

Thirdly, as detailed above, Defendants have produced the rebuttal expert who will opine as to why Plaintiffs' methodology is unreliable. Defendants have always maintained that the tripsheets are the most accurate document containing hours worked and breaks taken by each driver. A Cab is required to maintain accurate tripsheets by the State of Nevada Taxicab Authority, and has always done so. Contrarily, Plaintiffs have insisted that Defendants download electronic data from its dispatching system, which was not utilized as a payroll program, so that Plaintiffs could work up the numbers as they saw fit. Apparently, they have indeed done so, and now offer to the Court their findings of what they believe are the hours worked for each driver. As the Court can deduce, these alleged hours are greatly disputed by Defendants as they are not derived from the tripsheets.

⁵ Of note is that defense counsel requested that Plaintiffs stipulate to move the hearing of this matter so that the Court could address the issues together; Plaintiffs refused the stipulation unless Defendants agreed to continue the trial date of February 5, 2018.

At Plaintiffs' insistence, Defendants were ordered by the Discovery Commissioner to prepare Quickbooks data in a format that Plaintiff wanted in order to manipulate the data in an electronic fashion. Defendants complied in doing so, despite objection that this was production that would have to be created, as it was not kept in the normal course of Defendants' business. Now, Plaintiffs have apparently taken this data and had their expert reformulate and extrapolate to come up with a figure that their expert proposes to be the underpayments. Obviously, the validity of such methodology is disputed.

It is ironic that Plaintiffs have repeatedly argued to the Court, relying upon a Department of Labor document, that **A Cab did not keep accurate records**. *See also*, Plaintiffs' current Complaint continuing to assert the same lack of accurate records: "Defendants intentionally acted to not institute **any** system that would keep an express, confirmed and **accurate record** of the hours worked by such taxi driver employees..." *Second Amended and Supplemental Complaint*, ¶ 17.

Plaintiffs now make a 180 degree turn, asking the Court to accept on their face the number of hours their expert offers as definitive of the "hours worked." One must question what indeed did the Plaintiffs' expert base his numbers on, if A Cab did not keep accurate time records of hours worked? By their own arguments, Plaintiffs' request for summary judgment on this issue must fail, as this is a dispute of a material fact.

2. Plaintiffs' Experts Admit They Have Not Calculated Actual Damages, but Have Left That for the Fact Finder.

As this Court is aware, multiple fact finders have offered various numbers that they assert were an underpayment of minimum wage by A Cab, including the United States Department of Labor's number at approximately \$136,000 over a two year time period; and a second independent review by Certified Public Accountant Nicole Omphs, who offered a range of \$225,000 to \$400,000 covering a more extensive time period. Plaintiffs' experts in turn have both indicated they have not calculated actual damages, but only provide a tool for the fact finder to plug in what they may ascertain to be damages, if any. In this instance, Plaintiffs' counsel is acting as the fact finder, seeking Court approval for the numbers he has selected.

...

Mr. Bass' Testimony:

Q. In preparing your model or finalizing your model, did you ever receive any input from plaintiff Michael Murray in this matter?

A. **Did not.**

Q. Same question in terms of formulating your final model or any of the underlying spreadsheets. Did you ever receive any input from the plaintiff Michael Reno?

A. **Did not.**

Q. How about Michael Sergeant?

A. **Nobody.**

Q. Did you --

A. **My conversation has been with Mr. Greenberg.**

Q. Okay. Okay. So let me ask the final question then. Did you receive any input from any plaintiff class member in this case in formulating your model?

A. I did not.

Q. So it would be fair to say that **all of the sources -- sources of information that you relied upon in formulating your model were provided from Mr. Greenberg?**

A. **That's fair, yes. Exhibit 1, Deposition of Bass, 30:20 to 31:17.**

Dr. Clauretie's Testimony:

Q. So in Mr. Bass' calculation or his model, he is using a uniform shift length to estimate damages?

A. For the earlier period.

Q. So would you agree then that setting up a model with an arbitrary amount of time for a fixed shift length would not accurately calculate minimum wage if the shifts varied?

A. You mean for each driver?

Q. Yes.

A. Generally, yes. **Exhibit 2, Deposition of Clauretie, 98:10-19**

Further, as this Court is aware, Plaintiffs' expert report is hearsay document that is subject to a motion *in limine*, and cannot serve as a basis for summary judgment.

...

1 **3. Plaintiffs Are Seeking Summary Judgment for Members Outside of Their**
2 **Representation.**

3 In Plaintiffs' prior motion, they were overreaching in asking for money for a period of
4 January 1, 2013 through May 27, 2016, beyond the Court's class certification. Since that time, this
5 Court has further denied Plaintiffs' attempts to extend beyond December 31, 2015. **Exhibit 7**,
6 Discovery Commissioner's Report & Recommendation from the August 8, 2017 hearing, filed
7 October 24, 2017. Nevertheless, Plaintiffs continue to seek damages for a time period in which they
8 do not have a representative Plaintiff. There has never been any indication that Plaintiffs' counsel
9 represents any client that worked at A Cab anytime after September 2012, nearly four (4) years prior
10 to the time they are now seeking summary judgment on damages. Michael Murray was no longer
11 employed as of **April 7, 2011**; and Michael Reno was no longer employed as of **September 26,**
12 **2012.**

13 The *Wal-Mart v. Dukes* case would support the position that Mr. Greenberg cannot represent
14 a class of these members, when he has no representative Plaintiff in this time frame for which he
15 seeks damages. *Wal-Mart Stores, Inc. v. Dukes*, 131 S.Ct. 2541, 2550 (2011):

16 The class action is "an exception to the usual rule that litigation is
17 conducted by and on behalf of the individual named parties only." *Califano v. Yamasaki*, 442 U.S. 682, 700–701, 99 S.Ct. 2545, 61
18 L.Ed.2d 176 (1979). In order to justify a departure from that rule, "a
19 class representative must be part of the class and 'possess the same
20 interest and suffer the same injury' as the class members." *East Tex.*
21 *Motor Freight System, Inc. v. Rodriguez*, 431 U.S. 395, 403, 97 S.Ct.
22 1891, 52 L.Ed.2d 453 (1977) (quoting *Schlesinger v. Reservists*
23 *Comm. to Stop the War*, 418 U.S. 208, 216, 94 S.Ct. 2925, 41 L.Ed.2d
24 706 (1974)). Rule 23(a) ensures that the named plaintiffs are
25 appropriate representatives of the class whose claims they wish to
26 litigate. The Rule's four requirements—numerosity, commonality,
27 typicality, and adequate representation—"effectively 'limit the class
28 claims to those fairly encompassed by the named plaintiff's claims.' "
 General Telephone Co. of Southwest v. Falcon, 457 U.S. 147, 156,
 102 S.Ct. 2364, 72 L.Ed.2d 740 (1982) (quoting *General Telephone*
 Co. of Northwest v. EEOC, 446 U.S. 318, 330, 100 S.Ct. 1698, 64
 L.Ed.2d 319 (1980)).

26 It would be an error for this Court to grant summary judgment on this issue, when Plaintiffs
27 have not even demonstrated a representative Plaintiff for this time period, much less any liability or
28 damages for such a person.

PART TWO

**PLAINTIFFS HAVE REPEATEDLY BEEN DENIED BY THIS COURT THE
REQUESTED RELIEF TO SHIFT THEIR BURDEN OF PROOF, BUT
CONTINUE TO BRING THE SAME MOTION IN AN ABUSE OF PROCESS FASHION.**

1. Plaintiffs Are Improperly Seeking To Shift the Burden of Proof Again.

On more than one occasion as noted by this Court, Plaintiffs improperly inserted wording into a Court Order, indicating the Court should shift the burden of proof to Defendants pertaining to health insurance coverage. *See* Minute Order of 3/28/16 striking Plaintiffs' language; *see also* Minute Order of 9/22/16 indicating the Court is not willing to shift burden of proof to Defendants on this issue. **Exhibit 8.** At that time, Plaintiffs requested that if Defendants could not prove the availability of comprehensive health insurance within the minimum wage amendment, that there would be an adverse presumption against Defendants. **The Court has already denied this request.**

Plaintiffs re-filed the same request 3 months later in Plaintiffs' Motion for Partial Summary Judgment filed January 11, 2017. Plaintiffs requested the very same relief seeking \$8.25 per hour, and requesting the shifting of the burden of proof to Defendants. The Court again denied this request. **Exhibit 9, Order Denying Plaintiffs' Motion for Partial Summary Judgment**, July 14, 2017.

Plaintiffs now seek the same relief again (two times denied by this Court already) in "Part Two" of their requested relief. They offer no authority in support of this burden shifting to an \$8.25 or pertaining to health care coverage – neither State case law or Federal case law. The only support for this offbeat concept is Plaintiffs' reliance on a 1979 5th Circuit case pertaining to an interpretation of handling a tip credit, *Barcellona v. Tiffany English Pub, Inc.*, 597 F.2d 464 (5th Cir. 1979). This comparison is far-reaching and does not support Plaintiffs' request for burden-shifting, as tip credit is handled completely different under federal law and specifically written right into the law: "On May 1, 1974, the Act was amended to place the burden of proving the amount of tips received on the employer for purposes of allowing the fifty percent tip credit. To implement this policy, the following sentence was added to § 203(m): (The fifty percent tip credit) shall not apply with respect to the tipped employee unless (1) such employee has been informed of this subsection, and (2) all tips received by such employee have been returned by the employee." *Barcellona*, 597

1 F.2d at 467.

2 There is no such language contained anywhere in the Constitutional Amendment nor the
3 Nevada minimum wage statutes. Plaintiffs have simply failed to conduct an appropriate analysis of
4 their damages, and seek to shortcut the process by having Defendants ordered to prove a negative.

5 Plaintiffs next argue that pertaining to the information relative to determining the appropriate
6 hourly rate, it is the employer who is in a better position to prove the issues. Plaintiffs concede that
7 the “providing” of health benefits does not require any actual participation by the employee in any
8 health insurance program. Therefore, an employer would be required to collect the private personal
9 information for each employee (outside of what the employee indicates on a W-4) including
10 information on the employee’s spouse and the employee’s children and dependents and their
11 respective ages, regardless of whether the employee had any interest whatsoever to participate in any
12 health insurance program. Surely, our Courts would not support such an invasion of privacy of the
13 individual. Such private disclosures would henceforth be required by every employee to secure
14 work in any job, even just working as a taxicab driver. Plaintiffs seek to shift a burden that was not
15 envisioned by the caselaw they rely upon, and to place the employer in an unworkable situation.

16 More telling in Plaintiffs’ Motion is the level of individual analysis that is necessary to
17 determine any liability and an accompanying amount for each driver. Using Plaintiffs’ arguments
18 the following must be determined to assess any liability:

- 19 • each driver’s hours per pay-period;
- 20 • each driver’s pay per pay-period;
- 21 • insurance coverage that was offered during each applicable pay period;
- 22 • whether the driver had a spouse during each pay period;
- 23 • whether the driver had dependents during each pay period;
- 24 • the waiting period for insurance coverage for each driver during the various times of his/her
- 25 employment;
- 26 • whether the driver left employment, and re-entered the class at anytime.

27 The Court can envision that an employee would have to report to his employer anytime
28 he/she married, divorced, or had a child; regardless of their participation in any plan. This not only

lends support as to why this Court should not grant summary judgment in one broad stroke addressing these issues, but more importantly highlights why these claims are not appropriate to proceed as class action litigation.

“What matters to class certification ... is not the raising of common ‘questions’—even in droves—but, rather the capacity of a classwide proceeding to generate common answers apt to drive the resolution of the litigation. Dissimilarities within the proposed class are what have the potential to impede the generation of common answers.” *Wal-Mart v. Dukes*, 131 S.Ct. at 2551, citing Nagareda, Class Certification in the Age of Aggregate Proof, 84 N.Y.U.L.Rev. 97, 131–132 (2009), at 132.

PART THREE

PLAINTIFFS’ LATE REQUEST CREATING AN APPEALABLE ISSUE

IS A RUSE FOR A TRIAL CONTINUANCE

1. The Request for Declaratory Relief Is Too Late and Prejudicial to Defendants at this Late Date.

Plaintiffs are not prepared for the trial of this matter in February 2018, and have sought numerous avenues to extend the deadlines and to continue the trial. Plaintiffs’ third request contained in their motion to the Court is another means to this end. Believing that this Court will buy into this argument creating new law and striking down the Nevada Administrative Code, Plaintiffs are counting on Defendants appealing this issue; thus forcing a continuance of the February trial date for which they are ill-prepared.

Although labeled as summary judgment, Plaintiffs are in fact seeking a declaratory order on this issue; one which they have sat on for over 5 years without explanation. Their request encompasses a new calculation of damages that would necessitate a new analysis of the first 6 months of every driver’s employment period, if this Court strikes down the waiting period for health insurance. This is a new item claimed by Plaintiffs which was never included in their calculation of damages, and should be precluded as it is not in compliance with NRCP 16.1.

Expert reports and rebuttal reports and depositions of all have already been completed, and now Plaintiffs for the first time want to turn these reports on their heads by arguing that the insurance waiting periods are invalid. It is too late.

1 There is nothing in Plaintiffs' pending request that is factual or dependent on items
2 discovered during the discovery period - so why would Plaintiffs wait until all deadlines are passed
3 in order to now propose a new manner to calculate the damages in this case? This is the epitome of
4 laches and undue and unreasonable delay in asserting a legal right or privilege; and should be denied
5 by this Court.

6 Further, Plaintiffs' request is not appropriate legally, and should not be granted by this Court.
7 In their last motion for partial summary judgment, Plaintiffs asked the Court to rule via summary
8 judgment that the 60 and 90 day waiting period for each employee should be an automatic
9 presumption that should result in a higher-tiered payment. The Court denied this motion. **Exhibit 9.**

10 Plaintiffs did not move for reconsideration of this Court's ruling, and offer no new evidence
11 or argument as required under NRCP 60. Instead, they have re-filed the same arguments in a second
12 motion for partial summary judgment, asking the Court to go even further - to invalidate NAC
13 608.102(2)(B).

14 **2. The Arguments Relied Upon by Plaintiff Are the Same Ones That Were Addressed by**
15 **the Supreme Court in the *MDC Restaurants* Case.**

16 In the *MDC Restaurants* case, Petitioners were arguing for the Court to interpret subsections
17 1 and 2 of the same statute argued herein for invalidation, NAC 608.102. *MDC Rests. LLC v. Eighth*
18 *Judicial Dist. Ct.*, 132 Nev. Adv. Op. 76 (October 27, 2016). The Supreme Court followed the
19 guidance provided by the Office of the Labor Commissioner who adopted the administrative code
20 regulations providing that "[t]o qualify to pay an employee the [lower tier] minimum wage. . . [t]he
21 employer must *offer* a health insurance plan." *MDC Rests*, 132 Nev. Adv. Op. at 5.

22 In the *MDC Restaurants* case, Petitioners argued the same policy arguments offered herein,
23 that "the purposes and benefits of the amendment are thwarted, as employees would receive neither
24 the low cost health insurance anticipated, nor the raise in wages its passage promised." *Id.* at 9.

25 The Nevada Supreme Court did not buy into these arguments. The Court indicated, "The
26 definition is plainly presented therein [the regulation]. And "[w]e should not permit the
27 bootstrapping of several broad definitions to unreasonably distort the uncontested facts of a case or
28 defeat a clear [constitutional] directive." *Id.*

1 The Court stated “obtaining relief rests with the workers.” *Id.* The Court was unwilling to
2 expand further requirements upon Nevada businesses that were not contained with the Constitutional
3 Amendment. Relying upon *Strickland v. Waymire*, the Court stated “[w]hen a constitutional
4 provision’s language is clear on its face, we will not go beyond that language in determining the
5 voters’ intent.” *Id.* at 7, citing *Strickland v Waymire*, 126 Nev. 230, 234, 235 P.3d 605, 608 (2010).

6 The Nevada Supreme Court already evaluated this exact regulation which Plaintiffs ask this
7 Court to invalidate, NAC 608.102(2). The regulation in full was thoroughly briefed and argued
8 before the Supreme Court, and the Court declined to invalidate any portion, strike any portion, or to
9 interpret it as advocated by the Plaintiffs herein.

10 **3. Plaintiffs’ Requests for Attorneys Fees Are Not Warranted.**

11 Using Plaintiffs’ methodology, Defendants will beat their offers of judgment to Plaintiffs and
12 will be entitled to their attorneys fees and costs. The Court will recall that Offers of Judgment were
13 propounded to Plaintiffs very early in the case, but were never conveyed to the clients by their
14 counsel. Defendants’ offers exceed even the “best case scenario” calculations the Plaintiffs believe
15 they can recover, thus it will be Defendants who are entitled to fees, costs and interest.

16 A similar scenario has recently occurred in Department XVII (*Sargeant v. Henderson Taxi*,
17 Case A-15-714136-C), wherein Plaintiff Michael Sargeant is now burdened with a judgment for
18 Defendants’ attorney fees of \$26,715 due to the actions of his counsel, Leon Greenberg. **Exhibit 10**,
19 *Notice of Entry of Order Granting Motion for Attorneys’ Fees*. Senior Judge Bonaventure found the
20 class action complaint was frivolous (*See* page 5, paragraph 19 of **Exhibit 10**).

21 As the items asserted by Plaintiffs are factual items in dispute, and are appropriately left to
22 the jury, summary judgment should be denied. Any award of attorney fees would certainly be
23 putting the cart before the horse.

24 **CONCLUSION**

25 Defendants have come forward with evidence creating genuine and triable issues of fact.
26 *Bird v. Casa Royale*, 97 Nev. 67, 624 P.2d 269 (1981). Defendants indeed have put forward
27 specific facts on which this Court could rule in its favor on the issues addressed in this motion, as
28 have previous fact finders. *Hickman v. Meadow Wood Reno*, 96 Nev. 782, 617 P.2d 871 (1980).

1 Based upon the foregoing points and authorities, Defendants respectfully request this
2 Honorable Court to deny Plaintiffs' Motion in its entirety.

3 DATED this 20th day of November, 2017.

4 **RODRIGUEZ LAW OFFICES, P. C.**

5
6 /s/ Esther C. Rodriguez, Esq.
7 Esther C. Rodriguez, Esq.
8 Nevada State Bar No. 006473
9 10161 Park Run Drive, Suite 150
10 Las Vegas, Nevada 89145
11 *Attorneys for Defendants*

12 **CERTIFICATE OF SERVICE**

13 I HEREBY CERTIFY on this 20th day of November, 2017, I electronically filed the
14 foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System
15 which will send a notice of electronic service to the following:

16 Leon Greenberg, Esq.
17 Leon Greenberg Professional Corporation
18 2965 South Jones Boulevard, Suite E4
19 Las Vegas, Nevada 89146
20 *Counsel for Plaintiff*

21 Christian Gabroy, Esq.
22 Gabroy Law Offices
23 170 South Green Valley Parkway # 280
24 Henderson, Nevada 89012
25 *Counsel for Plaintiff Pending Order of Court*

26 /s/ Susan Dillow
27 An Employee of Rodriguez Law Offices, P.C.
28

EXHIBIT 1

EXHIBIT 1

1	DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3	MICHAEL MURRAY and MICHAEL)	
	RENO, Individually and on)	
4	behalf of other similarly)	
	situated,)	
5)	
	Plaintiffs,)	Case No.: A-12-669926-C
6)	Dept. No.: I
	vs.)	
7)	
	A CAB TAXI SERVICE LLC and A)	
8	CAB, LLC, and CREIGHTON J.)	
	NADY,)	
9)	
	Defendants.)	
10	_____)	
11			
12			
13	VIDEOTAPED EXPERT DEPOSITION OF CHARLES M. BASS		
14	Taken on THURSDAY, OCTOBER 19, 2017		
15	By a Certified Court Reporter		
16	At 1:38 p.m.		
17	Held at 3770 Howard Hughes Parkway, Suite 300		
18	Las Vegas, Nevada		
19			
20			
21			
22			
23			
24	Reported by: Amber M. McClane, NV CCR No. 914		
25	Job No.: 423068		

1 A. Right. What to expect, that type of thing.

2 Q. Okay. And when was the first time that you
3 met Mr. -- or Dr. Clauretje?

4 A. It was in July of this year. I don't
5 remember the exact date. I remember it was right after
6 I got back from -- I went for my grandson's wedding,
7 and right after I got back from there I met with him.
8 So around the 5th, give or take a few days, of July.

9 Q. That's the first time that you'd ever spoken
10 with him?

11 A. Correct.

12 Q. Had you ever worked on any case against
13 Dr. Clauretje?

14 A. No.

15 Q. To your knowledge, had you ever worked on the
16 same matter as Dr. Clauretje in any other case?

17 A. No.

18 Q. Do you have an understanding that
19 Dr. Clauretje is adopting your opinions in this matter?

20 A. I'm not really giving opinions. What I did
21 was I did calculations based on the information that
22 was given to me. I gave those to Dr. Clauretje who
23 wrote a report validating or invalidating the
24 calculations and stuff that were done and where the
25 sources came from.

1 couple, that type of thing. But basically those are
2 the two other items, would be what the -- what the
3 premium rates were that were charged to the employee
4 and then also what the minimum wage rates were at
5 different time frames.

6 Q. Okay. And I think you mentioned that your
7 last declaration was in September of 2017?

8 A. Correct.

9 Q. Since you prepared your last declaration in
10 September of 2017, have you been provided any
11 additional documents for review by the plaintiffs?

12 A. No.

13 Q. Have you modified any of your
14 conclusions/thoughts since this last September
15 declaration that you've produced?

16 A. No.

17 Q. Okay. In May and in June of 2017, earlier
18 this year, the defendants --

19 And you understand who I'm referring to when I
20 say "the defendants." Correct?

21 A. Correct.

22 Q. The defendants provided over 2,000 W-4s to
23 the plaintiffs in this matter. Did you ever review any
24 of those W-4s that were produced by the defendants?

25 A. No, I did not.

1 Q. Okay. Do you need -- do you need a minute,
2 sir?

3 A. No, I'm good.

4 Q. Okay.

5 A. I have allergies.

6 Q. That's quite common.

7 A. This time of year.

8 Q. Yeah. I'll start choking in a minute, too.

9 Okay. In -- earlier in -- in February, on
10 February 8 of 2017, the defendants in this matter
11 produced over 235,000 trip sheets to the plaintiff on
12 an external hard drive. Did you ever have an
13 opportunity to review any of those trip sheets?

14 A. No, I did not.

15 Q. Did you conduct any interviews or speak with
16 any current A Cab employees in this matter in
17 formulating your model?

18 A. No, I did not.

19 Q. Did you conduct any interviews or speak with
20 any former A Cab employees in formulating your model?

21 A. No, I did not.

22 Q. And that would include persons such as Wendy
23 Gagliano (phonetic) or Bonnie Whittig (phonetic).

24 Did you ever speak with those ladies?

25 A. I have no idea who they are.

1 Q. Did you review any deposition transcripts in
2 this matter?

3 A. No.

4 Q. You mentioned some of the minimum wage
5 issues. Did you ever review any of the statutes or
6 regulations pertaining to minimum wage in Nevada?

7 A. No, I did not.

8 Q. Did you ever review the complaint prepared by
9 the plaintiffs in this matter?

10 A. No, I did not.

11 Q. Do you have an understanding that this matter
12 pertains to an amendment to the Nevada constitution
13 relevant to payment of minimum wage?

14 A. No, I'm not really aware of what it is.

15 Q. Okay. So did you ever have an opportunity to
16 review that amendment to the Nevada constitution
17 pertaining to minimum wage?

18 A. No. It wasn't my job to issue an opinion on
19 one or the other.

20 Q. In preparing your model or finalizing your
21 model, did you ever receive any input from plaintiff
22 Michael Murray in this matter?

23 A. Did not.

24 Q. Same question in terms of formulating your
25 final model or any of the underlying spreadsheets. Did

1 you ever receive any input from the plaintiff Michael

2 Reno?

3 A. Did not.

4 Q. How about Michael Sergeant?

5 A. Nobody.

6 Q. Did you --

7 A. My conversation has been with Mr. Greenberg.

8 Q. Okay. Okay. So let me ask the final
9 question then. Did you receive any input from any
10 plaintiff class member in this case in formulating your
11 model?

12 A. I did not.

13 Q. So it would be fair to say that all of the
14 sources -- sources of information that you relied upon
15 in formulating your model were provided from
16 Mr. Greenberg?

17 A. That's fair, yes.

18 Q. How about Dr. Claurette? Did you receive any
19 input from Dr. Claurette in finalizing your model?

20 A. None. Actually, my model was finalized
21 before Dr. Claurette got involved.

22 Q. Did you ever read the report prepared by
23 Mr. Scott Leslie in this matter?

24 A. No, I did not.

25 Q. Did you ever review the report prepared by

1 the 10.04 to use in the prior calculation?

2 A. I don't know. I mean, and it may have been
3 different, you know, because somebody else may have
4 taken this spreadsheet and changed that number just to
5 see how it changes.

6 Q. Okay.

7 A. I mean, really it has no relevance.

8 Q. So in this spreadsheet, this is basically
9 utilizing 11 hours --

10 A. Per shift.

11 Q. -- per shift for each driver during this time
12 period?

13 A. Right. Again, because we had no -- there was
14 no hours supplied by the defendant.

15 Q. Okay. And are you rendering any type of
16 opinion that this would represent actual damages that
17 the plaintiffs incurred?

18 A. No. I mean, it's -- is it reasonable, that's
19 the question.

20 Q. Okay.

21 A. That's the whole thing. Is if -- if the
22 averages from the year after and the year after were 11
23 hours, then you put 11 here, that's reasonable. Is it
24 accurate? No. We don't know.

25 Now, the question I would have is does the

1 Q. If you were able to review and analyze the
2 actual trip sheets which contain the break times,
3 wouldn't that be an -- a more accurate representation
4 of any underpayments as opposed to just using an
5 average?

6 A. Absolutely. It would be much easier to use
7 it if you had payroll records or Cab Manager records.
8 Because to look at 100,000 pieces of paper, you can't
9 do it. I mean, you can't do it realistically. But
10 hopefully that -- that stuff is put into a computer
11 system somewhere, which is what Cab Manager's supposed
12 to do, and that will summarize what's on the trip
13 sheet. That's where trip sheet feeds into the Cab
14 Manager.

15 Q. So your understanding is that Cab Manager --
16 when you say that's what Cab Manager is supposed to do,
17 that Cab Manager is to serve as a payroll function?

18 A. No, not necessarily payroll because payroll
19 is dollar amounts that are earned. This is really what
20 the employee does during their shift and how much money
21 they collect. And in -- and in there in the -- in the
22 system, that's all entered manually by the person that
23 closes out. But it's basically tracking that meter
24 when you push that button that says start ride and end
25 ride and punch the clock starting and ending. It

1 CERTIFICATE OF REPORTER

2 STATE OF NEVADA)
) SS:
3 COUNTY OF CLARK)

4 I, Amber M. McClane, a duly commissioned and
5 licensed court reporter, Clark County, state of Nevada,
6 do hereby certify: That I reported the taking of the
7 expert videotaped deposition of the witness, CHARLES M.
8 BASS, commencing on Thursday, October 19, 2017, at 1:38
9 p.m.;

10 That prior to being examined, the witness
11 was, by me, duly sworn to testify to the truth. That I
12 thereafter transcribed my said shorthand notes into
13 typewriting and that the typewritten transcript of said
14 deposition is a complete, true, and accurate
15 transcription of said shorthand notes.

16 I further certify that I am not a relative or
17 employee of an attorney or counsel or any of the parties,
18 nor a relative or employee of an attorney or counsel
19 involved in said action, nor a person financially
20 interested in the action; that a request ([] has) ([X]
21 has not) been made to review the transcript.

22 IN WITNESS THEREOF, I have hereunto set my hand
23 in my office in the County of Clark, state of Nevada, this
15th day of November, 2017.

24 *Amber M. McClane*

25 /S/ Amber M. McClane, NV CCR No. 914

EXHIBIT 2

EXHIBIT 2

1	DISTRICT COURT		
2	CLARK COUNTY, NEVADA		
3			
4	MICHAEL MURRAY and MICHAEL RENO,)	
	individually and on behalf of)	
5	others similarly situated,)	
)	
6	Plaintiffs,)	
)	
7	vs.)	CASE NO.
)	A-12-669926
8	A CAB TAXI SERVICE, LLC and A)	
	CAB, LLC., and CREIGHTON NADY,)	
9)	
	Defendants.)	
10	_____)	
11			
12			
13			
14			
15			
16	DEPOSITION OF TERRENCE CLAURETIE, PH.D.		
17			
	LAS VEGAS, NEVADA		
18			
	TUESDAY, OCTOBER 17, 2017		
19			
20			
21			
22			
23			
24	REPORTED BY: DONNA E. MIZE, CCR NO. 675, CSR 11008		
25	JOB NO: 423067		

AA004961

1 Q. Okay.

2 A. Because I'm laying the foundation. The
3 foundation is that my understanding of minimum wage
4 legislation in Nevada there is two tiers, presently and
5 the most recent past so 7.25 and \$8.25 an hour. That
6 you compute the hourly wage by basically taking the
7 payment that was made on an hourly basis and divide
8 that by the number of hours. Total payment over a
9 certain number of hours divided by the hours would give
10 you the wage rate that was actually received.

11 If the wage rate was less than that, it
12 didn't meet the minimum wage laws. That's about it.
13 There isn't much more than that. Therefore, my
14 assignment was to say I want you to take Mr. Bass'
15 calculations and see if in your opinion the
16 calculations were made correctly in terms of what I
17 just described to you is my understanding of minimum
18 wage loss.

19 That is, did he to the best of his ability,
20 and when I say best of his ability also to the best of
21 the data that was provided to him by the defendants
22 identify areas of compensation for each of the drivers
23 and for each of their pay periods.

24 Did he do that, did he within a reasonable
25 capability with the data that he and the reliability of

1 Q. But no bad experiences, no good experiences,
2 no --

3 A. I wouldn't know. I think that was what your
4 question was all about.

5 Q. Yes.

6 A. Have I had any prejudices or favoritism and
7 the answer is no.

8 Q. I just need to know if you hate A Cab for
9 some reason or anything of that sort?

10 A. No.

11 Q. Do you know Mr. Nady?

12 A. No, sir.

13 Q. Do you know Mr. Leslie?

14 A. Never met him.

15 Q. My question was, the defendants in this
16 matter produced to the plaintiffs over 235,000 trip
17 sheets in this matter on a hard drive, an external hard
18 drive. Are you aware of that fact?

19 A. No.

20 Q. Did you ever have occasion to review any of
21 those trip sheets in preparation of your opinions in
22 this matter?

23 A. No.

24 Q. Also, in May and June of this year 2017, the
25 Defendants A Cab produced over 2000 W-4s for each of

1 their drivers. Did you review any of those W-4s for
2 any of A Cab drivers in preparation of your opinions in
3 this matter?

4 A. I don't think so. I don't think so.
5 Furthermore, I don't know what a W-4 is. Oh, that
6 would be the document provided by the cab drivers in
7 seeking employment, no, I didn't look at any of those.
8 I thought you meant W-2s. No, I didn't look at any
9 W-4s, never.

10 Q. Did you conduct any interviews of any current
11 A Cab employees in this matter in formulating your
12 opinions?

13 A. I have not.

14 Q. Did you conduct any interviews of any former
15 A Cab employees in this matter in formulating your
16 opinion?

17 A. I have not.

18 Q. Did you review any deposition transcripts in
19 this matter?

20 A. Yes, I reviewed the deposition transcript of
21 Mr. Leslie.

22 Q. When did you review that?

23 A. Last night -- yesterday morning and last
24 night.

25 Q. Other than the transcript of Mr. Leslie, did

1 Q. Nevada Society of CPAs?

2 A. I stopped before I got here. I did not
3 transfer my license.

4 Q. Did you receive certifications from any of
5 those organizations?

6 A. Just the CPA.

7 Q. Such as being certified in forensic --
8 financial forensics?

9 A. No.

10 Q. Where were you licensed to practice?

11 A. West Virginia.

12 Q. Not in Nevada?

13 A. No, ma'am. When I moved I didn't transfer my
14 license. I didn't want to practice anymore.

15 Q. When you did practice in West Virginia prior
16 to 1981, what areas did you practice in?

17 A. Well, I was in a small town. Shepherd State
18 University was there. Shepherdstown, West Virginia. I
19 did primarily the tax returns for individuals and small
20 businesses in the town. That was primarily it.

21 I wanted to teach finances at Shepherd State
22 University because I was always interested in finance,
23 and the chairman was a CPA. He said I couldn't teach
24 finance without having a CPA, which I thought was
25 crazy. I said I will study and go out and get it so I

1 Q. Perfect. Now, I think you stated this
2 earlier. You do have an understanding that the shift
3 length for drivers varies, correct?

4 A. For each driver?

5 Q. Yes.

6 A. Of course.

7 Q. And it's your understanding that it has
8 always varied in the past?

9 A. It would have to.

10 Q. So in Mr. Bass' calculation or his model, he
11 is using a uniform shift length to estimate damages?

12 A. For the earlier period.

13 Q. So would you agree then that setting up a
14 model with an arbitrary amount of time for a fixed
15 shift length would not accurately calculate minimum
16 wage if the shifts varied?

17 A. You mean for each driver?

18 Q. Yes.

19 A. Generally, yes.

20 Q. Page 45 of your report there is a listing of
21 payroll items?

22 A. Okay.

23 Q. Is that a listing from Mr. Bass or did you
24 prepare that?

25 A. I had about half of those on there, and then

1 STATE OF NEVADA)
COUNTY OF CLARK)

2

3

CERTIFICATE OF REPORTER

4

I, Donna E. Mize, a licensed court reporter,
5 Clark County, State of Nevada, do hereby certify:

6

That I reported the taking of the deposition of
7 Terrence Clauretie, Ph.D., commencing on October 17,
8 2017, at the hour of 1:40 p.m.;

9

That the witness was, by me, duly sworn to
10 testify to the truth and that I thereafter transcribed
11 my shorthand notes into typewriting, and that the
12 typewritten transcript of said deposition is a
13 complete, true, and accurate transcription of said
14 shorthand notes;

15

I further certify that I am not a relative or
16 employee of any of the parties involved in said action,
17 nor a person financially interested in said action;

18

That the reading and signing of the transcript
19 was not requested.

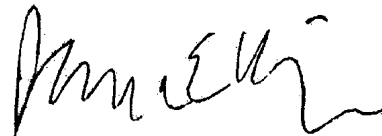
20

IN WITNESS WHEREOF, I have hereunto set my hand
21 in my office in the County of Clark, State of Nevada,
22 this 24th day of October 2017.

23

24

25



DONNA E. MIZE, CCR NO. 675

EXHIBIT 3

EXHIBIT 3

1 LEON GREENBERG, ESQ., SBN 8094
2 DANA SNIEGOCKI, ESQ., SBN 11715
3 Leon Greenberg Professional Corporation
4 2965 South Jones Blvd- Suite E4
5 Las Vegas, Nevada 89146
6 (702) 383-6085
7 (702) 385-1827(fax)
8 leongreenberg@overtimelaw.com
9 dana@overtimelaw.com

10 Attorneys for Plaintiffs

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

13 MICHAEL MURRAY, and MICHAEL
14 RENO, Individually and on behalf of
15 others similarly situated,
16 Plaintiffs,
17 vs.
18 A CAB TAXI SERVICE LLC, and A
19 CAB, LLC,
20 Defendants.

Case No.: A-12-669926-C

Dept.: I

**PLAINTIFFS' OBJECTIONS
TO SUBPOENA DUCES
TECUM SERVED ON
TERRENCE M. CLAURETIE
AND CHARLES BASS**

21 PLAINTIFFS hereby make the following objections to the Subpoena Duces
22 Tecum served on Terrence M. Clauretie and Charles Bass:

23 To the extent that the subpoena calls for plaintiffs or the non-party
24 witnesses to reproduce, and provide back to the defendants, the materials furnished by
25 defendants in discovery in this case, the subpoena is objected to on the basis it is
26 unduly burdensome. In responding to the subpoena such materials will be identified,
27 but not copied and produced back to the defendants as all such materials originated
28 with, and are in the possession of, defendants;

1
2 To the extent that the subpoena calls for plaintiffs or the non-party witnesses to
3 provide copies of notes or written communications including email communications
4 that record communications between Terrence M. Clauretie and/or Charles Bass and
5 plaintiffs' counsel such materials, which do exist, will not be provided as they
6 constitute privileged attorney-client communications as communications between the
7 plaintiffs' counsel and such persons that are confidential and undertaken in furtherance
8 of the plaintiffs' counsel's representation of the plaintiffs and/or privileged attorney
9 work product and trial preparation materials that contain the mental impressions of
10 plaintiffs' counsel produced for the purposes of the prosecution of this lawsuit.
11

12 DATED this 3rd of October, 2017
13
14

15 Leon Greenberg Professional Corporation

16 By: /s/ Dana Sniegocki
17 Dana Sniegocki, Esq.
18 Nevada Bar No.: 11715
19 2965 South Jones Boulevard - Suite E3
20 Las Vegas, Nevada 89146
21 Tel (702) 383-6085
22 Fax (702) 385-1827
23 dana@overtimelaw.com
24
25
26
27
28

CERTIFICATE OF SERVICE

The undersigned certifies that on October 3, 2017, she served the within:

**Plaintiffs' Objections to Subpoena Duces Tecum Served
on Terrence M. Clauretie and Charles Bass**

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/ Sydney Saucier

Sydney Saucier

EXHIBIT 4

EXHIBIT 4

SCOTT LESLIE & ASSOCIATES INC.

CERTIFIED PUBLIC ACCOUNTANTS

9107 West Russell Road Las Vegas, Nevada 89148
(702) 878-2476 slcpalv.com

SCOTT LESLIE, CPA/ABV, CVA, CFF

General Experience

- Thirty-one years practicing public accounting in Las Vegas, Nevada
- Twenty-seven years working in the areas of Business Valuation, Forensic Accounting and Litigation Support

Professional Certifications/Designations

- **CPA** - Certified Public Accountant (Nevada Certificate No. 1806)
- **CPA/ABV** - American Institute of Certified Public Accountants' Accredited in Business Valuations designation
- **CVA** - National Association of Certified Valuation Analysts' Certified Valuation Analyst designation
- **CPA/CFF** - American Institute of Certified Public Accountants' Certified in Financial Forensics

Professional Associations

- Member, American Institute of Certified Public Accountants
- Member, National Association of Certified Valuation Analysts
- Member, Nevada Society of Certified Public Accountants

Education

- Bachelor of Science in Business Administration (Emphasis in Accounting)
University of Southern California
- Masters of Business Administration
University of Nevada, Las Vegas
- **Valuation and Forensic Accounting Education**
Numerous continuing education seminars and conferences in forensic accounting, business valuations, estate planning, and litigation support.

Court Appointments

Receiver, Oleksiy Skrynyk, Jr., Oleksiy Skrypyk, Sr., et al v. David Fuller, Axiom Works, Inc., and Roe Corporations I through X, inclusive, District Court of Nevada, Case A-14-701632-B, Department XXVII. This 2014 case involved forensic review in a dispute between shareholders of a tech company.

Special Master and Limited Receiver, Re-OX, LLC v. Spicer Randolph, LLC, Douglas Vineyard and Does I through XX, District Court, Clark County, Nevada, Consolidated Cases A584148 and

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A587656, Department XIII. This 2009 case involved forensic accounting in a contract dispute and receivership over the operation of a company that manufactured a specialized chemical.

Accountant Pendente Lite, *TRB Holdings Group, LLC v. KRS Enterprises dba Fred's Tavern II, Kurt Schoen, Does I through XX; and ROE Corporations, I through XX*, Department XI, District Court, Clark County, Nevada, Case No. A-11-647805-B. A 2011 case involving review of ongoing accounting, operational and other issues and compliance with reporting to governmental entities.

Expert Witness

- Testified as an Expert Witness in Nevada District Courts:
 - Testified briefly on a report prepared as a receiver in the case of *Oleksiy Skrynyk, Jr., Oleksiy Skrynyk, Sr., et al v. David Fuller, Axiom Works, Inc., and Roe Corporations I through X, inclusive*, District Court of Nevada, Case A-14-701632-B, Department XXVII
 - Testified as an Expert on forensic accounting issues and contract rescission calculations in *Tom Ray and Carolyn Ray, as husband and wife, V. George D. Heller, individually; and Elizabeth B. Heller, individually; Does I through 100 and Roe Corporations 101 through 200, inclusive*, District Court, Nye County, Nevada, Department 2, Case No. CV29792, 2011.
 - Testified as an Expert on forensic accounting issues in *Emil Frei III v. Daniel V. Goodsell, an individual; Goodsell & Olsen, a Nevada Limited Liability Partnership*, District Court, Clark County, Nevada, Department VII, Case No. A619242, 2011.
 - *Zeh v. Zeh*, District Court, Clark County, Nevada, Case No. D349948, Dept. J, 2006. Testified on value of wholesale landscape supplier and on family cash flow.
 - *Gura v. Gura*, District Court, Family Division, Clark County, Nevada, Case No. D244852, Dept. E, 2002. Testified on value of a building materials company.
 - *Fuddy Duddy's v. Deeb Investments*, District Court, Clark County, Nevada, Case No. A330577, Dept. III, 2001. Testified on value of entertainment club and bar.
 - *Chaplik v. Chaplik*, District Court, Family Division, Clark County, Nevada, Case No. D228313, Dept. D, 1999. Testified on value of *Call It Class Fitness* sports and exercise equipment business.
 - *Merrill v. Dermott et al.*, District Court, Clark County, Nevada, 1998. Testified on current balance of lost rents related to a vacated lease.
 - *Recine v. Recine*, District Court, Family Division, Clark County, Nevada, Case No. D195534, Dept. F, 1997. Testified on value of *Desert Radiologists* medical practice.
- Testified as an Expert Witness in the following depositions:
 - Testified as an Expert rebutting a forensic accounting report in *ATM of Las Vegas, a Nevada corporation et al, plaintiffs v. Jason M. Jovaag, et al, defendants and Jason Jovaag, an individual and Stephanie Jovaag, an individual, Counterclaimants v. ATM of Las Vegas, a*

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- Nevada corporation, et al Counterdefendants*, District Court, Clark County, Nevada, Department XIII, Case No. A574610, 2011.
- Testified as an Expert on forensic accounting issues in *Emil Frei III v. Daniel V. Goodsell*, an individual; *Goodsell & Olsen*, a Nevada Limited Liability Partnership, District Court, Clark County, Nevada, Department VII, Case No. A619242, 2011.
 - Testified as an Expert on forensic accounting issues and contract recession calculations in *Tom Ray and Carolyn Ray, as husband and wife, V. George D. Heller*, individually; and *Elizabeth B. Heller*, individually. See additional referencing under testifying as expert witness in District Courts, 2011.
 - Testified as an Expert on economic damages issues in *Michael A. Baron, M.D., Ltd., et al. v. Eric A. Gerson, M.D.*, District Court, Department III, Clark County, Nevada, Case No. A519742, 2008.
 - Testified as an Expert on tax matters in *Jay Selznick, M.D. v. North Las Vegas Chamber of Commerce Foundation*, District Court, Clark County, Nevada, Case No. A484561, 2005.
 - Testified as an Expert on forensic accounting issues and value of construction and trucking business in *Frehner v. Frehner*, District Court, Clark County, Nevada, 1995.
 - Testified as an Expert on forensic accounting issues in *ATM v. Jovaag*, District Court, Clark County, Nevada, Case No. A574610, 2011.
-
- Testified as an Expert Witness in arbitrations and mediations in Las Vegas, Nevada and in Los Angeles, California. The hearings are considered to be confidential however the testimony provided involved accounting and forensic accounting issues.

Valuation, Forensic Accounting and Litigation Support Experience

Has prepared or participated in the preparation of forensic procedures, valuations and/or damages calculations for:

- marital dissolution
- contract disputes
- corporation/partnership/joint venture dissolution and disputes
- embezzlement
- estate planning
- lost profits
- goodwill impairment under financial accounting standards
- personal financial statements
- rescission
- tax evasion and fraud

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Has performed forensic procedures on:

- bakeries
- casinos
- construction and construction trucking companies
- homeowners associations
- medical practices
- radio stations
- manufacturer and marketer of specialty chemical products
- real estate rental properties
- wholesale goods distributors

Types of businesses valued include (but are not limited to):

- advertising
- ATM/cash services
- bars and taverns
- building materials
- cellular phone dealer
- cleaning and maintenance services
- construction, including highway, commercial, homebuilding and remodeling
- distributors
- employee leasing
- gaming
- general real estate development
- insurance agencies and administrators
- law practices
- medical practices
- mortgage bankers
- motion picture survey companies
- newspaper publishers
- real estate entities
- restaurants and bars
- retail sales
- sports equipment sales and leasing
- transportation systems
- travel agencies
- trucking companies

Types of entities valued (both controlling and minority interest):

- corporations
- limited liability companies
- limited partnerships
- partnerships
- proprietorships

EXHIBIT 5

EXHIBIT 5

**District Court
Clark County, Nevada**

**Case No. A-12-669926-C
Dept. I**

**Michael Murray and Michael Reno,
Individually and on behalf of all others similarly situated,
Plaintiffs**

v.

**A Cab, LLC and Creighton J. Nady
Defendants**

**Critique and Rebuttal to the Report
prepared by Terrence M. Clauretje, Ph.D. dated July 18, 2017**

by

**SCOTT LESLIE
CPA/ABV, CVA, CFF**

August 30, 2017

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I. Introduction

The taxi cab industry in Nevada had traditionally paid their tax cab drivers on a commission system based on the amount of fares they produced during a given shift. The amount of compensation paid by a cab company to a cab driver was specifically exempted by minimum wage rules under Nevada law¹.

A voter initiative was ratified in 2006 which increased the amount of the minimum wage. An interpretation of the initiative was that it did not just increase the minimum wage, but what employees were subject to the minimum wage. Since taxi cabs drivers were not specifically excluded under the initiative as they were under the statute, they were therefore now subject to the minimum wage rules.

A Cab LLC and related individuals and entities (collectively “A Cab”) is a taxi cab company operating in Clark County, Nevada. Under the interpretation that taxi cab companies lost their minimum wage exemption as a result of the initiative, the Company was sued in 2012 by two former A Cab drivers for underpayment of wages². The attorney for the two cab drivers, Leon Greenberg (“Greenberg”), subsequently sought and was granted class action status in the case.

A Cab was one of several cab companies sued. In 2014, as a result of a class action lawsuit filed by taxi cab drivers of Yellow Cab, another cab company operating in Nevada, the Nevada Supreme Court agreed that the 2006 initiative did not specifically exempt taxi cab drivers and that they were subject to the minimum wage rules retroactively³.

For several years the A Cab lawsuit has been moving through the Court system. The period initially covered by the Greenberg lawsuit has been expanded. A Cab provided information on payroll to Greenberg’s team for the period October 8, 2010 to December 31, 2015. The payroll records for this period are massive and Greenberg hired a technology expert, Charles Bass (“Bass”), to organize the data and calculate whether the class was underpaid.

¹ Nevada Revised Statutes, Section 608.250(2)(e).

² *Murphy and Reno v A Cab Taxi Service and A Cab LLC*, District Court, Clark County, Nevada, October 8, 2012.

³ *Christopher Thomas and Christopher Craig, Individually and on behalf of others similarly situated, Appellants, v. Nevada Yellow Cab Corporation; Nevada Checker Cab Corporation; and Nevada Start Cab Corporation, Respondents*; Supreme Court of the State of Nevada, No. 61681, June 16, 2014

Bass produced two Excel spreadsheets in February, 2017, one covering the period October 8, 2010 to December 31, 2012 (called “2010-2012 spreadsheet” or “2010-2012”) and having 9,789 payroll records; and one covering the period January 1, 2013 to December 31, 2015 (called “2015 spreadsheet” or “2013-2015”) and having 14,208 payroll records. (Together these two spreadsheets will be referred to as “the earlier spreadsheets”.)

Greenberg also retained Terrence M. Clauretie, Ph.D. (“Dr. Clauretie”) as an expert. Dr. Clauretie issued a report dated July 18, 2017 titled *Review of the Calculation of Damages: Michael Murray and Michael Reno v. A Cab Taxi Service LLC., et. al.* (“Calculation Report”). The Calculation Report assesses Bass’s earlier report and as such covers the same time periods as Bass’s February, 2017 spreadsheets. However, the Calculation Report uses what appear to be revised and reformatted versions of the earlier spreadsheets and adds another spreadsheet using the same data organized differently. To add a bit to the confusion, Dr. Clauretie makes references to the earlier spreadsheets as well as the later reports.

Dr. Clauretie’s report purports to “indicate if...the calculations [included in the July, 2017 Calculation Report] have been made appropriately, within standards of reasonableness for such calculations, to produce results that may be relied upon for a court in determining damages”.⁴

In addition to the class action law suit that is referred to above, the Federal Department of Labor audited A Cab for the period October 1, 2010 to October 1, 2012. The audit concluded that A Cab underpaid the Federal minimum wage by \$139,834.80 during the period. This underpayment was based on Federal minimum wage standards and not Nevada minimum wage standards. A Cab entered into an agreement whereby they paid the Department of Labor the assessed amount and the Department of Labor states that they will “allocate and distribute” the proceeds to the employees affected⁵.

II. Assignment

My assignment is to read and analyze the report prepared by Dr. Clauretie including an analysis of Mr. Bass’s earlier and current spreadsheet analysis of the payroll of A Cab. I am to critique what Dr. Clauretie has stated and rebut the report, where and if appropriate.

It is assumed that the reader has access to Calculation Report and the earlier spreadsheet reports prepared by Mr. Bass. Therefore, no attempt is made here to reproduce those reports.

⁴ Clauretie, Terrence M., *Review of the Calculation of Damages: Michael Murry and Michael Reno v. A Cab Taxi Service LLC., et. al.*, p. 1.

⁵ *Thomas Perez, Secretary of Labor, Plaintiff v A Cab LLC and Creighton J. Nady, an individual*, United States District Court, District of Nevada, Case 2:14-cv-01615-JCH-VCF, dated October 1, 2014, pg 4.

The legal merits of the claims and counterclaims are matters of law that are to be argued by the legal experts and ultimately determined by the Court. I offer no opinion on the legal merits of the dispute.

III. Expert Opinion

My opinion is based on the work performed and analysis done as is detailed in subsequent sections of the report. My analysis has focused on three areas:

- a. What is Dr. Clauretie offering his opinion on?
- b. Does the report accurately model how minimum wage laws are affected by health insurance?
- c. Does the report accurately model the hours worked by cab drivers during the periods examined?

These three factors drive what is the goal of this critique which is to determine whether the Calculation Report can be relied upon to estimate the amount, if any, of minimum wage shortfall created when the Nevada Supreme Court changed the assumptions about the minimum wage for taxi cab companies.

What is Dr. Clauretie offering his opinion on?

As I discuss below, Dr. Clauretie repeatedly states in the body of the Calculation Report that he is assessing whether the math in the ACAB-ALL model accurately reflects the assumptions given to him⁶. He states at several points he is not opining on the assumptions made in the model. He never relates the model's calculations to Nevada labor laws or assesses assumptions about hours worked in the model. However, in the summary he states, in part "My review of the calculations of damages in this case leads me to believe that the calculations were made consistent with the assumptions regarding the application of the State of Nevada Minimum wage laws"⁷.

I do not believe his calculations are consistent with the application of the State of Nevada Minimum wage laws. Further, I do not believe that Dr. Clauretie has created a base from which to form such an opinion based on what he repeatedly states he is opining on in the report and on the information in his report.

Does the report accurately model how minimum wage laws are affected by health insurance?

The report does calculations on multiple scenarios that involve calculating the minimum wage under different conditions related to offering health insurance to the cab driver. The issue at hand in each of these calculations is whether the cab driver should be paid either

⁶ The ACAB-ALL model is also reformatted into a report called 2013-2015 payroll analysis. We are effectively addressing both spreadsheet when we reference the ACAB-ALL spreadsheet.

⁷ Calculation Report, p.30.

\$7.25 per hour (lower tier) or \$8.25 per hour (upper tier). Dr. Clauretie's opinion is the math in the spreadsheets is accurate and he states that it conforms to the assumptions given to him. The problem is again that Dr. Clauretie never relates his findings to what Nevada labor law and regulations state.

My analysis shows that the Calculation Reports assumption about the minimum wage payable during the waiting period for insurance is just not correct. Further, the Calculation Report attempts to determine if the upper tier wage is due if the cost of health insurance to the cab driver is more than 10% of his wages. The law and regulations require a look back or history of wages calculation which would require not only looking at electronic payroll data but also can involve looking at wage statements in the form of W-2's filed with the Federal Government. None of what is required to be done to determine if the upper tier is appropriate is in the model. Instead, the upper tier criteria appears to be based on current wages. This is just incorrect and there is no information in those calculations that, in my opinion, is useful in determining if the wage should be the upper tier or lower tier. Therefore, none of the calculations done to determine if the cab driver should be paid the higher tier wage rate are correct or usable.

Does the report accurately model the hours worked by cab drivers during the periods examined?

The third and final area of focus is on the hours worked. A lot of the Calculation Report is spent explaining the minutiae of how the spreadsheets in the report calculate the hours worked. This is necessary because up to the end of 2012 there is only very limited digital/electronic information on hours from a system called "Cab Manager" and it does not (or at the time did not) provide detailed information. There is better though not complete digital information about payroll for the period 2013 to 2015. The Calculation report tries to deal with this lack of complete electronic data by making assumptions about "uniform" hours worked by cab drivers for all shifts. Further, they anchor on about 11 hours per shift.

Dr. Clauretie never attempts to test the theory that 11 hours is reasonable or test if the assumptions about what Cab Manager is doing is what they think it is doing. Instead Dr. Clauretie assumes apparently that the assumptions provided him by the plaintiffs are correct and he analyzes the data from that perspective. Dr. Clauretie also appears to dance around the issue of why he did not attempt to test the assumptions behind the number of hours stating "Mr. Bass indicted (spelling as shown in report) to me there was no data from the defendants regarding the number of hours worked by each driver for the period prior to January 1, 2013, either from the perspective of the payroll records or the cab manager records..⁸" While it is correct that they did not have digital/electronic payroll or cab manager records, he has ignored source data in the form of the trip sheets, that at least according to A Cab's counsel, were provided to Mr. Greenberg. Trip sheets have detailed information about hours worked. So, as is the pattern here, Dr. Clauretie accepts without question the assumptions designed by and provided by the plaintiffs.

⁸ Calculation Report, pp 27-29.

As I show in the report, I randomly tested 123 individual payroll periods by reviewing and calculating hours worked on each trip sheet. The results show that cab drivers work about 9.7 hours per shift and that workers who do not make the minimum wage threshold work about 9.5 hours. Further what I find is that overstating hours does not result in proportional increases to those subject to the minimum wage deficit. When hours are overstated for reasons discussed in the report, the resulting increase in estimated minimum wage skyrockets. Thus overstating hours worked does not just over state the minimum wage deficit it truly distorts what is due.

Further, in reading the Calculation Report descriptions of what models are trying to do, I do not believe that enough effort has been put into understanding how the trip sheets work in relation to the Cab Manager program. This leads to another conclusion about the methodology used in the Calculation Report: Developing an average hours calculation does not accurately capture the amount of minimum wage owed. That is because the way cab drivers operates for A Cab there is no uniform or standard amount of time that easily and accurately be used in a model.

At this point in the analysis, since the modeling for four of the five minimum wage estimates has been proven to fail, the only viable calculation of the minimum wage deficit available is the lower tier. Because the testing shows the spreadsheets used do not accurately reflect hours worked by cab drivers, the model used to calculate the \$7.25 per hour minimum wage estimate, the last of the estimates provided in the Calculation Report also fails to accurately calculate minimum wage.

Can the Calculation Report be relied upon to accurately model the potential minimum wage deficit for A Cab?

In my opinion, the Calculation Report prepared by Dr. Clauretie does not accurately calculate the potential minimum wage deficit for cab drivers under any of the scenarios provided in the report. The model fails to accurately address how to calculate when upper tier rates should apply. Testing on the model shows that it appears to overstate the minimum wage deficit because a) the amount of hours estimated per shift is not supported by testing of actual hours worked and b) by using a constant hours worked for all employees over all periods, material distortions occur that affect the calculation of the minimum wage deficit.

IV. Work performed

Prior to the issuance of Dr. Clauretie report I was retained to analyze the earlier two spreadsheets prepared by Mr. Bass in February, 2017 to determine if they represent a reasonable approximation of whether the employees of A Cab were not paid at least the minimum wage under the ruling of the Nevada Supreme Court and if that was the case, did the spreadsheet modeling make a reasonable approximation of the underpayment. After the report of Dr. Clauretie was issued in July, 2017, but before my report was completed, I was

asked to expand my analysis to include the modified spreadsheets prepared by Mr. Bass and included in Dr. Clauretie's report and to analyze Dr. Clauretie analysis and conclusions. Specifically:

- a. I read and reviewed the report titled *Review of the Calculation of Damages: Michael Murray and Michael Reno v. A Cab Taxi Service LLC., et. al.* prepared by Dr. Clauretie and dated July 18, 2017.
- b. I analyzed and otherwise reviewed the calculations developed in the spreadsheets used by Mr. Bass and released to the plaintiffs in February, 2017 and the spreadsheets used by Dr. Clauretie in his July, 2017 Calculation Report.
- c. I tested the spreadsheets developed by Mr. Bass and released to the plaintiffs in February, 2017 and the spreadsheets used by Dr. Clauretie in his July, 2017 Calculation Report. My tests were carried out to determine if, in my opinion, the spreadsheets accurately model to a reasonable degree compliance with the minimum wage standards and if the calculation of shortages, if any, are reasonable⁹.
- d. I reviewed various filings in the current lawsuit as well as the 2014 Supreme Court ruling.
- e. I analyzed original information on hours worked and breaks taken contained in trip sheets. The scope of the analysis, discussed in subsequent sections reviewed approximately 123 different payroll periods for individuals. These periods were selected using a random number generator to pick the individual payroll and period tested.
- f. I interviewed various personnel at A Cab including Creighton J. Nady (aka J. Nady), Mike Malloy (IT Manager), Nancy Davis, (Trip Sheet Verifier), Steve Essakow (Manager) and Donna Burelson (Director of Internal Affairs).
- g. I reviewed the relevant Nevada Revised Statutes and Nevada Department of Labor regulations. These were reviewed to provide guidance as to the terms and conditions for compliance with minimum wage requirements.
- h. I called the Nevada Department of Labor to get clarification on certain aspects of how the State interprets the law.

Review of Dr. Clauretie report

Our analysis focuses on four specific areas of Dr. Clauretie's report:

- a. What is Dr. Clauretie offering his opinion on?
- b. Do the Bass spreadsheets model the variations on what minimum wage is appropriate for a given situation?
- c. Do the Bass spreadsheets model the hours worked by cab drivers in a reasonable way?
- d. Ultimately, does the information modeled in the Calculation Report accurately calculate the potential shortage in minimum wage paid to employees?

⁹ The Bass spreadsheets released in February, 2017 were called "Damages 10-8-10-12-31-12 TEST" and "Damages 1-1-13-12-31-15 TEST". The spreadsheets released in the Calculation Report are called "ACAB-ALL" and "2013-2015 Payroll Analysis".

My analysis of the first area is based on statements made by Dr. Clauretie and not on any analysis of compliance with Nevada wage law, rules and regulation or analysis of the reasonability of the modeling. The other two areas perform an analysis of Bass's models based on relevant law, rules and regulations and on whether the models accurately reflect data to calculate the minimum wage.

The latter two analysis, as I will show, use data from testing we have done using original records in the form of A Cab's trip sheets and personnel records and comparing what those records show with what is assumed in Bass's model. The testing will be explained after I critique and comment on the first area of focus:

What is Dr. Clauretie offering his opinion on?

For this part of the analysis I utilize quotes from the Calculation report and then comment on them (quotes from Dr. Clauretie's reports are *in italics*):

"The purpose of the review will be to indicate if, in my opinion, the calculations [prepared by Mr. Bass of damages] have been made appropriately, within standards of reasonableness for such calculations, to produce results that may be relied upon for a court in determining damages, and if I have suggestions for any modification to the results obtained by Mr. Bass¹⁰".

Referring to the laws and regulations regarding when employees are subject to different minimum wage rates depending on waiting periods to receive health insurance, Dr. Clauretie states *"I am not in a position to opine on the assumptions made by Mr. Bass on the length of such waiting periods"*¹¹

During a discussion of the one payroll record the report covers in detail Dr. Clauretie states: *"The methodology he [Bass] documented to me in respect to its creation was sound and free from any arithmetical errors."*¹²

Describing the 2013-2015 Payroll analysis file (one of the files used in the Calculation Report) Dr. Clauretie states:

"I have examined the 2013-2015 Payroll analysis file and the calculations (formulas) that Mr. Bass has embedded into the file. Based upon that examination I can state that (1) the arithmetical results set forth in Columns T through X of the spreadsheet at the "2013-2015" tab of that file are accurate calculations of the minimum wage amounts owed, if any, based upon the other information in that spreadsheet...(2) The arithmetical results set forth in columns D through H of the "2013-2015 per EE" tab of that file accurately compiles the total, for the employee identified on each line of such spreadsheet, of the minimum wage amounts calculated to be owed, if any, and contained in columns T through X respectfully... I have examined the ACAB-ALL Excel File and the calculation (formulas) that Mr. Bass has embedded into that file. Based upon that examination I can state, as I have in

¹⁰ Calculation Report, p. 1..

¹¹ Calculation Report, footnote 2, p.3.

¹² Calculation Report, p. 17.

*respect to the 2013-2015 Payroll Analysis Excel filed, that the arithmetical results set forth in that file are accurate. By that statement I mean the formulas used by Mr. Bass in that file (both in the per pay period spreadsheets at the "2010-2015" and "2010-2012 tax and the per employee compilation spreadsheets at the "2010-2012 per EE" and "201-2015 per EE" tax) perform the proper calculations on the information contained in those files"*¹³

After reviewing the calculations in Bass's current spreadsheets Dr. Clauretie states:

*"I am opining only on (1) The arithmetical correctness of the calculations performed in the two Excel files I am relying upon for my conclusions; and (2) The correctness of the methodology that Mr. Bass has explained to me and used to place various information into those two Excel files from their source materials and how he performed his calculations. I cannot offer any opinion on whether the source materials that are incorporated into those two Excel files are accurate records. Nor do I offer any opinion on the correctness of the assumptions used by Mr. Bass in the two conditional calculations I discuss in reference to "the insurance qualification date" and "insurance premium cost" assumptions." I only attest to the arithmetical correctness of the calculations he has performed using the assumptions. [bold emphasis added]."*¹⁴

Analysis:

These passages from the Calculation Report indicate that Dr. Clauretie is evaluating and opining on the mathematical correctness of the reports produced by Mr. Bass. That is Dr. Clauretie is opining on the fact that the Excel spreadsheets add things up correctly based on assumptions used in preparing the spreadsheet by Mr. Bass. He is not separately evaluating whether the assumptions used by Mr. Bass are valid nor is he opining that the data used from A Cab is the appropriate information to use to provide answers to the minimum wage questions. He always mentions only that the calculations are correct given the assumptions presented to him by Mr. Bass. He never links the assumptions to relevant law, rules or regulations. And he never states if he has tested or reviewed the source data to determine if the data used by Mr. Bass captures what it is represented to capture.

Finally, in the Summary section, Dr. Clauretie states:

*My review of the calculations of damages in this case leads me to believe that the calculations were made consistent with the assumptions regarding the application of the State of Nevada minimum wage laws.*¹⁵

After spending the entire report emphasizing that his opinions apply only to the math used in the assumptions given to him and to the accuracy of how the spreadsheet calculates the logic of the math used, Dr. Clauretie then in the summary concludes that the calculations are consistent with the Nevada minimum wage laws. Only at the end is the Nevada Minimum

¹³ Calculation Report pp 6-7.

¹⁴ Calculation Report, p. 25.

¹⁵ Calculation Report, p, 31

wage laws mentioned. There is no effort to explain how the assumptions link to the minimum wage laws. There is no reasonable correlation between Dr. Clauretie's reiteration of the limited scope of his opinion in the body of the report and his overarching conclusion.

Consistency and integrity of the spreadsheets

Mr. Bass, as described earlier, has presented at least two versions of the main spreadsheets used to determine if the minimum wage for an employee for a period was met. The information he provided to the Court and defendants in February 2017 contained two separate Excel spreadsheets covering different periods of time. One spreadsheet was named *Damages 10-8-10 -12-31-12* and the other spreadsheet was named *Damages 1-1-13-12-31-15*. In the introduction section I refer to these two spreadsheets as "the earlier spreadsheets"¹⁶.

The primary spreadsheet analysis presented to Dr. Clauretie to be analyzed is called ACAB-ALL. ACAB-ALL and another spreadsheet which appears to sort the same data differently are what are primarily used in the Calculation Report. ACAB-ALL spreadsheet had several pages to it. One of the pages appears to be the *Damages 10-8-10 -12-31-12* spreadsheet from February, 2017. Another page appears to be *Damages 1-1-13-12-31-15* spreadsheet from February, 2017. The ACAB-ALL spreadsheet is what I refer to as the "current spreadsheet".

Both the ACAB-ALL and the earlier spreadsheets have several pages which appear to be eliminations of data from the file combinations described in Dr. Clauretie's report because of issues with it. These latter pages not described or analyzed further here.

The earlier spreadsheets and the ACAB-ALL spreadsheets for the same time frames at first glance look identical. However, these spreadsheets are massive and hard to compare line to line. We have noted unexplained differences between the two. All information here is meant to show the differences between what should be two identical reports.

Exhibit 1 shows that in the 2013 to 2015 period there are 572 less lines in the ACAB-ALL version and there are 1,789 fewer shifts recorded. In the 2010 to 2012 period, there are 34 fewer lines and 15 fewer shifts recorded in the ACAB-ALL version. The calculation of damages also changed significantly. For the 2013-2015 period they all were reduced in the \$23,000 to \$30,000 range. The 2010 to 2012 version shows increases of \$338,000 to \$868,000.

The damages calculations appear to use different assumptions and the Current spreadsheet adds a scenario that did not appear in the earlier version. However, the differences, since the earlier version was provided by Bass should be reconciled to the current version. Since it is not, I believe this calls into questions the validity the opinion by Dr. Clauretie that the spreadsheets are mathematically accurate.

¹⁶ The earlier spreadsheets should be evaluated here because Dr. Clauretie does reference them. For instance, on page 5 of the Calculation report.

Other changes to spreadsheets

Generally, the primary spreadsheets showed each payroll period for each employee as three distinct rows: The first row for the first week of the payroll period; the second row for the second week of the payroll period; and the third row shows the totals for the two week period. In the earlier spreadsheets I did note several instances where the payroll period either did not have three rows and it appeared that two records may have been combined¹⁷. Some of these issues continued in the Current Spreadsheet but I am not convinced they materially affect the calculations. Therefore, I note there may be issues present but are not going to pursue this further.

Do the Bass spreadsheets model the variations on what minimum wage is appropriate for a given situation?

To reach the various estimates of underpaid minimum wage Dr. Clauretie states that Mr. Bass assumes that employees did not have health insurance during their probationary period¹⁸. Further assumptions are made about how the minimum wage rate is affected by the amount of health insurance premium that must be paid by an employee. Bass uses different assumptions about calculating the minimum wage under different scenarios (see the differences in the calculated minimum wage deficit in Exhibit 1). He first uses a straight \$7.25 per hour rate for everyone. Then he uses a \$8.25 per hour rate for those in the probationary period and then uses three different conditional calculations which Dr. Clauretie interestingly, as described above, makes a point of saying only that they are "arithmetically correct"¹⁹.

- Condition 1: Minimum wage paid at \$8.25 per hours prior to date qualified for insurance.
- Condition 2: Minimum wage owed at \$8.25 per hour for all pay periods where insurance premium cost for employee only coverage was more than 10% of wages.
- Condition 3: Minimum wage owed when both insurance qualification date and insurance premium cost is considered.

Condition 1: Used the \$8.25 per hour for pay period prior to the date qualified for insurance and the \$7.25 per hour after that date. It is based on the earliest date the employee could qualify for health insurance²⁰.

Condition 2: Calculates whether the wage rate should be \$8.25 regardless of health insurance status because the Employee only coverage was more than 10% of wages and was \$7.25 per

¹⁷ See payroll records in the 2012 Bass spreadsheet starting at lines 9678, 11613, 13890 and 26835.

¹⁸ Review of Calculation, p 3.

¹⁹ Review of Calculation, ppg 21-22.

²⁰ Review of Calculation, p 21.

hour for all other periods. Mr. Bass advises that such a specified amount in that formula is the insurance premium the employee was required to pay to receive “employee only” health insurance coverage under the employer’s insurance plan.

Condition 3: Uses the higher of condition 1 or 2.

The three conditions are apparently based on what Nevada Revised Statutes and Nevada Administrative Code rules and regulations are. Therefore, to assess whether the assumptions about how the minimum wage interplays with health insurance availability is correct, the relevant sections of NRS and NAC must be reviewed. If this was done for the Calculation Report it is never discussed. I will discuss it here.

The minimum wage under Nevada Law has two tiers. Both tiers did not change during the period of this analysis. The lowest minimum wage under Nevada law is \$7.25 per hour (called “lower tier” here). That minimum applies generally if the employer offers the employee health insurance. If the employer does not offer health insurance to an employee, then the minimum wage is \$8.25 per hour (called “upper tier” here).

Several subsections of the regulations clarify different aspects of which minimum wage rate applies:

- a. If the waiting period is six months or less to start receiving health insurance then the lower rate applies during the waiting period²¹.
- b. The insurance must be offered by the employer, but does not have to be accepted by the employee to have the lower rate apply²²
- c. The rate tiers apply whether the employee is full time or part time or any other status²³

An exception to the general rules above apply to those employees who must pay for some portion of their health insurance. If the cost of health insurance to the employee exceeds 10% of the gross taxable wages of the employee attributable to the employer then the higher tier applies²⁴ (called here the “10% rule”).

The calculation of the 10% rule is somewhat complex and is described in NAC 608.104²⁵.

- If the employee has been issued a W-2 for the preceding year, divide the gross taxable income of the employee paid by the employer into the projected share of

²¹ NAC 608.102 (2)(b); NAC 608.108 and verified by telephone with the Nevada Department of Labor on June 23, 2017.

²² NAC 608.100 (1)(a).

²³ NAC 608.100.

²⁴ NAC 608.104.

²⁵ Note that NAC 608.104(2) has been rendered obsolete by the Supreme Court ruling according to a discussion held by telephone with the Nevada Department of Labor’s office in Carson City, Nevada on August 24, 2017.

the premium to be paid by the employee for health insurance for the current year²⁶.

- If the employee has not been given a W-2 but the employer has payroll information on the previous four quarters, divide the gross taxable income normally calculated from the payroll information from the four previous quarters into the projected share of premiums to be paid by the employee for the year²⁷.
- Where there is less than one aggregate year of payroll information:
 - Determine the combined total gross taxable income normally calculated from the total payroll information available for the employee and divide by the number of weeks the total payroll information represents and multiply the amount by 52 and divide the amount into the projected share of premiums to be paid²⁸.
 - For a new employee use the calculation above for the first two completed payroll periods²⁹.

Analysis

The assumptions of the model prepared by Bass do not support employee wages rates of \$8.25 per hour.

“Probationary” Period

The assumption made in the Calculation Report is that during the probationary period an employee is entitled to \$8.25 per hour. The actual rule quoted above states that if the “waiting period” (not probationary period) is six months or less than the lower tier rate applies. According to A Cab management, the waiting period is a maximum of 90 days³⁰. That means, based on the law, since the maximum wait time is less than six months that new hires are subject to the lower tier rate and never subject to the higher tier rate. Therefore, the entire test where Bass calculates a higher wage rate during the probation period is invalid. Further, if qualified insurance is offered to an employee and turned down, the lower tier rate applies no matter what³¹.

²⁶ NAC 608.104(1)(a) (paraphrased in part).

²⁷ NAC 608.104(1)(b) (paraphrased in part).

²⁸ NAC 608.104(c) (paraphrased in part)

²⁹ NAC 608.104(d) (paraphrased in part)

³⁰ The waiting period is 60 days but that terminology is modified to state 90 days because the waiting period generally starts at the beginning of the month following the date of employment and the waiting period is sixty days from that point. Therefore, if an employee is hired early in a month, he could wait that entire month before the waiting period starts thus he could wait 90 days to be covered.

³¹ Discussion by telephone with Nevada Labor Commissioner’s office in Carson City, Nevada on August 24, 2017.

Conditions testing and the 10% rule

The actual rules to apply the 10% rule condition test are not modeled at all in the ACAB-ALL spreadsheet nor are they modeled in the earlier spreadsheets. Both the earlier spreadsheet and the ACAB-ALL spreadsheet appear to look at a simple test of what happened in the current period to determine if the employee should receive the higher or lower tier minimum wage. As described above, that is invalid as the requirement is the look back calculation (also described above) and the only variation on the look back rule is how the test is modified based length of employment.

Therefore, for any of the health insurance condition testing in the ACAB-ALL spreadsheets to be usable, a complex calculation needs to be made. Since it is not, the assumptions made in the spreadsheet are not valid and the calculations while, in Dr. Clauretie's analysis may be mathematically correct, provide no useable information on what the minimum wage paid should be.

We note again that Dr. Clauretie never opines on the validity of the assumptions. He simply assumes they are correct and then opines on the math behind them.

We therefore note that of the various potential "damages" calculated in the Calculation Report, the only one that may have some validity is the amount calculated for the \$7.25 per hour column. We next analyze the assumptions behind the calculations for that scenario.

Testing of cab driver records

No matter what the Calculation Report and the two sets of spreadsheets produced to calculate minimum wage determine, it is essential that the information developed by Dr. Clauretie and Mr. Bass relate back to the actual cab driver experience. Otherwise, as was shown above in determining minimum wage rates, the analysis though impressive, is meaningless.

Table 1

Number of shifts analyzed

	From February, 2017 Spreadsheets			From July, 2017 ACAB ALL Report		
	Number of shifts analyzed	Total number of shifts	Pct.	Number of shifts analyzed	Total number of shifts	Pct.
2010-2012	344	83516	0.412%	80	83501	0.096%
2013-2015	573	124241	0.461%	137	122452	0.112%
	<u>917</u>	<u>207757</u>	<u>0.441%</u>	<u>217</u>	<u>205953</u>	<u>0.105%</u>
Total number of shifts analyzed						1134
Average shifts [a]						206855
Percent						0.548%

[a] Average shifts averages total total from the earlier and current spreadsheets

The payroll records produced by A Cab included PDF files of the trip sheets according to A Cab's counsel. There are over 200,000 trip sheets (Table 1) and each trip sheet represents a shift worked by a cab driver during the period examined here. The shifts are broken into payroll periods by cab driver. There are almost 24,000 employee pay periods (Table 2) during the period examined³².

³² Note for both pay periods and work shifts there are slight differences between the earlier and current spreadsheets. As noted during the analysis of the structure of the spreadsheets, the differences are small and unexplained. However, here the total number of shifts and payroll periods are averaged to provide the reader with some sense of the totals and percentages involved.

Table 2
Payroll periods analyzed

	From February, 2017 Spreadsheets			From July, 2017 ACAB ALL Report		
	Payroll periods examined	Total payroll records	Pct.	Payroll periods examined	Total payroll records	Pct.
2010-2012	39	9789	0.398%	12	9759	0.123%
2013-2015	56	14208	0.394%	17	14200	0.120%
	<u>95</u>	<u>23997</u>	<u>0.396%</u>	<u>29</u>	<u>23959</u>	<u>0.121%</u>
Total Payroll periods examined						124
Average payroll periods [a]						23978
Percent						0.517%

[a] Average pay periods averages total pay periods from the earlier and current spreadsheets

I tested the cab driver records by carrying out the following procedures. First, prior to receiving the Calculation Report, I had been provided the earlier spreadsheets and Bass's calculation of the minimum wage deficit. I randomly selected 100 records from the spreadsheets. That consisted of 100 employee biweekly payroll records which contained anywhere from two to up to thirteen shifts³³. The 100 records were split 40/60 between the 2010 to 2012 spreadsheet and the 2013-2015 spreadsheet. This is roughly the percentage of payroll for the period by the total payroll.

The A Cab staff pulled the trip sheets (see below) for the employee for that payroll period. The A Cab verifier reviewed the record to determine the correct starting and ending time. A manager recalculated breaks under A Cabs break policy. The human resource/payroll department reviewed the employee file and determined if the employee was offered health insurance; if he had health insurance or waived it; and if he (or his family) was eligible for the "10% rule" described above and subject to for the upper tier pay.

Subsequently the Calculation Report from Dr. Clauretie was received. After determining that the records pulled from the initial test were still in the ACAB-ALL report we decided to expand testing to include test data drawn from the newest version of the payroll analysis. I

³³ We used the random number generator in Microsoft Excel that provides random numbers between two points RANDBETWEEN([a],[b]). The random number generated was a row number in the Excel spreadsheet. The three line payroll record associated with the row number becomes the test record.

chose another 30 payroll records using the same random technique we chose above. A Cab personnel performed the same procedures on the second test as they did on the first test.

The original selection of 100 records was modified as follows. Eleven of the records selected (11%) had issues that were found by A Cab personnel during the research process that lead us to exclude those records. The Exhibits provides the reason why the records could not be used but they all involve being able to have a complete record to assess.

I provided A Cab with a list of alternative random numbers to replace any unusable records they found. Initially, the eleven unusable payroll records were replaced with additional randomly selected records.

A Cab provided us with PDF files of the timesheets for those records as well as an analysis of insurance coverage for each of the employees selected. Of the revised list of 100 we found we could not use five additional records because we found additional completeness issues that were significant enough to cause us to exclude the record³⁴. Generally, these consisted of a missing trip sheet in the payroll period. The records we eliminated from at this point were not replaced. Therefore, the final test was 95 records from the original data.

The selection from the records in the Calculation Report used another 30 payroll period records (again broken out in a 40/60 ratio between 2010-2012 and 2013-2015). Two records were found to be unusable and I was left with 28 records from the second test.

Test of health insurance status

³⁴ For example, even though A Cab provided a file of the verified trip sheets for a given driver in a given payroll period the number of sheets provided did not agree to the number of shifts in the Bass spreadsheets. There could be several reasons for the difference, but due to time and resource constraints we deemed it best just to exclude the record.

Table 3:
Analysis of Cab Driver Insurance Coverage

	Employees			
	2010-2012	2013-2015	Total	Pct
In waiting period	7	11	18	14.6%
Part time (no insurance)	0	2	2	1.6%
Employee only insured	23	32	55	44.7%
Employee with spouse and/or dependents insured	0	1	1	0.8%
Insurance offered and waived	13	25	38	30.9%
Insurance offered after period and waived	2	0	2	1.6%
No waiver in file	4	2	6	4.9%
No waiver in file but copy of offer letter in file	1	0	1	0.8%
	<u>50</u>	<u>73</u>	<u>123</u>	<u>100.0%</u>

Table 3 above shows that most employees had either taken insurance for themselves only, had waived insurance or was in the waiting period to receive insurance. Of the sample only one employee elected to cover his/her spouse. No one elected to cover their family.

It is interesting to note that about 32% of total employees (which translates to about 40% of employees that had reached eligibility for insurance) chose to waive it. This fact further discredits the calculations for the different scenario damages. Assuming somehow that the assumptions about the law were correct in those scenarios (and they are not), there is still no adjustment to show a material portion of those eligible waive health insurance and therefore waive eligibility for the \$8.25 per hour. This is just another indication the modeling is flawed.

We can also use this information to determine what is the most appropriate minimum wage tier to use. I assigned the lower tier minimum wage to all employees other than cab drivers that either did not have a waiver in the file and had not been receiving health insurance, or had a waiver dated after the pay period. For those individuals, we assigned the upper tier minimum wage of \$8.25. There was only one individual who had a spouse on A Cab insurance and that driver was assigned the higher minimum wage tier using the assumption that with both on the insurance the premium exceeded 10% of the drivers wages over time³⁵. Finally, there were two part time drivers who were assigned the higher rate tier as they were not offered insurance.

³⁵ There were no cab drivers who elected to cover non-spouse dependents. The assumptions made here that this one driver fell under the 10% rule was made for expediency and to be conservative in my estimates. Since it was only one driver, we deemed it better to assume the higher rate than to spend significant time determining the look back calculation. Had there been a material number of drivers with spouses on the insurance plan then the 10% rule would have been addressed.

Analysis of hours worked by employees

The essence of the Calculation Report and the shortage of the minimum wages said to be owed by A Cab is the number of hours a cab driver works. That drives the average wage to test against the minimum wage and it drives the amount owed if the average falls below the minimum wage. I have performed tests on the calculations of hours in the earlier spreadsheets and in the current spreadsheet. The data used in the earlier spreadsheets I believe is usable because the same data appears in the current spreadsheet though on different lines. That is addressed further below.

The key to understanding how many hours a cab driver works is analyzing and understanding the trip sheet. A key to that is to understand that the trip sheet is part of a larger automated system called Cab Manager that has been evolving over the period examined here and beyond. By that I mean that incrementally the way a driver records his/her time has gone from writing everything down manually to today using an onboard computer, communications and GPS to measure every minute the cab is in the cab driver's hands.

How trip sheets work

Exhibit 2 explains how a trip sheet worked during the time periods involved. A Cab's policy was that a driver was expected to take a one hour meal break (not paid) and two thirty minute breaks during each shift. In the 2010 to 2012 timeframe the policy was that if the driver takes any less time than 30 minutes, the driver is paid for the entire break. Once a driver exceeded the break time they are not paid for additional breaks though they can take them unpaid. The labor law in Nevada states that they only need to be paid for two ten minute breaks (see next section). Therefore, A Cab tended to overpay drivers for breaks based on this policy.

The cab driver recorded all his/her activity on the trip sheet. All are to be recorded showing pick up and destination and time spent on the road. All breaks are recorded as well. It was up to the driver to record everything by hand.

After a shift, the driver turns in the trip sheet and the cab and driver are signed out of Cab Manager. All that means is that the driver is no longer assigned to the cab. The verifier goes over the hours on the trip sheet to make sure the sheet is filled out accurately. Once the verifier approves the trip sheet, it is turned over to a manager who calculates the break time based on A Cabs policy. Once these processes are done, the trip sheet is turned over to the human resource / payroll department to enter it into the payroll system.

Although expected to take at least two hours in breaks, a cab driver is not required to take any breaks so they can work the full shift and be paid for the full shift. There is also nothing preventing a cab driver from taking more than two hours of breaks. It should be noted if the

cab driver does not take a break there is no requirement to pay him/her an additional amount for breaks not taken. And, drivers are considered not working and are not paid for break time in excess of policy.

As Exhibit 2 shows the driver in this actual example took four and one half hours of breaks in one shift. In the case shown the driver worked only about 6.5 hours of an over 11 hour "shift".

Testing the hours assumptions of the Calculation Report

The Calculation report describes how ACAB-ALL calculates the minimum wage scenarios for the period January 1, 2013 to December 31, 2015³⁶. This appears to be the same as the earlier spreadsheets:

" [1] For the period January 1, 2013 through December 31, 2015 it [ALL-CAB] performs that calculation based upon the hours recorded for each pay period for each driver in the payroll records and also does so based upon the times inferred from Cab Manager system's records that the driver began and ended each work shift [emphasis added].

"[2] For the period January 1, 2013 through December 31, 2015 it can perform that calculation based upon the driver's shift length times as inferred from the record of the Cab Manager system with each shift's length either increased or decreased, by a uniform amount as specified in Cell 02 (the "02 Variable") in the spreadsheet. This allows such a calculation to incorporate an assumption that the drivers did not actually work for 1 hour, or some other uniform period of time during each shift because they were taking a 1 hour meal break or their amount of non-working break time between their Cab Manager inferred shift start and end times [emphasis added].

"[3] Both time periods in ACAB ALL can perform that calculation by applying a uniform shift length to each shift the taxi driver is recorded to have worked in the Cab Manager records, e.g., by assuming every shift worked during the pay period by the employee was the same constant length [emphasis added].

The Calculation Report determines the hours worked for the minimum wage calculation of cab drivers for the period October 8, 2010 to December 31, 2013 as follows:

Mr. Bass indicted (spelling as shown in report) to me there was no data from the defendants regarding the number of hours worked by each driver for the period prior to January 1, 2013, either from the perspective of the payroll records or the cab manager records. As a result he built into the ACAB-ALL Excel file a variable that would assume, for each driver a constant

³⁶ Pgs. 3-5

number of hours for each shift they worked, as shown by Cab Manager records. This variable also allows the insertion of the average hours per shift from the Cab Manager data for the period 2013 - 2015, which was 11.03 hours³⁷. The use of average hours per shift to calculate damages in the earlier period could result in a biased estimate of damages. This is because the loss attributed to drivers that worked less than the assumed average could be increased with no commensurate offset from drivers that worked more than average. To test this possibility I recalculated the damage estimates in the 2013-2015 period (for the cab manager data) assuming for each driver a shift the average hours (11.03) for all driver shifts in this time frame³⁸.

Assessing the hours a driver works

Assessing if the way that Dr. Clauretie and Bass calculated hours realistically models how hours are worked by cab drivers requires that the entire process of how a cab driver uses a cab and he/she records his/her time be understood. The key to understanding that process is to:

- Understand how a trip sheet works and how hours worked are calculated
- Understand what Cab Manager's reporting capabilities are at a given point in time and that the software has and is continuing to evolve over time
- Understand the independence level of cab drivers
- Understand how a cab operates during a shift
- Calculate hours worked per shift and per payroll period

An A Cab taxi cab driver checks out a cab for up to twelve hours. He may work twelve hours or he may work some other amount depending on the driver's needs and preferences. He may keep the cab for up to the maximum time but use personal time while in possession of the cab. He may also turn in the cab early. The point is the cab driver operates the cab as an independent entity during the time he/she has the cab. There are few uniform rules (relevant to this case) other than to tell the base if the cab is available for rides. Cab Manager prints out the trip sheet for the cab driver to track various aspects of his shift including hours worked. However, for the time periods included in here the Cab Manager does not record the hours actually worked or the breaks taken.

The payroll hours test

I used the 123 payroll periods described earlier to test if Dr. Clauretie's and Bass's assumptions are realistically valid. Continuing with our testing procedure, after the A Cab personnel completed their tasks they turned the data over to me. My procedures were as follows:

- a. I first calculated the implied minimum wage deficit from the Calculation Report for the sample of employees selected. I used the information from ACAB-ALL to determine which

³⁷ Calculation Report, p 27.

³⁸ Calculation Report, pp 27-29.

- of the samples were subject to the minimum wage adjustment using the Dr. Clauretie's and Bass's criteria³⁹.
- b. I reviewed each trip sheet for each payroll period for each sample selected. I recalculated the break times to conform to Nevada law using the provisions of NRS 608.145 and NAC 608.145⁴⁰. Under these provisions, I recalculated hours paid to include twenty minutes of break time IF the cab driver took breaks. If the cab driver chose not to take any breaks, we did not accrue any additional payments for missed breaks.
 - c. I calculated net time worked from the trip sheets (adjusted for a. above) in minutes for each shift. I added all the time from all the shifts in the payroll period to determine the total number of minutes worked. I divided the number of minutes by 60 to determine the number of hours worked to two decimal places (one-hundredth of an hour). This apparently conformed to the Bass calculations.
 - d. I then used the information developed in the HR/payroll department regarding employee status on health insurance to determine if they should be paid at the higher or lower tier.
 - e. I multiplied the number of hours worked by the appropriate minimum wage tier. This becomes the minimum wage threshold amount.
 - f. The minimum wage threshold amount was compared to the actual payroll paid. If the payroll actually paid was more than our minimum threshold amount, the cab driver was paid more than the minimum wage and no further action is taken. If the payroll paid less than the minimum threshold amount, the difference is recorded as an underpayment.

Analysis of the test results

Exhibits 3 through 6 shows the detailed results for the period. Exhibit 3 shows the results from the earlier spreadsheets (adjusted for ACAB-ALL assumptions) for the period 2010-2012. Exhibit 4 shows the detailed results for the 2013-2015 period that again were developed using the original Bass spreadsheets. Exhibits 5 and 6 shows the results from the additional testing I did when the new spreadsheets came out with the Calculation report. Exhibit 5 covers the 2010 -2012 period. Exhibit 6 covers the 2013 to 2015 period.

Observations:

- a. The first item noted is that in aggregate, wages in total exceed the minimum wage threshold. Therefore, the sample selections that do not exceed the minimum threshold should be isolated and reviewed.
- b. The average shift length (weighted for the number of observations per analysis) is 9.7 hours in the sample. It is 9.8 hours for those not subject to the minimum wage and 9.5

³⁹ The data from the earlier spreadsheets was as a base to random sample the trip sheets. However, since the ACAB-ALL spreadsheet used different criteria for calculating the minimum wage deficits, I used the ACAB-ALL amounts to determine the Calculation Report's estimate of minimum wage deficits for the sample. I also included in the Exhibits both the original and ACAB-ALL line numbers that the random samples were drawn from.

⁴⁰ Under these statutes and regulations, unless exempted, an employee is entitled to two 10 minute rest periods if they work 7 to 11 continuous hours. See the statute and regulations for breaks required working other hours.

hours for those subject to the minimum wage threshold (both using the SLA calculations of minimum wage hours).

Table 4			
Weighted average shift lengths			
	Total	Shift average (not subject to minimum wage)	Shift average (subject to minimum wage)
Exh 3	3.1	3.2	3.0
Exh 4	4.3	4.4	4.2
Exh 5	0.9	0.9	0.9
Exh 6	1.4	1.4	1.3
Weighted Average	9.7	9.8	9.5
Note: Based on analysis by Scott Leslie			

- c. The estimated total payroll hours for the Calculation Report is about 11,574 hours or about 1,411 hours (or 13.9%) more than the hours I calculated using the trip sheets (10,162 hours).
- d. The estimated total payroll hours screened for drivers subject to the minimum wage threshold was about 2,374 hours more for the Calculation Report (or 58% more) than what I calculated this screen of hours to be (Exhibit 7).
- e. The suggested minimum wage adjustment (using the Calculation Report's \$7.25 minimum wage column) was about \$6,376 more (or 266% more) than what I calculated this screen of minimum wages to be (Exhibit 7). What this shows is that when the assumed hours are exaggerated (as they are here because shift length is overstated), the effect on the population of those subject to minimum wage threshold is leveraged higher which not only overstates but truly distorts the minimum wage deficit.

The reason why is this: The amount of wage paid is fixed. As you vary the number of hours worked the average wage rate relative to the fixed amount changes. The more hours you add the lower the average wage rate goes. The reduction of the average wage rate of the population not only adds amounts owed to the original cab drivers subject to the minimum wage threshold but also adds additional drivers that should not be part of the calculation. That is the leverage effect.

As an illustration, see Exhibit 8 which is a further analysis of information in Exhibit 6 and Exhibit 7. When the actual hours worked by cab drivers is used, three of the 17 drivers in the sample are subject to the minimum wage threshold. However, if Dr. Lauretie's hours assumption is used, not only are the three subjects in my sample subject to the

minimum wage threshold, but another three now fall into the minimum wage threshold (because their "average wage" now drops below \$7.25 when their payroll amount is divided by more hours). So not only does the number of cab drivers that meet the minimum wage threshold double, the number of hours subject to the minimum wage increases by 266% and in this example the amount to the minimum wage increases by 626%. All of this because the hours worked is distorted.

- f. Exhibit 8 also illustrates the problem with using the idea of "average hours" and "uniform" work time for this industry. As this exhibit shows and as my general analysis revealed, there is nothing "average" about hours worked because there is so much independence given the drivers. The assumptions stated in the Calculation Report state that they use 11.04 hours for each shift. Our study of actual hours as reported above is 9.7 hours and the hours worked by those subject to the minimum wage threshold is 9.5 hours. That is one and one half hours less per shift (13.6%) than what the Calculation Report assumes.

If averages are used as they are in this report, it would be expected that a 13.6% difference in hours would add in the neighborhood of 13.6% to the minimum wage deficit. Except as this small sample shows it actually increased the minimum wage deficit adjustment by over 600%. As shown in Exhibit 7, similar though not as extreme results are shown for all of the test sample.

We therefore conclude that our final test shows the methodology used to estimate hours worked is not reliable. Therefore the methodology cannot be relied upon to produce a reasonable estimate of the minimum wage deficit for not only the lower tier test in the Calculation Report but any of the tests done in the Calculation Report.

Finally, we conclude that because of the way the A Cab tracked time during the examination period, the only reliable way to determine the minimum wage deficit of the cab drivers of A Cab during the period in question is to analyze the trip sheets. The trip sheets were provided to the Greenburg team and they chose instead to use this methodology to estimate the minimum wage deficit.

Prepare by:



Scott Leslie, CPA/ABV, CVA, CFF
Scott Leslie & Associates, Inc.

EXHIBIT 6

EXHIBIT 6

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DISTRICT COURT
CLARK COUNTY, NEVADA

9 MICHAEL MURRAY, and MICHAEL
10 RENO, Individually and on behalf of
others similarly situated,

Plaintiffs,

vs.

13 A CAB TAXI SERVICE LLC, and A
14 CAB, LLC,

Defendants.

Case No.: A-12-669926-C

Dept.: I

**PLAINTIFFS' TENTH
SUPPLEMENTAL
DISCLOSURES UNDER NEV. R.
CIV. P. 16.1**

Re: Supplemental Expert Witness
Report

17 Plaintiffs, as and for their compliance with the provisions of Nev. R. Civ. P.
18 16.1(a)(2) hereby provide the following supplemental disclosures:

Supplemental Expert Witness Report

20 Plaintiffs had previously designated Charles Bass as an expert witness in the
21 event his summarization of, and calculations made upon, the defendants' records were
22 deemed to constitute materials requiring expert testimony for their consideration by
23 the Court. The supplemental declaration of Charles Bass of September 27, 2017 is
24 provided discussing the "Damages 2007-2010" Excel file he has assembled from
25 defendants' records, the information from defendants' records summarized in that
26 Excel file, and the calculations performed, or that can be performed, on the
27 information summarized in such Excel file. That Excel file is provided by email and
28 sent by mail on a CD. Charles Bass may be called to testify at trial in connection with
the information he has assembled, summarized and organized into that "Damages

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1 2007-2010” file and the calculations performed or that can be performed by that file on
2 such information. Plaintiffs intend to rely upon that file to establish the unpaid
3 minimum wages that can be established by use of that Excel file, such unpaid
4 minimum wage amounts to be determined based upon the facts found at trial (the
5 average working time per shift of the class members) . Charles Bass has no other
6 additional expert report or other expected testimony to offer.

7 The Curriculum Vitae and other relevant information concerning Charles Bass
8 has previously been provided.

9
10 Dated: September 27, 2017

11 Leon Greenberg Professional Corporation

12 By: /s/ Leon Greenberg
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**PLAINTIFFS' TENTH SUPPLEMENTAL DISCLOSURES UNDER
NEV. R. CIV. P. 16.1**

TO:

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Las Vegas, NV 89145

Dana Sniegocki

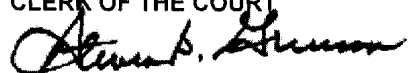
EXHIBIT 7

EXHIBIT 7

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Electronically Filed
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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,

Case No.: A-12-669926-C
Dept. No. I

Plaintiffs,

vs.

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

Defendants.

DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS

Hearing Date: 08/08/17
Hearing Time: 10:00 a.m.

Attorney for Plaintiffs: Leon Greenberg, Esq.
Leon Greenberg Professional Corporation.

Attorney for Defendants: Esther C. Rodriguez, Esq.
Rodriguez Law Offices, P.C.

Michael K. Wall, Esq.
Hutchinson & Steffen, LLC

I.

FINDINGS

1. This matter came before the Discovery Commissioner as a conference regarding the trial judge's referral for a recommendation on the effect of the remedy sought in *Plaintiffs' Motion on Order Shortening time to Extend Damages Class Certification and for Other Relief* on the current trial date of this matter, and to discuss discovery deadline dates and trial. District Court Judge Kenneth Cory referred the matter to the Discovery Commissioner to determine if granting Plaintiffs' motion would affect the February 5, 2018 trial date of this matter.

2. The Discovery Commissioner discussed Plaintiffs' request to extend the class certification to include claims from January 1, 2016 through July of 2017 for damages. The class currently runs through December 31, 2015.

and the extension of the discovery deadlines in order to do so.

3. The Discovery Commissioner discussed the running of the five year rule in this matter. The parties are not in agreement as to when the five years run, as Plaintiffs' Complaint was filed October 8, 2012, but several stays have been implemented throughout the litigation. The trial is currently set for February 5, 2018.

4. The Discovery Commissioner discussed the effect of reopening discovery to accommodate Plaintiffs' request to extend the class certification through July of 2017. The parties represented to the Discovery Commissioner that all discovery has been completed in this matter, with the exception of expert discovery deadlines which were extended by Judge Cory. The Discovery Commissioner indicated that she was not inclined to delay the case any further by reopening discovery for an additional 18 to 19 month time frame, due to the age of this matter, the running of the five-year rule, and how difficult the discovery has been in the case.

5. The Discovery Commissioner discussed protecting the rights of the current class members to receive the compensation they are entitled to, if any; while preserving the current trial date and not putting the parties through any more discovery that could be done after judgment, if necessary.

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II.

RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that pertaining to the District Court's referral of *Plaintiffs' Motion on Order Shortening time to Extend Damages Class Certification and for Other Relief*, which seeks to extend class certification though July 2017, to the Discovery Commissioner for recommendation, the Discovery Commissioner does not recommend reopening discovery for the additional period sought nor extending the class certification, which would delay the current trial date of February 5, 2018 in this matter.

IT IS HEREBY RECOMMENDED if Plaintiffs prevail at trial, the current class members will have the opportunity, either through bifurcation, a separate hearing, or however the District Judge deems most appropriate, to collect their ^{additional subsequent to December 31, 2015, or} damages, if any, from the end of 2015 to the present time. This excludes any individuals who are participating in another case and may seek their remedy there. New Claimants or new potential class members are specifically excluded from this recommendation. *These individuals will be pursuing their claims in a separate lawsuit.*

IT IS HEREBY RECOMMENDED that the trial date of February 5, 2018 remain.

IT IS HEREBY RECOMMENDED that there be no further discovery in this case as it currently stands, except for the expert discovery extended by the District Court Judge, and any post-judgment discovery if Plaintiffs prevail at trial as to the current class members.

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The mechanics of the bifurcation and determination of damages after December 31, 2015, will be deferred to the District Court Judge.

Case Name: Murray v. A Cab, LLC, et al.
Case No.: A-12-669926-C


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 this 20 day of September, 2017.


DISCOVERY COMMISSIONER

Submitted by:

RODRIGUEZ LAW OFFICES, P.C.


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Approved as to form and content:

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refused to sign
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Attorneys for Plaintiffs

Case Name: Murray v. A Cab, LLC, et al.
Case No.: A-12-669926-C

NOTICE

Pursuant to NRCP 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.

The Commissioner's Report is deemed received three (3) days after mailing to a party or his attorney, or three (3) days after the clerk of court deposits a copy of the Report in a folder of a party's lawyer in the Clerk's office. E.D.C.R. 2.34(f).

A copy of the foregoing Discovery Commissioner's Report was:

_____ Mailed to Plaintiff/Defendant at the following
address on the ____ day of _____, 2017:

_____ Placed in the folder of counsel in the Clerk's
office on the ____ day of _____, 2017:

✓ _____ Electronically served counsel on September 20 2017,
Pursuant to N.E.F.C.R. Rule 9.

By 
Commissioner Designee

Case Name: Murray v. A Cab, LLC, et al.
Case No.: A-12-669926-C

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,

 JNF

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
attached hereto.

IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report
and Recommendations is set for _____, 2017, at ____:____ a.m.

Dated this 13 day of Oct, 2017.

Kenneth A. Kirby
DISTRICT COURT JUDGE

Kr

EXHIBIT 8

EXHIBIT 8

REGISTER OF ACTIONS

CASE No. A-12-669926-C

Michael Murray, Plaintiff(s) vs. A Cab Taxi Service LLC,
Defendant(s)

§
§
§
§
§
§

Case Type: Other Civil Filing
Subtype: Other Civil Matters
Date Filed: 10/08/2012
Location: Department 1
Cross-Reference Case Number: A669926

PARTY INFORMATION

Defendant A Cab LLC

Lead Attorneys
Esther C. Rodriguez
Retained
7023208400(W)

Defendant A Cab Taxi Service LLC

Esther C. Rodriguez
Retained
7023208400(W)

Defendant Nady, Creighton J

Esther C. Rodriguez
Retained
7023208400(W)

Plaintiff Murray, Michael

Leon Greenberg
Retained
7023836085(W)

Plaintiff Reno, Michael

Leon Greenberg
Retained
7023836085(W)

EVENTS & ORDERS OF THE COURT

03/28/2016 All Pending Motions (3:00 AM) (Judicial Officer Cory, Kenneth)
DEFENDANT'S MOTION FOR RECONSIDERATION ...DEFENDANTS' MOTION FOR STAY PENDING PROCEEDINGS

Minutes

03/28/2016 3:00 AM

- DEFENDANT'S MOTION FOR RECONSIDERATION ...DEFENDANTS' MOTION FOR STAY PENDING PROCEEDINGS COURT ORDERED, Defendants Motion for Reconsideration is GRANTED IN PART and DENIED IN PART. The Court agrees with Defendants and ORDERS that claims Nos. 3 and 4 were not certified as class claims. The COURT FURTHER ORDERS that language on p. 5: 11-13 regarding qualifying health insurance be removed. Lastly, the COURT ORDERS that language on p. 5:26 stating that defendants do not dispute be removed. COURT FURTHER ORDERS, the balance of the motion is DENIED. Plaintiff to submit a new order with the above changes. This case is now three and a half years old. Defendants have no reason to believe that the pending matters before the Supreme Court will be resolved in the near term. Accordingly, this matter must proceed forward. The fact that this is a class action that little or no discovery has been done is alarming to say the least. There can be no more delays. COURT ORDERS, Defendants' Motion for Stay Pending Proceedings DENIED. Mr. Greenberg to prepare the Order. CLERK'S NOTE: The above minute order has been distributed to: Leon Greenberg, Esq. and Esther Rodriguez, Esq. via e-mail. /mlt CLERK'S NOTE: Minute Order has been corrected to indicate the correct Motion For Reconsideration. /mlt

AA005014

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

September 22, 2016

A-12-669926-C Michael Murray, Plaintiff(s)
vs.
A Cab Taxi Service LLC, Defendant(s)

September 22, 2016

Minute Order

HEARD BY: Cory, Kenneth

COURTROOM: RJC Courtroom 16A

COURT CLERK: Michele Tucker

JOURNAL ENTRIES

Plaintiff has submitted a proposed Order to the Court, to which the Defendants have objected.

A reading of the Defendants' opposition to the present Motion leaves one with the question of whether the Defense appreciates the gravity that inures to a Plaintiffs case when alleging the denial of constitutional rights under Nevada's Constitution. The Second Amended Complaint alleges a wholesale denial of constitutional rights to Defendants' employees. It follows that a careful examination of the serious allegations and the evidence that underlies those allegations must be made by the Court. To the extent that Plaintiffs are unable to prove their allegations in the matter because Defendants are in sole possession of evidence Plaintiffs would utilize, then unless some privilege protects disclosure of the evidence it will not do for Defendants to simply fail to produce the evidence. In the event that Defendants protest that they do not possess such evidence, then it is the proper course for this Court to determine the truth of that position through all means necessary and reasonable.

Nonetheless, in light of Defendants continued objections to providing the evidence called for (the Court notes Defendants have now filed a Motion for a Protective Order from the Discovery Commissioner), and their protest that the burden of proof in this matter should not be shifted to Defendants, the Court will not order the burden shifted at this time. It would behoove the Court to move cautiously in this area. Accordingly, the Court will echo Defendants request in their Motion for a Protective Order that the Discovery Commissioner give what time she can to the monitoring of the discovery process in this area of controversy.

Only after discovery discloses whether the Defendants could provide the already ordered discovery will the Court further consider Plaintiff's request to shift the burden of proof on this issue, and other

PRINT DATE: 09/22/2016

Page 1 of 2

Minutes Date: September 22, 2016

AA005015

measures.

The Order submitted by Plaintiffs should be amended accordingly.

Given the allegations of the Second Amended and Supplemental Complaint, the Order submitted by Plaintiffs as to the certification of the third and fourth claims for relief in the Second Amended Complaint against Defendant Creighton Nady are accurately framed in the Order submitted.

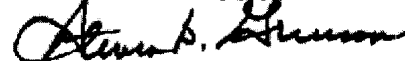
COURT ORDERS, Plaintiff is to resubmit in compliance with this Order.

A copy of this minute order shall be submitted to the Discovery Commissioner.

CLERK'S NOTE: The above minute order has been distributed to: Leon Greenberg, Esq. (leongreenberg@overtimelaw.com); Michael Wall, Esq. (mwall@hutchlegal.com), and Esther Rodriguez, Esq. (esther@rodriguezlaw.com). /mlt

EXHIBIT 9

EXHIBIT 9



ODM

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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,

Defendants.

Case No.: A-12-669926-C
Dept. No. I

ORDER DENYING PLAINTIFFS'

MOTION FOR PARTIAL SUMMARY JUDGMENT

Plaintiffs' Motion for Partial Summary Judgment came on for hearing before this Court on May 18, 2017, at 10:15 a.m., and for follow-up argument following additional briefing on May 25, 2017, at 1:00 p.m. Plaintiffs were represented at both hearings by their attorneys, Leon Greenberg and Dana Sniegocki of Leon Greenberg Professional Corporation. Defendants were represented at both hearings by their attorneys, Esther C. Rodriguez of Rodriguez Law Offices, P.C., and Michael K. Wall of Hutchison & Steffen, LLC.

Having considered the pleadings and motion papers on file herein, and the arguments of counsel at the hearings, the Court denies plaintiffs' motion for partial summary judgment for the following reasons:

1. Plaintiffs motion seeks partial summary judgment regarding the amount of some of the damages that plaintiffs claim defendants have admitted is due to them based on the Minimum Wage Act ("MWA") for past, unpaid minimum wages for the time period January 1, 2013, through December 31, 2015. Plaintiffs' argument is based on records obtained from defendants during discovery, and the deposition testimony of defendant Creighton J. Nady. Plaintiffs' witness, Charles Bass, has analyzed these numbers, and has provided what plaintiffs characterize as a summary that satisfies NRS 52.275. Defendants dispute that Bass' declaration qualifies as a summary under the statute. Plaintiffs have neither disclosed Mr. Bass as an expert witness nor provided a report from him.

2. Plaintiffs claim that no expert witness is necessary to grant their motion for partial summary judgment because the records review and calculations of Mr. Bass are simple arithmetic, and his conclusion are just a compilation of the data available from the records and a "summary" contemplated by NRS 52.275. Defendants counter that expert testimony is required to determine the amount of damages, that no amount of damages has been conceded, that plaintiffs have presented numerous and conflicting damages figures based on Mr. Bass' "arithmetic," that Mr. Bass' methodologies are flawed and his calculations are incorrect, and that the amount of damages is a factual issue that cannot be resolved on summary judgment based on the records now before this Court.

3. At the first hearing, the Court concluded that Mr. Bass had not been disclosed as an expert witness, and that it was not clear to the Court whether Mr. Bass' conclusions were expert in nature, or merely mathematical calculations, as argued by plaintiffs. The Court requested and received supplemental briefing and materials related to this issue.

4. Having reviewed the materials presented, including the sample figures provided by plaintiffs' counsel allegedly showing how the damages could be calculated as a matter of mathematics, the Court concludes that it cannot grant the motion for partial summary judgment. The Court notes that from the presentation made by plaintiffs in the last letter from plaintiffs' counsel and the attachments, the Court could not arrive at a simple calculation and could not understand how Mr. Bass' damages numbers were accomplished. It appeared to the Court that it would require the services of an expert to help the Court or the trier of fact to understand the calculations.

5. The Court concludes that there are genuine issues of fact remaining for trial to a trier of fact, among other things, to determine what the correct calculation would be under any of the scenarios that have been put forward by the plaintiffs. Specifically, plaintiffs have presented numbers in their claimed "summary" of defendants' records which plaintiffs claim can be arrived at by simple mathematics. There is dispute from defendants about whether plaintiffs can even use those numbers and arrive at correct calculations, but plaintiffs have argued that defendants should not be heard to complain if plaintiffs use defendants' numbers from their own documents. But even were the Court to accept that argument, when the Court goes to the calculation, the Court cannot get from the raw numbers provided by Mr. Bass and by counsel to a final calculation.

6. The Court concludes that getting to a final calculation takes more in the form of an evidentiary nature, more of an evidentiary presentation than simply taking numbers off of this column and that column and performing simple arithmetic.

7. At the hearing, the Court noted that the time for designation of experts and their reports on both sides had passed, but that there was time to reopen expert discovery and to still maintain the presently scheduled February trial date. Therefore, on the Court's own motion, the Court reopened discovery for the purposes solely of having both sides have an opportunity to designate experts and file reports, and to designate rebuttal experts if deemed necessary.

THEREFORE, plaintiffs' motion for partial summary judgment is denied without prejudice. Expert discovery is reopened as indicated above, and the following deadlines are established:

- (a) Initial Expert Designations are due on or before June 30, 2017.
(b) Rebuttal Expert Designations are due on or before July 31, 2017.
(c) Discovery will close on September 29, 2017.
(d) Dispositive Motions are due on or before October 30, 2017.

All other trial deadlines remain as previously set.

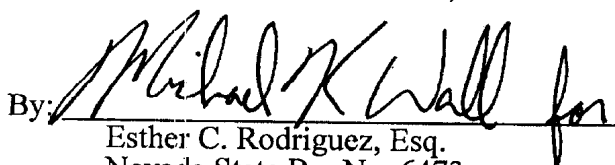
IT IS SO ORDERED.

DATED this 30 day of June, 2017.


DISTRICT COURT JUDGE

Submitted by:

RODRIGUEZ LAW OFFICES, P. C.

By:  for

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Las Vegas, Nevada 89145
Attorneys for Defendants

Approved as to form and content:

LEON GREENBERG PROFESSIONAL CORPORATION


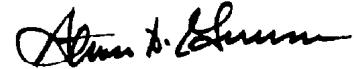

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EXHIBIT 10

EXHIBIT 10


CLERK OF THE COURT

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11 (702) 669-4600
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13 *Attorneys for Defendant Henderson Taxi*

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

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

18 Plaintiff,

19 v.

20 **HENDERSON TAXI**,

21 Defendant.

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

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

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

24 DATED this 11th day of July 2016

25 **HOLLAND & HART LLP**

26 By /s/ R. Calder Huntington

27 Anthony L. Hall, Esq.
28 Nevada Bar No. 5977

R. Calder Huntington, Esq.
Nevada Bar No. 11996

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Las Vegas, Nevada 89134

Attorneys for Defendant Henderson Taxi

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CERTIFICATE OF SERVICE

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

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

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Dana Sniegocki, Esq.
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2965 South Jones Blvd., Suite E3
Las Vegas, Nevada 89146

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

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

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

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

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

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