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 Electronically Filed Aug 05 2020 04:53 p.m. Elizabeth A. Brown Clerk of Supreme Court

---

APPENDIX TO
APPELLANTS OPENING BRIEF
VOLUME XXVII of LII

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

HUTCHISON & STEFFEN, PLLC

Michael K. Wall (2098)
Peccole Professional Park
10080 Alta Drive, Suite 200
Las Vegas, Nevada 89145
Attorney for Appellants

Chronological Index

Doc No.	Description	Vol.	Bates Nos.
1	Complaint, filed 10/08/2012	I	AA000001-AA000008
2	Defendant's Motion to Dismiss Complaint, filed 11/15/2012	I	AA000009-AA000015
3	Response in Opposition to Defendants' Motion to Dismiss, filed 12/06/2012	I	AA000016-AA000059
4	Defendant's Reply in Support of Motion to Dismiss Complaint, filed 01/10/2013	I	AA000060-AA000074
5	First Amended Complaint, filed 01/30/2013	I	AA000075-AA000081
6	Decision and Order, filed 02/11/2013	I	AA000082-AA000087
7	Defendant's Motion for Reconsideration, filed 02/27/2013	I	AA000088-AA000180
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
9	Defendant's Motion to Strike Amended Complaint, filed 03/25/2013	I	AA000188-AA000192
10	Defendant's Reply in Support of Motion for Reconsideration, filed 03/28/2013	I	AA000193-AA000201
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

12	Defendant A Cab, LLC's Answer to Complaint, filed 04/22/2013	II	AA000232-AA000236
13	Defendant's Reply in Support of Motion to Strike Amended Complaint, filed 04/22/2013	II	AA000237-AA000248
14	Minute Order from April 29, 2013 Hearing	II	AA000249
15	Order, filed 05/02/2013	II	AA000250-AA000251
16	Defendant A Cab, LLC's Answer to First Amended Complaint, filed 05/23/2013	II	AA000252-AA000256
17	Motion to Certify this Case as a Class Action Pursuant to NRCP Rule 23 and Appoint a Special Master Pursuant to NRCP Rule 53, filed 05/19/2015	II	AA000257-AA000398
18	Defendant's Opposition to Motion to Certify Case as Class Action Pursuant to NRCP 23 and Appoint a Special Master Pursuant to NRCP 53, filed 06/08/2015	III	AA000399-AA000446
19	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Certify this Case as a Class Action Pursuant to NRCP Rule 23 and Appoint a Special Master Pursuant to NRCP Rile 53, filed 07/13/2018	III	AA000447-AA000469
20	Defendant's Motion for Declaratory Order Regarding Statue of Limitations, filed 08/10/2015	III	AA000470-AA000570
21	Defendant's Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 08/10/2015	III	AA000571-AA000581
22	Second Amended Supplemental Complaint, filed 08/19/2015	III	AA000582-AA000599
23	Plaintiffs' Response in Opposition to Defendants' Motion for Declaratory Order Regarding Statue of Limitations, filed	IV	AA000600-AA000650

	08/28/2015		
24	Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 08/28/2015	IV	AA000651-AA000668
25	Defendants Reply In Support of Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 09/08/2015	IV	AA000669-AA000686
26	Defendant's Reply In Support of Motion for Declaratory Order Regarding Statue of Limitations, filed 09/08/2015	IV	AA000687-AA000691
27	Defendant's Motion to Dismiss Plaintiffs' First Claim for Relief, filed 09/11/2015	IV	AA000692-AA000708
28	Defendant A Cab, LLC's Answer to Second Amended Complaint, filed 09/14/2015	IV	AA000709-AA000715
29	Defendant's Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 09/21/2015	IV	AA000716-AA000759
30	Defendant's Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Reno, filed 09/21/2015	IV, V	AA000760-AA000806
31	Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' First Claim for Relief, filed 09/28/2015	V	AA000807-AA000862
32	Defendant Creighton J. Nady's Answer to Second Amended Complaint, filed 10/06/2015	V	AA000863-AA000869
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	V	AA000881-AA000911

	Judgment Against Plaintiff Michael Reno, filed 10/08/2015		
35	Defendant's Reply in Support of Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 10/27/2015	V	AA000912-AA000919
36	Defendant's Reply in Support of Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Reno, filed 10/27/2015	V	AA000920-AA000930
37	Defendant's Reply in Support of Motion to Dismiss Plaintiffs' First Claim for Relief, filed 10/28/2015	V	AA000931-AA001001
38	Transcript of Proceedings, November 3, 2015	VI	AA001002-AA001170
39	Minute Order from November 9, 2015 Hearing	VI	AA001171
40	Order Granting in Part and Denying in Part Defendant's Motion for Declaratory Order Regarding Statue of Limitations, filed 12/21/2015	VI	AA001172-AA001174
41	Order Granting Plaintiffs' Motion to Certify Class Action Pursuant to NRCP Rule 23(b)(2) and NRCP Rule 23(b)(3) and Denying Without Prejudice Plaintiffs' Motion to Appoint a Special Master Under NRCP Rule 53, filed 02/10/2016	VI	AA001175-AA001190
42	Order Denying Defendant's Motion to Dismiss and For Summary Judgment Against Michael Murray, filed 02/18/2016	VI	AA001191-AA001192
43	Order Denying Defendant's Motion to Dismiss and for Summary Judgment Against Michael Reno, filed 02/18/2016	VI	AA001193-AA001194
44	Defendants' Motion for Reconsideration, filed 02/25/2016	VII	AA001195-AA001231

45	Plaintiffs' Response in Opposition to Defendants' Motion Seeking Reconsideration of the Court's Order Granting Class Certification, filed 03/14/2016	VII	AA001232-AA001236
46	Reply in Support of Defendants' Motion for Reconsideration, filed 03/24/2016	VII, VIII	AA001237-AA001416
47	Minute Order from March 28, 2016 Hearing	VIII	AA001417
48	Order Denying Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating This Court's Order of February 10, 2016 and Compelling Compliance with that Order on an Order Shortening Time, filed 04/06/2016	VIII	AA001418-AA001419
49	Order Granting Plaintiffs' Motion to Certify Class Action Pursuant to NRCP Rule 23(b)(2) and NRCP Rule 23(b)(3) and Denying Without Prejudice Plaintiffs' Motion to Appoint a Special Master Under NRCP Rule 52 as Amended by this Court in Response to Defendants' Motion for Reconsideration heard in Chambers on March 28, 2016, filed 06/07/2016	VIII	AA001420-AA001435
50	Motion to Enjoin Defendants from Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of this Lawsuit and for Other Relief, filed 10/14/2016	VIII	AA001436-AA001522
51	Defendants' Opposition to Plaintiffs' Motion to Enjoin Defendants from Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief, filed 11/04/2016	VIII	AA001523-AA001544
52	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Enjoin Defendants	VIII	AA001545-AA001586

	From Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief, filed 11/10/2016		
53	Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) with Respect to All Claims for Damages Outside the Two-Year Statue of Limitations, filed 11/17/2016	VIII	AA001587-AA001591
54	Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 11/29/2016	IX	AA001592-AA001621
55	Opposition to Defendants' Motion for Judgment on the Pleadings, Counter Motion for Toll of Statue of Limitations and for an Evidentiary Hearing, filed 12/08/2016	IX	AA001622-AA001661
56	Opposition to Defendants' Motion for Leave to Amend Answer to Assert Third-Party Complaint and Counter-Motion for Sanctions and Attorney's Fees, filed 12/16/2016	IX, X, XI	AA001662-AA002176
57	Notice of Withdrawal of Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 12/16/2016	XI	AA002177-AA002178
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
59	Motion for Partial Summary Judgment, filed 01/11/2017	XII, XIII, XIV, XV	AA002190-AA002927

60	Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief, filed 01/12/2017	XV, XVI	AA002928-AA003029
61	Errata to Plaintiffs' Motion for Partial Summary Judgment, filed 01/13/2017	XVI	AA003030-AA003037
62	Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 01/27/2017	XVI	AA003038-AA003066
63	Defendants' Opposition to Plaintiffs' Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief, filed 01/30/2017	XVI	AA003067-AA003118
64	Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 02/02/2017	XVI	AA003119-AA003193
65	Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/2016 to Enjoin Defendants from Seeking Settlement of Any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief and for Sanctions, filed 02/03/2017	XVII, XVIII	AA003194-AA003548
66	Transcript of Proceedings, February 8, 2017	XVIII	AA003549-AA003567
67	Defendants' Opposition to Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/16 to Enjoin Defendants from Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief and for Sanctions, filed 02/10/2017	XVIII, XIX	AA003568-AA003620

68	Plaintiffs' Reply to Defendants's Opposition to Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/2016 to Enjoin Defendants From Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of This Lawsuit and For Other Relief and for Sanctions, filed 02/10/2017	XIX	AA003621-AA003624
69	Opposition to Defendants' Motion for Leave to Amend Answer to Assert Third-Party Complaint and Counter-Motion for Sanctions and Attorneys' Fees, filed 02/13/2017	XIX	AA003625-AA003754
70	Transcript of Proceedings, February 14, 2017	XIX	AA003755-AA003774
71	Order Granting Certain Relief on Motion to Enjoin Defendants From Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of this Lawsuit and for Other Relief, filed 02/16/2017	XIX	AA003775-AA003776
72	Supplement to Order For Injunction Filed on February 16, 2017, filed 02/17/2017	XIX	AA003777-AA003780
73	Order Granting in Part and Denying in Part Plaintiffs' Motion to Have Case Reassigned to Dept I per EDCR Rule 1.60 and Designation as Complex Litigation per NRCP Rule 16.1(f), filed on 02/21/2017	XIX	AA003781-AA003782
74	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 02/22/2017	XIX, XX	AA003783-AA003846
75	Plaintiffs' Supplement to Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 02/23/2017	XX	AA003847-AA003888

76	Declaration of Charles Bass, filed 02/27/2017	XX	AA003889-AA003892
77	Transcript of Proceedings, May 18, 2017	XX, XXI	AA003893-AA004023
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
80	Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/02/2017	XXI	AA004143-AA004188
81	Decision and Order, filed 06/07/2017	XXI	AA004189-AA004204
82	Defendants' Opposition to Plaintiffs' Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/09/2017	XXII	AA004205-AA004222
83	Transcript of Proceedings, June 13, 2017	XXII	AA004223-AA004244
84	Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of March 9, 2017 and Compelling Compliance with that Order, filed 07/12/2017	XXII	AA004245-AA004298
85	Order Denying Plaintiffs' Motion for Partial Summary Judgment, filed 07/14/2017	XXII	AA004299-AA004302
86	Order, filed 07/17/2017	XXII	AA004303-AA004304

87	Order, filed 07/17/2017	XXII	AA004305-AA004306
88	Order, filed 07/17/2017	XXII	AA004307-AA004308
89	Defendants' Opposition to Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of March 9, 2017 and Compelling Compliance with that Order, filed 07/31/2017	XXII	AA004309-AA004336
90	Order Denying Plaintiff's Counter-Motion for Sanctions and Attorneys' Fees and Order Denying Plaintiffs' Anti-SLAPP Motion, filed 07/31/2017	XXII	AA004337-AA004338
91	Declaration of Plaintiffs' Counsel Leon Greenberg, Esq., filed 11/02/2017	XXII, XXIII, XXIV, XXV	AA004339-AA004888
92	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, filed 11/02/2017	XXV	AA004889-AA004910
93	Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 11/03/2017	XXV	AA004911-AA004932
94	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, filed 11/20/2017	XXV, XXVI	AA004933-AA005030
95	Defendants' Motion for Summary Judgment, filed 11/27/2017	XXVI	AA005031-AA005122
96	Defendants' Opposition to Plaintiffs' Motion for Bifurcation and/or to Limit Issues for	XXVI	AA005123-AA005165

	Trial Per NRCP 42(b), filed 11/27/2017		
97	Plaintiffs' Reply to Defendant's Opposition to Plaintiffs' Motions for Partial Summary Judgment and to Place Evidentiary Burden on Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid, filed 11/29/2017	XXVI, XXVII	AA005166-AA005276
98	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 12/01/2017	XXVII	AA005277-AA005369
99	Minute Order from December 7, 2017 Hearing	XXVII	AA005370-AA005371
100	Response in Opposition to Defendant's Motion for Summary Judgment, filed 12/14/2017	XXVII, XXVIII	AA005372-AA005450
101	Transcript of Proceedings, December 14, 2017	XXVIII	AA005451-AA005509
102	Defendants' Motion in Limine to Exclude Testimony of Plaintiffs' Experts, filed 12/22/2017	XXVIII	AA005510-AA005564
103	Plaintiffs' Omnibus Motion in Limine # 1-25, filed 12/22/2017	XXVIII, XXIV	AA005565-AA005710
104	Defendants' Reply in Support of Motion for Summary Judgment, filed 12/27/2017	XXIV	AA005711-AA005719
105	Transcript of Proceedings, January 2, 2018	XXIV	AA005720-AA005782
106	Defendants' Supplement as Ordered by the Court on January 2, 2018, filed 01/09/2018	XXIV	AA005783-AA005832
107	Plaintiffs' Supplement in Support of Motion for Partial Summary Judgment, filed 01/09/2018	XXX	AA005833-AA005966

108	Defendants' Opposition to Plaintiffs' Omnibus Motion in Limine #1-25, filed 01/12/2018	XXX	AA005967-AA006001
109	Plaintiffs' Response to Defendants' Motion in Limine to Exclude Expert Testimony, filed 01/12/2018	XXX, XXXI	AA006002-AA006117
110	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion in Limine #1-#25, filed 01/17/2018	XXXI	AA006118-AA006179
111	Reply in Support of Defendants' Motion in Limine to Exclude the Testimony of Plaintiffs' Experts, filed 01/19/2018	XXXI	AA006180-AA001695
112	Order, filed 01/22/2018	XXXI	AA006196-AA006199
113	Minute Order from January 25, 2018 Hearing	XXXI	AA006200-AA006202
114	Transcript of Proceedings, January 25, 2018	XXXI	AA006203-AA006238
115	Plaintiffs' Supplement in Connection with Appointment of Special Master, filed 01/31/2018	XXXII	AA006239-AA006331
116	Order Denying Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 02/02/2018	XXXII	AA006332-AA006334
117	Transcript of Proceedings, February 2, 2018	XXXII	AA006335-AA006355
118	Defendants' Supplement Pertaining to an Order to Appoint Special Master, filed 02/05/2018	XXXII	AA006356-AA006385
119	Order Granting Plaintiffs' Motion to Appoint a Special Master, filed 02/07/2018	XXXII	AA006386-AA006391
120	Defendants' Supplement to Its Proposed	XXXII	AA006392-

	Candidates for Special Master, filed 02/07/2018		AA006424
121	Order Modifying Court's Previous Order of February 7, 2019 Appointing a Special Master, filed 02/13/2018	XXXII	AA006425-AA006426
122	Transcript of Proceedings, February 15, 2018	XXXII, XXXIII	AA006427-AA006457
123	NC Supreme Court Judgment, filed 05/07/2018	XXXIII	AA006458-AA006463
124	Pages intentionally omitted	XXXIII	AA006464-AA006680
125	Plaintiffs' Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove Up Hearing, and Coordinate Cases, filed 04/17/2018	XXXIII, XXXIV	AA006681-AA006897
126	Plaintiff Jasminka Dubric's Opposition to Michael Murray and Michael Reno's Motion for Miscellaneous Relief, filed 04/23/2018	XXXIV	AA006898-AA006914
127	Declaration of Class Counsel, Leon Greenberg, Esq., filed 04/26/2018	XXXIV	AA006915-AA006930
128	Plaintiffs' Reply to Jasminka Dubric's Opposition to Plaintiffs' Motion for Miscellaneous Relief, filed 04/26/2018	XXXIV	AA006931-AA006980
129	Supplemental Declaration of Class Counsel, Leon Greenberg, Esq., filed 05/16/2018	XXXIV	AA006981-AA007014
130	Second Supplemental Declaration of Class Counsel, Leon Greenberg, Esq., filed 05/18/2018	XXXIV	AA007015-AA007064
131	Defendants' Opposition to Plaintiffs' Declarations; Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their	XXXV	AA007065-AA007092

	Answer, Grant Partial Summary Judgment, Direct a Prove up Hearing, and Coordinate Cases, filed 05/20/2018		
132	Plaintiffs' Reply to A Cab and Nady's Opposition to Plaintiff's Motion for Miscellaneous Relief, filed 05/21/2018	XXXV	AA007093-AA007231
133	Declaration of Class Counsel, Leon Greenberg, Esq., filed 05/30/2018	XXXV	AA007232-AA007249
134	Defendants' Response to Plaintiffs' Additional Declaration, filed 05/31/2018	XXXVI	AA007250-AA007354
135	Memorandum re: Legal Authorities on the Court's Power to Grant a Default Judgment as a Contempt or Sanctions Response to Defendants' Failure to Pay the Special Master, filed 06/04/2018	XXXVI	AA007355-AA007359
136	Defendants' Supplemental List of Citations Per Court Order, filed 06/04/2018	XXXVI	AA007360-AA007384
137	Transcript of Proceedings, filed 07/12/2018	XXXVI, XXXVII	AA007385-AA007456
138	Declaration of Class Counsel, Leon Greenberg, Esq., filed 06/20/2018	XXXVII, XXXVIII, XXXIX, XL	AA007457-AA008228
139	Plaintiffs Supplement in Support of Entry of Final Judgment Per Hearing Held June 5, 2018, filed 06/22/2018	XL, XLI	AA008229-AA008293
140	Defendants' Objection to Billing By Stricken Special Master Michael Rosten, filed 06/27/2018	XLI	AA008294-AA008333
141	Opposition to Additional Relief Requested in Plaintiffs' Supplement, filed 07/10/2018	XLI	AA008334-AA008348

142	Defendants' Supplemental Authority in Response to Declaration of June 20, 2018, filed 07/10/2018	XLI	AA008349-AA008402
143	Michael Rosten's Response to Defendants' Objection to Billing by Stricken Special Master Michael Rosten, filed 07/13/2018	XLI	AA008403-AA008415
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
145	Defendants' Supplemental Authority in Response to Plaintiffs' Additional Supplement Filed July 13, 2018, filed 07/18/2018	XLII	AA008506-AA008575
146	Plaintiffs' Supplement in Reply to Defendants' Supplement Dated July 18, 2018, filed 08/03/2018	XLII	AA008576-AA008675
147	Notice of Entry of Order Granting Judgment, filed 08/22/2018	XLIII	AA008676-AA008741
148	Motion to Amend Judgment, filed 08/22/2018	XLIII	AA008742-AA008750
149	Defendants' Motion for Reconsideration, Amendment, for New Trial, and for Dismissal of Claims, filed 09/10/2018	XLIII	AA008751-AA008809
150	Opposition to Plaintiffs' Motion to Amend Judgment, filed 09/10/2018	XLIII	AA008810-AA008834
151	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Amend Judgment, filed 09/20/2018	XLIII, XLIV	AA008835-AA008891
152	Defendant's Ex-Parte Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening Time, filed 09/21/2018	XLIV	AA008892-AA008916

153	Notice of Appeal, filed 09/21/2018	XLIV	AA008917-AA008918
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
155	Plaintiffs' Response in Opposition to Defendants' Motion for Reconsideration, Amendment, for New Trial and for Dismissal of Claims, filed 09/27/2018	XLIV	AA008995-AA009008
156	Plaintiffs' Supplemental Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OSt, filed 09/27/2018	XLIV	AA009009-AA009029
157	Defendant's Exhibits in support of Ex-Parte Motion to Quash Writ of Execution and, In the Alternative, Motion for Partial Stay of Execution on Order Shortening Time, filed 10/01/2018	XLIV, XLV	AA009030-AA009090
158	Claim of Exemption from Execution - A Cab Series, LLC, Administration Company, filed 10/04/2018	XLV	AA009091-AA009096
159	Claim of Exemption from Execution - A Cab Series, LLC, CCards Company, filed 10/04/2018	XLV	AA009097-AA009102
160	Claim from Exemption from Execution - A Cab Series, LLC, Employee Leasing Company Two, filed 10/04/2018	XLV	AA009103-AA009108
161	Claim of Exemption from Execution - A Cab Series, LLC, Maintenance Company, filed 10/04/2018	XLV	AA009109-AA009114
162	Claim from Exemption from Execution - A Cab Series, LLC, Medallion Company, filed 10/04/2018	XLV	AA009115-AA009120

163	Claim from Exemption from Execution - A Cab Series, LLC, Taxi Leasing Company, filed 10/04/2018	XLV	AA009121-AA009126
164	Claim of Exemption from Execution - A Cab, LLC, filed 10/04/2018	XLV	AA009127-AA009132
165	Plaintiffs' Motion for an Order Granting a Judgment Debtor Examination and for Other Relief, filed 10/05/2018	XLV	AA009133-AA009142
166	Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 10/12/2018	XLV	AA009143-AA009167
167	Plaintiffs' Objections to Claims from Exemption from Execution and Notice of Hearing, filed 10/15/2018	XLV	AA009168-AA009256
168	Opposition to Plaintiffs' Counter-Motion for Appropriate Judgment Relief, filed 10/15/2018	XLV	AA009257-AA009263
169	Plaintiffs' Reply to Defendants' Response to Plaintiffs' Counter-Motion for Appropriate Judgment Enforcement Relief, filed 10/16/2018	XLV	AA009264-AA009271
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
171	Defendants' Motion for Dismissal of Claims on Order Shortening Time, filed 10/17/2018	XLV	AA009278-AA009288
172	Plaintiffs' Response in Opposition to Defendants' Motion for Dismissal of Claims on an Order Shortening Time, filed 10/17/2018	XLVI	AA009289-AA009297
173	Notice of Entry of Order, filed 10/22/2018	XLVI	AA009298-AA009301

174	Order, filed 10/22/2018	XLVI	AA009302-AA009303
175	Transcript of Proceedings, October 22, 2018	XLVI	AA009304-AA009400
176	Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 10/29/2018	XLVI	AA009401-AA009413
177	Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution, filed 11/01/2018	XLVI, XLVII	AA009414-AA009552
178	Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/05/2018	XLVII	AA009553-AA009578
179	Affidavit in Support of Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/05/2018	XLVII	AA009579-AA009604
180	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 11/08/2018	XLVII	AA009605-AA009613
181	Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution, filed 11/16/2018	XLVII	AA009614-AA009626
182	Plaintiffs' Ex Parte Motion for Temporary Restraining Order and Motion on an Order Requiring the Turnover of Certain Property of the Judgment Debtor Pursuant to NRS 21.320, filed 11/26/2018	XLVII	AA009627-AA009646

183	Opposition to Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/26/2018	XLVII	AA009647-AA009664
184	Plaintiffs' Response to Special Master's Motion for an Order for Payment of Fees and Contempt, filed 11/26/2018	XLVII	AA009665-AA009667
185	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 11/28/2018	XLVII	AA009668-AA009674
186	Defendant's Opposition to Plaintiffs' Ex-Parte Motion for a Temporary Restraining Order and Motion on an Order [sic] Requiring the Turnover of Certain Property of the Judgment Debtor Pursuant to NRS 21.320, filed 11/30/2018	XLVII	AA009675-AA009689
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
188	Minute Order from December 4, 2018 Hearing	XLVIII	AA009697-AA009700
189	Transcript of Proceedings, December 4, 2018	XLVIII	AA009701-AA009782
190	Transcript of Proceedings, December 11, 2018	XLVIII	AA009783-AA009800
191	Defendant's Opposition to Plaintiffs' Motion for Other Relief, Including Receiver, filed 12/12/2018	XLVIII	AA009801-AA009812
192	Transcript of Proceedings, December 13, 2018	XLVIII	AA009813-AA009864

193	Notice of Entry of Order Denying Motion to Quash, filed 12/18/2018	XLVIII	AA009865-AA009887
194	Notice of Entry of Order Granting Objections to Claims from Exemption of Execution, filed 12/18/2018	XLVIII	AA009888-AA009891
195	Plaintiffs' Objections to Claims of Exemption from Execution and Notice of Hearing, filed 12/19/2018	XLIX	AA009892-AA009915
196	Order on Motion for Dismissal of Claims on Order Shortening Time, filed 12/20/2018	XLIX	AA009916-AA009918
197	Notice of Entry of Order Granting Motion for Judgment Enforcement, filed 01/02/2019	XLIX	AA009919-AA009926
198	Order Denying Defendants' Counter-Motion to Stay Proceedings and Collection Actions, filed 01/08/2019	XLIX	AA009927-AA009928
199	Amended Notice of Appeal, filed 01/15/2019	XLIX	AA009929-AA009931
200	Motion to Amend the Court's Order Entered on December 18, 2018, filed 01/15/2019	XLIX	AA009932-AA009996
201	Motion to Distribute Funds Held by Class Counsel, filed 01/5/2019	XLIX, L	AA009997-AA010103
202	Defendants' Motion to Pay Special Master on Order Shortening Time, filed 01/17/2019	L	AA010104-AA010114
203	Plaintiffs' Response in Opposition to Defendants' Motion to Pay Special Master on an Order Shortening Time and Counter-Motion for an Order to Turn Over Property, filed 01/30/2019	L	AA010115-AA010200
204	Judgment and Order Granting Resolution Economics' Application for Order of Payment of Special Master's Fees and Order of Contempt, filed on 02/04/2019	L	AA010201-AA010207

205	Minute Order from February 5, 2019 Hearing	L	AA01208-AA01209
206	Notice of Entry of Order Granting Resolution Economics' Application for Order of Payment and Contempt, filed 02/05/2019	L	AA010210-AA010219
207	Notice of Entry of Order Granting Plaintiffs' Motion for Attorney's Fees and Costs, filed 02/07/2019	L	AA010220-AA010230
208	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 02/25/2019	L	AA010231-AA010274
209	Order, filed 03/04/2019	L	AA010275-AA010278
210	Order Denying in Part and Continuing in Part Plaintiffs' Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove Up Hearing, and Coordinate Cases, filed 03/05/2019	L	AA010279-AA010280
211	Order on Defendants' Motion for Reconsideration, filed 03/05/2019	L	AA010281-AA010284
212	Second Amended Notice of Appeal, filed 03/06/2019	L	AA010285-AA010288
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
214	Notice of Entry of Order Denying Defendants' Motion for Reconsideration of	LI	AA010379-AA010384

	Judgment and Order Granting Resolution Economics Application for Order of Payment of Special Master's Fees and Order of Contempt, filed 08/09/2019		
215	Transcript of Proceedings, September 26, 2018	LI	AA010385-AA010452
216	Transcript of Proceedings, September 28, 2018	LI, LII	AA010453-AA010519
217	Minute Order from May 23, 2018 Hearing	LII	AA10520
218	Minute Order from June 1, 2018 Hearing	LII	AA10521

Alphabetical Index

Doc No.	Description	Vol.	Bates Nos.
179	Affidavit in Support of Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/05/2018	XLVII	AA009579-AA009604
199	Amended Notice of Appeal, filed 01/15/2019	XLIX	AA009929-AA009931
160	Claim from Exemption from Execution - A Cab Series, LLC, Employee Leasing Company Two, filed 10/04/2018	XLV	AA009103-AA009108
162	Claim from Exemption from Execution - A Cab Series, LLC, Medallion Company, filed 10/04/2018	XLV	AA009115-AA009120
163	Claim from Exemption from Execution - A Cab Series, LLC, Taxi Leasing Company, filed 10/04/2018	XLV	AA009121-AA009126
164	Claim of Exemption from Execution - A Cab, LLC, filed 10/04/2018	XLV	AA009127-AA009132

158	Claim of Exemption from Execution - A Cab Series, LLC, Administration Company, filed 10/04/2018	XLV	AA009091-AA009096
159	Claim of Exemption from Execution - A Cab Series, LLC, CCards Company, filed 10/04/2018	XLV	AA009097-AA009102
161	Claim of Exemption from Execution - A Cab Series, LLC, Maintenance Company, filed 10/04/2018	XLV	AA009109-AA009114
1	Complaint, filed 10/08/2012	I	AA000001-AA000008
6	Decision and Order, filed 02/11/2013	I	AA000082-AA000087
81	Decision and Order, filed 06/07/2017	XXI	AA004189-AA004204
76	Declaration of Charles Bass, filed 02/27/2017	XX	AA003889-AA003892
127	Declaration of Class Counsel, Leon Greenberg, Esq., filed 04/26/2018	XXXIV	AA006915-AA006930
133	Declaration of Class Counsel, Leon Greenberg, Esq., filed 05/30/2018	XXXV	AA007232-AA007249
138	Declaration of Class Counsel, Leon Greenberg, Esq., filed 06/20/2018	XXXVII, XXXVIII, XXXIX, XL	AA007457-AA008228
91	Declaration of Plaintiffs' Counsel Leon Greenberg, Esq., filed 11/02/2017	XXII, XXIII, XXIV, XXV	AA004339-AA004888
12	Defendant A Cab, LLC's Answer to	II	AA000232-

	Complaint, filed 04/22/2013		AA000236
16	Defendant A Cab, LLC's Answer to First Amended Complaint, filed 05/23/2013	II	AA000252-AA000256
28	Defendant A Cab, LLC's Answer to Second Amended Complaint, filed 09/14/2015	IV	AA000709-AA000715
32	Defendant Creighton J. Nady's Answer to Second Amended Complaint, filed 10/06/2015	V	AA000863-AA000869
152	Defendant's Ex-Parte Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening Time, filed 09/21/2018	XLIV	AA008892-AA008916
157	Defendant's Exhibits in support of Ex-Parte Motion to Quash Writ of Execution and, In the Alternative, Motion for Partial Stay of Execution on Order Shortening Time, filed 10/01/2018	XLIV, XLV	AA009030-AA009090
20	Defendant's Motion for Declaratory Order Regarding Statue of Limitations, filed 08/10/2015	III	AA000470-AA000570
7	Defendant's Motion for Reconsideration, filed 02/27/2013	I	AA000088-AA000180
29	Defendant's Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 09/21/2015	IV	AA000716-AA000759
30	Defendant's Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Reno, filed 09/21/2015	IV, V	AA000760-AA000806
2	Defendant's Motion to Dismiss Complaint, filed 11/15/2012	I	AA000009-AA000015
21	Defendant's Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 08/10/2015	III	AA000571-AA000581

27	Defendant's Motion to Dismiss Plaintiffs' First Claim for Relief, filed 09/11/2015	IV	AA000692-AA000708
9	Defendant's Motion to Strike Amended Complaint, filed 03/25/2013	I	AA000188-AA000192
18	Defendant's Opposition to Motion to Certify Case as Class Action Pursuant to NRCP 23 and Appoint a Special Master Pursuant to NRCP 53, filed 06/08/2015	III	AA000399-AA000446
186	Defendant's Opposition to Plaintiffs' Ex-Parte Motion for a Temporary Restraining Order and Motion on an Order [sic] Requiring the Turnover of Certain Property of the Judgment Debtor Pursuant to NRS 21.320, filed 11/30/2018	XLVII	AA009675-AA009689
191	Defendant's Opposition to Plaintiffs' Motion for Other Relief, Including Receiver, filed 12/12/2018	XLVIII	AA009801-AA009812
10	Defendant's Reply in Support of Motion for Reconsideration, filed 03/28/2013	I	AA000193-AA000201
13	Defendant's Reply in Support of Motion to Strike Amended Complaint, filed 04/22/2013	II	AA000237-AA000248
4	Defendant's Reply in Support of Motion to Dismiss Complaint, filed 01/10/2013	I	AA000060-AA000074
35	Defendant's Reply in Support of Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 10/27/2015	V	AA000912-AA000919
36	Defendant's Reply in Support of Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Reno, filed 10/27/2015	V	AA000920-AA000930
37	Defendant's Reply in Support of Motion to Dismiss Plaintiffs' First Claim for Relief, filed 10/28/2015	V	AA000931-AA001001

26	Defendant's Reply In Support of Motion for Declaratory Order Regarding Statue of Limitations, filed 09/08/2015	IV	AA000687-AA000691
25	Defendants Reply In Support of Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 09/08/2015	IV	AA000669-AA000686
171	Defendants' Motion for Dismissal of Claims on Order Shortening Time, filed 10/17/2018	XLV	AA009278-AA009288
53	Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) with Respect to All Claims for Damages Outside the Two-Year Statue of Limitations, filed 11/17/2016	VIII	AA001587-AA001591
54	Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 11/29/2016	IX	AA001592-AA001621
62	Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 01/27/2017	XVI	AA003038-AA003066
149	Defendants' Motion for Reconsideration, Amendment, for New Trial, and for Dismissal of Claims, filed 09/10/2018	XLIII	AA008751-AA008809
44	Defendants' Motion for Reconsideration, filed 02/25/2016	VII	AA001195-AA001231
208	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 02/25/2019	L	AA010231-AA010274
95	Defendants' Motion for Summary Judgment, filed 11/27/2017	XXVI	AA005031-AA005122
102	Defendants' Motion in Limine to Exclude Testimony of Plaintiffs' Experts, filed	XXVIII	AA005510-AA005564

	12/22/2017		
202	Defendants' Motion to Pay Special Master on Order Shortening Time, filed 01/17/2019	L	AA010104-AA010114
140	Defendants' Objection to Billing By Stricken Special Master Michael Rosten, filed 06/27/2018	XLI	AA008294-AA008333
131	Defendants' Opposition to Plaintiffs' Declarations; Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove up Hearing, and Coordinate Cases, filed 05/20/2018	XXXV	AA007065-AA007092
108	Defendants' Opposition to Plaintiffs' Omnibus Motion in Limine #1-25, filed 01/12/2018	XXX	AA005967-AA006001
94	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, filed 11/20/2017	XXV, XXVI	AA004933-AA005030
51	Defendants' Opposition to Plaintiffs' Motion to Enjoin Defendants from Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief, filed 11/04/2016	VIII	AA001523-AA001544
82	Defendants' Opposition to Plaintiffs' Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/09/2017	XXII	AA004205-AA004222
96	Defendants' Opposition to Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 11/27/2017	XXVI	AA005123-AA005165

64	Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 02/02/2017	XVI	AA003119-AA003193
63	Defendants' Opposition to Plaintiffs' Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief, filed 01/30/2017	XVI	AA003067-AA003118
89	Defendants' Opposition to Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of March 9, 2017 and Compelling Compliance with that Order, filed 07/31/2017	XXII	AA004309-AA004336
67	Defendants' Opposition to Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/16 to Enjoin Defendants from Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief and for Sanctions, filed 02/10/2017	XVIII, XIX	AA003568-AA003620
104	Defendants' Reply in Support of Motion for Summary Judgment, filed 12/27/2017	XXIV	AA005711-AA005719
134	Defendants' Response to Plaintiffs' Additional Declaration, filed 05/31/2018	XXXVI	AA007250-AA007354
106	Defendants' Supplement as Ordered by the Court on January 2, 2018, filed 01/09/2018	XXIV	AA005783-AA005832
118	Defendants' Supplement Pertaining to an Order to Appoint Special Master, filed 02/05/2018	XXXII	AA006356-AA006385
120	Defendants' Supplement to Its Proposed Candidates for Special Master, filed 02/07/2018	XXXII	AA006392-AA006424
145	Defendants' Supplemental Authority in	XLII	AA008506-

	Response to Plaintiffs' Additional Supplement Filed July 13, 2018, filed 07/18/2018		AA008575
142	Defendants' Supplemental Authority in Response to Declaration of June 20, 2018, filed 07/10/2018	XLI	AA008349-AA008402
136	Defendants' Supplemental List of Citations Per Court Order, filed 06/04/2018	XXXVI	AA007360-AA007384
61	Errata to Plaintiffs' Motion for Partial Summary Judgment, filed 01/13/2017	XVI	AA003030-AA003037
5	First Amended Complaint, filed 01/30/2013	I	AA000075-AA000081
204	Judgment and Order Granting Resolution Economics' Application for Order of Payment of Special Master's Fees and Order of Contempt, filed on 02/04/2019	L	AA010201-AA010207
135	Memorandum re: Legal Authorities on the Court's Power to Grant a Default Judgment as a Contempt or Sanctions Response to Defendants' Failure to Pay the Special Master, filed 06/04/2018	XXXVI	AA007355-AA007359
143	Michael Rosten's Response to Defendants' Objection to Billing by Stricken Special Master Michael Rosten, filed 07/13/2018	XLI	AA008403-AA008415
14	Minute Order from April 29, 2013 Hearing	II	AA000249
99	Minute Order from December 7, 2017 Hearing	XXVII	AA005370-AA005371
113	Minute Order from January 25, 2018 Hearing	XXXI	AA006200-AA006202
188	Minute Order from December 4, 2018 Hearing	XLVIII	AA009697-AA009700
205	Minute Order from February 5, 2019 Hearing	L	AA01208-

			AA01209
218	Minute Order from June 1, 2018 Hearing	LII	AA10521
47	Minute Order from March 28, 2016 Hearing	VIII	AA001417
217	Minute Order from May 23, 2018 Hearing	LII	AA10520
39	Minute Order from November 9, 2015 Hearing	VI	AA001171
93	Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 11/03/2017	XXV	AA004911-AA004932
92	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, filed 11/02/2017	XXV	AA004889-AA004910
59	Motion for Partial Summary Judgment, filed 01/11/2017	XII, XIII, XIV, XV	AA002190-AA002927
80	Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/02/2017	XXI	AA004143-AA004188
148	Motion to Amend Judgment, filed 08/22/2018	XLIII	AA008742-AA008750
200	Motion to Amend the Court's Order Entered on December 18, 2018, filed 01/15/2019	XLIX	AA009932-AA009996
60	Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief, filed 01/12/2017	XV, XVI	AA002928-AA003029
17	Motion to Certify this Case as a Class Action Pursuant to NRCP Rule 23 and Appoint a Special Master Pursuant to NRCP Rule 53, filed 05/19/2015	II	AA000257-AA000398

201	Motion to Distribute Funds Held by Class Counsel, filed 01/5/2019	XLIX, L	AA009997-AA010103
50	Motion to Enjoin Defendants from Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of this Lawsuit and for Other Relief, filed 10/14/2016	VIII	AA001436-AA001522
123	NC Supreme Court Judgment, filed 05/07/2018	XXXIII	AA006458-AA006463
153	Notice of Appeal, filed 09/21/2018	XLIV	AA008917-AA008918
214	Notice of Entry of Order Denying 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 08/09/2019	LI	AA010379-AA010384
193	Notice of Entry of Order Denying Motion to Quash, filed 12/18/2018	XLVIII	AA009865-AA009887
173	Notice of Entry of Order, filed 10/22/2018	XLVI	AA009298-AA009301
147	Notice of Entry of Order Granting Judgment, filed 08/22/2018	XLIII	AA008676-AA008741
197	Notice of Entry of Order Granting Motion for Judgment Enforcement, filed 01/02/2019	XLIX	AA009919-AA009926
194	Notice of Entry of Order Granting Objections to Claims from Exemption of Execution, filed 12/18/2018	XLVIII	AA009888-AA009891
207	Notice of Entry of Order Granting Plaintiffs' Motion for Attorney's Fees and Costs, filed 02/07/2019	L	AA010220-AA010230
206	Notice of Entry of Order Granting Resolution	L	AA010210-

	Economics' Application for Order of Payment and Contempt, filed 02/05/2019		AA010219
57	Notice of Withdrawal of Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 12/16/2016	XI	AA002177-AA002178
141	Opposition to Additional Relief Requested in Plaintiffs' Supplement, filed 07/10/2018	XLI	AA008334-AA008348
55	Opposition to Defendants' Motion for Judgment on the Pleadings, Counter Motion for Toll of Statue of Limitations and for an Evidentiary Hearing, filed 12/08/2016	IX	AA001622-AA001661
56	Opposition to Defendants' Motion for Leave to Amend Answer to Assert Third-Party Complaint and Counter-Motion for Sanctions and Attorney's Fees, filed 12/16/2016	IX, X, XI	AA001662-AA002176
69	Opposition to Defendants' Motion for Leave to Amend Answer to Assert Third-Party Complaint and Counter-Motion for Sanctions and Attorneys' Fees, filed 02/13/2017	XIX	AA003625-AA003754
168	Opposition to Plaintiffs' Counter-Motion for Appropriate Judgment Relief, filed 10/15/2018	XLV	AA009257-AA009263
177	Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution, filed 11/01/2018	XLVI, XLVII	AA009414-AA009552
150	Opposition to Plaintiffs' Motion to Amend Judgment, filed 09/10/2018	XLIII	AA008810-AA008834
181	Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution, filed 11/16/2018	XLVII	AA009614-AA009626

183	Opposition to Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/26/2018	XLVII	AA009647-AA009664
42	Order Denying Defendant's Motion to Dismiss and For Summary Judgment Against Michael Murray, filed 02/18/2016	VI	AA001191-AA001192
43	Order Denying Defendant's Motion to Dismiss and for Summary Judgment Against Michael Reno, filed 02/18/2016	VI	AA001193-AA001194
198	Order Denying Defendants' Counter-Motion to Stay Proceedings and Collection Actions, filed 01/08/2019	XLIX	AA009927-AA009928
210	Order Denying in Part and Continuing in Part Plaintiffs' Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove Up Hearing, and Coordinate Cases, filed 03/05/2019	L	AA010279-AA010280
90	Order Denying Plaintiff's Counter-Motion for Sanctions and Attorneys' Fees and Order Denying Plaintiffs' Anti-SLAPP Motion, filed 07/31/2017	XXII	AA004337-AA004338
116	Order Denying Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 02/02/2018	XXXII	AA006332-AA006334
85	Order Denying Plaintiffs' Motion for Partial Summary Judgment, filed 07/14/2017	XXII	AA004299-AA004302
48	Order Denying Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating This Court's Order of February 10, 2016 and Compelling Compliance with that Order on an Order Shortening Time, filed 04/06/2016	VIII	AA001418-AA001419

15	Order, filed 05/02/2013	II	AA000250-AA000251
86	Order, filed 07/17/2017	XXII	AA004303-AA004304
87	Order, filed 07/17/2017	XXII	AA004305-AA004306
88	Order, filed 07/17/2017	XXII	AA004307-AA004308
112	Order, filed 01/22/2018	XXXI	AA006196-AA006199
174	Order, filed 10/22/2018	XLVI	AA009302-AA009303
209	Order, filed 03/04/2019	L	AA010275-AA010278
71	Order Granting Certain Relief on Motion to Enjoin Defendants From Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of this Lawsuit and for Other Relief, filed 02/16/2017	XIX	AA003775-AA003776
40	Order Granting in Part and Denying in Part Defendant's Motion for Declaratory Order Regarding Statue of Limitations, filed 12/21/2015	VI	AA001172-AA001174
73	Order Granting in Part and Denying in Part Plaintiffs' Motion to Have Case Reassigned to Dept I per EDCR Rule 1.60 and Designation as Complex Litigation per NRCP Rule 16.1(f), filed on 02/21/2017	XIX	AA003781-AA003782
119	Order Granting Plaintiffs' Motion to Appoint a Special Master, filed 02/07/2018	XXXII	AA006386-AA006391
41	Order Granting Plaintiffs' Motion to Certify	VI	AA001175-

	Class Action Pursuant to NRCP Rule 23(b)(2) and NRCP Rule 23(b)(3) and Denying Without Prejudice Plaintiffs' Motion to Appoint a Special Master Under NRCP Rule 53, filed 02/10/2016		AA001190
49	Order Granting Plaintiffs' Motion to Certify Class Action Pursuant to NRCP Rule 23(b)(2) and NRCP Rule 23(b)(3) and Denying Without Prejudice Plaintiffs' Motion to Appoint a Special Master Under NRCP Rule 52 as Amended by this Court in Response to Defendants' Motion for Reconsideration heard in Chambers on March 28, 2016, filed 06/07/2016	VIII	AA001420-AA001435
121	Order Modifying Court's Previous Order of February 7, 2019 Appointing a Special Master, filed 02/13/2018	XXXII	AA006425-AA006426
211	Order on Defendants' Motion for Reconsideration, filed 03/05/2019	L	AA010281-AA010284
196	Order on Motion for Dismissal of Claims on Order Shortening Time, filed 12/20/2018	XLIX	AA009916-AA009918
124	Pages intentionally omitted	XXXIII	AA006464-AA006680
126	Plaintiff Jasminka Dubric's Opposition to Michael Murray and Michael Reno's Motion for Miscellaneous Relief, filed 04/23/2018	XXXIV	AA006898-AA006914
139	Plaintiffs Supplement in Support of Entry of Final Judgment Per Hearing Held June 5, 2018, filed 06/22/2018	XL, XLI	AA008229-AA008293
182	Plaintiffs' Ex Parte Motion for Temporary Restraining Order and Motion on an Order Requiring the Turnover of Certain Property of the Judgment Debtor Pursuant to NRS 21.320, filed 11/26/2018	XLVII	AA009627-AA009646

166	Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 10/12/2018	XLV	AA009143-AA009167
165	Plaintiffs' Motion for an Order Granting a Judgment Debtor Examination and for Other Relief, filed 10/05/2018	XLV	AA009133-AA009142
65	Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/2016 to Enjoin Defendants from Seeking Settlement of Any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief and for Sanctions, filed 02/03/2017	XVII, XVIII	AA003194-AA003548
125	Plaintiffs' Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove Up Hearing, and Coordinate Cases, filed 04/17/2018	XXXIII, XXXIV	AA006681-AA006897
176	Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 10/29/2018	XLVI	AA009401-AA009413
84	Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of March 9, 2017 and Compelling Compliance with that Order, filed 07/12/2017	XXII	AA004245-AA004298
167	Plaintiffs' Objections to Claims from Exemption from Execution and Notice of Hearing, filed 10/15/2018	XLV	AA009168-AA009256
195	Plaintiffs' Objections to Claims of Exemption from Execution and Notice of Hearing, filed 12/19/2018	XLIX	AA009892-AA009915
103	Plaintiffs' Omnibus Motion in Limine # 1-	XXVIII,	AA005565-

	25, filed 12/22/2017	XXIV	AA005710
132	Plaintiffs' Reply to A Cab and Nady's Opposition to Plaintiff's Motion for Miscellaneous Relief, filed 05/21/2018	XXXV	AA007093-AA007231
97	Plaintiffs' Reply to Defendant's Opposition to Plaintiffs' Motions for Partial Summary Judgment and to Place Evidentiary Burden on Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid, filed 11/29/2017	XXVI, XXVII	AA005166-AA005276
98	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 12/01/2017	XXVII	AA005277-AA005369
52	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Enjoin Defendants From Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief, filed 11/10/2016	VIII	AA001545-AA001586
74	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 02/22/2017	XIX, XX	AA003783-AA003846
110	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion in Limine #1-#25, filed 01/17/2018	XXXI	AA006118-AA006179
151	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Amend Judgment, filed 09/20/2018	XLIII, XLIV	AA008835-AA008891
19	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Certify this Case as a Class Action Pursuant to NRCP Rule 23 and Appoint a Special Master Pursuant to NRCP Rile 53, filed 07/13/2018	III	AA000447-AA000469

180	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 11/08/2018	XLVII	AA009605-AA009613
185	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 11/28/2018	XLVII	AA009668-AA009674
169	Plaintiffs' Reply to Defendants' Response to Plaintiffs' Counter-Motion for Appropriate Judgment Enforcement Relief, filed 10/16/2018	XLV	AA009264-AA009271
68	Plaintiffs' Reply to Defendants's Opposition to Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/2016 to Enjoin Defendants From Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of This Lawsuit and For Other Relief and for Sanctions, filed 02/10/2017	XIX	AA003621-AA003624
128	Plaintiffs' Reply to Jasminka Dubric's Opposition to Plaintiffs' Motion for Miscellaneous Relief, filed 04/26/2018	XXXIV	AA006931-AA006980
45	Plaintiffs' Response in Opposition to Defendants' Motion Seeking Reconsideration of the Court's Order Granting Class Certification, filed 03/14/2016	VII	AA001232-AA001236
203	Plaintiffs' Response in Opposition to Defendants' Motion to Pay Special Master on an Order Shortening Time and Counter-Motion for an Order to Turn Over Property, filed 01/30/2019	L	AA010115-AA010200

155	Plaintiffs' Response in Opposition to Defendants' Motion for Reconsideration, Amendment, for New Trial and for Dismissal of Claims, filed 09/27/2018	XLIV	AA008995-AA009008
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 XXVII 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.
Leon Greenberg Professional Corporation
2965 S. Jones Blvd., Ste. E3
Las Vegas, NV 89146
Telephone: (702) 383-6085
Facsimile: (702) 385-1827
leongreenberg@overtimelaw.com
Dana@overtimelaw.com

Attorneys for Respondents

DATED this 5th day of August, 2020.

/s/ Kaylee Conradi

An employee of Hutchison & Steffen, PLLC

periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "H" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "F" and "G" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "B" - This is a computation of the amount of minimum wage damages owed to 583 class members for the time period January 1, 2013 through December 31, 2015 if the hours of activity recorded in defendants' Cab Manager system records produced in discovery, the interval between the times recorded as a class members' starting and ending shift time, is treated as the hours worked for the pay period. Column "I" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "J" shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "K" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "L" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "M" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "K" and "L" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "C" - This is a computation of the amount of minimum wage damages owed to 583 class members for the time period January 1, 2013 through December 31, 2015 if the hours of activity recorded in defendants' Cab Manager system records produced in discovery, the interval between the times recorded as a class members' starting and ending shift time, minus one hour per shift is treated as the hours worked for the pay period. Column "I" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "J" shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "K" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "L" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "M" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "K" and "L" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "D" - This is a computation of the amount of minimum wage damages owed to 583 class members for the time period January 1, 2013 through December 31, 2015 if the hours of activity recorded in defendants' Cab Manager system records produced in discovery, the interval between the times recorded as a class members' starting and ending shift time, plus 15 minutes per shift is treated as the hours worked for the pay period. Column "I" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "J" shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "K"

shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "L" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "M" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "K" and "L" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "E" - This is a computation of the amount of minimum wage damages owed to 527 class members for the time period October 8, 2010 through December 31, 2012 based upon each class member working 9.21 hours for every shift that defendants' Cab Manager system records produced during discovery record them as driving a taxi cab during that time period. That 9.21 hours per shift amount is the average shift length for a class member for the period January 1, 2013 through December 31, 2015 determined by dividing the total number of shifts recorded in defendants' Cab Manager records into the total number of hours of work recorded in defendants' Quickbooks payroll records for that time period. Defendants did not maintain information in their Quickbooks payroll records showing the hours worked by the class members for the time period October 8, 2010 through December 31, 2012. Column "D" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "E" shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "F" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in

defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "G" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "H" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "F" and "G" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "F" - This is a computation of the amount of minimum wage damages owed to 527 class members for the time period October 8, 2010 through December 31, 2012 based upon each class member working 10 hours for every shift that defendants' Cab Manager system records produced during discovery record them as driving a taxi cab during that time period. Column "D" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "E" shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "F" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "G" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "H" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "F" and "G" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "G" - This is a computation of the amount of minimum wage damages owed to 527 class members for the time period October 8, 2010 through December 31, 2012 based upon each class member working 11 hours for every shift that defendants' Cab Manager system records produced during discovery record them as driving a taxi cab during that time period. Column "D" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "E" shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "F" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "G" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "H" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "F" and "G" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "H" - This is a computation of the amount of minimum wage damages owed to 527 class members for the time period October 8, 2010 through December 31 2012 based upon each class member working 11.25 hours for every shift that defendants' Cab Manager system records produced during discovery record them as driving a taxi cab during that time period. Column "D" shows the amount so owed to the class member if only the $7.25 an hour minimum wage rate is used; Column "E"

shows the amount so owed to the class member if only the $8.25 an hour minimum wage rate is used; Column "F" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the class member was not yet qualified to participate in defendants' medical insurance program and the $7.25 an hour minimum wage rate for later pay periods; Column "G" shows the amount so owed to the class member if the $8.25 an hour minimum wage rate is used during pay periods when the insurance premium cost to the class member for employee only health insurance coverage was in excess of 10% of the wages earned during the pay period and the $7.25 an hour minimum wage rate for all other pay periods; and Column "H" shows the cumulative amount of minimum wages owed when the $8.25 an hour minimum wage rate is used during all pay periods identified in Columns "F" and "G" and the $7.25 an hour minimum wage rate for all other pay periods.

Exhibit "I" - All amounts listed on Exhibits "E" through "H" should be reduced by the amount, if any appears, for the same class member listed in Exhibit "I." Such Exhibit "I" sets forth the amounts that defendants claim they paid to 184 persons towards the minimum wages they owed such persons for work performed during a time period preceding January 1, 2013.

Plaintiffs reserve the right to present at trial all of the foregoing damages computations to assist the trier of fact or the Court in awarding damages to the class members once the trier of fact determines the disputed hours of work of the class members.

The source for all of the foregoing computations of damages are the materials provided by the defendants in discovery. Plaintiffs will provide a further production under Nev. R. Civ. P. 16.1(a)(1)(c) and in compliance with NRS 52.275 of their computation of the unpaid minimum wages owed for each pay period for each class member based upon the records produced by defendants. Such computations involve a summary of voluminous records and will be produced in electronic form.

Dated: May 16, 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

CERTIFICATE OF SERVICE

The undersigned certifies that on May 16, 2017, she served the within:

PLAINTIFFS' EIGHTH SUPPLEMENTAL DISCLOSURES UNDER NEV. R. CIV. P. 16.1

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”

	B	C	D	E	F	G	H
1		TOTAL MINIMUM WAGES OWED PER CLASS MEMBER 1/1/13 TO 12/31/15 USING AS HOURS WORKED THE HOURS RECORDED IN PAYROLL RECORDS					
2	Last Name	First 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	Minimum Wages Owed at $8.25 an Hour for All Pay Periods where Insurance Premium Cost for Employee Only Coverage was More than 10% of Wages and at $7.25 an Hour for all Other Pay Periods	Net Minimum Wages Owed When Both Insurance Qualification Date and Insurance Premium Cost Considered
3	Abarca	Enrique	$593.45	$1,357.42	$593.45	$907.35	$907.35
4	Abdalla	Mustafa	$0.00	$0.00	$0.00	$0.00	$0.00
5	Abdulle	Abdirashid	$165.36	$356.69	$356.69	$356.69	$356.69
6	Abebe	Tamrat	$744.59	$2,231.27	$744.59	$869.93	$869.93
7	Abraha	Tesfalem	$0.00	$0.00	$0.00	$0.00	$0.00
8	Abt	Daniel	$891.35	$1,943.49	$1,594.83	$940.46	$1,643.94
9	Abuel	Alan	$0.00	$6.14	$0.00	$0.00	$0.00
10	Ackman	Charles	$385.21	$1,439.22	$791.25	$485.32	$891.36
11	Adhanom	Tewoldebrhan	$124.16	$250.17	$250.17	$176.53	$250.17
12	Afonso	Paolo	$0.03	$91.16	$91.16	$10.83	$91.16
13	Agostino	Nicholas	$1,436.35	$4,700.03	$2,847.04	$1,698.62	$3,109.31
14	Alardi	Steven	$0.00	$51.18	$51.18	$0.00	$51.18
15	Ali	Meer	$0.06	$303.07	$303.07	$0.06	$303.07
16	Alizadeh	Farid	$0.19	$261.89	$261.89	$107.12	$261.89
17	Allegue	Yusnier	$1,414.77	$3,584.08	$1,785.42	$2,057.85	$2,356.95
18	Allen	Otis	$1,087.35	$2,367.87	$1,087.35	$1,755.54	$1,755.54
19	Alnaif	Abdul	$548.76	$1,281.38	$548.76	$673.59	$673.59

	B	C	D	E	F	G	H
20	Altamirano	Keith	$0.00	$39.56	$39.56	$0.00	$39.56
21	Alvarado	Santiago	$94.08	$429.10	$233.23	$120.12	$233.23
22	Anantagul	Kamol	$154.39	$343.02	$343.02	$201.81	$343.02
23	Andersen	Jason	$0.00	$366.27	$0.00	$21.20	$21.20
24	Anderson	Calvin	$802.14	$3,206.69	$971.31	$1,104.94	$1,274.11
25	Anderson	Neal	$0.36	$131.80	$131.80	$0.36	$131.80
26	Anderson	William	$289.40	$576.85	$576.85	$289.40	$576.85
27	Anif	Janeid	$285.95	$1,756.15	$285.95	$344.49	$344.49
28	Anon	Nelson	$0.07	$391.74	$333.07	$0.07	$333.07
29	Aparicio	Reynaldo	$0.04	$75.27	$75.27	$75.27	$75.27
30	Apodaca	Orlando	$0.07	$1,380.01	$649.99	$0.07	$649.99
31	Arar	Isam	$607.30	$3,839.79	$607.30	$856.76	$856.76
32	Archer	Bert	$362.37	$753.21	$753.21	$449.90	$753.21
33	Arellano	Miguel	$16.79	$185.41	$16.79	$98.89	$98.89
34	Arena	Francis	$235.28	$491.15	$431.57	$294.86	$491.15
35	Armendinger	Shane	$0.00	$1.75	$0.00	$1.75	$1.75
36	Arnold	Peter	$0.19	$125.41	$102.75	$125.41	$125.41
37	Arnwine	Howard	$602.53	$2,433.43	$602.53	$758.90	$758.90
38	Arrandt	Robert	$0.00	$457.39	$363.12	$0.00	$363.12
39	Arroyo	Carlos	$0.00	$130.23	$130.23	$0.00	$130.23
40	Arzola	Juan	$0.00	$149.72	$149.72	$0.00	$149.72
41	Asefa	Wossen	$456.31	$1,195.73	$1,026.57	$523.72	$1,083.04
42	Aseffa	Mulubahan	$978.91	$2,301.70	$978.91	$1,110.32	$1,110.32
43	Asghar	Chaudhry	$0.19	$486.93	$431.80	$189.09	$486.93
44	Astalos	Josip	$0.04	$223.12	$223.12	$49.54	$223.12
45	Auberry Jr.	Glenn	$309.98	$749.94	$749.94	$318.77	$749.94
46	Awad	Edward	$0.50	$231.32	$55.49	$0.50	$55.49
47	Awalom	Alemayehu	$284.82	$540.02	$284.82	$284.82	$284.82
48	Ba	Awa	$1,270.02	$3,430.46	$1,270.02	$1,334.01	$1,334.01
49	Baca	James	$105.93	$274.29	$274.29	$114.23	$274.29
50	Baca-Paez	Sergio	$809.69	$2,501.53	$809.69	$1,056.15	$1,056.15
51	Bachelor	Mickieal	$0.45	$534.98	$125.03	$42.83	$136.77
52	Bagley	Shaun	$0.67	$199.43	$199.43	$70.07	$199.43
53	Baker	Jason	$0.18	$82.51	$82.51	$0.18	$82.51

	B	C	D	E	F	G	H
54	Baker	Timothy	$462.63	$1,195.70	$462.63	$955.04	$955.04
55	Bakhtiari	Marco	$140.34	$1,398.38	$140.34	$238.59	$238.59
56	Bambenek	Matthew	$337.56	$1,733.68	$985.67	$388.79	$985.67
57	Bancod	Michael	$0.78	$1,270.95	$481.35	$140.83	$621.40
58	Bandi	Pedram	$11.21	$294.30	$294.30	$40.05	$294.30
59	Barbu	Ion	$1,817.08	$5,195.01	$1,817.08	$2,081.59	$2,081.59
60	Barnes	Benjamin	$1,629.89	$4,849.87	$1,629.89	$1,836.20	$1,836.20
61	Barnhart	John	$0.00	$567.45	$215.36	$0.00	$215.36
62	Barnola	Rafael	$0.00	$57.18	$57.18	$0.00	$57.18
63	Barrameda	Danilo	$56.83	$312.04	$312.04	$65.07	$312.04
64	Basoalto-Sanchez	Lucia	$0.01	$214.05	$214.05	$11.49	$214.05
65	Batista	Eugenio	$0.00	$42.17	$0.00	$0.00	$0.00
66	Bedane	Belay	$0.80	$1,089.65	$242.64	$102.75	$297.69
67	Bell	Jeffrey	$26.45	$56.87	$56.87	$56.87	$56.87
68	Benel	Christian	$293.85	$715.38	$293.85	$432.62	$432.62
69	Berger	James	$58.09	$182.39	$182.24	$111.52	$182.24
70	Berichon	Mike	$947.14	$2,472.39	$1,355.05	$1,070.02	$1,467.90
71	Bestard-Sanchez	Vladimir	$0.40	$336.95	$272.31	$21.75	$272.31
72	Bey	Ronald	$682.70	$2,599.52	$682.70	$769.52	$769.52
73	Bilal	Haji	$0.15	$79.95	$79.95	$79.95	$79.95
74	Bliss	Valerie	$124.09	$251.34	$251.34	$140.64	$251.34
75	Blum III	Arthur	$47.07	$94.28	$94.28	$94.28	$94.28
76	Bones	Brian	$0.66	$451.08	$420.06	$70.81	$451.08
77	Booth	Deborah	$0.07	$212.82	$212.82	$45.17	$212.82
78	Borges	Antonio	$0.00	$0.00	$0.00	$0.00	$0.00
79	Bosley	Thomas	$8.39	$335.85	$335.85	$8.39	$335.85
80	Bowen	Christopher	$0.00	$79.68	$0.00	$0.00	$0.00
81	Bower	Terry	$0.00	$146.54	$146.54	$0.00	$146.54
82	Brauchle	Michael	$718.57	$1,757.22	$718.57	$1,107.52	$1,107.52
83	Briski	Louis	$141.78	$608.13	$141.78	$164.30	$164.30
84	Brooks	Jose	$46.30	$96.91	$96.91	$96.91	$96.91
85	Brown	Daniel	$730.19	$2,962.56	$1,016.82	$848.83	$1,126.99
86	Brown	Jimmy	$1.43	$1,815.24	$525.33	$7.36	$525.33
87	Brown	Michael	$0.75	$792.87	$195.50	$183.97	$247.65

	B	C	D	E	F	G	H
88	Bunns	Tommy	$564.89	$1,929.63	$1,225.13	$676.80	$1,277.81
89	Burns	Brittany	$122.95	$322.36	$322.36	$142.95	$322.36
90	Capone	Gary	$1,177.79	$3,040.59	$1,735.94	$1,290.47	$1,760.22
91	Carracedo	Sonny	$0.00	$100.08	$0.00	$0.00	$0.00
92	Casiello	Anthony	$1.54	$533.97	$1.54	$173.49	$173.49
93	Castellanos	Joaquin	$419.56	$3,002.61	$1,091.16	$472.06	$1,143.67
94	Castro	Willer	$0.08	$432.11	$432.11	$95.09	$432.11
95	Castro-Jaen	Lazaro	$0.00	$13.32	$13.32	$0.00	$13.32
96	Chana	Chen	$658.00	$2,083.01	$1,188.38	$740.80	$1,271.18
97	Charouat	Malek	$0.00	$0.00	$0.00	$0.00	$0.00
98	Charov	Ivaylo	$67.83	$159.66	$159.66	$159.66	$159.66
99	Chavez	Rosemarie	$13.29	$39.05	$39.05	$39.05	$39.05
100	Chenpanas	Surapan	$0.12	$171.26	$62.16	$0.12	$62.16
101	Cicerchi	Michael	$0.00	$20.84	$0.00	$0.00	$0.00
102	Clark	Dennis	$513.57	$1,322.52	$1,322.52	$525.00	$1,322.52
103	Clarke	Michael	$69.42	$136.68	$136.68	$69.42	$136.68
104	Clarke	Reginald	$0.00	$21.19	$21.19	$21.19	$21.19
105	Co	Pedro	$0.39	$274.67	$91.70	$43.21	$123.97
106	Cobon	Karl	$1,023.14	$2,061.05	$1,732.28	$1,023.14	$1,732.28
107	Cohoon	Thomas	$1,385.21	$4,147.80	$1,385.21	$1,420.78	$1,420.78
108	Collier	Ella	$0.21	$218.78	$0.21	$0.21	$0.21
109	Collins	Steven	$0.35	$252.31	$252.31	$0.35	$252.31
110	Coloma-Guerra	Danilo	$0.00	$28.00	$4.03	$23.97	$28.00
111	Colt	Brian	$0.00	$1.83	$1.83	$0.00	$1.83
112	Comeau	Brian	$70.76	$308.89	$308.89	$308.89	$308.89
113	Conway	James	$490.14	$1,197.22	$490.14	$490.14	$490.14
114	Corona	Fernando	$775.97	$2,591.71	$1,476.18	$835.37	$1,486.30
115	Costello	Brad	$390.33	$2,466.70	$390.33	$390.33	$390.33
116	Craddock	Mason	$0.16	$385.03	$328.11	$90.41	$385.03
117	Craffey	Richard	$620.77	$2,265.57	$824.43	$886.99	$1,032.79
118	Crawford	Darryl	$41.69	$217.17	$41.69	$157.32	$157.32
119	Crawford	Dustin	$0.36	$400.43	$166.76	$160.43	$225.71
120	Crawford	Maximillian	$156.56	$501.77	$403.91	$428.17	$501.77
121	Cruz-Decastro	Antonio	$47.37	$92.59	$92.59	$92.59	$92.59

	B	C	D	E	F	G	H
122	Cursoli	Janine	$0.08	$54.35	$54.35	$54.35	$54.35
123	Curtin	Ronald	$1,891.68	$5,672.31	$2,430.63	$2,201.12	$2,546.43
124	Cyiark	Billy	$0.00	$743.69	$438.68	$0.00	$438.68
125	Dacayanan	Liza	$515.01	$3,016.15	$985.54	$619.79	$1,063.38
126	Daffron	Daniel	$1,242.13	$4,065.77	$1,956.28	$1,412.89	$2,075.44
127	Daggett Jr.	Rudolph	$618.68	$1,374.83	$1,127.36	$776.10	$1,127.36
128	Daghlawi	Rahim	$0.00	$0.00	$0.00	$0.00	$0.00
129	Daniels	James	$57.14	$473.38	$241.92	$74.36	$241.92
130	Dash	Eric	$0.80	$456.52	$365.51	$100.30	$456.52
131	Davila-Romero	Monica	$58.85	$119.28	$119.28	$119.28	$119.28
132	Dejacto	Giovanna	$660.42	$2,391.86	$1,275.91	$1,075.43	$1,645.58
133	Delgado	Carlos	$105.26	$1,510.27	$559.91	$114.31	$568.96
134	Delligatti	Carmine	$0.00	$116.29	$116.29	$56.87	$116.29
135	DeMarco	William	$168.08	$437.54	$168.08	$200.17	$200.17
136	Demick Jr.	William	$0.16	$1,280.37	$364.20	$37.51	$364.20
137	Deresu	Getu	$0.00	$149.92	$129.34	$19.66	$149.00
138	Dial	Donald	$807.12	$2,615.78	$1,192.88	$807.12	$1,192.88
139	Diamond	Jeffrey	$273.19	$618.63	$618.63	$311.22	$618.63
140	Dillard	Corey	$267.74	$600.08	$267.74	$514.33	$514.33
141	Dinok	Ildiko	$283.54	$588.99	$283.54	$347.58	$347.58
142	Diomande	Almamy	$0.00	$195.34	$0.00	$23.07	$23.07
143	Dionas	John	$87.73	$168.64	$168.64	$96.69	$168.64
144	Disbrow	Ronald	$627.36	$3,388.32	$627.36	$786.21	$786.21
145	Dixon	Julius	$0.00	$56.30	$0.00	$0.00	$0.00
146	Dominguez	Carlos	$0.79	$506.29	$449.77	$148.70	$506.29
147	Dontchev	Nedeltcho	$456.89	$1,441.70	$456.89	$456.89	$456.89
148	Dopson	Gary	$0.14	$277.79	$277.79	$0.14	$277.79
149	Douzat	Michael	$0.15	$251.03	$169.24	$251.03	$251.03
150	Doyle	William	$304.91	$616.43	$616.43	$376.65	$616.43
151	Draper	Ivan	$212.72	$476.22	$212.72	$476.22	$476.22
152	Dubaniewicz	Anna	$0.00	$165.70	$165.70	$79.78	$165.70
153	Dufton	John	$0.31	$604.31	$491.03	$35.88	$526.60
154	Duna	Lawrence	$259.80	$508.28	$259.80	$319.17	$319.17
155	Durtschi	Jeffrey	$0.00	$13.65	$0.00	$0.00	$0.00

	B	C	D	E	F	G	H
156	Dutton	Dionne	$0.00	$34.14	$34.14	$34.14	$34.14
157	Dymond	Ernest	$62.96	$159.89	$159.89	$62.96	$159.89
158	Ebert	Michael	$0.00	$36.75	$4.11	$4.11	$4.11
159	Eckersley	Richard	$0.12	$176.31	$176.31	$22.89	$176.31
160	Edwards	Jeffrey	$366.35	$2,594.68	$366.35	$366.35	$366.35
161	Egan	Joseph	$538.59	$3,540.02	$538.59	$757.23	$757.23
162	Ekoue	Ayi	$297.47	$1,339.95	$297.47	$358.23	$358.23
163	Elgendy	Mohamed	$96.88	$202.11	$202.11	$133.53	$202.11
164	Eliades	George	$272.83	$564.46	$564.46	$493.79	$564.46
165	Emling	Paul	$35.76	$313.87	$35.76	$161.43	$161.43
166	Emter	Christopher	$124.52	$305.67	$305.67	$239.53	$305.67
167	Ernst	William	$137.39	$281.16	$137.39	$281.16	$281.16
168	Esparza	Francisco	$1.60	$1,676.80	$556.17	$1.60	$556.17
169	Estes	Danielle	$0.01	$26.20	$26.20	$26.20	$26.20
170	Estrada	Jorge	$0.00	$30.12	$30.12	$30.12	$30.12
171	Fair	Kirby	$496.57	$1,719.13	$881.22	$604.33	$988.98
172	Faye	Pape	$0.00	$0.00	$0.00	$0.00	$0.00
173	Feller	Anthony	$0.14	$435.44	$324.54	$56.96	$324.54
174	Fernandez-Leon	Alexander	$0.16	$44.29	$34.43	$44.29	$44.29
175	Fesehazion	Teabe	$237.26	$2,251.91	$237.26	$359.91	$359.91
176	Fields	Caluquette	$0.03	$595.64	$449.68	$0.03	$449.68
177	Filatov	Andrey	$20.19	$44.46	$44.46	$44.46	$44.46
178	Filfel	Kamal	$1,272.38	$2,809.45	$1,272.38	$1,760.58	$1,760.58
179	Fitzsimmons	Marc	$327.92	$1,819.13	$886.00	$374.74	$886.00
180	Flanders	Mary	$208.19	$760.78	$562.93	$248.90	$562.93
181	Flores	Abner	$1.11	$1,250.79	$648.81	$9.01	$648.81
182	Flournoy	Carr	$0.68	$497.34	$427.44	$0.68	$427.44
183	Ford	Todd	$982.51	$3,869.53	$1,503.70	$1,193.79	$1,560.31
184	Foronda	Gil	$0.09	$36.61	$36.61	$36.61	$36.61
185	Fragoza	Michael	$0.13	$300.90	$109.56	$0.13	$109.56
186	Galtieri	Frank	$269.32	$517.73	$517.73	$269.32	$517.73
187	Garcia	Anthony	$6.46	$666.08	$6.46	$44.05	$44.05
188	Garcia	John	$1,477.82	$5,833.02	$1,477.82	$1,477.82	$1,477.82
189	Garcia	Miguel	$68.42	$651.03	$68.42	$156.78	$156.78

	B	C	D	E	F	G	H
190	Garrett	Kathleen	$20.07	$50.07	$50.07	$50.07	$50.07
191	Gay	Phillip	$0.05	$869.39	$477.93	$54.50	$477.93
192	Gazzara	Anthony	$1.46	$988.33	$483.94	$30.26	$483.94
193	Gbajumo	Osawonyi	$0.00	$285.99	$0.00	$0.00	$0.00
194	Gebremicheal	Yohannes	$2.20	$768.29	$373.99	$176.09	$482.75
195	Gilbert	David	$0.00	$168.13	$0.00	$21.10	$21.10
196	Gillett	David	$452.35	$1,975.39	$452.35	$1,488.75	$1,488.75
197	Glaser	Stephen	$153.87	$506.28	$506.28	$192.22	$506.28
198	Gleason	John	$504.80	$2,244.48	$504.80	$1,407.07	$1,407.07
199	Godfrey	Brenda	$0.00	$0.00	$0.00	$0.00	$0.00
200	Godsey	Kelly	$410.17	$1,363.91	$410.17	$410.17	$410.17
201	Goettsche	Dale	$31.60	$270.97	$31.60	$47.53	$47.53
202	Gokcek	Guney	$99.83	$198.99	$198.99	$129.47	$198.99
203	Gomez	Osbaldo	$0.11	$125.86	$125.86	$125.86	$125.86
204	Gonzalez	Luis	$51.04	$106.79	$51.04	$106.79	$106.79
205	Gonzalez	Pedro	$263.79	$577.43	$577.43	$273.83	$577.43
206	Gonzalez-Ruiz	Jose	$0.00	$0.00	$0.00	$0.00	$0.00
207	Goree	Latia	$0.32	$171.53	$171.53	$39.37	$171.53
208	Grafton	Natasha	$72.36	$501.41	$72.36	$127.13	$127.13
209	Granchelle	Andrew	$700.68	$2,643.78	$1,238.13	$1,454.44	$1,869.98
210	Gray	Charles	$0.00	$75.90	$75.90	$0.00	$75.90
211	Gray	Gary	$2,076.08	$5,303.30	$2,076.08	$2,948.19	$2,948.19
212	Gray	Kenneth	$0.28	$434.57	$346.85	$0.28	$346.85
213	Gray	Steven	$0.00	$0.00	$0.00	$0.00	$0.00
214	Guerrero	Daniel	$1,211.23	$5,492.23	$2,155.63	$1,211.23	$2,155.63
215	Gutierrez	Carlos	$0.79	$1,129.03	$578.96	$0.79	$578.96
216	Habte	Micheal	$0.00	$0.00	$0.00	$0.00	$0.00
217	Hallowell	William	$0.00	$48.36	$48.36	$0.00	$48.36
218	Hammoud	Wissam	$618.64	$1,276.00	$1,276.00	$677.15	$1,276.00
219	Handlon	Michael	$649.91	$2,226.69	$779.06	$1,185.37	$1,185.37
220	Hansen	Jordan	$44.50	$303.84	$44.50	$44.50	$44.50
221	Haralambov	Valko	$203.78	$866.68	$203.78	$241.46	$241.46
222	Harding	David	$0.25	$148.37	$148.37	$148.37	$148.37
223	Harraki	Said	$0.00	$9.57	$9.57	$0.00	$9.57

	B	C	D	E	F	G	H
224	Harris	Charlene	$0.33	$468.98	$314.21	$181.91	$367.47
225	Harris	Dennis	$1,157.48	$5,326.21	$1,157.48	$1,157.48	$1,157.48
226	Harris	James	$0.42	$86.95	$86.95	$0.42	$86.95
227	Harrison	Andrew	$297.76	$860.64	$393.89	$297.76	$393.89
228	Hart	Brandi	$162.45	$311.05	$311.05	$210.39	$311.05
229	Hasbrouck Jr.	Ronald	$0.00	$27.35	$27.35	$0.00	$27.35
230	Haskell	William	$1,070.78	$2,664.64	$1,070.78	$1,536.21	$1,536.21
231	Hassanzadehalibeil	Davoud	$0.00	$432.75	$361.37	$0.00	$361.37
232	Hatch Jr.	Frank	$0.20	$433.30	$229.47	$218.51	$305.37
233	Hawkins	Devin	$0.04	$81.38	$81.38	$81.38	$81.38
234	Hays	Larry	$729.17	$2,357.57	$729.17	$784.01	$784.01
235	Hearne	Stephen	$188.99	$382.66	$382.66	$228.32	$382.66
236	Henderson	Lloyd	$467.13	$1,382.67	$1,337.86	$511.94	$1,382.67
237	Hendricks	Mark	$290.90	$581.11	$562.15	$309.86	$581.11
238	Hernandez	Rene	$272.18	$563.47	$563.47	$367.33	$563.47
239	Hernandez-Ocamp	Amilcar	$219.91	$593.45	$559.66	$367.48	$593.45
240	Herrlich	Curt	$0.08	$182.18	$182.18	$0.08	$182.18
241	Hill	Douglas	$294.63	$620.38	$620.38	$374.97	$620.38
242	Hinds	Monroe	$304.22	$1,017.59	$1,017.59	$304.22	$1,017.59
243	Hinks	Dana	$298.39	$1,755.06	$298.39	$771.87	$771.87
244	Hodge	Lee	$1,043.84	$4,713.06	$1,043.84	$1,117.58	$1,117.58
245	Hoffman	Gary	$0.00	$341.06	$0.00	$11.29	$11.29
246	Holler	Alfonso	$56.29	$200.81	$56.29	$119.06	$119.06
247	Hollis	James	$0.00	$134.11	$0.00	$0.00	$0.00
248	Holt	John	$178.55	$409.36	$178.55	$228.01	$228.01
249	Horton	Charles	$0.52	$310.19	$263.59	$48.16	$263.59
250	Horvath	Zoltan	$7.02	$79.91	$79.91	$7.02	$79.91
251	Hosley	Tracie	$185.20	$389.01	$389.01	$220.12	$389.01
252	Hovhannisyan	Torgom	$0.42	$283.38	$283.38	$52.34	$283.38
253	Hu	Karl	$137.49	$314.56	$314.56	$185.97	$314.56
254	Huene	Sidney	$0.24	$1,024.47	$454.56	$31.44	$485.76
255	Hurd	Donald	$562.93	$1,534.38	$562.93	$1,039.88	$1,039.88
256	Hurtado	Hubert	$1,593.12	$4,909.67	$1,593.12	$3,630.43	$3,630.43
257	Hussien	Leykun	$8.36	$154.11	$8.36	$74.11	$74.11

	B	C	D	E	F	G	H
258	Imran	Muhammad	$104.12	$262.24	$154.42	$262.24	$262.24
259	Isaac	Edsel	$0.00	$78.87	$0.00	$0.00	$0.00
260	Isanan	Claro	$199.02	$433.84	$433.84	$238.16	$433.84
261	Ivanov	Yordan	$74.55	$164.11	$164.11	$164.11	$164.11
262	Jackson	Anthony	$0.00	$0.00	$0.00	$0.00	$0.00
263	Jackson	Frederick	$1,013.02	$4,767.43	$1,013.02	$1,434.14	$1,434.14
264	Jackson	Willie	$88.63	$164.88	$88.63	$164.88	$164.88
265	Jacobi	Donald	$1,157.97	$3,881.45	$1,789.73	$1,230.35	$1,862.11
266	Jafarian	Moharram	$13.55	$146.52	$146.52	$24.03	$146.52
267	Jarmosco	John	$0.00	$0.00	$0.00	$0.00	$0.00
268	Jawaid	Shaikh	$0.00	$190.86	$0.00	$0.00	$0.00
269	Jelancic	Vladko	$446.76	$1,216.30	$446.76	$519.03	$519.03
270	Jimerson-Cessna	Jo A	$0.36	$513.55	$453.59	$0.36	$453.59
271	Johnson	Kennard	$50.54	$345.12	$50.54	$50.54	$50.54
272	Johnson	Tony	$0.00	$0.00	$0.00	$0.00	$0.00
273	Joseph	Leroy	$1,616.76	$3,728.29	$1,616.76	$1,786.16	$1,786.16
274	Kadir	Tura	$23.88	$62.06	$62.06	$62.06	$62.06
275	Kadri	Abdelkrim	$10.24	$231.03	$231.03	$54.88	$231.03
276	Kaiyoorawongs	Chaipan	$1,477.36	$3,722.93	$1,477.36	$1,551.99	$1,551.99
277	Kalimba	Gaston	$530.48	$1,295.36	$931.38	$628.13	$931.38
278	Kang	Chong	$0.00	$60.01	$0.00	$16.72	$16.72
279	Keller	Roger	$390.90	$2,213.63	$931.86	$647.73	$1,004.78
280	Kenary	Brian	$230.90	$1,647.25	$230.90	$1,156.62	$1,156.62
281	Kern	Gary	$2,969.95	$8,111.05	$2,969.95	$3,006.63	$3,006.63
282	Khan	Zia-Ur-Rehman	$0.89	$1,021.71	$134.31	$24.43	$157.85
283	Kim	Chang	$0.00	$225.47	$194.54	$0.00	$194.54
284	Kimler	Ryan	$198.87	$404.80	$404.80	$321.35	$404.80
285	Kissel	Sean	$51.23	$796.35	$164.54	$74.06	$187.37
286	Klein	Phillip	$2,443.66	$7,054.87	$2,443.66	$2,581.87	$2,581.87
287	Ko	Kuen	$0.00	$91.50	$85.62	$0.00	$85.62
288	Kogan	Martin	$1,797.80	$4,668.85	$1,797.80	$2,249.66	$2,249.66
289	Kronenberg	Arthur	$1.18	$1,269.30	$401.40	$67.35	$428.26
290	Kruse	Linda	$0.00	$0.00	$0.00	$0.00	$0.00
291	Kull Jr.	William	$135.94	$341.87	$286.28	$189.68	$286.28

	B	C	D	E	F	G	H
292	Lafarge	Jeannine	$0.00	$17.92	$17.92	$0.00	$17.92
293	Lant	Mark	$694.00	$1,440.70	$1,222.82	$850.11	$1,319.90
294	Lathan	Joseph	$131.97	$411.45	$190.72	$190.72	$190.72
295	Laughinghouse	Charles	$0.08	$193.53	$124.86	$33.52	$124.86
296	Lay	Gilbert	$139.80	$659.24	$517.83	$192.51	$517.83
297	Leal	Jill	$536.95	$2,312.90	$536.95	$536.95	$536.95
298	Lee	Melvin	$469.33	$1,530.94	$1,060.53	$502.66	$1,093.86
299	Leonardi	Kevin	$0.03	$65.04	$0.03	$0.03	$0.03
300	Lin	Natalie	$0.00	$10.28	$10.28	$10.28	$10.28
301	Link	Peter	$505.82	$1,643.97	$505.82	$937.34	$937.34
302	Little	Dennis	$96.00	$1,476.87	$96.00	$96.05	$96.05
303	Loebig	Roxana	$0.21	$274.82	$274.82	$50.82	$274.82
304	Logan	Lashawn	$0.00	$87.58	$87.58	$8.31	$87.58
305	Lombana	Francisco	$51.80	$107.46	$107.46	$107.46	$107.46
306	Lopez-Silvero	Fidel	$81.02	$324.86	$324.86	$108.25	$324.86
307	Lozada	Giovanni	$0.00	$0.00	$0.00	$0.00	$0.00
308	Macato	Jaime	$1,330.78	$4,713.70	$1,330.78	$1,455.88	$1,455.88
309	Maciel	Luis	$0.63	$378.42	$378.42	$50.93	$378.42
310	Madi	Adam	$137.47	$300.64	$300.64	$185.12	$300.64
311	Maharit	Khamkhrung	$63.98	$141.49	$141.49	$63.98	$141.49
312	Mahtani	Ratan	$0.49	$1,072.95	$539.75	$56.28	$539.75
313	Mahyar	Yamine	$0.00	$94.76	$94.76	$0.00	$94.76
314	Majors	John	$2,690.25	$7,595.30	$2,690.25	$3,051.30	$3,051.30
315	Malapira	Roberto	$0.84	$1,004.54	$457.08	$0.84	$457.08
316	Manitien	Ted	$13.83	$33.78	$33.78	$33.78	$33.78
317	Manor	Quincy	$117.68	$253.32	$117.68	$169.18	$169.18
318	Maras	Maria	$271.45	$1,696.44	$271.45	$304.10	$304.10
319	Marino	Joseph	$0.03	$217.16	$217.16	$54.77	$217.16
320	Mari-Santa Cruz	Samuel	$0.73	$705.91	$464.35	$272.72	$596.87
321	Martin	Thomas	$0.00	$117.88	$117.88	$23.10	$117.88
322	Martinez	Arturo	$63.48	$128.68	$128.68	$128.68	$128.68
323	Martinez	Francisco	$1,713.26	$5,137.22	$2,179.65	$2,000.69	$2,228.51
324	Martins	Julio	$298.27	$870.71	$870.71	$377.13	$870.71
325	Mastrio	Pamela	$234.23	$2,229.72	$629.28	$283.34	$678.39

	B	C	D	E	F	G	H
326	Mathis	George	$297.42	$573.10	$573.10	$480.09	$573.10
327	Maxwell	Charles	$0.58	$407.14	$248.92	$239.10	$407.14
328	Mayer	Zygmond	$0.00	$92.72	$92.72	$52.44	$92.72
329	Mcarthur	David	$9.54	$39.83	$39.83	$39.83	$39.83
330	McCall	Melvin	$169.85	$385.48	$385.48	$232.56	$385.48
331	McCarroll-Jones	Claudia	$17.52	$36.61	$36.61	$36.61	$36.61
332	McCarter	Patrick	$1,912.60	$6,167.15	$1,912.60	$2,213.12	$2,213.12
333	McDonald	Mary	$0.61	$665.51	$382.72	$179.47	$454.86
334	McDougle	Jeffrey	$124.87	$719.73	$403.02	$164.76	$403.28
335	McGinn	Randall	$0.00	$68.40	$36.13	$32.27	$68.40
336	McLaren	Russell	$0.78	$916.77	$265.89	$120.81	$385.92
337	McSkimming	John	$901.92	$2,677.01	$1,628.88	$920.71	$1,628.88
338	Mechenie	Florin	$0.00	$0.00	$0.00	$0.00	$0.00
339	Mecke	Robert	$0.24	$432.44	$432.44	$0.24	$432.44
340	Mejicano-Varela	Hugo	$0.00	$0.00	$0.00	$0.00	$0.00
341	Meloro	Paul	$1,116.73	$3,099.72	$1,116.73	$1,576.80	$1,576.80
342	Meyer	Ronald	$53.72	$396.80	$387.70	$198.84	$396.80
343	Michilena	Luis	$66.26	$138.34	$138.34	$66.26	$138.34
344	Micu	Emilio	$0.39	$489.33	$276.52	$35.42	$276.52
345	Middleton	Shawn	$0.00	$305.80	$221.04	$0.00	$221.04
346	Miller	Jason	$983.37	$2,835.55	$1,524.44	$1,023.54	$1,528.51
347	Milliron	Darrol	$140.57	$344.69	$140.57	$298.26	$298.26
348	Mindyas	James	$0.00	$0.00	$0.00	$0.00	$0.00
349	Mitrikov	Ilko	$1,243.11	$3,600.77	$1,243.11	$1,337.36	$1,337.36
350	Miyazaki	Nisaburo	$563.88	$1,503.47	$563.88	$664.13	$664.13
351	Mock	Karen	$1.68	$1,270.20	$433.80	$49.35	$433.80
352	Mohamed	Hamza	$0.00	$17.42	$17.42	$0.00	$17.42
353	Monforte II	Peter	$2,358.71	$5,904.44	$2,358.71	$2,358.71	$2,358.71
354	Monteagudo	Oscar	$200.48	$380.90	$200.48	$200.48	$200.48
355	Moore	Aileen-Louise	$205.64	$1,458.76	$205.64	$246.54	$246.54
356	Moore	Jimmy	$0.26	$209.31	$0.26	$0.26	$0.26
357	Morales	Tomas	$0.00	$0.00	$0.00	$0.00	$0.00
358	Moreno	James	$1,953.07	$6,360.18	$1,953.07	$2,282.51	$2,282.51
359	Morgan	Sherryl	$0.00	$445.00	$166.26	$53.77	$166.26

	B	C	D	E	F	G	H
360	Morris	Thomas	$2,085.35	$5,974.82	$2,085.35	$2,085.35	$2,085.35
361	Mosely	David	$1,143.38	$2,121.25	$1,702.56	$1,251.17	$1,763.05
362	Motazedi	Kamran	$181.66	$389.59	$389.59	$314.48	$389.59
363	Mottaghian	Joseph	$30.98	$533.00	$167.03	$148.01	$207.53
364	Muhtari	Abdulrahman	$141.39	$1,133.34	$141.39	$220.98	$220.98
365	Munoz-Fernandez	Ariel	$0.13	$136.46	$136.46	$70.56	$136.46
366	Murawski	Richard	$313.28	$1,540.10	$313.28	$313.28	$313.28
367	Murray	Joseph	$0.00	$10.31	$10.31	$10.31	$10.31
368	Nantista	Peter	$212.28	$2,002.10	$520.03	$229.32	$537.07
369	Nazarov	Mikael	$1,198.57	$3,543.66	$1,198.57	$1,600.60	$1,600.60
370	Nedyalkov	Atanas	$321.59	$764.52	$764.52	$377.03	$764.52
371	Nelson	Jack	$0.00	$79.96	$79.96	$0.00	$79.96
372	Nemeth	Zoltan	$353.54	$1,696.45	$926.74	$482.13	$1,010.12
373	Ngo	Tuan	$1,290.15	$3,185.57	$1,290.15	$1,799.48	$1,799.48
374	Nolan	Eamonn	$107.87	$212.40	$212.40	$212.40	$212.40
375	Norvell	Chris	$3,062.78	$6,518.99	$3,062.78	$3,222.41	$3,222.41
376	Ogbazghi	Dawit	$0.00	$6.43	$0.00	$0.00	$0.00
377	Olen	Virginia	$334.25	$1,075.73	$334.25	$912.39	$912.39
378	Olson	David	$1.24	$555.05	$420.58	$131.35	$532.79
379	Olson	Eric	$0.00	$43.32	$0.00	$0.00	$0.00
380	Ordaz	Guillermo	$0.17	$959.89	$342.46	$21.33	$342.46
381	Ortega	Paul	$47.24	$428.35	$348.41	$146.17	$385.95
382	Osterman	Victor	$133.00	$951.04	$133.00	$241.02	$241.02
383	Ozgulgec	Tunc	$499.02	$3,027.51	$499.02	$499.02	$499.02
384	Padilla	Rosemarie	$0.33	$673.54	$374.42	$77.94	$440.64
385	Pak	Sam	$0.00	$0.00	$0.00	$0.00	$0.00
386	Palomo	Louis	$0.02	$51.07	$51.07	$18.73	$51.07
387	Paone	Chris	$1,093.84	$2,468.37	$1,696.92	$1,181.68	$1,784.76
388	Papania	George	$0.64	$1,026.84	$491.99	$24.84	$516.19
389	Paris	John	$0.89	$240.75	$240.75	$8.98	$240.75
390	Pariso	David	$456.07	$1,153.67	$456.07	$545.03	$545.03
391	Park	Danny	$38.85	$260.74	$184.46	$38.85	$184.46
392	Parker	Gary	$1,387.79	$2,808.94	$1,918.78	$2,340.03	$2,686.28
393	Parmenter	William	$1,198.59	$2,955.28	$1,198.59	$1,198.59	$1,198.59

	B	C	D	E	F	G	H
394	Parry	Keith	$1.01	$540.99	$319.17	$10.10	$319.17
395	Partipilo	Michael	$1.94	$1,275.18	$569.29	$68.93	$607.48
396	Passera	Charles	$65.93	$683.92	$203.95	$157.51	$287.24
397	Patricio	Joseph	$1.84	$1,244.37	$270.02	$26.61	$284.48
398	Patry	Michael	$66.89	$151.72	$66.89	$66.89	$66.89
399	Peace	Kimberly	$241.57	$467.64	$467.64	$325.29	$467.64
400	Peacock	Paula	$118.57	$373.99	$373.99	$194.72	$373.99
401	Pearson	Jon	$380.51	$1,663.65	$380.51	$380.51	$380.51
402	Peer	Yuda	$82.53	$232.16	$82.53	$139.79	$139.79
403	Petculescu	Ciprian	$28.97	$56.33	$56.33	$56.33	$56.33
404	Peterson	Kenneth	$0.00	$125.43	$0.00	$0.00	$0.00
405	Peterson	Steven	$774.01	$2,779.11	$774.01	$774.01	$774.01
406	Pham	Benjamin	$0.06	$340.02	$260.46	$8.74	$260.46
407	Phillips	Gary	$0.23	$170.79	$155.27	$0.23	$155.27
408	Phillips	Larry	$881.80	$4,401.66	$1,619.51	$994.63	$1,679.93
409	Pilkington	Margaret	$664.24	$1,913.06	$664.24	$1,772.13	$1,772.13
410	Pineda	Carlos	$2,994.17	$6,482.88	$3,738.18	$3,131.68	$3,875.69
411	Pitts	Amir	$0.00	$18.59	$0.00	$0.00	$0.00
412	Pizzimenti	Santo	$1.25	$692.09	$267.19	$10.73	$267.19
413	Polchinski	Paul	$111.37	$855.20	$574.84	$282.33	$700.61
414	Pony	David	$51.52	$341.35	$341.35	$97.37	$341.35
415	Pouyan	Koosha	$0.55	$791.17	$494.60	$51.80	$535.20
416	Preza	Rowena	$0.00	$615.09	$150.01	$20.08	$150.01
417	Price	Mark	$0.00	$5.52	$5.52	$5.52	$5.52
418	Prince	Gregory	$0.66	$745.99	$104.00	$19.94	$123.28
419	Pruitt	Charles	$0.84	$1,014.54	$359.99	$0.84	$359.99
420	Punzalan	Luciano	$236.08	$584.50	$584.50	$236.08	$584.50
421	Raffensparger	Jeffrey	$0.00	$176.92	$17.66	$0.00	$17.66
422	Rainey	James	$219.28	$897.73	$816.59	$239.58	$816.59
423	Ramirez-Ramos	Omar	$0.00	$16.28	$16.28	$16.28	$16.28
424	Ramos	David	$1.39	$1,340.67	$353.38	$88.93	$432.36
425	Ray	William	$0.00	$127.52	$0.00	$3.24	$3.24
426	Regans	Mark	$379.98	$791.34	$791.34	$450.03	$791.34
427	Relopez	Craig	$584.96	$3,390.85	$584.96	$662.38	$662.38

	B	C	D	E	F	G	H
428	Reynolds	Joseph	$0.00	$17.97	$17.97	$17.97	$17.97
429	Rezaei	Ryan	$0.54	$178.16	$131.27	$76.82	$178.16
430	Riazi	Seyedmohammada	$0.00	$12.34	$12.34	$12.34	$12.34
431	Riazi	Seyedmohammadh	$0.28	$169.09	$152.80	$0.28	$152.80
432	Richards	John	$1.25	$806.11	$400.07	$46.54	$435.63
433	Riek	Roger	$1.48	$1,536.56	$523.52	$11.40	$523.52
434	Riipi	Karl	$126.47	$1,822.87	$596.87	$176.19	$596.87
435	Rios-Lopez	Oscar	$189.76	$390.07	$390.07	$189.76	$390.07
436	Risby	Clifford	$1,060.42	$2,254.21	$1,728.07	$1,122.24	$1,779.44
437	Risco	Pedro	$554.56	$1,684.31	$1,125.14	$817.41	$1,387.99
438	Rivas	Victor	$143.92	$371.96	$143.92	$259.77	$259.77
439	Rivero-Vera	Raul	$288.88	$767.21	$767.21	$340.05	$767.21
440	Rivers	Willie	$642.53	$1,279.60	$1,279.60	$678.11	$1,279.60
441	Robinson	Jeffrey	$0.39	$1,612.23	$242.14	$36.89	$270.23
442	Robinson	Mikalani	$398.94	$3,815.92	$986.20	$646.08	$1,223.52
443	Robles	Mark	$0.00	$174.14	$0.00	$112.79	$112.79
444	Rodde	Thomas	$0.00	$685.00	$453.38	$11.34	$453.38
445	Rodriguez	Armando	$30.79	$909.13	$459.52	$30.79	$459.52
446	Rohlas	Polly	$1,375.64	$4,103.18	$1,375.64	$1,926.60	$1,926.60
447	Rojas	Anthony	$1.18	$875.07	$290.55	$1.18	$290.55
448	Rojas-Perez	Jose	$0.95	$1,454.20	$405.99	$58.94	$405.99
449	Romano	Anthony	$97.89	$684.04	$97.89	$97.89	$97.89
450	Romero	James	$0.55	$375.91	$375.91	$0.55	$375.91
451	Ross	Lee	$174.37	$419.40	$419.40	$190.76	$419.40
452	Ross	Sherman	$1.36	$1,072.19	$490.61	$13.45	$490.61
453	Rousseau	James	$325.14	$616.78	$325.14	$325.14	$325.14
454	Rozowski	Frank	$0.23	$54.19	$54.19	$54.19	$54.19
455	Ruiz	Travis	$148.12	$1,014.01	$148.12	$347.87	$347.87
456	Ryan	John	$0.39	$263.80	$263.80	$9.39	$263.80
457	Sabitian	Ali	$0.00	$105.87	$105.87	$0.00	$105.87
458	Sadler	James	$82.91	$223.91	$223.91	$128.41	$223.91
459	Saleh	Jemal	$1,041.24	$3,450.12	$1,041.24	$1,345.03	$1,345.03
460	Sam	Phea	$625.84	$2,076.49	$1,233.46	$633.79	$1,233.46
461	Sameh	Abdul	$0.07	$115.19	$34.05	$0.07	$34.05

	B	C	D	E	F	G	H
462	Sameli	Sabino	$921.22	$1,840.58	$1,543.10	$1,072.36	$1,594.82
463	Sameni	Abbas	$1.02	$1,622.42	$442.06	$40.57	$481.62
464	Sampson	James	$148.14	$1,208.41	$148.14	$486.56	$486.56
465	Sanchez-Ramos	Natasha	$288.44	$814.24	$615.78	$686.58	$814.24
466	Sanders	Acy	$0.00	$0.00	$0.00	$0.00	$0.00
467	Sans	Thomas	$769.01	$1,569.72	$1,406.90	$885.35	$1,463.15
468	Sargeant	Michael	$164.64	$453.30	$453.30	$365.82	$453.30
469	Sattari	Ahmad	$0.00	$4.51	$4.51	$4.51	$4.51
470	Savino	Christopher	$0.30	$878.94	$305.14	$22.36	$305.14
471	Sayed	Jamil	$238.74	$1,767.48	$238.74	$301.27	$301.27
472	Schell	Christopher	$0.25	$189.18	$165.95	$42.05	$165.95
473	Schraeder	Scott	$569.96	$1,126.65	$1,126.65	$578.70	$1,126.65
474	Schroeder	William	$636.51	$3,469.02	$636.51	$714.97	$714.97
475	Secondo	Muridi	$391.43	$931.18	$931.18	$455.36	$931.18
476	Seidman	Steven	$2.58	$52.60	$25.95	$13.49	$25.95
477	Sevillet	Otto	$0.00	$177.21	$0.00	$0.00	$0.00
478	Sexner	Alexis	$227.46	$764.85	$227.46	$233.71	$233.71
479	Seyed-Mousavi	Seyed	$0.24	$124.38	$124.38	$7.42	$124.38
480	Shafiei	Abdolreza	$552.17	$1,064.45	$1,064.45	$623.08	$1,064.45
481	Shallufa	Azmy	$1,305.88	$2,844.38	$1,305.88	$1,421.85	$1,421.85
482	Sharma	Mahesh	$0.39	$143.25	$143.25	$8.39	$143.25
483	Sheriff	Sheriff	$0.04	$125.04	$125.04	$47.25	$125.04
484	Sherman	Jason	$0.00	$0.00	$0.00	$0.00	$0.00
485	Shockley	Mark	$0.00	$471.66	$471.66	$64.43	$471.66
486	Shoyombo	Rilwan	$574.97	$1,468.83	$574.97	$1,468.83	$1,468.83
487	Sibre	Christopher	$294.20	$1,005.13	$856.15	$341.09	$856.15
488	Siljkovic	Becir	$414.83	$888.19	$414.83	$442.24	$442.24
489	Simmons	John	$1,215.13	$3,659.08	$1,215.13	$1,614.88	$1,614.88
490	Simms	William	$0.00	$178.35	$178.35	$0.00	$178.35
491	Sims	Shaun	$0.00	$155.49	$155.49	$10.23	$155.49
492	Slayton	David	$0.02	$61.41	$61.41	$0.02	$61.41
493	Smale	Charles	$457.66	$1,378.30	$457.66	$1,223.88	$1,223.88
494	Smallwood	Linn	$1.16	$1,529.19	$603.46	$1.16	$603.46
495	Smith	Alex	$1.48	$889.88	$344.54	$1.48	$344.54

	B	C	D	E	F	G	H
496	Smith	Donna	$0.00	$32.69	$0.00	$0.00	$0.00
497	Smith Jr.	Willie	$613.38	$1,438.95	$613.38	$1,278.16	$1,278.16
498	Solano	Domingo	$0.25	$450.57	$450.57	$0.25	$450.57
499	Solymar	Istvan	$303.84	$703.70	$703.70	$407.67	$703.70
500	Soree	Mladen	$899.90	$2,234.83	$899.90	$981.42	$981.42
501	Sorkin	Jack	$336.28	$691.32	$691.32	$520.29	$691.32
502	Sorrosa	Juan	$339.58	$915.65	$339.58	$374.60	$374.60
503	Soto	Jacob	$137.41	$2,199.71	$137.41	$137.41	$137.41
504	Spilmon	Mark	$1,144.91	$2,685.52	$1,144.91	$1,150.12	$1,150.12
505	Stagg	Charles	$0.00	$137.74	$137.74	$33.06	$137.74
506	Stanley	John	$286.26	$748.28	$748.28	$323.62	$748.28
507	Stearns	Thomas	$528.37	$1,240.62	$1,022.30	$651.15	$1,066.50
508	Steck	Gregory	$3,176.83	$8,894.44	$3,176.83	$3,326.03	$3,326.03
509	Stevenson	John	$777.20	$2,424.66	$777.20	$777.20	$777.20
510	Stockton	Clarence	$1,006.20	$3,855.46	$1,006.20	$1,006.20	$1,006.20
511	Suddarth	Robert	$0.00	$0.00	$0.00	$0.00	$0.00
512	Tafesh	Alfred	$0.00	$12.45	$12.45	$12.45	$12.45
513	Tafesh	George	$0.00	$0.00	$0.00	$0.00	$0.00
514	Talley	George	$0.00	$0.00	$0.00	$0.00	$0.00
515	Tapia-Vergara	Agustin	$587.64	$1,338.46	$1,171.59	$659.71	$1,181.34
516	Tarango	Jose	$0.00	$11.46	$11.46	$11.46	$11.46
517	Taylor	Brent	$632.29	$1,285.07	$1,285.07	$642.51	$1,285.07
518	Taylor	David	$324.21	$1,485.96	$655.21	$566.49	$793.88
519	Taylor	Fredrick	$0.59	$1,035.59	$606.36	$52.30	$606.36
520	Taylor	Marvin	$714.56	$1,547.43	$1,384.14	$730.69	$1,400.27
521	Tewolde	Mekonen	$0.04	$309.81	$156.57	$0.04	$156.57
522	Thetprasit	Lou	$0.08	$136.36	$136.36	$20.19	$136.36
523	Thomas	Cator	$427.93	$856.81	$856.81	$492.84	$856.81
524	Thomas	Hasan	$247.81	$529.53	$529.53	$344.91	$529.53
525	Thomas	Marc	$0.34	$568.88	$322.54	$0.34	$322.54
526	Thompson	Glen	$1,308.05	$4,701.46	$1,308.05	$3,162.53	$3,162.53
527	Thompson	Michael	$746.80	$3,697.32	$746.80	$918.62	$918.62
528	Timko	Robert	$224.07	$499.05	$499.05	$292.73	$499.05
529	Toka	Tamas	$445.88	$970.12	$970.12	$505.13	$970.12

	B	C	D	E	F	G	H
530	Toledano	Alexis	$0.00	$30.40	$30.40	$5.89	$30.40
531	Travis	Brian	$80.19	$303.47	$80.19	$240.45	$240.45
532	Trujillo-Campos	Bernardino	$0.53	$219.23	$219.23	$7.52	$219.23
533	Trumpp	Robert	$211.10	$2,887.31	$840.69	$420.84	$992.37
534	Tsegaye	Miheret	$51.23	$108.00	$108.00	$108.00	$108.00
535	Tucker	Carl	$0.24	$437.50	$0.24	$350.86	$350.86
536	Tucker	Kenlon	$420.75	$1,156.23	$420.75	$498.20	$498.20
537	Turner	James	$0.00	$27.58	$27.58	$27.58	$27.58
538	Uba	Chima	$201.50	$1,018.62	$629.94	$251.89	$670.86
539	Urbanski	Anthony	$399.26	$2,335.90	$399.26	$597.72	$597.72
540	Utorov	Eduard	$0.12	$328.96	$328.96	$40.49	$328.96
541	Vaghefi	Alex	$0.00	$167.25	$72.56	$18.19	$72.56
542	Valiente	Pedro	$0.46	$990.55	$319.43	$0.46	$319.43
543	Vargo	Alan	$0.10	$336.21	$336.21	$28.71	$336.21
544	Vargo	Keli	$1.29	$1,316.55	$511.17	$42.40	$511.17
545	Viado	Ramon	$332.24	$2,516.58	$332.24	$332.24	$332.24
546	Villarreal	Edward	$0.05	$21.65	$21.65	$21.65	$21.65
547	Volchek	Boris	$0.04	$226.79	$176.74	$74.38	$223.82
548	Vongthep	Christopher	$1,101.22	$4,078.29	$1,101.22	$1,101.22	$1,101.22
549	Vonkageler	Mark	$130.27	$257.28	$257.28	$182.01	$257.28
550	Wainwright	Gilbert	$0.77	$972.31	$402.41	$59.47	$412.73
551	Walker	Arthur	$114.57	$252.97	$252.97	$114.57	$252.97
552	Wallace	James	$0.00	$213.92	$0.00	$156.13	$156.13
553	Wallace	Roy	$1,945.30	$6,915.10	$1,945.30	$2,604.32	$2,604.32
554	Walls	Charles	$0.00	$331.15	$133.17	$0.00	$133.17
555	Ward	Robert	$0.58	$898.26	$346.75	$134.06	$433.71
556	Warner	Terrance	$116.84	$294.34	$116.84	$179.02	$179.02
557	Washington	Kenneth	$1.28	$1,461.51	$457.37	$49.86	$457.37
558	Way	Amos	$0.04	$9.91	$9.91	$9.91	$9.91
559	Waymark	Thomas	$1.79	$1,260.85	$434.80	$12.62	$434.80
560	Weaver	Gerie	$863.70	$3,924.03	$863.70	$1,723.10	$1,723.10
561	Webster	Brock	$254.41	$594.01	$594.01	$311.04	$594.01
562	Welborn	Paul	$322.42	$1,078.24	$322.42	$632.21	$632.21
563	White II	Prinest	$153.22	$356.23	$356.23	$183.87	$356.23

	B	C	D	E	F	G	H
564	Wible	Gregory	$0.70	$485.01	$250.19	$401.66	$416.88
565	Wideman	Timothy	$8.42	$115.11	$8.42	$18.25	$18.25
566	Wing	Roland	$81.95	$170.42	$170.42	$81.95	$170.42
567	Witte	Daniel	$228.39	$575.21	$575.21	$237.08	$575.21
568	Woldemichael	Meles	$0.00	$0.00	$0.00	$0.00	$0.00
569	Wolfe	Thomas	$726.91	$1,928.38	$1,285.33	$804.02	$1,344.20
570	Wong	Jorge	$1,579.41	$4,903.72	$1,579.41	$1,726.77	$1,726.77
571	Wong	Wanjin	$1,115.61	$3,537.25	$1,617.10	$1,359.93	$1,742.04
572	Wright	Edward	$0.00	$59.05	$0.00	$0.00	$0.00
573	Yabut	Gerry	$1,569.20	$5,414.02	$1,569.20	$1,569.20	$1,569.20
574	Yamaguchi	Alicia	$2,331.88	$6,131.96	$2,331.88	$2,372.97	$2,372.97
575	Yazdian	Ali	$0.01	$102.78	$102.20	$0.01	$102.20
576	Yerima	Mollah	$0.36	$840.30	$420.34	$0.36	$420.34
577	Yu	Lu	$0.00	$0.00	$0.00	$0.00	$0.00
578	Yu	Mary	$0.45	$765.28	$517.33	$0.45	$517.33
579	Yurckonis	Hilbert	$2,395.57	$6,937.29	$3,016.16	$2,513.68	$3,114.38
580	Zafar	John	$46.22	$165.28	$46.22	$46.22	$46.22
581	Zaldivar	Maikel	$0.00	$11.15	$7.32	$0.00	$7.32
582	Zawoudie	Masfen	$452.16	$1,681.26	$452.16	$531.93	$531.93
583	Zekichev	Nick	$324.17	$666.15	$324.17	$372.51	$372.51
584	Zeleke	Abraham	$0.00	$19.69	$0.00	$19.69	$19.69
585	Zghaier	Hassan	$0.00	$50.59	$17.54	$17.54	$17.54

EXHIBIT “H”

LEON GREENBERG
Attorney at Law
2965 South Jones Boulevard • Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085

Leon Greenberg
Member Nevada, California
New York, Pennsylvania and New Jersey Bars
Admitted to the United States District Court of Colorado

Dana Sniegocki
Member Nevada and California Bars

Fax: (702) 385-1827

May 17, 2016

The Honorable Bonnie A. Bulla
Discovery Commissioner
200 Lewis Avenue, 5th Floor
Las Vegas, Nevada 89155

VIA HAND DELIVERY ON MAY 18, 2016

Re: Murray v. A Cab A-12-669926-C
May 20, 2016 Status Check on Compliance with Discovery Production - Quickbooks Payroll Information Production

Dear Commissioner Bulla:

When counsel last appeared in this case on April 8, 2016 they were in conflict regarding the production of class member payroll information maintained by the defendants in Quickbooks. Your Honor reviewed the form of Quickbooks data furnished by defendants and considered my concerns with that production. While no formal Report and Recommendation was issued at that time, as the minutes from April 8, 2016 (attached) reflect, I believe Your Honor did understand there was a need to "...re-format the data from Quickbooks in a meaningful way." Your Honor directed counsel to cooperate in doing so and instructed that I "...put in writing to Defense counsel a letter re: what is necessary and an explanation, and courtesy copy Commissioner..." I believe that directive resulted from defendant's counsel's assertion that defendants did not know how to produce the Quickbooks data in an appropriate format and my pledge to Your Honor that I could provide written clarification about how to do so from a skilled Quickbooks professional.

With this letter I provide the declaration of Nancy Whissel, a "Certified ProAdvisor" of Quickbooks (that certification is conferred by Intuit, the creator of

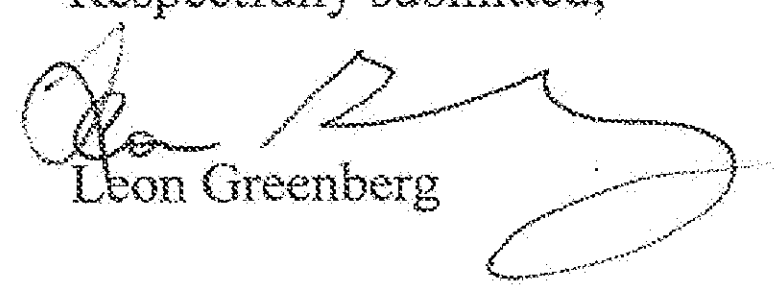
Quickbooks), which I delivered to the defendants' counsel today. Exhibit "3" of the declaration (previously provided to defendants' counsel on May 13, 2016) is an illustrated step by step process to produce the Quickbooks data in a suitable format. I believe Your Honor may gain a beneficial understanding about this issue by reviewing Ms. Whissel's declaration and the exhibits thereto in their entirety.

As of the date of this letter, I am unsure if the parties will reach an appropriate understanding about the Quickbooks data production.

I would also like to comment, briefly, about the fundamental background, and dynamics, of the Quickbooks data production. The Quickbooks information sought (class member payroll data) was maintained in that electronic fashion, within Quickbooks, in the first instance by the defendants in the normal course of their business. Such information, only after being so created, maintained, and inputted into Quickbooks, was then used to print defendants' paper paycheck stubs. Pursuant to NRCP Rule 34(b)(2)(E)(ii), governing the production of electronically stored information, a party "...must produce it [electronically stored information] in a form or forms which it is ordinarily maintained...."

The defendants "ordinarily maintained" the payroll data electronically in Quickbooks as part of a master "Quickbooks Company" file, which is akin to a complete "file cabinet" of company financial data. Defendants do not dispute they can easily make a complete copy of their "Quickbooks Company" file (Quickbooks has a built in "push the button" function to do so), something plaintiffs are willing to accept. Defendants do not want to produce that entire "Quickbooks Company" file (even subject to a protective order) since it would contain all of their Quickbooks stored financial information and include information plaintiffs do not seek or desire and have no use for. But I do not believe that under NRCP Rule 34 it should be plaintiffs' burden to remedy the defendants' purported lack of expertise on how to extract just that single "file drawer" containing the Quickbooks payroll data when the entire "file cabinet" (the Quickbooks Company file) is so easily produced. Notwithstanding that fact, I have incurred a considerable expense in securing the Whissel declaration and have expended a very considerable amount of time trying to provide such expertise to the defendants.

Respectfully submitted,



Leon Greenberg

cc: Esther Rodriguez, Esq. (Via Email)

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 Rodriguez *Retained* 7023208400(W)
Defendant	A Cab Taxi Service LLC	Michael K. Wall *Retained* 7023852500(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

04/08/2016 **Further Proceedings** (10:00 AM) (Judicial Officer Bulla, Bonnie)
Further Proceedings: Discovery Production / Deferred Ruling

Minutes
03/16/2016 10:00 AM

04/06/2016 10:00 AM
- Colloquy re: the District Court Judge has not made all Decisions, a stay is in place on the February 10th order, and a separate Motion is set to stay all proceedings. Commissioner is not inclined to Recommend further fees and costs today as Motions are pending. Colloquy. Ms. Rodriguez explained her attempts to comply with Commissioner's Recommendation.

Arguments by counsel. Print out of production provided from Mr. Greenberg to Commissioner in Open Court. Colloquy re: data disclosed. Discussion re: the Bahena Decision. Commissioner DENIED Mr. Greenberg's request for Defense counsel to correspond with him in writing. Colloquy re: providing information with a Motion pending. Ms. Rodriguez will re-format the data from Quickbooks in a meaningful way. Colloquy re: submission in camera. COMMISSIONER RECOMMENDED, produce 1) employees (absent names until the Court rules on class certification), 2) wage earned and hours, 3) pay period, and 4) any deductions and for what (including health deductions). Commissioner advised Mr. Greenberg to put in writing to Defense counsel a letter re: what is necessary and an explanation, and courtesy copy Commissioner; Ms. Rodriguez will identify employees by number and develop a key. No Report and Recommendation today. Commissioner expects better communication between counsel. COMMISSIONER RECOMMENDED, Status Check SET in 30 days. 5/20/16 10:00 a.m. Status Check: Status of Case.

Parties Present
Return to Register of Actions

LEON GREENBERG, ESQ.
Nevada Bar No.: 8094
DANA SNIEGOCKI, ESQ.
Nevada Bar No.: 11715
Leon Greenberg Professional Corporation
2965 South Jones Boulevard - Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
leongreenberg@overtimelaw.com
dana@overtimelaw.com
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY and MICHAEL RENO, individually and on behalf of all others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC, A CAB, LLC, and CREIGHTON J. NADY, Defendants.	**Case No.: A-12-669926-C** **DEPT.: I** DECLARATION OF NANCY WHISSEL

Nancy Whissel, hereby affirms, under penalty of perjury, that:

1. I am the owner of Nevada Quickbooks Pro. My office, Nevada Quickbooks Pro, provides services involving the use of Quickbooks to a variety of businesses in Las Vegas. I have over 25 years of experience using Quickbooks including the use of Quickbooks to maintain and process employee payroll information. Quickbooks is the standard business software used by the vast majority of small businesses to keep track of their finances, including their employee payroll. The sort of employee payroll information that Quickbooks is used to keep track of and process includes compensation paid (including various different kinds of

compensation), hours worked, and deductions made from an employee's pay. I am highly familiar with the use of Quickbooks and the ability of Quickbooks to transfer ("export") information into Excel (spreadsheets). I have received certification from Intuit (the maker of Quickbooks software) as a "Certified ProAdvisor" in Quickbooks.

2. I have been asked by the plaintiffs' attorneys in this case to furnish a statement explaining how information on printed employee paystubs, originally printed from Quickbooks, can be exported (transferred) from Quickbooks into an Excel computer file. The purpose of such a transfer of information from Quickbooks to Excel would be to use the Excel software to easily determine if an employee was paid at least the required minimum hourly wage for each of their pay periods. Attached to this declaration, Exhibit "1," is a copy of what I am told are four "paystubs" for one A-Cab employee. I am advised that those paystubs were prepared (printed) from Quickbooks.

3. Attached to this declaration, Exhibit "2," is a "sample" form of Excel spreadsheet containing some of the Exhibit "1" paystub information set up in a form that would easily allow a determination of the hourly rate for this employee. Columns "A" through "L" of Exhibit "2" contain the payroll information from the Exhibit "1" paystubs with column "M" of Exhibit "2" being the "calculation" column showing what the employee's hourly rate was for each of the four Exhibit "1" pay periods (excluding tips from that calculation and assuming the number "Minimum Wage Subsidy – Qty" represents the hours worked).

4. Having the payroll information for A-Cab, that is printed on the Exhibit "1" paystubs, exported directly from Quickbooks into Excel, and placed into an Excel spreadsheet in the form of Exhibit "2," allows the calculation of the hourly rate for many thousands of different employee pay periods instantaneously (that is done by inserting the column "M" calculation, as in Exhibit "2"). The Exhibit "2" sample (Excel uses the term "worksheet" to refer to such a thing) has a "single line" format, meaning all of the information for each single pay period (employee name, date, all other particulars of the payroll) appear on a "single line." This single line format is essential for easy analysis of the payroll information, as it allows the creation of the Exhibit "2" column "M" calculation. The alternative to this sort of automated analysis in Excel would involve having someone sit down with a calculator, and determine, manually, for each individual pay period, the hourly rate from the printed paystubs. That process, if it were to involve thousands of individual paychecks to hundreds of employees, would be incredibly time consuming. In addition, although not demonstrated in the attached Exhibit "2," the Excel software can easily and instantaneously (by adding columns "N" and "O") calculate the amount of unpaid minimum wages, if any, due the employee in a particular pay period depending on whether the minimum wage rate was $7.25 or $8.25 an hour.

5. I have been asked whether the Quickbooks software, that produced the Exhibit "1" paystubs, can easily transfer ("export" is the term used in Quickbooks) the information in those printed paystubs into Excel in a manner that would either, when

transferred, appear in the "single line" format of Exhibit "2" or in another fashion that can easily be rearranged by Excel into that "single line" format. The answer to that question is yes. I have also been asked how difficult it would be to perform that transfer ("export") of information from Quickbooks into Excel. The answer to that question is that the procedure is not very difficult. Attached to this declaration at Exhibit "3" is a narrative I constructed that includes actual "screen shots" of Quickbooks. It explains how to create a "payroll detail report" that will export into Excel in a single line format one payroll item for all employees for a specified time period. This procedure would have to be repeated for each relevant payroll item appearing on the printed paystubs, there are 8 such payroll items in the paystubs at Exhibit "1" (reproduced at columns "E" through "L" of Exhibit "2") meaning the Exhibit "3" process would have to be repeated 8 times based upon the paystubs provided. But that would be 8 times for *all employees* not each employee. The process detailed in Exhibit "3" can also be easily filtered by "class." The "class" designation in Quickbooks is typically used by employers to designate a particular department of employees, such as in this case just its taxi drivers. Such a "taxi driver class" filter, if included in the Exhibit "3" process, would limit the exported Excel information to just A-Cab's taxi drivers.

6. In respect to the time needed to perform the export into Excel of the Quickbooks information, as I describe in Exhibit 3 and discuss above in paragraph 5, there is no reason for that process to consume more than a few hours of someone's

time. That is true even if 100,000 or 200,000 or more individual employee paychecks were so processed. That is because actually performing the process I detail in Exhibit "3" only takes a few minutes. While it may take 5 or 10 minutes for each of the 8 "executions" of that Quickbooks to Excel export process to run, the person entering that process in the computer need not stand by the computer and can do other things while the computer processes each Excel export. Any computer in use today can rapidly process very large amounts of data in a very short amount of time. There is no reason to believe it would take more than one day to export from Quickbooks into Excel all of A-Cab's payroll records from 2008 through the present using the method I detail in Exhibit "3" even if A-Cab was paying 200 employees every two weeks.

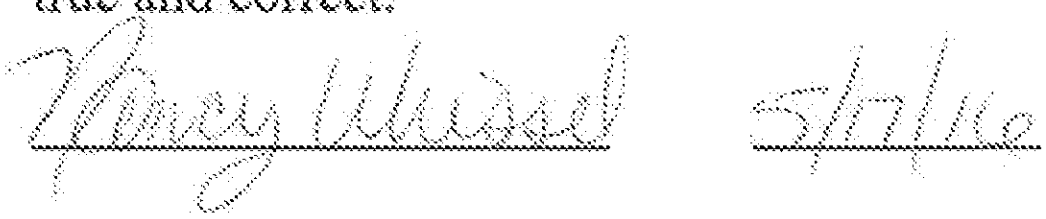
7. The process I describe in Exhibit "3" will, once performed, allow the easy creation, within Excel, of the desired "single line" Excel worksheet that is illustrated at Exhibit "2." That is because each outputted line of information from Quickbooks, using the Exhibit "3" method, will have a common reference, a unique check number, for each related payroll item. Through the use of formulas within the Excel software making use of that common reference, the information exported from Quickbooks into Excel using the Exhibit "3" process can be easily reconfigured into the Exhibit "2" form of worksheet for analysis purposes.

8. It would also be possible to produce the information that appears on the Exhibit "1" paystubs for all A-Cab taxi drivers by identifying the particular computer files in Quickbooks that contain that information and just copying those

computer files or portions of those files. That process would not involve any "export" of information from Quickbooks into Excel in the manner I have described. That sort of "file copying" process is not something I can advise about but can be performed by someone with suitable knowledge of the Quickbooks files, the sorts of information contained in those files, and the relationships between those files.

9. In the event the personnel at A-Cab who use their Quickbooks software would have difficulty understanding the process of producing an Excel file in the form annexed at Exhibit "3" or otherwise need assistance in properly exporting into Excel their relevant Quickbooks payroll information, I can come to the offices of A-Cab and assist in the production of that Excel file. My standard hourly rate for such services is $125.00 an hour. I have been paid that rate for the time I have spent speaking with plaintiffs' attorney about this matter and preparing, signing and reviewing this declaration and its attached Exhibits. I have no personal relationships with plaintiffs' attorneys nor any of the parties to this case and no personal interest in the outcome of this case. I have never acted as a consultant or witness for plaintiffs' attorneys in any prior matter.

I have read the foregoing and affirm under penalty of perjury that the same is true and correct.



Nancy Whissel Date

EXHIBIT "1"

EXHIBIT "1"

A CAB, SERIES LLC Employee Leasing Company

12889

Employee	SSN	Status (Fed/State)	Allowances/Extra
Michael C. Sargeant, 2001 Ramrod Ave. #2215, Henderson, NV 89014	***-**-5207	Single/(none)	Fed-1/0/NV-0/0
	Pay Period: 07/05/2014 - 07/18/2014		Pay Date: 07/25/2014

Earnings and Hours	Qty	Rate	Current	YTD Amount
Minimum Wage Subsidy	57.08	4.27	243.73	583.62
Driver Commission	1.00	165.01	165.01	1,163.01
Incentive #5		5.00	5.00	16.00
Tips Supplemental			46.71	267.79
Supervisor Counseling Pay			0.00	1.45
	57.08		460.45	2,031.87

Taxes	Current	YTD Amount
Federal Withholding	-22.00	-111.00
Social Security Employee	-28.55	-125.98
Medicare Employee	-6.67	-29.46
	-57.22	-266.44

Adjustments to Net Pay	Current	YTD Amount
Tips Out	-46.71	-267.79
Cash loan	-10.00	-10.00
	-56.71	-277.79

Net Pay	346.52	1,487.64

A Cab, LLC, 1500 Searles Avenue, 1500 Searles Avenue, Las Vegas, NV 89101-1123, A CAB TAXI SERVICE LLC

A CAB, SERIES LLC Employee Leasing Company

12959

Employee	SSN	Status (Fed/State)	Allowances/Extra
Michael C. Sargeant, 2001 Ramrod Ave. #2215, Henderson, NV 89014	***-**-5207	Single/(none)	Fed-1/0/NV-0/0
	Pay Period: 07/19/2014 - 08/01/2014		Pay Date: 07/28/2014

Earnings and Hours	Qty	Rate	Current	YTD Amount
Minimum Wage Subsidy	22.81	4.08	93.06	676.68
Driver Commission	1.00	72.41	72.41	1,235.42
Tips Supplemental			17.90	285.69
Supervisor Counseling Pay			0.00	1.45
Incentive #5			0.00	16.00
	22.81		183.37	2,215.24

Taxes	Current	YTD Amount
Federal Withholding	0.00	-111.00
Social Security Employee	-11.36	-137.34
Medicare Employee	-2.66	-32.12
	-14.02	-280.46

Adjustments to Net Pay	Current	YTD Amount
Tips Out	-17.90	-285.69
Cash loan	0.00	-10.00
	-17.90	-295.69

Net Pay	151.45	1,639.09

A Cab, LLC, 1500 Searles Avenue, 1500 Searles Avenue, Las Vegas, NV 89101-1123, A CAB TAXI SERVICE LLC

A CAB, SERIES LLC Employee Leasing Company

12044

Employee	SSN	Status (Fed/State)	Allowances/Extra
Michael C. Sargeant, 2001 Ramrod Ave. #2215, Henderson, NV 89014	***-**-5207	Single/(none)	Fed-1/0/NV-0/0
	Pay Period: 05/24/2014 - 06/06/2014		Pay Date: 06/13/2014

Earnings and Hours	Qty	Rate	Current	YTD Amount
Minimum Wage Subsidy	87.48	1.43	125.10	125.10
Driver Commission	1.00	416.41	416.41	416.41
Tips Supplemental			92.79	92.79
	87.48		634.30	634.30

Taxes	Current	YTD Amount
Federal Withholding	-42.00	-42.00
Social Security Employee	-39.33	-39.33
Medicare Employee	-9.20	-9.20
	-90.53	-90.53

Adjustments to Net Pay	Current	YTD Amount
Tips Out	-92.79	-92.79
Net Pay	450.98	450.98

CAB TAXI

A Cab, LLC. 1500 Searles Avenue, 1500 Searles Avenue, Las Vegas, NV 89101-1123, A CAB TAXI SERVICE LLC

A CAB, SERIES LLC Employee Leasing Company

12613

Employee	SSN	Status (Fed/State)	Allowances/Extra
Michael C. Sargeant, 2001 Ramrod Ave. #2215, Henderson, NV 89014	***-**-5207	Single/(none)	Fed-1/0/NV-0/0
	Pay Period: 06/21/2014 - 07/04/2014		Pay Date: 07/11/2014

Earnings and Hours	Qty	Rate	Current	YTD Amount
Minimum Wage Subsidy	54.78	2.57	140.78	339.89
Driver Commission	1.00	251.45	251.45	998.00
Incentive #5		5.00	5.00	11.00
Tips Supplemental			56.44	221.08
Supervisor Counseling Pay			0.00	1.45
	54.78		453.67	1,571.42

Taxes	Current	YTD Amount
Federal Withholding	-22.00	-89.00
Social Security Employee	-28.13	-97.43
Medicare Employee	-6.58	-22.79
	-56.71	-209.22

Adjustments to Net Pay	Current	YTD Amount
Tips Out	-56.44	-221.08
Net Pay	340.52	1,141.12

CAB TAXI

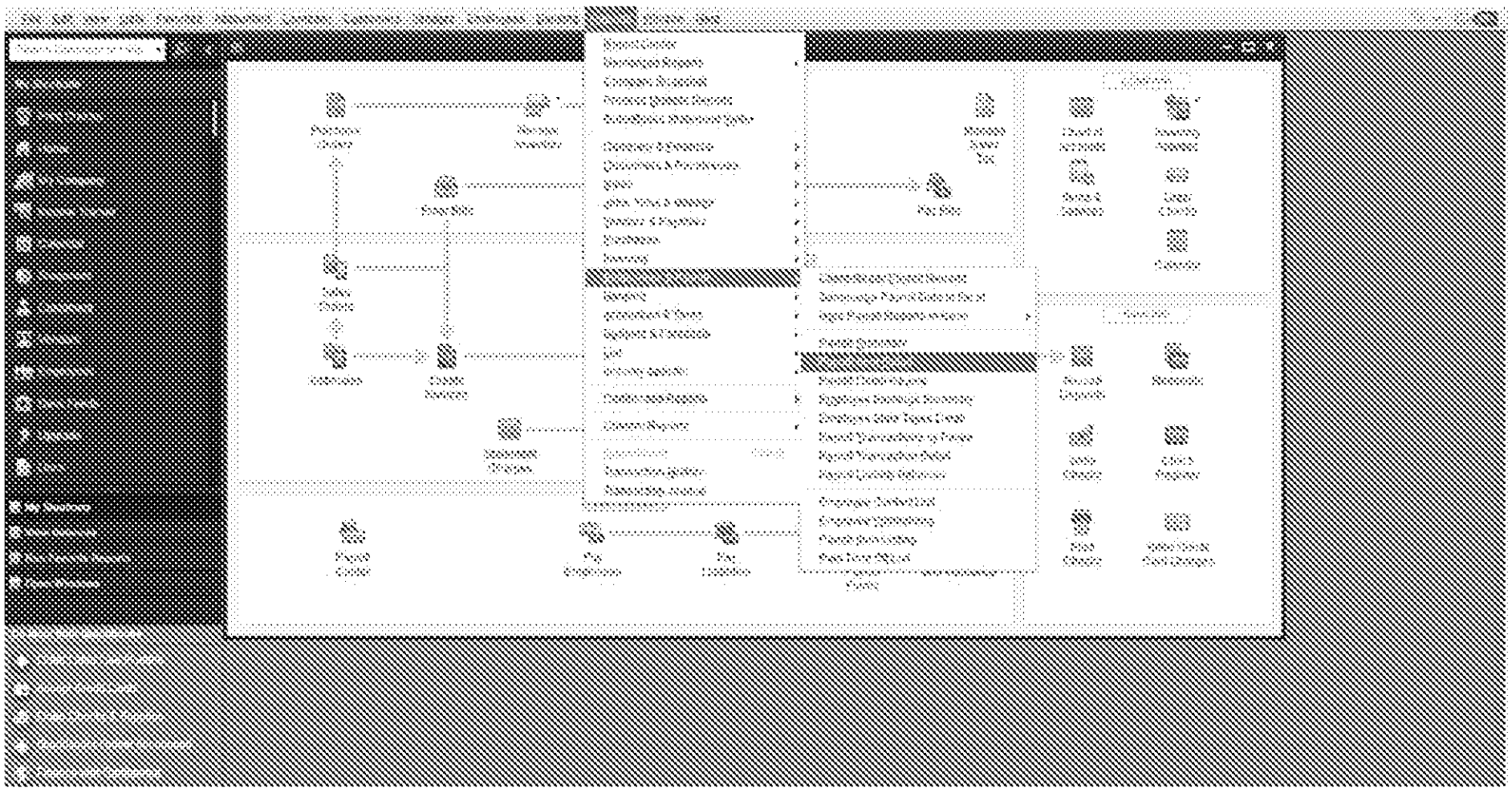
A Cab, LLC. 1500 Searles Avenue, 1500 Searles Avenue, Las Vegas, NV 89101-1123, A CAB TAXI SERVICE LLC

EXHIBIT "2"

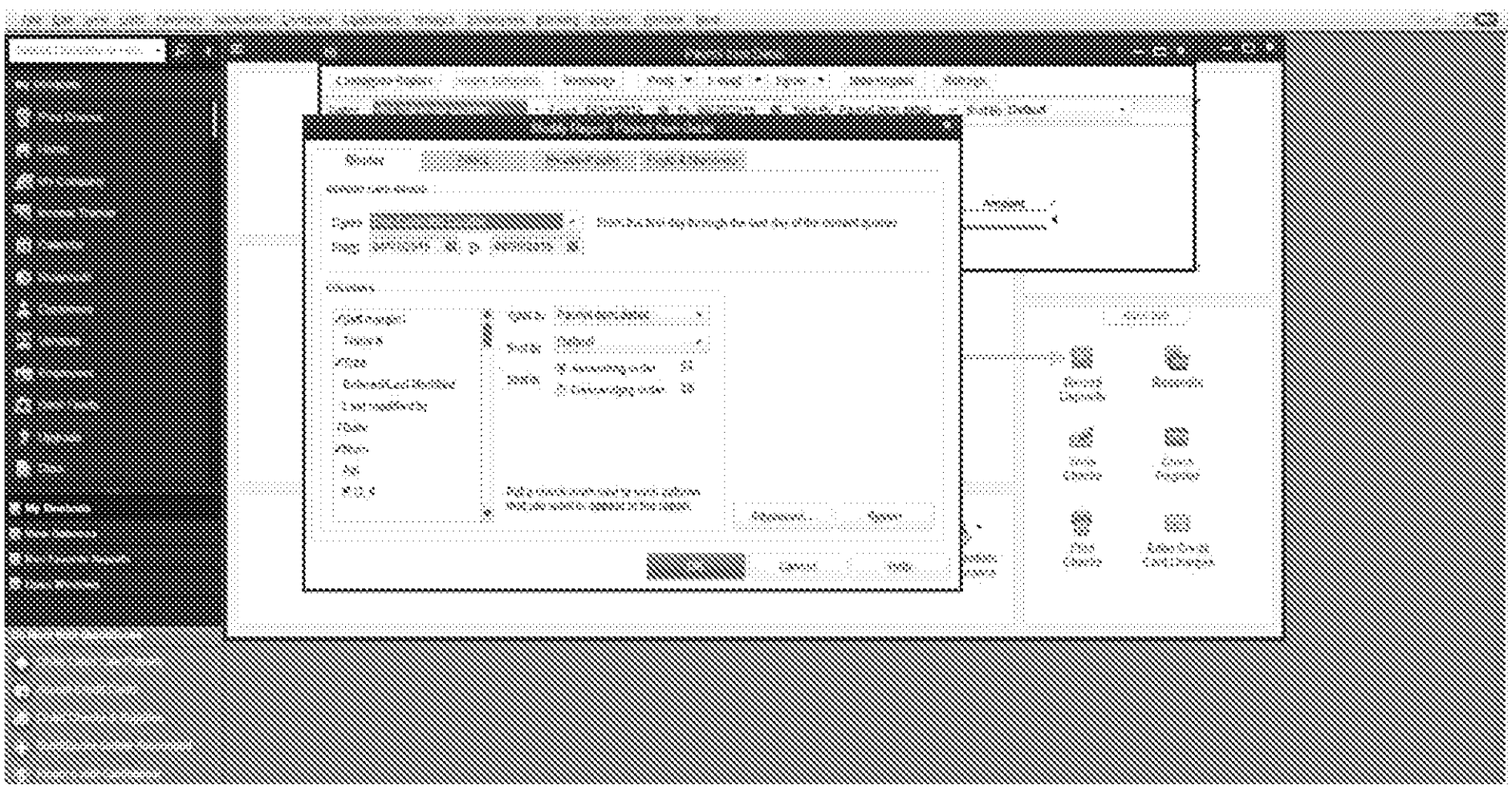
	A	B	C	D	E	F	G	H	I	J	K	L	M
1	SAMPLE FORM OF EXCEL SPREADSHEET DESIRED												
2	Name-Last	Name-First	Pay Period Last Date	Pay Date	Minimum Wage Subsidy - Qty	Minimum Wage Subsidy - Current	Driver Commission - Current	Incentive #5 - Current	Tips Supplemental - Current	Supervisor Counseling Pay - Current	Tips Out - Current	Cash Loan - Current	Rate Per Hour Excluding Tips If Minimum Wage Subsidy - Qty is hours worked
3	Sargeant	Michael	6/6/2014	6/13/2014	87.48	125.1	416.41		92.79		-92.79		6.19
4	Sargeant	Michael	7/4/2014	7/11/2014	54.78	140.78	251.45	5	56.44		56.44		7.25
5	Sargeant	Michael	7/18/2014	7/25/2014	57.08	243.73	165.01	5	46.71	0	-46.71	-10	7.25
6	Sargeant	Michael	8/1/2014	7/28/2014	22.81	93.06	72.41	0	17.9	0	-17.9	0	7.25

EXHIBIT "3"

1. Run Payroll Item Detail Report



2. Click on Customize Report

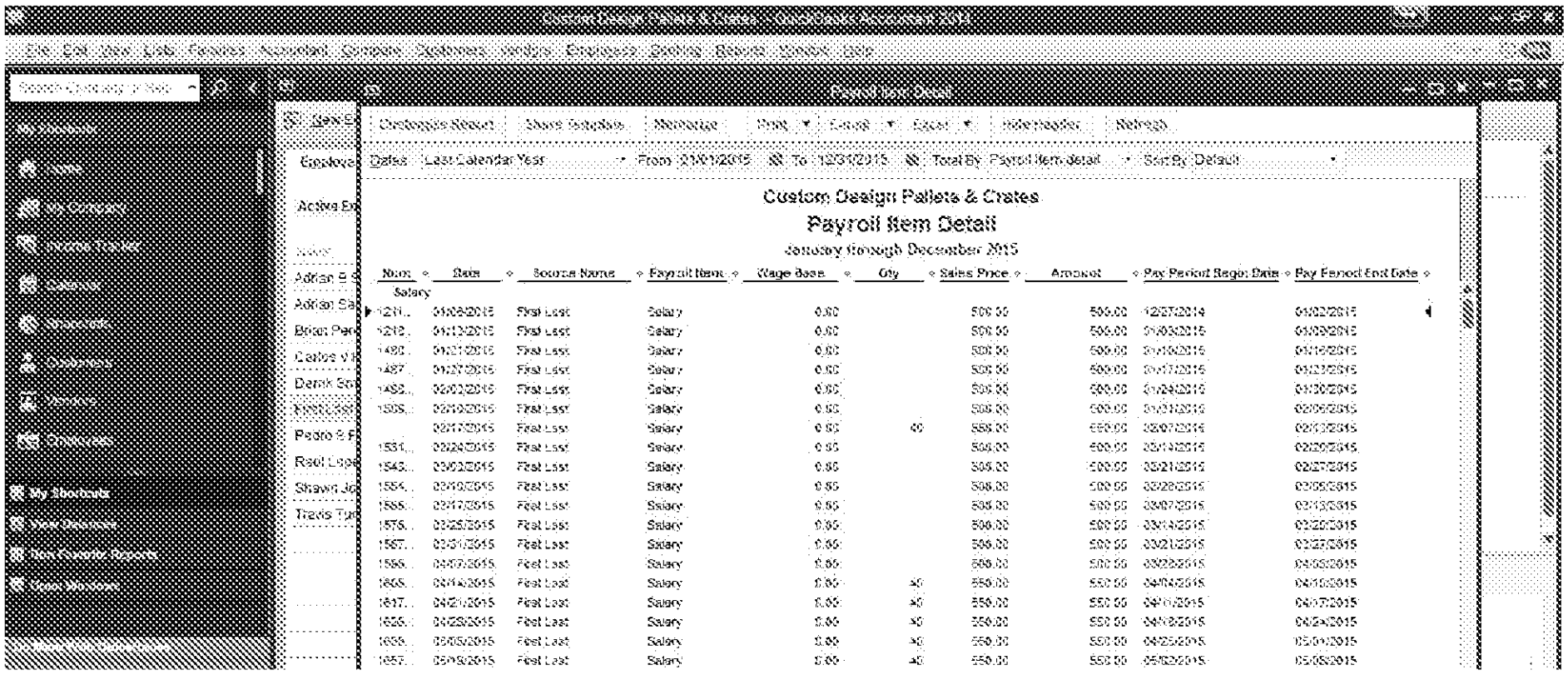


3. Choose the desired date range.

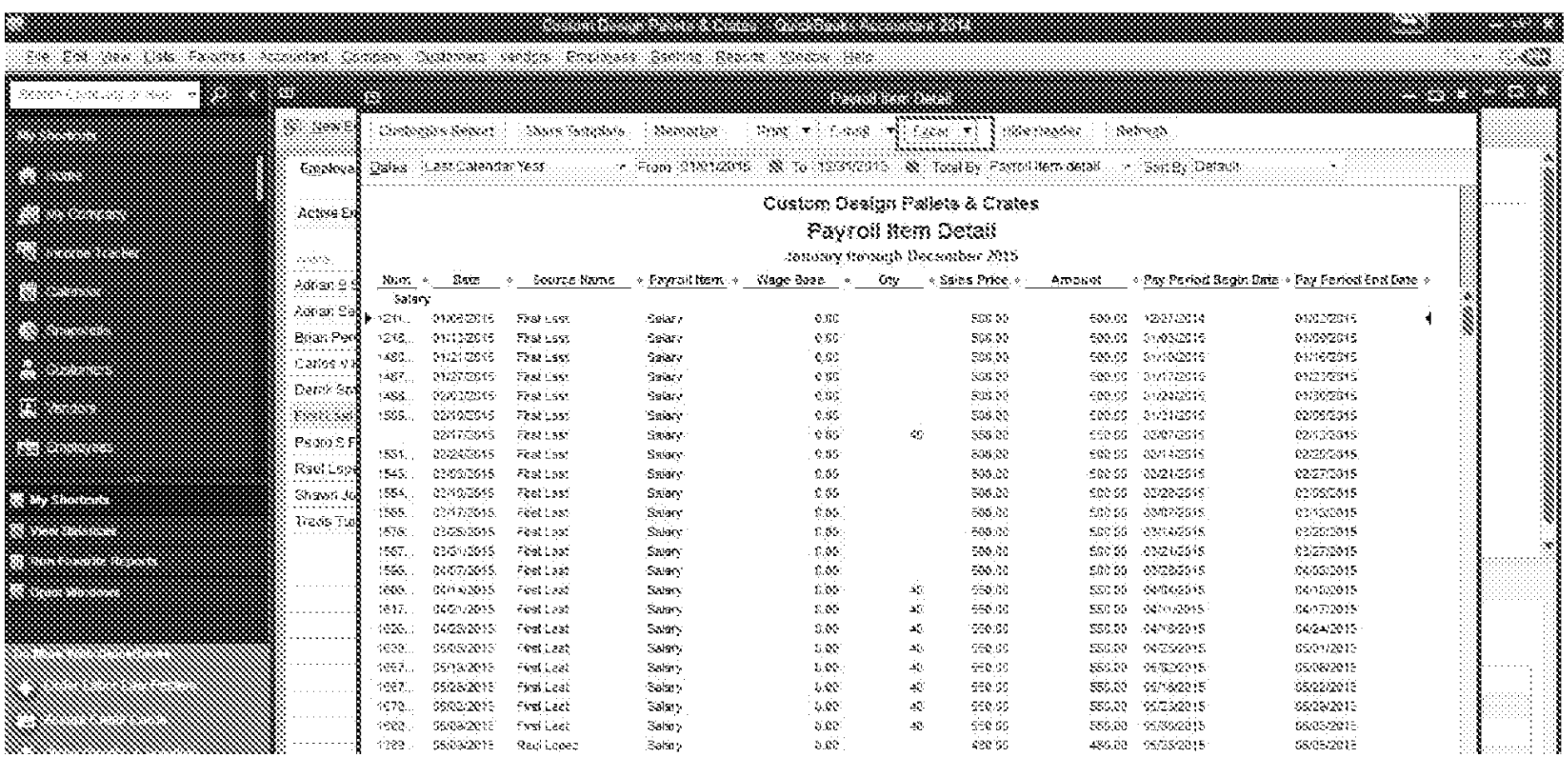
4. In the Columns section, Uncheck (left margin), Type and Wage Base.

5. In the Columns section, Check Qty (represents Hours), Sales Price (represents Wage Rate), Pay Period Begin Date, Pay Period End Date.

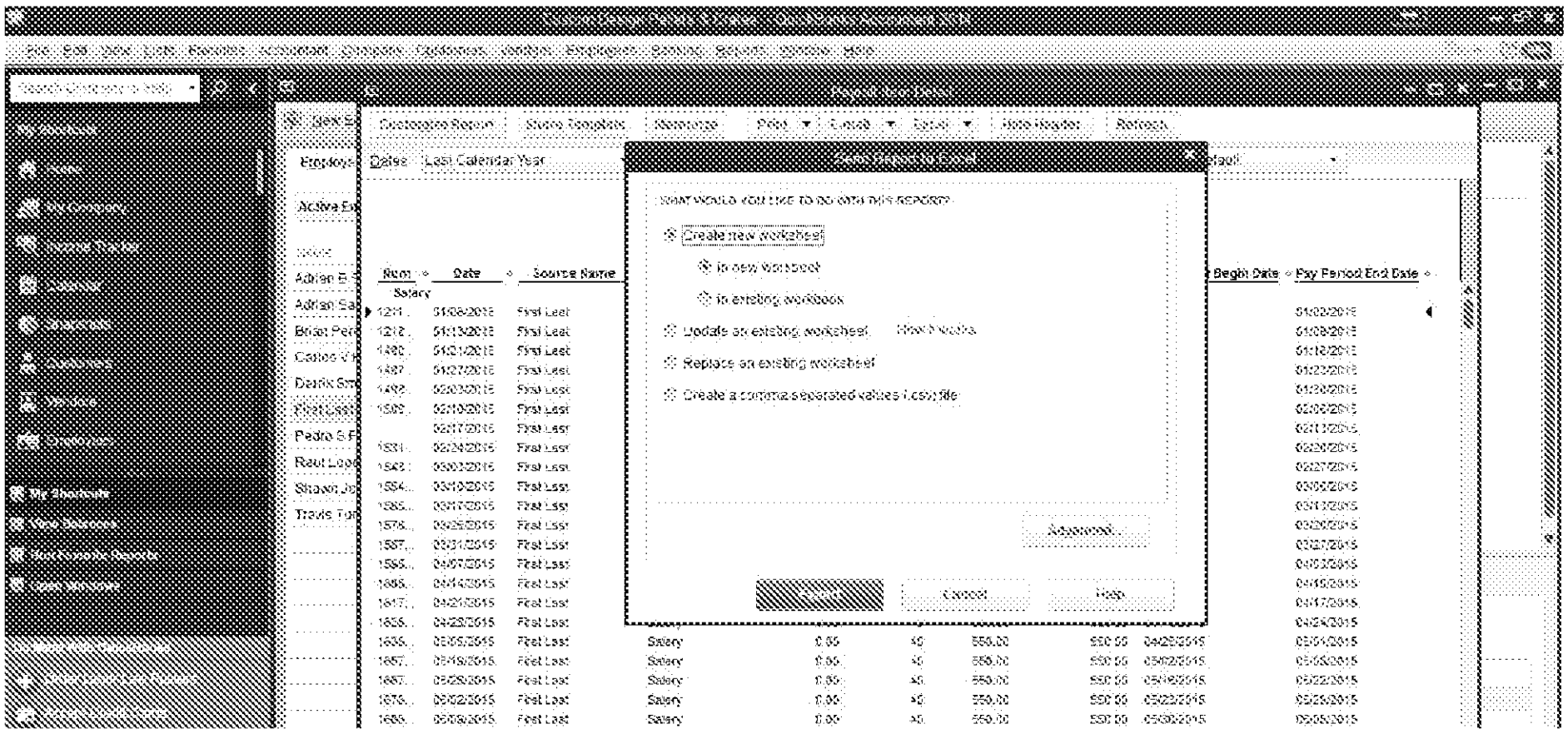
6. The resulting report will contain the paycheck detail for all employees grouped by Payroll Item Detail. It will show all of the check dates with the first wage rate grouped together with a total and then the next wage rate grouped together with a total and so on for each Payroll Item.



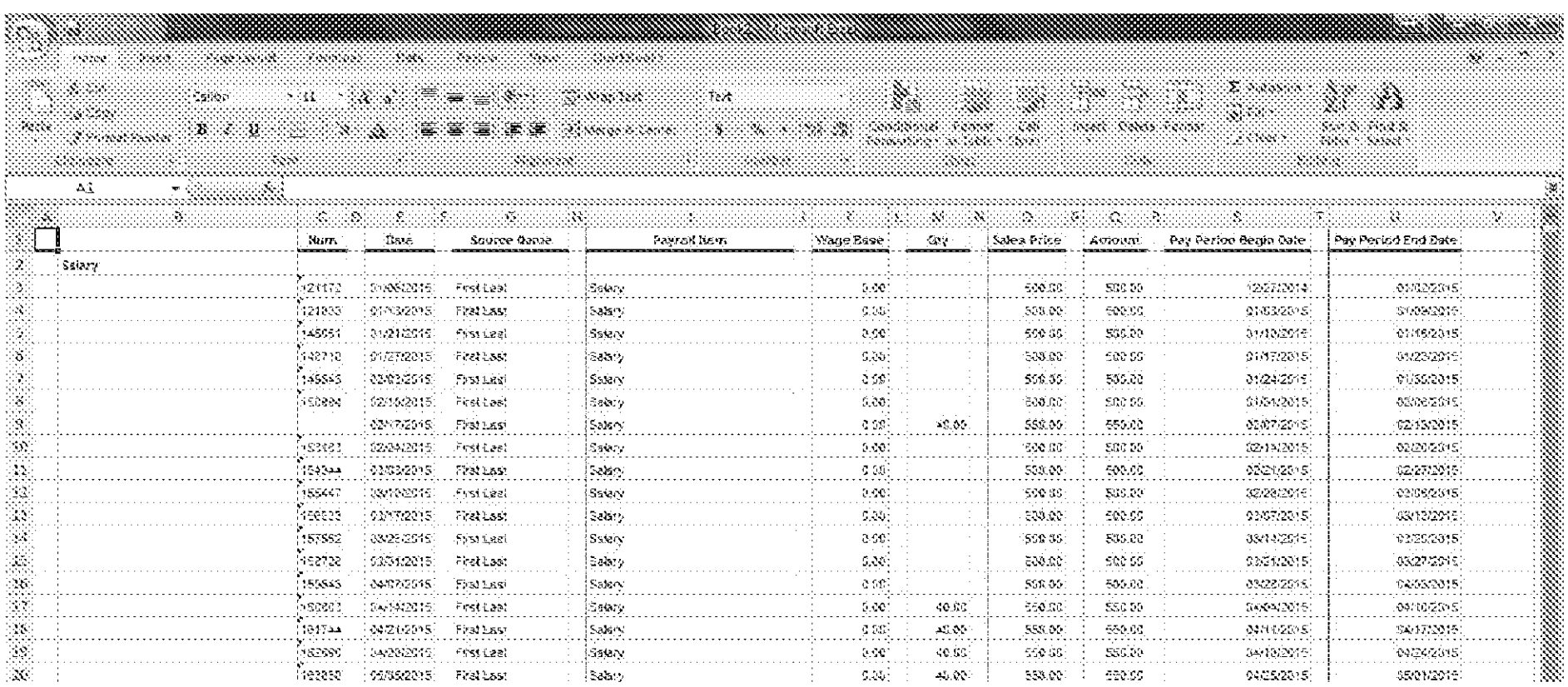
7. Click the Excel button that is just above the report in the window. Choose Create New Worksheet.



8. Click the blue Export button.



9. The result will be as shown below:



Electronically Filed
12/1/2017 12:49 PM
Steven D. Grierson
CLERK OF THE COURT

RPLY

LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
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 **PLAINTIFFS' REPLY TO DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION FOR BIFURCATION AND/OR TO LIMIT ISSUES FOR TRIAL PER NRCP 42(b)**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation, hereby submit this reply to defendants' opposition to plaintiffs' motion 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.

MEMORANDUM OF POINTS AND AUTHORITIES

SUMMARY OF REPLY

Defendants seek to make a class action disposition of these claims impossible and propose no practical trial plan.

Defendants do not dispute that the only factual issue to be determined at trial (setting aside the health insurance related wage "tier" issue) are the hours worked by each class member. They do not dispute that the amount of wages paid every pay period, as documented by defendants' computerized payroll (Quickbooks) records, and the number of shifts worked each such payroll period, as documented by defendants' computerized Cab Manager records, are easily analyzed. Nor do they dispute that to resolve the class claims the wages paid to each class member each pay period must be compared with the hours they worked to determine the amount, if any, such class member is owed in minimum wages. Nor do they dispute that there are approximately 40,000 such pay periods that need to be examined.

Defendants argue, without citation to a single precedent and contrary to every court decision that has considered the issue, that it is improper to determine the class damages from *any* average estimates of time worked by class members. They insist doing so based upon shift length averages as proposed by plaintiffs or in any other fashion would violate their rights. What defendants are really arguing is that the claims in this case must be resolved at trial based upon individual determinations of each class member's hours of work during each pay period. They do so because such an approach, disallowing any average work time findings, would render the class action disposition of this case impossible.

ARGUMENT

I. PLAINTIFFS' PROPOSED BIFURCATION AND TRIAL PLAN IS NOT ONLY PERMISSIBLE, IT IS NECESSARY IN A CLASS ACTION CASE SUCH AS THIS

A. In 2016 the United States Supreme Court in *Tyson Foods* approved of the exact sort of "average" determination of hours worked proposed in this case in wage and hour class actions.

The Court must adjudicate the minimum wage claims in this case in a pragmatic "class" wide manner. There is no way to do so except by using *some* sort of average, approximation, in respect to the hours worked by the class members as a group. The propriety of doing so was explained in the moving papers and the relevant authorities cited. Defendants cite not a single contrary authority.

If the Court has any doubt about the sensibility of the plaintiffs' bifurcation and trial plan, it should examine the recent decision in the class action case of *Tyson Foods, Inc. v. Bouaphakeo*, 136 S.Ct. 1036, 1043-1044 (2016). That case involved over 3,000 workers alleging they were owed unpaid overtime wages for "donning and doffing" (the taking off and putting on of protective gear) working time not accurately recorded by the defendant. *Tyson Foods*, without hesitation, approved of having a jury make a determination of an "average" donning and doffing time length and then multiplying that determined "average" by the shifts worked each week to determine the unpaid overtime hours per week owed to the class. *Id.* That methodology and sort of fact finding is exactly the same as proposed in this case. The jury will determine the "average" shift length which will then be multiplied by the shifts worked in the pay period to determine the "hours worked" for minimum wage purposes.

Tyson Foods clearly rejected the arguments made by defendants in this case, that it is unfair or improper to use "representative evidence" or use approximate factual findings to calculate the unpaid wages owed to a large group of employees. It refused to ban, or impose broad limits, on the use of representative evidence or the sort of approximate working time findings made in *Anderson v. Mt. Clemons Pottery*, 328 U.S. 680 (1946). *Id.* 136 S.Ct. at 1046-1049. It specifically re-affirmed that when

employers do not have proper records showing the hours worked per week the relaxed standard of proof adopted in *Mt. Clemons* must be used to determine the hours worked, otherwise enforcement of minimum wage standards would be impossible. 136 S. Ct. at 1047.

B. The outcome and error in *Tyson Foods* shows exactly why the bifurcation requested by the plaintiffs should be granted.

The error in *Tyson Foods,* and where it differs from what is proposed in this case, is that the district court rejected the plaintiffs' request to bifurcate damages and liability. 136 S.Ct. at 1044. If bifurcation had been granted, the jury would have determined what donning and doffing activities were "work" and the average time such "work" activities took. *Id.* Based on those findings, the compensable hours, and overtime owed, would then be determined for each class member separately from the known number of shifts worked and defendants' records using an arithmetic formula the accuracy of which was not in dispute (though the length of the "donning and doffing" activities were). *Id.* Defendants opposed bifurcation and the court had the jury determine both the "donning and doffing" issues and the aggregate class damages. *Id.*

Because bifurcation was denied in *Tyson Foods* the plaintiffs argued at trial for certain "donning and doffing" factual findings and simultaneously argued the total class damages that existed *if* those factual findings were made. They made such a trial presentation with the assistance of expert testimony. *Id.* The jury found that only some of the "donning and doffing" time claims made by plaintiffs constituted compensable working time (the donning and doffing time at the start and end of shifts, but not at meal breaks, was found to be working time). *Id.* They then returned a verdict in an amount reduced from the full amount calculated by plaintiffs based upon plaintiffs' donning and doffing time assumptions ($2.9 million instead of the $6.7 million calculated by plaintiffs). *Id.*

The problem, of considerable concern in *Tyson Foods* and requiring a remand

for further proceedings, was that the jury made no specific factual findings that would allow the identification of class members who were *not owed any damages at all under the facts determined because they did not have any uncompensated overtime hours.*[1] It determined damages in the aggregate based upon its non-specified findings as to the average length of the two "donning and doffing" activities it found constituted working time and the other evidence presented on the class damages as a whole. As a result, it was unknown whether that "aggregate" award could be apportioned among only the class members who actually had damages based upon the jury's unspecified working time factual findings. 136 S.Ct. at 1049. Defendants argued this circumstance required reversal. *Id.*

The Supreme Court recognized the serious problem resulting from the district court's failure to bifurcate the trial, as proposed by plaintiffs, but declined to directly fashion a remedy.[2] It allowed that issue, the distribution of damages in a fashion consistent with the factual findings made at trial and only to the class members actually possessing a right to damages under those findings, to be further explored upon remand. It also voiced its lack of sympathy for defendants, who caused such a problem by insisting against bifurcation:

---

[1] Because *Tyson Foods* was an overtime case it was only when the uncompensated work time found exceeded 40 hours in a week that any damages were owed. As a result, a finding of uncompensated work time did *not* mean a class member was entitled to damages as their total work time per week may have still be less than 40 hours. In a similar fashion, a particular finding of hours worked per shift in this case does *not* assure every class member that they will receive an award of unpaid minimum wages. That finding of hours worked for certain class members, when compared against their wages paid, may indicate they are owed no unpaid minimum wages for any particular pay period.

[2] Plaintiffs alleged they could, essentially, reverse engineer (figure out "by working backwards") what the jury's findings were on the hours worked and by doing so have the district court on remand apportion the damages in a fashion consistent with such findings. 136 S.Ct. at 1050.

> Finally, it bears emphasis that this problem appears to be one of petitioner's own making. Respondents proposed bifurcating between the liability and damages phases of this proceeding for the precise reason that it may be difficult to remove uninjured individuals from the class after an award is rendered. It was petitioner who argued against that option and now seeks to profit from the difficulty it caused. Whether, in light of the foregoing, any error should be deemed invited, is a question for the District Court to address in the first instance. *Id.*

The bifurcation and trial plan proposed by plaintiffs completely avoids the error and problems caused in *Tyson Foods*. The factual findings proposed by plaintiffs to be made at trial, the average shift length, will be converted into a unique hours worked amount for each class member based upon the number of shifts they worked each pay period. That hours of work per pay period amount will be applied to each class member's unique payroll records. The "uninjured" class members, owed no minimum wages based upon the jury's factual findings, will be readily identified through that process. Precise awards for each individual class member who is actually owed unpaid minimum wages will be calculated. There will be no problem with distributing the class recovery to precisely those persons entitled to it and in the appropriate amount, consistent with the jury's factual findings.

II. DEFENDANTS' OPPOSITION CONTAINS NUMEROUS UNTRUE, INCORRECT, AND UNSUPPORTED ASSERTIONS

A. No other practical method of bringing this case to trial is before the Court except plaintiffs' proposal and defendants' own expert admits a "trip sheet examination" is not practical.

As discussed, there is no practical way to conduct a trial of this class action case *except* by using some sort of average, approximation, or "group disposition" method. The method proposed by plaintiffs is clearly proper, if not absolutely necessary, given the facts of this case. Defendants propose no practical method for bringing this case to trial on a class basis.

Defendants insist that daily trip sheet records exist, and have been produced, and that plaintiffs should be required to rely upon them. They also insist that those trip

sheet records constitute accurate work time records that make plaintiffs' "average" or "approximation" of hours worked fact finding approach, based upon *Mt. Clemons* and *Tyson Foods*, inappropriate.

Setting aside whether those trip sheets even contain accurate information, **they do not constitute a record of the hours worked each pay period.** They contain the information for *one day* (shift) of a class member's work, information (start time, end time, break times) from which a single day's working time could be (arguably) calculated. Ex. "A" sample. While theoretically the information in those trip sheets could be tallied to arrive at a total number of hours worked in a pay period (if every trip sheet for the pay period was manually examined) performing that process for every single pay period at issue (or even a large minority) is completely impractical. This is admitted by defendants' expert, Scott Leslie.

Mr. Leslie was paid over $47,000 to produce a report much of which concerns his analysis of the information contained in the trip sheets corresponding to 124 payroll periods. Ex. "B," report, p. 15[3]. This represents 0.517% of the 23,978 pay periods he was called upon to examine (the actual number of pay periods at issue is approximately 40,000). *Id.* At his deposition, Mr. Leslie, who proposes in his report various conclusions from his examination of the information in those trip sheets for those 124 payroll periods, was asked about the practicality of using the trip sheets to determine the hours worked for all of the class members. Ex. "C," relevant deposition excerpts. After stating that he did not believe the "cost benefit" of doing so made sense, meaning the cost of reviewing the trip sheets would be "very large" compared to the amount of minimum wages that will be found to be owed, he made clear it was not practical to conduct such a review:

---

[3] Much of Mr. Leslie's report discusses, and mischaracterizes, mediation privileged materials shared with defendants, his testimony and report on those points is improper and in error and will have to be excluded at trial.

Q. So, given that cost benefit situation and that it would be a very expensive project, very costly to actually gather the trip sheet information from every payroll period for 500 taxi drivers over five years, do you believe that such a process is practical?

A: I don`t believe that it`s practical, in my professional opinion. I think most people would look at it and say it`s not really practical to do.

Ex. "C," p. 66, l. 6-14.

In lieu of an impossible and impractical effort to examine every trip sheet for every class member, Leslie concurs that taking a statistical sample of those trip sheets might be sensible and yield a meaningful understanding of the hours worked by the drivers as a group. But he avers he is not a statistician, was not retained to perform any such analysis, and declines to opine on the desirability of doing so. Ex. "C," p. 68-70. It should be observed that Mr. Leslie *did* come up with an "average shift length" based upon his trip sheet review for the 124 payroll periods he examined. That average was at least 9.2 hours (at his report at Exhibits 3 to 5). Even if a fully reliable trip sheet statistical sample resulted in an average shift length of only 9 hours defendants would owe, at just the lower tier $7.25 an hour minimum wage, based upon that shift length, in excess of $700,000 for the 2010-2015 period and over $940,000 when the 2007-2010 period is included. Those figures can be verified from the A-CAB ALL and Damages 2007-2010 Excel files. Defendants, based upon Leslie's preliminary findings, clearly have no interest in actually using the trip sheets for their only practical purpose, a statistical sampling, as doing so will confirm their substantial liability to the class.

B. Defendants' expert has validated the correctness of the damages calculating spreadsheet ("model") proposed for use <u>post-trial and that issue that can also be revisited after trial.</u>

Defendants assert that using the "A-CAB ALL" and "Damages 2007-2010"

Excel files provided to the Court (Ex. "D") at a post-trial stage to calculate damages would be improper because they are "models" that are "fraught with problems" and "not reliable" and make "assumptions provided at the direction of plaintiffs' counsel." That is untrue. These Excel files will, as demonstrated to the Court in Ex. "D," perform accurate calculations of minimum wages owed based upon a shift length finding at trial, using defendants' own records of the wages actually paid to, and shifts worked by, each class member.

Except for citing to no particular page of Mr. Leslie's report (which says nothing of the sort), defendants provide no support for this assertion. Mr. Leslie actually *concurs* that the Excel file "A-CAB ALL" *is valid, properly incorporates the information from defendants' records, and performs arithmetically correct calculations* (it is not known if he examined the "Damages 2007-2010" Excel). He describes it as "impressive" in his report (Ex. "B" p.13) and agrees that "....it seems to calculate, as you say, within itself everything. The math seems to be right." *See*, Ex. "C," p. 19-20. He also expressly confirms that it *does* perform accurate minimum wage calculations at $7.25 and $8.25 an hour based upon the hours worked assumptions put into the spreadsheet. *Id.*, p. 26-29. He also confirms that he has examined the A-CAB ALL spreadsheet in different aspects and "has no reason to believe there was any inaccurate information" placed into the spreadsheet from A-Cab's records. *Id.*, p. 31-37, p. 36, l. 13 - p. 37, l.14.

The use, post trial, of the "A-CAB ALL" and "Damages 2007-2010" spreadsheets, as proposed by plaintiffs, should be approved. Defendants provide not one whit of evidence to impeach their soundness (quite the contrary, their expert confirms they are arithmetically correct). Alternatively, the Court can conditionally approve their use now but allow defendants to have the propriety of their use re-examined after trial, if defendants can furnish some sort of substantive evidence that these two spreadsheets do not accurately perform the arithmetic functions they purport to perform.

C. Defendants' assertions about improper trial burdens being placed upon the defendants are untrue.

At page 5 of their opposition, defendants assert the plaintiffs' trial plan would require defendants to "prove the hours worked" at the first stage and at the second stage "prove the hours worked per pay period" and prove a "negative by demonstrating why Cab Manager hours are not reliable." All of these assertions are untrue.

Plaintiffs bear the burden at the first stage of convincing a jury that the plaintiffs' estimate of the hours they worked, on average, each shift, is correct (be it 10 hours, 11 hours, 12 hours, or something else). Defendants can introduce all admissible evidence to either contradict plaintiffs' arguments or to urge the jury to adopt whatever conclusions defendants wish the jury to reach. This is no different than the fact finding that goes on at any trial. Such an average exists, the jury will determine what it is based upon the evidence presented. Defendants will bear no burden to prove *anything* at this stage, though clearly it will be in their interest to convince a jury that the average is a lower amount.

The idea that Cab Manager "hours" records (be they reliable or unreliable) will be considered at the second stage is a fabrication by defendants. There will be no "evidentiary" weighing, or disputed fact finding, at the second stage. The second stage will *not* use the Cab Manager "hours" records but only the Cab Manager "shifts worked" records, *e.g.*, a record that indicates a driver worked, drove a shift, on a particular day during a particular pay period. Defendants do not dispute that such "shift worked" records are accurate. The "hours" to be attached to a Cab Manager recorded shift at the second stage do not come from Cab Manager but will be the "average hours per shift" finding made by the jury at the first stage. The second stage is a purely arithmetic compilation, to be performed by the A-CAB ALL Excel file or in a similar fashion from defendants' "shift worked" records.

D. No "clerks" or "team of clerks" will need to <u>review anything post-trial to calculate damages.</u>

Defendants falsely state plaintiffs, at page 6 of their moving papers, are proposing a post-trial process that *will require* "clerks" or a "team of clerks" to be paid by defendants to calculate damages from "ledger sheets." This is an abusive and improper misrepresentation. What plaintiffs stated in their moving papers was that the automated Excel file based damages calculation (using the A-CAB ALL file) they are proposing *could* be done by such an army of clerks, using old style ledger paper. And that if such a process was preferred by defendants they could pay for it. Obviously, such a process is both unnecessary and absurd, just like defendants' opposition.

CONCLUSION

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

Dated: November 30, 2017

LEON GREENBERG PROFESSIONAL CORP.

/s/ *Leon Greenberg*

Leon Greenberg, Esq.
Nevada Bar No. 8094
2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
Tel (702) 383-6085
Attorney for the Class

CERTIFICATE OF MAILING

The undersigned certifies that on December 1, 2017, she served the within:

Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' 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”

Driver Name	Reno, Michael	Cab #	1323
TA#	17799	Med.	2
Total Fares	177.70	Safe#	1
Not on meter +	0	Drop#	184182
VIP/CPO -	0		
Charges -	14.00		
Coupons -	0		
Turn-In =	163.70		

After meeting with UNITED STATES DEPARTMENT OF LABOR: All drivers who work a 12-hour shift must take two 30-minute snack breaks and a 1-hour meal break. Your snack breaks and meal break must be documented on your trip sheet with a Time In and a Time Out. Space at the bottom of this page has been provided for this information. You must initial next to the "Time In" for all breaks and a meal. Anyone who doesn't adhere to this rule will be disciplined.

Date	10/8/2010
Shift	03-02
Time Start	10/8/2010 2:58:39 AM
Radio Calls	3
$ Per Gallon	2.699
# of Gallons	6.747 9.634
Total Gas Cost	$18.08 25.81

Reno (M)

600

Write corrections in the space provided above.

	Total Fare (1)	[redacted]	Total Miles (4)	Paid Miles (5)	Trips (6)	Accu.T.Pass	Odometer
End	274.49	[redacted]	838	599	32	573.59	299716
Start	096.79	[redacted]	730	552	19	559.59	299604
Diff	177.70	[redacted]	108	48 47	13	$14.00	112

You must include Accumulated Totals (Credit Card Totals), Gas Receipt, Senior Coupons, Credit Card Receipts, & Gift Certificates - ALL MUST BE SIGNED!

S = Stand F = Flag R = Radio Call Voucher # = Taxi Pass

Ride #	Ride Type or Voucher #	Pick Up From	Drop Off At	Amount	Time In	Time Out	# of Pass
1	12 STAND		2 Gladiator	18.50	3:40	4:57	1
2	12 STAND		Flores	15.50	5:15	6:28	2
3	17 STAND		Fuhrens Bureau	21.90	7:38	7:56	2
4	(B) 12		Springfield Colony	12.90	8:13	8:24	1
5	12 STAND		Caesars Palace	19.50	9:20	9:32	2
6	17 STAND		Club Nirvana (Arville)	10.30	10:05	10:15	1
7	12 STAND		Bellagio	10.90	10:28	10:35	2
8	12 STAND		(M) MGM Grand	14.50	10:48	10:59	2
9	12 STAND		(C) [illegible]	14.10	11:41	11:55	2
10	17 STAND		(B) Quality	8.10	12:15	12:22	2
11	8 Palms		Venetian	10.50	12:40	12:50	2
12	12 STAND		Cornerhouse Bar	12.70	1:20	1:33	2
13	12 (B) Teddy		SAHARA	9.10	1:59	2:10	2
14							
15							
16							
17							
18							
19							
20							

-----	SNACK	(12hr Shift = 30min X 2)	SNACK	Initial Here:			----
-----	MEAL	(12hr Shift = 1 hour)	MEAL	Initial Here:	MR	2pm	3pm ----
-----	Requirements to be included in a break are:		SNACK	Initial Here:			----
-----	1. Outside the control of management.		BREAK	Initial Here:	MR	3:15	3:45 ----
-----	2. Not performing duties associated with taxi driving.		BREAK	Initial Here:	MR	5:20	5:50 ----

1323

ARCO am/pm 82874
300 W Lake Mead
Las Vegas
NV 89030
Tel: 7026337300
Fax: 7026335600

Site Number 11909107

Trans# 088867
10/08/10 02:22

PIC# 1

Pump	Gallons	Price
01	6.747	$ 2.679

Product	Amount
UNLEADED REGU	$ 18.08

Total Sale $ 18.08

FUELMN DEBIT
XXXXXXXXXXXX4626
Auth #: F73407
Odometer: 99713
Ref: 07460047
Resp Code: 000
Stan: 0492973793
SITE ID: 8295313

$25.81
9.634

ARCO am/pm 82874
300 W Lake Mead
Las Vegas
NV 89030
Tel: 7026337300
Fax: 7026335600

Site Number 11909107

Trans# 088904
10/08/10 03:10

PIC# 4

Pump	Gallons	Price
09	2.884	$ 2.679

Product	Amount
UNLEADED REGUL	$ 7.73

Total Sale $ 7.73

FUELMN DEBIT
XXXXXXXXXXXX4626
Auth #: F74447
Odometer: 99718
Ref: 47461023
Resp Code: 000
Stan: 0492973924
SITE ID: 8295313

A Cab1
[illegible] Valley [illegible] Pl
Las Vegas, NV

VALIDATED DROP

Drop # : 00024400
Trans # : 00184182
Date-Time: 10/08/10 15:35:35
POS :
Remote ID: FK
Oper # : 00437
Oper Name: RENO, MICHAEL
Cash : Cash Val
Rejected : 0

Val 2

Currency: USD

Qty	Value	Subtotal
0004	1.00	4.00
0006	5.00	30.00
0001	10.00	10.00
0006	20.00	120.00
0017 Tot USD		164.00

TOTAL
TOTAL USD 164.00

End Totals

TAXIPASS VOUCHER(S) AND TOTALS

CAB#: 2323
TIME: 14:42
DATE: 10/8/2010

DATE: 10/8/2010
VOUCH#: 5926
Amount: $ 14.00

T.Pass TOT.: $ 14.00
Accu.T.Pass: $4573.59

METER DETAILS
Tot.FARE: $94274.49
Tot.EXTRAS: $21474836.47

Accu.Trips: 5932
Tot.DIST.: 65838.28
PAID DIST.: 26599.60

# of Pass	Amount

Time End
(stamp here)
'10OCT 8 2

Driver Signature Michael Reno

A CAB 01471

AA005291

EXHIBIT “B”

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 law[1].

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 wages[2]. 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 retroactively[3].

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 affected[5].

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 him[6]. 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 reasonable[9].
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. Bass*[10]*".*

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 form 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 combined[17]. Some of these issues continued in the Current Spreadsheet but I are 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 period[18]. 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 insurance[20].

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 period[21].
b. The insurance must be offered by the employer, but does not have to be accepted by the employee to have the lower rate apply[22]
c. The rate tiers apply whether the employee is full time or part time or any other status[23]

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 applies[24] (called here the "10% rule").

The calculation of the 10% rule is somewhat complex and is described in NAC 608.104[25].

- 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 year[26].

- 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 year[27].
- 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 paid[28].
    - For a new employee use the calculation above for the first two completed payroll periods[29].

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 days[30]. 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 what[31].

---

[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%
	917	207757	0.441%	217	205953	0.105%

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 examined[32].

[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%
	95	23997	0.396%	29	23959	0.121%

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 shifts[33]. 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 record[34]. 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%
	50	73	123	100.0%

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 time[35]. 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 if 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, 2015[36]. 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 Manger 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 Manger 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 hours*[37]*. 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 frame*[38]*.*

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 criteria[39].

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 608.145[40]. 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.

MURRAY and MICHAEL v A CAB et al.
Differences in earlier and current spreadsheet prepared by Bass and Clauretie

		2013-2015 data		
		February, 2017 Report [1]	July, 2017 Report	Difference
Starting line number for data		4	4	-
Ending line number		43,004	42,431	(573)
Total shifts worked recorded in cab manager	[3]	124,241.00	122,452.00	(1,789.00)
Total payroll hours	[4]	1,127,627.00	1,127,611.99	(15.01)
Calculated total min wage based on payroll records				
using $7.25/hour		175,056.76	175,056.75	(0.01)
Using $8.25/hour		651,580.43	651,566.65	(13.78)
Owed if 8.25 paid before bene date		274,923.71	274,909.93	(13.78)
Owed if 10% prem test		316,703.13	317,249.52	546.39
New 10% prem test		NA	231,057.00	NA
Total min wage based on cab manager				
using $7.25/hour		1,044,733.51	1,021,653.98	(23,079.53)
Using $8.25/hour		1,962,162.32	1,932,169.25	(29,993.07)
Owed if 8.25 paid before bene date		1,188,205.86	1,164,453.74	(23,752.12)
Owed if 10% prem test	[6]	1,253,190.14	1,229,607.14	(23,583.00)
New 10% prem test		NA	1,104,553.82	NA

		2010-2012 data		
		February, 2017 Report [2]	July, 2017 Report	
Starting line number for data		4.00	4.00	-
Ending line number		28,834.00	28,800.00	(34.00)
Total shifts worked recorded in cab manager		83,516.00	83,501.00	(15.00)
Total payroll hours				
Total min wage based on payroll records				
using $7.25/hour		811,714.37	1,236,411.44	424,697.07
Using $8.25/hour		1,144,893.67	2,013,751.59	868,857.92
Owed if 8.25 paid before bene date		1,050,572.65	1,520,002.72	469,430.07
Owed if 10% prem test	[6]	1,112,661.45	1,451,294.91	338,633.46
New 10% prem test		NA	1,638,486.32	NA

Notes: -

[1] The Excel spreadsheet name for the February, 2017 report for the period 2013-2015 is "Damaages 1-1-13-12-13-12"

[2] The Excel spreadsheet name for the February, 2017 report for the period 2010-2013 is "Damaages 10-8-10-12-31-12"

[3] The Excel spreadsheet name for the July, 2017 report is named "ACAB-ALL".

[4] The total shifts is shown in the spreadsheet as provided is 116,714. SLA found that the formula did not capture all data to line 43004. The lines used for this analysis sum information to line 43004.

[5] The total payroll hours were reported in the spreadsheet as 1,060.925.53; SLA found that the formula to calculate the hours did not capture all data to line 43004. The lines used for this analysis sum information to line 43004.

[6] These may not be identical tests between the two period.

HOW TRIP SHEETS WORK FOR CALCULATING HOURS WORKED
For A CAB TAXI

The attached sheet is an actual Trip Sheet from A Cab Taxi. Trip sheets are essentially the hand written log a cab driver creates from the time he/she is assigned the cab to the time he/she returns the cab to the home base. The trip sheet contains a lot of information but the focus for this analysis is how to properly track the time the cab driver is actually working during the period the cab is assigned to him.

Creation of the trip sheet

A trip sheet is created by the software known as Cab Manager before the driver signs in and picks up the cab. The "time in" (see "A") is pre-printed by Cab Manager and opens the log for the shift. It does not necessarily indicate the time the cab driver actually begins work, though it can.

During the time the driver has the cab in his possession, he logs trips (see "C"). When he goes on breaks he logs the time the break begins and when the break ends (see "B").

At the end of his shift, the cab driver logs out when the cab driver returns to base and uses the cab manager to stamp out (see "D" on the second page). Cab manager records the time the cab driver returns possession of the cab to the cab company.

After the cab driver turns in the trip sheet, the Company processes the trip sheet by having a separate employee examine it to determine that what is logged is valid. Once validated, the trip sheet is turned over to the accounting department to record the time the driver actually worked during the shift.

How much time has the cab driver worked

The cab drivers are assigned the cabs for up to a twelve hour "shift". However, the time they are assigned the cab is not the time they work. First, the cab driver is supposed to take a minimum of two hours of break time during the shift. See report for how or if they are paid during breaks.

Drivers can also take time off during a shift. While not encouraged, they can call in and state they are not accepting fares or they can turn their radios off. During those periods drivers could run personal errands, they can go home or they can nap.

Therefore, to determine the number of hours worked, three different areas of the Trip Sheet must be analyzed.

1. The time signed in and signed out provides the maximum potential time worked ("A" and "D").
2. From 1 above the break times must be subtracted ("B").
3. The trip log section must be reviewed to determine if the driver has recorded additional down time generally for personal reasons (see explanation above) ("C").

Exhibit 2

Name		Cab# 1345	Med# 458	Date	12/15/201
TA#	111648			Shift	40-01 4
Total Fares	134			Time Start	12/15/2014 12:25:05 AM
Not on meter +	0			Radio Calls	7
VIP/CPO -	0			$ Per Gallon	2.759 gal
CC Charges -	20			# of Gallons	3.655
Coupons -	0			Total Gas Cost	10.08
Turn-In =	114				

All drivers who work a 12-hour shift must take two 30-minute bre
breaks must be documented on your trip sheet with a Time In and
line and at the bottom of the page. You must initial next to the "Ti

Today I am declaring tips of 7.38 for this shift and these rides.

A

661

Write corrections in the space provided above.

	Total Fare (1)	Extra (2)	Total Miles (4)	Paid Miles (5)	Trips (6)	Credit Card Charges	Odometer
End	494.50		~~657~~	682	93	139.84	285705
Start	360.30		536	644	85	119.54	285578
Diff	134.20		125 121	38	8	20.30	127

23
115

S = Stand F = Flag R = Radio Call Approval # = Credit Card

Ride #	Ride Type or Approval #	Pick Up From	Drop Off At	Amount	Time In	Time Out	# of Pass
1	17 R	DEPOT HOUSE	3520 VONIE	8.50	1254	106	1
2	17 R	BENDER RANCHO	SIERRA HILLS	16.50	116	143	1
3	17 R	RAWDORA	COLFAX AVE	13.30	147	200	1
4	000073R	17	OSO BLANCA	20.90	2:03	2:20	1
5	17 S	17	920 PYRAMID LAKE	20.70	225	248	1
6		SNACK		~~35.20~~	300	330	
7	15 R	115 15½	ALASKA AIRLINES	35.70	333	402	1
8	R	McMULLANS	NOGO		448		
9	S	GOLD COAST	STARBUCKS	14.70	515	538	1
10		BREAK			600	700	
11		BREAK			700	800	
	2	7100 PIRATES COVE	FOOD 4 LESS	4.50	818	827	1
		SNACK			830	930	
		BREAK			930	1030	
15							
16							
17					4½		
18							
19							
20							

C

B

----	SNACK (12hr Shift = 30min X 2)	SNACK	Initial Here:		300	330	
----	MEAL (12hr Shift = 1 hour)	MEAL	Initial Here:		600	700	
----	Requirements to be included in a break are:	SNACK	Initial Here:		930	1030	
----	1. Outside the control of management.	BREAK	Initial Here:		700	800	
----	2. Not performing duties associated with taxi driving.	BREAK	Initial Here:		[illegible]	[illegible]	

Ride #	Ride Type or Approval #	Pick Up From	Drop Off At	Amount	Time In	Time Out	# of Pass
21							
22							
23							
24							
25							
26							
27							
28							
29							
30							
31							
32							
33							
34							
35							
36							
37							
38							
39							
40							

CARD EXPIRED/READ ERROR

CARD EXPIRED/READ ERROR

CARD EXPIRED/READ ERROR

Meter Ver:07.30DUAE
Pim Version:1.2.0.0

VERIFONE VOUCHER(S) AND TOTALS

CAB#: 1345
TIME: 11:1
DATE: 12/15/2014

DATE: 12/15/2014
VOUCH#: 18389
Amount: $ 20.30

VTS TOTAL.:$ 20.30

Accum. VTS:$123139.84

METER DETAILS
Tot.FARE: $288494.50
Tot.EXTRAS: $ 0.00
Accu.Trips: 18393
Tot.DIST.: 185657.82
PAID DIST.: 76682.60
1 (888) 432-7031
WWW.VERIFONETS.COM

- METER TOTALS SENT - OK

ARCO
am/pm

ARCO am/pm 82874
300 W Lake Mead
Las Vegas
NV 89030
Tel : 7026337300
Site Number 11909107

Qty	Name	Price	Total
1	Mid Grade		10.08
Pump: 8	3.655 Gallon	$2.759/Gallon	
SubTotal			10.08
Total			10.08
Cash			60.00
Change already given			-49.92

Receipt 4651014 Duplicate
2 ANNA ESPINOZA 12/15/2014 11:09
PREPAY RECALLED
Thank you for choosing AMPM

7500 Sarles Ave
Las Vegas, NV

VALIDATED DROP

Drop # : 00045497
Trans # : 00665609
Date Time: 12/15/14 23:10:47
POS :
Route ID: FK
Oper # : 00534
Oper Name: ROBINSON, JEFFRE
Cash : Cash Val
Rejected : 0

Val 1

Currency: USD

Qty	Value	Subtotal
0004	1.00	4.00
0002	5.00	10.00
0005	20.00	100.00
0011 Tot USD		114.00

TOTAL
114.00

ROBINSON, JEFFRE
23:40:47

D

NE

Driver Signature

Time End (stamp here)

14DEC15 11:2

A CAB 02357
AA005319

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

											Calculation Report (Dr. Clauretie and Mr. Bass)				SLA calculations				Per trip sheet data & SLA		
Employee Test No.	2010-2012 Selection Number	Bass original analysis line no.	Bass ACAB-ALL line no.	Pay period end date	Health Insurance (Yes or No)	Empl Status	[A]	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)
1201	22	166		4/13/2012	N	NO FILE		[2]													
1202	14	2584	2584	12/9/2011	N	2D			$ 7.25	$ 846.87	132.00	$ 957.00	$ (110.13)	$ 110.13	123.73	$ 897.04	$ (50.17)	$ 50.17	10.0		10.0
1203	11	2762	2762	2/17/2012	Y	2C	ee		7.25	274.72	33.00	239.25	35.47		28.55	206.99	67.73		9.2	9.2	
1204	38	7954	7923	8/31/2012	N	2D			7.25	372.69	66.00	478.50	(105.81)	105.81	59.88	434.13	(61.44)	61.44	9.6		9.6
1205	36	8337	8302	5/16/2011	N	NONE			8.25	1,140.04	132.00	1,089.00	51.04		123.60	1,019.70	120.34		10.3	10.3	
1206	26	8517	8484	7/20/2012	N	2D			7.25	436.75	110.00	797.50	(360.75)	360.75	96.65	700.71	(263.96)	263.96	10.0		10.0
1207	16	8930	8899	9/2/2011	N	NONE			8.25	662.80	99.00	816.75	(153.95)	153.95	91.55	755.29	(92.49)	92.49	9.3		9.3
1208	33	8975	8421	3/30/2012	Y	2C	ee		7.25	450.16	99.00	717.75	(267.59)	267.59	48.99	355.18	94.98		10.2	10.2	
1209	5	9012		9/28/2012	Y	2C	ee	[4]													
1210	3	9371	9373	5/25/2012	N	2D			7.25	357.66	77.00	558.25	(200.59)	200.59	75.10	544.48	(186.82)	186.82	9.1		9.1
1211	30	9690	9658	10/12/2012	Y	2C	ee		7.25	396.57	55.00	398.75	(2.18)	2.18	44.27	320.96	75.61		8.5	8.5	
1212	39	9760	9727	7/22/2011	N	2H			7.25	410.62	66.00	478.50	(67.88)	67.88	61.47	445.66	(35.04)	35.04	9.9		9.9
1213	40	10903	10870	11/12/2010	Y	2C	ee		7.25	863.84	77.00	558.25	305.59		81.61	591.67	272.17		11.3	11.3	
1214	34	11616	11584	8/31/2012	Y	2C	ee		7.25	662.13	99.00	717.75	(55.62)	55.62	92.47	670.41	(8.28)	8.28	9.9		9.9
1215	7	12072	12054	12/9/2011	N	2D			7.25	328.01	143.00	1,036.75	(708.74)	708.74	80.87	586.31	(258.30)	258.30	9.8		9.8
1216	28	12174	12142	1/20/2012	Y	2C	ee		7.25	666.51	99.00	717.75	(51.24)	51.24	78.17	566.73	99.78		8.4	8.4	
1217	9	12488	12456	3/2/2012	N	2D			7.25	525.10	88.00	638.00	(112.90)	112.90	76.97	558.03	(32.93)	32.93	9.2		9.2
1218	4	13225	13193	4/27/2012	N	2D			7.25	372.48	66.00	478.50	(106.02)	106.02	62.33	451.89	(79.41)	79.41	10.1		10.1
1219	23	13675	13643	3/4/2011	N	2H			7.25	555.17	66.00	478.50	76.67		63.72	461.97	93.20		10.6	10.6	
1220	31	13843	13809	12/10/2010	Y	2C	ee		7.25	137.04	33.00	239.25	(102.21)	102.21	27.16	196.91	(59.87)	59.87	8.6		8.6
1221	8	13890	13857	7/22/2011	Y	2C	ee		7.25	197.72	33.00	239.25	(41.53)	41.53	29.95	217.14	(19.42)	19.42	9.7		9.7
1222	27	15099	15067	10/12/2012	N	2H			7.25	783.50	110.00	797.50	(14.00)	14.00	100.15	726.09	57.41		9.9	9.9	
1223	15	17492	17459	2/4/2011	Y	2C	ee		7.25	182.21	44.00	319.00	(136.79)	136.79	36.50	264.63	(82.42)	82.42	8.9		8.9
1224	35	17506	17474	4/15/2011	Y	2C	ee		7.25	441.88	88.00	638.00	(196.12)	196.12	77.40	561.15	(119.27)	119.27	8.8		8.8
1225	12	18270	18237	3/2/2012	N	2H			7.25	490.27	88.00	638.00	(147.73)	147.73	77.40	561.15	(70.88)	70.88	9.3		9.3
1226	25	19537	19503	10/12/2012	Y	2C	ee		7.25	832.30	110.00	797.50	34.80		100.15	726.09	106.21		9.7	9.7	
1227	32	20233	20199	3/2/2012	Y	2C	ee		7.25	643.38	99.00	717.75	(74.37)	74.37	90.80	658.30	(14.92)	14.92	9.8		9.8
1228	6	21092	21060	10/26/2012	Y	2C	ee		7.25	588.84	88.00	638.00	(49.16)	49.16	79.67	577.61	11.23		9.6	9.6	
1229	20	22588	22556	7/22/2011	N	2H			7.25	386.99	77.00	558.25	(171.26)	171.26	66.06	478.94	(91.95)	91.95	9.1		9.1
1230	13	22755	22728	3/4/2011	N	2H*			8.25	939.21	99.00	816.75	122.46		107.28	885.06	54.15		11.6	11.6	
1231	10	23007	22974	6/8/2012	Y	2C	ee		7.25	540.10	110.00	797.50	(257.40)	257.40	104.06	754.44	(214.34)	214.34	10.1		10.1
1232	21	24182		11/11/2011	N	NONE		[1]													
1233	2	24331	24297	4/29/2011	N	2H			7.25	586.31	121.00	877.25	(290.94)	290.94	117.19	849.63	(263.32)	263.32	11.4		11.4
1234	1	24687	24655	5/11/2012	N	2H			7.25	624.93	110.00	797.50	(172.57)	172.57	101.70	737.33	(112.40)	112.40	9.8		9.8
1235	18	25231	25199	2/4/2011	Y	2C	ee		7.25	625.09	88.00	638.00	(12.91)	12.91	82.29	596.60	28.49		10.0	10.0	
1236	29	26113	26080	4/15/2011	N	2H			7.25	942.25	121.00	877.25	65.00		119.22	864.35	77.91		10.5	10.5	
1237	24	26362		4/27/2012	N	NO FILE		[2]													
1238	37	26588	26554	8/19/2011	N	NONE			7.25	551.57	88.00	638.00	(86.43)	86.43	82.27	596.46	(44.89)	44.89	10.0		10.0
1239	17	26844	26810	9/14/2012	Y	2C	ee		7.25	638.70	110.00	797.50	(158.80)	158.80	101.38	735.01	(96.30)	96.30	10.1		10.1
1240	19	28605	28573	4/13/2012	Y	2C	ee		7.25	736.89	110.00	797.50	(60.61)	60.61	99.88	724.13	12.76		10.0	10.0	

EXHIBIT 3

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

											Calculation Report (Dr. Clauretie and Mr. Bass)				SLA calculations				Per trip sheet data & SLA		
Employee Test No.	2010-2012 Selection Number	Bass original analysis line no.	Bass ACAB-ALL line no.	Pay period end date	Health Insurance (Yes or No)	Empl Status	[A]	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)
1241	41	16598	16564	5/25/2012	Y	2C	ee	[3]	7.25	636.46	110.00	797.50	(161.04)	161.04	91.13	660.69	(24.23)	24.23	8.9		8.9
1242	42	8390	8358	6/10/2011	N	NONE*		[3]	7.25	837.48	110.00	797.50	39.98		103.78	752.41	85.08		10.0	10.0	
1243	43	19972	19938	7/8/2011	N	2H		[3]	7.25	648.67	66.00	478.50	170.17		63.20	458.20	190.47		10.2	10.2	
										$ 22,313.91	3,520.00	$ 25,850.00	$ (3,536.09)	$ 4,437.27	3,148.55	$ 23,149.42	$ (835.51)	$ 2,283.03	9.8	10.0	9.6

Legend:

Employee Helath insurance Status at time of payroll date

2D = WAITING PERIOD
2B = PARTTIME
2C = INSURANCE
2H = WAIVER
NONE = NO WAIVER IN FILE
NO FILE = NOT ABLE TO LOCATE EMPLOYEE FILE
2H* = WAIVER IN FILE, BUT DATED AFTER PAY PERIOD DATE
NONE* = NO WAIVER IN FILE, BUT LETTER OFFERING INSURANCE IN FILE

[A] Coverage Elected by Employee

[blank] Declined coverage
ee Employee only
ee spous Employee and spouse elected

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] Employee or pay period for employe did not appear in the ACAB-ALL spreadsheet. No alternate chosen

EXHIBIT 3

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)

												Calculation Report (Dr. Clauretie and Mr. Bass)				SLA calculations				Per trip sheet data & SLA		
Employee Test No.	2013-2015	Bass original analysis line no.	Bass ACAB-ALL line no.	Pay period end date	Health Insurance	Empl Status	[A]	Test Status	Wage per hour (see report)	Payroll System Gross Payroll	Payroll system hours	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)
1501	45	65	65	7/17/2015	N	2H			$ 7.25	$ 1,073.24	106.33	114.59	$ 830.78	$ 242.46		110.13	$ 798.44	$ 274.80		10.7	10.7	
1502	8	104		1/31/2014	N	2B		[1]							-			-	-			
1503	51	392	389	2/14/2014	N	2H			7.25	853.39	85.44	107.13	776.69	76.70		89.80	651.05	202.34		9.0	9.0	
1504	22	499	494	6/19/2015	N	2H			7.25	1,345.35	112.02	112.00	812.00	533.35		113.12	820.12	525.23		11.3	11.3	
1505	13	552	545	3/1/2013	N	2D			7.25	793.81	109.43	105.62	765.75	28.06		110.78	803.16	(9.35)	$ 9.35	10.1		10.1
1506	53	1358	1338	6/21/2013	N	2H			7.25	522.14	73.92	89.60	649.60	(127.46)	$ 127.46	75.30	545.93	(23.79)	23.79	8.0		8.0
1507	25	1776	1751	4/24/2015	N	2H			7.25	1,024.04	92.64	112.65	816.71	207.33		96.05	696.36	327.68		9.6	9.6	
1508	3	1900	1872	8/28/2015	N	2H			7.25	927.23	124.82	136.75	991.44	(64.21)	64.21	129.15	936.34	(9.11)	9.11	10.8		10.8
1509	56	2088		1/16/2015	N	2H		[1]	7.25						-			-	-			
1561	61	2238	2204	10/11/2013	N	2H			7.25	289.32	17.78	21.78	157.91	131.42		18.30	132.68	156.65		8.8	8.8	
1510	6	2897	2853	12/4/2015	N	2H			7.25	632.95	87.34	87.34	633.22	(0.26)	0.26	87.02	630.90	2.06		10.9	10.9	
1511	41	3149		9/13/2014	N	2D		[5]	7.25						-			-	-			
1512	26	4664	4591	12/4/2015	N	2D			7.25	343.52	42.93	45.93	332.99	10.53		44.63	323.57	19.95		11.2	11.2	
1513	47	5619	5535	8/14/2015	Y	2C	ee		7.25	1,168.97	43.34	44.33	321.39	847.58		44.65	323.71	845.26		10.8	10.8	
1514	48	5770		12/18/2015	N	2H		[4]	7.25						-			-	-			
1567	67	8549	8432	5/9/2014	Y	2C	ee		7.25	649.23	88.34	114.82	832.45	(183.22)	183.22	92.00	667.00	(17.77)	17.77	8.9		8.9
1515	55	8857	8738	11/21/2014	Y	2C	ee		7.25	1,197.38	98.11	129.10	935.98	261.41		98.32	712.82	484.56		8.6	8.6	
1516	24	9451	9327	1/3/2014	Y	2C	ee		7.25	734.70	77.79	81.45	590.51	144.19		79.33	575.14	159.56		9.9	9.9	
1565	65	9736	9607	2/1/2013	N	2H			7.25	583.19	94.27	90.55	656.49	(73.30)	73.30	98.50	714.13	(130.94)	130.94	9.5		9.5
1566	66	9758	9628	5/10/2013	N	2H			7.25	743.60	91.11	114.13	827.44	(83.84)	83.84	92.76	672.51	71.09		8.9	8.9	
1517	15	9818	9689	3/14/2014	N	2H			7.25	653.82	78.17	111.18	806.06	(152.44)	152.44	80.63	584.57	69.05		8.1	8.1	
1518	1	9902	9773	7/31/2015	N	2B			8.25	419.19	51.16	64.65	533.36	(114.17)	114.17	53.13	438.32	(19.13)	19.13	8.9		8.9
1519	50	10356	10220	6/5/2015	N	2D			7.25	540.52	74.55	83.06	602.19	(61.67)	61.67	77.32	560.57	(20.05)	20.05	9.3		9.3
1564	64	10417	10277	4/26/2013	Y	2C	ee		7.25	1,229.50	115.43	139.43	1,010.87	218.63		117.35	850.79	378.71		9.4	9.4	
1520	2	10873	10730	4/24/2015	Y	2C	ee		7.25	658.28	81.90	87.90	637.28	21.00		84.07	609.51	48.77		10.5	10.5	
1521	35	12466	12302	6/19/2015	Y	2C	ee		7.25	856.37	80.67	88.68	642.93	213.44		77.75	563.69	292.68		9.7	9.7	
1522	21	12766	12599	10/24/2014	Y	2C	ee		7.25	970.81	117.61	123.00	891.75	79.06		120.37	872.68	98.13		9.3	9.3	
1523	46	13258	13086	1/30/2015	Y	2C	ee		7.25	855.78	95.96	116.25	842.81	12.97		97.67	708.11	147.67		9.4	9.4	
1524	43	14491	14300	8/2/2013	N	2D			7.25	733.88	118.91	141.45	1,025.51	(291.63)	291.63	121.00	877.25	(143.37)	143.37	9.4		9.4
1525	33	14658	14465	4/10/2015	N	2H			7.25	407.81	56.26	63.27	458.71	(50.90)	50.90	57.33	415.64	(7.83)	7.83	9.6		9.6
1526	34	15723	15518	1/30/2015	N	2D			7.25	713.85	98.45	116.79	846.73	(132.88)	132.88	101.42	735.30	(21.44)	21.44	10.1		10.1
1527	28	15966		10/23/2015	Y	2C	ee	[1]	7.25						-			-	-			
1528	4	16348	16134	7/3/2015	N	2B			8.25	409.01	50.01	56.52	466.29	(57.28)	57.28	51.45	424.46	(15.45)	15.45	10.3		10.3
1529	17	17297	17067	4/11/2014	N	2D			7.25	345.98	56.42	68.42	496.05	(150.07)	150.07	57.77	418.83	(72.85)	72.85	8.3		8.3
1530	32	17553	17322	11/6/2015	Y	2C	ee		7.25	681.81	77.45	80.45	583.26	98.55		78.15	566.59	115.22		9.8	9.8	
1531	30	18083	17843	9/26/2014	N	2H			7.25	653.27	90.08	108.57	787.13	(133.86)	133.86	93.20	675.70	(22.43)	22.43	9.3		9.3
1532	58	18205	17961	2/15/2013	Y	2C	ee		7.25	839.96	83.22	89.07	645.78	194.20		86.40	626.40	213.56		9.3	9.3	
1533	31	18621	18372	7/5/2013	Y	2C	ee		7.25	863.01	71.60	88.08	638.58	224.43		73.32	531.57	331.44		8.1	8.1	
1534	36	21266		1/18/2013	N	NONE		[1]	7.25					-	-			-	-			
1535	38	21516	21272	6/5/2015	N	2H			7.25	706.70	85.68	86.68	628.43	78.27		86.87	629.81	76.89		10.9	10.9	
1536	10	21757	21479	6/20/2014	Y	2C	ee		7.25	685.58	76.79	92.78	672.66	12.93		78.82	571.45	114.14		9.9	9.9	
1537	44	21977		1/18/2013	Y	2C	ee	[2]	7.25					-	-			-	-			
1538	29	22711	22415	3/13/2015	N	2H			7.25	680.14	88.96	110.95	804.39	(124.25)	124.25	91.28	661.78	18.36		8.3	8.3	
1563	63	22876	22573	12/19/2014	N	2H			7.25	928.81	91.79	111.63	809.32	119.49		93.53	678.09	250.72		9.0	9.0	
1539	16	22944	22647	11/20/2015	N	2H			7.25	829.17	83.97	88.46	641.34	187.84		84.88	615.38	213.79		10.6	10.6	
1540	27	23506	23200	10/24/2014	Y	2C	ee		7.25	614.32	75.79	102.60	743.85	(129.53)	129.53	77.72	563.47	50.85		8.6	8.6	
1541	40	23518	23209	12/6/2014	Y	2C	ee		7.25	501.77	69.24	112.67	816.86	(315.09)	315.09	71.15	515.84	(14.07)	14.07	7.9		7.9
1543	9	26096		3/1/2013	y	2C	ee	[4]	7.25					-	-			-	-			
1542	39	26696	26341	7/3/2015	Y	2C	ee		7.25	1,081.22	84.98	63.39	459.58	621.64		85.08	616.83	464.39		10.6	10.6	
1544	14	27117	26755	3/29/2013	N	2D			7.25	785.28	96.94	108.33	785.39	(0.11)	0.11	92.85	673.16	112.12		9.3	9.3	
1545	11	27454	27091	1/30/2015	N	2H			7.25	1,026.65	106.55	130.55	946.49	80.16		109.40	793.15	233.50		9.9	9.9	
1562	62	27543	27178	5/22/2015	N	2D			7.25	662.23	91.37	112.87	818.31	(156.08)	156.08	96.38	698.76	(36.53)	36.53	9.3		9.3
1546	5	28120	27746	1/30/2015	Y	2C	ee		7.25	738.22	74.21	97.72	708.47	29.75		87.01	630.82	107.40		8.4	8.4	
1547	52	29223	28838	3/14/2014	N	2H			7.25	655.72	84.96	111.45	808.01	(152.29)	152.29	87.70	635.83	19.90		8.4	8.4	
1548	18	29232	28847	4/25/2014	N	2H			7.25	539.78	86.83	115.83	839.77	(299.99)	299.99	88.77	643.58	(103.80)	103.80	8.9		8.9
1549	37	30286	29889	9/25/2015	N	2H			7.25	1,160.86	117.35	124.35	901.54	259.32		119.18	864.06	296.81		10.8	10.8	
1550	57	31495	31085	8/29/2014	Y	2C	ees		8.25	681.71	90.29	109.77	905.60	(223.89)	223.89	93.35	770.14	(88.43)	88.43	9.0		9.0
1551	7	32699		12/18/2015	N	NO FILE		[3]	7.25					-	-			-	-			
1552	42	34278	33832	3/27/2015	Y	2C	ee		7.25	886.01	105.30	105.02	761.40	124.62		104.50	757.63	128.39		11.6	11.6	
1553	59	36378	35899	10/25/2013	N	NONE			8.25	1,136.09	97.50	117.18	966.74	169.36		100.38	828.14	307.96		9.7	9.7	
1554	23	37281	36788	3/13/2015	N	2H			7.25	858.13	80.83	83.33	604.14	253.99		81.90	593.78	264.36		10.2	10.2	

A CAB 02360
AA005322

EXHIBIT 4

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)

												Calculation Report (Dr. Clauretie and Mr. Bass)				SLA calculations				Per trip sheet data & SLA		
Employee Test No.	2013-2015	Bass original analysis line no.	Bass ACAB-ALL line no.	Pay period end date	Health Insurance	Empl Status	[A]	Test Status	Wage per hour (see report)	Payroll System Gross Payroll	Payroll system hours	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)
1555	54	37423	36930	11/22/2013	N	2H			7.25	563.33	86.23	116.37	843.68	(280.35)	280.35	88.36	640.61	(77.28)	77.28	8.5		8.5
1556	12	39167		8/30/2013	N	2H		[4]	7.25				-	-	-			-	-			
1557	49	39825	39297	1/31/2014	Y	2C	ee		7.25	444.90	45.55	55.57	402.88	42.02		46.94	340.32	104.59		9.1	9.1	
1558	20	40892	40350	10/23/2015	N	2H			7.25	625.40	54.11	71.11	515.55	109.85		55.43	401.87	223.53		7.9	7.9	
1559	19	41929		1/18/2013	N	2H		[2]	7.25					-	-			-	-			
1560	60	42599	42037	11/7/2014	N	NONE			8.25	1,353.11	99.68	121.70	1,004.03	349.09		101.82	840.02	513.10		8.9	8.9	
										$ 42,859.84	4,718.36	5,484.85	$ 40,234.98	$ 2,624.86	$ 3,358.76	4,831.47	$ 35,428.29	$ 7,431.55	$ 833.61	9.5	9.6	9.2

Legend:

Employee health insurance status at time of payroll date

2D = WAITING PERIOD
2B = PARTTIME
2C = INSURANCE
2H = WAIVER
NONE = NO WAIVER IN FILE
NO FILE = NOT ABLE TO LOCATE EMPLOYEE FILE

[A] Coverage Elected by Employee

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

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

EXHIBIT 4

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. Clauretie and Mr. Bass)				SLA calculations				Per trip sheet data & SLA		
2010-2012	Line No.	Pay period end date	Insurance Y or N	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)
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	[5]													
								$ 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. Clauretie 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	29301	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
	6,464	$ 10,223	4,090	$ 3,847

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

PAYROLL TEST - on ALL CAB DATA
RESULTS OF TEST OF PERIOD JANUARY 1, 2013 TO DECEMBER 31, 2015
Illustration of leveraging effects of incorrectly
stating hours worked

Employee Test No.	2013-2015	Line No.	Pay period end date	Comparison of Bass to SLA on Min Wage only: Bass assumed hours	Bass amount s/t minimum wage	SLA calculated hours	SLA amount s/t minimum wage
1525	10	3865	7/3/2015				
1526	16	8317	7/3/2015				
1527	3	13357	11/6/2015				
1528	8	13544	6/7/2013	70.60	$ (75.31)		
1529	11	14122	1/3/2014				
1530	5	14135	2/28/2014				
1531	15	14203	1/16/2015				
1532	4	17389	7/5/2013	105.03	(22.60)		
1533	13	18355	4/26/2013				
1534	14	23884	9/12/2014	93.18	(508.49)		
1535	9	27270	11/22/2013	97.85	(229.25)	80.38	$ (102.60)
1536	7	28539	11/8/2013				
1537	18	29301	8/30/2013				
1538	1	30599	6/6/2014	80.65	(51.68)		
1539	2	31377	12/19/2014	103.63	(242.77)	71.98	(13.31)
1540	12	34130	11/8/2013				
1541	6	35515	11/21/2014				
1542	17	37327	9/13/2013	121.17	(236.40)	102.58	(101.63)
				672.11	$ (1,366.50)	254.94	(217.53)

EXHIBIT “C”

1 DISTRICT COURT
2 CLARK COUNTY, NEVADA
3
4 MICHAEL MURRAY, and MICHAEL) Case No.: A-12-669926-C
5 RENO, Individually and on) Dept. No.: I
6 behalf of others similarly)
7 situated,)
8 Plaintiffs,)
9 vs.)
10 A CAB TAXI SERVICE LLC, and A)
11 CAB, LLC,)
12 Defendants.)
13 _____)
14
15 RECORDED DEPOSITION OF ROBERT SCOTT LESLIE
16 Taken on October 10, 2017
17 At 1:16 p.m.
18 GABROY LAW OFFICES
19 170 South Green Valley Parkway Suite 280,
20 Henderson, Nevada 89012
21
22
23
24
25

Page 2

APPEARANCES:

For the Plaintiffs: LEON GREENBERG, ESQ.
LEON GREENBERG PROFESSIONAL CORPORATION
2965 South Jones Blvd, Suite E3
Las Vegas, Nevada 89146

CHRISTIAN GABROY, ESQ.
LIZA ARONSON, LAW CLERK
GABROY LAW OFFICES
170 South Green Valley Parkway
Suite 280
Henderson, Nevada 89012

For the Defendants: ESTHER RODRIGUEZ, ESQ.
RODRIGUEZ LAW OFFICES, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145

Owner of A Cab: Creighton J. Nady

Page 19

A: Generally, yes.

Q: I`d like you to turn to page 13 in the report I gave you. I would draw your attention to the last sentence of the last paragraph.

A: Okay.

Q: In that paragraph and sentence, I believe you are discussing what you called the calculation report which is the A Cab OLE Excel file that Dr. Cloretti refers to in his report. Is that true?

A: Yes.

Q: Okay. In that last sentence you state, ``Otherwise, as shown above, in determining minimum wage rates, the analysis though impressive is meaningless.`` Why do you describe the analysis of Dr. Cloretti`s report as impressive?

A: The spreadsheet. I do a lot of Excel spreadsheet work. The spreadsheet with all its sorting and different functions and stuff that is used are impressive to me. Dr. Cloretti`s review of the math I think is good. So I think it`s impressive... in that sense, it`s an impressive report.

Q: So, correct me if I`m wrong but you`re saying it`s impressive because of it was performing

Page 20

correct calculations. By correct, I mean arithmetically correct, internally correct calculations in that spreadsheet on a large amount of information.

A: It seems like--

MS. RODRIGUEZ: Objection.

A: Okay.

MS. RODRIGUEZ: Misstates prior testimony.

Q: Please answer the question.

A: I am saying that it seems to calculate, as you say, within itself everything. The math seems to be right.

Q: So, you would agree that the arithmetic that`s performed in that A Cab OLE Excel file in respect to the performance of the calculations in the file is free from error?

A: As far as I could tell, if I`m understanding your question.

Q: But you find, and correct me if I`m wrong, that even though the A Cab OLE file is performing correct calculations, it is relying on wrong assumptions. Is that correct?

MS. RODRIGUEZ: Objection. Lacks foundation.

A: Okay. I think there are two things. I

Page 21

1 think it`s in maybe two of the same thing. One is
2 that it relies on bad assumptions and two, it doesn`t
3 perform the testing it needs to be done to come to
4 the conclusions that you`re trying to come to.
5 **Q: By testing, what do you mean?**
6 A: I think what we`re testing right above
7 this is what I call the 10% rule of determining
8 whether an employee needs to be paid at the higher
9 wage rate as opposed to lower minimum wage rate. You
10 have to do a look-back calculation. There doesn`t
11 seem to be anything in the model that performs that
12 look-back calculation. That`s what I mean.
13 **Q: So, it`s performing a correct**
14 **calculation but the wrong calculation for what is**
15 **supposed to be determined. Is that correct?**
16 A: It`s performing calculation that
17 mathematically works. Yeah, but I don`t think it...
18 that`s why I said but it doesn`t actually give you an
19 answer that you are looking for.
20 **Q: It`s not the calculation necessary to**
21 **answer the question posed?**
22 A: I believe so. Yes.
23 **Q: So, would you agree that the A Cab OLE**
24 **spreadsheet, if it had incorporated the proper**
25 **assumptions regarding the hours worked by the drivers**

Page 22

and the proper assumptions, the proper calculations to be made when the higher tier should be applied would properly calculate the minimum wages owed to A Cab taxi drivers?

A: I don`t know that it does and I`ll tell you why. Unless you come up with a way, and I say this in report, unless you come up with a way to actually measure the number of hours worked by the cab drivers as opposed to using this standard amount for everybody, for every shift, I don`t know that you`re going to come up with the right answer. I mean you can either come up with a too high number or too low number.

Q: Right. Well, my question to you is that if we agreed that we knew what the average, not what the average, but what the actual hours worked, every single pay period for each driver, for all of the pay periods covered in the A Cab OLE Excel file--

A: Yes.

Q: --and we were to put them in the A Cab Excel file and otherwise run the calculations in the file the way it`s set up, would we get the amount of minimum wages owed to the drivers using those correct hours? For purposes of my question, I`m not talking about the higher tier. Let`s just start with...

Page 23

let`s say...

A: At the minimum tier?

Q: At the 7.25 tier.

A: If you had all the—

MS. RODRIGUEZ: Hold on. I`m waiting for him to finish his question.

A: I`m sorry. Okay.

MS. RODRIGUEZ: Are you finished?

Q: Yes.

MS. RODRIGUEZ: Okay. I`m going to object. It was a longer stated question but it was the same question, so it`s been asked and answered.

Q: Please answer the question.

A: Okay. If you are able to get every hour that the employee worked, and we`re not doing any of the higher tier testing, then you would properly come up with a correct answer, if you got the right hours.

Q: Now, we just discussed a bit about the A Cab OLE Excel file. There is a separate Excel file that Dr. Cloretti refers to which is the 2013-2015 payroll analysis Excel file. Did you examine that file as well?

A: I think it`s part of the same work pay sheet. I believe it`s in the same worksheet.

Q: Well, there is a separate Excel file

Page 24

that was produced with Dr. Cloretti`s report, which covers just the 2013-2015 period and it does not have any variable function in it. It simply runs the same analysis as in the A Cab OLE file but does it just on the payroll records. Do you recall examining that file?

A: No.

Q: So, your one or two questions ago I believe you just testified that you think that the information in the 2013/2015 payroll analysis file is actually a tab or portion of the A Cab OLE Excel file. Would you have state that because you believe that the same information appears in the A Cab OLE Excel file?

A: I think it`s another tab in the A Cab OLE file. If there`s a separate file, I don`t remember seeing it.

Q: Now, did you examine the tabs in the A Cab OLE file that say 2013-2015 per EE and—

A: That`s what I think—

Q: --per EE, which is 2010-2012?

A: That`s what I think that you`re referencing.

Q: Okay. Those tabs--

A: I believe.

Page 25

Q: --contain a compilation of the amount of all the pay periods that are calculated owed to each employee. Do you recall looking at sheets that had that information?

A: I recall looking at that, those pages where you have everybody listed together and you come up with a number, a total number [0:27:28 inaudible] for employee--

Q: Right.

A: --and total hours or something.

Q: One line for employee with total amounts that are calculated as owed using the A Cab OLE Excel file.

A: Yes.

Q: Do you recall looking at those sheets?

A: Yes.

Q: Okay. Did you determine there was any arithmetical errors in those per EE sheets?

A: Not that I know of. I don`t think I tested it a great deal. I looked at it.

Q: You have no reason to doubt that those per EE sheets contain the totals of the 2013-2015 or the 2010-2012 sheets in the A Cab OLE Excel file totals by employee?

A: Yeah. I think they`re the other two

Page 26

1 spreadsheets, just summarized differently.
2 **Q: Now, I asked you a little while ago if**
3 **the A Cab OLE Excel file properly calculates the**
4 **amount of minimum wages owed at 7.25 an hour at all**
5 **times using the assumptions in the sheet itself**
6 **regarding the hours worked and I believe your answer,**
7 **please correct me if I`m wrong, was that it does. Is**
8 **that true?**
9 MS. RODRIGUEZ: Objection. Misstates prior
10 testimony.
11 A: Restate. Could you please restate the
12 question?
13 **Q: My question was using the hours that it**
14 **assumes the drivers worked, I`m not saying whether**
15 **those hours are accurate. I`m just saying the A Cab**
16 **OLE Excel file has certain information in it or makes**
17 **certain assumptions which actually can be changed**
18 **about the hours employees worked each shift through**
19 **each pay period. Do you understand that?**
20 A: Yes.
21 **Q: Does the A Cab OLE Excel file accurately**
22 **calculate the minimum wages owed at 7.25 an hour of**
23 **every pay period using whatever assumed hours are put**
24 **into the spreadsheet or already in the spreadsheet?**
25 MS. RODRIGUEZ: Objection. Asked and

Page 27

1 answered. I believe that`s the third time the
2 question was asked.
3 A: I would again say that using the
4 assumptions of the spreadsheet, it looks like it puts
5 out the number correctly meaning it can take the
6 hours times the rate and come to a number, but the
7 hours are always the standard numbers based on shift.
8 It`s not what the actual hours worked are.
9 Q: Right. Okay. Now, would you give that
10 same answer for how it calculates minimum wages using
11 a constant 8.25 an hour rate using those assumptions?
12 A: Yes. You plug in any rate you want. I
13 mean if you`re going to assume there`s a number of
14 hours for each shift or each payroll period times
15 whatever the rate is, 8.25, 15.25, whatever you want
16 to use, you`ll multiply it through.
17 Q: Okay. Well, but you understand the way
18 the A Cab OLE Excel spreadsheet is set up is that it
19 uses two rates, an 8.25 or 7.25 rate, and in addition
20 to performing a conditional analysis, which you
21 discussed before for example regarding the 10%
22 insurance rule, it also has one analysis where it
23 applies that 7.25 rating every pay period, to every
24 worker, and it has a separate analysis where it
25 applies the 8.25 rating to every worker for every pay

Page 28

period. Do you understand that?

A: Yes, I think the 8.25 period is like the second of the analysis columns.

Q: Right. Okay. My question is just does that 8.25 column, using the assumptions in the A Cab OLE file, perform proper math in terms of reaching its results based on those assumptions?

MS. RODRIGUEZ: Objection. Asked and answered, the fourth time.

A: It looks to me like the math works given the assumptions in the model.

Q: Are you aware that the A Cab OLE file has a portion of it which calculates minimum wages based upon hours that are recorded independents payroll records for the period 2013 to 2015?

A: Yes.

Q: Okay. Does A Cab properly calculate the minimum wages that would be owed at the 7.25 and the 8.25 rates using those hours in the payroll records?

A: It calculates something that`s probably within tolerance, yes.

Q: Do you have any reason to believe that those calculations are not correct?

A: When I did the calculations on this, I tried to use what Nevada Revised Statute said for

Page 29

1 breaks, which changes it a little bit. It`s not
2 material but they will give you like up to 30 minutes
3 of break or 20 min— to 30 minutes of breaks that they
4 pay for and you`re only required to give them, given
5 the employees worked 11 hours 20 minutes of breaks.
6 So, in that respect, that`s why I said it`s within
7 tolerance. It is actually more generous to
8 employees.
9 **Q: What is more generous to employees?**
10 A: If you take less than 30 minutes, they
11 pay you for the entire half hour instead of 10-minute
12 paid breaks, so.
13 **Q: My question was you understand that the**
14 **payroll records from A Cab for the period of 2013**
15 **through 2015, for every pay period, have a stated**
16 **amount of hours worked for the pay period by the**
17 **employee?**
18 A: Yes.
19 **Q: So, my question was when the A Cab OLE**
20 **spreadsheet accepts those hours and uses those hours**
21 **recorded in the payroll records to calculate minimum**
22 **wages owed either at a constant 7.25 rate or the**
23 **constant 8.25 rate, using again those hours from the**
24 **payroll records, does it do so correctly?**
25 MS. RODRIGUEZ: Objection. Leon, you`re

Page 30

1 asking the same question. You`ve asked him that four
2 times already and I think you...
3 **Q: Counsel, I haven`t. This is a different**
4 **question. The witness needs to answer.**
5 MS. RODRIGUEZ: Well, my objection is it`s
6 been asked and answered on four prior occasions
7 already and I think you`re being abusive to the
8 witness.
9 A: The math will foot through.
10 **Q: By foot through, you are confirming that**
11 **it is your understanding that when the A Cab OLE file**
12 **uses the hours from the payroll records for that**
13 **2013-2015 period and calculates amounts at minimum**
14 **wages that are owed at 7.25 and 8.25 an hour,**
15 **constantly for all pay periods in each scenario, it**
16 **is doing so correctly?**
17 MS. RODRIGUEZ: Objection. Asked and
18 answered on five prior occasions. I believe you`re
19 badgering the witness at this point.
20 A: I think the math works. I think it`s a
21 legal question as to what the right amount of hours
22 are. I think you could probably recalculate at the
23 statutory rate and get a slightly different answer
24 but as an accountant, I would say that I don`t know
25 what the law would actually say.

Page 31

Q: Okay. Now, if the hours were to be different then the numbers, the calculations, resulting calculations would be different, correct?

A: Yes.

Q: Okay. But I`m not asking about if the hours were different. I`m just simply asking if we use the hours that are in the payroll records and they are calculated as the A Cab OLE spreadsheet calculates them, does the A Cab OLE spreadsheet, using those hours from the payroll records, properly calculate the minimum wages at a constant 7.25 and 8.25 in those two columns we discussed?

A: For that—

MS. RODRIGUEZ: Same objections. Asked and answered.

A: Yes.

Q: Thank you.

MS. RODRIGUEZ: I assume you`ve numbered the first one as Plaintiff`s 1, right?

Q: The witness has it. Yes.

A: Yeah.

MS. RODRIGUEZ: Okay. Well, you didn`t say it on the record.

Q: Oh, okay.

MS. RODRIGUEZ: So, I just wanted to make

Page 32

1 sure and we`re going to name this one Plaintiff`s 2.
2 **Q: Yes.**
3 MR. MAREZ: There you go sir.
4 A: Thank you.
5 **Q: The plaintiff`s Exhibit 2 is the report**
6 **of Dr. Cloretti. This document I trust is familiar**
7 **to you, sir?**
8 A: It is.
9 **Q: Okay. I`d ask you to take a look at**
10 **pages 25 and on page 25, the second full sentence**
11 **which begins, ``As discussed supra...`` Do you see**
12 **that, sir?**
13 A: Yes.
14 **Q: Please read that to yourself and let me**
15 **know when you`re done reading it.**
16 MS. RODRIGUEZ: I`m sorry, Mr. Greenberg.
17 Could you repeat what you`re asking him to look at?
18 **Q: Second full sentence in the first**
19 **paragraph.**
20 MS. RODRIGUEZ: Thank you.
21 A: All right.
22 **Q: Now, in that sentence, Dr. Cloretti is**
23 **referring to the 2013-2015 payroll analysis file, not**
24 **the A Cab OLE file.**
25 A: Right.

Page 33

Q: So, for the purposes of the question I`m going to ask you now, I want you to assume that the information in that file was the same for that time period--

A: Okay.

Q: --as in the A Cab OLE file. Now, if we exclude the last clause of Dr. Cloretti`s report, which is where it says, ``and amounts between those figures using the three conditional calculations that I discussed.`` We`re excluding that for purposes of my question. My question to you is do you believe that his statement that an amount of $175,057 accounts to 7.25 an hour minimum wage rate and $651,567 that accounts to 8.25 an hour minimum wage rate are correct in the context of that sentence? Just to review with you, what the sentence was referring to is using the payroll records in payroll record time in the file to calculate the amounts of minimum wages they worked.

MS. RODRIGUEZ: I`m going to object to the form of the question.

Q: Okay.

A: All right.

MS. RODRIGUEZ: It`s compound.

A: As we have said, the math probably...

Page 34

1 the math works. I don`t know where you`re ever going
2 to get 8.25 for the entire period for one thing and
3 as I`ve said, the 7.25 an hour, we can always
4 recalculate the amount of hours probably need to...
5 or the amount of hours probably need to be looked at
6 a bit, but yes. Otherwise, the math works because
7 it`s just more the math works. I think he said so in
8 the next paragraph.
9 **Q: Did you sample either the A Cab OLE file**
10 **or the 2013-2015 payroll analysis file to determine**
11 **if there were any errors in the calculations or the**
12 **payroll data that appears in those files?**
13 A: I believe you could probably say that.
14 I sampled it. I did sample of like what is it, 30
15 different records out of the 2000 or the A Cab OLE
16 file and we looked at the payroll records and we
17 looked at through the trip sheets and we... what was
18 the second part of the question, did we look..?
19 **Q: Well, the question involved two things.**
20 **It was sampling those files to determine if there**
21 **were errors in the calculations so let`s answer that**
22 **first. Did you sample those files to see if there**
23 **were any calculation errors in the files themselves?**
24 A: In the A Cab OLE file, I don`t... We
25 just put them in the computer. I didn`t sample them.

Page 35

1 I just put them as they were so I did not sample. I
2 did not check the math. I assumed Dr. Cloretti and
3 all that was fine. I assumed it was okay.
4 **Q: Did you sample the payroll data? By**
5 **payroll data, I`m referring to the hours that appear**
6 **from 2013 to 2015 from payroll records. The amount**
7 **paid that appears, the total wages paid is the term**
8 **used in the A Cab OLE file. Those two pieces of**
9 **information come from payroll records that A Cab**
10 **produced in this litigation. Did you sample the A**
11 **Cab OLE file to determine whether that information**
12 **was accurately placed in the A Cab OLE file from A**
13 **Cab`s records?**
14 MS. RODRIGUEZ: I`m going to object to the
15 form of the question. It`s compound and it`s
16 assuming facts not in evidence and it lacks
17 foundation.
18 A: I used what was in the A Cab OLE file
19 for the wages reported by A Cab from the employer. I
20 just used what that was. I did not go back and check
21 to make sure that the numbers were correct. As I
22 said I believe that that part of the data that you
23 have in the file is fine. Now, the second part is we
24 looked at hours. We recalculated hours.
25 **Q: I understand. Okay. There is also a**

Page 36

column that appears in the A Cab file that says shifts worked from cab manager records. Did you sample the A Cab OLE file and examine any source materials from A Cab to determine if the information that appears in that section of the A Cab OLE file is in fact accurate, an accurate extract from A Cab`s original records?

A: I didn`t use the A Cab, the cab manager information because it`s just when the cab`s checked out and when the cab`s checked in. It`s there. We just decided it wasn`t a useful thing to look at. We looked at the actual time the employees were working.

Q: I understand. So, just confirm for me. Sitting here today, is there any basis that you have, any information you`ve obtained or any belief you`ve secured through your work on your report that any of the information taken from A Cab`s original records and placed in the A Cab OLE file was not properly identified and placed in the A Cab OLE file?

MS. RODRIGUEZ: Objection. Lacks foundation.

A: I have no reason to believe there was any inaccurate information. As far as I can tell, it was transferred over but I did not do a lot of work on that.

Page 37

Q: So, you understand that in Dr. Cloretti`s report, he discusses a process that Charles Bass went through to bring the information from the source files provided by A Cab into the Excel file that ultimately becomes the A Cab OLE file. Did you review that portion of Dr. Cloretti`s report?

A: Yes. Yes.

Q: Do you have any reason to dispute Dr. Cloretti`s conclusion that that process performed by Charles Bass and that Dr. Cloretti described was correct and accurate?

A: To say correct and accurate... it seems like it was done properly, yes.

Q: I`d ask you to take a look at page 5 of Exhibit 1 which is your report. Now I would draw your attention to the last sentence of the paragraph that appears just before Roman Numeral IV.

A: Okay.

Q: Please read that sentence and then I`ll ask a question.

A: Okay.

Q: Now, when you say at the beginning of that sentence, ``testing on the model,`` you were referring to the calculation report earlier in that

Page 38

paragraph and you are referring to the A Cab OLE Excel file?

A: Yes. I really thought both of the... in 2017 or the February file, I think they`re... I assumed during the time they`re basically the same. There are some discrepancies that I noted earlier but the data that we were looking at all proved out to be the same data when we were doing the testing. There were no differences.

Q: Well, sitting here today, do you believe that this statement, that sentence I was referring to you, when you say testing on the model is an accurate statement about the A Cab OLE file?

A: Yes.

Q: Okay. Now, you have an A and B portion of that sentence. The sentence states, ``It appears to overstate the minimum wage deficit,`` meaning the minimum wages owed to drivers.

A: Correct.

Q: Because A, the amount of hours estimated per shift is not supported by testing of the actual hours worked.

A: Correct.

Q: Now, when you say, ``The amount of hours estimated per shift,`` are you referring to the

Page 39

portion of Dr. Cloretti`s report where he discusses this applying 11.04 estimate of hours worked per shift as part of his analysis?

A: Yes, I believe so. Right.

Q: Okay. In that B section of that sentence, it states, ``By using a constant hours worked for all employees over all periods, material distortions occurred that affect the calculation of the minimum wage deficit.`` Do you see that?

A: Yes.

Q: Okay. The statement in B, would that apply in all circumstances and by all circumstances, are you stating that if we were to assume a constant hours worked for every shift, for every employee in the analysis, it would always result in an overstatement in the minimum wage is owed?

A: I believe if you did an infinite number of wage calculations at some point you might hit by coincidence kind of like a clock is always set the same twice a day. You would hit whatever the true number is, but it wouldn`t always overstate. You could actually set it at a rate that you would understate.

Q: If you turn to Exhibit 4 of your report, there is a column here that says SLA recalculated

Page 64

withdrawn. In preparing to be an expert witness in this case, did you consider how the amount of time each taxi driver worked each pay period would be determined and presented to the court?

A: Please say the question over again. I`m sorry.

Q: Well, we`ve discussed that you need to know the time an employee worked to calculate if there`s a minimum wage deficiency. Correct?

A: Right.

Q: Okay. Did you consider when you were retained as an expert in this case how that information, the time that each employee worked each payroll period would be found out and then presented to the court?

A: At the time I was retained or as I learned about the case?

Q: Either when you were retained or as you learned about the case.

A: As I learned about the case, I thought about it. Yes.

Q: What conclusion did you reach about that?

A: I think it`s a complex problem for a small amount of money.

Page 65

Q: I see. Well, you say it`s a complex problem for a small amount of money because the amount of minimum wage is small, correct, for each individual person?

A: The amount of work you have to do to determine what the true deficit is is small compared to the amount that would be owed or what we can see to be owed to the employees.

Q: Okay. I believe you just said the amount of work you had to do is small.

A: The amount of work that would have to be done by me or whoever was doing it to determine how many hours there were, especially in the earlier period, to figure out what the minimum wage was would be quite large compared to the amount of money that the ultimate person would be paid.

Q: So, just so you understand your prior answer, you transposed small to large.

A: Okay. I`m sorry.

Q: It`s a little confusing.

A: I tend to do that and I apologize.

Q: It`s all right. Your point, sir, is the amount of work necessary in your view to determine the hours worked in a particular pay period particularly in the earlier period - by the earlier

Page 66

period, you mean prior to 2013 - is very large compared to the amount that will be found owed to any employee at any particular pay period.

A: Yes. To me, it`s a cost benefit type of a situation that doesn`t add up.

Q: So, given that cost benefit situation and that it would be a very expensive project, very costly to actually gather the trip sheet information from every payroll period for 500 taxi drivers over five years, do you believe that such a process is practical?

A: I don`t believe that it`s practical, in my professional opinion. I think most people would look at it and say it`s not really practical to do.

Q: So, as an accountant, someone first in doing forensic accounting, doing auditing, would you propose a different methodology for making that determination as to how much a minimum wages drivers are owed that would be practical?

A: I`ve actually put some time, if I understand your question to that. I think for the amount that each individual driver would get, I don`t think there`s a way to do it that`s reasonable. It`s a lot of time and a lot of effort that people have to go through to get very small wages, very small

Page 67

1 additional wages.
2 **Q: Well, wouldn`t taking a statistically**
3 **relevant sample of those trip sheets provide an**
4 **efficient and practical means to determine how much**
5 **all of those drivers are owed for the time period**
6 **we`re talking about?**
7 A: Okay. Let`s talk about that for a
8 second. Let`s assume you could get a statistically
9 relevant sample however that would be done. Then how
10 do you relate that back to the individual driver who
11 may or may not be underpaid or overpaid? So, are you
12 going to just give everybody, even those who were
13 making in excess of minimum wage money or how were
14 you going to find out which drivers were not making
15 minimum wage? You`re still going to have to do a lot
16 of time and effort to figure that out.
17 **Q: Well, if you advise--**
18 A: Again, this is not something that I`ve--
19 **Q: Well, you understand that the number of**
20 **shifts worked by every driver during every payroll**
21 **period is known. Do you understand that?**
22 A: Yes.
23 **Q: Okay. So, if we were to take a**
24 **statistically relevant sample to determine the**
25 **average length per shift of every driver, why would**

Page 68

that not be a sensible means to estimate the number of hours each driver worked each payroll period?

A: Tell me how you do that.

Q: Well, you took a sample of approximately 128--

A: Yeah, 130, 120.

Q: --payroll periods using trip sheets.

A: Yes.

Q: For the period 2013 to 2015 that we were discussing, you took a sample of approximately 56 payroll periods.

A: Fifty-six plus whatever the second part of it was. Yeah. Sixty, whatever.

Q: Now, are you aware that a statistically relevant sample of 9600 pay periods, which is the 2013 to 2015 period, could be achieved with a 95% confidence level with a confidence interval of 4.9% using a sample just under 400?

A: Using a sample just under 400?

Q: Yes.

A: Okay. No, I was not aware of that.

Q: At 9600... you`re not aware of that? Do you believe if such a test was done it would provide a reasonable practical means to estimate what the average shift length was for those 9600 pay periods

Page 69

which then could be multiplied by the shift worked by each driver during their pay period to determine reasonably what their hours were every pay period and then determining the minimum wages they were owed?

A: As I told you earlier, I`m not qualified to authenticate on statistical studies. I would have to speak to somebody who was qualified in that area. I had enough statistics in my past to know that you can get into deep trouble very quickly when you start studying confidence levels and things like that and confidence intervals and you`re not completely up to speed on that stuff, so I would have to talk to somebody about it. I couldn`t make that determination.

Q: So, you would agree that it`s certainly possible that a statistically-relevant sample could be taken from the trip sheets from the taxi drivers for enough pay periods to accurately estimate the minimum wages that are owed to them for all pay periods? When I said possible, I mean you`re not discounting that that could be done in an economically feasible fashion.

A: I think it`s possible that it could be done. Right, like I say, it`s certainly possible. I can`t tell you that it could be done. If you`re

Page 70

1 going to do 400, that`s going to still be a lot of
2 time people are going to have to put into that; but
3 it`s possible.
4 **Q: Did you perform any analysis of the**
5 **break times that you observed in your sample of the**
6 **trip sheets?**
7 A: How do you mean analysis of the break
8 times?
9 **Q: Well, did you do any determination of**
10 **what the average break time per shift was?**
11 A: No. You might be able to pull it out of
12 some of the data we have but you`d have to look at
13 the cab manager hours minus the net hours that they
14 worked. I suppose that you could get that. I didn`t
15 pull it out though.
16 **Q: Now, you came up with two average shift**
17 **lengths in your report, or three actually. You have**
18 **an average per hours worked during the pay period and**
19 **average for hours worked during shifts that were not**
20 **minimum wage deficient and an average worked for**
21 **wages for pay periods that were minimum wage**
22 **deficient.**
23 A: Correct.
24 **Q: Okay. Is there some reason that one of**
25 **those averages wouldn`t be an accurate figure to use**

Page 71

for every pay period, to then use the A Cab OLE model that we`ve been discussing and place that number which could be 9.2 or 9.5 or it looks like 9.8, this is in your Exhibit 4, into that model and then project what the cab drivers were owed minimum wage?

A: I`m reluctant to do that. I`ve thought about that too. I think the numbers are so volatile. I mean... let`s go back. You just said to get a statistically valid sample. You did 400. I`ve got 56 or whatever it is. So I don`t know that we have a final number. What bothers me about this going both directions is, between like 9 and 10 hours, you get very large differences and whether people are owed minimum wage or that they`re not owed minimum so that`s why I don`t think it`s really that valid. All those statistics did was show me that using a constant number is not a good idea.

Q: Did you actually conduct any study of what you termed the volatility? By that, I mean the variance in terms of shift length among the drivers that would tend to show using an average shift length would be unreliable?

A: Would be unreliable... Look at the end of the report, how much the differences are between your analysis of who was subject to the minimum wage

Page 72

1 and my analysis of what the subject was to minimum
2 wage; you got a large difference. That`s as much as
3 I did.
4 **Q: I understand but doesn`t that portion of**
5 **your report concern making an 11.03 hours average per**
6 **shift assumption correct?**
7 A: Right.
8 **Q: Okay. If we were to take your findings**
9 **of 9.2 or 9.5 or 9.6 I believe depending on what**
10 **condition we adopted, is there any reason to believe**
11 **that that would materially distort the calculation of**
12 **the minimum wages owed?**
13 MS. RODRIGUEZ: Objection. Asked and
14 answered.
15 A: Again, I don`t know the statistically
16 significant. I don`t know if you can do that.
17 **Q: Okay.**
18 A: I`m very uncomfortable with that idea.
19 **Q: Well...**
20 A: I looked at that. It`s just it`s not...
21 **Q: I`d ask you to take a look at page 29 of**
22 **Dr. Cloretti`s report, that`s Exhibit 2.**
23 A: Right.
24 **Q: Please... Did you read this page**
25 **previously of Dr. Cloretti`s report?**

Page 73

A: Yes, I have.

Q: Okay. Do you understand what he is proposing as an analysis here?

A: Yes. I think I do. It`s kind of confusing but I believe I`ve got it.

Q: Okay. Correct me if you have a different understanding of this but what I believe Dr. Cloretti is saying here is that when we assume the amount of hours at 11.03, okay, as an average for the 2013-2015 period, okay, and we apply that down the board so to speak to every single shift, the distortion is approximately 2% or less, okay, or what he calls biased on this page. Do you understand that?

A: Yes.

Q: Okay. Did you attempt to perform any similar analysis to this using your findings of the 9.2 or the 9.5 hours per shift?

A: This is what I did when I read this and looking at my results: The cab manager comes up to be... Let me back up. Generally, you have a maximum number of hours people can work which comes in around 11 hours, 12 hours, something around there. So, as you fill in all the time so that everybody is working 11 hours, I think what probably happens is the

Page 74

variances go down and everybody starts to fall into minimum wage and everybody starts to be owed money; but as you back that off, you start to get these large differences because if somebody didn`t work, if there are differences in the amount of hours you worked, there are larger and larger differences between the amount of minimum wage that`s owed, that the people qualify. So, I think as you back off, what can be the maximum so that you`re at 9/11 or 8/11, whatever that is, 80%, 70%, the volatility will get more. It would become more. I have not proved that out but that`s just kind of how I feel. I think as you get closer to the maximum, everything will go to a hundred. It kind of like comes together. We know that the cab manager number`s the wrong number to use because it`s just when the cab gets check out and the cab gets check in. It doesn`t give you an indication to how many hours people worked on most of the time.

Q: Your statement regarding that, the terms you used were volatility and variance. Is that correct?

A: You`re right. As an accountant would use it, not as a statistician would use it.

Q: Okay. Your statement regarding those,

Page 75

in cooperating those terms and your belief on that, correct me if I`m wrong. It`s just a theory. That isn`t anything you actually tested and performed.

A: I think I`ve said that, no. Yes, I have not tested it.

Q: Okay. So, that could be true or could not be true. Sitting here today, you can`t really find support either proving or disproving that conclusion. Correct?

A: Correct.

Q: Okay. Now, in respect to the cab manager time not being the correct time because as you say it records a start and an end in the cab manager system, your conclusion that that isn`t the correct amount of time the driver was working is based upon the accuracy of the trip sheets you`ve reviewed and the assumptions you`ve made in reviewing those trip sheets?

A: Yes, but the assumption is too whether we use the Nevada rules that I talked about earlier, whether we use A Cab`s or whoever we use, you can see when you look at the trip sheets, people take a lot of time off and they have down time. When they`re down time, when they`re off the radio or whatever, they`re taking a break. They`re not working those

Page 108

CERTIFICATE OF RECORDER

STATE OF NEVADA)
COUNTY OF CLARK)
NAME OF CASE: MICHAEL MURRAY vs A CAB TAXI SERVICE LL

I, Jared Marez, a duly commissioned Notary Public, Clark County, State of Nevada, do hereby certify: That I recorded the taking of the deposition of the witness, Robert S. Leslie, commencing on 10/10/2017.

That prior to being examined the witness was duly sworn to testify to the truth.

I further certify that I am not a relative or employee of an attorney or counsel of any of the parties, nor a relative or employee of an attorney or counsel involved in said action, nor a person financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand in my office in the County of Clark, State of Nevada, this 10/10/2017.

_____

Jared Marez Notary

Page 109

1 CERTIFICATE OF TRANSCRIPTION
2 STATE OF NEVADA)
3 COUNTY OF CLARK)
4 NAME OF CASE: MICHAEL MURRAY vs A CAB TAXI SERVICE LL
5 I, Peter Hellman, a duly commissioned
6 Notary Public, Clark County, State of Nevada, do hereby
7 certify: That I transcribed or supervised the transcription
8 of the Recorded deposition of the witness,
9 Robert S. Leslie,
10 commencing on 10/10/2017. The Transcription is a true
11 and accurate represetation of the testimony taken from
12 the witness, Robert S. Leslie.
13 I further certify that I am not a relative or
14 employee of an attorney or counsel of any of the
15 parties, nor a relative or employee of an attorney or
16 counsel involved in said action, nor a person
17 financially interested in the action.
18 IN WITNESS WHEREOF, I have hereunto set my
19 hand in my office in the County of Clark, State of
20 Nevada, this 10/10/2017.
21
22 _____
23 Peter Hellman - Notary
24
25

EXHIBIT “D”

LEON GREENBERG
Attorney at Law
2965 South Jones Boulevard • Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085

Leon Greenberg
Member Nevada, California
New York, Pennsylvania and New Jersey Bars
Admitted to the United States District Court of Colorado

Dana Sniegocki
Member Nevada and California Bars

Fax: (702) 385-1827

November 9, 2017

The Honorable Kenneth C. Cory
District Court Judge
200 Lewis Avenue, Courtroom 16A
Las Vegas, Nevada 89155

Via Hand Delivery

Re: Murray v. A Cab A-12-669926-C
Motion for Bifurcation and/or to Limited Issues for Trial
Chambers Set for December 7, 2017
Submission of Excel Files "ACAB-ALL" and "Damages 2007-2010"
Discussed in Motion

Dear Judge Cory:

I submit with this letter a full Chambers copy of the above motion. Also submitted with this letter is a DVD that contains the Excel files "ACAB-ALL" and "Damages 2007-2010." Those Excel files are discussed in the motion and the motion proposes they be used to calculate the class members' damages after their hours of work (shift length) is determined at trial. I now provide copies of those files for the Court so it can better understand how they would be used.

The "ACAB-ALL" file covers the period from October 12, 2010 through December 31, 2015 for all class members. The "Damages 2007-2010" file only covers the class member claims covered by a statute of limitations toll (as per Your Honor's Order entered June 7, 2017) for the period July 1, 2007 through October 11, 2010. Each file will, based upon a specified shift length finding made at trial, calculate the minimum wages owed (if any) for every pay period within their coverage by applying that length to every shift worked. They also, based upon that specified shift length, will set forth the total amount of unpaid minimum

wages owed (if any) to each class member for each period. The "ACAB-ALL" file also makes those calculations for the 2013-2015 period based upon each shift length recorded in the Cab Manager software used by A-Cab, or based upon a uniform variation of each such shift length (increasing or decreasing each such shift by a set amount to account for break times or "off the clock" work).

Each of these files has a "variable" for the shift length calculation that can be set. In respect to the "ACAB-ALL" file these appear at cells N2 and O2 of the file's per payroll period tables. These were discussed at pages 6 to 7 of Dr. Clauretie's expert report (copy at Ex. "B" of plaintiffs' motion for partial summary judgment set for hearing on December 5, 2017) who verified their functioning was arithmetically correct.

If you open the ACAB-ALL file and view the "2013-2015" tab (spreadsheet) it sets forth, as a default and without the entry of any variable in either cell N2 or O2, a calculation of the minimum wages owed each pay period based upon A-Cab's payroll records in columns "T" through "X." It also makes those same calculations but based upon A-Cab's Cab Manager shift length records, in columns "Z" through "AD." Those Cab Manager records, indicating a start and end time of each shift worked by each driver, only exist for the 2013-2015 time period. Prior to 2013, the Cab Manager records only indicate if a driver worked a shift on a particular day, they give no indication of a start or end time for that shift.

You can enter a number in N2 (it could be 8, 9.5, 10, 11 or some other amount) and the amounts in columns "Z" through "AD" will be recalculated based upon that number being the length for every shift in each pay period. Instead of entering a number in N2, you can enter either a positive or negative number (-.25, -1, +.25, etc.) in O2 and those amounts will be recalculated by adding, or subtracting, the O2 number to every individual Cab Manager shift length for the pay period. In either event, the hours for the pay period, as now determined by the N2 or O2 variable, will appear in column "O" on each line.

The "2010-2012" tab (table) of the ACAB-ALL file functions in the same fashion, except it only has the N2, variable as the Cab Manager shift length information (the subject of the O2 variable in the "2013-2015" table) does not exist for that time period. It also has no calculation of amounts owed as shown by A-Cab's payroll records, as that information is not present in the payroll records for that time period. The "Damages 2007-2012" file at the "Per Pay Period" tab (table) functions in an identical fashion. Its "shift length" variable appears in cell

O2 and that table does not contain the two calculations (at columns W and X of the "2010-2012" table of the ACAB-ALL file) involving employee insurance premium costs. When you open that file, the O2 variable is set by default to 9.21 hours, but it can be changed to any desired shift length.

Each of the files has "per employee" calculations which set forth the total amount of unpaid minimum wages owed to each employee for all of their pay periods, as modified by the N2 or O2 variable. Those calculations are performed, in the Damages 2007-2012 file at the "Per Employee" tab (table) and in the ACAB-ALL file in the "2013-2015 per EE" and "2010-2012 per EE" tabs (tables). The ACAB-ALL file also contains four additional tabs (tables), "Excluded," "NoPayroll," "NoCabManager," and "OneHourPayroll." Those tables are not used to calculate any damages. Their purposes is to document that certain records provided by A-Cab are not usable or are incomplete and that no damages are calculated for those corresponding pay periods.

I hope the provided Excel files prove useful to Your Honor.

Respectfully submitted,

Leon Greenberg, Esq.

cc: Esther Rodriguez, Esq. VIA E-MAIL
Michael Wall VIA E-MAIL

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Civil Filing | **COURT MINUTES** | **December 07, 2017**

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

December 07, 2017 **Motion to Bifurcate**

HEARD BY: Cory, Kenneth **COURTROOM:** RJC Courtroom 16A

COURT CLERK: Michele Tucker

JOURNAL ENTRIES

COURT ORDERS, Plaintiff s Motion for Bifurcation and/or to Limit Issues for Trial is DENIED, except to the extent that Plaintiff seeks to admit evidence of damages by representative sampling, pattern or practice evidence, or other approximation.

NRS 608.115 requires, in relevant part, that employers keep records of its employee's wages and hours worked for each pay period. Nev. Rev. Stat. Ann. 608.115 (West). Plaintiff argues that because Defendant failed to keep these records, and because employees do not have the records nor a duty to keep the records, Plaintiff should be allowed to present evidence of the employees average hours worked per shift. Defendant argues that it kept records of the actual hours its employees worked in the form of handwritten tripsheets, and that evidence of an approximation is inadmissible in lieu of the precise data.

Defendant s tripsheets document the hours each of its employees worked during any given shift. Because the tripsheets are handwritten physical documents, compiling data from the records requires litigants to undertake the task of locating and compiling each employee's several tripsheets for each of the thousands of pay periods in question. Apparently, NRS 608.115 does not specify a particular medium in which employers must keep the records; however, an employer cannot avoid liability under Nevada s Minimum Wage Act by keeping records in a form that makes it virtually impossible for litigants to challenge the sufficiency of compensation paid. And at any rate, NRS 608.115 requires that employers keep a record of its employee's hours per pay period; Defendant s tripsheets do not do so. In this case, an approximation would provide a reasonably expeditious means of calculating and allocating damages, whereas an individual calculation for each class member would impose impossible burdens on the litigants. See Bell v. Farmers Ins. Exch., 115 Cal. App. 4th 715, 753 (2004).

Defendant understandably argues the disadvantages of such approximation evidence, and we acknowledge that such an approach necessarily yields an average figure that will overestimate or underestimate the right to relief of individual employees. See id. We have weighed the disadvantages of such evidence against the opportunity to vindicate an important constitutional mandate in a manner that does not impose an undue burden on the court or the litigants. See id. Like under-compensation cases that employees have brought under the Fair Labor Standards Act, calculation of damages on an individualized basis in this case would be impracticable and would undermine the purpose and utility of class actions. See Smith v. Lowe's Home Centers, Inc., 236 F.R.D. 354, 357 (S.D. Ohio 2006).

For the foregoing reasons, and for other reasons argued by the Plaintiff, the Court ORDERS the following: Plaintiff may present at trial evidence of approximate damages so long as he makes an ultimate approximation (not merely advances a model by which damages could be approximated), so long as there is a sufficient basis from which a reasonable inference of damages could be drawn, and so long as the evidence is otherwise admissible. Defendant may counter by advancing evidence of its employees precise shift length, by advancing its own approximation and demonstrating its superior accuracy, or by advancing other evidence that would tend to negate the reasonableness of the inference to be drawn from Plaintiff s evidence. See Anderson v. Mt. Clemens Pottery Co., 328 U.S. 680, 688 (1946).

Ms. Rodriguez to prepare the Order.

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

CLERK'S NOTE: Minutes Amended and re-circulated to all parties on 12/21/17. /mlt

Electronically Filed
12/14/2017 4:24 PM
Steven D. Grierson
CLERK OF THE COURT

RSPN

LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
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, and A CAB, LLC, Defendants.	Case No.: A-12-669926-C Dept.: I RESPONSE IN OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Plaintiffs, by and through their attorney, Leon Greenberg Professional Corporation, submit this memorandum of points and authorities in response to defendants' Motion for Summary Judgment.

MEMORANDUM OF POINTS AND AUTHORITIES

SUMMARY OF RESPONSE

Defendants' motion makes six assertions, all legally and/or factually erroneous:

1. **Assertion:** Plaintiffs "have failed to prove any actual damages" and there are "no documents or witnesses who support an underpayment of minimum wages" and "Plaintiffs' experts admit they have no opinion on actual damages."

   Reality: Plaintiffs need not "prove" their damages to the Court at this point but only present sufficient evidence from which a jury *might* make a

finding they are owed unpaid wages. Defendants' records from 2013-2015 establish, on their face, that the plaintiff class members are owed unpaid minimum wages. Plaintiffs also make sworn assertions about their hours of work that would, if found true by a jury at trial, establish they are owed unpaid minimum wages. Plaintiffs' experts do not give an "opinion" on damages. They provide a mathematically correct spreadsheet to calculate those damages based on a finding at trial of the hours that the class members worked, there being no complete, or accurate, record maintained by A-Cab of the class members' hours of work.

2. **Assertion:** "Plaintiffs' claims are based upon the assertion of fraudulent break times written into the tripsheets" and plaintiffs provide no support for this claim.

   Reality: Plaintiffs are seeking unpaid minimum wages, meaning that the amount they were paid during certain pay periods was less than the minimum hourly rate for the hours that they had worked. Plaintiffs need to prove their hours of work not whether false break times are written into trip sheets (the accuracy of the trips sheets is an issue for the trier of fact).

3. **Assertion:** "Plaintiffs are pursuing claims for a class, with no representative plaintiff."

   Reality: There is no need for a temporal "mirror image" and exact match between every class members' damages period (each of their pay periods) and those of the representative plaintiffs. The representative plaintiffs worked during the relevant statute of limitations and during the class claim period. This renders them sufficient class representatives.

4. **Assertion:** "There is no evidence supporting punitive damages" and plaintiffs' punitive damages claim "must be disposed of pursuant to NRS 42.005."

Reality: There is ample evidence supporting punitive damages, as defendants admit, through their own records and testimony, that they continued to not pay minimum wages after this Court found in February of 2013 that minimum wages had to be paid (only discontinuing such failure in July of 2014 after the Supreme Court's opinion in *Thomas v. Yellow Cab*). There is also ample evidence that defendants were intentionally violating Nevada's minimum wage law for several years prior to February of 2013: they instructed drivers to make false time entries on their trip sheets and failed to keep any record of hours worked for payroll purposes despite promising the U.S. Department of Labor in 2009 that they would do so. There is nothing in NRS 42.005 that bars the punitive damages claim made in this case.

5. **Assertion:** "Plaintiffs cannot meet their burden on general liability" or against any defendant and the claims against "Defendant Nady must be dismissed as lacking any basis."

Reality: Defendants are asking the Court to make factual findings (and adopt defendants' factual assertions) and grant summary judgment on that basis. The hours worked by the class members are disputed and remain to be determined at trial. The Court previously ordered that the claims against Nady be bifurcated (they are irrelevant if A-Cab fully satisfies whatever liability is found at trial). Accordingly, reviewing the sufficiency of those claims at this point (and there is a great deal of evidence supporting the claims against Nady) is not sensible.

6. **Assertion:** The class action should be decertified and only the individual plaintiffs should proceed with their claims because this is a case for "fraud" and fraud claims cannot be prosecuted in the class action form. **Reality:** There is no "fraud" claim made in this case. The unpaid minimum wages the class seeks to collect are not dependent upon proof of any deception or misrepresentations by the defendants.

RELEVANT PRIOR ORDERS IN THIS CASE

Prior denials of defendants' motions to dismiss or for summary judgment

The Court previously denied defendants' motions to dismiss or for summary judgment against plaintiffs Murray and Reno in February of 2016. While those Orders do not set forth the Court's reasoning, many or all of the same arguments raised in this motion were rejected by the Court in rendering such orders.

Bifurcation of all claims against defendant Nady

The Court has bifurcated the claims against defendant Nady and they are to be determined, if necessary, after the trial of the claims against A-Cab. Ex. "A."

ARGUMENT

I. PLAINTIFFS HAVE MET THEIR BURDEN OF PRESENTING EVIDENCE FROM WHICH A TRIER OF FACT COULD MAKE FINDINGS THAT UNPAID MINIMUM WAGES ARE OWED

A. The wages paid to the plaintiffs and the class members each pay period are known and establish that jury may award unpaid minimum wages depending upon their finding as to the hours worked each pay period.

1. The hours worked each pay period are in dispute and no records exists showing those hours, the Court having been fully briefed on this issue in connection with the other pending motions.

As discussed in great detail in the plaintiffs' motion to bifurcate the damages issue for post-trial determination (submitted to Chamber 12/7/17) , the parties agree that the wage *paid* to each class member each pay period is known and recorded in defendants' records. They dispute the *hours worked* by each class member each pay

period, the defendants only keeping such an hours worked record starting January 1, 2013 (the accuracy of that 2013 forward record is asserted by defendants, but disputed by plaintiffs, partial summary judgment being sought based upon those records and such assertion by defendants, that motion was heard on December 14, 2017). As discussed extensively in the foregoing bifurcation motion, a determination of the hours worked by the class members will have to be made based upon an estimate, approximation, for the class members as a group, imperfect as that may be. *See, Anderson v. Mt. Clemons Pottery*, 328 U.S. 680, 688-89 (1946); *Bell v. Farmers Ins. Exchange*, 115 Cal. App. 4th 715, 750 (Cal. Ct. App., 1st Dist. 2004) and numerous other cases.

2. It has been established that plaintiffs and the class members are owed unpaid minimum wages if their assertions regarding the hours they worked are accepted as true (or even if just the defendants' assertions as to their hours of work for the period after January 1, 2013 are accepted).

For summary judgment purposes the question presented is not whether the Court should believe the plaintiffs or the defendants but whether the plaintiffs' assertions, if accepted by a jury at trial, would result in any award of unpaid minimum wages to the class member. Basic arithmetic shows such an award, based upon the jury's findings, is possible. The maximum minimum hourly wage is $8.25. There are 168 hours in a week. If defendants always paid, every week, at least $1,386 to each class member (168 times $8.25) they would be entitled to summary judgment as a matter of law, as their record of wages paid (which is not disputed by plaintiffs) would establish that no minimum wages could possibly be owed to any class member.

Defendants' record of wages paid, the accuracy of which is accepted by the plaintiffs, does not establish the impossibility of minimum wages being owed. The wages paid to the class members, and the plaintiffs, were modest. They varied and were often less than $300 a week and rarely exceeded $500 a week, amounts potentially below the minimum wage, depending upon the hours worked. As discussed

in the plaintiffs' motion for partial summary judgment, a large portion of the defendants' payroll records (for the 2013 and later time period) establish that minimum wages are owed based upon *defendants' assertions* about the accuracy of those records. Those records absolutely document that class representative Sargeant is owed unpaid minimum wages, as discussed in detail in the reply in support of the motion for partial summary judgment.

In respect to the period prior to 2013, class representative Murray alleges in his previously submitted declaration of March 6, 2015 he typically worked a shift of at least 11 working hours (after deducting his break time). Ex. "B" ¶ 11. If that assertion is found at trial by a jury to be true, he is owed $2,083.17 at a constant $7.25 an hour "lower tier" minimum wage rate from October 2010 through his employment termination in April of 2011. That amount is precisely calculated based upon defendants' payroll records, such calculation having been made by the "ACAB-ALL" Excel file provided to defendants and the Court and extensively discussed in the motion to bifurcate submitted on 12/7/17.

It is the arithmetic used for a damages calculation, based upon an estimated shift length assumed for all shifts, as performed by the ACAB-ALL and Damages 2007-2010 Excel files, that plaintiffs' experts have established as correct (defendants' expert also testifying that the ACAB-ALL file calculates correctly). Plaintiffs' experts offer no opinions as to the "facts" of the hours actually worked. Or what "average" shift length the jury should apply to the class members' claims. They only provide an undisputedly accurate means to determine the unpaid minimum wages based upon defendants' record of wages paid and after that factual determination about the hours worked is made by the jury.

B. Defendants recast the plaintiffs' claim into one for "fraudulent break times" and "unpaid hours worked" and not unpaid minimum wages so they can argue it should be dismissed.

The issue in this case, as in any case alleging unpaid minimum wages are owed, is whether the amount of wages paid in each pay period were sufficient, based upon the

hours worked, to meet the minimum hourly wage requirements of the Nevada Constitution. The *reason* that they were insufficient, be it a "fraudulent break time" policy of the employer or the employer's failure to pay for all "hours worked," does not transform the nature of the cause of action. Defendants recast the plaintiffs' claim into a hyper-technical gibberish of a cause of action so they can argue for its dismissal (What is a cause of action for "unpaid hours worked" as distinct from one for unpaid minimum wages? Except for defendants insisting such a thing exists they offer no explanation).

Plaintiffs have the burden of proving their hours of work, as they accept the defendants' records as showing the wages they were paid. As discussed, plaintiffs present sufficient evidence to allow a finding by a jury that unpaid minimum wages are owed. That is all they are required to do.

II. THE "ADEQUACY" REQUIREMENT OF CLASS REPRESENTATION DOES NOT REQUIRE A "TEMPORAL MIRROR" BETWEEN THE CLASS REPRESENTATIVE'S CLAIM AND THE CLAIMS OF EVERY CLASS MEMBER

Defendants are asserting that a class representative must, personally, possess a claim that is identical, in temporal scope, to every class members' claim. According to defendants, the class representatives must, personally, have a claim for every pay period of every single class member that they represent. They cite no support for this rule requiring a complete match of the damages time span between class representatives and class members. That is because no such rule exists. *See*, *Sarviss v. General Dynamics*, 663 F. Supp. 2d 883, 911 (C.D. Cal. 2009). There is no "mirror image" requirement of complete temporal identity between class representative and class member claims in a Rule 23(b)(3) damages class action.

Wal-Mart Stores, Inc. v. Duke, 131 S.Ct. 2541, 2550 (2011), cited by defendants' without any intelligible discussion, does not support their position. *Wal-Mart* concluded that for purposes of a Rule 23(b)(2) class for *injunctive* or equitable type relief, Article III of the United States Constitution requires a current employee

representative and a former employee is not an adequate representative in such a class action. Plaintiffs seek a trial (and partial summary judgment) on damages for a Rule 23(b)(3) class, not injunctive or other Rule 23(b)(2) type relief, as in *Wal-Mart.*[1]

III. PUNITIVE DAMAGES ARE POTENTIALLY RECOVERABLE AND SUFFICIENT EVIDENCE EXISTS FOR THEIR AWARD

A. Punitive damages are potentially recoverable in this case, as Nevada does not bar punitive damages from all cases other than common law torts.

Citing *Sprouse v. Went*, 781 P.2d 1136, 1139 (Nev. Sup. Ct. 1989), and NRS 42.005, defendants insist that punitive damages cannot be recovered in this case. That is incorrect. What NRS 42.005 states is that "an action for breach of an obligation *not arising from contract*...." may, in certain circumstances, give rise to a claim for punitive damages. It excludes contract actions from punitive damages but does not, by its language, limit punitive damages only to cases involving common law torts. Obligations founded on anything *other than a contract*, such as in this case a constitutional duty or statutory obligation, remain, potentially, subject to punitive damage claims under NRS 42.005.

Nor does the decision in *Sprouse* establish a "tort claims only" standard for punitive damages in Nevada. The language in *Sprouse* relied upon by defendants "If ***the*** punitive damages award is not based upon a cause of action sounding in tort, the award must be stricken on appeal," 718 P.2d at 1138 (emphasis added), is misconstrued. The Court was discussing "the" punitive damages award in that case, alleged to have been based upon one or more tort claims. It was *not* stating as a general principle of Nevada law that punitive damages were *only* available for common law tort claims (otherwise it would used "a" and not "the" in the sentence).

---

[1] *Wal-Mart* is also inapplicable to this Court as Nevada's Courts do not apply the same Article III "case or controversy" standing limitations as the federal courts, but that is an issue outside the scope of this motion.

B. The availability of punitive damages for "public policy torts" in Nevada and established principles of constitutional law support the availability of punitive damages for violations of the Nevada Constitution's Minimum Wage Amendment.

Plaintiffs' claims arise from a violation of Nevada's Constitution. They are not contractual; they are constitutional. Nevada recognizes that punitive damages can be awarded for violations by employers of Nevada's public policies if the relevant facts support an award of punitive damages. *See, D'Angelo v. Gardner*, 819 P.2d 206, 218-19 (Nev. Sup. Ct. 1980) (Recognizing "public policy torts" and giving as examples cases where an employee is discharged for seeking worker's compensation benefits as in *Hansen v. Harrah's*, 675 P.2d 394, for performing jury duty or for refusing to violate the law). *See, also, Hester v. Vision Airlines, Inc.*, 687 F.3d 1162, 1172-73 (9th Cir. 2012) (Nevada law allows for punitive damages award to class of employees on, among other things, claims that wages owed and unpaid by employer were converted by employer through oppression, fraud or malice).

None of Nevada's "public policies" are of greater primacy than those expressed in Nevada's Constitution and there is a substantial body of law recognizing that punitive damages can be awarded for a violation of a constitutional right. *See, Carlson v. Green*, 446 U.S. 14, 21-22 (1980) (Establishing that punitive damages are available for "constitutional tort claims" arising directly under the United States Constitution and first recognized by *Bivens v. Six Unknown Fed. Narcotics Agents*, 403 U.S. 388, 396-97 (1971)). In *Smith v. Wade*, 461 U.S. 30, 50-51 (1983) the Supreme Court adopted a common law tort standard for the award of such punitive damages, requiring proof of the "reckless or callous disregard for the plaintiff's rights," or an intentional violation of those rights, by the defendant.[2]

---

[2] Although *Smith v. Wade* was a 42 U.S.C. § 1983 claim, not a *Bivens* action directly under the United States Constitution, 42 U.S.C. § 1983 claims arise from the violation of a federal constitutional right and as *Carlson* makes clear the *Bivens* direct constitutional claim is afforded the same damages remedies.

State courts reaching the issue have, apparently unanimously, accepted the reasoning of *Carlson* and allowed punitive damages to be awarded on claims arising directly under a state's constitution, under the common law tort standard of *Smith v. Wade*. *See, Widgeon v. Eastern Shore Hospital,* 479 A.2d 520, 535-36 (Maryland Court of Appeals 1984) and *Davis v. DiPino,* 708 A.2d 357, 379 (Maryland Court of Special Appeals 1998) (Recognizing direct damages action to enforce rights granted by Maryland Constitution and confirming availability of punitive damages with the "presence or absence of malice" being pertinent to whether such an award is proper); *Rolon v. Murray*, 2002 Westlaw 31819065 (Superior Court of Connecticut 2002) *citing Binette v. Sabo*, 710 A.2d 688 (Connecticut Supreme Court 1998) (*Binette* created *Bivens* type action against individuals for violations of Connecticut Constitution, declining to dismiss complaint seeking punitive damages for such violations); *Jackson v. Consolidated Rail Corp.*, 538 A.2d 1310, 1319 (Superior Court of New Jersey, Appellate Division, 1988) (Punitive damages available on wrongful discharge from employment claim arising directly under New Jersey Constitution); and *In re Town Highway No. 20*, 45 A.3d 54, 78-80 (Sup. Ct. Vermont 2012) (Claim can be brought directly under Vermont's Constitution, citing *Bivens*, and barring punitive damages against government but not otherwise questioning propriety of a punitive damages award). The only case found by plaintiffs' counsel that arguably varies from these decisions is the ambiguous holding of *Moran v. Shotgun Willies, Inc.*, 889 P.2d 1185, 1188 (Sup. Court Montana 1995). It held that a statute dealing with employment discrimination and barring punitive damages did not contravene the Montana Constitution's protection of those same rights, meaning the legislature had the power to proscribe remedies for violations of those constitutional rights. It did not opine on whether punitive damages would have been available directly under the Montana Constitution in the absence of such an express statute.

The relevant language of Article 15, Section 16, Paragraph "B," of the Nevada Constitution also supports a conclusion that punitive damages are available, in

appropriate cases, for violations of the Nevada Constitutional Minimum Wage Amendment (the "MWA"):

> An employee claiming violation of this section may bring an action against his or her employer in the courts of this State to enforce the provisions of this section and shall be entitled to all remedies available under the law or in equity appropriate to remedy any violation of this section, including but not limited to back pay, damages, reinstatement or injunctive relief.

This Court must grant the plaintiffs "all remedies available under law or in equity" that are "appropriate" including, without limitation, "damages." Such conferral of a right to "damages" is *not* limited, by its language, to just compensatory damages. There is no basis to adopt, from the language of Article 15, Section 16, any *per se* rule that the plaintiff has no right to seek punitive damages. If any such limitation of a "damages" remedy was intended by Article 15, Section 16 it would use the term "compensatory damages" and not "damages." *Cf., Secretary of State v. Burk*, 188 P.3d 1112, 1120 (2008) ("[W]hen a constitutional provision's language is clear on its face, we will not go beyond that language in determining the voters' intent.").

C. A *per se* bar on punitive damage awards for violations of the Nevada Constitution' Minimum Wage Amendment would encourage employers to engage in such violations.

There are also compelling public policy reasons to allow punitive damages, when appropriate, for violations of Nevada's constitutionally required minimum wage. Holding that an employer who violates the MWA is only responsible for paying the unpaid minimum wages (along with interest and an employee's attorney's fee), and nothing else, would encourage widespread violations of Nevada's Constitution. From a pragmatic and economic perspective, employers would be far better off *not* paying minimum wages under such circumstances. In many instances, the employee will never pursue such claims, or, such liabilities will expire or diminish (as defendant in this case has managed to experience) by the operation of the statute of limitations. In the event the employer is not so fortunate, and is actually sued for committing such minimum wage violations, they would just make the same minimum wage payment

they should have *already made anyway*, plus some small additional statutory interest (essentially a low-cost loan to the employer of the money represented by the minimum wages they did not pay timely). While an award of attorney's fees assists the employee in bringing such a claim, that poses only a nominal cost to the employer who tenders the full unpaid minimum wages promptly once a lawsuit is commenced.

Meaningful compliance with minimum wage standards is only achieved by incentivizing employers to voluntarily pay the minimum wage. Simply making employers "caught" not paying minimum wages "pay what they should have paid anyway" encourages employers to *not* pay minimum wages since they may never get "caught." The federal minimum wage law, the Fair Labor Standards Act, accomplishes the goal of creating a "real world" incentive for employers to pay those minimum wages by mandating "double damages" (liquidated damages) awards against employers who fail to do so. *See*, 29 U.S.C. § 216(b). This "double damages" enforcement model is followed by many state minimum wage laws. *See*, Cal. Lab. Code § 1194.2; N.Y. Lab. Law § 198; Ind. Code Ann. § 22-2-29 and others. The Nevada Constitution, through the use of a punitive damages remedy, accomplishes the same goal of encouraging compliance with Article 15, Section 16.

D. There is sufficient evidence in the record from which a jury could conclude that defendants have engaged in bad faith intentional conduct warranting an award of punitive damages.

Plaintiffs need only proffer some evidence, which if accepted as accurate by a jury at trial, could support a finding that defendants engaged in a bad faith, willful, oppressive and/or malicious violations of Nevada's Constitution. A multitude of such evidence exists.

A-Cab had a duty under NRS 608.115 to keep records of the hours worked, each pay period, by each of its taxi drivers. Those records, if kept in an accurate form, would establish whether it was, or was not, complying with its obligation to pay minimum wages. Prior to January 1, 2013 it kept no such records. It failed to do so

despite promising to "comply" with the instructions of the United States Department of Labor in 2009 to keep proper records of the working hours of its taxi drivers. Ex. C p. 3-4. Similarly, A-Cab was advised at that time of the then applicable Nevada minimum wage of $6.85 an hour but failed to ensure that amount was paid to its taxi drivers. *Id.* A-Cab's failure to keep those records, despite its promise to the U.S. Department of Labor to do so, ultimately resulted in litigation by that office against A-Cab and a 2014 consent judgment requiring it to keep those records. Ex. "D."

The conclusion A-Cab acted willfully to violate the MWA by failing to keep accurate records of its taxi drivers' hours of work is further supported by evidence that it directed taxi drivers to falsify their break time hours on their trip sheets. *See*, Ex. "B" Murray Dec. The U.S. Department of Labor concluded that such falsification was occurring and confronted defendant Nady about it who denied it and insisted the drivers were liars. *See*, Ex. "E" Bates Pages DOL 45, 48, U.S. Dept. Of Labor Report from 1/20/2013.

The conclusion that A-Cab acted willfully to violate the MWA is also supported by its failure to pay minimum wages in violation of this Court's ruling it had to pay its taxi drivers minimum wages under the MWA. *See*, Order of February 11, 2013. Ex. "F." Despite that ruling, A-Cab made no change in its minimum wage compliance policies. It continued for an additional 15 months to count its taxi driver's tips against its minimum wage obligations in direct violation of the MWA which does not allow such a "tip credit." Ex. "G," Deposition of Nady, 11/22/16, p. 270-275, see p. 274, l. 19-25.

IV. THE CLAIMS AGAINST NADY SHOULD NOT BE DISMISSED AND ARE SUPPORTED BY SUFFICIENT EVIDENCE

A. The claims against Nady have been bifurcated to be considered, if necessary, after the trial against A-Cab, and the Court should not consider their dismissal at this time.

It makes no sense to consider, at this time, the merits of the defendants' request to dismiss the claims against Nady. His liability in this case is secondary to A-Cab's.

If A-Cab fully satisfies any damages owed to the class, or if it secures a finding it owes nothing to the class, no claim against Nady will lie. For this reason the Court bifurcated the determination of the claims against Nady. Ex. A Order.

B. Substantial evidence exists supporting the claims against Nady.

The Court, if it elects to review the record, will find that sufficient evidence exists to impose liability against Nady as an "alter ego" of A-Cab (in the event A-Cab does not satisfy its liability to the class members). There is ample evidence of his intentional misuse of A-Cab's corporate form as an agent to enrich himself by violating the Nevada Constitution. Specifically:

- Nady personally profited from the minimum wage violations: Nady is the sole shareholder (LLC owner) of A-Cab. The financial records of A-Cab produced under seal establish that Nady personally profited, very substantially, from A-Cab's operations during the time period in question.[3] If A-Cab had paid the minimum wages it owed to its taxi drivers Nady's income from A-Cab's operations would have been reduced in a like amount.

- Nady orchestrated and directed the minimum wage violations: Nady was not an absentee or uninvolved owner of A-Cab but the active, hands on, policy making, manager of the business. He was, by his own testimony, the top decision maker at A-Cab; he decided how much taxi drivers were to be paid; he was responsible for seeing that taxi drivers were paid at least the minimum wage; and he approved all of the procedures used by A-Cab to ensure that minimum wages were properly paid. Ex. "H," Nady Depo. 6/16/17, p. 12-14.

- In response to this litigation Nady has transferred A-Cab's assets to shield them from any judgment: Nady admits that after this lawsuit was started he changed A-Cab LLC into a "series" LLC and transferred the title of each individual

[3] If defendants dispute this fact the financial statements they produced can be submitted to the Court *in camera*.

taxi cab (over 100 taxis) into separate "series" LLC (one cab per each such "series" LLC). He admits he did that out of the belief it would protect those assets from being subject to any judgment against A-Cab as those over 100 "series" LLCs have not been named individually as defendants in this case. Ex. "H," Nady Depo. 6/16/17, p. 55-57. When asked whether he has restructured A-Cab into a "series" LLC in response to this lawsuit he refused to answer the question based upon attorney-client privilege. *Id.*, 112-114.

V. NO BASIS EXISTS TO DE-CERTIFY THE CLASS ACTION

Defendants insist that because the plaintiffs are claiming "fraud" the class action certification of this case must be revoked as fraud claims cannot proceed as a class action, citing *Johnson v. Travelers Ins. Co.*, 515 P.2d 68 (Sup. Ct. Nev. 1973). As explained, *supra*, defendants are insisting that this case is something it is not (a "fraud" case for "false breaks" and not a claim for unpaid minimum wages under Nevada's Constitution). There are no questions of individualized "reliance" or "deception" in this case, as in a common law fraud case, that prohibit its prosecution in a class action format.

Alternatively, defendants ask the Court to find that "Plaintiffs cannot prove any type of wage violation" from "self-serving declarations from the disgruntled former employees who claim they never took a break in a 12 hour shift" because the "federal government came in and investigated the work hours, and found no evidence of 12 hour shifts." Defendants can certainly make a portion of these arguments at trial (that plaintiffs' testimony is not worthy of belief), but this Court does not make such factual findings on a motion to dismiss. These arguments are irrelevant and improper. They are also untrue, as the "federal government" (the United States Department of Labor) found the opposite of what defendants, without support, claim: that A-Cab's drivers *were* working 12 hour shifts and they *were* required to falsify their break times on their trip sheets. Ex "E" Bates Pages DOL 42, 43 and 45, U.S. Dept. Of Labor Report from 1/20/2013.

CONCLUSION

WHEREFORE, defendants' motion should be denied in its entirety.

Dated this 14th day of December, 2017.

Leon Greenberg Professional Corporation

By: /s/ *Leon Greenberg*

LEON GREENBERG, Esq. NSB 8094
Attorney for Plaintiff
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085

CERTIFICATE OF SERVICE

The undersigned certifies that on December 14, 2017, she served the within:

Response in Opposition to Defendants' Motion for Summary Judgment

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 “A”

Electronically Filed
7/17/2017 2:01 PM
Steven D. Grierson
CLERK OF THE COURT

ORDR
LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
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 **ORDER**

Plaintiffs' Filed their Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from the Liability of Corporate Defendants on January 12, 2017. Defendants filed their Response in Opposition on January 30, 2017. Plaintiffs filed their Reply in Support of their Motion on May 11, 2017. After due and proper deliberation, review of the arguments set forth in each of the parties' briefs, and considering the oral argument by counsel before the Court on May 18, 2017, the Court hereby finds:

The plaintiffs' motion sought to bifurcate from this case for trial the issue of the individual defendant, Creighton J. Nady's, liability to the plaintiffs from issues of the liability of the corporate defendants. The Court agrees with plaintiffs' position that defendant Nady, if

liable at all to the plaintiffs, is only liable to the extent that there is *also* a liability finding against A Cab. Defendant Nady's liability is entirely derivative of a finding of liability against A Cab. Furthermore, if A Cab satisfies that liability in full, there will be no need for any liability finding to be made against Defendant Nady.

In addition, to the extent there is any liability finding against defendant A-Cab that it does not satisfy, Defendant Nady may be able to raise a defense that his personal liability must be limited to the extent of his profit from A Cab's activities.

In light of the foregoing, and in the interests of judicial economy, the Court finds that the best course is to bifurcate all issues concerning the liability of Defendant Nady, and his defenses to any such liability, for separate disposition after the liability of A Cab is finally adjudicated. Accordingly,

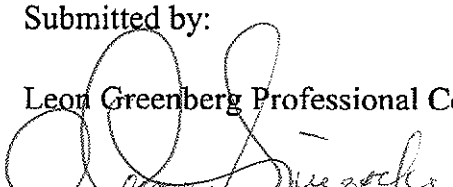
IT IS HEREBY ORDERED that Plaintiffs' Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants is **GRANTED.**

IT IS SO ORDERED.

HONORABLE JUDGE KENNETH CORY
DISTRICT COURT, CLARK COUNTY

July 13, 2017
DATE

Submitted by:

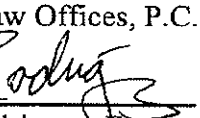


Leon Greenberg Professional Corp.

Dana Sniegocki, Esq.
Nevada Bar No. 11715
2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
Tel (702) 383-6085
dana@overtimelaw.com
Attorney for Plaintiffs

Approved as to form and content:

Rodriguez Law Offices, P.C.



Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
10161 Park Run Drive, Suite 150
Las Vegas, NV 89145
Tel (702) 320-8400
info@rodriguezlaw.com
Attorney for Defendants

EXHIBIT “B”

LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
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, and A CAB, LLC, Defendants.	Case No.: A-12-669926-C Dept.: I **DECLARATION OF MICHAEL MURRAY**

Michael Murray hereby affirms and declares under penalty of perjury the following:

1. I am one of the named plaintiffs in this lawsuit seeking unpaid minimum wages from the defendants.

2. I was employed by defendants as a taxicab driver from September 6, 2008 until April 6, 2011.

3. It has been explained to me by my attorneys that the defendants in this case have asserted that they do not possess or maintain any computer records containing information on my hours of work and wages paid. That is simply not true.

4. At the start of every taxicab driver's shift at A Cab, each driver is required to hand their Taxi Authority card to a desk supervisor, who then, using a computer, scans the bar code on the back of the Taxi Authority card which "checks" the drivers in for

the start of their shift. Taxicab drivers then wait to be assigned a cab to drive for their shift.

5. Once assigned a cab, a supervisor then prints a tripsheet for the taxicab driver. Such tripsheets are generated from a computer system for each driver and include computer generated information at the top which states the name of the driver, the cab number the driver is driving for his/her shift, the date, and the start time for the shift. The top of the tripsheet also includes a unique bar code. *See*, Ex. "1" attached hereto. These tripsheets are used throughout the shift by all taxicab drivers in order to keep a record of all rides they give and fares they accept. The taxicab drivers fill out these tripsheets by hand throughout their shift.

6. After a shift is concluded and drivers return back to A Cab's office, all taxicab drivers are required to perform a meter reading of their taxicabs. Drivers do this by activating the taxicab meter's "time-off" function which results in both the meter printing a paper receipt showing the meter totals as well uploading the meter's information directly into A Cab's computer system. *See*, Ex. "1" page 2, copy of receipt indicating "Meter Details" and also stating "Meter Totals Sent- OK."

7. Once the information described in paragraph 6 has been uploaded to A Cab's computer system, drivers then proceed to a supervisor's shack just outside of A Cab's building and hand their tripsheets to a supervisor who timestamps the drivers' tripsheets using a mechanical punch clock. *See*, Ex. "1" page two showing mechanical timestamp on bottom right corner. Drivers then proceed with their trip sheet over to any one of a number of computers (called driver check-out stations) available to drivers to do our end of shift paperwork. This process requires drivers to scan the bar code at the top of the Ex. "1" tripsheet on the computer's scanning device. Once scanned, information appears on the computer screen showing the driver's name, cab number, meter readings, time they were clocked-in, and the time their tripsheet's bar code was scanned (the current time). Drivers then proceed to input into the computer system the fares they received for each trip they drove and indicate whether such fare

was paid by credit card, cash, or a taxi voucher. This information is handwritten by the drivers their tripsheets throughout the day. Once all information has been entered, the computer system tallies all fares collected and informs the drivers how much cash they must deposit into a separate bill collector machine called a drop safe.

8. The drivers then proceed to the drop safe and again scanned their bar code on the top of their tripsheets to log into the drop safe computer system. Once logged in, the drop safe's screen identifies the driver and specifies the total amount of cash, that was previously calculated by the computer described in paragraph 7, that must be dropped. Once the money is dropped, drivers then print a receipt from the drop safe which shows the driver's name, the total amount of cash dropped, and the time the cash drop was made. *See*, Ex. "1" page two, copy of receipt "Validated Drop."

9. These functions described in paragraphs 5-8 are performed by every one of A Cab's drivers on every single shift they work. Based upon my personal knowledge, and having performed these functions on a near daily basis for several years, I can say with certainty that A Cab possess and maintains computerized records of the start time and end time for each shift that each individual driver works.

10. I am also informed by my attorneys that defendants claim that the payroll they have produced in this case shows that there are no minimum wage violations in respect to my compensation. I do not believe that is true because, for the entirety of my time employed as an A Cab taxi driver, I always worked either 5 or 6 days per week and always worked a 12 hour shift. Although my tripsheets may indicate that I took several hours of breaks per day, in reality I never took more than a one hour break during any shift, and usually no more than 45 minutes of break time, meaning I typically never worked fewer than 11 hours in any shift. The reason my tripsheets may show several hours of break time is because the supervisor in the shack who collects the drivers' keys and time stamps their tripsheets would tell drivers that they must write in a certain number of break periods whether or not they actually took such breaks. The supervisor would suggest the total amount of break time a driver should

write in on the tripsheet based upon the total "book" or amount of fares collected by the driver. If the total book was low, drivers were told to fill in more hours of break time so it appeared their commission would meet the minimum wage standards; if their total book was higher in amount, they would not need to write in as much break time. Tripsheets were not accepted by A Cab unless the break time specified by the supervisor was filled in.

I have read the foregoing and affirm under penalty of perjury that the same is true and correct.

Michael Murray

Michael Murray

03/06/2015
Date

EXHIBIT “C”

A-CAB Taxi Services, LLC
4444 S. Valley View
Las Vegas, NV 89103
702-365-1900
EIN: 88-0470590

Attorney:

Esther Rodriguez, Ex 7(c)

NARRATIVE

COVERAGE

Subject firm is a 24-hour taxi cab service company. The firm is a Nevada limited liability corporation that began operations and incorporated in 2001. (See Exhibit C-1). There are no other branches located in Nevada. The corporate officer is Creighton J. Nady (100% owner). Creighton J. Nady and Jon Gathright are 3(d) employers as they are acting directly in the day-to-day decision making as it relates to employees. ADV YTD 2009 is (as of 04-07-09)- Ex 4 2008 Ex 4 and 2007- Ex 4 Jon Gathright, General Manager provided ADV information.

The investigation period covers April 1, 2007 to April 09, 2009.

EXEMPTIONS

13(a) (1) is applicable to:

Creighton J Nady	Owner	$455.00+	541.101
Jon Gathright	General Manager	$55,000.00	541.102
Ex 7(c)			541.201

13(b) (17) All taxi cab drivers are overtime exempt.

All other non-taxi driver employees are paid by the hour. No other exemptions are applicable.

STATUS OF COMPLIANCE

Prior History: There was no prior enforcement action involving this firm.

MODO Instruction: The MODO is Phoenix, Arizona DO.

Ex 7 (e)

Section 6: There were no minimum wage violations found. The review of the payroll records resulted in a determination that the drivers are paid on a commission basis. While there is no record of actual hours worked, the drivers have scheduled hours and complete a trip sheets. The trip sheets have gaps in the hours worked. Using the scheduled hours worked from shift start time to shift end time, less an estimated period of time for a meal period, it was determined that in most workweeks, the drivers receive minimum wage based on the gross wage paid. Any short fall based on the scheduled hours worked could be offset by a less inclusive number of hours worked as indicated by the trip sheets.
The drivers also receive tips in addition to the gross wage paid by the employer.

Section 7: No overtime violations found

Section 11: No record keeping violations found

Section 12: The were no Child Labor violations found during this investigation.

DISPOSITION:

On April 30, 2009, I conducted a final conference at the firm. The following firm representatives were present for the final conference: Esther Rodriguez, legal counsel, Creighton Nady, owner, Jon Gathright, General Manager and Ex 7 (e) Ex 7 (e) We discussed the findings of the investigation. The firm was advised that they must keep a record of actual hours worked and that the drivers, while exempt from overtime, must be paid at least the applicable minimum wage for all hours worked.

A-CAB Taxi Services LLC Case ID: 1528555

The firm was also advised that the State of Nevada minimum wage is currently $6.85 per hour and that this investigation is being concluded with the firm's assurance of future compliance.

Ex 7(c)

Date: 6-10-09

EXHIBIT “D”

JANET M. HEROLD, Regional Solicitor
SUSAN SELETSKY, FLSA Counsel
ANDREW J. SCHULTZ, Trial Attorney
California State Bar Number 237231
United States Department of Labor
Office of the Solicitor
90 Seventh Street, Suite 3-700
San Francisco, California 94103
Telephone: (415) 625-7745
Facsimile: (415) 625-7772
email:. schultz.andrew@dol.gov

Attorneys for Plaintiff, Thomas E. Perez,
United States Department of Labor

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

THOMAS E. PEREZ, Secretary of Labor, United States Department of Labor, Plaintiff, v. A CAB, LLC; and, CREIGHTON J. NADY an individual, Defendants.	Case No.: 2:14-cv-01615-JCM-VCF CONSENT JUDGMENT AGAINST ALL DEFENDANTS

Plaintiff, THOMAS PEREZ, Secretary of Labor, United States Department of Labor (the "Secretary"); Defendant A CAB LLC, and CREIGHTON J. NADY, an individual, (collectively, "Defendants") having appeared through counsel, and having been duly advised on the proceedings, waive their right to answer the Secretary's Complaint and agree to resolve the matters in controversy in this civil action, and consent to the entry of this Consent Judgment in accordance herewith:

A. The Secretary filed a Complaint alleging that Defendants violated provisions of Sections 6, 11(c), 15(a)(2) and 15(a)(5) of the Fair Labor Standards Act of 1938, as amended ("FLSA" or the "Act"). 29 U.S.C. § 206, 211(c), 215(a)(2), and (5). The Secretary's Complaint alleged that Defendants violated Sections 6 and 15(a)(2) of the FLSA by paying its employees' wages at rates less than the applicable federal minimum wage in workweeks when said employees were engaged in commerce or in the production of goods for commerce or were employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the FLSA; and Defendants violated Sections 11(c) and 15(a)(5) of the FLSA by failing to make, keep and preserve records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations found in 29 CFR part 516 that are issued, and from time to time amended, pursuant to section 11(c) of the FLSA.

B. Defendants understand and agree that demanding or accepting any of the funds due employees under this Consent Judgment ("Consent Judgment" or "Judgment") or threatening any employee for accepting money due under this Consent Judgment or for exercising any of their rights under the Fair Labor Standards Act of 1938, as amended ("FLSA" or "the Act"), 29 U.S.C. §201, *et seq.* is specifically prohibited by this Consent Judgment and may subject Defendants to equitable and legal damages, including punitive damages and civil contempt.

C. Defendants waive Findings of Fact and Conclusions of Law, and agree to the entry of this Consent Judgment in settlement of this action, without further contest.

Therefore, upon motion of the attorneys for the Secretary, and for cause shown:

IT IS HEREBY **ORDERED, ADJUDGED, AND DECREED** that pursuant to Section 17 of the FLSA, 29 U.S.C. § 217, Defendants, their officers, agents, servants, employees, and all persons in active concert or participation with them be, and they hereby are, permanently enjoined and restrained from violating the provisions of the Act, in any of the following manners:

1. Defendants shall not, contrary to Sections 6 and 15(a)(2) of the Act, 29 U.S.C. §§ 206 and 215(a)(2), employ any of their employees at rates less than the applicable federal minimum wage in workweeks when said employees are engaged in commerce or in the production of goods for commerce or are employed in an enterprise engaged in commerce or in the production of goods for commerce, within the meaning of the FLSA.

2. Defendants shall not, contrary to Sections 11(c) and 15(a)(5) of the Act, 29 U.S.C. §§ 211(c) and 215(a)(5), fail to make, keep and preserve records of their employees and of the wages, hours, and other conditions and practices of employment maintained by them as prescribed by the regulations found in 29 CFR part 516 that are issued, and from time to time amended, pursuant to section 11(c) of the Act.

3. Defendants, jointly and severally, shall not continue to withhold payment of $139,834.80, plus interest of $154.00, which represents the unpaid minimum wage compensation hereby found to be due for the period from October 1, 2010, through October 1, 2012, to the present and former employees named in Exhibit A, attached hereto and made a part hereof, in the amounts set forth therein.

FURTHER, **JUDGMENT IS HEREBY ENTERED**, pursuant to Section 16(c) of the Act, 29 U.S.C. § 216(c), in favor of the Secretary and against the Defendants, jointly and severally, in the total amount of $139,988.80

4. The provisions of paragraphs 3 of this Consent Judgment will be deemed satisfied when Defendants deliver the following to District Director, Wage and Hour Division, United States Department of Labor, 600 Las Vegas Blvd. S., Suite 750 Las Vegas, NV 89101-6654.

a. Within fourteen calendar days of the entry of this Consent Judgment, Defendants shall deliver a schedule containing the last known (home) address, social security number, home telephone number (if known), and cell phone number of those persons listed in Exhibit A.

b. PAYMENT TERMS. No later than January 2, 2015, Defendants shall deliver a cashier's check or money order in the amount of $39,988.84 payable to the

order of the "Wage & Hour Div., Labor," with the term "A Cab, LLC" written thereon, as the first of thirteen payments towards the back wages found due hereunder.

c. On or before the first day of each of the following 12 consecutive months, Defendants shall deliver a cashier's check or money order payable to "Wage & Hour Div., Labor," with the term "A Cab, LLC" written thereon, in the amount of $8,333.33, until the total amount due under the backwage provisions of this Consent Judgment has been paid in full.

5. The Secretary shall allocate and distribute the remittances, or the proceeds thereof, less deductions for employees' share of Social Security and federal withholding taxes to the persons named in the attached Exhibit A, or to their estates if that be necessary, in his sole discretion, and any money not so paid within a period of three years from the date of its receipt, because of an inability to locate the proper persons or because of their refusal to accept it, shall be then deposited in the Treasury of the United States, as miscellaneous receipts, pursuant to 29 U.S.C. § 216(c). The Secretary shall be responsible for deducting the employee's share of FICA and federal income taxes from the amounts paid to the persons named in the attached Exhibit A, and for remitting said deductions to the appropriate federal agencies.

6. Defendants shall not request, solicit, suggest, or coerce, directly, or indirectly, any employee to return or to offer to return to any Defendant or to any person acting on behalf of any Defendant, any money in the form of cash, check, or any other form, for wages previously due or to become due in the future to said employee under the provisions of this judgment or the Act; nor shall any Defendant accept, or receive from any employee, either directly or indirectly, any money in the form of cash, check, or any other form, for wages heretofore or hereafter paid to said employee under the provisions of this judgment or the Act; nor shall Defendants discharge or in any other manner discriminate, nor solicit or encourage anyone else to discriminate, against any such employee because such employee has received or retained money due to him from the Defendants under the provisions of this judgment or the Act. Defendants shall pay all wages owed to their employees "free and clear," as required by 29 C.F.R. § 531.35.

7. In the event of a default in the timely making of any of the payments specified herein, the full gross amount outstanding due under this Consent Judgment, plus liquidated damages due under FLSA Section 16(c), 29 U.S.C. § 216(c), in the amount of $139,834.80, plus post-judgment interest at the rate of 10% per year from the date of this Consent Judgment until the full amount of this Consent Judgment is paid in full, shall become immediately due and payable directly to the U.S. Department of Labor by certified check to the District Director of the Wage and Hour Division at the address in paragraph 4. For the purposes of this paragraph, a "default" is deemed to occur if payment is not delivered within five calendar days of the due date.

8. Defendants shall make and keep records demonstrating the total number of hours worked for each driver for each day and each week.

9. Defendants shall not claim that any portion of a driver's work shift is break time to be excluded from hours worked unless the driver is completely relieved from all duties for at least 30 consecutive minutes.

10. The filing, pursuit, and/or resolution of this proceeding with the filing of this Consent Judgment shall not act as or be asserted as a bar to any action under Section 16(b) of the FLSA, 29 U.S.C. § 216(b), as to any employee not named on the Exhibit A attached to the Consent Judgment and incorporated hereto by reference, nor as to any employee named on the Exhibit A for any period not specified herein for the back wage recovery provisions.

11. Defendants agree and stipulate to enter into this Consent Judgment for the sole purpose of resolving disputed facts and neither admit nor deny the allegations contained in the Secretary's Complaint.

12. Each party shall bear all fees and other expenses (including court costs) incurred by such party in connection with any stage of this proceeding to date; and it is further,

ORDERED that the parties to the instant complaint shall comply with the terms of this Consent Judgment;

ORDERED that this Court shall retain jurisdiction of this action for purposes of enforcing compliance with the terms of this Consent Judgment; and

Dated November 5, 2014.

UNITED STATES DISTRICT JUDGE

Consented to By:

For Plaintiffs:	For Defendants:
M. PATRICIA SMITH Solicitor of Labor JANET M. HEROLD Regional Solicitor SUSAN SELETSKY FLSA Counsel ANDREW J. SCHULTZ Trial Attorney Attorneys for U.S. Department of Labor Dated: October 1, 2014	Dated: September 30, 2014 CREIGHTON J. NADY, as an individual and on behalf of A CAB LLC Approved as to Form: Dated: 9/30/14 ESTHER C. RODRIGUEZ, Esq. Rodriguez Law Offices, P.C. 10161 Park Run Drive, Suite 150 Las Vegas, Nevada 89145 Dated: 9/30/2014 GREGORY J. KAMER Kamer Zucker Abbott 3000 West Charleston Blvd., Suite 3 Las Vegas, NV 89102 Attorneys for Defendants

EXHIBIT “E”

A Cab, LLC
1500 SEARLES AVE.
LAS VEGAS, NV 89101
TEL. (702) 365-1900
FAX (702) 365-9994

EIN: 88-0470590

POINTS OF CONTACT

ESTHER C. RODRIGUEZ, Attorney at Law
Rodriguez Law Offices, P.C.
10161 PARK RUN DR. #150
LAS VEGAS, NV 89145
TEL 702.320.8400
FAX 702.320.8401
Ex. 7 (c), Ex. 6 @rodriguezlaw.com

LAURA L. ROBERTSON, Attorney at Law
Squire Sanders (US) LLP
1 E. WASHINGTON ST., STE. 2700
PHOENIX, AZ 85004
TEL (602) 528-4137 / (602) 528-4000
FAX (602) 253-8129
laura.robertson@squiresanders.com

FAIR LABOR STANDARDS ACT NARRATIVE REPORT

COVERAGE:

Subject firm operates a taxi service company. Subject firm operates one (1) location in Las Vegas, Nevada. Firm does not own or operate any other businesses. Firm was incorporated in Nevada on 05/01/2001.

The owner and official in charge is Creighton J. Nady (100% owner & CEO) (Exb. C-1, 5). Firm's day to day business operations are run by Creighton J. Nady and Jon Gathright (general manager). They are actively engaged in influencing the decision-making for the firm. Mr. Nady and Mr. Gathright are 3(d) employers.

Enterprise coverage is applicable Ex. 4 Ex. 4 Gross annual dollar volume (ADV) is (CY 2009), (CY 2010), and Ex. 4 (CY 2011). The owner refused to provide ADV for CY 2012 but confirmed the firm grossed over $500,000 (Exb. D-36-a). Subject firm handles goods and materials that have been moved in commerce, Ex. 4, Ex. 7 (e) This information was provided by the employer during the initial conference (Exb. C-1-a). As of 10/01/2012, subject firm employs a workforce of Ex. 4 of whom are cab drivers. Individual coverage is applicable to all cab drivers as they are permitted to drop off customers in other states, such as St. George, UT and Los Angeles, CA. The employer operates under a geographically restricted license from the Nevada Taxi Authority. Drivers may pick up customers only within the boundaries of Clark County and west of Interstate 15 (Exb. C-1-d, D-71 pg. ii).

This investigation is limited to cab drivers.

Period for this investigation is from 10/02/2010 to 10/01/2012.

MODO is Las Vegas, NV. The employer is incorporated and headquartered in Las Vegas, NV (Exb. C-5).

STATUS OF COMPLIANCE:

Ex. 7 (d), Ex. 7 (e)

$ 2,040,530.05 in back wages due 508 current / former employees.

Ex. 7 (c), Ex. 6

This investigation is limited to cab drivers.

EXEMPTIONS:

The employer did not claim any exemptions.

Section 6: Minimum wage violations were found due 508 current / former employees totaling $ 2,040,530.05.

Cab drivers are compensated on a commission basis. Drivers also receive non-discretionary bonuses called "incentives" and "bonus." During several workweeks, drivers' regular rates were below the applicable Federal minimum wage of $7.25/hr. In addition, the employer made non-3(m) deductions which caused the regular rate to drop below or further drop below the Federal minimum wage. The deductions were for shortages of money submitted by the driver during the pay period (plus a penalty fee), administrative handling fees for paycheck advances and loans, interest fees for loans, and for supplies (map guides) required by the employer; see FOH 30c10(b) regarding voluntary assignment of wages, loans, and advances. All other deductions were made in compliance with 29 CFR 531.35-40.

E

This investigator determined the Tip Compliance Agreement between A Cab, LLC and IRS, which states that 5.5% of the gross book be reported as income for tax purposes, is NOT a valid FLSA tip credit agreement (Exb. D-73, 74. Exb. 71 pg. 70). Thus, tip credit could not be applied. Regional Solicitor Janet Herold confirmed this determination during a telephone advisory held on 12/12/2012.

Method of computations

Minimum wage back wages were computed by first determining the regular rate paid by the firm. The regular rate was determined by dividing total gross wages paid (including non-discretionary bonuses and excluding the non-3(m) deductions by total hours worked. If the regular rate paid by the firm was below the applicable Federal minimum wage rate, the difference was computed for each hour worked.

Due to the lack of accurate time records, hours worked per workweek were reconstructed from Ex. 4, Ex. 7 (d), Ex. 7 (e) the average number of hours worked per week was 54 hours, or 108 hours per biweekly pay period (Exb. B-1 to 18, 20 to 26, 28 to 35, E-1).

In addition Ex. 4, Ex. 7 (e) cab drivers will work 12 hour shifts between 4 or 5 days a week, which also averages to 54 hours a week:

12 hours/workday * (4.5 workdays/week) = 54 hrs/wk

The information above confirms the gathered [redacted] Ex. 7 (d), Ex. 7 (e) i.e., the 54 hour average and the reality of cab drivers not taking breaks.

Explanation of WH-55 computation sheets (Exb. A-2 to 509):

Total Hours Worked: Average hours worked in biweekly pay period (108 hours) reconstructed [redacted] Ex. 7 (d), Ex. 7 (e)

Commission: Gross Book * 42% - Shift Charge
Note: Shift Charge = $1/trip (trip charge) + unpaid mile percentage[1,2]
[1]Prius: driver pays 100% of fuel (pays all miles)
[2]Van: driver receives 20% discount on unpaid mile percentage (Exb. E-6-b)

Incentive #1: Biweekly non-discretionary bonus for drivers who take at least 20% more trips per shift than the average, paid on [redacted] Ex. 4 following the corresponding pay day (example shown on Exb. D-37-a,b)

Incentive #2: Biweekly non-discretionary bonus equal to $1 per trip on the extra 6th or 7th day of work in the same week, paid on [redacted] Ex. 4 following the corresponding pay day (Exb. D-37-b)

Incentive #3: Biweekly non-discretionary bonus paid at $0.25 per credit card swipe, paid on the second payroll of the month (Exb. D-37-c)

Incentive #4: Annual non-discretionary bonus paid at the end of the year equal to $1 for each accident-free day of work during the calendar year (Exb. D-37-c)

Cash Drop Shorts: Deduction of amount equal to shortage(s) of gross book submitted during the pay period + penalty fee

EE "Draw" Handling Fee: Deduction for administrative fee (separate from "draw" principle)

**Note: What the employer calls a "draw" is an advance. "Draws" and their respective fees are always paid back in full on the following paycheck. (Exb. D-18 to 20)*

EE "Advance" Interest Fee: Deduction of amount equal to 20% interest of total "advance" principle

**Note: What the employer calls an "advance" is a loan. "Advances" and their respective fees are always paid back in installments. Unlike "draws," "advances" are charged a 20% interest in addition to a handling fee. As the interest is calculated at the beginning of the loan and*

gradually amortized along with the loan principle and handling fee, this investigator had to separate the total loan deduction into repayments of the principle, interest, and handling fee. Only the repayments of the interest and handling fee were considered deductions that could illegally bring the employee below the applicable Federal minimum wage. (Exb. A-509, D-13 to 17)

Ex:	*Principle =*	*$150*
	Interest =	*20% * $150 = $30*
	Handling Fee =	*$20*
	Total Loan Amount (EE owes) =	*$150 + $30 + $20 = $200*

Paycheck shows "Advance" deduction =	*$50*
"Advance" Principle repayment =	*$50 / $200 * $150 =$37.50*
"Advance" Interest Fee repayment =	*$50 / $200 * $30 = $7.50*
"Advance" Handling Fee repayment =	*$50 / $200 * $20 = $5.00*

EE "Advance" Handling Fee: Deduction for administrative fee (separate from "advance" principle and interest fees)

Supplies: Deduction for map guide

**Note: Map guides are required by the employer for each driver. The driver is not specifically required to purchase from the employer, but the employer has copies available for sale. If the driver purchases from the employer, it is reflected as a deduction under this item on the payroll.*

Gross Wages Paid: (Commission + Incentive #1 + Incentive #2 + Incentive #3 + Incentive #4 + Bonus) – (Cash Drop Shorts + EE "Draw" Handling Fee + EE "Advance" Interest Fee + EE "Advance" Handling Fee + Supplies)

Regular Rate: Gross Cash Wages Paid / Total Hours Worked

MW Diff per Hour: $ 7.25 – Regular Rate

BW Due: MW Diff per Hour * Total Hours Worked

Section 7: Overtime is not applicable to taxi cab drivers as they are subject to FLSA section 13(b)(17).

Section 11: A recordkeeping violation was found.

While the employer made available trip sheets showing "time start" and "time end," both times were inaccurate. The "time start" is an electronically printed time that corresponds to what time the trip sheet was printed, which is normally done before the start of the shift and not necessarily

when the driver begins working. This information was provided by Mr. Nady on 11/28/2012 at the employer establishment to WHIs Ex. 7 (c), Ex. 6 Mr. Nady confirmed this again at the final conference.

The "time end" is a time stamp. The driver supervisor time stamps the trip sheet for the driver as soon as the driver returns after completing his shift. Afterwards, however, the driver must still fill out the trip sheet, wait in line, and turn in his gross bookings and trip sheet (Exb. B-8, 14, 20; D-71 pg. 68-69). This results in post-shift hours worked off the record.

In addition, trip sheets are falsified to show breaks when in reality the drivers do not take breaks. On 09/26/2012, owner Creighton J. Nady claimed all drivers take a two (2) hour break during each twelve (12) hour shift, either one (1) hour or two (2) thirty minute breaks in the first six (6) hours of the shift, and then another one (1) hour or two (2) thirty minute breaks in the latter six (6) hours of the shift. Ex. 4

Ex. 7 (d), Ex. 7 (e)

(Exb. B-1 to 18, 20 to 26, 28 to 35). For example, the employer will require drivers to fill out break times on their trip sheet during times when the employee was actually waiting at the cab stand. The employer directs the driver to record on the trip sheet that he/she took a break(s) even if the driver did not take breaks (Exb. B-2 to 9, 11, 12, 15 to 17, 22 to 26, 30, 31 to 34). If a driver did not take a break and did not want to falsify his/her trip sheet, the employer threatened the driver's employment with the company. If a driver did not generate a minimum amount of gross book per shift ($220), the employer directed the driver to record additional breaks on the trip sheet (Exb. B-1, 2, 3, 10, 11, 13, 23, 31 to 33). Therefore, there are instances where a trip sheet will show 4-5 hours worth of breaks over a 12 hour shift (Exb. B-1, 10, 23, 31 to 33; D-109, 124, 131).

The Nevada Taxicab Authority requires all drivers to record each trip's start/stop location, trip fare, and start/stop time of the trip. There are trip sheets where the break times overlap with trip times (Exb. B, 16; D- 93 to 97, 99, 100, 102 to 104, 108, 111, 114, 129, 130).

Furthermore, the firm did not keep a record of hours worked while on the "extra board" or for attendance at meetings required by the employer (ex. meetings for which the driver is called in to see the driver supervisor for performance, etc.). The extra board is when newer drivers wait at the establishment for the possibility of an available cab. If there is no available cab after a certain period of time, the driver is sent home. The driver is waiting on the employer's premises and the employer is well aware they are waiting. The driver is suffered and permitted to work (29 CFR 785.11) and is being engaged to wait (29 CFR 785.15, 778.223).

Due to:

1. the inaccuracy of both the start and stop times,
2. the falsification of break times, and
3. unrecorded hours worked on the "extra board" (engaged to wait) or for attendance at required meetings with the driver supervisor outside the driver's shift,

the trip sheets were not an accurate record of hours worked. Therefore, this investigator Ex. 7 (e), Ex. 7 (d) Ex. 7 (e), Ex. 7 (d) to reconstruct an average number of hours worked per week (Exb. B-1 to 18, 20 to 26, 28 to 35, E-1). Based on this method, this investigator computed back wages based on an average of 54 hours worked per week, or 108 hours biweekly.

In addition, the firm's trips sheets for the entire two year period of investigation show near the top:

> "After meeting with UNITED STATES DEPARTMENT OF LABOR: ALL driver who work a 12-hour shift must take two 30-minute breaks and a 1-hour meal break." (Exb. D-93 to 115)

While an employer may require rest periods and/or meal breaks, neither is required by the FLSA or the U.S. Department of Labor.

The employer is in compliance with the posting of the appropriate FLSA posters at the establishment.

Section 12: No violations were found for child labor.

FMLA Policy Review: Review of firm's FMLA policy disclosed compliance. The firm has the appropriate FMLA postings in the establishments and provides information on employee FMLA rights Ex. 4 (Exb. D-71).

Case Chronology:

Case file is assigned to WHI Ex. 7 (c), Ex. 6 on 10/05/2011.

WHI Ex. 7 (c), Ex. 6 makes several requests for records on 10/24/2011, 10/27/2011, 11/02/2011, 11/16/2011, 11/17/2011, and 12/30/2011. However, the firm only provides individual trip sheets, individual pay stubs, and individual employee payroll files containing details of various deductions. Despite requests from WHI Ex. 7 (c), Ex. 6 (written and verbal) and WHI Ex. 7 (c), Ex. 6 Ex. 7 (c), Ex. 6 (verbal) for a more accessible payroll format, owner Creighton J. Nady and attorney Esther C. Rodriguez refuse to provide anything else. WHI Ex. 7 (c), Ex. 6 is left to match individual pay stubs with individual trip sheets. Oftentimes, additional wages in the form of non-discretionary bonuses are paid on separate checks on a separate day from payday. For an establishment employing approximately Ex. 4 employees per pay period, this proved to be an extremely time consuming process.

When WHI Ex. 7 (c), Ex. 6 asked the attorney over the phone whether the WHIs could view a comprehensive form of payroll on the computer, attorney Ms. Rodriguez stated that they would not remove employees from their work stations so WHD could take their place in front of their computers. WHI Ex. 7 (c), Ex. 6 suggested viewing the records during non-business hours so the employees are not disrupted from their work. The attorney stated they were "not going to make

this easy" for WHD and that the employer has already provided all the information requested to WHD.

On 02/21/2012, WHI Ex. 7 (c), Ex. 6 explains and presents a tolling agreement to attorney Ms. Rodriguez and requested the employer to sign it. On 02/24/2012, WHI Ex. 7 (c), Ex. 6 calls Ms. Rodriguez and discusses the tolling agreement again. On 02/28/2012, WHI Ex. 7 (c), Ex. 6 explains the tolling agreement to owner Creighton J. Nady at the establishment. Mr. Nady refuses to sign the tolling agreement (Exb. D-72).

ADD Gene Ramos mails the employer a 72-hour letter on 03/01/2012 requesting payroll detail journal and other pertinent records. On 03/05/2012, owner Creighton J. Nady delivers in person a CD disc to WHD, received by ADD Quezada, containing payroll records from 02/20/2010 through 02/17/2012.

On 07/31/2012, case file is reassigned to WHI Ex. 7 (c), Ex. 6

On 09/27/2012, while at the employer's establishment, WHI Ex. 7 (c), Ex. 6 requests in person from general manager Jon Gathright additional payroll records through October 2012 and records pertaining to employee loans for the past 24 months.

On 10/05/2012, WHI Ex. 7 (c), Ex. 6 calls and leaves a voicemail for Mr. Gathright requesting for the additional payroll records again.

On 10/09/2012, WHI Ex. 7 (c), Ex. 6 makes several calls to Mr. Gathright's cell phone with no answer. WHI Ex. 7 (c), Ex. 6 s the main office line and leaves a message for Mr. Gathright Ex. 7 (c), Ex. 6 Ex. 7 (c), Ex. 6 . Approximately 10 minutes later, attorney Ms. Rodriguez calls WHI asking why additional records are needed. She asks him to make the request for additional records in writing. WHI Ex. 7 (c), Ex. 6 emails a written request to Ms. Rodriguez the same day.

On 10/11/2012, Ms. Rodriguez faxes a letter to the LVDO addressing her concerns regarding the request for additional records.

On 10/15/2012, ADD Ramos calls and leaves two (2) voicemail messages for Ms. Rodriguez.

On 10/16/2012, Ms. Rodriguez calls ADD Ramos. ADD Ramos explains the statute of limitations and the need for additional records due to a lack of a tolling agreement. Case file is reassigned to WHI Ex. 7 (c), Ex. 6

On 11/21/2012, WHI Ex. 7 (c), Fx 6 calls attorney Ms. Rodriguez and schedules a meeting for 11/28/2012. WHI requests additional records regarding loans and advances, missing names from employee list, and discusses a tolling agreement to freeze the new investigative period. On 11/26/2012, WHI Ex. 7 (c), Ex. 6 follows up with Ms. Rodriguez in an email detailing the topics of discussion for the upcoming meeting, including a reference to a tolling agreement (Exb. D-28).

On 11/28/2012, WHI Ex. 7 (c), Ex. 6 meet with attorney Ms. Rodriguez, owner Creighton J. Nady, general manager Jon Gathright, Ex. 7 (c), Ex. 6 Ex. 7 (c), Ex. 6 WHI requests additional loans records, contact information for approximately 160 employees who were missing from the employee list, and social security numbers for all former and current employees for the past 24 months. The employer agrees to provide loans records and contact information but challenges the request for social security numbers. WHI Ex. 7 (c), Ex. 6 and the employer agreed to revisit the issue of social security numbers at the final conference. After the meeting, WHI Ex. 7 (c), Ex. 6 explains the tolling agreement and asks Mr. Nady if is willing to sign it. He refuses.

On 12/12/2012, ADD Quezada & WHI Ex. 7 (c), Ex. 6 hold a telephone advisory with Regional Solicitor Janet Herold. It is determined the Tip Compliance Agreement between A Cab, LLC and IRS, which states that 5.5% of all tipped employees total book be reported as time income for tax purposes (Exb. D-73, 74), is NOT a valid FLSA tip credit agreement. Thus, tip credit is not applied. It should be noted drivers retain all tips.

On 12/21/2012, WHI Ex. 7 (c), Ex. 6 schedules a final conference for 01/08/2013 with attorney Ms. Rodriguez.

DISPOSITION:

On 01/08/2012, a final conference was held at the U.S. Department of Labor, Wage and Hour Division's Las Vegas District Office. Present for the firm were attorney Esther C. Rodriguez, firm owner Creighton J. Nady, general manager Jon Gathright, Ex. 7 (c), Ex. 6 Ex. 7 (c), Ex. 6 Present for WHD were ADD Gene Ramos and WHI .

WHI Ex. 7 (c), Ex. 6 notified the employer of a recordkeeping violation.

While the firm made available trip sheets showing "time start" and "time end," both times were inaccurate. Ex. 7 (e), Ex. 7 (d) it was also determined drivers were not taking their required two (2) hour breaks Ex. 7 (d), Ex. 7 (e) . In addition, there are trip sheets where the break times clearly overlap with a trip. ADD Ramos stated drivers feel intimidated to fill in break times because otherwise, they fear there will be disciplinary consequences.

The owner did not believe this was true. He stated drivers could not be trusted to tell the truth, and that there is an incentive for them to lie to WHD because they think they will be receiving money. WHI Ex. 7 (c), Ex. 6 and ADD Ramos stated WHD never guarantees any back wages to employees at any point during an investigation.

WHI Ex. 7 (c), Ex. 6 explained the burden of accurate recordkeeping is on the employer and when accurate time records are unavailable, WHD will turn to the employees as the next best source of information. ADD Ramos also stated it was the duty of management to exercise control and see that its employees are not working if they do not want them to be working. The owner stated the

firm already does that by calling each driver every hour. He stated drivers know not to pick up the call if they are on a break. WHI Ex. 7 (c), Ex. 6 stated that simply because a driver fails to pick up the radio call does not confirm whether he is working or not. If the driver was indeed taking a break, it still does not confirm the length of the break.

Both the attorney and the owner strongly opposed WHD Ex. 7 (e) reconstruct hours worked because they maintain the trip sheets are accurate.

Furthermore, the firm did not keep a record of hours worked for the "extra board" or all meetings required by the employer (ex. meetings the driver is called in to see the driver supervisor for performance, etc.). The extra board is when newer drivers wait at the establishment for the possibility of an available cab. If there is no available cab after a certain period of time, the driver is sent home. The owner stated that the drivers are not required to be there. WHI Ex. 7 (c), Ex. 6 and ADD Ramos both informed the employer that even though the employer does not require the driver to wait, the employer has knowledge that the driver is waiting for work. WHI Ex. 7 (c), Ex. 6 explained the driver is therefore suffered and permitted to work (29 CFR 785.11) and is engaged to wait (29 CFR 785.15, 778.223).

Due to:

1. the inaccuracy of both the start and stop times,
2. the falsification of break times, and
3. unrecorded hours worked on the "extra board" (engaged to wait) or for attendance at required meetings with the driver supervisor outside the driver's shift,

the trip sheets were not an accurate records of hours worked.

In addition, the firm's trips sheets for the entire two year period of investigation show near the top:

> "After meeting with UNITED STATES DEPARTMENT OF LABOR: ALL drivers who work a 12-hour shift must take two 30-minute breaks and a 1-hour meal break."

WHI Ex. 7 (c), Ex. 6 informed the employer that this was not true. An employer may require rest and/or meal breaks, but neither is required by the FLSA. The general manager stated that they have already ordered new trip sheets that correct the above statement.

The employer was informed of a minimum wage violation. During several workweeks, cab drivers were paid below the applicable Federal minimum wage of $7.25 per hour and were not compensated for the difference. WHI Ex. 7 (c), Ex. 6 explained in detail the method of computations and notified the employer that tip credit was not applied because the Tip Compliance Agreement between A Cab, LLC and IRS, which states that 5.5% of gross book be reported as tip income for tax purposes, is NOT a valid FLSA tip credit agreement. WHI Ex. 7 (c), Ex. 6 provided Fact Sheet #15 and #15A to all participants in the final conference. WHI specifically explained the

difference between a non-discretionary and a discretionary bonus (29 CFR 778.211), and illegal deductions (29 CFR 531.35-40). She also listed the specific deductions that caused employees to fall under the applicable Federal minimum wage.

Ex. 7 (c), Ex. 6 presented a sample of the firm's updated payroll system showing a separate line item for minimum wage subsidy. The new payroll also itemizes the loan deduction to show whether the deduction is for the principle or for the fees/interest (Exb. D-187 to 189). The owner requested to apply this method to all payrolls for the past 24 months. WHI Ex. 7 (c), Ex. 6 and ADD Ramos stated the employer cannot retroactively designate what part of the deduction was for repayment of principle and/or interest/fees.

At this time, the owner and the attorney maintained the firm has always been in compliance and disputed the violations found by WHD. They requested the total back wage amount. After conferring with DD Gaspar Montanez, ADD Ramos and WHI Ex. 7 (c), Ex. 6 informed the employer back wages were due 508 former/current hourly employees totaling $ 2,040,176.84. WHI Ex. 7 (c), Ex. 6 explained how she arrived at an average of 54 hours per week and the method of back wage computations.

At this time, the owner and the attorney were very dissatisfied. They requested time to review the findings and conduct a self-audit to determine compliance or noncompliance. ADD Ramos granted the firm 30 days. WHI Ex. 7 (c), Ex. 6 provided the firm with a copy of the WH-55 computation sheets.

Later on 01/08/2013, the attorney emailed WHI Ex. 7 (c), Ex. 6 requesting an electronic copy of the WH-55 computation sheets. On 01/09/2013, WHI emailed the computations to the attorney and also prepared a CD disc with the same information. At this time, WHI Ex. 7 (c), Ex. 6 adjusted one employee's back wages to reflect accurate loan deductions (Exb. A-509-j-). Accordingly, the total back wage amount increased to $ 2,040,530.05 and WHI Ex. 7 (c), Ex. 6 notified the attorney in the same email.

On 01/15/2013, firm's attorney faxed a letter to the LVDO referencing the investigation and four (4) main areas of concern (Exb. D-57).

On 01/17/2013, firm's attorney forwarded a letter by firm owner Mr. Nady to ADD Ramos (Exb. D-58).

On 01/23/2012, a second conference was held at the U.S. Department of Labor, Wage and Hour Division's Las Vegas District Office. Present for the firm were attorney Esther C. Rodriguez, attorney Laura L. Robertson, and firm owner Creighton J. Nady. Present for WHD were ADD Richard A. Quezada, ADD Gene Ramos, and WHI Ex. 7 (c), Ex. 6 WHD addressed each of the concerns listed in Ms. Rodriguez's letter dated 01/15/2013. WHD stressed that an agreement to comply was necessary before any discussions of back wages could take place. WHD confirmed its position on tip credit and illegal deductions. WHD further stated it would be willing to consider lowering the number of hours used to compute back wages, eliminating initial/terminal workweeks, and/or eliminating workweeks during which a driver made below a certain dollar amount in commissions, but only if there was first an agreement to comply. It should be noted at

this time that for the purposes of future compliance, WHD agreed to consult with SOL regarding whether a cash drop short could be considered a bona-fide advance as long as there is a written agreement signed beforehand between the employee and the employer.

At this time, the owner requested three (3) additional weeks to complete a self-audit of (3) separate pay periods, one in each of the months of March, August, and December. The employer stated March was the best month for business, August as also generally a good month, and December as one of the slowest months. WHD agreed these months were a fair representation of the fluctuations in the taxi cab industry. However, WHD stated no additional time would be granted unless there was a signed tolling agreement. Pending the firm's agreement to sign a tolling agreement by COB 01/25/2013, WHD and the firm agreed to meet again on 02/13/2013. WHD stated a meeting on 02/13/2013 would be the last between LVDO and the firm, and that if an agreement could not be reached at that time, WHD would close the file as a refusal to comply and a refusal to pay. It should be noted at this time the firm has not agreed to comply. WHI Ex. 7 (c), Ex. 6 emailed a tolling agreement to Ms. Rodriguez and Ms. Robertson on 01/23/2013.

On 01/25/2013, attorney Ms. Robertson emailed and mailed a letter to WHI Ex. 7 (c), Ex. 6 requesting an additional two (2) weeks to consider the signing of the tolling agreement (Exb. D-64). WHI Ex. 7 (c), Ex. 6 initially presented the employer with the tolling agreement on 02/21/2012. WHI Ex. 7 (c), Ex. 6 specifically discussed with attorney Ms. Rodriguez the lack of a tolling agreement on 10/09/2012 when explaining the need for additional records to bring the investigative period to the most current pay period. WHI Ex. 7 (c), Ex. 6 gain spoke with attorney Ms. Rodriguez over the phone on 11/21/2012 about a tolling agreement to lock in the new investigative period. On 11/26/2012, WHI Ex. 7 (c), Ex. 6 ollowed up with an email detailing the topics of discussion for the meeting, including a tolling agreement. On 11/28/2012, owner Mr. Nady again refused to sign the tolling agreement at the employer's establishment.

Based on the reasons above, WHI Ex. 7 (c), Ex. 6 called Ms. Robertson on 01/25/2013 and left a voicemail message stating WHD will not grant additional time for the consideration of signing the tolling agreement. Since WHD has not received an agreement to comply from the firm, WHI Ex. 7 (c), Ex. 6 further stated she will be submitting the case file as a refusal to comply and a refusal to pay with a recommendation for further action.

As the employer has not agreed to comply, this case file is being submitted as a refusal to comply and a refusal to pay.

Recommend second level review and JRC for potential litigation Ex. 5 [redacted] (Exb. D-186).

Ex. 7 (e), Ex. 7 (d) [redacted]

The following publications (2 of each) were made available to the employer during the final conference on 01/08/2013: FS-15, FS-15A, WH-1088 (ENG/SP), WH-1420 (ENG/SP), 1462 (ENG/SP), 29 CFR 516, 29 CFR 531, 29 CFR 541, 29 CFR 778, WH-1325 (OT Non-Tech), 29 CFR 785, and WH-1330 (CL).

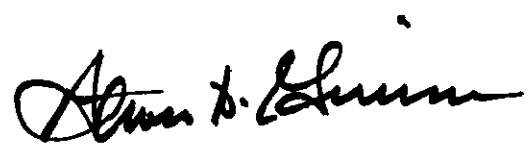
On 01/30/2013, WHI Ex. 7 (c), Ex. 6 mailed the FLSA HRG (ENG/SP) to both attorney Esther C. Rodriguez and A Cab, LLC.

Ex. 7 (c), Ex. 6

Wage & Hour Investigator
01/30/2013

EXHIBIT “F”

Electronically Filed
02/11/2013 03:21:21 PM



CLERK OF THE COURT

DECN

LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E4
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
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, and A CAB, LLC, Defendants.	Case No.: A-12-669926-C Dept.: I DECISION AND ORDER

This matter having come before the Court on the defendants' motion to dismiss plaintiffs' complaint[1] pursuant to NRCP Rules 12(b)(1) and 12(b)(5), such motion having come before the Court for oral argument on January 17, 2012, with Esther C. Rodriguez, Esq., arguing on behalf of the defendants and Leon Greenberg, Esq., arguing on behalf of the plaintiffs, and after due consideration of the arguments, briefs and papers submitted by counsel for the parties, and the record of these proceedings;

[1] The Complaint served in this case indicated the first named plaintiff as Michael Murphy although the Court's docket indicates his name is Michael Murray which is such person's correct name. Defendants do not concede that the caption of this order is proper.

THE COURT FINDS:

Summary of Plaintiffs' Claims and the Parties' Dispute

Plaintiffs allege they were formerly employed by defendants as taxi cab drivers. They allege when they were so employed the defendants were obligated to pay them a minimum wage as provided for under Nevada's Constitution Article 15, Section 16 ("Section 16"). They further allege they were not paid such minimum wage. As a result, they allege they are entitled to damages and other relief as provided for by Section 16 and certain penalties pursuant to NRS § 608.040. Defendants claim Section 16 does not confer any right to a minimum wage upon taxi drivers and moves to dismiss on that basis.

Discussion

The Court's decision ultimately rests upon the supremacy of Nevada's Constitution in all matters of law not otherwise controlled by federal law or the United States Constitution. The very first sentence of Section 16, in paragraph "A," provides:

> Each employer shall pay a wage to each employee of not less than the hourly rates set forth in this section.

This language is clear, direct and unambiguous. Accordingly, the Court's inquiry is limited to determining whether the parties are "employer" and "employee" for the purposes of Section 16. Defendants assert Section 16 was intended only to raise the minimum wage and not disturb the exemptions to Nevada's minimum wage requirements in Nevada Revised Statutes 608.250(2). In resolving such assertion the starting point for the Court must, of course, be the language

of Section 16 itself. In Section 16, paragraph "C," the following definition of "employee" is provided:

> As used in this section, "employee" means any person who is employed by an employer as defined herein but does not include an employee who is under eighteen (18) years of age, employed by a nonprofit organization for after school or summer employment or as a trainee for a period not longer than ninety (90) days.

Again, this language is clear, direct and unambiguous. Through such language Section 16 extends its minimum wage requirements to all employees except those set forth in paragraph "C." Such paragraph "C" does not include taxi drivers among the employees excluded from the reach of Section 16.

Defendants argue that Section 16 makes no mention of the exemptions in Nevada Revised Statutes 608.250(2) and implied repeal occurs only when there is irreconcilable repugnancy between the two laws compelling the conclusion that the later enactment necessarily repeals the earlier. They further argue where express terms of repeal are not used, the presumption is always against an intention to impliedly repeal an earlier statute. In support of these contentions they cite *Washington v. State,* 30 P.3d 1134, 1170 (Sup Ct. Nev. 2001), *Mengelkamp v. List,* 501 P.2d 1032, 1034 (Sup. Ct. Nev. 1972), and the authorities discussed therein. Accordingly, in defendants' view, this Court must find that the two laws can exist and be read in harmony; and Section 16 did not supplant the exemptions specified in Nevada Revised Statute 608.250(2).

Unfortunately for defendants, the foregoing clear and unambiguous language of Section 16, paragraph "A," and the clear and unambiguous language of paragraph "C" setting forth who is an "employee" for the purposes of Section 16, renders the Court unable

to conduct the intent analysis urged by defendants and reach the disposition they desire.

An examination of the intent or purpose behind a constitutional provision is only proper when ambiguity exists in the language of the provision. If there is no ambiguity the provision must be applied in accordance with its plain meaning. *See, Halverson v. Miller* 186 P.3d 893, 897 (Nev. Sup. Ct. 2008); *Nevadans for Nevada v. Beers,* 142 P.3d 339, 347 (Nev. Sup. Ct. 2006); and *Rogers v. Heller,* 18 P.3d 1034, 1038, n. 17 (Nev. Sup. Ct. 2001). The Court discerns no ambiguity in the language of Section 16 and none has been brought to its attention by defendants. Under such circumstances, for the Court to engage in an analysis of the intent behind Section 16, and by doing so override its express, clear, and unambiguous language, would be antithetical to our system of constitutional law. The people of the State of Nevada, through the democratic process, have made Section 16 the supreme law of the State of Nevada by placing its provisions in Nevada's Constitution. This Court is duty bound to enforce Section 16 and its clear language.

The provisions of NRS 608.250(2) make no mention of Section 16 and speak only of providing an exemption to the requirements set forth in NRS 608.250(1). Nor does Section 16 grant the legislature the power to modify any of its requirements. Section 16, being a constitutional provision not subject to legislative modification, must displace any conflicting statute. Accordingly, the provisions of NRS 608.250 are not controlling upon plaintiffs' claims brought under Section 16.

In reaching its decision, the Court acknowledges it has been

advised of the contrary conclusion rendered in the opinion issued by United States District Court Judge Jones in *Lucas v. Bell Transportation*, 2009 U.S. Dist. LEXIS 72549,(D. Nev. June 23, 2009). It has also been made aware that the holding of *Lucas* has been adopted by two of the judges of this Court.[2] With all due respect to its judicial brethren, this Court must decline to follow *Lucas* which this Court believes has not appropriately recognized, and respected, the clear language and primacy of Section 16.

The Court realizes application of Section 16 to the defendants, and its industry, represents a significant change for how such employers must conduct business. The Court is effectuating such change because it is required to do so, it passes no judgment on the wisdom of such change. [redacted]

Conclusion

Defendants' motion to dismiss pursuant to NRCP Rules 12(b)(1) and 12(b)(5) is denied.

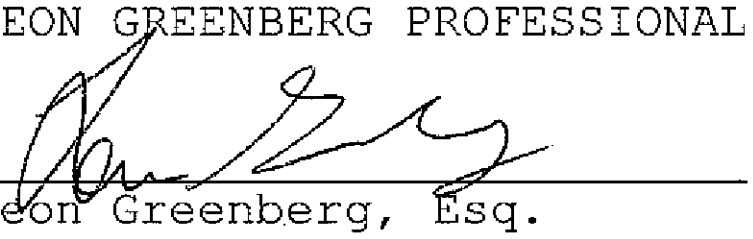
IT IS SO ORDERED this 8 day of Jul, 2013

HONORABLE JUDGE KENNETH CORY
DISTRICT COURT, CLARK COUNTY
EK

[2] *See, Thomas v. Nevada Yellow Cab*, A-12-661726-C, August 30, 2012 and *Gilmore v. Desert Cab*, A-12-668502-C.

Submitted by:

LEON GREENBERG PROFESSIONAL CORP.



Leon Greenberg, Esq.
Nevada Bar No. 8094
2965 S. Jones Boulevard - Ste. E-4
Las Vegas, NV 89146
Tel (702) 383-6085
Attorney for the Plaintiffs

Approved as to Form:

/s/ Esther Rodriguez

Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
1061 Park Run Drive - Suite 150
Las Vegas, Nevada, 89145
Tel (702) 320-8400
Attorney for the Defendants

EXHIBIT “G”

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO,	) Case No.: A-12-669926-C
Individually and on behalf of	) Dept. No.: I
Others similarly situated,	)
	)
Plaintiff,	)
vs	)
A CAB TAXI SERVICE LL, A CAB, LLC	)
And CREIGHTON J. NADY,	)
Defendants.	)
_____	)

RECORDED DEPOSITION OF PMK A CAB TAXI SERVICE LLC & A CAB, LLC

CREIGHTON NADY

Taken on November 22, 2016

At 9:41 a.m.

Evolve Downtown

400 South 4th Street, Suite 300

Las Vegas, Nevada 89101

Page 2

1 APPEARANCES:

2 For the Plaintiffs: LEON GREENBERG, ESQ.

3 DANA SNIEGOCKI

4 LEON GREENBERG PROFESSIONAL CORPORATION

5 2965 South Jones Blvd, Suite E3

6 Las Vegas, Nevada 89146

7

8

9

10 For the Defendants: ESTHER RODRIGUEZ, ESQ.

11 RODRIGUEZ LAW OFFICES, PC

12 10161 Park run Drive, Suite 150

13 Las Vegas, Nevada 89145

14

15 MICHAEL WALL, ESQ.

16 HUTCHISON & STEFFEN

17 10080 Alta Drive, Suite 200

18 Las Vegas, Nevada 89145

19

20

21

22

23

24

25

Page 270

A: Before the, I want to say Kennedy, but it's not. It's the… what case is it?

Q: Are you referring to prior to June of 2014?

A: I am. Exactly.

Q: In June of 2014 there was a decision by the Nevada supreme course…

A: It was called the what case?

Q: The Thomas.

A: Thomas, because I… I keep saying Thomas. I mean Kennedy. But prior to that, I think there was an argument either way. We picked the wrong argument, but we believed sincerely that was what we were supposed to be doing.

Q: But are you aware that in February of 2013 the judge in this case, judge Cory, had ruled in the exact same fashion as the Nevada supreme court did in June of 2014 in Thomas and said A Cab must pay minimum wages as required under Nevada's constitution…

A: I don't believe that's the case. And until you show it to me, I won't believe it.

Q: Do you have any memory of discussing that decision that came from judge Cory in February of 2013 with your attorney?

Page 271

A: With whom?

Q: With your attorney.

A: No.

Q: So you don't remember discussing anything about…

A: I don't discussing, but I remember reading it, and it certainly didn't say that we had to pay that, so I think that what you're doing is not telling the truth here, counselor. I think you're stating something that's not true, and as such I think you're being… you're not true.

Q: Well, Mr. Nady, you are aware that judge Cory found that A Cab's taxi drivers had to be paid minimum wage as required by Nevada's constitution. His order is not saying anything about the tip credit issue; it's just simply saying that they had to be paid as required by Nevada's…

A: Until I…

MS. RODRIGUEZ: Hold on, hold on, because I'm not sure what you're referring to. Are you referring to judge Cory's denial of my motion to dismiss?

Q: Yes, and I'm asking him about his understanding. If he has understanding, he will tell me; if he doesn't, he will say he doesn't.

Page 272

A: I have an understanding, a clear understanding, and it's not what you're saying, because that's not what his ruling was.

Q: And what was your understanding?

A: It was a denial of her motion to dismiss. Period. End of story. It didn't say that I had to do this or that; it just denied her motion.

Q: And do you know why judge Cory denied her motion?

A: Well did I read his mind he denied it. Period. He put it down.

Q: Well, I'm asking if you have an understanding about that.

A: I just read the motion at the time.

Q: Did you understand that your attorney asked judge Cory to dismiss this case because your attorney was claiming that taxi drivers are not covered by Nevada's constitutional minimum wage? Do you understand that?

A: I don't remember reading that as much as I do remember that he denied her motion, and that's all he said. The motioned denied. It didn't go on to say you have to do this or you have to do that. Read it. It speaks for itself, counselor.

Q: And you did read it?