

IN THE SUPREME COURT OF THE STATE OF NEVADA

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| A CAB, LLC; AND A CAB SERIES, LLC, |) | Supreme Court No. 77050 |
| |) | |
| |) | Electronically Filed |
| |) | Aug 05 2020 04:58 p.m. |
| Appellants, |) | Elizabeth A. Brown |
| |) | Clerk of Supreme Court |
| v. |) | |
| |) | |
| MICHAEL MURRAY; AND |) | |
| MICHAEL RENO, INDIVIDUALLY |) | |
| AND ON BEHALF OF ALL OTHERS |) | |
| SIMILARLY SITUATED, |) | |
| |) | |
| Respondents. |) | |
| _____ |) | |

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

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

HUTCHISON & STEFFEN, PLLC

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| 166 | Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCPC 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 NRCPC 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- |

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| | 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 NRCPC 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 NRCPC Rule 23 and Appoint a Special Master Pursuant to NRCPC Rule 53, filed 07/13/2018 | III | AA000447- AA000469 |

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| 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 |

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| 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 Statute 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- |

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| | 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 Statute of Limitation and Opposition to Counter Motion for Toll of Statute of Limitations and for an Evidentiary Hearing, filed 12/28/2016 | XI | AA002179- AA002189 |

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| 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 |

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| | 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 |

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| 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 XXXII of LII** was filed electronically with the Clerk of the Nevada Supreme Court, and therefore electronic service was made in accordance with the master service list as follows:

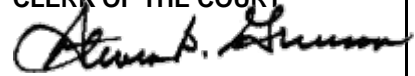
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Telephone: (702) 383-6085
Facsimile: (702) 385-1827
leongreenberg@overtimelaw.com
Dana@overtimelaw.com

Attorneys for Respondents

DATED this 5th day of August, 2020.

/s/ Kaylee Conradi

An employee of Hutchison & Steffen, PLLC



1 **SUPP**

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3 DANA SNIEGOCKI, ESQ., SBN 11715
4 Leon Greenberg Professional Corporation
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9 leongreenberg@overtimelaw.com
10 dana@overtimelaw.com

11 Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

**PLAINTIFFS' SUPPLEMENT
IN CONNECTION WITH
APPOINTMENT OF SPECIAL
MASTER**

Hearing Date: February 2, 2018
Hearing Time: 9:00 a.m.

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

22 1. I have been appointed class counsel in this case. I offer this supplement in
23 connection with the Court's instruction of January 25, 2018 and hearing on February 2,
24 2018 on the appointment of a Special Master.

NOMINATIONS FOR SPECIAL MASTER

25 2. My primary concern as class counsel in this case is that (A) A suitably
26 competent Special Master be appointed and (B) That the Special Master so appointed is
27 able to furnish the contemplated report quickly given the Rule 41(e) time at issue. This
28 case must proceed to trial, or judgment, by August 3, 2018, or 182 days after the

1 February 2, 2018 hearing. Accordingly, I have advised the potential Special Masters I
2 have contacted of a need to furnish the required report in about 45 days, or by
3 approximately March 20, 2018.

4 3. I have located five potential Special Masters who, in my opinion, all seem
5 well qualified for this appointment and have assured me that they can perform the
6 assignment within the time frame I have proposed. Each has submitted a letter of
7 interest or more detailed proposal:

8 Lester J. Levy of JAMS working with the firm of BrownGreer - Ex. "A"

9 Ali Saad, Ph.D., and Resolution Economics of Los Angeles, California - Ex. "B"

10 Craig Streiff, CPA and HSNO of Irvine, California - Ex. "C"

11 George Swarts, CPA, Las Vegas, Nevada - Ex. "D"

12 Michael Rosten, CPA, and Piercy Bowler Taylor & Kern, Las Vegas, Nevada -
13 Ex. "E."

14 4. The Court may wish to take cognisance that Lester J. Levy, Ali Saad or
15 Craig Streiff, and their associated firms, have extensive experience in wage and hour
16 litigation matters; in gathering large amounts of information from "static" record
17 sources such as the trip sheets at issue in this case; and all have advised me they have
18 significant experienced staff available to immediately commence work on this
19 assignment. Both George Swarts and Michael Rosten have assured me that they have
20 carefully reviewed what is involved and are confident of their ability to perform the
21 Special Master appointment and if not presently staffed with sufficient employees to
22 perform the work can readily obtain the necessary staff to do so.

23 **PROPOSED ORDER FOR SPECIAL MASTER APPOINTMENT**

24 5. At Ex. "F" is a proposed form of Order for the Special Master
25 Appointment. This was delivered to defendants' counsel on January 30, 2018.
26
27
28

THE TRIP SHEETS AFTER JUNE OF 2014 SHOULD BE REVIEWED

1 6. At the January 25, 2018 hearing defendants' counsel claimed there is no
2 need to conduct a review of trip sheets for the time period of July 2014 to December
3 31, 2015 because it is "not disputed" that proper minimum wages were paid during that
4 time. This is untrue. All of the trip sheets, through the end of the class period,
5 December 31, 2015, should be reviewed.

6 7. Defendants, in opposing plaintiffs' motion for partial summary judgment
7 refuse to agree that the "Minimum Wage Subsidy" and "QTY" entries in the 2013-
8 2015 Quickbooks records (those entries *only* exist for the 2013-2015 period) are an
9 accurate record of the hours worked each pay period. Those entries do not demonstrate
10 any minimum wage violations at \$7.25 an hour after June of 2014. Yet defendants
11 insist *all* of those 2013-2015 entries are not accurate. If defendants agreed those
12 entries were accurate the Court would have to grant plaintiffs' motion for partial
13 summary judgment for \$174,839.

14 8. Plaintiffs have never claimed those 2013-2015 Quickbooks entries are an
15 accurate record of hours worked. Their partial summary judgment motion seeks to
16 bind defendants to their prior deposition testimony about those entries. Defendants
17 now urge the Court to bind the *plaintiffs* to those entries (plaintiffs never conceding
18 they are accurate) when they absolve defendants of liability after June of 2014 and
19 *ignore them* when those same entries establish defendants' liability prior to July of
20 2014.

21 9. In addition, defendants' expert, Scott Leslie, examined the actual trip
22 sheets for 17 pay periods for the 2013-2015 period. He found that in 15 of those 17
23 pay periods the trip sheets contain **more hours worked** than those Quickbooks entries,
24 including 5 of the 6 such pay periods he reviewed occurring after June of 2014. This
25 means it should be presumed that for over 85% of the 2013-20125 pay periods those
26 Quickbooks entries understate the hours worked shown on the trip sheets. See Ex. "G"
27 one page excerpt of his report (his Exhibit "6"), relevant information set forth in the
28 below table:

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| pay period | payroll system hours (from the Quickbooks entries) | Defendants' Expert Scott Leslie's calculated hours based upon trip sheet review |
|------------|--|---|
| 4/26/2013 | 98.38 | 90.47 |
| 6/7/2013 | 58.65 | 60.18 |
| 7/5/2013 | 87.07 | 89.83 |
| 8/30/2013 | 73.85 | 75.38 |
| 9/13/2013 | 99.93 | 102.58 |
| 11/8/2013 | 105.75 | 106.73 |
| 11/8/2013 | 82.41 | 84.85 |
| 11/22/2013 | 77.85 | 80.38 |
| 1/3/2014 | 73.32 | 64.53 |
| 2/28/2014 | 95.42 | 97.58 |
| 6/6/2014 | 66.75 | 69.13 |
| 9/12/2014 | 18.68 | 19.2 |
| 12/19/2014 | 70.14 | 71.98 |
| 1/16/2015 | 87 | 89.07 |
| 7/3/2015 | 63.3 | 81.75 |
| 7/3/2015 | 87.34 | 81.38 |
| 11/6/2015 | 96.23 | 98.37 |

The Special Master should be directed to review all of the trip sheets throughout the entire class period ending on December 31, 2015.

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

Affirmed this 31st day of January, 2018

/s/ Leon Greenberg

Leon Greenberg

CERTIFICATE OF SERVICE

The undersigned certifies that on January 31, 2018, she served the within:

Plaintiffs' Supplement in Connection With Appointment of
Special Master

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"



LESTER J. LEVY – SPECIAL MASTER

We appreciate the opportunity to provide this statement of qualifications for Lester Levy to serve as Special Master in *Murray v. A Cab Taxi Service, LLC*. As the Special Master in this matter, Mr. Levy and his administrative team can provide the following services:

- Receive, process, and catalog electronic or hard-copy files reflecting payroll records, trip sheets, and other relevant documentation.
- Create a secure repository for the electronic storage of all relevant documents, accessible through an online interface.
- Develop criteria for the review of documents to determine time in, time out, break times, and resulting hourly wage, as well as any other analysis required by the Court.
- Create protocols to address documentation anomalies, such as missing data points, illegible records, and other variances that might affect the assessment of each document's contents.
- Swiftly evaluate hundreds of thousands of documents in accordance with defined review protocols and render determinations as to the resulting hourly pay.
- Prepare a full report for the Court and the parties to the litigation outlining the results of the Special Master's review.
- Participate as needed in meetings, telephone conferences, or status conferences scheduled and directed by the Court.

KEY ASSUMPTIONS

We understand the Special Master will be tasked with the evaluation of approximately 300,000 records created by class members during their work for A Cab Taxi Service, LLC. The Special Master will assess the documents in question, analyze the number of working hours recorded in each, compare those hours to electronic payroll records, and determine the hourly wage. Because of the high volume of documents involved, the Special Master would be required to utilize administrative support services in performing this analysis. If selected, Mr. Levy would consult with BrownGreer, PLC, a Richmond, Virginia law firm with substantial experience in the administration of class action, mass tort, and wage and hour programs. After reviewing all relevant documentation, the Special Master will prepare a report for the Court describing his findings. Significantly, the parties and the Court need the Special Master to perform these tasks within 45 days. For reference, we have attached copies of the CVs for both Lester Levy and BrownGreer.

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PHILIP STRUNK
(804) 521-7207
pstrunk@browngreer.com



Lester J. Levy, Esq.

Case Manager

Garrett Feldman

T: 212-607-2765

F: 212-751-4099

620 Eighth Avenue , 34th Floor , New York , NY 10018

gfeldman@jamsadr.com

Employment Biography

Lester J. Levy, Esq. has been a full time neutral for over 20 years. Mr. Levy is a renowned mediator and arbiter as well as settlement master/ombudsman and special master/referee. He uses his legal, analytical, and conciliation skills to craft the best possible resolution of each case. He is adept at handling large, complex cases involving multiple claims, parties and issues, and specifically those matters with long-term implications.

Representative Matters

- Arbitrated gender discrimination and hostile environment claims brought by two female employees against manager and insurance sales company
- Mediated dispute between employer and former employee of insurance brokerage regarding alleged violation of confidentiality and non-compete provisions with respect to the use of customer lists and related data
- Mediated whistleblower cases involving executives of financial institutions and government contracting firms
- Mediated wrongful discharge claims by employees of fast food restaurant on the basis of racial discrimination, harassment, and hostile environment
- Mediated pre-litigation executive compensation claims regarding the separation agreement and severance package for long-term executive displaced by reorganization following merger with national firm
- Mediated wrongful termination claim alleged to be in violation of public policy regarding psychiatric health care regulations
- Mediated personal injury and wrongful termination claims by railroad employee under Federal Employer Liability Act (FELA)
- Mediated employee claims related to exposure to toxic odors in the workplace
- Special Master, appointed by Federal District Judge, for wage and hour class (FLSA) action by Chinese-speaking employees of a Los Angeles daily newspaper
- Settlement Master for class of more than 200,000 special rate employees alleging wage and hour violations against a federal government employee union
- Discovery Referee to oversee depositions and written discovery disputes in a racial discrimination and wrongful termination action

Honors, Memberships, and Professional Activities

- Energy & Environmental Trailblazer, *National Law Journal*, 2016
- "ADR Swiftly Compensates Parties in Mass Actions and Toxic Tort Cases," *New Jersey Law Journal*, April 12, 2016
- "Mediation Can Accelerate Cleanup," *New Jersey Law Journal*, March 7, 2016
- Fellow, College of Commercial Arbitrators
- Founder, JAMS Class Action and Mass Tort Settlement Program
- Registered Mediator, United States Bankruptcy Court for the Southern District of New York
- Adjunct Professor, Alternative Dispute Resolution, University of San Francisco Law School
- Member, ADR Panels for the Northern California Federal District Court, and the Superior Courts of San Francisco, Marin, Sonoma, and San Mateo Counties
- Member, ADR Panels for the Bankruptcy Courts in the Districts of Delaware and the Southern District of New York
- Former Vice Chair & Member, Toxic Torts and Environmental Law Committee, Tort Trial & Insurance Section of the American Bar Association
- Chair & Member, ADR Committee, American Bankruptcy Institute, 2005-2008
- Vice Chair, ADR Committee of ABA Section on Environment, Energy and Resources (SEER)
- Founder, JAMS Environmental Judicial College
- Trained in mediation/negotiation at Harvard Law School (Roger Fisher, author of *Getting to Yes*)
- Written and lectured on ADR to Bar Associations including the ABA, IBA, law firms, private companies, and law schools throughout the United States
- "A Comment on Communication and Complex Case Mediation," *Daily Journal*, September 17, 2010
- "Mediator Creates Healthy Settlement Environment," ADR Profile, *Daily Journal*, March 23, 2007

Background and Education

- Munger, Tolles & Olson, San Francisco and Los Angeles, California, 1986-1994
- Law Clerk, Hon. Irving R. Kaufman, U.S. Court of Appeals for the Second Circuit, 1985-1986
- J.D., *magna cum laude*, Benjamin N. Cardozo School of Law, 1985; Chief Articles Editor, Cardozo Law Review
- B.Mus., San Francisco Conservatory of Music, 1981, Classical Guitar Performance and Composition

Counsel Comments

"Lester's honest and direct style creates a trusting relationship and open dialogue with attorneys and their clients. He transforms the most complex and emotionally challenging disputes into a process the parties can use to constructively resolve their differences. He quickly identifies the key issues, sets a course of action including a range of possible settlements, then gets it done."

"...There are a lot of people who are not in the courtroom...that ought to be thanked, in particular, Mr. Levy, the special master, who, from my observations...has done an outstanding job shepherding this through, a very lengthy, time-consuming, difficult litigation because of the number of parties; and he simply has done a wonderful job, bringing this to a resolution."

- Federal Judge

General Biography

Available nationwide

Disclaimer

This page is for general information purposes. JAMS makes no representations or warranties regarding its accuracy or completeness. Interested persons should conduct their own research regarding information on this website before deciding to use JAMS, including investigation and research of JAMS neutrals. [See More](#)

OVERVIEW OF BROWNGREER SERVICES



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(804) 521-7200

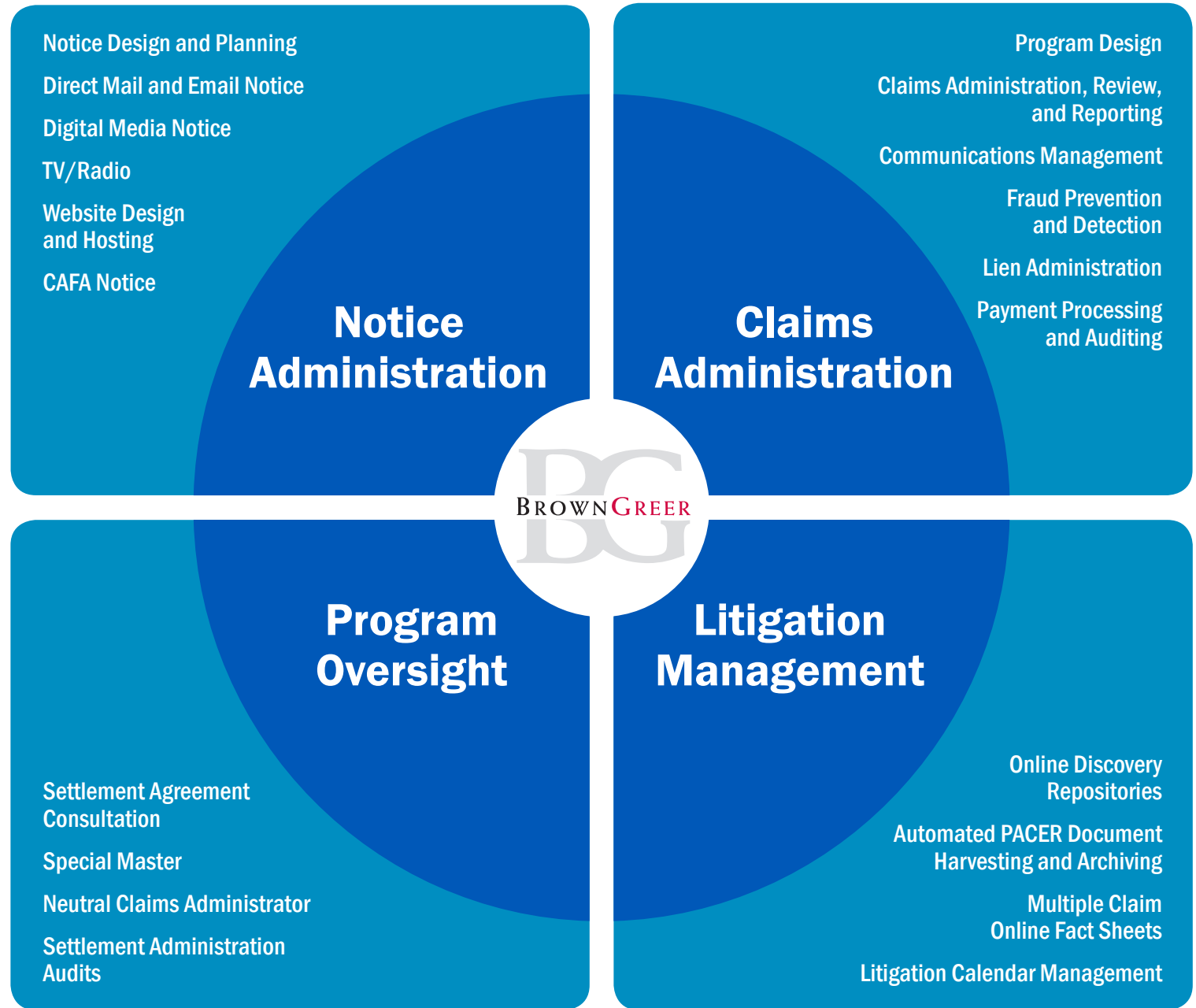
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INNOVATION IN ADMINISTRATION

BrownGreer PLC is an industry leader in providing settlement administration and litigation management services to law firms, corporations, courts, and government agencies. We are attorneys, analysts, software programmers, database architects, communication center specialists, and claims reviewers devoted to providing innovative solutions that surpass our clients' expectations and deliver exceptional results.

We provide a full suite of settlement administration and litigation management services, built upon more than two decades of experience handling some of the most significant settlement programs in history. We pride ourselves on blending the knowledge of the most talented professionals in the industry with cutting edge technology to deliver quality and efficiency at the maximum value for all involved parties.

CORE SERVICES



EXPERTLY DESIGNED NOTICE CAMPAIGNS

BrownGreer designs notice plans to reach class members in the best practicable manner and to inform them in clear terms of the existence of the proposed settlement, how it affects them, their rights and obligations under the settlement agreement, the actions they may take, any deadlines for acting, and the consequences for acting or failing to act by the deadline.

We are experts in developing comprehensive notice campaigns reaching known and unknown class members nationwide, using a variety of mediums targeted to class member media consumption trends based on leading market research. In the course of administering multiple claims programs, we have also issued millions of review determination notices and courtesy or instructional notices to class members and their counsel.

NOTICE ADMINISTRATION



Email



Keyword Search



Long-Form



Social Media



Postcard



Web-Based



Print Publication



Custom Website



TV



Earned Media



Radio



CAFA



43.4 MILLION
Total Notices Issued

30.9 MILLION
Class Notices

12.5 MILLION
Program Notices

“

[T]he notice provided by BrownGreer was **state of the art** and **well-tailored** to reach the maximum number of class members.

”

The Hon. James F. Holderman

U.S. District Judge, Northern District of Illinois

In re Capital One Telephone Consumer Protection Act Litigation, MDL Docket No. 2416

RESULTS DRIVEN CLAIMS ADMINISTRATION

We administer and process claims for settlements arising from class actions, multidistrict litigation, government enforcement proceedings, and other aggregation vehicles. Our court-supervised and voluntary settlement program experience covers a broad range of causes of action involving a wide variety of industries. We blend technology and human resources to provide the most effective, efficient, and accurate claims resolution designs and systems, allowing us to handle any program no matter how large or complex. Our portfolio of work includes many of the largest and most complex programs in history, with our team performing significant administration or review roles in major programs involving over 30 million class members and the disposition of more than \$33 billion in payments to qualifying claimants.



The expedited resolution of approximately fifty thousand personal injury claims could not have been achieved without the extraordinary effort and outstanding work put forth by BrownGreer PLC in its role as Claims Administrator.



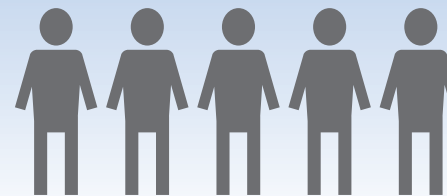
The Hon. Eldon E. Fallon
U.S. District Judge, Eastern District of Louisiana
In re Vioxx Products Liability Litigation, MDL Docket No. 1657

CLAIMS ADMINISTRATION

\$33+ Billion
Paid to Claimants



30 Million
Class Members



4.3 Million
Claims
Processed

THE ANSWER TO YOUR LITIGATION MANAGEMENT NEEDS

We are highly skilled in litigation management and support, and have served as the Project Management Office and as Special Master for national litigations. We begin tracking information at the start of litigation, or we can come in midstream to gather data and organize the process. Leveraging our unique experience in centralizing information and data, scheduling, and keeping track of discovery, we developed MDL Centrality as a centralized hub for multiple claim management. MDL Centrality eliminates cumbersome, inefficient, and outdated practices to save all parties time and money.



Fact Sheet Exchange:

Exchange Fact Sheets and supporting documents through a secure online portal instead of by email or mail.



Claim Form Export:

Export data and documents from Fact Sheets to Claim Forms, eliminating the need to spend time and money manually re-entering information already provided.

Docket Central:

Automatically download and store court filings, eliminating the need to spend time and money uploading and distributing documents manually.

Document Repository:

Store documents in a secure, online repository, eliminating the need to pay for and maintain a separate document storage solution.

Harness the Power of Modern Information Management to Save Time and Money

- Stop wasting time completing PDF Fact Sheets and serving them by email. Enter Fact Sheets online in a central database that gives you instant access to reports that aggregate all Fact Sheet responses.
- Stop paying to upload pleadings and orders to a document distribution vendor. Let MDL Centrality automatically harvest pleadings and Orders from ECF Notifications and send automated notification emails to all counsel.
- Stop paying to create and maintain a stand alone document repository. MDL Centrality is a central hub that hosts Fact Sheets, pleadings and Orders, and a document repository.
- Stop manually creating a database of Fact Sheet answers or relying on individual counsel to tell you what their cases look like. MDL Centrality creates an instant, real time database of Fact Sheet responses that you can use to monitor submissions, select bellwether cases, and review Fact Sheet responses for completeness.
- Stop negotiating settlement without a clear understanding of the potential number claims and the type of claimed injuries. The parties can use the data in MDL Centrality to satisfy the Court that a potential settlement is fair and should be approved. Then MDL Centrality can export Fact Sheet data to the settlement program, which will lead to rapid, efficient settlement program.

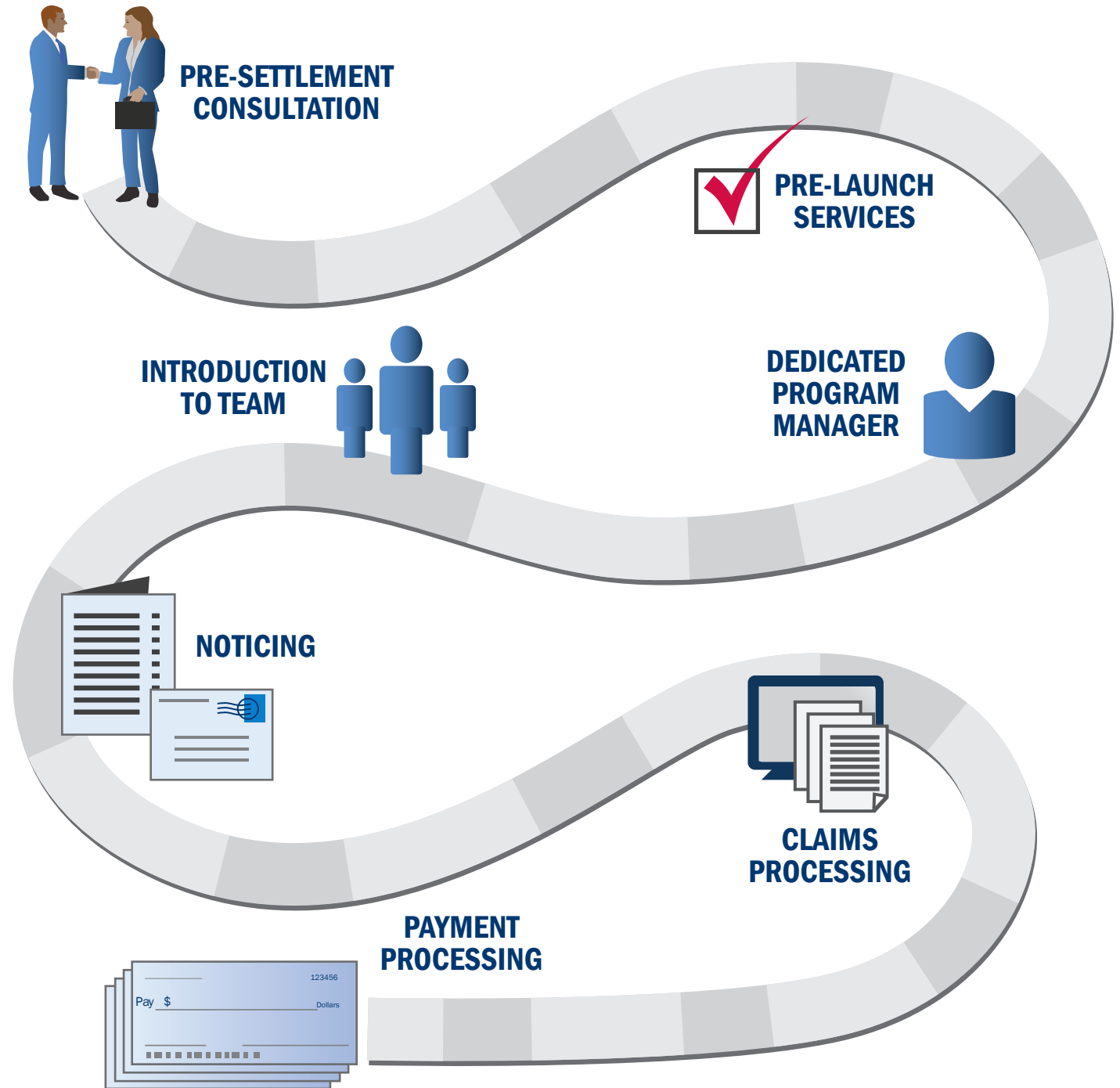
All features of MDL Centrality can be utilized as stand-alone products or combined to meet your unique case requirements.

TAILORED SOLUTIONS

Beginning with pre-settlement consultation services, BrownGreer seeks out opportunities to add value and expertise to your settlement program. Before launching a program, we will review all settlement documents and coordinate with the parties to identify all tasks, deliverables, and deadlines. Your program receives a dedicated program manager that will be at the parties' disposal. Supported by the program team, this dedicated client representative will deliver point of contact continuity and experience, and be an ever-ready resource for receiving any inquiry of any kind.

We readily implement all noticing, claims processing, and payment processing components of each program using cutting edge technology and applying best practices within the legal and software industry that support our services. Throughout the program, we provide immediate access to case data and reports through secure web-based portals, reflecting our commitment to transparency and client-collaborative services.

SETTLEMENT PROGRAM ROADMAP



A WIDE RANGE OF SETTLEMENT EXPERIENCE

BrownGreer supports a broad spectrum of industries, including financial services, pharmaceuticals, medical devices, consumer products, agricultural products, healthcare, retail businesses, and federal, state, and local government. We receive and process claims for settlements arising from class actions, multidistrict litigation, government enforcement proceedings, and other aggregation vehicles. Our court-supervised and voluntary settlement program experience covers causes of action including antitrust, bankruptcy, consumer protection, labor and employment, and products liability. In addition to this experience, we have successfully administered many settlements alleging violations of consumer protection statutes, such as the telephone Consumer Protection Act, Fair Credit Reporting Act, Truth in Lending Act, Real Estate Settlement Procedures Act, and Servicemembers Civil Relief Act. The selected matters presented here are just a small sample of our representative notice and settlement administration experience.

In re National Football League Players' Concussion Injury Litigation, MDL Docket No. 2385 (S.D. Ill.)

UNCAPPED FUND

In re Oil Spill by the Oil Rig "Deepwater Horizon" in the Gulf of Mexico, on April 20, 2010, MDL Docket No. 2179 (E.D. La.)

\$11 BILLION
260,000 CLAIMANTS

In re Chinese-Manufactured Drywall Products Liability Litigation, MDL Docket No. 2047 (E.D. La.)

\$610 MILLION DISBURSED
25,000 CLAIMANTS

In re Capital One Telephone Consumer Protection Act Litigation, MDL Docket No. 2416 (N.D. Ill.)

\$75.4 MILLION
17,500,000 CLASS MEMBERS



In re Black Farmer's Discrimination Litigation, No. 08-mc-0511 PLF (D.D.C.)

\$1.25 BILLION
40,000 CLAIMANTS

In re Actos (Pioglitazone) Products Liability Litigation, MDL Docket No. 2197 (N.D. Ohio)

\$2.3 BILLION
10,800 CLASS MEMBERS

Yarger v. ING Bank, FSB, No. 11-154-LPS (D. Del.)

\$20 MILLION
115,000 CLAIMANTS

In re A.H. Robins Company Inc., Debtor (In re Dalkon Shield Claimants Trust), MDL Docket No. 211 (Bankr. E.D. Va.)

\$3 BILLION
400,000 CLAIMANTS



BrownGreer is redefining multiple claim resolution and litigation management with industry-leading technology and expert strategies to resolve your multiple claims and data management challenges with uncompromising accuracy and efficiency.

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Richmond, VA 23231
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AA006256

EXHIBIT "B"

January 26, 2018

Leon Greenberg, Esq.
Attorney at Law
2965 South Jones Boulevard #E-3
Las Vegas, Nevada 89146

Re: Proposal for Special Master Assignment in Murray, et al., v. A Cab Taxi Service LLC

Dear Mr. Greenberg:

Resolution Economics is pleased to provide you and the Court with this proposal. The paragraphs below provide a general description of the wage and hour services we provide, including our work in large scale data entry, a specific breakdown of the proposed work, and an estimate of fees associated with our proposal.

Resolution Economics has provided consulting services and expert testimony in hundreds of class action wage and hour matters. We are probably the leading firm in the country in the analysis of data in wage and hour and employment discrimination cases. In connection with our consulting and litigation work, we are frequently asked to create databases from either handwritten or printed hard copy documents, often consisting of tens or hundreds of thousands of pages. We are also frequently asked to prepare presentations on our findings, calculate exposure or damages for use at mediation, arbitration, or trial. We have previously worked on behalf of the parties or as a neutral expert retained by both parties.

Resolution Economics has significant experience in creating usable databases from voluminous, otherwise unusable paper records. Representative projects include:

- *Rowe Entertainment, et al., v. William Morris, et al.*: Data entry of relevant information from tens of thousands of hard copy live performance contracts gathered from numerous live concert promotion companies. Also performed extensive analysis of the data.
- *Butler, et al., v. Home Depot*: Data entry of relevant information from tens of thousands of hard copy employment applications from over 100 stores. Extensive statistical analysis performed on this data.
- *Ellis, et al., v. Costco*: Data entry of relevant and critical information from tens of thousands of applicant resumes in relation to a gender discrimination in promotions claim
- *In re: Burns and Roe*: Data entry of over 250,000 work site paper records dealing with asbestos-related health claims



- *CRST v. TransAm*: Data entry of about 20,000 pages of payroll records in relation to a breach of contract dispute
- *Cooke v. Fremont-Rideout Health Group*: Data entry of tens of thousands of timecards and patient census records relating to wage and hour claims
- *Fogg v. DOJ*: Data Entry and then statistical analysis of between 600,000 and 700,000 pages of hard copy employment documents.

Project Overview

1. Data Entry of Time Records

It is our understanding that there are currently approximately 300,000 paper trip sheet time records, containing various information related to the hours and time worked, breaks taken, and trips made by employee taxi drivers. Given the volume of the records, we propose only entering key and critical pieces of information from the trip sheets to be able to perform calculations related to the minimum wage. Based on our understanding of the requirements of the Court, such information would include, but not be limited to: employee name and ID, work start and end times and dates, and break start and end times. We understand there is no need to capture the trip detail, unless required by the Court. In the event that any information on the records would be missing or illegible, a note would be made, and reasonable assumptions based on known information would be applied. A single database would be constructed from these data entered records.

2. Calculation of Damages

If asked to, Resolution Economics could calculate the average hourly earnings based on fares/earnings from a payroll source and the hours database that is created using computerized statistical programming to streamline and automate the process. This programming would not be performed in excel, which is not well suited to such calculations, but either in SAS or STATA, which are code programming languages well suited to the manipulation of large amounts of data, and which also contain powerful analytical tools that could summarize and analyze the data. At the direction of the Court, minimum wage pay shortfalls would be calculated in instances where the average hourly earnings were below the statutory applicable minimum hourly rate. Any assumptions and calculation methodology would be reviewed with the Court to ensure accuracy. A summary spreadsheet containing calculated damages by class member would be provided at the conclusion.

Please see the attached sheet for a summary of the proposed budget in connection with the above projects. Thank you for the opportunity to provide you and the Court with this proposal. If you have any questions, please feel free to contact me at (310) 275-9137.

Very truly yours,

Ali Saad, Ph. D.
Managing Partner

AA006259

Murray, et al., v. A Cab Taxi Service Budget Proposal

| Project 1 – Data Entry and Database Construction | | | | | | |
|---|-------------|--------------|--------------|-----------------|------------------|------------------|
| Enter select information (including name, ID, in/out times, total fares, etc.) from approximately 300,000 handwritten and scanned PDF timekeeping records; create a unified, electronic database of all records; quality-control data entry. Assumes time records are in the same/similar format to those provided as a sample. | | | | | | |
| Level | Hourly Rate | Low Hours | High Hours | Low Estimate | Average Estimate | High Estimate |
| Partner | \$700 | 2 | 4 | \$1,400 | \$2,100 | \$2,800 |
| Director | \$550 | 2 | 4 | \$1,100 | \$1,650 | \$2,200 |
| Manager | \$400 | 4 | 8 | \$1,600 | \$2,400 | \$3,200 |
| Senior Consultant | \$300 | 12 | 16 | \$3,600 | \$4,200 | \$4,800 |
| Consultant | \$225 | 32 | 40 | \$7,200 | \$8,100 | \$9,000 |
| Research Assistant | \$50 | 1,250 | 4,000 | \$62,500 | \$131,250 | \$200,000 |
| SUB-TOTAL PER TASK | | 1,302 | 4,072 | \$77,400 | \$149,700 | \$222,000 |
| Project 2 – Damages Analysis | | | | | | |
| Analyze constructed database to calculate minimum wage owed based on information provided. | | | | | | |
| Level | Hourly Rate | Low Hours | High Hours | Low Estimate | Average Estimate | High Estimate |
| Partner | \$700 | 2 | 4 | \$1,400 | \$2,100 | \$2,800 |
| Director | \$550 | 2 | 4 | \$1,100 | \$1,650 | \$2,200 |
| Manager | \$400 | 12 | 16 | \$4,800 | \$5,600 | \$6,400 |
| Senior Consultant | \$300 | 24 | 32 | \$7,200 | \$8,400 | \$9,600 |
| Analyst | \$180 | 32 | 36 | \$5,760 | \$6,120 | \$6,480 |
| SUB-TOTAL PER TASK | | 72 | 92 | \$20,260 | \$23,870 | \$27,480 |
| GRAND TOTAL | | 1,374 | 4,164 | \$97,660 | \$173,570 | \$249,480 |

PAUL F. WHITE, Ph.D.
Partner

Professional Experience

Resolution Economics LLC – Washington D.C.

Dr. White is a labor economist with significant experience in all aspects of the application of labor economics and statistical methods to problems involving labor and employment issues. His practice areas cover all aspects of employment discrimination cases, including compensation, hiring, promotion, and termination. Dr. White's labor and employment practice also includes FLSA wage and hour cases, EEOC investigations, OFCCP investigations of federal contractors, proactive monitoring of compensation and employee selections, economic damages (single-plaintiff, multi-plaintiff, and class actions), union contract negotiations, and NLRB hearings. Additionally, Dr. White has conducted analyses on Title VI "pollution discrimination" matters, police dispatch models, mutual fund trading practices, asbestos exposure, and prescription drug pricing. Dr. White has testified numerous times in local, state, and federal courts.

The OFCCP Institute

The OFCCP Institute is a non-profit organization formed to assist the federal contractor community in responding to compliance regulations.

- Faculty Member (2014 – present)

ERS Group

- Managing Director – Washington, DC Office (2002 – 2015)
- Vice President (1998 – 2002)
- Research Economist (1993-1998)



Florida State University

Member of the graduate faculty for the Executive Management program. Taught courses in Economics and Analytic Research Methods.

- Adjunct Professor (1996 - 2002)

National Institute of Health

Awarded fellowship to study the economics of aging.

- Research Fellow (1990 - 1993)

Womble, Carlyle, Sandridge, and Rice, Winston-Salem, NC

Researched and analyzed health insurance statistics to be used as evidence in a medical malpractice case.

- Consultant (1992)

Testimony

- Everette Prince v. Barnes Group, Inc. and Bowman Distribution; No. 5:94-CV-483-F(3), U.S. District Court, Eastern District of North Carolina, Western Division. (Declaration)
- Kenneth Causey v. City of Gretna, Florida, et al.; No. 94-40586-WS, U.S. District Court, Northern District of Florida, Tallahassee Division. (Deposition)
- Joseph C. Mulé, et al. v. Larry Alton Carr, et al.; No. 93-7395 Division "O" Civil Division, Circuit Court, 13th Judicial Circuit, in and for Hillsborough County, Florida. (Deposition)
- Stuart N. Robins v. Flagship Airlines and AMR Corporation; No. 94-C3589, Circuit Court, Davidson County, Tennessee. (Declaration)
- Louise L. Wilson, Beowulf L. Snell, et al. v. Macon Telegraph Publishing Company, Inc.; No. 5:95- CV-522-2 (DF), U.S. District Court, Middle District of Georgia, Macon Division. (Affidavit)



- David Hipp, Harry W. McKown, Jr., et al. v. Liberty National Life Insurance Company; No. 95- 1332-CIV-T-17A, U.S. District Court, Middle District of Florida, Tampa Division. (Deposition)
- Margaret H. Daniel v. University of Southwestern Louisiana; No. 95-2170, U.S. District Court, Western District of Louisiana, Lafayette-Opelousas Division. (Trial)
- Lois Gordon, et al. v. Columbia Gas & Electric, et al., No. 95-CI-0095, Court of Common Pleas, Civil Division, Marion County, Ohio. (Deposition)
- Connie Yon and Delores Bryant v. Department of Corrections and Steve Comeford; No. 93-4635, Second Judicial Circuit, Leon County, Florida. (Hearing)
- Sergio Bonich, et al. v. Herman Miller, Inc., No. 95-3455/CA21, Circuit, Court, 11th Judicial Circuit, Dade County, Florida. (Deposition)
- Caroline Burney v. Rheem Manufacturing Company, Inc., No. CV-97-D-1300-N, U.S. District Court, Middle District of Alabama, Northern Division. (Affidavit)
- Pamela L. Biggs v. State of Florida, Board of Regents, No. 1:96-CV-185-MMP, U.S. District Court, Northern District of Florida, Gainesville Division. (Deposition)
- Faith D. McKnight v. State of Florida, Department of Health and Rehabilitative Services, et al., No. 96-1167-CIV-J99(S), U.S. District Court, Middle District of Florida, Jacksonville Division. (Deposition)
- Grant H. Danskine, et al. v. Metro Dade County, No. 97-2068-CIV-HIGHSMITH, U.S. District Court, Southern District of Florida, Miami Division. (Affidavit and Deposition)
- Michael Corlett v. Fine Air Services, Inc., No. 97-3906-CIV-UNGARO-BENAGES, U.S. District Court, Southern District of Florida, Miami Division. (Affidavit)
- Gina Edwards v. University of Central Florida, Florida Board of Regents, et. al, No. CI 97-3420(32), Circuit Court, 9th Judicial Circuit, Orange County, Florida. (Deposition)
- Garry Joe Tawney v. The Bolles School, No. 97-03038 CA, Circuit Court, 4th Judicial Circuit, Duval County, Florida. (Deposition)
- Waymond Pollocks, et al., v. Sunland Training Center at Marianna, Florida, et al., No. TCA 87- 40103-RH, U.S. District Court, Northern District of Florida, Tallahassee Division. (Trial)



- Jeanette Robinson Ward v. Florida State Hospital, Department of Labor and Employment Security, Division of Workers' Compensation, District "A East". (Affidavit)
- Craig H. Hull v. Cash America International, Inc., No.98-607-CIV-ORL-19A, U.S. District Court, Middle District of Florida, Orlando Division. (Deposition)
- Robert Schanzer, and Robert R. Madison v. United Technologies Corporation, Pratt & Whitney Aircraft Division, No. 3:98CV00834, U.S. District Court, District of Connecticut. (Deposition and Trial)
- Donna Aldret v. State of Florida Department of Labor and Employment Security Division of Workers' Compensation, Claim No. 261-92-1891. (Deposition and Hearing)
- Wilma Nicole Stout v. Baxter Healthcare Corporation, No. 4:99 CV 129-EMB, U.S. District Court, Northern District of Mississippi, Greenville Division. (Affidavit)
- Theodore R. Perin v. County of Nassau, Nassau County Department of General Services and R.A. Augisiewicz, No. 95-024094, Supreme Court of the State of New York, County of Nassau. (Affidavit)
- National Association for the Advancement of Colored People, et al. v. State of Florida Department of Corrections, et al., No. 5:00-CV-100-OC-10, U.S. District Court, Middle District of Florida, Ocala Division. (Affidavits, Hearings, Depositions and Trial Testimony)
- Kenneth Epperson, et al. v. Pennzoil Products Company, No. CV97-1797, U.S. District Court, Western District of Louisiana, Shreveport Division. (Affidavits)
- American Federation of Government Employees, Local 1617, Kelly Air Force Base, San Antonio, Texas v. San Antonio Air Logistics Center, Kelly Air Force Base, San Antonio, Texas, FMCS No. 990929-17655-3. (Arbitration Testimony)
- Birmingham Airport Authority v. Alabama State Licensing Board for General Contractors, No. CV- 99-G-1504-S, U.S. District Court, Northern District of Alabama, Southern Division. (Deposition)
- Linda Rice Chapman v. Florida Department of Health and Rehabilitative Services, No. 96-23274- CA-09, Circuit Court for the Eleventh Judicial Circuit, Dade County, Florida. (Trial)
- Dunkin' Donuts/Third Dunkin' Donuts Realty, Inc. v. Al-Karim Kassam, et al., No. CIV00-1428 LH, U.S. District Court, District of New Mexico. (Affidavit)



- Jerry R. Pike and Patrick A. Thomas v. Lucent Technologies, Inc., No. 1 00-CV-1406 RWS, U.S. District Court, District of Georgia, Atlanta Division. (Deposition)
- Mary E. O'Shea v. Summit Bancorp, Jill Christians, Antoinette Foti, Kevin Gillen, and Mary Przybyla, No. L-9865-98, Superior Court of New Jersey, Law Division: Bergen County. (Affidavit)
- Michelle Iliadis and Angela Nelson-Croxton v. Wal-Mart Stores, Inc., et al., No. L-5498-02, Superior Court of New Jersey, Middlesex County. (Deposition)
- John Kohlbek, William Schrack, and Michael Pritchard v. The City of Omaha, Nebraska, a Municipal Corporation, No. 8:03CV68, U.S. District Court, District of Nebraska. (Deposition)
- Shelley Hnot, et al. v. Willis Group Holdings Ltd., et al., No. 01-CV-6558 (GEL), U.S. District Court, Southern District of New York. (Declaration)
- International Association of Machinists and Aerospace Workers, et al. v. U-Haul International, Inc., et al., No. 28-CA-18783, National Labor Relations Board, Region 28. (Hearing)
- Rosa Scott v. Eastman Chemical Company, No. 2:03-CV-311, U.S. District Court, Eastern District of Tennessee, Greenville Division. (Deposition and Affidavit)
- Jacqueline McCoy v. Alberto Gonzales, No. 1:05 CV 371, U.S. District Court, Eastern District of Virginia, Alexandria Division. (Deposition)
- Lewis v. City of Chicago, No. 1:98 CV 05596, U.S. District Court, Northern District of Illinois, Eastern Division. (Deposition and Trial)
- Barkley, et al. v. Kmart Corporation and Melinda Hart, Civil Action 06-C-69, Circuit Court of Randolph County, West Virginia. (Deposition)
- Hillmann v. City of Chicago, No. 04 C 6671, U.S. District Court, Northern District of Illinois, Eastern Division. (Deposition)
- King v. ISG Weirton, Inc., Mittal Steel USA, Inc., et al., No. 5:06-CV-74, U.S. District Court, Northern District of West Virginia. (Affidavits)



- C. Westbrook Murphy and Harold Schuler v. PricewaterhouseCoopers, LLP, et al., No. 1:02cv982 (RJL)(DAR), U.S. District Court, District of Columbia. (Deposition)
- Shiloh, et al. v. New Cingular Wireless Services, Inc., et al., Case No. 05AS00372, Superior Court of the State of California, County of Sacramento. (Declaration)
- Vernon Walton v. Bluefield Regional Medical Center, Inc., No. 05-C-768-F, Circuit Court of Mercer County, West Virginia. (Deposition)
- Corline Allen, et al. v. McWane, Inc., No. 2-06CV-158, U.S. District Court, Eastern District of Texas, Marshall Division. (Affidavit)
- Lisa Svensson v. Putnam Investments LLC, et al., Case No. 04-12711-PBS, U.S. District Court, District of Massachusetts. (Deposition, Affidavit and Trial)
- Sharon Dye, et al. v. Kmart Corporation, et al., No. 06-C-121, Circuit Court of Wood County, West Virginia. (Affidavit)
- Keith Sharick v. Southeastern University of the Health Sciences, et al., No. 93-15077 (32), Circuit Court of the Eleventh Judicial Circuit, Dade County, Florida. (Deposition and Trial)
- Reginald Moore, et al. v. Chertoff, No. 00-953 (RWR)(DAR), U.S. District Court, District of Columbia. (Deposition)
- Claude Grant, et al. v. Metropolitan Government of Nashville and Davidson County, Tennessee, No. 3:04-0630, U.S. District Court, Middle District of Tennessee, Nashville Division. (Trial)
- Thomas Janusz v. City of Chicago, No. 03 C 4402, U.S. District Court, Northern District of Illinois, Eastern Division. (Deposition)
- Smithfield Food, Inc. and Smithfield Packaging Company v. United Food and Commercial Workers International Union, et al., No. 3:07CV641, U.S. District Court, Eastern District of Virginia, Richmond Division. (Deposition)
- Jason Campbell and Sarah Sobek v. PricewaterhouseCoopers LLP, No. 06-CV-02376 LKK GGH, U.S. District Court, Eastern District of California. (Declaration)



- Burch, et al. v. Qwest Communications International, Inc., et al., No. 06-CV-3523, U.S. District Court, District of Minnesota. (Deposition)
- Forrest Thomas v. Centennial Communications Corp., et al., Civil No. 2003/163, District Court of the Virgin Islands, Division of St. Croix. (Deposition)
- Starks, et al. v. H&R Block, Inc., No. 0622-CC00029, Circuit Court of the City of St. Louis, State of Missouri. (Affidavit)
- Dalton, et al. v. Lee Publications, et al., No. 08-CV-1072, U.S. District Court, Southern District of California. (Declaration)
- Taylor, et al. v. District of Columbia Water and Sewer Authority, Civil Action No. 01CV00561(HHK), U.S. District Court, District of Columbia. (Declaration and Deposition)
- Diaz, et al. v. Target Corporation, No. 8:10-CV-01103-AG-MLG, U.S. District Court, Central District of California. (Declaration)
- Zivali, et al. v. AT&T Mobility, et al., No. 08-CV-10310, U.S. District Court, Southern District of New York. (Deposition)
- Rodney Gooch, et al. v. Metropolitan Government of Nashville and Davidson County, Tennessee, No. 3:09-cv-00826, U.S. District Court, Middle District of Tennessee, Nashville Division. (Deposition)
- Parks, et al. v. Alpharma, Inc., et al., No. RBD-06-2411, U.S. District Court, District of Maryland. (Deposition)
- Young and Leite v. Simon, et al. and Acosta v. Simon, et al., Case Nos. BC433329 and BC434287, Superior Court of California, County of Los Angeles. (Deposition)
- Bickley, et al. v. Schneider National Carriers, Inc., Case No. 3:08-cv-05806-JSW (NMC), U.S. District Court, Northern District of California. (Declaration)
- Jeff Parmet v. PricewaterhouseCoopers LLP, Case No. 13 107 Y 00860 11, Before the American Arbitration Association. (Deposition and Arbitration)
- Hall, et al. v. Rite Aid Corporation, Case No. 37-2009-00087938-CU-OE-CTL, Superior Court of the State of California in and for the County of San Diego. (Deposition)



- David Moore v. Gilead Sciences, Inc., Case No. 3:07-cv-03850 SI, U.S. District Court, Northern District of California. (Deposition)
- Misty Neal, et al. v. The Cheesecake Factory Restaurants, Inc. (Arbitration Testimonies)
- Jesus Hernandez, et al. v. Ashley Furniture Industries, et al., Case No. 5:10-cv-05459-BMS, U.S. District Court, Eastern District of Pennsylvania. (Deposition)
- Miguel De La Cueva v. Alta-Dena Certified Dairy, LLC, et al., Civil Action No. CV 12-1804-GHK (CWx), U.S. District Court, Central District of California, Western Division. (Declaration)
- Nobles, et al. v. State Farm Mutual Automobile Insurance Company, Case No. 2:10-cv-04175, U.S. District Court, Central District of Missouri. (Declarations and Deposition)
- Linda Roberts v. Target Corporation, Case No. CV-11-951-HE, U.S. District Court, Western District of Oklahoma. (Declaration and Deposition)
- Gabriel Hernandez, et al. v. Creative Concepts, Inc., et al., Case No. 2:10-cv-02132-PMP-VCF, U.S. District Court, District of Nevada. (Deposition and Declaration)
- Romero, et al. v. Kmart Corporation, et al., Case No. BC527557, Superior Court of California, County of Los Angeles. (Declaration)
- Stacy Thompson v. Target Corporation, Case No. CV12-00010 MWF (MRWx), U.S. District Court, Central District of California. (Declarations)
- Hart, et al. v. Rick's Cabaret International, et al., No. 1:09-cv-03043-PAE-RLE, U.S. District Court, Southern District of New York. (Deposition and Declaration)
- Gasio v. Target Corporation, Case No. 2:14-cv-2214, U.S. District Court, Central District of California. (Declaration)
- Betties, et al. v. Target Corporation, Case No. 5:14-cv-00926, U.S. District Court, Central District of California. (Declaration)
- Grogan, et al. v. Holder, Case No. 1:08-cv-01747-BJR, U.S. District Court, District of Columbia. (Deposition)



- Fitzpatrick v. Booz Allen Hamilton, Inc., Civil Action No. 2011 CA 006775, Superior Court of the District of Columbia, Civil Division. (Deposition)
- EEOC v. Mavis Discount Tire, Inc., et al., No. 12-CV-0741 (KPF)(GWG), U.S. District Court, Southern District of New York. (Deposition and Affidavit)
- Gonzalez v. Local 52, International Alliance of Theatrical Stage Employees, et al., Case No. 2:14- cv-03407-JS-GRB, U.S. District Court, Eastern District of New York. (Deposition)
- Jimenez, et al. v. Moark LLC, et al. (dba Land O'Lakes), Case No. BC583048, Superior Court of the State of California for the County of Los Angeles – Central District. (Declaration)
- Sanchez, et al. v. McDonald's Restaurants of California, et al., Case No. BC499888, Superior Court of the State of California for the County of Los Angeles – Central District. (Deposition and Declarations)
- Rojas, et al. v. Target Corporation, Case No. 8:14-cv-01229-AG-RNB, U.S. District Court, Central District of California. (Declaration)
- Savannah, et al. v. Sodexo, Inc., et al., Case No. C15-02147, Superior Court of the State of California for the County of Contra Costa. (Declaration)
- LaPointe, et al. v. Target Corporation, Case No. 8:14-cv-01229-AG-RNB, U.S. District Court, Central District of California. (Declaration)
- Pitt, et al. v. The Times Picayune, L.L.C. and Advance Publications, Inc., Case No. 2:14-cv-68, et al., U.S. District Court, Eastern District of Louisiana. (Declaration)
- Bokanoski, et al. v. LePage Bakeries, et al., Case No. 3:15-cv-00021, U.S. District Court, District of Connecticut. (Declaration)
- Bowen v. Target Corporation, Case No. BC 602994, Los Angeles County Superior Court. (Declaration)
- Craft v. Target Corporation, Case No. BC 613268, Los Angeles County Superior Court. (Declaration)



- Daniels v. Target Corporation, Case No. BC 607742, Los Angeles County Superior Court. (Declaration)
- OFCCP v. WMS Solutions, LLC, Case No. 2015-OFC-00009, United States Department of Labor, Office of Administrative Law Judges. (Deposition and Hearing)
- Nesbitt v. University of Maryland Medical System, et al., Case No. 1:13-CV-00125-WDQ, U.S. District Court, District of Maryland. (Deposition)
- Artiaga, et al. v. Target Corporation, Case No. 16CECG01530, Fresno County Superior Court. (Declaration)
- Stuart Green v. Actin Biomed LLC, et al., No. 01-16-0000-6593, American Arbitration Association. (Deposition and Hearing)
- Lisa Ferguson, et al. v. Jeff B. Sessions and Federal Bureau of Prisons, EEOC No. 480-2016-00563x, Agency No. BOP-2012-0053, Equal Employment Opportunity Commission, Los Angeles Office. (Deposition)

Publications and Research Papers

- “9 Ways to Manage Risks Associated with Year-End Bonuses,” (with Rick Holt), Law360, December 16, 2016
- “Compensation Self-Audits,” Chicago Lawyer, Vol. 32, No. 8, August 2009
- “Layoffs and Statistical Evidence of Discrimination,” (with Edward Bierhanzl), Law360, December 18, 2008
- Reply to “Comments on ‘The Use of Attrition Rates for Economic Loss Calculations in Employment Discrimination Cases: A Hypothetical Case Study,’” (with Josefina V. Tranfa-Abboud and Fredrick M. Holt), Journal of Forensic Economics, Vol. XVIII, No. 1.
- “Recent Developments in the Analysis of Employment Practices,” (with Joan Haworth and Janet Thornton), Development in Litigation Economics, Vol. 87. Eds. Patrick Gaughan and Robert Thornton, Contemporary Studies in Economic and Financial Analysis. New York: Elsevier, 2005.
- “The Use of Attrition Rates for Economic Loss Calculations in Employment Discrimination Cases: A Hypothetical Case Study,” (with Josefina V. Tranfa-Abboud and Fredrick M. Holt), Journal of Forensic Economics, Vol. XVI, No. 2, Spring/Summer 2003 (Published September 2004).



- “The Numbers Game: Statistics offered to show discrimination may promise more than they prove,” (with Leslie Turner), Legal Times, Volume XXVII, No. 16, April 2004.
- “Cost-Efficient Use of Your Expert Witness – From the Expert Witness’ Point of View,” Bar Bulletin, Maryland State Bar Association, October 2002.
- “The Use of an Economist in Labor and Employment Disputes: Legal and Practical Considerations,” (with James Garrity), The Florida Bar Journal, Vol. LXXIV, No. 11, December 2000.
- “Approaches for Dealing With Small Sample Sizes in Employment Discrimination Litigation,” (with Michael J. Piette), Journal of Forensic Economics, Vol. XII, No. 1, Winter 1999.
- “Use of ‘Reverse Regression’ in Employment Discrimination Analysis,” (with Michael J. Piette), Journal of Forensic Economics, Vol. XI, No. 2, Spring/Summer 1998.
- Review of “Tenure, Discrimination, and the Courts” by Terry L. Leap, Journal of Forensic Economics, Vol. IX, No. 2, Spring/Summer 1996
- Long-Term Care of the Disabled Elderly, “Working vs. Helping - A Caregiver's Dilemma,” Ph.D. Dissertation, Department of Economics, North Carolina State University, August, 1993.
- “The Proposed Virginia Coal Slurry Pipeline and Its Employment Effects on the Railroad Industry,” (with Ehsan Ahmed), Journal of Applied Business Research, Fall, 1990.

Presentations and Professional Meetings

- “Gender Pay Disparity – OFCCP and the New Reporting Regulations,” (with Andrew Kingsley and Liz Washko) The College of Labor and Employment Lawyers - 5th Circuit Annual CLE Event, New Orleans, LA, 2017.
- “Effective Use of Statistical Evidence in Employment Class Action Litigation: Practical Guide in 2017,” (with Dubravka Tomic, Brian Kriegler and Eric Savage) The Knowledge Group webinar. 2017.
- “Statistical Analysis of Discrimination,” moderator and session organizer (with Carole Amidon, Stephen Bronars and Elaine Reardon) Southern Economic Association conference, Washington, D.C. 2016.



- “Pay Equity in Practice: What Are Employers Doing, What Can They Do, and What Works?” (with Rachel Geman, Samantha C. Grant, Wendy L. Kahn and Tamika Lynch) ABA Labor and Employment Law Conference, Chicago, IL, 2016.
- “Data Issues Every Federal Contractor Needs to Understand” (with David Cohen and Jon Geier) The OFCCP Institute Compliance Conference, Chicago, IL, 2016.
- “Pay Equity De-mystified: Practical Legal, Data, and Statistical Considerations,” (with Lori Andrus and Katie Mantoan) State Bar of California Labor & Employment Law Section webinar. 2016.
- “Pay Equity De-mystified: Practical Legal, Data, and Statistical Considerations,” (with Michael Lieder and Alison Marshall) Seminar and webinar presented by the Washington D.C. Bar Association. 2016.
- “Compensation: Data Issues Every Federal Contractor Needs to Understand,” (with David Cohen and Jon Geier) presented as part of a webinar series through The OFCCP Institute. 2016.
- “What is Big Data and how Big Data Effects Federal Contractors,” (with Valerie Hoffman and David Fortney) presented as part of The OFCCP Institute’s “Big Data Webinar,” 2016.
- “Pay Equity Legislation and EEO-1 Reporting: Practical Strategies for Reducing Pay Discrimination,” (with Leigh M. Nason) presented as part of Ogletree Deakins’ “The Capital Area Employment Law Conference: The Changing Landscape Facing Employers in 2016,” Bethesda, MD, 2016.
- “Strategies for Successful OFCCP Compensation Compliance” (with Gary Siniscalco and David Cohen) presented as part of The OFCCP Institute Compliance Conference, San Francisco, CA. 2016.
- “Adverse Impact Analysis” (with David Cohen) presented as part of The OFCCP Institute Compliance Conference, San Francisco, CA, 2016.
- “Successful Testing and Validation Strategies” (with Eric Dunleavy and Mickey Silberman) presented as part of a webinar series through The OFCCP Institute. 2015.
- “Conducting a Compensation Analysis in response to the New Scheduling Letter” (with W. Carter Younger and Mickey Silberman) presented as part of a webinar series through The OFCCP Institute. 2015.
- “Strategies for Successful OFCCP Compensation Compliance” (with David Cohen, Leigh Nason, and Mickey Silberman) presented as part of The OFCCP Institute Annual Summit, Washington, D.C., 2015.



- “Systemic Compensation” (with David Fortney) presented as part of The OFCCP Institute Annual Summit, Washington, D.C., 2015.
- “Employment Discrimination: Economic and Statistical Evident,” ERS Group seminar, various dates and locations.
- “Crafting Effective and OFCCP Compliant Affirmative Action Plans,” ERS Group seminar, various dates and locations.
- “Analyzing and Monitoring Compensation in Today’s Regulatory Environment,” ERS Group seminar, various dates and locations.
- “Defending and Managing the Latest Off-the-Clock Claims Involving the Use of Smartphones/Mobile Devices Outside of Scheduled Hours and Working Remotely,” (with Linda M. Doyle and John J. Myers), presented as part of a seminar entitled "ACI Wage & Hour Claims and Class Actions," Miami, FL, 2015.
- “OFCCP Compliance Evaluations: Understanding and Using HR Data to Aid Compliance and Diversity Efforts,” (with Jon Geier and David Cohen), webinar presented by The OFCCP Institute, September 2014.
- “Latest Developments in Class Actions: Update on Class Certification of Title VII and Other Discrimination Claims post-Dukes, and the Enforceability of Class Action Waivers in Arbitration Agreements,” (with William Martucci and Jeffrey Wohl), presented as part of a seminar entitled "ACI’s Forum on Defending and Managing Employment Discrimination Litigation," New York, NY, 2014.
- “Understanding Multiple Regression Analysis,” (with David Cohen), and “Conducting the Statistical and Non-Statistical Analysis,” (with Jon Geier) presented as part of The OFCCP Institute’s “Assessing Compensation and Pay Equity Compliance with a Self-Audit” seminar, Washington, DC, 2014.
- “Equal Pay Enforcement: Minimizing the Risks,” (with Leigh M. Nason and T. Scott Kelly) presented as part of Ogletree Deakins’ “Corporate Labor and Employment Counsel” seminar, Charleston, SC, 2013.
- “How Labor Economists Correctly Analyze Contractor Pay Data in Anticipation of, or in Defense of, OFCCP Compensation Audits,” presented as part of a seminar entitled “National Employment Law Institute Affirmative Action Briefing,” Chicago, IL and Washington, DC, 2013.
- “Class Actions: Update on Standards For Class Certification in the Wake of Walmart v. Dukes, McReynolds v. Merrill Lynch and Progeny, and the Intersection of Class Action Waivers and Arbitration in Light of Recent Supreme Court Rulings,” (with Donald R. Livingston, Gerald Maatman, and Jay W. Waks),



presented as part of a seminar entitled "ACI's Forum on Defending and Managing Employment Discrimination Litigation," New York, NY, 2013.

- "Use (And Abuse) Of Experts In Class And Collective Actions," (with A. Craig Cleland, Tracey T. Barbaree, and Chris R. Pace) presented as part of Ogletree Deakins' "Workplace Strategies 2013" seminar, New Orleans, LA, 2013.
- "The OFCCP And Affirmative Action—What Every Federal Contractor Must Know And Do," (with Leigh M. Nason, Gretchen W. Ewalt, and T. Scott Kelly) presented as part of Ogletree Deakins' "Workplace Strategies 2013" seminar, New Orleans, LA, 2013.
- "Expert Analysis in FLSA Cases," presented at the Florida Bar Association – Labor & Employment Law Section's Advanced Labor Topics 2013 Conference, Duck Key, FL, 2013.
- "Selection and Compensation Audits – A Statistical Review," (with Rick Holt) presented to a meeting of the Maryland Association of Affirmative Action Officers, Columbia, MD, 2012.
- "Wage and Hour Litigation and Government Investigations: Trends, Types and the Turbulent Landscape for Employers," (with Anne Marie Estevez, Howard M. Radzely, and John C. Ryan) presented as part of "ALM's Litigation Summit and Exposition," Washington, DC, 2012.
- "Class and Pattern Cases: Emerging Trends and Issues," (with Apalla Chopra, David Offen-Brown, and Roberta Steele) presented as part of Practising Law Institute's "California Employment Law, 2012.
- "Class Actions: How to Advise Your Clients Given the Uncertainty of Class Action Law and Waivers post-Wal-Mart v. Dukes, AT&T Mobility v. Concepcion, and the NLRB Decision in DR Horton," (with Jay W. Waks, Steven W. Sufas, Elise M. Bloom and Lynn C. Hermle), presented as part of a seminar entitled "ACI Defending and Managing Employment Discrimination Litigation," New York, NY, 2012.
- "I Was Told There Would Be No Math: What Every Employment Lawyer Should Know About Statistical Proof In Employment Matters," (with Susan Dunnings and Kris Meade) presented to the Washington Metropolitan Area Corporate Counsel Association (WMACCA), Washington, DC, 2012.
- "Economic and Statistical Considerations in Wage & Hour Litigation" (with Jeff Goodman and Sarah Graves) presented as part of Heenan Blaikie's CLE seminar entitled "The Overtime Bomb: Employee Class Actions," Toronto, Ontario, 2012.



- “Employment Discrimination—Hot Topics & Trends” (with Craig Cleland) presented as part of the ALM “In-House Counsel Labor and Employment Forum,” New York, NY, 2012.
- “Keep It Ethical: Identifying and Addressing Wage and Hour Compliance Gaps, and Responding to Wage and Hour Division Investigations,” (with Paul DeCamp, Judith E. Kramer and Maritoni D. Kane) presented as part of Practising Law Institute’s “Managing Wage & Hour Risks 2012” program, New York, NY, 2012.
- “Expert Witnesses in Wage and Hour Litigation: Selection and Permissible Use of Expert Testimony” (with Michael Alaimo, Todd Jackson and Michael Rubin), presented as part of a seminar entitled “ACI Wage & Hour Claims and Class Actions,” San Francisco, CA, 2011.
- “New Tools for the Calculation of Infringement Damages,” (with Roy Weinstein and Janet Thornton). Prepared for The Center of American and International Law, Plano, TX, October 2010.
- “Statistical Analyses of Compensation and Employee Selection – Practical Tips,” (with Edward Bierhanzl, Ph.D.). for the Triangle Industry Liaison Group. Raleigh, NC, 2010.
- Invited Mock Trial Witness. National Institute for Trial Advocacy. Advanced Advocates Program. Georgetown University Law School. Washington, DC, 2009.
- “Use of Statistics in Employment Litigation,” presented as part of a seminar entitled “Federal Aviation Administration Personnel and Labor Law Conference,” Atlanta, GA, 2005.
- “Economic Damages: The Effects of Explicit and Implicit Methodological Decisions,” paper presented as part of a seminar entitled “Current Developments in Labor & Employment Law,” The Center of Continuing Professional Development, Louisiana State University, Baton Rouge, LA, 2005.
- “Employment Class Actions: Case Law Developments, Statistical Issues and Practical Suggestions,” (with Alison B. Marshall). Sponsored by the Bar Association of the District of Columbia, Washington, DC, 2004.
- “The Use of Statistics in Employment Litigation: The Importance of Assumptions,” Employment Law Seminar, Sponsored by: Federal Bar Association, Broward County Chapter, Broward County Bar Association - Employment Law Section, Broward County Women Lawyers Association, Fort Lauderdale, Florida, 2003.



- “What Happens When We Assume: Don't Let It Happen to Your Economic and Statistical Expert,” paper presented as part of a seminar entitled “Current Developments in Labor & Employment Law,” The Center of Continuing Professional Development, Louisiana State University, Baton Rouge, LA, 2003.
- “The Use (and Misuse) of Economics and Statistics in Employment Litigation,” paper presented as part of a seminar entitled “Employment Law 2000: The Right Mix,” Louisiana State Bar Association, New Orleans, LA, 2000.
- “Analyzing Allegations of Discrimination in Termination Cases,” paper presented as part of a seminar entitled “Employee Discharge and Documentation,” Tallahassee, Florida, 1995-2000.
- “Private Sector Employment Opportunities for Economics Majors,” presentation for Omicron Delta Epsilon, Florida State University's economics honor society, Tallahassee, FL, 1998.
- “Approaches for Dealing With Small Sample Sizes in Employment Discrimination Litigation,” (with Michael J. Piette) paper presented at the Southern Economic Association Annual Meetings, Atlanta, GA, 1997.
- “The Use of ‘Reverse Regression’ in Employment Discrimination Analysis” (with Michael J. Piette), paper presented at the Allied Social Science Association Annual Meetings, New Orleans, Louisiana, 1997.
- “Employment Discrimination,” presentation for Alpha Kappa Psi, Florida State University's professional business fraternity, Tallahassee, FL, 1996.
- “Informal Caregivers of the Disabled: Applications for the Forensic Economist,” paper presented at the Southern Economic Association Annual Meetings, New Orleans, Louisiana, 1995.
- “Allocating Time to Caring and Working: Evidence from the National Long-Term Care Survey,” paper presented at the Southern Economic Association Annual Meetings, Orlando, Florida, 1994.
- “Estimating the Shadow Price of Informal Care,” paper presented at the Allied Social Science Association Annual Meetings, Boston, Massachusetts, 1994.
- “What President Clinton's Health Care Plan Will Mean to You,” lecture presented as part of the Valencia Community College Notable Speaker Series, Orlando, Florida, 1994.



Professional Association and Memberships

American Economics Association

National Association of Forensic Economics

Professional Journal Referee

Contemporary Economic Policy, Western Economic Association

Journal of Forensic Economics, National Association of Forensic Economics

Litigation Economics Review, National Association of Forensic Economics

Professional Journal Board of Editors

Journal of Business Valuation and Economic Loss Analysis, National Association of Certified Valuation Analysts.

Education

North Carolina State University

Doctor of Philosophy Labor/Health Economics, Minor in Statistics, 1993

Master's of Education, Economics, 1992

James Madison University

Bachelor of Science, Economics, 1989

Honors and Awards

National Institute of Health Fellowship, 1990 to 1993

Specialization

Labor Economics, Health Economics, Economics of Aging

ALI SAAD, Ph.D., MANAGING PARTNER

Dr. Saad is the Managing Partner of Resolution Economics LLC. He has a Ph.D. in Economics from the University of Chicago. Prior to Resolution Economics, Dr. Saad was a partner at Deloitte & Touche LLP and at Altschuler, Melvoin and Glasser LLP. Before that he was in the disputes consulting group at Price Waterhouse, first in New York, and then in Los Angeles. Prior to his consulting career, Dr. Saad served as an Assistant Professor of Economics at Baruch College of the City University of New York (CUNY).

Professional Experience

Dr. Saad's experience is extensive in the area of statistical and economic analysis of liability and damages related to employment litigation matters. His experience is extensive in the application of economics and statistical methods to class action employment discrimination matters. He is also experienced in designing, implementing, and analyzing surveys and observation studies as well as conducting empirical analyses related to exempt/non-exempt status, hours worked, uncompensated time, meal and rest breaks, rounding, and other wage and hour issues. He has also performed statistical and damages analyses for a broad range of commercial litigation matters including breach of contract, insurance coverage, environmental claims, patent infringement, antitrust and real estate financing. Dr. Saad has testified a number of times at deposition and trial. Dr. Saad also regularly consults to clients regarding business issues related to employment practices.

Employment Matters

Dr. Saad provides a variety of services related to employment litigation. His experience is extensive in conducting statistical and economic analysis related to issues of liability for employment discrimination matters. He also has designed and conducted many surveys and observational studies related to wage and hour issues. Dr. Saad has also performed analyses of economic damages in both class action and single plaintiff matters.

Statistical and Economic Analysis in Discrimination Matters

Assignments representative of Dr. Saad's experience in performing analyses in connection with employment discrimination matters include the following:

- Consulting and expert witness services in national class action race discrimination matter involving issues of pay, promotion, work assignment, and a variety of other challenged employment practices. Services included creating databases from diverse and voluminous source materials, and conducting extensive statistical analyses.
- Consulting and expert witness services in national class action gender discrimination matter involving issues of job assignment and promotion. Services included creating databases from diverse and voluminous source materials, and conducting extensive statistical analyses.

- Consulting and expert witness services in a class action case alleging that contracts were misleading. Services included processing and analyzing large quantities of data, and performing statistical analysis of the criteria determining class membership.
- Consulting and expert witness services in connection with a major class action alleging gender discrimination in pay and promotion at a large high-tech employer. Services included creating analytical databases, and developing economic and statistical arguments concerning the relationship between productivity-related variables, pay/promotion, and gender.
- Consulting and expert witness services in an antitrust and discrimination matter in which a group of businesses alleged violations of antitrust and discrimination laws by another group of businesses. Services included data construction, and statistical analysis related to issues of liability.
- Consulting and expert witness services on behalf of plaintiffs' counsel in a series of cases alleging race discrimination in hiring. Services included creating analytical databases, studying the relationship between race and hiring, and examining the features of the external labor market.
- Consulting and expert witness services in connection with a class action claim of discrimination based on age in connection with a series of layoffs resulting from the combination of two large retail chains. Services included creating analytical databases, studying the relationship between layoff and age, and examining the relationship between age and workforce composition over.
- Consulting and expert witness services in connection with EEOC allegations of race discrimination in recruiting, hiring, and initial placement at a large service providing company. Services included developing databases from diverse paper and electronic sources, and providing statistical arguments concerning the relationship between race and various other factors.
- Consulting and expert witness services to defendant's counsel in connection with a major class action alleging gender discrimination in multiple employment practices at a national retail chain. Services included developing a database from voluminous paper documents, and conducting analysis related to hiring, initial placement, and initial pay.
- Consulting and expert witness services to defendant's counsel in connection with an EEOC investigation of racial discrimination in hiring by a major service providing organization. Services included developing a database, and conducting statistical analysis related to hiring.
- Consulting services to defendant's counsel in connection with a U.S. Department of Labor OFCCP investigation of pay equity at a high-tech company. Services included design and oversight of a statistical analysis of pay equity, assessment of the OFCCP methodology, and participation in conciliation discussions between the company and the OFCCP.
- Consulting and expert witness services to defendant's counsel in connection with an allegation of age discrimination in terminations resulting from a series of mass layoffs. Services provided included developing statistical arguments concerning the relationship between age and termination.

- Consulting services to defendant's counsel in connection with a Department of Justice investigation regarding allegations of racial profiling by a large city police department. Analyzed departmental data related to over 130,000 traffic stops, pedestrian stops, and other types of police contacts that occurred in four selected weeks in 1997 and four selected weeks in 1999. Cross-referenced traffic stops data with other information sources including human resources data, precinct level paper records, and the officer discipline system to test various hypotheses.
- Consulting services and expert testimony to defendant's counsel in connection with a multi-plaintiff matter alleging race and gender discrimination in promotion and placement into coveted positions by a large city police department. Performed statistical analysis of promotion and placement into coveted positions. Quantified economic damages for several plaintiffs under failure to promote and wrongful termination theories.
- Consulting services in a case against a city government alleging discrimination in recruiting and hiring of police and firefighters. Services included using Census and other large-scale data sources to assess labor market characteristics by detailed geographic location, and conducting extensive analysis of the impact of employment tests on hiring.
- Consulting and expert witness services to defendant's counsel in a matter where plaintiff alleged that defendant's hiring practices discriminated against women. Services included converting diverse paper source materials into a usable database, and developing statistical evidence concerning plaintiff's allegation.
- Consulting services in several class action recruiting and hiring matters. Services included use of detailed census and other data to estimate labor market availabilities by geographic location, and analyzing employment practices in light of these availability findings.
- Consulting services to a major bank involved in an analysis of its fair lending practices. Services included using bank data on applicants for mortgages and other loans, and adding various demographic and geographic information to assess if the bank made loans on the basis of race, or controlling for other, observable factors could explain patterns in loan making.
- Consulting services on behalf of defendant's counsel in a major class action matter involving allegations of gender discrimination in promotion. Services included building analytical database from many sources, using the database to conduct extensive statistical analysis of plaintiffs' allegations, and estimating damages resulting from non-promotion for approximately 3,000 women occupying different jobs over a ten-year period.
- Consulting and expert witness services on behalf of defendant's counsel in two related cases alleging age discrimination in termination. Prior to plaintiffs' vesting for certain long term benefits. Services included using defendant's human resource data to test plaintiffs' specific allegations, developing statistical arguments concerning the relationship between age and termination, and performing analyses of plaintiff's damages in each case.
- Consulting services on behalf of plaintiff's counsel in distribution of award in an age discrimination matter with 75 plaintiffs. Services included developing a method to efficiently compute damages for all plaintiffs, and working with counsel, an arbitrator, and a committee of plaintiffs to explain the process to the plaintiff group.

Wage and Hour Matters

Assignments representative of Dr. Saad's experience in wage and hours matters include:

- Consulting and expert witness services to defense counsel in a national class-action wage and hour matter alleging that several thousand loan originators at a large financial institution were misclassified under FLSA. Conducted statistical analyses of hours worked records, compensation data, plaintiffs' declarations, and other data to determine if select groups of plaintiffs would be representative of the class.
- Consulting and expert witness services to defense counsel in a wage and hour matter alleging that several thousand General Managers and Assistant Managers at a large office supply retailer were misclassified as exempt employees. Services included designing and conducting a survey to examine whether class members were appropriately classified, analyzing the company's labor model and human resources data, and conducting statistical analyses related to a variety of class certification issues.
- Consulting and expert witness services to defense counsel in a wage and hour matter alleging that several thousand Assistant Managers at a large general merchandise retailer were misclassified as exempt employees. Services included designing and conducting both a survey and an observational study, to examine whether or not class members were appropriately classified. Services also included conducting extensive statistical analyses of the data collected by the survey and the observational study, and preparing materials for use in class certification proceedings.
- Consulting services to defense counsel in a class action matter alleging failure to pay overtime wages to independent sales and service representatives for a large national tool franchiser. Services included designing and implementing an hours survey to determine whether the additional hours worked claimed by some plaintiffs was representative of the additional hours worked by the class as a whole. Determined that the problem were isolated to certain geographic areas rather than nationwide.
- Consulting and expert witness services to defense counsel in a wage and hour matter alleging that several hundred store managers and assistant store managers at a chain of retail discount stores were misclassified. Services included creating and implementing a survey to examine whether class members were classified appropriately and conducting statistical analyses related to commonality of class-members and other class certification issues.
- Consulting services to defense counsel in a multi-plaintiff wage and hour matter alleging that the defendant employer failed to compensate security guards for uniform changing time and other claims of off-the-clock work. Services included designing and conducting an observation study to measure time associated with various activities.
- Consulting services to defense counsel in wage and hour matter alleging that store managers at a chain of convenience store/ gas station operations were misclassified as exempt workers. Services included designing and conducting a random sampling scheme and observational study to evaluate the amount of time that class members spent on exempt and non-exempt duties.
- Consulting services to defense counsel in a class-action wage and hour matter alleging uncompensated meal periods and breaks, unpaid overtime wages, and minimum wage violations at a field maintenance company.

Services included creating a database of hours worked from paper and electronic records, and then providing damages estimates based on a variety of assumptions and legal theories.

- Consulting services to defense counsel in a class action matter alleging a variety of wage and hour violations for hourly workers at a chain of warehouse stores. Services included analyzing data to test allegations of improper time adjustments, missed meal and rest periods, uncompensated split shifts, reporting time violations, overtime and regular rate issues, and off-the-clock work.

Employment Damages

Assignments representative of Dr. Saad's experience estimating economic damages include the following:

- Consulting services to plaintiff's counsel in a case involving a breach of employment contract allegation by a high-level executive in the emerging communications industry. Services included damages analysis based on valuation of stock options and estimation of future earnings.
- Consulting services to defendant's counsel in a case involving a wrongful termination allegation by a high-level executive in the telecommunication industry. Services included damages analysis based on valuation of stock options using the Black-Scholes Option Pricing Framework and a Monte Carlo Simulation Model.
- Consulting and expert witness services on behalf of defendant's counsel in a matter brought by a former executive who alleged wrongful termination and age discrimination against a major defense contractor following a reduction in force. Critiqued work product of the opposing expert, evaluated mitigation issues, calculated loss of earnings damages and valued losses related to stock options.
- Consulting and expert witness services on behalf of defendant's counsel in a medical malpractice action where the underlying damages issue was valuing an income stream from a closely held cash business. Performed accounting of plaintiff's financial records to determine the existence and the extent of fraud. Created financial models to calculate damages under a variety of scenarios.
- Consulting and expert witness services to defendant's counsel in a wrongful termination matter brought by senior executive of a high-tech company who alleged age discrimination. Performed analysis of mitigation factors, calculated loss of earnings, and valued future stock options.

Commercial Litigation

Dr. Saad has assisted clients in a variety of commercial litigation matters, including patent infringement, insurance coverage, antitrust, breach of contract, and real estate financing. Assignments representative of Dr. Saad's experience in these areas include the following:

- Consulting and expert witness services in a series of cases involving the real property title insurance industry. Services included performing extensive statistical analyses in connection with both liability and damages issues.

- Consulting and expert witness services in a case alleging breach of loan commitment to a commercial real estate concern. Services included constructing financial models, developing economic arguments relating to fixed versus variable rate loans, and assisting counsel in deposing the opposing expert.
- Consulting and expert witness services in a case involving a breach of contract allegation in the computer hardware industry. Services consisted of performing a damages calculation, and rebutting the opposing expert's analysis.
- Consulting and expert witness services in a case alleging that one entity caused another entity's property to be misused. Services included database creation, and statistical analysis related to issues of causation. Results indicated that there was a statistically significant relationship between defendant's actions and plaintiff's economic condition.
- Consulting services on behalf of defendant's counsel in a breach of contract matter in the context of natural resource raw materials shipping. Services included developing economic arguments regarding the but-for pricing of both the shipping service as well as the material being shipped.
- Consulting and expert witness services on behalf of defendant's counsel in a major insurance coverage case, in which the underlying claims resulted from tens of thousands of asbestos claims. Services included developing strategy for dealing with large amounts of paper information, creating a database for analysis, and performing a variety of statistical analyses.
- Consulting services on behalf of plaintiff's counsel in an antitrust matter in the consumer electronics product market. The antitrust practice alleged was predatory pricing. Services included preparing a damage analysis.
- Consulting services on behalf of defendant's counsel in a patent infringement matter in the computer hardware industry. Services included researching transfer pricing issues and analyzing complex company P&L data in preparation for damages calculation.
- Consulting services on behalf of defendant's counsel in a real estate financing dispute. Dispute revolved around the financing of a major New York office property. Services included analysis of interest rates and their relationship to potential damages at various points in time, as well as the construction of a financial model of the property with the but-for financing in place.
- Consulting services on behalf of plaintiff's counsel in an antitrust matter involving allegations of non-competitive practices and predatory pricing in the home cable television market. Services included an analysis of "raising rivals costs", as well as a statistical analysis of pricing of complex products over time.

Summary of Employment Experience

Resolution Economics LLC:

Managing Partner, October 1998 to date.

University of Southern California

Adjunct Associate Professor in the Department of Economics, January 1999 to September 2001.

Deloitte & Touche, LLP:

Partner, Dispute Consulting Services, (Los Angeles), 1998.

Altschuler, Melvoin and Glasser LLP:

Partner, Economics and Litigation Services, (Los Angeles), 1995 to 1998.

Price Waterhouse LLP:

Senior Manager, Manager, Litigation and Corporate Recovery Services Group, (New York and Los Angeles), January 1989 – November 1989, June 1990 to 1995.

Olympia & York Companies (USA):

Assistant VP and Senior Economist, (New York), November 1989 - June 1990.

Baruch College, City University of New York (CUNY):

Instructor and Assistant Professor of Economics, Department of Economics and Finance, 1982-1988; Center for the Study of Business and Government, Research Associate, 1983-1986; U.S. Small Business and Veterans Administrations, Consultant, 1985-1986.

Education

Ph.D., Economics, The University of Chicago.

B.A., History, Economics, The University of Pennsylvania

Publications

Financial Success and Business Ownership among Vietnam and other Veterans (with S. Lustgarten) SBA - 7210 - VA - 83, 1986.

"Schooling and Occupational Choice in 19th Century Urban America", Journal of Economic History, vol. 49, no. 2, June 1989.

"Employment Discrimination Litigation", chapter in Litigation Services Handbook, ed. by Roman Weil, et al., 1995, 2001, 2006, 2012, 2017.

"Employment Discrimination", chapter in Litigation Support Report Writing, ed. by Jack P. Friedman, et al, 2003.

Paul Grossman, Paul Cane, and Ali Saad, “Lies, Damned Lies, and Statistics: How the Peter Principle Warps Statistical Analysis of Age Discrimination Claims”, The Labor Lawyer, vol. 22, no. 3, Winter/Spring 2007, pp. 251-268.

Saad, Ali, “Beyond the Peter Principle – How Unobserved Heterogeneity in Employee Populations Affects Statistical Analysis in Age Discrimination Cases: Application to a Termination/RIF Case”, AELC Conference Volume, 2007.

Saad, Ali, “Filling the Data Vacuum in Wage and Hour Litigation: The Example of Misclassification Cases, Emphasis on Class Certification”, SIOP Annual Conference Proceedings, 2009.

Saad, Ali, “Wage and Hour Cases - Filling the Data Vacuum: Misclassification Cases and Other Observational Studies”, SIOP Annual Conference Proceedings, 2012.

Presentations

Dr. Saad has delivered many presentations at professional conferences, to law firms and to industry groups.

Academic Honors

Finalist, Allan Nevins National Doctoral Dissertation Award
NIMH Doctoral Fellowship, The University of Chicago
Magna Cum Laude, The University of Pennsylvania
Honors in History, Economics, The University of Pennsylvania
Omicron Delta Epsilon, Honor Society in Economics

Professional Affiliations

American Economic Association
American Statistical Association
American Bar Association (associate membership)

EMIL CZECHOWSKI, DIRECTOR

Emil Czechowski is a Director at Resolution Economics LLC. He has a Masters in Business Administration Degree from the Anderson School of Management at the University of California, Los Angeles and a Bachelors Degree in Economics and Political Science from Columbia University. Prior to joining Resolution Economics, he was a Senior Consultant at Analysis Group, Inc., where he specialized in matters related to labor economics, commercial damages, and intellectual property, among others.

Mr. Czechowski has extensive experience in a wide range of litigation support and consulting, including: preparation of economic and statistical analysis in class action matters involving wage and hour issues, discrimination, wrongful termination and general damages in a variety of industries; analyzing and processing large databases and information; designing, managing and analyzing large-scale, nationwide surveys, observation and time and motion studies in both a litigation and consulting context, as well as analysis of job duties and operations.

Professional Experience

Assignments representative of Mr. Czechowski's experience include the following:

- Provided consulting services to defense counsel in large multi-plaintiff matter alleging misclassification of assistant managers, as well as non-litigation consulting at two large nation-wide chains of department stores. Services included designing, implementing and managing a nationwide observation study to capture the tasks performed by employees, and performing statistical analysis of observation study data related to establishing liability and class certification.
- Provided consulting services to defense counsel in large, nationwide multi-plaintiff matter alleging misclassification of store managers at a large auto supply retailer. Services included designing, implementing and managing an observation study in across multiple states to capture the tasks performed by employees, and performing statistical analysis of observation study data related to establishing liability. Attended mediation and presented findings to mediator.
- Provided consulting services to defense counsel in matter alleging off-the-clock work, donning and doffing, improper time clock rounding, unpaid overtime due to an alternative work schedule, missed meal and rest periods, and related claims at a packaged produce manufacturer. Services included reviewing and analyzing payroll and timekeeping data, designing and implementing a video observation study to capture time spent on various activities, and performing a statistical analysis, extrapolating the results to the entire putative class. Attended mediation and presented findings.



- Provided consulting services in a multi-plaintiff matter alleging misclassification of community managers at an apartment complex management firm. Services included analyzing job content data, and designing, implementing, and managing an observation study to establish variability and liability.
- Provided consulting services to defense counsel in large multi-plaintiff matter alleging misclassification of supervisors in charge of teams of product demonstrators at a large nation-wide big-box retailer. Services included designing, implementing and managing an observation study in the state of California to capture the tasks performed by employees, and performing statistical analysis of observation study data related to establishing liability. Attended mediation and presented findings to mediator.
- Provided consulting services to defense counsel in large, nationwide multi-plaintiff matter alleging off-the-clock work due to rounding policies of hourly employees at casinos and hotels. Services included designing, implementing and managing an observation study in across multiple states to capture the tasks performed by employees, performing statistical analysis of observation study data related to establishing liability.
- Provided consulting services to a large housewares and kitchen retail company to determine wage and hour compliance by hourly employees at the client's various retail locations. Services included analysis of multiple sources of data to isolate specific stores and employees with potential issues, and presenting findings.
- Provided consulting services to defense counsel in multiple class-action cases alleging various wage and hour-related violations, including missed meals, unpaid vacation, split-shift pay, and overtime rate of pay calculations at a large gas station chain. Services included processing and analyzing data, conducting a survey and estimating exposure for mediation purposes. Attended mediation and presented findings to mediator.
- Provided consulting services to plaintiff's counsel in a wrongful termination matter for a senior executive at a publicly held firm. Services including reviewing various documents and data and creating an estimate of damages for arbitration.
- Provided consulting services to defense counsel in both non-litigation and multi-plaintiff matters alleging missed meals and unpaid overtime at multiple luxury hotel properties. Services included gathering and analyzing data, creating exposure models for settlement purposes, and assisting with claim administration data preparation.
- Provided consulting services to defense counsel in a multi-plaintiff matter alleging unpaid meal and rest break, unpaid overtime, and incorrect calculation of regular rate of pay at an airplane parts manufacturing facility. Services included gathering and analyzing data, creating exposure models for settlement purposes, and assisting with claim administration data preparation.
- Provided consulting services to defense counsel in matter alleging off-the-clock work, donning and doffing, improper time clock rounding, missed meal and rest periods, and related claims at a prepared food manufacturer. Services included reviewing and analyzing payroll and timekeeping data, designing and implementing a video observation study to capture time spent on various activities at several of the company's facilities, and performing a statistical analysis, extrapolating results to the entire putative class.



- Provided consulting services to defense counsel in large multi-plaintiff matter alleging misclassification of managers at a large nation-wide office-supply retailer. Services included designing, implementing and managing a nine month long, nationwide observation study and in-store survey to capture the tasks performed by employees, and performing statistical analysis of observation study data related to establishing liability.
- Provided consulting services to defense counsel in large multi-plaintiff matter alleging misclassification of managers at a large nation-wide discount retailer. Services included designing, implementing and managing a seven month long, California-wide observation study and in-store survey to capture the tasks performed by employees, and performing statistical analysis of observation study data related to establishing liability.
- Provided consulting services to defense counsel in large class action matter alleging misclassification of tipped employees at a major nation-wide restaurant chain. Services included designing and managing a video observation study, which involved selecting a representative sample of restaurants in the U.S., consulting and supervising video installation technicians to ensure full video coverage in the selected restaurants, obtaining and processing several thousand hours of multiple-feed video footage, designing, implementing and coordinating the video observation of employee activities, processing, analyzing and performing statistical analysis of the captured data.
- Provided consulting services to defense counsel in large multi-plaintiff matter alleging misclassification of managers at a large nation-wide pet supply retailer. Services included designing, implementing and managing a pilot observation study to capture the tasks performed by employees and performing statistical analysis of observation study data related to establishing liability.
- Provided non-litigation consulting services to a large beef processor with multiple locations throughout the United States. Services included designing a survey protocol for considering donning, doffing, and travel times of hourly employees to determine potential exposure for off-the-clock work, as well as processing, analyzing, and presenting results to clients.
- Provided consulting services to defense counsel for a nationwide food processing company. Services included designing, implementing, supervising and performing a study of hourly employees at one plant location to determine donning, doffing, and travel times for hourly employees and to assess claims of off-the-clock work, including processing, analyzing and presenting results to clients for mediation purposes.
- Provided consulting services to defense counsel in large multi-plaintiff matter alleging missed meals and off-the-clock work at a nation-wide convenience store chain. Services included obtaining and processing thousands of hours of video tape, designing a video observation protocol and study, managing the video observation and data capture, analyzing millions of time clock records, and performing statistical analysis of the study data.
- Provided consulting services to defense counsel in large multi-plaintiff matter alleging misclassification of employees at a nation-wide rent-to-own chain. Services included obtaining and processing tens of thousands of paper and electronic records related to rental agreements, register transaction and telephone logs, reviewing video evidence, analyzing time clock records, performing statistical analysis of the study data, and assisting counsel with mediation preparation.



- Provided consulting services to defense counsel in multi-plaintiff matter alleging misclassification of engineers at a power and gas utility. Services included working with engineering experts to review and code representative employee work product, assisting counsel with deposition preparation, and performing a statistical analysis of data collected.
- Provided consulting services to defense counsel in multi-plaintiff matter alleging missed meal and rest breaks and unpaid overtime at a theme park chain. Services included developing a sampling plan to analyze paper records, analyzing thousands of paper time clock and payroll records to assess exposure, assisting counsel with mediation preparation, and performing a statistical analysis of data collected.
- Provided consulting services for purposes of due diligence to a nation-wide chain of cosmetic laser clinics. Services included the designing, implementing, and analyzing of a web-based survey of store managers to examine exempt/non-exempt classification issues.
- Provided consulting services to a large nation-wide office-supply retailer to analyze the effect of a labor model and store format change on the activities performed by certain employees.
- Provided consulting services to defense counsel in a wage-and-hour dispute involving unpaid vacation and sick days at a nation-wide apparel store chain. Services included overseeing data management and analysis and providing damages estimates using company-provided databases.
- Provided consulting services jointly to plaintiff and defense counsel in a multi-plaintiff matter dispute involving misclassification of independent contractors in the floral industry. Services included analyzing paper and electronic records, reviewing company manuals and policies, creating numerous exposure models under various scenarios, and developing a settlement plan.
- Provided consulting services in connection with EEOC allegations of age discrimination in hiring, promotion, demotion and termination at a large biotechnology company. Services included performing statistical analysis of large human resource databases related to determining liability and calculating exposure estimates.
- Provided consulting services to city attorney in a number of single plaintiff-matters brought by police officers, fire fighters and other city agency employees with allegations including wrongful termination, discrimination, hostile work environment, and denial of promotion. Services included: examining case-related documents, performing labor market analyses to develop suitable mitigating scenarios, and building models to estimate potential damages.
- Provided consulting services to defense counsel in a donning and doffing case involving police officers in a California municipality. Services included analyzing employee datasets and reviewing work practices of the police department.
- Provided consulting services to defense counsel in a wrongful termination case involving a single-plaintiff retail employee with disabilities. Services included analyzing case-related documents to estimate potential exposure, working with a vocational rehabilitation expert to determine worklife expectancy and offset positions, and deposition testimony.



- Provided consulting services to defense counsel in several breach of contract cases involving overpayment of service charges by policyholders at an insurance company in multiple states. Services included determining class members, providing damages estimates using electronic databases, and working with opposing counsel's experts to determine settlement amounts.
- Provided consulting services to a large bank to assist in a marketing campaign to increase retention and expand services, and improve product targeting to consumer and business customers. Services included analyzing extensive electronic data for all bank customers over a two-year period, and creating models and statistical analyses to determine target customers.

Education

University of California, Los Angeles, Anderson School of Management
Masters of Business Administration

Columbia University
Bachelor of Arts, Economics and Political Science

Employment History

Resolution Economics LLC
2004 – Present: Director; Senior Manager; Manager; Senior Consultant

Analysis Group, Inc.
2001 – 2004: Senior Consultant; Consultant

Memberships

Society for Human Resource Management

EXHIBIT "C"

1/30/18

VIA EMAIL

Leon Greenberg
Attorney at Law
2665 South Jones Blvd. #E-3
Las Vegas, NV 98146
wagelaw@hotmail.com

Re: Michael Murry & Michael Reno v A Cab Taxi Service LLC, A Cab LLC & Creighton J. Nady
Special Master Project

Dear: Mr Greenberg

At you request we have reviewed the sample of daily trip sheets you sent over and have reviewed the information about this case that you have provided. As such we would like to submit this proposal to be considered for appointment as the Special Master for this project.

HSNO Background

HSNO is a forensic accounting firm. My office is in Irvine California, but we have multiple offices throughout the United States and London.

With over 40 years of experience, our team of forensic specialists is extremely skilled and knowledgeable in various fields of legal services. In addition, our professionals have a broad range of experience working closely with legal professionals and appearing as expert witnesses.

Our size and focus on forensic accounting makes us uniquely qualified to quickly respond special projects such as this one.

Scope

It is our understanding that this project will involve the computation of the hour worked by individuals in the class from the Daily trip sheets. These trip sheet include the shift start time, shift end time, breaks taken, and additional information regarding the number of fairs and additional information. Following the computation of hours, a comparison computation will be

performed to determine if the minimum wages paid are in compliance with minimum wage requirements.

It is our understanding that approximately 300,000 daily trip sheets are available and will be included in the analysis.

Proposal - 100% Analysis

The obvious crux of this project is the extraction of the critical data from the 300,000 trip sheets. We estimate that the input of the critical data will take between 45 and 60 seconds per record and between 3,750 and 5,500 hours for the entire data set. Additional hours will be required for Quality Control to insure the accuracy of the data and analysis of the data following extraction.

HSNO proposes employing a Data Input labor force supervised by existing HSNO staff with years of experience. This combination will insure the integrity of the data set and the computation of minimum wage. We estimate the cost of a 100% verification project with the parameters above could be between \$418,000 and \$550,000 to completion.

Proposal - Statistical Sampling

True Statistical sampling is very different from just selecting a sample of document and assuming the computed result is representative of the total population. HSNO would propose as an alternative a true statistical sample performed by a statistician and supervised by HSNO. HSNO could then take the resulting data and compute the actual damage with a high level of confidence. A brief description of Statistical sampling is below.

Random sampling is a statistical technique used to make inferences about an entire population, based on information gathered from a subset of the population. Sampling is used in all areas of research when it is impossible or cumbersome to obtain information about each member of a population. The benefit of random sampling methods results from the fact that the information obtained from the random sample is likely to be representative of the population from which it was drawn. According to the theory of probability, if all members of the population have an equal chance of being selected, then it is likely that the resulting sample will be unbiased and representative of the population.

For example, the determination of total hours worked per week, based on a random sample, is expected to agree with the corresponding population value. The theory of probability allows the specification of how far the population values might differ from their sample estimates, and therefore the accuracy of the estimate can be calculated. Statisticians specify the accuracy of estimates in terms of a confidence interval.

A confidence interval has three (3) components: A point estimate giving the best single numeric estimate of the quantity being estimated, a margin of error, and a degree of confidence that the true value of a parameter being estimated is within the confidence interval. Generally, the larger

the sample size, the smaller the confidence interval. There is no absolute standard for determining when the confidence interval is small enough. It is up to the user of statistics to evaluate when the accuracy of the confidence is adequate. Frequently, a 95% confidence interval is used, meaning that if the population was repeatedly sampled, 95% of the time the sample would contain the true mean, or average parameter value being sampled. The margin of error can be used to determine the range with in which the parameter value being sampled falls.

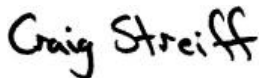
For a wage and hour class action case that involves hundreds or thousands of plaintiffs and voluminous data with respect to hours worked and compensation paid, statistical sampling can provide a reasonable estimate of damages while significantly reducing the cost of individually analyzing the time and payroll records of every class member. Sample size can be increased to obtain the confidence interval sought.

Conclusion

Statistical sampling is generally more time efficient and economically feasible for this type of analysis. HSNO is ready and willing to engage in a statistical analysis or a full analysis of the available data. When we have full access to the data set and specifics of the time frame available we will be able to refine our estimate of the cost.

Very truly yours,

HAGEN, STREIFF, NEWTON & OSHIRO, ACCOUNTANTS, P.C.



By: D. Craig Streiff, CPA/ABV, CFF, CITP

Craig Streiff, CPA, ABV, CFF, CITP
Partner

2415 Campus Drive Suite 225
Irvine, CA 92612
Office: 949.390.7500
Direct: 949.390.7469
Fax 949.390.7501
Email: CStreiff@HSNO.com



BIO/SUMMARY

Craig Streiff is a partner with HSNO in southern California. He specializes in financial evaluation of damage claims, including the measurement of economic damages involving cyber breaches, employee dishonesty, lost wages, business interruption, lost profits, contingent business interruption, extra expense, inventory, construction & surety claims, third-party damage claims, and personal injury. Mr. Streiff has preformed forensic accounting analysis on claims exceeding \$300M.

Mr. Streiff is a Certified Public Accountant (CPA) and Certified in Financial Forensics (CFF). Mr. Streiff is also Accredited in Business Valuation (ABV). The ABV credential proves his business ability and recognizes his extensive experience in business valuation including professional and regulatory standards, valuation methods, documentation and continuing education. Mr. Streiff has been engaged to review Family Limited partnerships and other Trusts for Fraud and miss management. He has also performed many earnings projections and business valuations related to family law matters and other partnership disputes.

Craig Streiff has the AICPA Certified Information Technology Professional (CITP) designation indicative of his experience and dedication to advanced technologies. He has consulted and participated in cases involving computer forensics, network security analysis, disaster recovery assessment, and electronic discovery. He is also a practice leader in Cyber Breach Damage Computations.

SELECT CONSULTING EXPERIENCE

- Computation of damages resulting from a Hacker infiltrating online ordering systems
- Forensic review of damages to Hotel & Casino after Hurricane Katrina - \$349M
- Forensic discovery and documentation of employee embezzlement spanning 5 years
- Computation of damages due to course of construction defects in large hotel towers
- Review of transaction and Expenses in Family Trust to verify transparency and Fiduciary Duties are followed.

SELECT INDUSTRY EXPERIENCE

- Wage and Hour
- Construction
- Casinos
- Electronics
- Family Trusts
- Aerospace

- Agriculture
- Hotels
- Medical Industries
- Manufacturing
- Retail Operations
- Restaurants
- Paper/Lumber
- Wafer Fabrication
- Employee Dishonesty
- Wrongful Termination
- Personal Injury
- Virtual Currencies
- Power Generation
- Intellectual Property
- Food Production
- Insurance
- Computers
- Cyber Breach
- Bitcoin and Digital Currency's
- Data Recovery
- Real Estate
- Mining

CERTIFICATIONS

- Certified Public Accountant - CPA
- Accredited in Business Valuation - ABV
- Certified Financial Forensics - CFF
- Certified Information Technology Professional - CITP

EDUCATION

- The University of Utah, Salt Lake City, Utah
 - Bachelor of Science – Accounting
- Annual Continuing Education Requirements

PROFESSIONAL AFFILIATIONS

- American Institute of Certified Public Accountants.
- California Society of Certified Public Accountants.

EXHIBIT "D"

SWART'S & SWART'S

CERTIFIED PUBLIC ACCOUNTANTS

January 31, 2018

Leon Greenberg
Attorney at Law
2965 South Jones Boulevard #E-3
Las Vegas, NV 89146

RE: Case No.: A-12-669926-C Michael Murray and Michael Reno vs. A Cab Taxi Service LLC, A Cab, LLC, and Creighton J. Nady

Dear Leon:

I would like to thank you for contacting me concerning the possibility of serving as a Special Master for case no.: A-12-669926-C Michael Murray and Michael Reno vs. A Cab Taxi Service LLC, A Cab, LLC, and Creighton J. Nady.

I have the experience and resources required to perform as a Special Master on this case. To that end, I am interested in the case and have no conflicts within my organization that would prevent any such appointment for myself.

If appointed, I will proceed with the urgency you had previously discussed with me. Please find attached my CV and Case List for your reference.

Sincerely,

SWARTS AND SWARTS, CPAs



George C. Swarts

GCS:das

Enclosures

Cc: File

GEORGE C. SWARTS, CPA, CGMA

Swarts & Swarts
CPA's Business Advisors & Consultants
10091 Park Run Drive Suite 200
Las Vegas, Nevada 89145
Office (702) 312-8111
Fax (702) 212-1198

SUMMARY OF QUALIFICATIONS

- Mr. Swarts has served as an expert witness in civil litigation in the Federal and State court systems for over 30 years.
- Audits of privately held and publicly traded companies and governmental agencies. Evaluation of financial feasibility of projects based on various financial constraints.
- Former gaming industry audit partner for the Las Vegas, NV office of Laventhol & Horwath.
- Projections of cash flow based on varying assumptions, including after tax cash flow analysis.
- Served as Examiner and Trustee in Bankruptcy Court, as Receiver in State and Federal Court and as Special Master and Receiver for the Federal District Court.
- Worked with the Atlanta and Seattle offices of the Federal Trade Commission in the administration of Telemarketing Fraud cases.
- Consultation with management regarding hotel and casino operations.
- Mr. Swarts was a member of the Nevada Gaming Commission when New Jersey instituted gaming. He was involved in Nevada's approval of New Jersey as a foreign gaming district. Assisted with the implementation of privatized gaming in Israel and Panama.
- Mr. Swarts served a member of the Board and Chairman of the Audit Committee of Primadonna Resorts, Inc. (a former NASDAQ company) and as a member of the Board of Directors and Chairman of the Audit Committee of First Security Bank of Nevada (a public reporting company).

EDUCATION

Bachelor of Arts, Accounting, Brigham Young University - 1968
Supplemental continuing education courses.
Seminars and Workshops as attendee and presenter.

Exhibit A

AA006299

CAREER PROFILE

Mr. Swarts has over thirty years' experience as a tax and financial consultant and expert witness in the real estate, medical, retail and gaming industries in the Las Vegas area. He has also worked as a lobbyist in the Nevada Legislature and represented clients before the Las Vegas City Council and the Clark County Commission. He is enrolled to practice before the Nevada Gaming Commission and Nevada Gaming Control Board. Mr. Swarts has been certified as an expert in Federal District Court, Federal Bankruptcy Court, State of Nevada District Court, and State of Delaware Superior Court. He has also served for over six years as Director and Chairman of the Audit Committee of Primadonna Resorts, Inc., a publicly held corporation.

Mr. Swarts was Partner in charge of the Gaming Industry Practice and Litigation Support for the Las Vegas office of Laventhol & Horwath. Prior to its merger with Laventhol & Horwath in 1982, he was the managing partner of Swarts, Bowler and Gamett, CPA's, a firm founded by Mr. Swarts in 1975. He is an experienced public speaker, and has delivered speeches on the Las Vegas economy and gaming industry in Las Vegas, Atlantic City, Monte Carlo, and Shannon, Ireland. He and his former partner Saul Leonard put on the Laventhol and Horwath Gaming Conference in Las Vegas and Atlantic City during Mr. Swarts' years as a partner in the firm.

In 1988, Mr. Swarts left Laventhol and Horwath and began his practice as George C. Swarts, CPA.

In 1995, Curtis G. Swarts joined the firm as tax partner and the current firm of Swarts & Swarts was formed.

George Swarts practices primarily in litigation support as an expert witness and as a Special Master and Receiver in both State and Federal District Courts. Listed below are cases that Mr. Swarts has worked on.

| <u>Description</u> | <u>Years</u> | <u>Matter</u> | <u>Depo/Trial Testimony</u> |
|--------------------------|--------------|---|---------------------------------|
| Dist. Ct. Expert Witness | 2016 | First 100, LLC, et.al. v. Raymond K. Ngan, et.al. | |
| Dist. Ct. Expert Witness | 2016 | Ribeiro Companies, LLC et.al. v. Commercial 9-12 Fund, LLC, et.al. | |
| Dist. Ct. Special Master | 2016 | GreenOne Holdings, Inc., et.al. v. 325 Edward Voloshin, Inc., an individual, et.al. | |
| Dist. Ct. Special Master | 2016 | Oasis Management, LLC v. 325 Fortune Investment, Inc., and Shui Yan Cheng, an individual, et.al. | |
| Dist. Ct. Expert Witness | 2015 | Ronni Council, et.al. v. Gillespie Office and Systems Furniture, LLC dba A & B Printing & Mailing, et.al. | |

GEORGE C. SWARTS
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|-----------------------------------|------|---|-------|
| Dist. Ct. Special Master | 2015 | Cindy Brinker v. Blue Diamond Liquor, LLC, Hae Un Lee, an individual, et.al. | |
| Fed. Ct. Appointed Examiner | 2015 | The Holder Group Sundance, LLC | |
| Dist. Ct. Appointed Payment Agent | 2015 | Oleksiy Skrypnyk Jr., et.al. v. David Fuller, Axiom Works, Inc., & Eleks, Inc., et.al. | |
| Dist. Ct. Expert Witness | 2015 | Las Vegas Salon Five, LLC dba Xpress Cuts & Rapunzel Reinvented v. American Family Mutual Insurance Company, et.al. | |
| Dist. Ct. Expert Witness | 2015 | The Litigation Trust of the Rhodes Companies, LLC, et.al. v. James M. Rhodes, et.al. | D |
| Dist. Ct. Expert Witness | 2015 | Commonwealth Land Title Insurance Company v. Mark A. Oiness, Kathy D. Oiness, et.al. | |
| Dist. Ct. Expert Witness | 2014 | Ahern Rentals, Inc. v. Ford Motor Company, et.al. | |
| Dist. Ct. Expert Witness | 2014 | David Bagley, Trustee of DCR Liquidation Trust, et.al. v. Todd Parriott, et.al. | D & T |
| Dist. Ct. Expert Witness | 2014 | 4V, LLC v. Rreef Global Opportunities Fund II, LLC, et.al. | D |
| Dist. Ct. Expert Witness | 2014 | Greener Vegas, Inc. dba Repurpose America v. Secured Fibres, Inc. aka Secured Fibres, et.al. | D |
| Dist. Ct. Expert Witness | 2014 | John Arthur Gilbert v. Coffey & Rader, CPA'S, et.al. | |
| Dist. Ct. Special Master | 2013 | Fortunet Inc. v. PlayBook Publishing LLC | |
| Fed. Ct. Expert Witness | 2013 | Paws Up Ranch, LLC v. Christopher Green, et.al. | D |
| Dist. Ct. Receiver | 2013 | Tarek Bissar, et.al. v. Cynthia Duffy, The Art of Learning, LLC, et.al. | |
| Dist. Ct. Expert Witness | 2013 | Vion Operations, LLC, et.al. v. Jay L. Bloom, et. al. | |
| Fed. Ct. Expert Witness | 2013 | Ahern Rentals, Inc. v. Navistar, Inc., et.al. | |
| Dist. Ct. Expert Witness | 2012 | Americana, LLC, et.al. v. Joseph L. Iuliucci | D |
| Dist. Ct. Expert Witness | 2012 | 2010-1 CRE Venture, LLC v. Industrial Plaza, LLC, et.al. | |
| Dist. Ct. Expert Witness | 2012 | Jelindo A. Tiberti, et.al. v. Renaldo M. Tiberti, et.al. | |
| Dist. Ct. Expert Witness | 2012 | Steve Eglash, et.al. v. The Siegel Group Nevada, Inc. | |

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|--------------------------|------|---|---|
| Fed. Ct. Expert Witness | 2012 | Mary Ann Sussex, et.al. v. Turnberry/MGM Grand Towers, LLC, et.al. | |
| Dist. Ct. Expert Witness | 2012 | Maria O. Zapata-Angulo v. Gabriel Velasquez-Mendizabel | |
| Dist. Ct. Expert Witness | 2011 | Voggenthaler, et.al. v. Al Phillips the Cleaner, Inc, et.al. | |
| Fed. Ct. Expert Witness | 2011 | United States of America v. De Rong Shang (aka Jason Shang), et.al. | T |
| Dist. Ct. Expert Witness | 2011 | Aimee Lynn Alterwitz v. Daryl Alterwitz, et.al. | D |
| Dist. Ct. Expert Witness | 2011 | Shoshone Cattle & Land Development Co. v. Deli Planet, Inc., et.al. | |
| Dist. Ct. Expert Witness | 2011 | Peter Eliades, et.al. v. Dolores Eliades, et.al. | |
| Dist. Ct. Expert Witness | 2011 | JPMCC 2006-LDP9 Stewart Avenue, LLC v. Universe at Sunrise Mountain, LLC, et.al. | |
| Dist. Ct. Expert Witness | 2011 | Devarajulu Katta, Aruna Katta v. Ram Janga, et.al. | D |
| Dist. Ct. Expert Witness | 2011 | Sameera Sbaih v. Liberty Mutual Insurance Company | |
| Dist. Ct. Expert Witness | 2011 | Douglas C. Terry, et.al. v. Greer Childers, Body Flex, Inc., et.al. | |
| Dist. Ct. Expert Witness | 2011 | Jenet Mraz v. George T. Wills, et.al. | |
| Dist. Ct. Receiver | 2010 | Yellow Book Sales and Distribution Company, Inc. v. B&S Capital, Inc. dba Half Dental, Inc. | |
| Dist. Ct. Expert Witness | 2010 | In the Matter Re: Zante, Inc. - Herbst v. Loomis | |
| Dist. Ct. Expert Witness | 2010 | Frank Boussad v. Hector Camacho, Ray Sandoval, Keith Easton, et.al. | |
| Dist. Ct. Expert Witness | 2010 | Doug Hitt, Homestead 2001, LLC, et.al. v. David Frank, Resort Ent. Co, LLC, et.al. | |
| Fed. Ct. Expert Witness | 2010 | CCR/AG Showcase Phase I Owner LLC v. United Artists Theatre Circuit, Inc. | |
| Dist. Ct. Expert Witness | 2010 | In the Matter of the Allan S. Bird Irrevocable Living Trust | |
| Dist. Ct. Receiver | 2010 | Neal Rooney v. Tony Byrne, et.al. (Oasis Laundry) | |
| Dist. Ct. Expert Witness | 2010 | In the Matter of the HUMAC BT Trust | |
| Dist. Ct. Expert Witness | 2010 | Watt Genton Coronado Bay, LLC v. Oxbow Construction, LLC | D |
| Fed. Ct. Expert Witness | 2010 | United States of America v. Eve Mazzarella | |

GEORGE C. SWARTS
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|--------------------------|------|---|-------|
| Dist. Ct. Expert Witness | 2010 | Jacobs Flooring LLC, et.al. v. TVI, Inc. dba Savers Thrift Department Store, et.al. | |
| Dist. Ct. Expert Witness | 2010 | Mary Estes, Deborah Brown. v. USA RealEstate and Property Management Team LLC, et.al. | |
| Fed. Ct. Expert Witness | 2009 | Ahern Rentals, Inc. v. Lexington Insurance Company | |
| Fed. Ct. Expert Witness | 2009 | American Nutritional Corporation v. Genisoy Food Co., Inc. | |
| Dist. Ct. Expert Witness | 2009 | Volvo Construction Equip. Rents Inc. v. NRL Rentals, LLC, et.al. | |
| Dist. Ct. Expert Witness | 2009 | George Santos; Elaine Long. v. Club One Acquisition Corp. | D & T |
| Dist. Ct. Expert Witness | 2009 | Robert Kline, Jr. v. Cheryl Howell, Dawna Upchurch, et.al. | |
| Dist. Ct. Expert Witness | 2009 | David R. Lanzkowsky, et.al. v. Andrew Cash, M.D., et.al. | |
| Dist. Ct. Expert Witness | 2009 | Thomas Larry Lawson, et.al. v. Carol Susaeta, et.al. | |
| Dist. Ct. Expert Witness | 2009 | Charles & Tracy Hepner v. Todd Butwinick, et.al. | D & T |
| Dist. Ct. Expert Witness | 2009 | William M. Moore v. M.J. Dean Construction, et.al. | |
| Dist. Ct. Expert Witness | 2009 | Dennis Chong, MD v. Carla LaCombe, et.al. | |
| Dist. Ct. Expert Witness | 2009 | Hardhat Enterprises, LLC v. Speedway Hospitality II, et.al | |
| Dist. Ct. Expert Witness | 2009 | George Kamel v. Greater Auto Auctions, Inc., et al | |
| Dist. Ct. Expert Witness | 2009 | PMI Financial v. Cash Systems Inc., et al. | |
| Dist. Ct. Special Master | 2009 | Metabolic Research v. Dr. David Summers | |
| Dist. Ct. Expert Witness | 2008 | United Rentals, Inc. v. Ahern Rentals, Inc. | |
| Dist. Ct. Expert Witness | 2008 | D.W. "Doc" Weiner v. Mission of Nevada, Inc. | |
| Dist. Ct. Expert Witness | 2008 | Townes Telecommunications Inc. v. VNU Inc. | D |
| Dist. Ct. Expert Witness | 2008 | The Muddy Valley Irrigation Co. v. Nevada Power Company | |
| Dist. Ct. Expert Witness | 2008 | Rich, Wightman & Co., CPAs, LLC v. Trevor Hall | |
| Dist. Ct. Expert Witness | 2008 | Burke & Associates, Inc. v. BJ's Cocktail Lounge West, LLC, et al. | |
| Dist. Ct. Expert Witness | 2008 | Emily Mainor Greenwood v. Mark L. Taylor | D |
| Dist. Ct. Expert Witness | 2008 | Front Row Sports v. Park Avenue Wholesale, Inc. | |
| Dist. Ct. Expert Witness | 2008 | Jenson Total Services, Inc. v. Thermal Dynamics, Inc., et al. | |

Exhibit 1

AA006303

GEORGE C. SWARTS
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| | | | |
|--------------------------|-----------|--|-------|
| Dist. Ct. Expert Witness | 2008 | Gilbert Hyatt v. CA State Franchise State Tax Board | D & T |
| Dist. Ct. Expert Witness | 2007 | Arlene Roepeke v Lori Jo Bossy | D |
| Dist. Ct. Expert Witness | 2007 | Morgan Stanley High Yield Securities, Inc. v. Hans Jecklin | |
| Dist. Ct. Expert Witness | 2007 | Frank Ellis, Jr. v. ACU-HON Corporation | |
| Dist. Ct. Expert Witness | 2007 | Bosley Publishing v. Lycoria Publishing | D |
| Dist. Ct. Receivership | 2007 | Diamond Resorts, LLC v. Molasky Pacific, LLC | |
| Dist. Ct. Expert Witness | 2007 | Yarbo, Ltd. dba Lake Mead Radiologists v. Gary McLellan, M.D. | |
| Dist. Ct. Expert Witness | 2007 | Steven Ashkinos v. Savvas Andrews | |
| Dist. Ct. Expert Witness | 2007 | Estate of Marc Simay | |
| Dist. Ct. Expert Witness | 2007 | Joseph Donnolo and Rich Ritzo v. Flamko, Inc | T |
| Dist. Ct. Expert Witness | 2006 | James Coplan | |
| Dist. Ct. Special Master | 2006 | Eric Rosenberg v. Michael Grasso | |
| Dist. Ct. Expert Witness | 2006 | Icon Las Vegas | |
| Dist. Ct. Receiver | 2006 | Marlene Warner v. Ronald Warner | |
| Dist. Ct. Expert Witness | 2006 | Edward R. DiRocco v. Ronald Smith (Estate of Charles F. DiRocco) | |
| Dist. Ct. Expert Witness | 2006 | Red Rock v. ATI | |
| Dist. Ct. Expert Witness | 2006 | CEG v. Co Energy | |
| Dist. Ct. Expert Witness | 2006 | Fratelli Di Vini v. Gruppo Pizzolo | |
| Dist. Ct. Expert Witness | 2006 | Nevada Cancer Center v. Pinnacle Medical Corp | |
| Dist. Ct. Special Master | 2006 | Nevada Space, Inc. | |
| Dist. Ct. Receiver | 2005-2006 | The Skin Institute, Candice Stewart v. Michael Mohlman | |
| Dist. Ct. Special Master | 2005-2006 | Sapphire | |
| Dist. Ct. Expert Witness | 2005-2006 | Laub v. Evans Walker | |
| Dist. Ct. Expert Witness | 2005 | Manuel v. Diamond Resorts | |
| Dist. Ct. Expert Witness | 2005 | Spencer v. Ahern | D & T |
| Dist. Ct. Custodian | 2005 | Romo v. Donald Roberts, M.D. | |
| Dist. Ct. Special Master | 2005 | Burks v. WMC Mortgage Corp. | |
| Fed. Ct. Expert Witness | 2004-2005 | United States v. Prabhu | |
| Dist. Ct. Expert Witness | 2004-2005 | Pat Clark v. C&K Limited Partnership | D |
| Dist. Ct. Receiver | 2004-2005 | Prabhu/Sarva v. Las Vegas Kidney Clinic | |
| Dist. Ct. Receiver | 2004-2005 | Home Builders Group v. Goeden/Rancho Mirage | |

Exhibit 1

AA006304

| | | | |
|-------------------------------|-----------|--|-------|
| Dist. Ct. Expert Witness | 2004-2005 | McKoy v. McKoy | |
| Dist. Ct. Expert Witness | 2004-2005 | Forrester v. Shaw | |
| Dist. Ct. Neutral CPA | 2004-2005 | Wells Fargo Bank v. Sunset Hills | |
| Fed Ct. Expert Witness | 2004-2005 | DiBattisto v. PCC World | D |
| Dist. Ct. Expert Witness | 2004-2005 | Hamilton v. Clark County | D & T |
| Dist. Ct. Expert Witness | 2004-2005 | Awada v. ShuffleMaster | D |
| Dist. Ct. Special Master | 2004-2005 | Goss v. Catania/Ft. Apache | |
| Dist. Ct. Expert Witness | 2004-2005 | Commercial Federal Bank v. Kapoloski | |
| Dist. Ct. Custodian of Record | 2004-2005 | Custer v. Aeon Records | |
| Dist. Ct. Special Master | 2004 | Pacific Legends v. Pacific Homes | |
| Dist. Ct. Special Master | 2003-2004 | Major Distributing v. Major Distributors | |
| Dist. Ct. Receiver | 2003-2004 | Vowell v. Tri-State Petroleum | |
| Fed. Ct. Expert Witness | 2003-2004 | Fisher v. L.V. Hilton | |
| Dist. Ct. Expert Witness | 2003-2004 | Executive Management v. Ticor Title | D |
| Dist. Ct. Special Master | 2003-2004 | Harris v. Mainor | |
| Dist. Ct. Receiver | 2003-2004 | Harris v. Mainor | |
| Dist. Ct. Receiver | 2003-2004 | Glassman v. Bruttomesso | |
| Dist. Ct. Expert Witness | 2003-2004 | Golden Route v. Stage Door | |
| Fed. Ct. Special Master | 2002-2004 | Island Riders v. Dream Car Rentals | |
| Dist. Ct. Receiver | 1999-2004 | Katzman c. Sweatt/Motor City | |
| Dist. Ct. Receiver | 1999-2004 | Medical Device Alliance, Inc. | |
| Dist. Ct. Receiver | 1999-2004 | Motor City III | |

EXHIBIT "E"



P B T K
**PIERCY BOWLER
TAYLOR & KERN**
Certified Public Accountants
Business Advisors



STATEMENT OF QUALIFICATIONS
and PROJECT PLAN:

**For Neutral Retention to
Determine Hours Worked**

Case No. A-12-669926
District Court, Clark County, NV

Michael Murray and
Michael Reno v.
A Cab Taxi Service, LLC; A Cab,
LLC; and
Creighton J. Nady

PBTK CONTACT:
Mike Rosten, CPA, CFE

(702) 384-1120
mrosten@pbtk.com



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January 31, 2018

The Honorable Kenneth Cory
Eighth Judicial District
200 Lewis Avenue
Las Vegas, NV 89155

Dear Judge Cory:

We appreciate the opportunity to submit our proposal to provide services to the court, specifically to determine the daily records and create the per pay period records required by the law. Then, calculate the minimum wages due, as the product of the hours worked and minimum wage in effect, per pay period. The resultant amount will be compared against actual payroll, per applicable payroll period as derived from QuickBooks accounting records, for the purpose of computing any shortfalls in wages paid.

We believe we are the best choice for these services because we are the only Nevada-based firm that truly maintains technical resources and excellence at least on the level of the large national firms while providing superior professional service with a personal touch that only a less bureaucratic firm can achieve.

We have a dedicated forensic accounting team that works regularly with attorneys and judges as court-appointed experts and investigators, creating court-ready reports.

We believe that our detailed response to the request for proposal demonstrates that:

- We have extensive experience in forensic accounting, auditing and data mining
- We are the largest Nevada-owned firm performing audits and advisory services
- We are committed to providing our clients with technical excellence and superior service. Our principals and managers and/or seniors will be onsite throughout the engagement, not just a day or two at the beginning and end.

As you read our proposal, you will see that we have the necessary experience, technical expertise and other resources required for an engagement of this magnitude.

Thank you in advance for your consideration.



Michael L. Rosten, CPA, CFE, Shareholder

PBTK – The Right Choice

PBTK – THE RIGHT CHOICE FOR TECHNICAL EXCELLENCE AND SUPERIOR SERVICE

“Quality is never an accident; it is always the result of high intention, sincere effort, intelligent direction and skillful execution; it represents the wise choice of several alternatives ...” - Will A. Foster

This is not only our motto, but also the objective of everything we do. We have the experience, technical expertise and other resources typically only found in large national firms, and provide superior service with a personal touch that only a less bureaucratic firm can achieve.

Piercy Bowler Taylor & Kern (referred to herein as “PBTK” or “the Firm”) has offices in Reno, Las Vegas, and Salt Lake City and is the largest Nevada-owned accounting firm in Nevada. Our Las Vegas office is the second largest office of any firm in the Las Vegas area. Currently, we have a staff of approximately 75, including approximately 30 CPAs and approximately 30 auditors.

FIRM QUALIFICATIONS AND EXPERIENCE

Talent, Experience and Technical Resources. Technical excellence and superior service is the objective of everything we do and we back these ideals with talented and experienced professionals. Our goal is to put more knowledge and experience on each assignment than our competitors, unlike most national firms that plan to push tasks to the lowest staff level or smaller firms that have not made adequate investment in resources.

In other words, our business strategy is to be the best with quality assurance processes designed to achieve that result.

Howard B. Levy, our Director of Technical Services, is one example of our investment in technical resources. Mr. Levy co-authored a risk-based audit manual commercially marketed to and used by many firms throughout the United States and elsewhere in the world. He has also served on standard-setting committees of the AICPA and provided technical consulting services to the United States Government Accountability Office (GAO), among others.

Our human resources policies are designed find, hire, and retain the best and the brightest. Periodic performance evaluations of associates through principals, competitive compensation, accelerated advancement for high achievers, matching technical talents and personal characteristics to engagement requirements, and timely continuing professional education and on-the-job training are key elements of these policies.

The primary focuses of our accounting and auditing practice for more than 20 years has been government, not-for-profit, construction, and gaming industries in Nevada and Utah. Prospective clients are screened to ensure that the principals meet our high standards of integrity and business ethics. We believe that the image of our Firm is reflected in the image of our individual clients.

Engagement Scope & Objectives

Based upon the Second Amended and Supplemental Complaint filed August 19, 2015 (“Amended Complaint”), we understand that A Cab Taxi Services, LLC and A Cab, LLC (the “Defendants”) have been accused of not paying the minimum wage required by Nevada’s Constitution, Article 15, Section 16, to persons employed as taxi cab drivers. The Amended Complaint states that there are at least 200 putative class action members.

Defendants have not electronically maintained source data for time and attendance data for the taxi cab drivers, but claim to have retained daily Trip Sheets for each taxi cab driver employed.

The objective of the subject Court-ordered neutral retention will be:

1. Create an electronic database by employee for hours worked, subject to retrieval by:

Employee and Individual Date(s) Worked

2. Based upon the actual hours worked determined from Trip Sheets will multiply by applicable minimum wage in effect for each payroll period, resulting in the minimum wages due.
3. The minimum wage due by employee will then be compared against the actual payroll per period, as maintained in QuickBooks accounting records of the Defendants.
4. Any wage shortfalls will be reported to the Court.

Project Plan

Attorney Leon Greenberg informed us that around 300,000 relevant Trip Sheets were produced by the Defendants, spanning the years 2007-2015 (“Scope Period”). We received and have analyzed sample Trip Sheets, for Michael P. Murray (TA# 24453) and Michael Reno (TA# 17799). Accordingly, we understand that the daily Time Start is contained in the upper right-hand corner of the first page and Time End is contained in the lower right-hand corner of the second page. Ancillary information that may be insightful includes various date/time notations on meter reading details, fuel-up receipts and daily Validated Drop tickets. Further, times for snack, meal and breaks are in the lower right-hand corner of the first page. Due to allegations in the Amended Complaint, we request appropriate guidance on identifying misreporting in those data fields, which is considered important to our efficient and effective extraction of information regarding hours worked. If there is not a mechanism to identify such alleged misreporting, please so state.

A parallel analysis will be performed on the QuickBooks accounting records, resulting in wages by individual per payroll period, for comparison against the minimum wages computed from Trip Sheets.

Minimum wages by individual per payroll period will be determined by multiplying hours worked by the applicable minimum wage; those minimum wages will be compared against actual wages, to determine any shortfalls.

Engagement Approach (in order of priority/timing):

- Obtain a Court-order or Minute-order, authorizing PBTK services on behalf of the Court, which should incorporate the hourly personnel rates outlined elsewhere herein. Our appointment is anticipated to be in accordance with Nevada Rule of Civil Procedure 53, which will give us standing with the Court for purposes of this instant dispute.
- Initial Kickoff Meeting with Plaintiff and Defense counsel, to discuss issues and concerns prior to engagement performance. Concurrently, obtain supporting records relevant to our appointment, to include Trip Sheets, lists of cab drivers with cab assignments, QuickBooks accounting database(s) containing wage payment histories by individual. If we determine that there was another third-party payroll service/agent, we will also obtain that information.
- Determination of the individual class members (“Class Members”), which will be our effective control point for assembling a record of hours worked by employee.
- Establish the dates of employment for each Class Member, to establish an initial expectation of tenure within the Scope Period.

NOTE: The previous two procedures may be irrelevant, if, for example, the existing Trip Sheets themselves are the best evidence of employee/cab existence, hours worked and employment tenure.

- A “Beta Test” team, comprised of one or more of the assigned Key Personnel, will be dedicated to design data accumulation worksheets and to test data extraction from Trip Sheets. This process testing phase is considered critical to the larger data management project, to identify and streamline any obstacles to efficient and effective performance of the dedicated Input Team.
- The data input template generated by our “Beta Test” team will be circulated among counsel and the Court, to illicit suggestions and comments, which we will consider in our neutral role.
- From each Trip Sheet, we will extract the following data [See sample for Michael Reno, attached]:
 - Taxi cab driver name.
 - Taxi cab driver number (TA#).
 - Start Time, with hour and minutes (e.g., 01:15 or 12 hours later 13:15). Although the Start Time contains seconds, since they are omitted from End Time, that variable becomes meaningless. Further, timing under one minute will likely lack significance.
 - End Time, with hour and minutes (e.g., 08:15 or 20:15).
 - Breaks taken in hours, to be the aggregate of Breaks, Snack and Meals. These will be individually entered within one worksheet cell (e.g., for break, meal, break: Sum of 1.0 + 0.5 + 0.5, which would result in 2.0).

- If there is illegible or otherwise corrupted time-stamping, we will look for other alternative times, within that Trip Sheet or perhaps filed with the immediately prior or subsequent one. For example, Taxipass Voucher(s) and Totals, Meter Time. It should be noted that one of the samples provided to us (A CAB 01471) is for Cab #1323 on October 8, 2010; however, the meter details is for cab # 2323, a possible mismatch in filing of data (#1323 v. #2323). Circumstances such as this will require the investment of unanticipated/unbudgeted problem resolution time. See highlighting, on attached sample.
- For any anomalies, illegibility or suspected records/data exceptions, we will devise and use a Coded System, which will be contained in its own separate field.
- We will attempt to resolve anomalies and data exceptions by inquiry of counsel, which will be on a joint basis. For example, the previous apparent mismatch between Cab #1323, filed with meter details that appear to be for Cab #2323, which may simply be the result of a filing error.
- Each member of the Input Team will have a dedicated computer for utilization on the project, including read/write access to a centralized file location on our internal Computer Network.
- Periodic data input control checks will be cross-performed by the Input Team, amongst themselves, on a routine basis.
- A master file will house the input data, only accessible by Key Personnel. Data will be incorporated into this master file, only after quality control checks and analyses have been performed. For example, direct tracing of data input back to source PDF. Also, overall analytics for individual taxi cab drivers, total hours per day, total hours per week, etc.
- Multiple archived iterations of the master file will be maintained, to protect and preserve the input of data. This will follow a three stage backup process with three full time-phased backups being available at any point-in-time, performed no less frequently than daily. This will be in addition to our routine ongoing Network backup processes.
- Once an hours-worked database has been created, those hours worked will be extended at the applicable minimum wage in effect, resulting in a computed minimum wage due per employee.
- A separate database of actual employee wages paid by payroll period will be developed from QuickBooks or third-party payer accounting records, concurrent with our analysis and extraction of Trip Sheets.
- For determining possible wage shortfalls by employee per period, actual wages paid per payroll period will be compared against the minimum wages computed by PBTK. We plan to consider all categories or pay for the exercise, with the exception of tips.

Key Personnel

Michael L. Rosten, CPA, CFF, CFE, Shareholder



6100 Elton Avenue, Suite 1000, Las Vegas, Nevada 89107
Email: MRosten@pbtk.com
Phone: 702-384-1120
Fax: 702-870-2474

Ask Mike about acclimating to the Mojave Desert, hiking up Mt. Charleston (at 11,916 feet it's the highest point in Clark County) and Mt. Whitney (the highest point in the contiguous United States at 14,505 feet) or the summers he spent hanging out in Hawaii when he was a teen.

Michael L. Rosten directs the forensic accounting and litigation services at PBTK, which includes fraud investigations. In this capacity, he focuses on sifting through financial transactions to resolve allegations or evaluate suspicions, interprets that transactional data and then organizes that information into easy to understand reports for use by counsel, or presentation in court.

Industries

Real estate development and operation, construction, retail establishments, Special Master on accounting issues, court-ordered retention on accounting matters, jointly retained as neutral party for disputes involving accounting matters.

Services

Forensic accounting, fraud investigation, damage calculations (lost profits, contract, etc.).

Education: Bachelor of Science – Accounting, California State University, Bakersfield

CPA Certifications and Permits: Nevada, California, Texas

Other Certifications: Certified Fraud Examiner, Certified in Financial Forensics, Certified Valuation Analyst, and Master Analyst in Financial Forensics

Memberships: American Institute of Certified Public Accountants, Association of Certified Fraud Examiners, National Association of Certified Valuators and Analysts, and Nevada Society of Certified Public Accountants.



Court-ordered Engagements (Descending chronological order)

- Guardianship of Garrett Dosch, an Adult Ward
Eighth Judicial District, Nevada
Special Master – Forensic Accounting as to Trustee
No. G-99-020357
- Ansell v. Ansell
Eighth Judicial District-Family Division, Nevada
Court Appointed Neutral, Financial Forensics & Business Valuation
No. D-15-521960-D
- Maurice Stone v. Terence O’Reilly v. T&M Controls, LLC
Eighth Judicial District, Nevada
Special Master – Forensic Accounting of T&M Controls, LLC
No. A-15-726525-C
- Robert Green (class representative) v. Alan Waxler Group
United States District Court, District of Nevada
Court-ordered Accounting on settlement
No. 2:09-CV-00748
- Kelly Burney-Petersen v. Kevin C. Petersen
Eighth Judicial District, Nevada
Court-ordered Accounting: medical practice / retail businesses
No. D-12-473405-D
- Alexander R. Sardarian v. Natalia Vasilevica
Superior Court of California, County of Los Angeles
Evidence Code §730 Forensic Accounting Expert
No. BD-570633
- Multibank 2009-1 CML-ADC Venture, LLC, et al v.
James P. Manning, et al
Special Master to the Honorable Mark R. Denton
Eighth Judicial District, Nevada
No. 11-A-652642
- CCS Investments, et al v. CLK Investments, et al
Eighth Judicial District, Nevada
No. 06-A-521564

Thomas G. Green, MBA, CIA, Director of Internal Audit



9980 South 300 West, Suite 200, Sandy, UT 84070

Email: Thomas.Green@pbtk.com

Phone: 801-990-1120

Fax: 801-285-7401

Ask Tom about the most recent screenplay he is working on, or about his knack for being in the “right place at the right time,” like being in Berlin shortly after the Wall came down. Having traveled to over 25 countries, compare travel notes with Tom.

Tom Green directs the Firm's non-gaming related internal audit services practice. Prior to joining PBTK, he performed / supervised internal audit services for two international CPA firms, a national consulting firm, a global 100 company, an international non-profit organization, and a health products company. Tom frequently performs a variety of internal audit / regulatory compliance services for financial institutions, SAS 70 (currently SOC) reviews, Sarbanes-Oxley compliance testing and litigation support services. He is the past President of the Salt Lake City Chapter of the Institute of Internal Auditors (IIA), and assisted Utah Valley University in establishing its Internal Audit Program.

Industries

Financial Institutions, Airlines, Direct Selling, Healthcare and Health Products, Oil and Gas, Gaming, Mining.

Services

Internal auditing and regulatory compliance, Internal Control Design and Effectiveness Testing, Litigation Support, Business Process Improvement, FCPA, Quality Assurance Reviews

Other Experience

Director, Experis Finance (formerly Jefferson Wells), Salt Lake City, UT

Chief Auditor, Nature's Sunshine Products, Provo, UT

Manager, Grant Thornton, LLP, Salt Lake City, UT

Education

MBA, Accounting and Internal Audit, Louisiana State University

Bachelor's in Political Science, Brigham Young University

Certifications, permits, awards, distinctions

Certified Internal Auditor (CIA); Advisory Board Chairman, Utah Valley University's (UVU) Internal Audit Program; Accounting and Auditing Instructor, University of Phoenix; Frequent Guest Lecturer, University of Utah's School of Accounting; Adjunct Faculty, UVU; Member of the Institute of Internal Auditors

Representative Clients

Chase Bank of Texas, Zions Bank, Woodlands Commercial Bank, Bank of Jackson Hole, First Montana Bank, America West Airlines (currently US Airways), Sky West Airlines, Dynegy, US Energy, Barnes Bank, America First Credit Union, America Benefit Plan Administrators (currently Zenith American Solutions), Valley Mental Health, Questar Gas, MonaVie, USANA, DownEast Outfitters, Utah Bar Association, Big 5 Sporting Goods, Ryland Homes, Specialty Labs, Silver State School's Credit Union, Boyd Gaming, Mineral Ridge Mining, Clark County.

Tricia J. Cook, CFE, Senior Associate



6100 Elton Avenue, Suite 1000, Las Vegas, Nevada 89107
Email: tjcook@pbtk.com
Phone: 702-384-1120
Fax: 702-870-2474

Ask Tricia about all the places her children get to travel without her, and why she lets them.

Tricia J. Cook is a senior forensic analyst with the forensic accounting and litigation services at PBTK, which includes fraud investigations. In this capacity, she assists in sifting through financial transactions to resolve allegations or evaluate suspicions, interpreting that transactional data and then organizing that information into easy to understand reports for use by counsel, or for presentation in a court-of-law. She has worked in litigation support since 2005.

Industries

Real estate development and operation, construction, retail establishments, court-ordered retention on accounting matters, jointly retained as neutral party for disputes involving accounting matters

Services

Forensic accounting, fraud investigation, damage calculations (lost profits, punitive damages, contract damages, etc.)

Education

Bachelor of Science – Hotel/Restaurant Management, Northern Arizona University, Flagstaff
Associates Degree – Business Administration, Flathead Valley Community College, Montana

Other Certifications

Certified Fraud Examiner

Memberships

Association of Certified Fraud Examiners



Court-ordered Engagements

- Guardianship of Garrett Dosch, an Adult Ward
Eighth Judicial District, Nevada
Special Master – Forensic Accounting as to Trustee
No. G-99-020357
- Ansell v. Ansell
Eighth Judicial District-Family Division, Nevada
Court Appointed Neutral, Financial Forensics & Business Valuation
No. D-15-521960-D
- Maurice Stone v. Terence O’Reilly v. T&M Controls, LLC
Eighth Judicial District, Nevada
Special Master – Forensic Accounting of T&M Controls, LLC
No. A-15-726525-C
- Alexander R. Sardarian v. Natalia Vasilevica
Superior Court of California, County of Los Angeles; Central District
Evidence Code §730 Forensic Accounting Expert
No. BD-570633
- Multibank 2009-1 CML-ADC Venture, LLC, et al v.
James P. Manning, et al
Special Master to the Honorable Mark R. Denton
Eighth Judicial District, Nevada
No. 11-A-652642
- CCS Investments, et al v. CLK Investments, et al
Eighth Judicial District, Nevada
No. 06-A-521564
- Watkin Optical v. Fashion Outlets of Las Vegas, et al
Eighth Judicial District, Nevada
No. 04-A-494857

Budget Considerations

Ultimately, the budget is a result of two variables, time required to perform project procedures and the hourly rate charged. We have structured an engagement team with three components:

1. Management and Quality Control, front-line and overall
2. Input Team
3. QuickBooks Analysis Team

We have estimated the budget under two scenarios, the lower with an estimated total cost of approximately \$105,000 (Scenario One); the second with an estimated total cost of approximately \$220,000 (Scenario Two).

Scenario One. This budget estimate is based upon 15 seconds per Trip Sheet for data extraction, which correlates into 240 Trip Sheets per hour. Reserving approximately 20% for management, administration and quality control, plus an additional effort for determining actual wages paid, we have budgeted as follows:

- Management/Administration/Quality Control: 100 hours @ \$250/Hr. = \$ 25,000
 - Front-line Administration/Quality Control: 100 hours @ \$130/Hr. = \$ 13,000
 - QuickBooks Analysis Team: 100 hours @ \$130/Hr. = \$ 13,000
 - Input Team, staffing of around five individuals: 1,050 hours @ \$50/Hr. = \$ 52,500
- | | |
|-------|------------------|
| TOTAL | <u>\$103,500</u> |
|-------|------------------|

Scenario Two. This budget estimate is based upon 45 seconds per Trip Sheet for data extraction, which correlates into 80 Trip Sheets per hour. Reserving approximately 20% for management, administration and quality control, plus an additional effort for determining actual wages paid, we have budgeted as follows:

- Management/Administration/Quality Control: 150 hours @ \$250/Hr. = \$ 37,500
 - Front-line Administration/Quality Control: 300 hours @ \$130/Hr. = \$ 39,000
 - QuickBooks Analysis Team: 100 hours @ \$130/Hr. = \$ 13,000
 - Input Team, staffing of seven to ten individuals: 2,600 hours @ \$50/Hr. = \$ 130,000
- | | |
|-------|-------------------|
| TOTAL | <u>\$ 219,500</u> |
|-------|-------------------|

Realistically, the actual budget will likely fall between these two estimates, quite possibly at the mid-point of \$160,000. The efficiency and effectiveness of the Input Team will be evaluated on a continuous basis, with necessary staffing modifications implemented immediately on an as-needed basis.

Deliverables

At the conclusion of our process, we will prepare a schedule of total hours worked for all class participants combined over the years 2007-2015 and hours worked by individual class participant over that timeframe. Those hours worked, as summarized from the Trip Sheets, will be extended at the applicable minimum wage. The resulting minimum wage will be compared to actual wages paid, to determine whether each employee received a minimum wage per payroll period. For those with indicated wage shortfalls, we will so identify in the master minimum wage shortfall database, which will be reported by us as total wage shortfall by employee, along with shortfall details by payroll period.

We anticipate issuing a Draft Report, for comment, directly to each of the attorneys, Attorney Greenberg for Plaintiffs and Attorney Rodriguez for Defendants (the "Attorneys"). A one-week comment period is planned; this will be extremely tight, but is designed to fit within the 45-day period of performance for this effort, which we understand has been imposed by the Judge.

Final results will electronically be filed directly with the Court, with a courtesy copy emailed directly to the Attorneys. We will support any further information needs of the Court or the Attorneys on a specific request basis. For example, daily, weekly, monthly or yearly hours worked. As mentioned previously, the second field for Start Time will be omitted from data extraction, which the transmittal letter will so specify.

Retention Terms

Standard terms of our typical engagement letters should be incorporated into the Court Order for our retention as Special Master:

- Our services will be performed in accordance with the standards for consulting services established by the American Institute of Certified Public Accountants (AICPA). Among other things, those standards require that we complete our assignments with integrity and objectivity. As defined in the AICPA's Code of Professional Conduct, objectivity is "a state of mind, a quality that lends value to a member's services. The principle of objectivity imposes the obligation to be impartial, intellectually honest, and free of conflicts of interest."
- Consulting services are intended only to assist management in meeting its operational, financial oversight, or other objectives, not to make significant management decisions or to perform other significant management functions directly. In other words, our services will be limited to information gathering and communication, advice and recommendations for you and your staff's consideration and possible acceptance and implementation. We will not accept responsibility for such management decisions or functions.
- An advance retainer of \$25,000 will be required for this matter, payable upon engagement, to be applied against our final bill for the contracted services. Fees will be billed, together with out-of-pocket expenses, twice monthly as the work progresses, and our invoices will be payable upon presentation. Our invoices

will be sent directly to the Defendant with a courtesy copy provided to the Court. Payment will be required within two weeks of invoicing; it is understood and agreed that failure to pay our invoices within two weeks may result in discontinuance of our services, particularly if the advance retainer is exceeded by the cumulative funds received, including the \$25,000 advance retainer.

- We do not warrant or predict the development or outcome of this matter, and it is agreed that our fees and the payment of our invoices for this engagement are not to be contingent upon such outcome.
- We are not presently aware of any relationships or circumstances that we believe might be construed as a conflict of interest, but agree to advise you accordingly should any arise. However, our acceptance of this engagement shall be subject to the completion of our normal conflicts of interest search procedures and the satisfactory resolution of any possible conflicts identified as a result thereof. In the unlikely event that a potential conflict of interest or other issue arises, which in our judgment affects our ability to provide these services in accordance with applicable ethical or other professional standards, we may be required to suspend our services until a satisfactory resolution can be achieved. Should we terminate our services and resign from the engagement, it is understood and agreed that any professional fees incurred through such termination would be due and payable.
- All workpapers, documents and electronic files prepared or accumulated by us in support of our reports will remain our property at all times and will be retained by us for a limited time in accordance with our normal records retention policies and practices after which they will no longer be available. Management is responsible to maintain its own records in support of financial statements. Accordingly, we will not be responsible to the Company for loss or damage to our workpapers as a result of catastrophic events or physical deterioration. Original documents and other records provided to us in connection with our engagement will be returned as soon as practical following its conclusion.
- We will be subject to working with the data provided to us by counsel for the Plaintiff and Defendant. While we will attempt to assess the data provided for consistency and omissions, this engagement should not be considered a financial forensic investigation. Accordingly, the Court grants Michael Rosten and Piercy Bowler Taylor & Kern quasi-judicial immunity for purposes of performing those procedures specified by or arising from duties under this Court Order to Appoint Special Master in accordance with NRCP 53, for the A Cab minimum wage class-action labor dispute.

Driver Name **Reno, Michael** Cab # **1323**

Date **10/8/2010**

TA# **17799** Med. **2**

Shift **03-02**

Total Fares **177.70** Safe# **1**

Time **10/8/2010**

Not on meter + **0** Drop# **184182**

Start **2:58:39 AM**

VIP/CPO - **0**

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.

Radio Calls **3**

Charges - **14.00**

\$ Per Gallon **2.699**

Coupons - **0**

of Gallons **6.24791234**

Turn-In = **163.70**

Total Gas Cost **\$18.082581**

Req *(initials)*

600
Write corrections in the space provided above.

| | Total Fare (1) | Total Miles (4) | Paid Miles (5) | Trips (6) | Accu.T.Pass | Odometer |
|-------|----------------|-----------------|----------------|-----------|-------------|----------|
| End | 274.49 | 838 | 599 | 32 | 573.59 | 299716 |
| Start | 096.79 | 730 | 552 | 19 | 559.59 | 299604 |
| Diff | 177.70 | 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 | 26 Alaska | 1850 | 4:40 | 4:51 | 1 | |
| 2 | 12 STAND | HOOPER | 15.50 | 6:15 | 6:28 | 2 | |
| 3 | 17 STAND | Phoenix Bureau | 21.90 | 7:38 | 7:56 | 2 | |
| 4 | 12 STAND | SPRINGFIELD | 10.90 | 8:13 | 8:24 | 1 | |
| 5 | 12 STAND | CAESAR | 19.50 | 9:12 | 9:32 | 2 | |
| 6 | 12 STAND | OWEN (Anville) | 10.30 | 10:05 | 10:15 | 1 | |
| 7 | 12 STAND | Bellaire | 10.90 | 10:28 | 10:31 | 2 | |
| 8 | 12 STAND | (M) K... (BANKS) | 14.50 | 10:48 | 10:59 | 2 | |
| 9 | 12 STAND | (M) ... | 14.10 | 11:41 | 11:55 | 2 | |
| 10 | 12 STAND | (M) ... | 8.10 | 12:15 | 12:22 | 2 | |
| 11 | 8 FOLMS | VENICE | 8.50 | 12:40 | 12:50 | 2 | |
| 12 | 12 STAND | ORCHARD BEACH | 12.10 | 1:20 | 1:33 | 2 | |
| 13 | 12 (B) TEDDY | SAHARA | 7.10 | 1:59 | 2:10 | 2 | |

| | | | | |
|--|--------------------------|-------|------------------|-----------|
| 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 |

A CAB 01470

AA006323

< Up **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 REGUS \$ 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 REGUS \$ 7.73

Total Sale \$ 7.73

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

End Totals

TAXI PASS 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

A Cab1
1111 Valley Blvd
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: RFNO, 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 USD 164.00

RFNO, MICHAEL
10/08/10 15:35:35

| | | |
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Time End 10 OCT 8 2
(stamp here)

A CAB 01471

Driver Signature Michael Remo

AA006324

EXHIBIT "F"

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

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

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

13 Plaintiffs,

14 vs.

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

17 Defendants.

) Case No.: A-12-669926-C

) Dept.: I

) **ORDER GRANTING**
) **PLAINTIFFS' MOTION TO**
) **APPOINT A SPECIAL MASTER**

) **Hearing Date: January 25, 2018**
) **Hearing Time: 9:00 a.m.**

18
19
20 On January 25, 2018, with all the parties appearing before the Court by their
21 respective counsel as noted in the record, the Court granted plaintiffs' motion for
22 rehearing of plaintiffs' prior request to appoint a special master pursuant to Nev. R.
23 Civ. P. 53, such request being made as part of Plaintiffs' Motion for Class Certification
24 originally filed on May 19, 2015. Such request was originally denied by the Court in
25 its Order entered on February 10, 2016. In revisiting that prior order and entertaining
26 the argument of counsel for the parties at a continued hearing held on February 2,
27 2018, the Court hereby finds:

28 The parties do not dispute that the wages paid the class members every pay

1 period are accurately set forth in the preserved Quickbooks records of defendant A-
2 Cab. The parties cannot, at this time, present to the Court any agreed upon record of
3 the total hours worked during each of those pay periods by each class member.
4 Plaintiffs have maintained throughout this litigation that defendants failed to keep a
5 record of the total hours worked by each of the class members per pay period as
6 required under NRS 608.115. NRS 608.115 requires an employer to “establish and
7 maintain records of wages for the benefit of his or her employees, showing for each
8 pay period.....[t]otal hours employed in the pay period by noting the number of hours
9 per day.” Defendants have maintained that the only way to determine the hours
10 worked by the plaintiffs and the class members is to consult the tripsheets. Defendants
11 assert that those tripsheets set forth an accurate record of the amount of time that the
12 plaintiffs and the class members worked. Yet those tripsheets do not show the “total
13 hours employed in the pay period.” They record the time of day a taxicab driver started
14 their shift, the time of day they ended that shift, and the amount of non-working break
15 time that occurred during the shift.

16 In light of the above, the Court finds that the appointment of a Special Master is
17 the appropriate solution to determine the hours worked each pay period by each class
18 member and the amount of minimum wages, if any, that each one is owed based upon
19 A Cab’s records. The Special Master is being appointed to report on the hours
20 worked, and the wages paid, as documented in A Cab’s admittedly accurate records; to
21 what extent that information in those records demonstrates wages of less than the
22 minimum wage (that “lower tier” rate is \$7.25 an hour since July 1, 2010) were paid
23 during any pay periods; and the amount of any such minimum wage deficiencies for
24 each class member.

25 The Court finds such a Special Master appointment pursuant to NRCP Rule
26 53(b) is appropriate in respect to the class members’ claims that are established by the
27 records the Special Master will review. Such claims will not require any determination
28 by a jury and must be determined as a matter of law based upon those records. The

1 Court also finds that such a Special Master appointment is appropriate under NRC
2 Rule 53(b) as the resolution of the class members' claims present complicated issues.
3 Whether minimum wages are owed for any particular pay period is quite simple when
4 the relevant information (hours worked and wages paid) is known. But in this case that
5 information must be gathered from over 200,000 trip sheets, a complex process.
6 Similarly, performing that calculation on many thousands of pay periods for
7 approximately 1,000 class members is also complicated and laborious.

8 The Court also finds a compelling imperative in so appointing a Special Master,
9 at defendants' expense, to perform this task is found in the Nevada Constitution, which
10 provides for the most stringent protections for Nevada's employees to ensure they are
11 paid the required minimum wage. It also directs this Court to grant all relief available
12 to effectuate its purpose of securing the payment of minimum wages owed to Nevada
13 employees. Therefore,

14 IT IS HEREBY ORDERED that is
15 appointed Special Master in this case by the Court. The purpose of such Special
16 Master appointment is to determine for each class member, based upon the hours of
17 work set forth in their trip sheets for each pay period, and the wages they were paid in
18 each such pay period as set forth in A Cab's Quickbooks records, the unpaid minimum
19 wages they are owed by A Cab pursuant to Article 15, Section 16, of Nevada's
20 Constitution (the "MWA") under the "lower tier" or "health insurance provided"
21 minimum wage rate. That determination is to be made for all class members for all pay
22 periods falling entirely within the class period of October 8, 2010 through December
23 31, 2015. That determination is also to be made for those class members who were
24 granted a statute of limitations toll pursuant to this Court's Order entered on June 7,
25 2017 for all pay periods occurring entirely after the statute of limitations toll date listed
26 for them in Ex. "A" of that Order and prior to December 31, 2015. In determining the
27 hours of work shown by a trip sheet, the Special Master shall accept as correct the
28 characterization of time as "breaks" or "meals" or non-working time in the trips sheet

1 as accurate and subtract all such time from the interval between the start and end time
2 for the shift as recorded on the trip sheet. In determining all wages paid to a class
3 member during a pay period the Special Master shall include all items of taxable
4 income paid by A Cab to the class member during the pay period as recorded in A
5 Cab's Quickbooks records but shall not include any amounts identified as "Tips" or
6 "Tips Supplemental." A Cab shall, forthwith, provide the Special Master all records
7 necessary for the performance of its appointment and as the Special Master requests.
8 The first meeting of the parties and the Special Master directed by NRCP 53(d)(1) is
9 dispensed with. The Special Master shall deliver the report of their findings to the
10 Court and the parties no later than

11 The report so furnished shall state the total amount so owed, if any, for each
12 class member; the amount of hours each class member was found to have worked each
13 pay period for A Cab; and the amount of wages within the meaning of the MWA they
14 were paid each pay period by A Cab. The report shall also indicate every pay period
15 for every class member that the Special Master finds the records reviewed contained
16 incomplete or not fully legible information and for which no determination on whether
17 proper minimum wages were paid could be made.

18 IT IS FURTHER ORDERED that the costs of the Special Master shall be borne
19 by the defendant A Cab who shall, within _____ days of the entry of this Order
20 deposit with the Special Master the amount of _____ for their services;

21 IT IS FURTHER ORDERED the Court will not be entertaining a motion for
22 reconsideration of this order by the defendants;

23 **IT IS SO ORDERED.**

24
25
26 _____
Honorable Kenneth Cory
District Court Judge

Date

EXHIBIT "G"

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)

| 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 | Calculation Report (Dr. Clairette and Mr. Bass) | | | | SLA calculations | | | | Per trip sheet data & SLA | | | | |
|-------------------|-----------|----------|---------------------|------------|-------------|------------------|-------------|----------------------------|----------------------|------------------------------|---|----------------------------------|--|---|---|---------------------------------|--|---|--|---|--------------------------------|-------|------|
| | | | | | | | | | | | 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 | (608.49) | 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 | 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 | 8.93 | | |
| 1537 | | 18 | 28301 | 8/30/2013 | Y | 2C | ee | 7.25 | 73.85 | 726.03 | 89.85 | 651.41 | 74.62 | | 75.38 | 546.51 | 179.53 | | 9.42 | 9.42 | | | |
| 1538 | | 1 | 30589 | 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 | 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

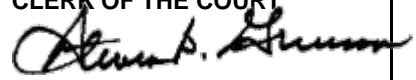
[1] Records provided did not match name in spreadsheet. No alternate chosen.

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



1 **ODM**
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Las Vegas, Nevada 89145
4 702-320-8400
info@rodriguezlaw.com

6 Michael K. Wall, Esq.
Nevada Bar No. 2098
7 Hutchison & Steffen, LLC
10080 West Alta Drive, Suite 200
8 Las Vegas, Nevada 89145
702-385-2500
9 mwall@hutchlegal.com
Attorneys for Defendants

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

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

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

15 Plaintiffs,

16 vs.

17 A CAB TAXI SERVICE LLC and A CAB, LLC,

18 Defendants.

20 **ORDER DENYING PLAINTIFFS' MOTION FOR BIFURCATION AND/OR TO LIMIT**

21 **ISSUES FOR TRIAL PER NRCP 42 (b)**

22 Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial per NRCP 42(b) came on
23 for hearing before this Court on the Chambers Calendar on December 7, 2017. Oral argument was
24 not entertained but the parties were represented in their briefings to the Court. Plaintiffs were
25 represented by their attorneys, Leon Greenberg and Dana Sniegocki of Leon Greenberg
26 Professional Corporation. Defendants were represented by their attorneys, Esther C. Rodriguez of
27 Rodriguez Law Offices, P.C., and Michael K. Wall of Hutchison & Steffen, LLC.

28 ...

1 Having considered the pleadings and motion papers on file herein, the Court DENIES
2 Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial per NRC 42(b), except to the
3 extent that Plaintiffs seek to admit evidence of damages by representative sampling, pattern or
4 practice evidence, or other approximation.

5 Pursuant to the minute order distributed December 21, 2017, the Court finds the following:
6 NRS 608.115 requires, in relevant part, that employers keep records of its employee's wages and
7 hours worked for each pay period. NRS 608.115. Plaintiffs argue that because Defendants failed to
8 keep these records, and because employees do not have the records nor a duty to keep the records,
9 Plaintiffs should be allowed to present evidence of the employees' average hours worked per shift.
10 Defendants argue that it kept records of the actual hours its employees worked in the form of
11 handwritten tripsheets; and that evidence of approximation is inadmissible in lieu of the precise
12 data.

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

25 Defendants understandably argue the disadvantages of such approximation evidence, and
26 we acknowledge that such an approach necessarily yields an average figure that will overestimate
27 or underestimate the right to relief of individual employees. See *Id.* We have weighed the
28 disadvantages of such evidence against the opportunity to vindicate an important constitutional

1 mandate in a manner that does not impose an undue burden on the court or the litigants. See *Id.*
2 Like under-compensation cases that employees have brought under the Fair Labor Standards Act,
3 calculation of damages on an individualized basis in this case would be impracticable and would
4 undermine the purpose and utility of class actions. See *Smith v. Lowe's Home Centers, Inc.*, 236
5 F.R.D. 354, 357 (S.D. Ohio 2006).

6 For the foregoing reasons, and for other reasons argued by the Plaintiffs, the Court
7 ORDERS the following:

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

16 **IT IS SO ORDERED.**


17 DATED this 26 day of Jan, 2018.

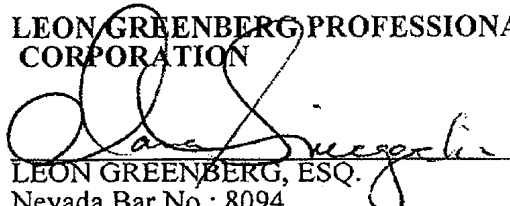
18
19 
20 _____
21 DISTRICT COURT JUDGE

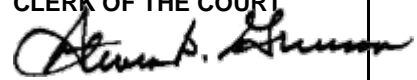
22 *KCP*

23 Submitted by:
24 **RODRIGUEZ LAW OFFICES, P. C.**

25 Approved as to form and content:
26 **LEON GREENBERG PROFESSIONAL CORPORATION**

27 By: 
28 _____
29 Esther C. Rodriguez, Esq.
30 Nevada State Bar No. 6473
31 10161 Park Run Drive, Suite 150
32 Las Vegas, Nevada 89145
33 *Attorneys for Defendants*

34 
35 _____
36 LEON GREENBERG, ESQ.
37 Nevada Bar No.: 8094
38 DANA SNIEGOCKI, ESQ.
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**EIGHTH JUDICIAL DISTRICT COURT
CIVIL/CRIMINAL DIVISION
CLARK COUNTY, NEVADA**

| | | |
|---------------------------------|---|----------------------|
| MICHAEL MURRAY, et al, |) | CASE NO. A-12-669926 |
| |) | |
| Plaintiffs, |) | DEPT. NO. I |
| |) | |
| vs. |) | |
| |) | |
| A CAB TAXI SERVICE, LLC, et al, |) | |
| |) | |
| Defendants. |) | |

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE
FRIDAY, FEBRUARY 2, 2018

TRANSCRIPT RE:
STATUS CHECK: APPOINTMENT OF SPECIAL MASTER

APPEARANCES:

| | |
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| For the Plaintiffs: | LEON GREENBERG, ESQ. DANA SNIEMOCKI, ESQ. CHRISTIAN GABROY, ESQ. KAINE MESSER, ESQ. |
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| For the Defendants: | ESTHER C. RODRIGUEZ, ESQ. MICHAEL K. WALL, ESQ. |
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|---------------|-------------------|
| ALSO PRESENT: | CREIGHTON J. NADY |
|---------------|-------------------|

RECORDED BY: Lisa Lizotte, Court Recorder

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LAS VEGAS, NEVADA, FRIDAY, FEBRUARY 2, 2018, 10:15 A.M.

* * * * *

THE COURT: Good morning again.

MR. GREENBERG: Good morning.

THE COURT: We should let our record reflect that while we were waiting for some technical difficulties to be resolved with our JAVS system, I met with counsel in chambers and discussed informally the matters that were to be resolved today in preparation of entering the final order that will appoint a special master. We've had a wide-ranging discussion about a number of things. I think that it's appropriate for each side, if they wish to, to make any record of what we said in chambers. Other than that, I anticipate just going right back through the same things that we talked about but on the record this time, and hopefully having discussed it somewhat informally we'll be able to quickly get through the things that -- and resolve the things that remain to be resolved in order for the Court to enter an order.

We talked about -- well, let me just ask counsel, does either side feel a need to make a record of things that were discussed in chambers? If so, I'm happy to have you do so.

MS. RODRIGUEZ: I do, Your Honor. Thank you. Esther Rodriguez for the defendants. Just to make sure that my objection is clear about the proposed order, I would like an opportunity to submit revisions to the Court before you sign this. But the primary objection is that the last time we were before the Court, the Court made a determination that the only accurate method to determine hours for the class and for the class period was a review -- an actual review of the trip sheets by a special master. I would like to remind the Court that that has been the position

1 of the defendants for five years. That's always been the position, that the trip sheets
2 are the source document in which hours can be determined. You need hours to
3 determine -- plaintiff needs hours to determine damages and thus to determine any
4 type of liability and we've always stated that.

5 So the proposed order, however, is going far beyond what the Court
6 instructed us last week because it is asking the special master to not only calculate
7 hours but to calculate the pay that each driver was looking at and then to calculate
8 any underpayment of the violation of minimum wage. So basically we're asking the
9 special master to do what the plaintiffs should have done all along. They've never
10 done that.

11 I just want to renew my motion to the Court that summary judgment is
12 appropriate because it was plaintiffs who chose a different methodology, which the
13 Court has now determined was not appropriate. The actual review of the trip sheets
14 was necessary. I believe that they have failed to meet their burden of proof. We're
15 far past the close of discovery. We're on the eve of what was supposed to be trial.
16 And now we're in a do-over position to allow the plaintiffs at the defendants'
17 expense to now basically work up their case.

18 So that's my standing objection to Your Honor's order, but I think that
19 the order needs to -- if the Court chooses to proceed, we need to look at what you
20 instructed us last week, which is the calculation of the hours; limit it to that. As far
21 as the time period that we're discussing, the 2014 to 2015, I represented to the
22 Court that based on the plaintiff's numbers and our review again, any liability for
23 July 2014 through December 2015 is going to be very, very minimal. We calculated
24 it out to be, based on just rounding up or rounding down, it's going to be about

1 \$100 for the entirety of the class for that period. We don't believe that that's a
2 cost-effective review of trip sheets. But I just wanted to have that objection on the
3 record, Your Honor.

4 THE COURT: So instead of reviewing the trip sheets for that period, what
5 would you suggest?

6 MS. RODRIGUEZ: I suppose I can make an offer of judgment for \$100
7 from 2014 to 2015. But, you know, we discussed this, Your Honor. I'm not going
8 to change the defendants' position that it's only by an accurate review of the trip
9 sheets themselves -- a review of the trip sheets themselves that any liability can
10 be established.

11 THE COURT: Uh-huh. I made some general statements about why the
12 Court felt that ultimately it has turned out that the plaintiff's motion in 2015 to appoint
13 a special master may be not only the best way to resolve this dispute, but it may be
14 the only way. And I indicated that the reason that I would agree that it should be the
15 defendants who bear the burden of this, the cost of this is because they have not
16 provided the record-keeping. They have not provided the items which the statute
17 requires them to provide.

18 If we look at NRS 608.115, Records of Wages, it clearly requires an
19 employer to maintain records showing for each pay period the following information:
20 the gross wage, services, food, deductions -- and that's where a lot of these
21 categories of things come out -- tips, as well as tip supplement and other things.
22 And then the net cash paid to the employee and the total hours employed in the
23 pay period by noting the number of hours per day, as well as give the date of
24 payment.

1 It is both the gross wage, the net cash paid, as well as the total hours
2 employed which is at issue in this case. And I cannot determine that there is any
3 other rational or reasonable way to arrive at, first of all, the resolution of the question
4 of liability. Were they underpaid or not requires calculations based on these things.
5 And for that reason I do not view the plaintiffs' proposal as going way beyond what
6 the Court had ordered. I think that if there was agreement that the QuickBooks,
7 which I believe cover '14 and '15, correct, 2014 and '15, if they clearly depicted
8 the things that are required in this statute, then there would be no need to do an
9 analysis of the underlying trip sheets. That would mean they would have to reflect
10 the gross wage and the net cash wage or salary paid to each employee for each
11 pay period.

12 If there is not agreement that the QuickBooks reflect that in a way that
13 allows a person to figure out whether they were underpaid or not, then I think that
14 we have to go to the trip sheets. If the defendant, on the other hand, agrees that
15 the QuickBooks reflect in some clear fashion these numbers -- and I guess we're
16 talking mostly about the net cash paid, right? That's the -- is that the operative
17 number we're dealing with?

18 MR. GREENBERG: If you're using that term simply to exclude everything
19 paid except the tips, then that would be correct, Your Honor.

20 THE COURT: Yeah.

21 MR. GREENBERG: Because the tips aren't really paid by the employer,
22 but they are taxable --

23 THE COURT: Okay.

24 MR. GREENBERG: -- so the employer has to report them to the IRS.

1 THE COURT: So if there's agreement that the QuickBooks readily reflect
2 that number, then I would agree, Ms. Rosenberg, (sic) that the -- what did I say,
3 Rosenberg? -- Ms. Rodriguez, I would agree that we don't need to do the underlying
4 trip sheets for that. But if I'm understanding, you do not agree that those numbers
5 can be taken.

6 MS. RODRIGUEZ: I think we discussed that in chambers, Your Honor.
7 Well, two things. Let me try to respond. I will pull actual pay stubs and QuickBooks
8 data because I believe that that figure is there and I'll submit that to the Court with
9 copies to Mr. Greenberg if it's readily available, which I think it is. And also, I think
10 we discussed that Plan B was that if Mr. Greenberg already has a spreadsheet,
11 which he indicated he has already calculated that by itself without any other factors
12 taken into consideration, we may be able to reach a stipulation on that as well.
13 So I don't think that ultimately that's going to be a number that we have to have
14 a third party go back and re-calculate. I do believe it is readily available from one
15 of those two sources.

16 THE COURT: All right. I hope that that is the case. Then what I would
17 expect is that counsel would get together today and resolve that question of whether
18 or not the special master needs to go through the trip sheets for that time period
19 or whether it is a readily ascertainable number in the QuickBooks.

20 MR. GREENBERG: Your Honor --

21 THE COURT: Yes?

22 MR. GREENBERG: -- there's some confusion going on here. The QuickBooks
23 data has the pay information for the entire pay period -- the entire time period we're
24 dealing with, all the way back to 2007.

1 THE COURT: Uh-huh.

2 MR. GREENBERG: However, for the 2013 to 2015 period, those last three
3 years, it also purports to contain hours worked information.

4 THE COURT: Okay.

5 MR. GREENBERG: Now, plaintiff moved for partial summary judgment
6 based on a combination of that information, --

7 THE COURT: Uh-huh.

8 MR. GREENBERG: -- the wage information in the QuickBooks and the hours
9 information in the QuickBooks from 2013 to 2015. We have never agreed that those
10 hours of work information in the QuickBooks are in fact accurate. The trip sheets --
11 the evidence we have, and this was in the supplement I gave Your Honor, is that
12 the trip sheets will actually show more hours of work information. The QuickBooks
13 hours of work information for that three year period is understated. But nonetheless,
14 because defendants relied on that and have represented them as accurate in this
15 proceeding, we believe we're entitled to partial summary judgment based on those
16 hours. When you look at that three year period in the QuickBooks, starting in July of
17 2014 you're not going to see any violation for minimum wage purposes because the
18 violation that's there prior to then has to do with the tip credit; the fact that internally
19 they were applying the tips against their minimum wage obligation.

20 THE COURT: Uh-huh.

21 MR. GREENBERG: But we have never conceded that there's nothing owed
22 after July of 2014 and we are confident that if you go and examine the trip sheets
23 you're going to find a great deal more hours that the drivers worked than is in the
24 QuickBooks records, which means that there is going to be a minimum wage liability

1 that we haven't yet calculated. And you can't calculate from the face of the
2 QuickBooks records because the QuickBooks' hours for that period just aren't
3 accurate, Your Honor.

4 So there's nothing for us to discuss about that. Your Honor has
5 already made the finding that the appropriate thing to do here is to go to the trip
6 sheets and get the hours out of the trip sheets for the pay periods, since the
7 employer did not keep those records. They didn't keep them accurately, either,
8 in respect to the 2013 to 2015 period. This is demonstrated by their own expert
9 who actually reviewed a bunch of the trip sheets --

10 THE COURT: Yeah.

11 MR. GREENBERG: -- for that period, and I included that in my supplement.
12 So there's no reason to limit the chronology of the trip sheet review, Your Honor.
13 The trip sheets should be reviewed. The special master should report on the
14 findings as to pay period hours that are found.

15 In respect to arriving at an understanding as to what each driver was
16 paid each pay period, absolutely I will work with defense counsel to review what
17 I've already provided to them. And if we can agree that the spreadsheets provided
18 accurately set forth the total gross wages for each driver for each pay period, then
19 the special master doesn't need to calculate that amount from the QuickBooks
20 data.

21 THE COURT: So in that event, if there is that agreement, the special master
22 would need to calculate only the hours?

23 MR. GREENBERG: They would need to calculate the hours to go with each
24 of those pay periods, Your Honor. We would know what each pay period is in terms

1 of what they were paid and what the hours were. I would request that the special
2 master at that point simply determine the deficiencies at the 7.25 an hour rate
3 because it's as a matter of law at that point. There's no reason we should then
4 be coming before Your Honor and arguing over 25,000 lines in an Excel file as to
5 whether those are in fact correct or not. I mean, defendants have not conceded
6 anything in terms of what we've presented to the Court so far in connection with the
7 partial summary judgment motion. It's a simple arithmetical calculation, Your Honor.
8 It should be entrusted to the special master to perform and it will essentially cost
9 him nothing to do.

10 And as a matter of law if you pay the individual \$100 and you work
11 him 100 hours, it's only \$1 an hour, so you owe him another 6.25 to make up to
12 7.25 an hour. There is no reason that we should be leaving this as an unresolved
13 issue within the scope of the special master's work. The special master should
14 ascertain the hours, he should have the amount paid every pay period, which is
15 what is required under the statute the defendants were supposed to keep. He
16 should either get that from the agreement of the parties, or if necessary he'll go to
17 the original QuickBooks data and figure out the gross amount paid each pay period
18 and then tell us what the deficiency is at the 7.25 an hour rate, if any, Your Honor.

19 THE COURT: So the plaintiff would have no problem proceeding ahead
20 with the special master on that basis, with the understanding that if for some reason
21 the -- and how this would happen, I don't know, but if it turned out that the plaintiff
22 did not prevail as to the hours worked issue, whether the QuickBooks were accurate
23 or not, then at the end of the day whenever judgment time comes around, plaintiff
24 could be required to pay for that portion of the special master's work.

1 MR. GREENBERG: Well, Your Honor, I suppose that could be part of the
2 requirement.

3 THE COURT: I would think --

4 MR. GREENBERG: I'm not concerned with that because it's clear from the
5 investigation we've done that there are significant amounts of money owed to the
6 class. In fact, the defendants don't disagree that there is.

7 THE COURT: Yeah. The short answer may be that if we -- even with that
8 understanding you've got apparently defense experts that say -- that show that
9 that's not accurate. Is that right?

10 MR. GREENBERG: The defendants' expert has attested for the period
11 we have hours in the QuickBooks records from 2013 to 2015, those hours are
12 understated. That is his conclusion. He examined approximately 30 pay periods.
13 Of the 30 pay periods, he found that the trip sheets had more hours stated in them
14 for about 27 or something.

15 THE COURT: All right. Then the way that the order should be finalized
16 is that the special master will calculate those numbers from the trip sheets, with
17 the understanding that it may be that it may be that at the end of the day here it's
18 possible that the Lord -- that the Court -- good grief -- that the Court -- where did
19 that come from? That the Court may alter the allocation of who pays for what parts
20 of the special master's work. While I don't anticipate that that would happen, I think
21 to my mind it comes down to this. If the defendants show that they did comply by
22 virtue of the QuickBooks with an accurate depiction of what the net cash was and
23 the total hours for that pay period, then it may be that the Court would say, well,
24 then it's not appropriate to order the defendants to pay for that and it may get shifted

1 over to the plaintiffs responsibility.

2 While I don't anticipate, at least from what the plaintiff is telling me,
3 while I don't anticipate that that would happen, I suppose there needs to be at least
4 -- so that nobody is surprised, I'm looking at arriving at a just determination here
5 of what the liability, if any, of the defendants is and including in that whether or not
6 they complied with the statute because that is the basis that I have used to say that,
7 yes, I think the defendants must pay for this study.

8 MR. GREENBERG: The order as presented to Your Honor can specifically
9 note that the Court is reserving the possibility in the future that it may impose a
10 portion of the special master costs --

11 THE COURT: All right.

12 MR. GREENBERG: -- upon the plaintiffs, depending upon its findings.
13 And that will just be clear in the order, if Your Honor would like that.

14 THE COURT: Okay. All right. Now, one of the things we talked about also
15 in chambers was the names submitted by the defendant do not have any C.V.,
16 Curriculum Vitae or anything else that indicates to the Court what they might
17 anticipate might be charged for those services. And I would very much like to
18 have them before selecting anyone to be the special master here. Another thing
19 we discussed is the Court's hope that if possible we do not have to go outside of
20 the state and perhaps not outside of Las Vegas to find our special master. Given
21 that we have a time crunch here, it seems to me that even with the communications
22 of today it may add a little bit of extra time if we have to communicate things to
23 someone who's outside the state.

24 MR. GREENBERG: Yes, Your Honor.

1 THE COURT: So -- and as I understand it, Ms. Rodriguez, the three that
2 you suggested are all within the state, correct?

3 MS. RODRIGUEZ: Yes, Your Honor.

4 THE COURT: All right.

5 MS. RODRIGUEZ: And I can get those CVs to you quite quickly.

6 THE COURT: All right.

7 MR. GREENBERG: Your Honor --

8 THE COURT: Yes?

9 MR. GREENBERG: -- if I could just address the third nominee of Ms.
10 Rodriguez, Christine Lambrecht (phonetic). I do have an objection to that.
11 Ms. Lambrecht was designated as an expert witness in the Thomas v. Yellow Cab
12 litigation that I prosecuted. She also has a long-standing relationship with the
13 industry in the form of the Yellow-Checker-Star company --

14 THE COURT: Uh-huh.

15 MR. GREENBERG: -- that she has consulted to --

16 THE COURT: Okay.

17 MR. GREENBERG: -- prior to the litigation. So I don't believe she would be
18 an appropriate person to be appointed special master involving this sort of dispute
19 with this industry.

20 THE COURT: All right. Well, I'll bear that in mind. If you still wish to submit
21 her C.V., you may do so.

22 MS. RODRIGUEZ: I will, Your Honor. I've never had any contact with her.
23 She's never been an expert witness for me.

24 THE COURT: Okay.

1 MS. RODRIGUEZ: I don't know if any of these proposed special masters
2 have ever served as a witness on behalf of Mr. Greenberg or on behalf of plaintiffs
3 in a class action. Perhaps we can get that similar disclosure right now.

4 THE COURT: Sure.

5 MR. GREENBERG: Your Honor, I have no prior relationship with any of the
6 people I have nominated --

7 THE COURT: Very good.

8 MR. GREENBERG: -- as an expert, as a consultant in any matter.

9 THE COURT: Now, the problem, Ms. Rodriguez, is I need this like yesterday.
10 Can you get it to me by tomorrow?

11 MS. RODRIGUEZ: Today's Friday? Is today Friday? Yes.

12 THE COURT: Oh, yeah. Hello. By Monday, then.

13 MS. RODRIGUEZ: Oh, yes. Absolutely, Your Honor. Yes. I'm not sure
14 these people -- I haven't submitted things to them like Mr. Greenberg did, so I
15 don't know if they can work up a budget and a proposal by Monday on what they
16 anticipate, but I'll do the best I can, certainly.

17 THE COURT: Very good. And what I think is also important is the question
18 of whether or not they are equipped to handle something --

19 MS. RODRIGUEZ: Right.

20 THE COURT: -- of this magnitude in this short of time. And when I say short
21 of time, I'm accepting Mr. Greenberg's estimation that it should be around 45 days
22 that this project takes, at which point we will at the very least be in a position to
23 figure out whether or not a trial is yet to be considered or whether we don't need
24 a trial.

1 MS. RODRIGUEZ: So as far as moving forward on the proposed order, can
2 we get a revision that Mr. Greenberg and I can work together to incorporate some of
3 the things that we talked about in chambers in terms of, like, start times, end times,
4 and the columns and things that the special master is to look at?

5 THE COURT: If you can do that by Monday. And if you disagree with the --
6 or would you? Are you saying that you would anticipate that that would be an order
7 that you would --

8 MS. RODRIGUEZ: Stipulate?

9 THE COURT: Yeah, stipulate to or something.

10 MS. RODRIGUEZ: I would hope so, based on what we talked about, but --

11 THE COURT: You never know.

12 MS. RODRIGUEZ: -- which is, you know, taking out the file -- the things to
13 be deleted and the things to be added and whether we can agree upon the pay.

14 THE COURT: Yeah. I recognize that asking you two to agree on anything
15 is probably a 50/50.

16 MS. RODRIGUEZ: Challenge.

17 THE COURT: 50/50 at best.

18 MS. RODRIGUEZ: 50/50.

19 MR. GREENBERG: Probably less than that, Your Honor.

20 Your Honor, what I would propose, given the urgency here as well,
21 is the form of order I submitted to the Court with my supplement actually is not
22 really complete in terms of giving instructions regarding like the missing end time
23 we were discussing in chambers. And I actually had drafted an order addressing
24 that, but now we've had some further discussions about perhaps how that should

1 be addressed. What I was going to say, Your Honor, is given the urgency here
2 Your Honor could certainly enter the order as I've previously given to Your Honor
3 on Monday --

4 THE COURT: Uh-huh.

5 MR. GREENBERG: -- and we can simply get an amended order to Your
6 Honor giving the special master those instructions so the appointment can be
7 made and they can get geared up and get to work. That is a possibility, Your Honor.
8 I'm just mentioning it to the Court. I don't know how the Court wishes to proceed.

9 THE COURT: Yes, and if we had to do that then I would do that. I would
10 rather, though, at least begin by hopefully Monday having an order that both sides
11 agree at least accurately depicts what the Court is trying to do.

12 MR. GREENBERG: I will work diligently with defendants' counsel, to forward
13 to them, say, I hope no later than three o'clock this afternoon a revised order
14 pursuant to our discussions in chambers.

15 THE COURT: All right.

16 MR. GREENBERG: Defendants are essentially asking for inclusion of
17 additional information --

18 THE COURT: Uh-huh.

19 MR. GREENBERG: -- to be gathered by the special master. We have no
20 objection to that being done, Your Honor.

21 THE COURT: All right. Do we need to discuss on the record anything about
22 we had looked at one of the -- I don't know what you call this page.

23 MR. GREENBERG: A trip sheet, Your Honor.

24 THE COURT: Trip sheet. That is a trip sheet, huh?

1 MR. GREENBERG: Yes, Your Honor.

2 THE COURT: The infamous trip sheet. Okay.

3 MR. WALL: Front and back.

4 THE COURT: And we had talked about having a separate column to depict
5 whether or not the special master was using something other than what normally
6 fits in the time-end box to calculate the time end, namely either the time when a
7 meter depicts, which was in the middle column, or when the car was gassed up at
8 in this case Arco, which is in the left-hand column at the top. Do we need to discuss
9 or make any decision about that?

10 MR. GREENBERG: I think we have an agreement, and I will confirm with
11 defense counsel, that in the event of this circumstance where there is no time out
12 stamp, the special master should note those two times, those two other times --

13 THE COURT: Okay.

14 MR. GREENBERG: -- and provide a calculation based on those times.
15 And that can be investigated further, but it should be noted in detail in his review
16 of the trip sheets. Is that correct, counsel?

17 MS. RODRIGUEZ: I'm agreed. Yes.

18 THE COURT: Okay, very good. Very good. Anything else that we need
19 to resolve before locking you all up in a room together until the proposed order
20 is produced?

21 MR. GREENBERG: Well, again, Your Honor, I will get that revised order
22 to defense counsel I hope by three o'clock today. I do anticipate getting it to
23 Your Honor, say by three o'clock on Monday.

24 THE COURT: All right.

1 MR. GREENBERG: And hopefully Your Honor will be able to sign that order
2 Monday or Tuesday. We do need to move as quickly as possible here.

3 THE COURT: That is my intention.

4 MR. GREENBERG: Otherwise --

5 THE COURT: And I should tell you, my intention is to sign this, whatever
6 it is I'm going to sign to resolve these kinds of issues, to sign it and to have it on
7 record as of Monday, recognizing, as you have said, that it may be that it has to
8 be amended from time to time to account for things encountered along the way.

9 MR. GREENBERG: Yes, Your Honor, and I appreciate that. And you
10 asked if we could just make anything on the record here. I would just like to put
11 a statement on the record here, Your Honor, that plaintiffs have agreed, and it was
12 discussed in chambers, to significantly reduce the burden of the special master's
13 cost by clearly over fifty percent by agreeing to an appropriate statistical analysis
14 and summary of the trip sheets to arrive at the information that we're seeking to
15 get here, so that a determination of the merits of this case can be made. Plaintiffs
16 would agree to that and would agree to be bound by that. Defendants have not
17 taken up plaintiffs on that offer, but I wish that to just simply be clear on the record
18 because I do anticipate the defendants will be seeking appellate review --

19 THE COURT: Yes.

20 MR. GREENBERG: -- based upon an allegation that this is unduly
21 burdensome. And it is not the intention of plaintiffs to unduly burden the defendants
22 with the special master appointment. It is not in the interest of my clients to see that
23 undue resources are devoted to the cost of the special master, as those resources
24 may not be able to pay my clients' claims.

1 THE COURT: Is that accurate, Ms. Rodriguez, that you would not stipulate
2 to a statistical sample -- how does that go?

3 MR. GREENBERG: A statistical sampling of the trip sheets --

4 THE COURT: Of the trip sheets.

5 MR. GREENBERG: -- to arrive at the hours worked for purposes of --

6 THE COURT: As opposed to going through all of them.

7 MS. RODRIGUEZ: Your Honor, it's the defendants' position that it's a day
8 late and a dollar short and this remains plaintiffs' burden of proof. So it's a little late
9 in the game to suggest now at this point a statistical sampling, so at this point we
10 would not agree to that.

11 THE COURT: Why is it? What that sounds like is had it been proposed
12 earlier you would have.

13 MS. RODRIGUEZ: Well --

14 THE COURT: That would be very surprising to me.

15 MS. RODRIGUEZ: I think the Court has made a determination now at this
16 stage and that remains our position, which has always -- I don't know how many --
17 I don't want to continue to say a hundred times defendants have always been very,
18 very clear we need to look at the trip sheets. They didn't want to look at the trip
19 sheets. Now, unfortunately, the defendants are bearing the cost for a review of
20 the trip sheets.

21 THE COURT: Uh-huh.

22 MS. RODRIGUEZ: And he's correct, I do anticipate that, you know, this
23 is not going to be the end of the story here, especially in what he represented in
24 chambers that it's his intent to do away with the defendants' trial altogether, to have

1 the special master do the work of the plaintiff and then just submit it for judgment.
2 So I do believe that's inappropriate, and now he's even wanting to shortcut it even
3 more to do just a statistical sampling. His experts could have done a statistical
4 sampling.

5 THE COURT: The only question is whether the defense would agree to
6 using a statistical sample as opposed to --

7 MS. RODRIGUEZ: Right.

8 THE COURT: -- looking at all the trip sheets. And the answer is they would
9 not?

10 MS. RODRIGUEZ: Not at this stage, no.

11 THE COURT: Yeah. All right.

12 MR. GREENBERG: Your Honor, the only other issue the Court may elect
13 to address right now is I anticipate once the order is entered, hopefully on Monday,
14 defendants will be seeking a writ or appellate review and presumably will be coming
15 here to ask for a stay of any actual proceeding of this case further while that
16 application is made. I'm not saying Your Honor should address that issue right now,
17 but you might find it efficient to do so. That's simply why I'm mentioning it.

18 THE COURT: Okay.

19 MS. RODRIGUEZ: A writ on what? On the Court's -- the order that he's
20 going to sign Monday?

21 THE COURT: Yeah. That's what I understood him to be saying.

22 MR. GREENBERG: Yes, Your Honor. I anticipate when the order is entered
23 the defendants are going to seek to file their writ and they're going to ask Your
24 Honor, presumably, to stay the proceedings and the work of the special master

1 pending their seeking of such relief, which they have the right to do. It's just that
2 might bring us back here and I don't know if the Court wants to address that now.
3 It might be efficient to do so.

4 THE COURT: Well, I don't think --

5 MR. GREENBERG: That's why I mention it, Your Honor.

6 THE COURT: I don't have it before me right now, the question or the issue.
7 I probably don't need to address it. The only thing I would say is you could probably
8 anticipate what I will do based on my belief, so tardily arrived at, that there is not
9 another reasonable way to proceed with any sense of accuracy in this lawsuit, and
10 largely because there has been such a fight all the way through at every stage, at
11 every turn. Anyway, so the chances that I would grant a stay -- I wouldn't say that
12 I wouldn't, but if I did it wouldn't be very long because this needs to get resolved.

13 MR. GREENBERG: I understand, Your Honor. I'm not suggesting Your
14 Honor should address this now. It was just a thought.

15 THE COURT: All right. Okay. Anything you want to say on that, Ms.
16 Rodriguez?

17 MS. RODRIGUEZ: No. Thank you, Your Honor.

18 THE COURT: Okay.

19 MR. GREENBERG: Thank you, Your Honor.

20 THE COURT: All right. Then that will be the end of it. Thank you all for
21 your help. I anticipate, as I said, we'll get this order signed and in place by Monday.
22 Thank you all.

23 MS. RODRIGUEZ: Thank you, Judge.

24 MR. GREENBERG: We are -- the Court is not scheduling us for further

1 status on this at this time?

2 THE COURT: No. I anticipate I will get a final proposed writ, and if any
3 objections are noted, they may be noted. I will look at them and then I will make
4 the determination here's what's going to be the final writ, at least for now --

5 MR. GREENBERG: Yes, Your Honor.

6 THE COURT: -- so that we can get started.

7 MR. GREENBERG: I agree. We need to move forward quickly, Your Honor.

8 THE COURT: Okay. Thank you all.

9 MR. GREENBERG: Thank you, Your Honor.

10 MS. RODRIGUEZ: Thank you.

11 (PROCEEDINGS CONCLUDED AT 10:49 A.M.)

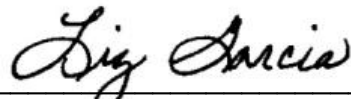
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13

14 ATTEST: I do hereby certify that I have truly and correctly transcribed the
15 audio/video proceedings in the above-entitled case to the best of my ability.

15

16



17

Liz Garcia, Transcriber
LGM Transcription Service

18

19

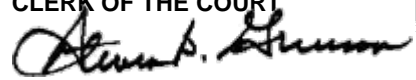
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22

23

24



1 **SUPP**

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16 *Attorneys for Defendants*

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

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

16 **Plaintiffs,**

17 vs.

18 A CAB TAXI SERVICE LLC and A CAB, LLC,

19 **Defendants.**

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

Hearing Date: February 2, 2018
Hearing Time: 9:00 a.m.

20 **DEFENDANTS' SUPPLEMENT PERTAINING TO**

21 **AN ORDER TO APPOINT SPECIAL MASTER**

22 Defendants, by and through their attorneys of record, hereby submit this Supplemental
23 Information as ordered by the Court on February 2, 2018. At the hearing pertaining to the
24 appointment of a Special Master, the Court ordered the parties to work together to propose an order
25 to the Court. The Court further inquired as to the scope of the Special Master's work in that
26 Defendants assert the scope should be limited to a review for accurate hours; while Plaintiffs assert
27 the Special Master should also review pay information, and perform calculations to determine
28 underpayment for each class member. The parties were able to agree on the majority of the

1 proposed order, but there remain areas of dispute. As such, Defendants' objections and proposed
2 Orders are attached hereto.

3 **I. Objection to Proposed Scope of the Work of the Special Master**

4 The Defendants' objections to Plaintiffs' proposed Order pertain to the scope of work of the
5 Special Master. The Court first expressed the notion of a Special Master at the Motions in *Limine*
6 hearing on January 25, 2018. At that time, the Court indicated it had concluded that the only
7 mechanism for obtaining an accurate accounting of hours was through a review of the drivers'
8 tripsheets; and thus the appointment of a Special Master would be appropriate for such a task.
9 Plaintiffs' proposed Order takes the Court's order 2 steps further and requests that, at Defendants'
10 expncse, the Special Master also review the Quickbooks data that was provided to Plaintiffs to
11 make a determination for each driver as to what they were paid. The final step requested by
12 Plaintiffs is that the Special Master then calculate any underpayment for each driver.

13 Plaintiffs are requesting that the Special Master in fact do what the Plaintiffs and their
14 "experts" have failed to do, but with the Defendants' footing the bill. The Plaintiffs have had all of
15 the data, including gross wages paid to each driver for each payperiod, at their disposal but chose to
16 utilize a different methodology to attempt to prove their case.

17 There is no reason that the Special Master should have to perform calculations of pay, and
18 calculations of underpayment; when the same data has already been provided to Plaintiffs and was
19 available to them to perform the calculations. The same Quickbooks data containing gross wages
20 that would be provided to a Special Master was provided to Plaintiffs in January, 2016. Further, the
21 pay stubs on their face reflect gross wages paid for the pay period in compliance with the statutes. A
22 pay stub demonstrating gross pay is attached as **Exhibit 1**. Each driver receives a paystub for each
23 payperiod which accurately reflects gross wages for that pay period. The Employer has been fully
24 compliant in retaining these documents.

25 A proposed Order limiting the scope of the Special Master to a review of hours only is
26 attached as **Exhibit 2**, with the highlighted revisions behind it.

27 **II. Requested Clarifications to the proposed Order**

28 At the very least, Defendants have requested clarification revisions to Plaintiffs' proposed

1 Order which Plaintiffs have refused to incorporate. These include 4 requested “housekeeping” or
2 clarification revisions.

3 **Revision 1.** Page 2, line 9: The insertion of “Plaintiffs assert that” the tripsheets do not show the
4 total hours worked in a pay period.

5 This limited wording is requested in that it is Defendants’ position that anyone who reviews
6 a tripsheet can easily ascertain what the total hours worked for that day were. In fact, Plaintiffs’
7 proposed Special Master estimates it takes 15 seconds to make this determination.

8 Defendants disagree with Plaintiffs’ legal interpretation of what NRS 608.115 requires.
9 Defendants’ position is supported with the fact that no state agency has ever found A Cab to be in
10 non-compliance with any record keeping; and Plaintiffs’ interpretation of the statute is a novel
11 concept which has not been tested.

12 **Revision 2.** Page 3, line 8. Defendants request the insertion of “The Court reserves a final
13 determination pertaining to which party will bear the costs or a portion thereof,
14 following the final report of the Special Master.”

15 This request stems directly from the Court’s direction at the hearing of February 2, 2018,
16 wherein the parties disagreed as to the cost-effectiveness of such a review, where any liability may
17 be very nominal.

18 **Revision 3.** Page 5, line 5. Along the lines explained above, Defendants request additional
19 wording following “the costs of the Special master shall be borne by the defendant A
20 Cab ‘at this time and pending a final determination by the Court’.”

21 **Revision 4.** Page 5: requested revisions to errors in the signature block.

22 A proposed Order incorporating these revisions is attached as **Exhibit 3**, with the
23 highlighted revisions behind these pages.

24 Defendants respectfully request the Court to consider these requested revisions which
25 address the scope of the work of the Special Master, as well as clarifications to the Court’s
26 directives. If the Court is inclined to consider an Order incorporating all of these requested changes
27 (scope of the work and clarification revisions), a new order incorporating all can be submitted to the
28 Court quickly for signature.

1 DATED this 5th day of February, 2018.

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

3
4 /s/ Esther C. Rodriguez, Esq.
5 Esther C. Rodriguez, Esq.
6 Nevada State Bar No. 006473
7 10161 Park Run Drive, Suite 150
8 Las Vegas, Nevada 89145
9 *Attorneys for Defendants*

8 **CERTIFICATE OF SERVICE**

9 I HEREBY CERTIFY on this 5th day of February, 2018, I electronically filed the foregoing
10 with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will
11 send a notice of electronic service to the following:

12 Leon Greenberg, Esq.
13 Leon Greenberg Professional Corporation
14 2965 South Jones Boulevard, Suite E4
15 Las Vegas, Nevada 89146
16 *Co-Counsel for Plaintiffs*

17 Christian Gabroy, Esq.
18 Gabroy Law Offices
19 170 South Green Valley Parkway # 280
20 Henderson, Nevada 89012
21 *Co-Counsel for Plaintiffs*

22 /s/ Susan Dillow
23 An Employee of Rodriguez Law Offices, P.C.

EXHIBIT 1

EXHIBIT 1

A Cab, LLC
1500 Searles Avenue

Michael A Reno
811 E. Bridger Ave. #363
Las Vegas, NV 89101

Employee Pay Stub Check number: 7992 Pay Period: 10/02/2010 - 10/15/2010 Pay Date: 10/22/2010

Employee SSN
Michael A Reno, 811 E. Bridger Ave. #363, Las Vegas, NV 89101 ***-**-8991

| <u>Earnings and Hours</u> | <u>Qty</u> | <u>Rate</u> | <u>Current</u> | <u>YTD Amount</u> |
|-------------------------------|------------|-------------|----------------|-------------------|
| Driver Commission | 1.00 | 516.92 | 516.92 | 3,596.54 |
| Tips Supplemental | | | 118.88 | 824.93 |
| | 1.00 | | 635.80 | 4,411.47 |
| <u>Taxes</u> | | | <u>Current</u> | <u>YTD Amount</u> |
| Federal Withholding | | | -31.00 | -128.00 |
| Social Security Employee | | | -39.42 | -273.51 |
| Medicare Employee | | | -9.22 | -63.97 |
| | | | -79.64 | -465.48 |
| <u>Adjustments to Net Pay</u> | | | <u>Current</u> | <u>YTD Amount</u> |
| Tips Out | | | -118.88 | -824.93 |
| Reimbursement-NW | | | 2.00 | 33.00 |
| Cash loan | | | | -10.00 |
| | | | -116.88 | -801.93 |
| Net Pay | | | 439.28 | 3,144.06 |

A Cab 0015

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

Michael C. Sargeant
 2001 Ramrod Ave. #2215
 Henderson, NV 89014

Employee Pay Stub Check number: 12959 Pay Period: 07/19/2014 - 08/01/2014 Pay Date: 08/08/2014

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

| 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 | | | | 1.45 |
| Incentive #5 | | | | 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 | | | | -10.00 |
| | | | -17.90 | -295.69 |
| Net Pay | | | 151.45 | 1,639.09 |

EXHIBIT 2

EXHIBIT 2

1 **ORDR**

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

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

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

11 Plaintiffs,

12 vs.

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

15 Defendants.

) Case No.: A-12-669926-C

) Dept.: I

) **ORDER GRANTING**
) **PLAINTIFFS' MOTION TO**
) **APPOINT A SPECIAL MASTER**

) **Hearing Date: February 2, 2018**
) **Hearing Time: 9:00 a.m.**

16
17
18 On January 25, 2018, with all the parties appearing before the Court by their
19 respective counsel as noted in the record, the Court granted plaintiffs' motion for
20 rehearing of plaintiffs' prior request to appoint a special master pursuant to Nev. R.
21 Civ. P. 53, such request being made as part of Plaintiffs' Motion for Class
22 Certification originally filed on May 19, 2015. Such request was originally denied by
23 the Court in its Order entered on February 10, 2016. In revisiting that prior order and
24 entertaining the argument of counsel for the parties at a continued hearing held on
25 February 2, 2018, the Court hereby finds:

26 The parties do not dispute that the wages paid the class members every pay
27 period are accurately set forth in the preserved Quickbooks records of defendant A-
28 Cab. The parties cannot, at this time, present to the Court any agreed upon record of

the total hours worked during each of those pay periods by each class member.

1 Plaintiffs have maintained throughout this litigation that defendants failed to keep a
2 record of the total hours worked by each of the class members per pay period as
3 required under NRS 608.115. NRS 608.115 requires an employer to “establish and
4 maintain records of wages for the benefit of his or her employees, showing for each
5 pay period....[t]otal hours employed in the pay period by noting the number of hours
6 per day.” Defendants have maintained throughout this litigation that the only way to
7 determine the hours worked by the plaintiffs and the class members is to consult the
8 tripsheets. Defendants assert that those tripsheets set forth an accurate record of the
9 amount of time that the plaintiffs and the class members worked. Yet those tripsheets
10 do not show the “total hours employed in the pay period.” They record the time of day
11 a taxicab driver started their shift, the time of day they ended that shift, and the amount
12 of non-working break time that occurred during the shift.

13 In light of the above, the Court finds that the appointment of a Special Master is
14 the appropriate solution to determine the hours worked each pay period by each class
15 member and the amount of minimum wages, if any, that each one is owed based upon
16 A Cab’s records. The Special Master is being appointed to report on the hours
17 worked, and the wages paid, as documented in A Cab’s admittedly accurate records; to
18 what extent that information in those records demonstrates wages of less than the
19 minimum wage (that “lower tier” rate is \$7.25 an hour since July 1, 2010) were paid
20 during any pay periods; and the amount of any such minimum wage deficiencies for
21 each class member.

22 The Court finds such a Special Master appointment pursuant to NRCP Rule
23 53(b) is appropriate in respect to the class members’ claims. The Court also finds that
24 such a Special Master appointment is appropriate under NRCP Rule 53(b) as the
25 resolution of the class members’ claims present complicated issues. Whether
26 minimum wages are owed for any particular pay period is quite simple when the
27 relevant information (hours worked and wages paid) is known. But in this case that
28

information must be gathered from over 200,000 trip sheets, a complex process.

1 Similarly, performing that calculation on many thousands of pay periods for
2 approximately 1,000 class members is also complicated and laborious.

3 The Court also finds a compelling imperative in so appointing a Special Master,
4 at defendants' expense at this time, to perform this task is found in the Nevada
5 Constitution, which provides for the most stringent protections for Nevada's
6 employees to ensure they are paid the required minimum wage. It also directs this
7 Court to grant all relief available to effectuate its purpose of securing the payment of
8 minimum wages owed to Nevada employees. Therefore,

9 IT IS HEREBY ORDERED that is
10 appointed Special Master in this case by the Court. The purpose of such Special
11 Master appointment is to determine for each class member, the hours of work set forth
12 in their trip sheets for each pay period. That determination is to be made for all class
13 members for all pay periods falling entirely within the class period of October 8, 2010
14 through December 31, 2015. That determination is also to be made for those class
15 members who were granted a statute of limitations toll pursuant to this Court's Order
16 entered on June 7, 2017 for all pay periods occurring entirely after the statute of
17 limitations toll date listed for them in Ex. "A" of that Order and prior to December 31,
18 2015; and

19
20 IT IS FURTHER ORDERED that in determining the hours of work shown by a
21 trip sheet, the Special Master shall accept as correct the characterization of time as
22 "breaks" or "meals" or non-working time in the trips sheet as accurate and subtract all
23 such time from the interval between the start and end time for the shift as recorded on
24 the trip sheet. The Special Master in their report shall also note the indicated start and
25 end time of "break" or "meal" time entry on each trip sheet. In the event that no shift
26 end time is recorded or fully legible on a trip sheet the Special Master shall indicate in
27 their report the times on that trip sheet's copy of the printed receipt that included
28

1 “Meter Details” and that trip sheet’s copy of the printed fuel purchase receipt and use
2 the earlier of each time to arrive as a “shift end” time for purposes of calculating the
3 hours worked during the shift. If no legible “Meter Details” or fuel purchase receipt
4 time exists on that trip sheet the Special Master shall not calculate any hours of work
5 for that trip sheet and that shift and shall record that they are unable to arrive at a
6 working hours total, or perform a minimum wage underpayment calculation, for the
7 class member for the pay period including that trip sheet. In determining all wages
8 paid to a class member during a pay period the Special Master shall include all items
9 of taxable income paid by A Cab to the class member during the pay period as
10 recorded in A Cab’s Quickbooks records but shall not include any amounts identified
11 as “Tips” or “Tips Supplemental.” The Special Master shall rely on the parties’
12 stipulated agreement as to the wages paid to the class members each class period if the
13 parties so agree to stipulate.; and

14 IT IS FURTHER ORDERED that A Cab shall, forthwith, provide the Special
15 Master all records necessary for the performance of its appointment and as the Special
16 Master requests. The first meeting of the parties and the Special Master directed by
17 NRCP 53(d)(1) is dispensed with. The Special Master shall deliver the report of their
18 findings to the Court and the parties no later than

19 The report so furnished shall state the total amount of hours each class member
20 was found to have worked each pay period for A Cab. The report shall also indicate
21 every pay period for every class member that the Special Master finds the records
22 reviewed contained incomplete or not fully legible information and for which no
23 determination on whether proper minimum wages were paid could be made. At the
24 request of any party, the Special Master shall provide the report’s foregoing findings
25 in an Excel file.

26 IT IS FURTHER ORDERED that the costs of the Special Master shall be borne
27 by the defendant A Cab who shall, within _____ days of the entry of this Order
28 deposit with the Special Master the amount of _____ for their services,

1 the Court also expressly reserving the possibility that it may in the future direct some
2 portion of the Special Master's cost be shifted to the plaintiffs if the Special Master's
3 report documents circumstances that the Court finds warrant it doing so.;

4 IT IS FURTHER ORDERED that the Court will not be entertaining a motion for
5 reconsideration of this order by the defendants;

6 **IT IS SO ORDERED.**

7
8
9 Honorable Kenneth Cory
District Court Judge

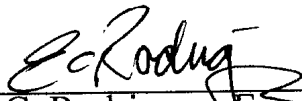
Date

10
11 LEON GREENBERG PROFESSIONAL CORP.

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13 Dana Sniegocki, Esq. NSB 11715
LEON GREENBERG PROFESSIONAL CORP.
14 2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
15 Tel (702) 383-6085
Attorney for the Plaintiffs

Date

16 Approved as to Form and Content:

17 
18 Esther C. Rodriguez, Esq. NSB 6473
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Attorney for the Defendants

21
22
23
24
25
26
27
28
2/5/18
Date

1 **ORDER**

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Attorneys for Plaintiffs

Three (3)
Revisions
Limiting
the
scope of
special
master

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

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

11 Plaintiffs,

12 vs.

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

15 Defendants.

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19 respective counsel as noted in the record, the Court granted plaintiffs' motion for
20 rehearing of plaintiffs' prior request to appoint a special master pursuant to Nev. R.
21 Civ. P. 53, such request being made as part of Plaintiffs' Motion for Class Certification
22 originally filed on May 19, 2015. Such request was originally denied by the Court in
23 its Order entered on February 10, 2016. In revisiting that prior order and entertaining
24 the argument of counsel for the parties at a continued hearing held on February 2,
25 2018, the Court hereby finds:

26 The parties do not dispute that the wages paid the class members every pay
27 period are accurately set forth in the preserved Quickbooks records of defendant A-
28 Cab. The parties cannot, at this time, present to the Court any agreed upon record of

1 the total hours worked during each of those pay periods by each class member.
2 Plaintiffs have maintained throughout this litigation that defendants failed to keep a
3 record of the total hours worked by each of the class members per pay period as
4 required under NRS 608.115. NRS 608.115 requires an employer to “establish and
5 maintain records of wages for the benefit of his or her employees, showing for each
6 pay period.....[t]otal hours employed in the pay period by noting the number of hours
7 per day.” Defendants have maintained throughout this litigation that the only way to
8 determine the hours worked by the plaintiffs and the class members is to consult the
9 tripsheets. Defendants assert that those tripsheets set forth an accurate record of the
10 amount of time that the plaintiffs and the class members worked. Yet those tripsheets
11 do not show the “total hours employed in the pay period.” They record the time of day
12 a taxicab driver started their shift, the time of day they ended that shift, and the amount
13 of non-working break time that occurred during the shift.

14 In light of the above, the Court finds that the appointment of a Special Master is
15 the appropriate solution to determine the hours worked each pay period by each class
16 member and the amount of minimum wages, if any, that each one is owed based upon
17 A Cab’s records. The Special Master is being appointed to report on the hours
18 worked, and the wages paid, as documented in A Cab’s admittedly accurate records; to
19 what extent that information in those records demonstrates wages of less than the
20 minimum wage (that “lower tier” rate is \$7.25 an hour since July 1, 2010) were paid
21 during any pay periods; and the amount of any such minimum wage deficiencies for
22 each class member.

23 The Court finds such a Special Master appointment pursuant to NRCP Rule
24 53(b) is appropriate in respect to the class members’ claims, ~~that are established by the~~
25 ~~records the Special Master will review. Such claims will not require any determination~~
26 ~~by a jury and must be determined as a matter of law based upon those records.~~ The
27 Court also finds that such a Special Master appointment is appropriate under NRCP
28 Rule 53(b) as the resolution of the class members’ claims present complicated issues.

1 Whether minimum wages are owed for any particular pay period is quite simple when
2 the relevant information (hours worked and wages paid) is known. But in this case that
3 information must be gathered from over 200,000 trip sheets, a complex process.

4 Similarly, performing that calculation on many thousands of pay periods for
5 approximately 1,000 class members is also complicated and laborious.

6 The Court also finds a compelling imperative in so appointing a Special Master,
7 at defendants' expense at this time, to perform this task is found in the Nevada
8 Constitution, which provides for the most stringent protections for Nevada's employees
9 to ensure they are paid the required minimum wage. It also directs this Court to grant
10 all relief available to effectuate its purpose of securing the payment of minimum wages
11 owed to Nevada employees. Therefore,

12 IT IS HEREBY ORDERED that _____ is
13 appointed Special Master in this case by the Court. The purpose of such Special
14 Master appointment is to determine for each class member, ~~based upon the hours of~~
15 ~~work set forth in their trip sheets for each pay period, and the wages they were paid in~~
16 ~~each such pay period as set forth in A Cab's Quickbooks records, the unpaid minimum~~
17 ~~wages they are owed by A Cab pursuant to Article 15, Section 16, of Nevada's~~
18 ~~Constitution (the "MWA") under the "lower tier" or "health insurance provided"~~
19 ~~minimum wage rate.~~ That determination is to be made for all class members for all pay
20 periods falling entirely within the class period of October 8, 2010 through December
21 31, 2015. That determination is also to be made for those class members who were
22 granted a statute of limitations toll pursuant to this Court's Order entered on June 7,
23 2017 for all pay periods occurring entirely after the statute of limitations toll date listed
24 for them in Ex. "A" of that Order and prior to December 31, 2015; and

25 IT IS FURTHER ORDERED that in determining the hours of work shown by a
26 trip sheet, the Special Master shall accept as correct the characterization of time as
27 "breaks" or "meals" or non-working time in the trips sheet as accurate and subtract all
28

1 such time from the interval between the start and end time for the shift as recorded on
2 the trip sheet. The Special Master in their report shall also note the indicated start and
3 end time of “break” or “meal” time entry on each trip sheet. In the event that no shift
4 end time is recorded or fully legible on a trip sheet the Special Master shall indicate in
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6 “Meter Details” and that trip sheet’s copy of the printed fuel purchase receipt and use
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11 working hours total, or perform a minimum wage underpayment calculation, for the
12 class member for the pay period including that trip sheet. In determining all wages
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14 taxable income paid by A Cab to the class member during the pay period as recorded in
15 A Cab’s Quickbooks records but shall not include any amounts identified as “Tips” or
16 “Tips Supplemental.” The Special Master shall rely on the parties’ stipulated
17 agreement as to the wages paid to the class members each class period if the parties so
18 agree to stipulate.; and

19 IT IS FURTHER ORDERED that A Cab shall, forthwith, provide the Special
20 Master all records necessary for the performance of its appointment and as the Special
21 Master requests. The first meeting of the parties and the Special Master directed by
22 NRCP 53(d)(1) is dispensed with. The Special Master shall deliver the report of their
23 findings to the Court and the parties no later than

24 The report so furnished shall state the total amount of ~~unpaid minimum wages so~~
25 ~~owed, if any, for each class member; the amount~~ of hours each class member was
26 found to have worked each pay period for A Cab; ~~and the amount of wages within the~~
27 ~~meaning of the MWA they were paid each pay period by A Cab.~~ The report shall also
28 indicate every pay period for every class member that the Special Master finds the

1 records reviewed contained incomplete or not fully legible information and for which
2 no determination on whether proper minimum wages were paid could be made. At the
3 request of any party, the Special Master shall provide the report's foregoing findings in
4 an Excel file.

5 IT IS FURTHER ORDERED that the costs of the Special Master shall be borne
6 by the defendant A Cab who shall, within _____ days of the entry of this Order
7 deposit with the Special Master the amount of _____ for their services,
8 the Court also expressly reserving the possibility that it may in the future direct some
9 portion of the Special Master's cost be shifted to the plaintiffs if the Special Master's
10 report documents circumstances that the Court finds warrant it doing so.;

11 IT IS FURTHER ORDERED that the Court will not be entertaining a motion for
12 reconsideration of this order by the defendants;

13 **IT IS SO ORDERED.**

14
15
16 _____
17 Honorable Kenneth Cory
18 District Court Judge

_____ Date

19 LEON GREENBERG PROFESSIONAL CORP.

20 _____
21 Dana Sniegocki, Esq. NSB 11715
22 LEON GREENBERG PROFESSIONAL CORP.
23 2965 S. Jones Boulevard - Ste. E-3
24 Las Vegas, NV 89146
25 Tel (702) 383-6085
26 Attorney for the Plaintiffs

_____ Date

Approved as to Form and Content:

27 _____
28 Esther C. Rodriguez, Esq. NSB 6473
RODRIGUEZ LAW OFFICES
1061 Park Run Drive - Suite 150
Las Vegas, Nevada, 89145
Tel (702) 320-8400
Attorney for the Defendants

_____ Date

EXHIBIT 3

EXHIBIT 3

1 **ORDR**

2 LEON GREENBERG, ESQ., SBN 8094
3 DANA SNEGOCKI, ESQ., SBN 11715
4 Leon Greenberg Professional Corporation
5 2965 South Jones Blvd- Suite E3
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dana@overtimelaw.com
Attorneys for Plaintiffs

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

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

11 Plaintiffs,

12 vs.

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

15 Defendants.

) Case No.: A-12-669926-C

) Dept.: I

) **ORDER GRANTING**
) **PLAINTIFFS' MOTION TO**
) **APPOINT A SPECIAL MASTER**

) **Hearing Date: February 2, 2018**
) **Hearing Time: 9:00 a.m.**

16
17
18 On January 25, 2018, with all the parties appearing before the Court by their
19 respective counsel as noted in the record, the Court granted plaintiffs' motion for
20 rehearing of plaintiffs' prior request to appoint a special master pursuant to Nev. R.
21 Civ. P. 53, such request being made as part of Plaintiffs' Motion for Class
22 Certification originally filed on May 19, 2015. Such request was originally denied by
23 the Court in its Order entered on February 10, 2016. In revisiting that prior order and
24 entertaining the argument of counsel for the parties at a continued hearing held on
25 February 2, 2018, the Court hereby finds:

26 The parties do not dispute that the wages paid the class members every pay
27 period are accurately set forth in the preserved Quickbooks records of defendant A-
28 Cab. The parties cannot, at this time, present to the Court any agreed upon record of

1 the total hours worked during each of those pay periods by each class member.
2 Plaintiffs have maintained throughout this litigation that defendants failed to keep a
3 record of the total hours worked by each of the class members per pay period as
4 required under NRS 608.115. NRS 608.115 requires an employer to “establish and
5 maintain records of wages for the benefit of his or her employees, showing for each
6 pay period.....[t]otal hours employed in the pay period by noting the number of hours
7 per day.” Defendants have maintained throughout this litigation that the only way to
8 determine the hours worked by the plaintiffs and the class members is to consult the
9 tripsheets. Defendants assert that those tripsheets set forth an accurate record of the
10 amount of time that the plaintiffs and the class members worked. Plaintiffs assert that
11 those tripsheets do not show the “total hours employed in the pay period.” They
12 record the time of day a taxicab driver started their shift, the time of day they ended
13 that shift, and the amount of non-working break time that occurred during the shift.

14 In light of the above, the Court finds that the appointment of a Special Master is
15 the appropriate solution to determine the hours worked each pay period by each class
16 member and the amount of minimum wages, if any, that each one is owed based upon
17 A Cab’s records. The Special Master is being appointed to report on the hours
18 worked, and the wages paid, as documented in A Cab’s admittedly accurate records; to
19 what extent that information in those records demonstrates wages of less than the
20 minimum wage (that “lower tier” rate is \$7.25 an hour since July 1, 2010) were paid
21 during any pay periods; and the amount of any such minimum wage deficiencies for
22 each class member.

23 The Court finds such a Special Master appointment pursuant to NRCP Rule
24 53(b) is appropriate in respect to the class members’ claims that are established by the
25 records the Special Master will review. Such claims will not require any
26 determination by a jury and must be determined as a matter of law based upon those
27 records. The Court also finds that such a Special Master appointment is appropriate
28 under NRCP Rule 53(b) as the resolution of the class members’ claims present

1 complicated issues. Whether minimum wages are owed for any particular pay period
2 is quite simple when the relevant information (hours worked and wages paid) is
3 known. But in this case that information must be gathered from over 200,000 trip
4 sheets, a complex process. Similarly, performing that calculation on many thousands
5 of pay periods for approximately 1,000 class members is also complicated and
6 laborious.

7 The Court also finds a compelling imperative in so appointing a Special Master,
8 at defendants' expense at this time, to perform this task is found in the Nevada
9 Constitution, which provides for the most stringent protections for Nevada's
10 employees to ensure they are paid the required minimum wage. The Court reserves a
11 final determination pertaining to which party will bear the costs or a portion thereof,
12 following the final report of the Special Master. It also directs this Court to grant all
13 relief available to effectuate its purpose of securing the payment of minimum wages
14 owed to Nevada employees. Therefore,

15 IT IS HEREBY ORDERED that is
16 appointed Special Master in this case by the Court. The purpose of such Special
17 Master appointment is to determine for each class member, based upon the hours of
18 work set forth in their trip sheets for each pay period, and the wages they were paid in
19 each such pay period as set forth in A Cab's Quickbooks records, the unpaid minimum
20 wages they are owed by A Cab pursuant to Article 15, Section 16, of Nevada's
21 Constitution (the "MWA") under the "lower tier" or "health insurance provided"
22 minimum wage rate. That determination is to be made for all class members for all
23 pay periods falling entirely within the class period of October 8, 2010 through
24 December 31, 2015. That determination is also to be made for those class members
25 who were granted a statute of limitations toll pursuant to this Court's Order entered on
26 June 7, 2017 for all pay periods occurring entirely after the statute of limitations toll
27 date listed for them in Ex. "A" of that Order and prior to December 31, 2015; and
28

1 IT IS FURTHER ORDERED that in determining the hours of work shown by a
2 trip sheet, the Special Master shall accept as correct the characterization of time as
3 “breaks” or “meals” or non-working time in the trips sheet as accurate and subtract all
4 such time from the interval between the start and end time for the shift as recorded on
5 the trip sheet. The Special Master in their report shall also note the indicated start and
6 end time of “break” or “meal” time entry on each trip sheet. In the event that no shift
7 end time is recorded or fully legible on a trip sheet the Special Master shall indicate in
8 their report the times on that trip sheet’s copy of the printed receipt that included
9 “Meter Details” and that trip sheet’s copy of the printed fuel purchase receipt and use
10 the earlier of each time to arrive as a “shift end” time for purposes of calculating the
11 hours worked during the shift. If no legible “Meter Details” or fuel purchase receipt
12 time exists on that trip sheet the Special Master shall not calculate any hours of work
13 for that trip sheet and that shift and shall record that they are unable to arrive at a
14 working hours total, or perform a minimum wage underpayment calculation, for the
15 class member for the pay period including that trip sheet. In determining all wages
16 paid to a class member during a pay period the Special Master shall include all items
17 of taxable income paid by A Cab to the class member during the pay period as
18 recorded in A Cab’s Quickbooks records but shall not include any amounts identified
19 as “Tips” or “Tips Supplemental.” The Special Master shall rely on the parties’
20 stipulated agreement as to the wages paid to the class members each class period if the
21 parties so agree to stipulate.; and

22 IT IS FURTHER ORDERED that A Cab shall, forthwith, provide the Special
23 Master all records necessary for the performance of its appointment and as the Special
24 Master requests. The first meeting of the parties and the Special Master directed by
25 NRCP 53(d)(1) is dispensed with. The Special Master shall deliver the report of their
26 findings to the Court and the parties no later than

27 The report so furnished shall state the total amount of unpaid minimum wages
28 so owed, if any, for each class member; the amount of hours each class member was

1 found to have worked each pay period for A Cab; and the amount of wages within the
2 meaning of the MWA they were paid each pay period by A Cab. The report shall also
3 indicate every pay period for every class member that the Special Master finds the
4 records reviewed contained incomplete or not fully legible information and for which
5 no determination on whether proper minimum wages were paid could be made. At the
6 request of any party, the Special Master shall provide the report's foregoing findings
7 in an Excel file.

8 IT IS FURTHER ORDERED that the costs of the Special Master shall be borne
9 by the defendant A Cab at this time and pending a final determination by the Court,
10 who shall, within _____ days of the entry of this Order deposit with the Special
11 Master the amount of _____ for their services, the Court also expressly
12 reserving the possibility that it may in the future direct some portion of the Special
13 Master's cost be shifted to the plaintiffs if the Special Master's report documents
14 circumstances that the Court finds warrant it doing so.

15 ...
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21 ...
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28 ...

1 **ORDR**

2 LEON GREENBERG, ESQ., SBN 8094
3 DANA SNIEGOCKI, ESQ., SBN 11715
4 Leon Greenberg Professional Corporation
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9 leongreenberg@overtimelaw.com
10 dana@overtimelaw.com
11 Attorneys for Plaintiffs

4 Clarification
Revisions

7 **DISTRICT COURT**

8 **CLARK COUNTY, NEVADA**

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

11 Plaintiffs,

12 vs.

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

15 Defendants.

) Case No.: A-12-669926-C

) Dept.: I

) **ORDER GRANTING
PLAINTIFFS' MOTION TO
APPOINT A SPECIAL MASTER**

) **Hearing Date: February 2, 2018
Hearing Time: 9:00 a.m.**

16
17
18 On January 25, 2018, with all the parties appearing before the Court by their
19 respective counsel as noted in the record, the Court granted plaintiffs' motion for
20 rehearing of plaintiffs' prior request to appoint a special master pursuant to Nev. R.
21 Civ. P. 53, such request being made as part of Plaintiffs' Motion for Class Certification
22 originally filed on May 19, 2015. Such request was originally denied by the Court in
23 its Order entered on February 10, 2016. In revisiting that prior order and entertaining
24 the argument of counsel for the parties at a continued hearing held on February 2,
25 2018, the Court hereby finds:

26 The parties do not dispute that the wages paid the class members every pay
27 period are accurately set forth in the preserved Quickbooks records of defendant A-
28 Cab. The parties cannot, at this time, present to the Court any agreed upon record of

1 the total hours worked during each of those pay periods by each class member.
2 Plaintiffs have maintained throughout this litigation that defendants failed to keep a
3 record of the total hours worked by each of the class members per pay period as
4 required under NRS 608.115. NRS 608.115 requires an employer to “establish and
5 maintain records of wages for the benefit of his or her employees, showing for each
6 pay period.....[t]otal hours employed in the pay period by noting the number of hours
7 per day.” Defendants have maintained throughout this litigation that the only way to
8 determine the hours worked by the plaintiffs and the class members is to consult the
9 tripsheets. Defendants assert that those tripsheets set forth an accurate record of the
10 amount of time that the plaintiffs and the class members worked. ^{① plaintiffs assert that} Yet those tripsheets
11 do not show the “total hours employed in the pay period.” They record the time of day
12 a taxicab driver started their shift, the time of day they ended that shift, and the amount
13 of non-working break time that occurred during the shift.

14 In light of the above, the Court finds that the appointment of a Special Master is
15 the appropriate solution to determine the hours worked each pay period by each class
16 member and the amount of minimum wages, if any, that each one is owed based upon
17 A Cab’s records. The Special Master is being appointed to report on the hours
18 worked, and the wages paid, as documented in A Cab’s admittedly accurate records; to
19 what extent that information in those records demonstrates wages of less than the
20 minimum wage (that “lower tier” rate is \$7.25 an hour since July 1, 2010) were paid
21 during any pay periods; and the amount of any such minimum wage deficiencies for
22 each class member.

23 The Court finds such a Special Master appointment pursuant to NRCP Rule
24 53(b) is appropriate in respect to the class members’ claims that are established by the
25 records the Special Master will review. Such claims will not require any determination
26 by a jury and must be determined as a matter of law based upon those records. The
27 Court also finds that such a Special Master appointment is appropriate under NRCP
28 Rule 53(b) as the resolution of the class members’ claims present complicated issues.

1 Whether minimum wages are owed for any particular pay period is quite simple when
2 the relevant information (hours worked and wages paid) is known. But in this case that
3 information must be gathered from over 200,000 trip sheets, a complex process.
4 Similarly, performing that calculation on many thousands of pay periods for
5 approximately 1,000 class members is also complicated and laborious.

6 The Court also finds a compelling imperative in so appointing a Special Master,
7 at defendants' expense at this time, to perform this task is found in the Nevada
8 Constitution, which provides for the most stringent protections for Nevada's employees
9 to ensure they are paid the required minimum wage. It also directs this Court to grant
10 all relief available to effectuate its purpose of securing the payment of minimum wages
11 owed to Nevada employees. Therefore, (2) *the court reserves a final*

12 **IT IS HEREBY ORDERED** that *determination pertaining to which*
13 appointed Special Master in this case by the Court. The purpose of such Special *party will bear the costs or a*
14 Master appointment is to determine for each class member, based upon the hours of *portion thereof, following the final*
15 work set forth in their trip sheets for each pay period, and the wages they were paid in *report*
16 each such pay period as set forth in A Cab's Quickbooks records, the unpaid minimum *of the*
17 wages they are owed by A Cab pursuant to Article 15, Section 16, of Nevada's *S.M.*
18 Constitution (the "MWA") under the "lower tier" or "health insurance provided"
19 minimum wage rate. That determination is to be made for all class members for all pay
20 periods falling entirely within the class period of October 8, 2010 through December
21 31, 2015. That determination is also to be made for those class members who were
22 granted a statute of limitations toll pursuant to this Court's Order entered on June 7,
23 2017 for all pay periods occurring entirely after the statute of limitations toll date listed
24 for them in Ex. "A" of that Order and prior to December 31, 2015; and

25 **IT IS FURTHER ORDERED** that in determining the hours of work shown by a
26 trip sheet, the Special Master shall accept as correct the characterization of time as
27 "breaks" or "meals" or non-working time in the trips sheet as accurate and subtract all
28

1 such time from the interval between the start and end time for the shift as recorded on
2 the trip sheet. The Special Master in their report shall also note the indicated start and
3 end time of “break” or “meal” time entry on each trip sheet. In the event that no shift
4 end time is recorded or fully legible on a trip sheet the Special Master shall indicate in
5 their report the times on that trip sheet’s copy of the printed receipt that included
6 “Meter Details” and that trip sheet’s copy of the printed fuel purchase receipt and use
7 the earlier of each time to arrive as a “shift end” time for purposes of calculating the
8 hours worked during the shift. If no legible “Meter Details” or fuel purchase receipt
9 time exists on that trip sheet the Special Master shall not calculate any hours of work
10 for that trip sheet and that shift and shall record that they are unable to arrive at a
11 working hours total, or perform a minimum wage underpayment calculation, for the
12 class member for the pay period including that trip sheet. In determining all wages
13 paid to a class member during a pay period the Special Master shall include all items of
14 taxable income paid by A Cab to the class member during the pay period as recorded in
15 A Cab’s Quickbooks records but shall not include any amounts identified as “Tips” or
16 “Tips Supplemental.” The Special Master shall rely on the parties’ stipulated
17 agreement as to the wages paid to the class members each class period if the parties so
18 agree to stipulate.; and

19 IT IS FURTHER ORDERED that A Cab shall, forthwith, provide the Special
20 Master all records necessary for the performance of its appointment and as the Special
21 Master requests. The first meeting of the parties and the Special Master directed by
22 NRC 53(d)(1) is dispensed with. The Special Master shall deliver the report of their
23 findings to the Court and the parties no later than

24 The report so furnished shall state the total amount of unpaid minimum wages so
25 owed, if any, for each class member; the amount of hours each class member was
26 found to have worked each pay period for A Cab; and the amount of wages within the
27 meaning of the MWA they were paid each pay period by A Cab. The report shall also
28 indicate every pay period for every class member that the Special Master finds the

1 records reviewed contained incomplete or not fully legible information and for which
2 no determination on whether proper minimum wages were paid could be made. At the
3 request of any party, the Special Master shall provide the report's foregoing findings in
4 an Excel file.

5 ^{(3) at this time and pending a final determination by the Court}
6 IT IS FURTHER ORDERED that the costs of the Special Master shall be borne
7 by the defendant A Cab who shall, within _____ days of the entry of this Order
8 deposit with the Special Master the amount of _____ for their services,
9 the Court also expressly reserving the possibility that it may in the future direct some
10 portion of the Special Master's cost be shifted to the plaintiffs if the Special Master's
11 report documents circumstances that the Court finds warrant it doing so.;

12 IT IS FURTHER ORDERED that the Court will not be entertaining a motion for
13 reconsideration of this order by the defendants;

14 **IT IS SO ORDERED.**

15
16 _____
17 Honorable Kenneth Cory
18 District Court Judge

_____ Date

19 LEON GREENBERG PROFESSIONAL CORP.

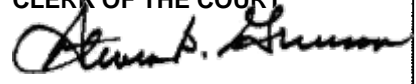
20 _____
21 Dana Sniegocki, Esq. NSB 11715
22 LEON GREENBERG PROFESSIONAL CORP.
23 2965 S. Jones Boulevard - Ste. E-3
24 Las Vegas, NV 89146
25 Tel (702) 383-6085
26 Attorney for the Plaintiffs

_____ Date

Approved as to Form and Content:

27 (4) _____
28 Esther C. Rodriguez, Esq. NSB 6473
RODRIGUEZ LAW OFFICES, P.C.
1061 Park Run Drive - Suite 150
Las Vegas, Nevada, 89145
Tel (702) 320-8400
Attorney for the Defendants

_____ Date



ORDR
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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 GRANTING
PLAINTIFFS' MOTION TO
APPOINT A SPECIAL MASTER**

Hearing Date: February 2, 2018
Hearing Time: 9:00 a.m.

On January 25, 2018, with all the parties appearing before the Court by their respective counsel as noted in the record, the Court granted plaintiffs' motion for rehearing of plaintiffs' prior request to appoint a special master pursuant to Nev. R. Civ. P. 53, such request being made as part of Plaintiffs' Motion for Class Certification originally filed on May 19, 2015. Such request was originally denied by the Court in its Order entered on February 10, 2016. In revisiting that prior order and entertaining the argument of counsel for the parties at a continued hearing held on February 2, 2018, the Court hereby finds:

The parties do not dispute that the wages paid the class members every pay period are accurately set forth in the preserved Quickbooks records of defendant A-Cab. The parties cannot, at this time, present to the Court any agreed upon record of

1 the total hours worked during each of those pay periods by each class member.
2 Plaintiffs have maintained throughout this litigation that defendants failed to keep a
3 record of the total hours worked by each of the class members per pay period as
4 required under NRS 608.115. NRS 608.115 requires an employer to “establish and
5 maintain records of wages for the benefit of his or her employees, showing for each
6 pay period....[t]otal hours employed in the pay period by noting the number of hours
7 per day.” Defendants have maintained throughout this litigation that the only way to
8 determine the hours worked by the plaintiffs and the class members is to consult the
9 tripsheets. Defendants assert that those tripsheets set forth an accurate record of the
10 amount of time that the plaintiffs and the class members worked. Yet those tripsheets
11 do not show the “total hours employed in the pay period.” They record the time of day
12 a taxicab driver started their shift, the time of day they ended that shift, and the amount
13 of non-working break time that occurred during the shift.

14 In light of the above, the Court finds that the appointment of a Special Master is
15 the appropriate solution to determine the hours worked each pay period by each class
16 member and the amount of minimum wages, if any, that each one is owed based upon
17 A Cab’s records. The Special Master is being appointed to report on the hours
18 worked, and the wages paid, as documented in A Cab’s admittedly accurate records; to
19 what extent that information in those records demonstrates wages of less than the
20 minimum wage (that “lower tier” rate is \$7.25 an hour since July 1, 2010) were paid
21 during any pay periods; and the amount of any such minimum wage deficiencies for
22 each class member.

23 The Court finds such a Special Master appointment pursuant to NRCP Rule
24 53(b) is appropriate in respect to the class members’ claims that are established by the
25 records the Special Master will review. Such claims will not require any
26 determination by a jury and must be determined as a matter of law based upon those
27 records. The Court also finds that such a Special Master appointment is appropriate
28 under NRCP Rule 53(b) as the resolution of the class members’ claims present

1 complicated issues. Whether minimum wages are owed for any particular pay period
2 is quite simple when the relevant information (hours worked and wages paid) is
3 known. But in this case that information must be gathered from over 200,000 trip
4 sheets, a complex process. Similarly, performing that calculation on many thousands
5 of pay periods for approximately 1,000 class members is also complicated and
6 laborious.

7 The Court also finds a compelling imperative in so appointing a Special Master,
8 at defendants' expense at this time, to perform this task is found in the Nevada
9 Constitution, which provides for the most stringent protections for Nevada's
10 employees to ensure they are paid the required minimum wage. It also directs this
11 Court to grant all relief available to effectuate its purpose of securing the payment of
12 minimum wages owed to Nevada employees. The Court reserves a final
13 determination pertaining to which party will bear the costs or a portion thereof of the
14 Special Master following the final report of the Special Master.

15 THEREFORE IT IS HEREBY ORDERED that Michael Rosten and the firm of
16 Piercy Bowler Taylor & Kern of Las Vegas, Nevada, is appointed Special Master in
17 this case by the Court. The purpose of such Special Master appointment is to
18 determine for each class member, based upon the hours of work set forth in their trip
19 sheets for each pay period, and the wages they were paid in each such pay period as set
20 forth in A Cab's Quickbooks records, the unpaid minimum wages they are owed by A
21 Cab pursuant to Article 15, Section 16, of Nevada's Constitution (the "MWA") under
22 the "lower tier" or "health insurance provided" minimum wage rate. That
23 determination is to be made for all class members for all pay periods falling entirely
24 within the class period of October 8, 2010 through December 31, 2015. That
25 determination is also to be made for those class members who were granted a statute of
26 limitations toll pursuant to this Court's Order entered on June 7, 2017 for all pay
27 periods occurring entirely after the statute of limitations toll date listed for them in Ex.
28 "A" of that Order and prior to December 31, 2015; and

1 IT IS FURTHER ORDERED that in determining the hours of work shown by a
2 trip sheet, the Special Master shall accept as correct the characterization of time as
3 "breaks" or "meals" or non-working time in the trips sheet as accurate and subtract all
4 such time from the interval between the start and end time for the shift as recorded on
5 the trip sheet. The Special Master in their report shall also note the indicated start and
6 end time of "break" or "meal" time entry on each trip sheet. In the event that no shift
7 end time is recorded or fully legible on a trip sheet the Special Master shall indicate in
8 their report the times on that trip sheet's copy of the printed receipt that included
9 "Meter Details" and that trip sheet's copy of the printed fuel purchase receipt and use
10 the earlier of each time to arrive as a "shift end" time for purposes of calculating the
11 hours worked during the shift. If no legible "Meter Details" or fuel purchase receipt
12 time exists on that trip sheet the Special Master shall not calculate any hours of work
13 for that trip sheet and that shift and shall record that they are unable to arrive at a
14 working hours total, or perform a minimum wage underpayment calculation, for the
15 class member for the pay period including that trip sheet. In determining all wages
16 paid to a class member during a pay period the Special Master shall include all items
17 of taxable income paid by A Cab to the class member during the pay period as
18 recorded in A Cab's Quickbooks records but shall not include any amounts identified
19 as "Tips" or "Tips Supplemental." The Special Master shall rely on the parties'
20 stipulated agreement as to the wages paid to the class members each class period if the
21 parties so agree to stipulate.; and

22 IT IS FURTHER ORDERED that A Cab shall, forthwith, provide the Special
23 Master all records necessary for the performance of its appointment and as the Special
24 Master requests. The first meeting of the parties and the Special Master directed by
25 NRCF 53(d)(1) is dispensed with. The Special Master shall deliver the report of their
26 findings to the Court and the parties no later than 45 days from the Special Master's
27 receipt of the deposit specified in this Order.


28 The report so furnished shall state the total amount of unpaid minimum wages

1 so owed, if any, for each class member; the amount of hours each class member was
2 found to have worked each pay period for A Cab; and the amount of wages within the
3 meaning of the MWA they were paid each pay period by A Cab. The report shall also
4 indicate every pay period for every class member that the Special Master finds the
5 records reviewed contained incomplete or not fully legible information and for which
6 no determination on whether proper minimum wages were paid could be made. At the
7 request of any party, the Special Master shall provide the report's foregoing findings
8 in an Excel file.

9 IT IS FURTHER ORDERED that the costs of the Special Master shall be borne
10 by the defendant A Cab who shall, within 10 days of the entry of this Order deposit
11 with the Special Master the amount of \$25,000 for their services, the Court also
12 expressly reserving the possibility that it may in the future direct some portion of the
13 Special Master's cost be shifted to the plaintiffs if the Special Master's report
14 documents circumstances that the Court finds warrant it doing so.;

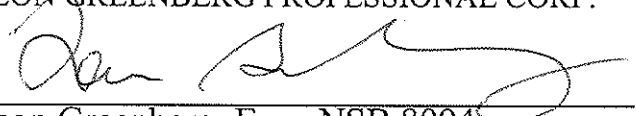
15 IT IS FURTHER ORDERED that the Court will not be entertaining a motion for
16 reconsideration of this order by the defendants.

17
18 **IT IS SO ORDERED.**

19
20
21 
22 Honorable Kenneth Cory
23 District Court Judge

24 2-7-18
25 Date

26 LEON GREENBERG PROFESSIONAL CORP.

27 
28 Leon Greenberg, Esq. NSB 8094
LEON GREENBERG PROFESSIONAL CORP.
2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
Tel (702) 383-6085
Attorney for the Plaintiffs

30 2/6/18
31 Date

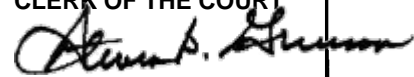
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Approved as to Form and Content:

Not Approved

Esther C. Rodriguez, Esq. NSB 6473
RODRIGUEZ LAW OFFICES P.C.
10161 Park Run Drive - Suite 150
Las Vegas, Nevada, 89145
Tel (702) 320-8400
Attorney for the Defendants

Date



1 **SUPP**
2 Esther C. Rodriguez, Esq.
3 Nevada Bar No. 6473
4 RODRIGUEZ LAW OFFICES, P.C.
5 10161 Park Run Drive, Suite 150
6 Las Vegas, Nevada 89145
7 702-320-8400
8 info@rodriguezlaw.com

9 Michael K. Wall, Esq.
10 Nevada Bar No. 2098
11 Hutchison & Steffen, LLC
12 10080 West Alta Drive, Suite 200
13 Las Vegas, Nevada 89145
14 702-385-2500
15 mwall@hutchlegal.com
16 *Attorneys for Defendants*

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

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

16 **Plaintiffs,**

17 vs.

18 A CAB TAXI SERVICE LLC and A CAB, LLC,

19 **Defendants.**

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

Hearing Date: February 2, 2018
Hearing Time: 9:00 a.m.

20 **DEFENDANTS' SUPPLEMENT TO**

21 **ITS PROPOSED CANDIDATES FOR SPECIAL MASTER**

22 Defendants, by and through their attorneys of record, hereby submit a supplemental
23 information packet to its proposed Special Master candidates as ordered by the Court on February
24 2, 2018. At the hearing pertaining to the appointment of a Special Master, the Court requested
25 additional information on the 3 names submitted by Defendants. Additional information is attached
26 hereto.

- 27 1. Joseph Leauanae, CPA, CITP, CFF, CFE, ABV, ASA of Anthem Forensics
28 Mr. Leanae's curriculum vitae and proposal are attached as **Exhibit 1**.

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2. Kirk Kirkendall, MBA, CPA, CFE

Mr. Kirkendall's curriculum vitae and list of case testimony are attached as **Exhibit 2**. Mr. Kirkendall has expressed his interest in this appointment, indicating the Court is familiar with his work and reputation. He can prepare a proposal if the Court deems one necessary.

3. Kirstin Lambrecht, CPA

Ms. Lambrecht's curriculum vitae is attached as **Exhibit 3**. Ms. Lambrecht has expressed her interest in this appointment, indicating that she does not have a relationship with the transportation industry as Plaintiffs represented at the most recent hearing. Her interaction has been limited to preparing Yellow Cab's tax returns for the last few years, which led to her involvement in reviewing their records pertaining to the minimum wage issues lodged against them. If anything this experience has provided Ms. Lambrecht with a better understanding of the issues surrounding minimum wage claims by drivers. She can prepare a proposal if the Court deems one necessary.

With this supplement, Defendants do not waive their ongoing objections to this appointment of a Special Master as improper, and being forced to bear the costs thereof. Defendants are ill-equipped to finance this project.

DATED this 5th day of February, 2018.

RODRIGUEZ LAW OFFICES, P. C.

/s/ Esther C. Rodriguez, Esq.
Esther C. Rodriguez, Esq.
Nevada State Bar No. 006473
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Attorneys for Defendants

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 5th day of February, 2018, I electronically filed the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic service to the following:

Leon Greenberg, Esq.
Leon Greenberg Professional Corporation
2965 South Jones Boulevard, Suite E4
Las Vegas, Nevada 89146
Co-Counsel for Plaintiffs

Christian Gabroy, Esq.
Gabroy Law Offices
170 South Green Valley Parkway # 280
Henderson, Nevada 89012
Co-Counsel for Plaintiffs

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

EXHIBIT 1

EXHIBIT 1



February 5, 2018
Via Electronic Mail

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

Re: Michael Murray, et al. v. A Cab Taxi Service LLC and A Cab, LLC

Dear Ms. Rodriguez:

We appreciate the opportunity to provide a proposal for special master selection in the captioned matter. The following provides a brief introduction to our firm, a summary of the anticipated scope of work, and an assessment of potential fees to complete the scope of work.

ANTHEM FORENSICS

While Anthem was only formed in Nevada a decade ago, it has developed a recognizable brand with both attorneys and the courts in Clark County. Our firm is a boutique operation that specializes in the synergistic practice areas of forensic accounting, business valuation, and economic damage calculation. While the majority of our work is in litigation, we are often court-appointed or jointly retained by litigating parties (particularly in contentious marital dissolution matters), which speaks to our independence, credibility, and reasonableness.

Our firm is involved in projects of many sizes and our experienced professionals hold designations that demonstrate our commitment to specialization. We are accountants who do not perform traditional audits or prepare tax returns. But we do what most accountants cannot: we design creative, cost-effective, and probative solutions to complex problems. And we do it well.

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Orange County Office
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949.543.0851

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SCOPE OF WORK

Pursuant to our discussion and review of the materials you have provided, we anticipate the following scope of work:

1. Analyze approximately 300,000 trip sheets ("trip sheets") that are currently maintained in a combination of electronic and source document formats.
2. Capture at least the following data fields from the trip sheets:
 - a. Driver name
 - b. Cab number
 - c. TA number
 - d. Date
 - e. Shift
 - f. Shift start time
 - g. Shift end time
 - h. Break start time
 - i. Break end time
3. The integrity of the data from the trip sheets must be tested and verified contemporaneous with its capture, which may involve procedures including, but not limited to, the following:
 - a. Creating a framework at the outset of the project ("initial framework") for identifying problematic issues related to 1) illegibility of handwritten data, 2) inconsistencies between expected data, employee-entered data, and captured data, 3) correlation discrepancies between data from the trip sheets and ancillary supporting data.
 - b. Effectively and efficiently modifying the initial framework in real-time to incorporate other problematic issues that may arise during the data capture process.
 - c. Establish a feedback loop with the Court and counsel to ensure that communication and procedures (both theoretical and applied) optimize the usefulness of the captured data.
4. Develop reporting templates that allow for meaningful dissemination of captured and tested data. If necessary, pre-conclusion reporting can be implemented to provide progress reports and interim observations.

Michael Murray, et al. v. A Cab Taxi Service LLC and A Cab, LLC
Esther C. Rodriguez, Esq.
February 5, 2018



ASSESSMENT OF POTENTIAL FEES

In conjunction with our review of the information you provided and the anticipated scope of work outlined above, we estimate that Anthem's fees to complete that scope of work will range from \$200,000 to \$250,000. I have attached my CV for your review and ask that you please contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Joe L. Leauanae'.

Joseph L. Leauanae, CPA, CITP, CFF, CFE, ABV, ASA
joe@anthemforensics.com



Joseph L. Leuanae

CPA, CITP, CFF, CFE, ABV, ASA

Joseph L. Leuanae has been providing litigation support and financial valuation services for over 20 years. His engagements in these areas involve the application of forensic or investigative accounting techniques, the valuation of businesses and intangible assets, and the quantification of economic damages.

The following is a summary of Mr. Leuanae's forensic accounting, business valuation, and economic damage calculation experience.

Forensic/Investigative Accounting

Mr. Leuanae's forensic accounting experience includes the investigation and/or reconstruction of accounting records in cases relating to marital dissolution, embezzlement, fraud detection and documentation, theft, intellectual property, contract disputes, shareholder disputes, wrongful termination/death, personal injury, and business interruption. Sample experience includes the following:

- Performing investigative accounting relative to the valuation and tracing of marital/community assets in divorce cases.
- Performing investigative accounting in commercial litigation matters.
- Reconstructing accounting records as a result of theft, floods, fire, and other natural disasters.
- Performing investigative accounting analyses relative to criminal fraud trials and claims.

Financial Valuation

Mr. Leuanae's financial valuation experience includes valuing businesses and intellectual property in a number of diverse industries and in both cooperative and contentious appraisal environments. Sample experience includes the following:

Las Vegas Office
2520 St. Rose Parkway, Suite 211
Henderson, NV 89074
702.366.9599

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Orange County Office
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Irvine, CA 92614
949.543.0851

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-
- Performing valuations for matters involving marital dissolution, including assessing separate vs. community property allocations.
 - Consulting on synergy considerations in business combination transactions.
 - Performing valuations for shareholder disputes and buy-outs.
 - Performing valuations to assist with gift and estate tax planning.

Economic Damage Calculation

Mr. Leauanae's economic damage calculation experience includes the analysis and preparation of economic damage calculations for matters involving contract disputes, business interruption, and intellectual property infringement. He has also analyzed and quantified economic losses in personal injury, wrongful death, and wrongful termination matters. Sample experience includes the following:

- Analyzing plaintiff/defendant claims for lost profits, and the diminution of business value, in commercial litigation matters.
- Computing economic damages relative to intellectual property infringement.

Educational Qualifications

Mr. Leauanae earned a Bachelor of Science degree in Accounting and a Master of Business Administration degree, with an emphasis in Management of Technology, from the University of Utah.

Professional Certifications

- Licensed as a Certified Public Accountant in Nevada and Utah
- Member of the American Institute of Certified Public Accountants (AICPA)
- Member of the Nevada Society of Certified Public Accountants (NSCPA)
- Certified Information Technology Professional by the AICPA
- Certified in Financial Forensics by the AICPA
- Certified Fraud Examiner by the Association of Certified Fraud Examiners
- Accredited in Business Valuation by the AICPA
- Accredited Senior Appraiser by the American Society of Appraisers

Professional Affiliations/Activities

- Chair, Utah Association of Certified Public Accountants (UACPA) Business Valuation Committee, 2003 – 2004
- Chair, UACPA Business Valuation - Litigation Services Committee, 2005 - 2006
- Member, NSCPA Business Valuation Committee, 2004 – 2005, 2008
- Member, NSCPA Litigation Consulting Services Committee, 2007
- Member, AICPA Business Valuation and Forensic & Litigation Services' Editorial Advisory Board, 2004 – 2007
- Member, AICPA ABV Credential Committee, 2008 – 2010
- Member, ACFE Las Vegas Chapter Board, 2009 – 2011
- Mentor, AICPA ABV Mentor program, 2008 – 2011
- Member, AICPA ABV Champions Task Force, 2010 – 2012
- Director, NSCPA Las Vegas Chapter Board, 2013 – 2014

Publications

- "The Science and Art of Business Valuation", THE JOURNAL ENTRY (November 2001)
- "Enron Demonstrates Weaknesses in the Attestation Process", THE CPA JOURNAL (September 2002)
- "Truth or Dare: Assessing the Reliability of Financial Statements in a Post-Enron World", UTAH BAR JOURNAL (October 2002)
- "Expert Witness Qualifications and Selection", JOURNAL OF FINANCIAL CRIME (December 2004)
- "A Unified Approach to Calculating Economic Damages", TEXAS PARALEGAL JOURNAL (Summer 2005)
- "Rebutting Your Client: How Much Involvement is Too Much? (From An Expert's Point of View)", TEXAS PARALEGAL JOURNAL (Fall 2005)
- "Valuation Discounts for Holding Companies", THE JOURNAL ENTRY (October 2005)
- "Personal Injury: How Much for How Long?", THE JOURNAL ENTRY (November 2005)
- "Developing a Business Valuation Practice", AICPA FVS CONSULTING DIGEST (March 2011)
- "Forensic Accounting: Those 'Other' Accountants", THE SILVER STATE CPA (July 2012)
- "The Pitfalls of 'Managing' Discovery", FAMILY LAWYER MAGAZINE (Spring 2017)

Select Speaking Engagements

- "Valuation of Intangible Assets", Utah State Bar, 2002 Mid-Year Convention (March 2002)

- “Applying Forensic Accounting Skills in the Business Valuation Process”, Utah Association of Certified Public Accountants, Business Valuation Symposium (September 2002)
- “Introduction to Forensic Accounting and Business Valuation”, Beta Alpha Psi, University of Utah Chapter (November 2002)
- “Trademark Dilution and Damages”, The Bar Association of San Francisco, Barristers Club (June 2003)
- “What Tax Practitioners Need To Know About Business Valuation”, Utah Association of Certified Public Accountants, 31st Annual Tax Symposium (November 2005)
- “Forensic Accounting Cases”, Association of Certified Fraud Examiners, Salt Lake Chapter (April 2007)
- “When Auditing Isn’t Enough: A Forensic Accountant’s Perspective”, Northern Utah Association of Government Auditors, Professional Development Conference (May 2007)
- “Forensic Accounting – A Primer for Management Accountants”, Institute of Management Accountants, Salt Lake Chapter (September 2007)
- “Business Valuation”, Idaho Society of CPAs, Idaho State Tax Update (November 2007)
- “Payroll Fraud and A/P Fraud”, Northern Utah Association of Government Auditors, Professional Development Conference (May 2008)
- “An Introduction to Forensic Accounting”, Beta Alpha Psi / CFE, UNLV Chapter (November 2008)
- “How To Use Forensic Accountants in a Divorce Case”, Advanced Family Law Strategies Seminar, Las Vegas (December 2008)
- “Overview of Forensic Accounting: Financial Investigations to Business Valuations”, Clark County Bar Association CLE Seminar, Las Vegas (June 2009)
- “Litigating Business Valuations in Divorce Cases”, Advanced Family Law Financial Strategies Seminar, Las Vegas (December 2009)
- “The Role of Forensic Accounting in Turnarounds: How to Find and Follow the Money”, Turnaround Management Association of Nevada, Las Vegas (May 2010)
- “Forensic Accounting: A Continuous Study of Ethical Quandaries”, Institute of Internal Auditors, Las Vegas Chapter (November 2011)
- “CPA 2.0: Specialization for Career Enhancement”, AICPA Practitioners Symposium TECH+ Conference (June 2012)
- “Business Valuation – A Primer for Management Accountants”, Institute of Management Accountants, Las Vegas Chapter (August 2013)
- “Litigating Business Values in Divorce Cases”, State Bar of Nevada, Family Law Conference (March 2017)
- “Dividing Trust Assets in Divorce”, National Business Institute, Complex Assets in Divorce Seminar (May 2017)
- “BV and Forensic Accounting: Navigating the Intersection of Fact and Fiction”, American Society of Appraisers, Advanced Business Valuation Conference (October 2017)

- “The Alimony Double Dip”, State Bar of Nevada, Annual State Bar of Nevada Advanced Family Law Program (December 2017)

Summary of Expert Witness Testimony

The following list only identifies cases in which Mr. Leauanae has provided expert witness testimony in a deposition or court setting. It does not include cases wherein he was designated an expert witness or issued an expert report if he did not ultimately provide testimony in deposition or court.

| <u>Ref</u> | <u>Case Name</u> | <u>Retention</u> | <u>Jurisdiction</u> |
|------------|---|--|---|
| 1 | <i>Perez v. Perez</i> | <i>Radford J. Smith, Chtd.</i> Counsel for Husband | Eighth Judicial District Court, Clark County |
| 2 | <i>Swanson v. Swanson</i> | <i>Radford J. Smith, Chtd.</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 3 | <i>Mello, et al. v. Jess Arndell Construction Co., et al.</i> | <i>Koeller, Nebeker, Carlson & Haluck LLP</i> Counsel for Jess Arndell Construction Co. | Second Judicial District Court, Washoe County |
| 4 | <i>CRND v. SeeLevel</i> | <i>Wood Crapo, LLC</i> Counsel for CRND | Fourth Judicial District Court, Utah County |
| 5 | <i>Bianchi v. Bank of America</i> | <i>Holland & Hart LLP</i> Counsel for Bank of America | Eighth Judicial District Court, Clark County |
| 6 | <i>Rasmuson v. Rasmuson</i> | <i>Radford J. Smith, Chtd.</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 7 | <i>Madonia v. Madonia</i> | <i>Bruce I. Shapiro, Ltd.</i> Counsel for Husband | Eighth Judicial District Court, Clark County |
| 8 | <i>Two Rivers Manufacturing, LLC, et al. v. Ecko Products, Inc., et al.</i> | <i>Lewis and Roca LLP</i> Counsel for Two Rivers Manufacturing, LLC | Eighth Judicial District Court, Clark County |
| 9 | <i>Bacon v. Soiberg</i> | <i>Throne & Hauser Kelleher & Kelleher</i> Joint Retention | Eighth Judicial District Court, Clark County |

| Ref | Case Name | Retention | Jurisdiction |
|------------|--|--|---|
| 10 | <i>Ferguson v. Ferguson</i> | <i>Rhonda L. Mushkin Chartered Law Offices of James S. Kent, Ltd. Joint Retention</i> | Eighth Judicial District Court, Clark County |
| 11 | <i>Alvin J. Watson, et al. v. Eaton Electrical Inc., et al.</i> | <i>Lewis and Roca LLP Counsel for Alvin J. Watson</i> | U.S. District Court |
| 12 | <i>Gastager v. Gastager</i> | <i>The Law Office of Michael R. Balabon The Law Office of M. Lani Esteban-Trinidad, P.C. Joint Retention</i> | Eighth Judicial District Court, Clark County |
| 13 | <i>Jones v. Jones</i> | <i>Kelleher & Kelleher Counsel for Husband</i> | Eighth Judicial District Court, Clark County |
| 14 | <i>Meyer v. Meyer</i> | <i>Kunin & Carman Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 15 | <i>Nelson v. Nelson</i> | <i>The Dickerson Law Group Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 16 | <i>Lindsey v. Lindsey</i> | <i>Pecos Law Group Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 17 | <i>Petculescu v. Petculescu</i> | <i>Lee, Hernandez, Brooks, Garofalo & Blake Dempsey, Roberts & Smith, Ltd. Joint Retention</i> | Eighth Judicial District Court, Clark County |
| 18 | <i>Murphy v. Murphy</i> | <i>Rebecca L. Burton, P.C. Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 19 | <i>Ophthalmic Associates, LLP, et al. v. Triple Net Properties, LLC, et al.</i> | <i>Santoro, Driggs, Walch, Kearney, Holley & Thompson Counsel for Triple Net Properties, LLC</i> | Eighth Judicial District Court, Clark County |
| 20 | <i>Lori A. Seright Pompei v. Premier Properties of Mesquite, Inc., et al. (2011)</i> | <i>Bingham & Snow, LLP Counsel for Lori A. Seright Pompei</i> | Eighth Judicial District Court, Clark County |
| 21 | <i>Ferrando v. Ferrando</i> | <i>Kelleher & Kelleher Counsel for Wife</i> | Eighth Judicial District Court, Clark County |

| Ref | Case Name | Retention | Jurisdiction |
|------------|--|--|---|
| 22 | <i>Que v. Que</i> | <i>The Abrams Law Firm</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 23 | <i>Ketchum v. Ketchum</i> | <i>The Abrams Law Firm</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 24 | <i>David B. Gam, et al. v. Brandon Gerson, et al.</i> | <i>The Harris Firm PC</i> Counsel for Brandon Gerson | Eighth Judicial District Court, Clark County |
| 25 | <i>Terry Lamuraglia v. Clark County</i> | <i>Law Office of Daniel Marks</i> Counsel for Terry Lamuraglia | Eighth Judicial District Court, Clark County |
| 26 | <i>Tiedemann v. Tiedemann</i> | <i>The Abrams Law Firm</i> <i>Naimi & Dilbeck, Chtd.</i> Joint Retention | Eighth Judicial District Court, Clark County |
| 27 | <i>Acosta v. D'Acosta</i> | <i>Willick Law Group</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 28 | <i>In the Matter of the Estate of Martin J. Blanchard</i> | <i>Trent, Tyrell & Associates</i> <i>James M. Davis Law Office</i> Joint Retention | Eighth Judicial District Court, Clark County |
| 29 | <i>Castillo v. Castillo</i> | <i>The Abrams Law Firm</i> <i>R. Nathan Gibbs LTD</i> Joint Retention | Eighth Judicial District Court, Clark County |
| 30 | <i>Shwentarsky v. Shwentarsky</i> | <i>The Fine Law Group</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 31 | <i>Faught v. Faught</i> | <i>The Abrams Law Firm</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 32 | <i>Lori A. Seright Pompei v. Premier Properties of Mesquite, Inc., et al. (2012)</i> | <i>Bingham & Snow, LLP</i> Counsel for Lori A. Seright Pompei | Eighth Judicial District Court, Clark County |
| 33 | <i>Tuscano, LLC v. Colorado Belle Gaming, LLC</i> | <i>Aldrich Law Firm, Ltd.</i> Counsel for Tuscano, LLC | Eighth Judicial District Court, Clark County |
| 34 | <i>Templeton v. Templeton</i> | <i>Law Office of Daniel Marks</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 35 | <i>Kaula v. Keam</i> | <i>Kelleher & Kelleher</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 36 | <i>Eason v. Eason</i> | <i>Kelleher & Kelleher</i> Counsel for Wife | Eighth Judicial District Court, Clark County |

| Ref | Case Name | Retention | Jurisdiction |
|------------|--|--|--|
| 37 | <i>Michael Carlson v. Charles E. Cleveland II</i> | <i>Court Appointment</i> | Eighth Judicial District Court, Clark County |
| 38 | <i>Virgin Valley Water District v. Michael E. Johnson, et al.</i> | <i>Bingham Snow & Caldwell, LLC Counsel for Virgin Valley Water District</i> | Eighth Judicial District Court, Clark County |
| 39 | <i>The Guardianship of Anthony D. Critelli v. Gemma Ganci, et al.</i> | <i>The Harris Firm, PC Rob Graham & Associates Counsel for The Guardianship of Anthony D. Critelli</i> | Eighth Judicial District Court, Clark County |
| 40 | <i>Schulte v. Schulte</i> | <i>Court Appointment</i> | Eighth Judicial District Court, Clark County |
| 41 | <i>Martella v. Martella</i> | <i>Kelleher & Kelleher Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 42 | <i>In the Matter of the Testamentary Trust of George A. Steiner</i> | <i>Russell Steiner c/o Solomon Dwiggin & Freer, Ltd.</i> | Eighth Judicial District Court, Clark County |
| 43 | <i>Advantage Services, LLC v. Resort Stays Marketing, LLC, et al.</i> | <i>Cotton, Driggs, Walch, Holley, Woloson & Thompson Counsel for Advantage Services, LLC</i> | Eighth Judicial District Court, Clark County |
| 44 | <i>Screws v. Screws</i> | <i>Kelleher & Kelleher Counsel for Husband</i> | Eighth Judicial District Court, Clark County |
| 45 | <i>Alabaster Holdings, LLC, et al. v. Eagle Mortgage Company, Inc., et al.</i> | <i>Alabaster Holdings, LLC c/o Wolf, Rifkin, Shapiro, Schulman & Rabkin, LLP</i> | Eighth Judicial District Court, Clark County |
| 46 | <i>Ambulance Management Group, LLC v. Dr. Richard Henderson</i> | <i>The Reid Firm Counsel for Ambulance Management Group, LLC</i> | Eighth Judicial District Court, Clark County |
| 47 | <i>Rebel Communications, LLC v. Virgin Valley Water District, et al.</i> | <i>Pitegoff Law Office Counsel for Virgin Valley Water District</i> | U.S. District Court |

| <u>Ref</u> | <u>Case Name</u> | <u>Retention</u> | <u>Jurisdiction</u> |
|------------|---|---|--|
| 48 | <i>Brightwell v. Helfrich</i> | <i>The Dickerson Law Group James M. Davis Law Office Joint Retention</i> | Eighth Judicial District Court, Clark County |
| 49 | <i>D.W. "Doc" Wiener v. Klipper Chemtrol Corporation</i> | <i>Lovato Law Firm, P.C. Counsel for D.W. "Doc" Wiener/Trustee</i> | Eighth Judicial District Court, Clark County |
| 50 | <i>Hickman v. Hickman</i> | <i>Kainen Law Group, PLLC Counsel for Husband</i> | Eighth Judicial District Court, Clark County |
| 51 | <i>Larsen v. Larsen</i> | <i>Kainen Law Group, PLLC Counsel for Husband</i> | Eighth Judicial District Court, Clark County |
| 52 | <i>In the Matter of the Estate of Edward DeWayne Mulick</i> | <i>Edwards & Chambers, LLP Counsel for Carrie Kovach, Stephanie Mulick, and Edward Mulick</i> | Eighth Judicial District Court, Clark County |
| 53 | <i>Beasley v. Beasley</i> | <i>Kelleher & Kelleher Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 54 | <i>Chew v. Hazell</i> | <i>Kelleher & Kelleher Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 55 | <i>Ellerbe v. Ellerbe</i> | <i>Kainen Law Group, PLLC Counsel for Husband</i> | Eighth Judicial District Court, Clark County |
| 56 | <i>Grasso v. Grasso</i> | <i>Court Appointment</i> | Eighth Judicial District Court, Clark County |
| 57 | <i>Shah Virani v. Arif B. Virani, et al.</i> | <i>Flader & Hirji, LLP Counsel for Shah Virani</i> | Eighth Judicial District Court, Clark County |
| 58 | <i>Cioffi-Kogod v. Kogod</i> | <i>Radford J. Smith, Chtd. Counsel for Wife</i> | Eighth Judicial District Court, Clark County |
| 59 | <i>Boutos v. Tallow</i> | <i>Court Appointment</i> | Eighth Judicial District Court, Clark County |
| 60 | <i>David J. Winterton, et al. v. Henry E. Lichtenberger, et al.</i> | <i>Lipson, Neilson, Cole, Seltzer & Garin, P.C. Counsel for Henry E. Lichtenberger</i> | Eighth Judicial District Court, Clark County |

| <u>Ref</u> | <u>Case Name</u> | <u>Retention</u> | <u>Jurisdiction</u> |
|------------|---|--|--|
| 61 | <i>Mace Management Group, LLC and Mandown, LLC v. Hard Rock Hotel, Inc., et al.</i> | <i>Shumway Van & Hansen</i> Counsel for Mace Management Group, LLC and Mandown, LLC | Eighth Judicial District Court, Clark County |
| 62 | <i>Diamant v. Diamant</i> | <i>The Abrams & Mayo Law Firm</i> Counsel for Husband | Eighth Judicial District Court, Clark County |
| 63 | <i>Lamb v. Lamb</i> | <i>The Abrams & Mayo Law Firm</i> Counsel for Wife | Eighth Judicial District Court, Clark County |
| 64 | <i>Sami Kovanen v. Buckley Dikes, et al.</i> | <i>Odunze PLLC</i> Counsel for Sami Kovanen | Eighth Judicial District Court, Clark County |
| 65 | <i>China Housing & Land Development, Inc. v. Pope Asset Management, LLC, et al.</i> | <i>Chasey Law Offices</i> Counsel for Pope Asset Management, LLC | Eighth Judicial District Court, Clark County |
| 66 | <i>Labrum v. Hite</i> | <i>Kunin Law Group</i> <i>Fine Carman Price</i> Counsel for Husband | Eighth Judicial District Court, Clark County |
| 67 | <i>TDN Money Systems, Inc. v. Everi Payments, Inc.</i> | <i>Pisanelli Bice PLLC</i> Counsel for Everi Payments, Inc. | U.S. District Court |

EXHIBIT 2

EXHIBIT 2

Curriculum Vitae

Kevin B. Kirkendall, MBA, CPA-CGMA, CFE

POSITION

Principal, Kirkendall Consulting Group, L.L.C.

EDUCATION

Masters of Business Administration – Idaho State University, 1995

Bachelor of Accounting – Utah State University, 1994

Associates of Accounting – Brigham Young University – Idaho, 1992

PROFESSIONAL DESIGNATIONS

Certified Public Accountant (CPA)

Certified Fraud Examiner (CFE)

PROFESSIONAL AFFILIATIONS

American Academy of Economic and Financial Experts (AAEFE)

National Association of Forensic Economics (NAFE)

Association of Certified Fraud Examiners (ACFE)

Collegium of Pecuniary Damages Experts – Treasurer (CPDE)

Nevada State Bar; Fee Dispute Arbitrator

Nevada State Bar; Fee Dispute Mediator

BUSINESS HISTORY

Kirkendall Consulting Group, L.L.C. (Las Vegas): *Principal* (2000 - current)

Main Stuart & Co. (Las Vegas): *Director – Litigation Support/Business Valuation Services*
(1998 - 2000)

PricewaterhouseCoopers LLP (Las Vegas/Phoenix): *Senior Associate – Litigation Support Services*
(1996–1998)

Piercy, Bowler, Taylor & Kern (Las Vegas): *Associate* 1995

Nevada CLE Course Authored and Taught

Hedonic Damages in Personal Injury and Wrongful Death

Economic Damages in Commercial Litigation

Economic Damages in Personal Injury and Wrongful Death

The Use of Financial Statements in Litigation

Testimony List

Kevin B. Kirkendall, MBA, CPA, CFE

| TRIAL | YEAR | CASE NUMBER | COURT |
|--|-------------|--------------------------|--|
| > Shani Investments v. Go Investments, et al. (Defendant/Counter-Claimant) | 2017 | A-14-698891-C | Clark County District Court |
| > GWS Design and Solutions, Ltd. v. Nexnovo Technology Co., Ltd., et al. (Plaintiff) | 2017 | A-16-737975-B | Clark County District Court |
| > Barragan, Lucia v. Terra Contracting, et al. (Defendant) | 2017 | A-13-686334-C | Clark County District Court |
| > Daichendt, Denise v. Chen, Eric Shangiyh (Defendant) | 2016 | A-13-685546-C | Clark County District Court |
| > McCrosky, Tawni v. Carson Tahoe Regional Medical Center (Plaintiff) | 2016 | 13-TRT-000281-B | Carson City District Court |
| > Alexander, Brett v. Mauren, Brett (Defendant) | 2015 | A-13-687062-C | Clark County District Court |
| > Natalie M. Hansen v. Chloe J. Sneathen, et al. (Plaintiff) | 2014 | 120905484 | 3rd Judicial Court of Salt Lake County |
| > Sharmila Singh v. Steven Goldberg (Defendant) | 2013 | A-11-635017-C | Clark County District Court |
| > Turner, Taquisha v. Russell, Pamela, MD, et al. (Plaintiff) | 2010 | CV07-01756 | Washoe County District Court |
| > Debra Fox v. Valley Health System, LLC (Plaintiff) | 2010 | 08A556715 | Clark County District Court |
| > Obayashi/PSM Construction USA, Inc., JV. v. American Bridge (Plaintiff) | 2009 | not available | not available |
| > McClendon, et al. v. Elliot, Wilco et al. (Defendant) | 2009 | 06A518678 | Clark County District Court |
| > Edward R. McWilliams v. Columbia 300 Classic, Inc., et al. (Plaintiff) | 2008 | 03A476442 | Clark County District Court |
| > Delgado, Cochran v. Borysewich, Diebold et al. (Defendant) | 2007 | 04A482360 | Clark County District Court |
| > Colvin v. Colvin (Plaintiff) | 2007 | USDC-CV-409-AA | US District Court |
| > William Wilhite vs. Serenity Homes, et al. (Plaintiff) | 2005 | 02A444748 | Clark County District Court |
| > Margaret Rose v. Charles Walton, MD (Defendant) | 2004 | 02A458098 | Clark County District Court |
| > LGD - Las Vegas Whitney Ranch Ltd, et al. v. OTR, et al. (Plaintiff) | 2004 | 01A438326 | Clark County District Court |
| > Flibotte v. Fwing Brothers, Inc., et al. (Plaintiff) | 2003 | 00A417958 | Clark County District Court |
| > Brenda Nunez v. Work Professional Services, LLP, et al. (Plaintiff) | 2003 | 00A421608 | Clark County District Court |
| > R. J. Hiel & Assoc. v. Ivie, Sweet Jackpots Inc., et al. (Defendant) | 2002 | 03A475336 | Clark County District Court |
| > Peter Oh v. Sonya Oh (Divorce) | 2002 | 00D250314 | Clark County District Court |
| > John D. Gumm v. Albertson's Inc., et al. (Plaintiff) | 2001 | 97A378040 | Clark County District Court |
| > Clark County of v. John Ackerman et al. (evidentiary hearing) | 2000 | 91A300062 | Clark County District Court |
| > Clark County of v. Bonnie Lou Snyder, et al. (evidentiary hearing) | 2000 | 97A370637 | Clark County District Court |
| > Clark County of v. Tien Fu Hsu, et al. (evidentiary hearing) | 2000 | 94A332441 | Clark County District Court |
| ARBITRATION/MEDIATION | | | |
| > Nicholas Gulli et al. v. Jackie Vohs, et al. (Defendant), 2014 | 2014 | A-10-621479-C | Clark County District Court |
| > Wayne Dawson v. Nevada Checker Cab Corp, et al. (Plaintiff), 2013 | 2013 | 08A576959 | Clark County District Court |
| > Lawrence Brown v. Mont Anderson, et al. (Defendant), 2010 | 2010 | not available | not available |
| > C & L Refrigeration Nevada LLC v. Scott Fisher (Defendant), 2010 | 2010 | 08A577229 | Clark County District Court |
| > JAC Inc. v. Crescent Electric Supply, et al. (Plaintiff) 2008 | 2008 | 05A500170 | Clark County District Court |
| > David Bold, et al. v. Carol Rice, et al. (Plaintiff) 2007 | 2007 | 06A530923 | Clark County District Court |
| > Curry v. Brennan (Defendant), 2004 | 2004 | 79-180-136-03-MAVI | US District Court |
| > Complete v. Behade (Defendant), 2003 | 2003 | 79-181-00046-03-01-S1R-C | US District Court |
| > Mary Sisolak v. Ash-Car Inc., et al. (Defendant), 2001 | 2001 | 00A423620 | Clark County District Court |

Testimony List

Kevin B. Kirkendall, MBA, CPA, CFE

| DEPOSITIONS | YEAR | CASE NUMBER | COURT |
|--|------|-----------------------|--|
| > Ferraro, Gino v. Khavkin, Yevgeniy M.D. et. Al. (Defendant) | 2017 | A-15-714688-C | Clark County District Court |
| > Agtual, Chona, et al. v. Global Experience Specialists, Inc., et al. (Defendant) | 2017 | A-15-721886-C | Clark County District Court |
| > Advantage 1 LLC v. 3300 Partners, LLC et al. (Plaintiff) | 2017 | A-15-723037-B | Clark County District Court |
| > Gish, Panje L. v. Global Experience Specialists, Inc., et al. (Defendant) | 2017 | A-15-721882-C | Clark County District Court |
| > Smith, Kallum v. 7-Eleven, Inc., et al. (Defendant) | 2017 | A-15-723448-C | Clark County District Court |
| > Gonzales, Tyson v. Navarro, Erik, et al. (Defendant) | 2017 | A-15-725994-C | Clark County District Court |
| > Baja Insurance Services, Inc. v. Shanze Enterprises, Inc. et al. (Plaintiff) | 2017 | 2:14-cv-02423-KJM-AC | United States District Court, Eastern District of California |
| > Jaz Investment Corp, et al. v. Laboratory Medicine Consultants, Ltd. (Plaintiff) | 2017 | A-16-731542-C | Clark County District Court |
| > Lamberth, Jason, et al. v. Clark County School District, et al. (Defendant) | 2016 | A-14-708849-C | Clark County District Court |
| > Taylor, Steven et al. v. Robert J. Kilroy (Plaintiff) | 2016 | 09A580860 | Clark County District Court |
| > Shani Investments v. Go Investments, et al. (Defendant/Counter-Claimant) | 2016 | A-14-698891-C | Clark County District Court |
| > College Villas, L.P. v. Burke Construction Group, Inc., et al. (Defendant) | 2016 | A-13-681635-C | Clark County District Court |
| > Virani, Shah v. Virani, Arif, et al. (Defendant) | 2016 | A-14-697066-C | Clark County District Court |
| > Oasis Las Vegas, LLC v. Lamar Central Outdoor, LLC (Defendant) | 2015 | A-12-659108-C | Clark County District Court |
| > Moraga Holdings Ltd. v. Advent Holdings, LLC (Plaintiff) | 2015 | A-11-646628-C | Clark County District Court |
| > Mautner, Michael v. Segerblom, Sharon (Defendant) | 2015 | A-14-696211-C | Clark County District Court |
| > McCrosky, Tawni v. Carson Tahoe Regional Medical Center (Plaintiff) | 2015 | 13-TRT-000281-B | Carson City District Court |
| > Dudley, Bobbie, et al. v. Lamplight Village HOA (Plaintiff) | 2015 | A-14-706284C | Clark County District Court |
| > Juwono, Michelle v. Big Poppa's, LLC, et al. (Plaintiff) | 2015 | A-13-676222-C | Clark County District Court |
| > Alexander, Brett v. Mauren, Brett (Defendant) | 2015 | A-13-687062-C | Clark County District Court |
| > Urban, Shayla v. Billica, MD, William, et al. (Plaintiff) | 2015 | 2013CV031015 | Larimer County District Court, State of Colorado |
| > Williams, Memrie v. Calfee, Gregory, et al. (Defendant) | 2015 | A-13-686049-C | Clark County District Court |
| > Geslak, David v. Foster, Lois (Defendant) | 2015 | A-13-676144-C | Clark County District Court |
| > OPH of Las Vegas, Inc. v. Oregon Mutual Insurance Company, et al. (Defendant) | 2015 | A-12-672158-C | Clark County District Court |
| > Merrill, Jay, et al. v. ProPoint, Inc., et al. (Defendant) | 2015 | A-12-671324-C | Clark County District Court |
| > Lovett, Carolyn v. Titan Demolition, LLC, et al. (Defendant) | 2015 | A-14-696381-C | Clark County District Court |
| > Dennett, William, et al. v. Treasure Island, et al. (Defendant) | 2015 | A-13-678847-C | Clark County District Court |
| > Terrell, William, et al. v. Central Washington Asphalt, Inc., et al. (Defendant) | 2015 | 2:11-cv-00142-APG-VCF | United States District Court for the District of Nevada |
| > Morrow, Brooks, et al. v. Cogburn Law Offices (Plaintiff) | 2015 | CV13-01627 | Washoe County |
| > Buchanan, Jacquelyn et al. v. Rebel Oil Company, Inc. (Defendant) | 2015 | A-13-691004-C | Clark County District Court |
| > Smith, Bobby, et al. v. Coast Hotels and Casinos (Defendant) | 2014 | A-10-625626-C | Clark County District Court |
| > Flamm, Fred v. Simon Property Group, et al. (Defendant) | 2014 | A-11-634479-C | Clark County District Court |
| > Merrill, Jay, et al. v. ProPoint, Inc., et al. (Defendant) | 2014 | A-12-671324-C | Clark County District Court |
| > Waters-Maria, Deanna v. Centennial Hills Hospital, et al. (Plaintiff) | 2014 | A-12-663473-C | Clark County District Court |
| > Estes, Grant v. Gonzalez, Alicia (Defendant) | 2014 | A-13-679544-C | Clark County District Court |
| > Speranza, George v. Sema, Jose, et al. (Defendant) | 2014 | A-13-675237-C | Clark County District Court |
| > Castle, Lois v. Las Vegas North Strip Holdings, LLC, et al. (Plaintiff) | 2014 | A-09-605940-C | Clark County District Court |
| > Skunkrunner Media, LLC v. Mandalay Corp, et al. (Defendant) | 2014 | A-10-628725-C | Clark County District Court |
| > Nicholas, Tommy, et al. v. Nevada Checker Cab Corporation, et al. (Defendant) | 2014 | A-11-652330-C | Clark County District Court |
| > Stabler, Elvira S. v. Zion Healthcare, et al. (Plaintiff) | 2014 | 2:11-cv-01044-TC | United States District Court for the District of Utah - Central Division |
| > Cumer, Dale v. Wells Cargo (Defendant) | 2014 | A671791 | Clark County District Court |
| > Langford, Janise, et al. v. John Deere & Company (Plaintiff) | 2014 | 2:13-cv-00182-J | US District Court: Northern District of Texas, Amarillo Division |
| > Wallace, George, et al. v. Bellagio LLC, et al. (Defendant) | 2014 | A604440 | Clark County District Court |
| > Maritza Diaz v. Venetian Casino resort, LLC. (Plaintiff) | 2013 | A-12-658640-C | Clark County District Court |

Testimony List

Kevin B. Kirkendall, MBA, CPA, CFE

| DEPOSITIONS CONTINUED | YEAR | CASE NUMBER | COURT |
|---|------|-----------------------|--------------------------------------|
| > Catherine F. Hamon v. Toll South LV, LLC (Defendant) | 2013 | A-12-664-793-C | Clark County District Court |
| > Gary Singleton v. Jupiter Communities, LLC (Plaintiff) | 2013 | 2:12-cv-2056-JAD-PAL | United States District Court: Nevada |
| > Katrina Hancock v. Ronald Sanchez, et al. (Defendant) | 2013 | A-12-667072-C | Clark County District Court |
| > Ganesha Breaux-Williams v. Sunrise Mountain View Hospital (Plaintiff) | 2013 | A-12-661406-C | Clark County District Court |
| > Peter S. Delalis et al. v. Albie J. Colotto, et al. (Defendant) | 2013 | A-10-630729-C | Clark County District Court |
| > Shane Walsh v. Triumph Motorcycles Ltd., et al. (Defendant) | 2013 | 08A557586 | Clark County District Court |
| > Sherri Loving v. Ryan Gubler et al. (Defendant) | 2013 | A-10-630767-C | Clark County District Court |
| > Kattie Marshall v. Nikola Bogdanovic et al. (Defendant) | 2012 | A-10-612849-C | Clark County District Court |
| > Rosalita Christman v. US Protect, et al. (Defendant) | 2012 | A-09-596861-C | Clark County District Court |
| > Nicholas Gulli, Jr. v. Jackie Vohs, et al. (Defendant) | 2012 | A-10-621479-C | Clark County District Court |
| > Becky Irvin v. Land Air Express, et al. (Defendant) | 2012 | A-10-608332-C | Clark County District Court |
| > Shamika Locklin v. Crystal Sithovong (Defendant) | 2012 | A-09-595258-C | Clark County District Court |
| > Terry Lamuraglia v. Clark County (Defendant) | 2012 | A-09-604331-C | Clark County District Court |
| > Arthur Wagner v. Aramark Entertainment, LLC (Plaintiff) | 2011 | A-09-596031-C | Clark County District Court |
| > Dawna Cotright v. Quality Communications Inc. (Defendant) | 2011 | 06A532112 | Clark County District Court |
| > Linda Munden v. Nevada Coaches, LLC, et al. (Plaintiff) | 2011 | A-10-609416-C | Clark County District Court |
| > Hazlett, et al. v. American Asphalt, et al. (Defendant) | 2011 | 07A538519 | Clark County District Court |
| > Rolando Riel v. Timothy Cunningham (Defendant) | 2011 | A-10-611329-C | Clark County District Court |
| > Danny Eastep v. Dal-Tile Inc., et al. (Defendant) | 2010 | 05A504928 | Clark County District Court |
| > Tyler Pinnegar v. Boy Scouts of America, et al. (Plaintiff) | 2010 | 08A571534 | Clark County District Court |
| > Antonio Gomez v. Yanelys Thomas (Plaintiff) | 2010 | 09A585196 | Clark County District Court |
| > Bruce Slater v. Corey Sweeny (Defendant) | 2010 | 08A559860 | Clark County District Court |
| > Arcelia Lopez v. Federal Cleaning Contractors, Inc., et al. (Defendant) | 2010 | 08A565986 | Clark County District Court |
| > Bacon, et al. v. Brett Knudsen, et al. (Defendant) | 2010 | 08A572449 | Clark County District Court |
| > Satterfield, et al. v. Karen Solheim (Defendant) | 2010 | 07A540836 | Clark County District Court |
| > Hersh, et al. v. Kenneth Madison, et al. (Defendant) | 2010 | 07A552938 | Clark County District Court |
| > Leo Archambault, et al. v. Sterling Auto Sales, et al. (Defendant) | 2010 | 08A565843 | Clark County District Court |
| > Vicki Wright v. Corey Geib (Defendant) | 2010 | 05A507277 | Clark County District Court |
| > Gary Colafrancesco v. Central Garden & Pet Co, et al. (Defendant) | 2010 | 07A552820 | Clark County District Court |
| > C & L Refrigeration LLC v. Scott Fisher (Defendant) | 2009 | 08A577229 | Clark County District Court |
| > Susan McCloud, et al. v. Veolia Transportation, et al. (Defendant) | 2009 | 07A538914 | Clark County District Court |
| > Obayashi/PSM Construction USA, Inc., JV. V. American Bridge (Plaintiff) | 2009 | not available | US District Court |
| > David Reynolds v. Swift Transportation Co, et al. (Defendant) | 2009 | 07A549583 | Clark County District Court |
| > Alexandra Striegel, et al. v. Rujake Gross, et al. (Defendant) | 2009 | 06A530938 | Clark County District Court |
| > Melissa L. Burnside v. FKI Logistex Integration, Inc., et al. (Defendant) | 2009 | 06A519537 | Clark County District Court |
| > Diane Wiley v. Jose Varela-Breton, et al. (Defendant) | 2009 | 06A527805 | Clark County District Court |
| > Andre Richmond v. Geraldine Callow (Defendant) | 2009 | CV-24617 | Nye County Court |
| > Oakview Construction, Inc. v. Spencer Chung (Defendant) | 2008 | 79110-Y-00048-08-WYGI | US District Court |
| > Harvey Bridges, et al. v. Thomas Wieczorek, et al. (Plaintiff), | 2008 | 06A522738 | Clark County District Court |
| > Mary Cooks v. JCN Courier Services Inc., et al. (Plaintiff) | 2008 | 06A524730 | Clark County District Court |
| > Park Avenue Homeowner's Assoc. v. Amland Development, et al. (Defendant) | 2008 | 06A521169 | Clark County District Court |

Testimony List

Kevin B. Kirkendall, MBA, CPA, CFE

| DEPOSITIONS CONTINUED | YEAR | CASE NUMBER | COURT |
|---|------|-----------------------|-----------------------------|
| > Harsco v. Saunders (Defendant) | 2008 | 2:04-CV-096-JCM-(LDL) | US District Court |
| > Todd Kasian v. Baja Fresh, et al. (Defendant) | 2008 | 06A519993 | Clark County District Court |
| > Coast Converters Inc. v. Hyden Electrical Inc., et al. (Defendant) | 2008 | 06A516451 | Clark County District Court |
| > Ray Lewis v. Joseph Cervantes (Defendant) | 2008 | 04A494194 | Clark County District Court |
| > Edward R. McWilliams v. Columbia 300 Classic Inc., et al. (Plaintiff) | 2008 | 03A476442 | Clark County District Court |
| > Frank Yu, et al. v. Pacific Diamond Plaza, LP, et al. (Defendant) | 2008 | 04A497381 | Clark County District Court |
| > JAC Inc. v. Crescent Electric Supply, et al. (Plaintiff) | 2008 | 05A500170 | Clark County District Court |
| > Robert Bachtel, et al. vs. Claudio Hernandez, et al. (Defendant) | 2007 | 06A515526 | Clark County District Court |
| > Delgado, Cochran v. Borysewich, Diebold et al. (Defendant) | 2007 | 04A482360 | Clark County District Court |
| > Rodney Yanke v. Kelleher Corp., et al. (Plaintiff) | 2007 | 05A503362 | Clark County District Court |
| > Vitus Teng, et al. v. Sodexho Inc., et al. (Defendant) | 2006 | 05A500871 | Clark County District Court |
| > Max W. Taylor v. David Levy et al. (Defendant) | 2006 | 04A482780 | Clark County District Court |
| > Guerin v. Smart City (Plaintiff) | 2006 | CV-S-05-0587-LDG(GWF) | US District Court |
| > Natalie Schaffer v. Sosa Trucking, et al. (Defendant) | 2006 | 03A465474 | Clark County District Court |
| > Joyce Clark v. Wheeler's Las Vegas RV, et al. (Plaintiff) | 2005 | 03A476428 | Clark County District Court |
| > William Wilhite vs. Serenity Homes, et al. (Plaintiff) | 2005 | 02A444748 | Clark County District Court |
| > Green, et al. v. Four Seasons Hotels Inc., et al. (Plaintiff) | 2005 | 02A455333 | Clark County District Court |
| > Samson Lewis v. Fletcher Jones Las Vegas, et al. (Defendant) | 2004 | 03A466937 | Clark County District Court |
| > Margaret Rose v. Charles Walton, MD (Defendant) | 2004 | 02A458098 | Clark County District Court |
| > LGD - Las Vegas Whitney Ranch Ltd, et al. v. OTR, et al. (Plaintiff) | 2004 | 01A438326 | Clark County District Court |
| > Anntoinette Conover v. Young Kim, et al. (Plaintiff) | 2003 | 01A442236 | Clark County District Court |
| > Tammy Green, et al. v. Shandong Industrial Inc. et al. (Defendant) | 2003 | 00A422600 | Clark County District Court |
| > Aqueous Labs Inc. v. Agro-Mar Inc., et al. (Plaintiff) | 2003 | 99A410697 | Clark County District Court |
| > Steve Sisolak v. Clark County of, et al. (Defendant) | 2002 | 01A434337 | Clark County District Court |
| > Cadeau Express Inc. v. Desert Fire & Protection Inc., et al. (Plaintiff) | 2002 | 97A377113 | Clark County District Court |
| > Brenda Nunez v. Work Professional Services, LLP, et al. (Plaintiff) | 2002 | 00A421608 | Clark County District Court |
| > Morrow Equipment Co LLC, et al. v. Circus Circus Dev. Corp., et al. (Defendant) | 2002 | 99A398999 | Clark County District Court |
| > Robert Lively Jr. v. American Premiere Homes, et al. (Receivership) | 2001 | 01A437131 | Clark County District Court |
| > Christiansen, et al. v. Walgreens Co., et al. (Defendant) | 2001 | 00A414587 | Clark County District Court |
| > Huntzinger, et al. v. Don Winegar (Plaintiff) | 2001 | 98A386988 | Clark County District Court |
| > Scruton, et al. v. Bahr, et al. (Plaintiff) | 2001 | 98A391119 | Clark County District Court |
| > Caledrone, et al. v. Superior Tire Inc., et al. (Plaintiff) | 2001 | 99A404130 | Clark County District Court |
| > Scott v. Roy, et al. (Plaintiff) | 2001 | not available | not available |
| > John D. Gumm v. Albertson's Inc., et al. (Plaintiff) | 2001 | 97A378040 | Clark County District Court |

EXHIBIT 3

EXHIBIT 3

KIRSTIN L. LAMBRECHT, CPA
GERETY & ASSOCIATES, CPAS
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Kirstin L. Lambrecht, CPA, Director

Kirstin has 20 years of experience in public accounting, providing a full range of tax, business consulting and accounting services. She began her career with a large local firm located in Richmond, Virginia where she provided tax and business valuation services. Upon relocating to Las Vegas, she worked at RSM McGladrey for eight years where she continued to provide annual tax preparation services to a variety of clients including closely held businesses, high wealth individuals, fiduciary and non-profits. While at RSM McGladrey, she obtained her Certified Valuation Analyst certification ("CVA") from the National Association of Certified Valuators and Analysts as well as the AICPA's ABV Credential. While she no longer maintains these designations, her clients continue to benefit from her training and experience in this area.

In 2007 Kirstin joined Gerety and Associates, CPAs as a Tax Manager and has continued to manage a variety of tax - both federal and state, research and consulting engagements. Over the past few years, while increasing her income tax experience, she has also focused on gift and estate tax issues including probate accounting reports and litigation support as well as non-profit compliance. She promoted to Director in 2015.

Kirstin graduated from University of Nevada, Reno with a Bachelor of Science Degree in Marketing and then later completed the coursework required to obtain her CPA license at the University of Nevada, Las Vegas. She is a member of the American Institute of Certified Public Accountants and the Nevada State Society of CPAs.

Kirstin has been involved in several cases either independently or assisting Daniel T. Gerety with drafting of opinions and producing calculations and analyses. The cases are as follow:

- Christopher Thomas and Christopher Crag v. Nevada Yellow Cab Corporation; Nevada Checker Cab Corporation; and Star Cab Corporation. Prepared calculations of possible underpayment of minimum wages due to taxi cab drivers as required by the Nevada Minimum Wage Amendment.
- FK&G, LTD, LLC vs. Robert Foisie and FK&G, LTD vs. Bradley H. Glennon. Assisted with the preparation of expert report on the capital accounts of FK&G, LTD, calculated interest on promissory notes, drafting of opinion of reasonable management fees.
- Canarelli vs. Canarelli. Preparation of trust accounting for the year ending 12/31/14. Analysis of accounting from 2000 through 2013; wrote letter to quantify unexplained cash outflows and consult on case.
- Mashelle Begovich and Mary Sophia Smith v. Mark S. Chase, Trustee of the Milos Sharkey Begovich Trust. Engaged to review investment and loan activities of Trustee for reasonableness and consultation regarding malpractice claim.

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- Lawrence A. Lapenta Family Trust. Prepared a trust accounting for the period January 6, 2006 through June 30, 2013, prepared letter of opinion, dated September 19, 2013, regarding reasonable trustee fees for this period and prepared letter of opinion, dated November 23, 2013, regarding reasonable amount to charge for trustee fees going forward.
- In the Matter of Estate of Harvey Putter and the Harvey Putter Living Trust dated January 16, 2001. Prepared a Trust Accounting for the Period July 2, 2010 through April 30, 2012.
- Testamentary Trust of George A. Steiner Trust, Case No. P41337 consolidated with P42062. On June 14, 2012 prepared report analyzing the Twenty Third Accounting for the trust for the year ended December 31, 2011. On August 4, 2011, prepared expert report to rebut information contained in Objection to Twenty Second Accounting filed on behalf of Russell Steiner. Report contained analysis of how trustees' decisions affected the income beneficiaries financially, an analysis of what was principal vs. income, and whether the accounting provided to the court was in accordance with the Nevada Revised Statutes.
- Emil Frei, III vs. Daniel V Goodsell. Clark County District Court. Work entailed calculation of damages pertaining to a malpractice suit on estate planning matters.
- Reta Leseberg and Mark Leseberg vs. R. Glen Woods, Esq., and Woods Erickson Whitaker Miles & Maurice. Clark County District Court. Rebuttal of another experts report regarding damages in a conflict of interest suit.
- Christian Buck and Anne Buck-Fenn, Christian & Anne Buck LLC v. John Hoffman and Leonard C. Buck. Second Judicial District Court of Nevada in and for the County of Washoe. Report involved determination of damages due to improper funding and management by the trustee.
- HSK Trust v. Jason Hecker. Clark County Probate Court. Gerety & Associates, CPAs prepared the trust accounting and Dan testified regarding the mismanagement of trust assets by the trustee.
- Valeria Saint Clair v. Michael Foresta; dealing with trust and partnership accounting. Case was settled out of court.

**DANIEL T. GERETY, CPA
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Daniel T. Gerety is the Owner and President of Gerety & Associates, CPAs. Dan specializes in estate and income tax planning for individuals and businesses including structuring large transactions such as the sale and purchase of a business. Throughout his career he has worked with many closely held businesses in many industries providing tax and business planning for them.

Dan started his accounting career with McGladrey & Pullen, LLP in 1982 and became a tax partner with that firm before he left in 2004 to start his own firm. He was a lead specialist for McGladrey & Pullen, LLP and RSM McGladrey, Inc. in gift and estate tax matters along with income taxation of trusts.

A native of Davenport, Iowa, Dan attended St. Ambrose College in Davenport where he obtained his Bachelor of Arts degree in Accounting and Business Administration. Among his current professional affiliations, he is a member of the American Institute of Certified Public Accountants, the Nevada Society of Certified Public Accountants, the Southern Nevada Estate Planning Council, and is a Registered Trust and Estate Practitioner with the Society of Trust and Estate Professionals ("STEP"). He is a past President of the Southern Nevada Estate Planning Council and the Central Illinois Estate Planning Council. He is a past member of the Nevada Society of Certified Public Accountants Taxation Committee. He currently sits on the board of the Las Vegas Chapter of the Nevada CPA Society, the Nevada State College Foundation, where he is chairman of the Planned Giving Committee, the Grant a Gift Autism Foundation, where he is Treasurer and the Nevada Chapter of STEP, where his is Treasurer. As a CPA, Dan is allowed to practice before the IRS.

Dan is a consultant to a number of other CPA firms and law firms regarding estate and gift taxation matters, including supporting a number of attorneys as an expert witness in litigation matters regarding trust accounting issues, executive compensation, investment and business matters, and divorce work.

Dan's fees are based on the time required to perform the services requested, which may include meetings, correspondence, phone calls, review of evidence, write opinion letter, travel, subpoenas, depositions, and appear in court. Dan's hourly rate is \$520.00.

The most recent cases Dan has been an expert in are as follows:

- Truman Holt, trustee for the Howard Family Trust dated August 21, 1998 v. Gloyd Green and Gail Holland. Calculated damages to the Howard Family Trust caused by the previous trustee, Gloyd Green. Wrote Expert Report dated August 30, 2017.
- FK&G, LTD, LLC vs. Robert Foisie and FK&G, LTD vs. Bradley H. Glennon. Prepared expert reports on the capital accounts of FK&G, LTD, calculated interest on promissory notes, opinion of reasonable management fees, and rebuttal report of plaintiff's expert. Gave deposition and testified in jury trial and reviewed amended partnership returns required due to our analysis of capital accounts. Work performed between May 2016 through June 2017.
- Bernard Trust. Appointed Special Master under NRCP 53 and Successor Trustee of the Bernard Trust by the court to correct trust accounting, investigate the existence of additional Trust assets and review and assess the propriety of claims made by prior Trustee and prepare report of recommendations to the Court regarding reimbursements and compensation of prior trustee. Issued report February 24, 2016. Settlement Agreement entered into on June 10, 2016
- United Factory Furniture Corp dba Walker Furniture vs Nevada Department of Transportation. Opined on value of goodwill and risk of going concern of Walker Furniture due to condemnation of land and warehouse. Reports dated January 8, 2016.
- Shaheen vs Shaheen. Prepared trust accounting and declaration of what executor / trustee needed to retain for the administration of estate.
- United States of America v. Pat Clark, Jr, as Executor of the Estate of Bernice Clark, et. al. Wrote expert report regarding the methodology and allocation of estate and gift taxes and expenses to transferees. Expert report and supplement to expert report were dated May 1, 2015 and June 8, 2015, respectively.
- Canarelli vs. Canarelli. Preparation of trust accounting for the year ending 12/31/14. Analysis of accounting from 2000 through 2013 wrote letter to quantify unexplained cash outflows and consult on case.
- Mashelle Begovich and Mary Sophia Smith v. Mark S. Chase, Trustee of the Milos Sharkey Begovich Trust. Engaged to review investment and loan activities of Trustee for reasonableness and consultation regarding malpractice claim.
- Susan Toma vs James Hansen, Dennis Toma Trust, Estate of Dennis Toma et al, Case No. A-13-681931-B. Consultation regarding malpractice claim.
- Crivello Loving Trust. Engaged to prepare a trust accounting.
- W.N. Connell and Marjorie T. Connell Living Trust. Engaged on February 4, 2014 as expert to provide opinion on the allocation and funding of sub-trusts.
- Lawrence A. Lapenta Family Trust. Prepared a trust accounting for the period January 6, 2006 through June 30, 2013, prepared letter of opinion, dated September 19, 2013, regarding reasonable trustee fees for this period and prepared letter of opinion, dated November 23, 2013, regarding reasonable amount to charge for trustee fees going forward.
- Grand Canal Shops II, LLC vs. Riccardo Iavarone. On October 10, 2012 I prepared an expert opinion report to rebut the expert opinion report of Michael L. Rosten dated

- September 27, 2012 regarding whether Riccardo Iavarone's actions made him the alter ego of Lanciani of Las Vegas, Inc. Deposition was taken March 26, 2013.
- In the Matter of Estate of Harvey Putter and the Harvey Putter Living Trust dated January 16, 2001. Prepared a Trust Accounting for the Period July 2, 2010 through April 30, 2012.
 - Aimee Lynn Alterwitz vs. Daryl Alterwitz, et.al. Prepared report to rebut the Expert Report of George C. Swarts, CPA regarding actions taken by management of various closely held real estate developments including the refinancing, mergers, spin-offs and amendments made to various operating agreements of each of the closely held entities. Observed testimony of Mr. Swarts during his deposition and during arbitration. Case settled prior to arbitration ruling.
 - Testamentary Trust of George A. Steiner Trust, Case No. P41337 consolidated with P42062. On June 14, 2012 prepared report analyzing the Twenty Third Accounting for the trust for the year ended December 31, 2011. On August 4, 2011, prepared expert report to rebut information contained in Objection to Twenty Second Accounting filed on behalf of Russell Steiner. Report contained analysis of how trustees' decisions affected the income beneficiaries financially, an analysis of what was principal vs. income, and whether the accounting provided to the court was in accordance with the Nevada Revised Statutes. On September 15, 2011 responded to rebuttal of my report. On November 1, 2011 wrote expert report on analysis of how corporate dividends of closely held consolidated group of corporations were classified on a partnership return. On June 14, 2012 wrote expert report of my analysis of the Twenty Third Accounting of the G. A. Steiner Trust. On September 26, 2012 wrote a rebuttal report to the Expert Opinions of Chris Wilcox, Peter K. Ellison and Curtis D. Trader. On October 27, 2013 wrote report regarding the 23rd and 24th Annual Accountings. On January 15, 2014 wrote rebuttal report to the Expert Opinions of Chris Wilcox, Curtis Trader, David Denis, Ronald Gilson, Craig Aronoff, and D. Gordon Smith.
 - Steven L Dahl vs. Ronald Henry, Trustee of the Lloyd L. Dahl Testamentary Trust. On September 19, 2011 I prepared draft of expert witness report computing damages incurred by beneficiary from the Trustee's management of trust assets.
 - Emil Frei, III vs. Daniel V Goodsell. Clark County District Court. Work entailed calculation of damages pertaining to a malpractice suit on estate planning matters. Deposition taken January 28, 2011 and Testimony given in District Court February 22, 2011
 - Trail Gate, LLC and Nikko Capital Corp vs. Lloyd Manning, Kevin Hooks, Trail Gate Lenders, LLC, Catalyst RX, Bormann Development, Inc, DOES 1-10 and Roe Corporations 1-X, Inclusive. Clark County District Court. Work entailed a rebuttal of other expert and calculation of monies due under development, construction, management and lease contracts. Deposition taken December 7, 2010.
 - Reta Leseberg and Mark Leseberg vs. R. Glen Woods, Esq., and Woods Erickson Whitaker Miles & Maurice. Clark County District Court. Dan's work was to rebut another experts report regarding damages in a conflict of interest suit. His deposition was taken September 22, 2010 and he assisted attorney in deposition of the other expert. Testimony given in District Court December 23, 2010.

- Eric Nelson v. Lynita Nelson divorce case. Clark County Family Court. Meeting with attorneys to help with negotiation of property settlement. Dan testified on October 20, 2010 regarding business and tax risks and values of various ongoing businesses and investments and whether tax attributes could be transferred in an divorce. Prepared expert report on March 21, 2011 regarding tax issues of ownership of LLC holding a Mississippi Casino which rebutted other CPAs report. Prepared expert report on July 5, 2012 regarding the accounting and separate identity of the Eric L. Nelson Nevada Trust. Report was used to counter alter-ego claim. Testified in Family Court on July 18th, July 19th, July 23rd, and August 20, 2012.
- Christian Buck and Anne Buck-Fenn, Christian & Anne Buck LLC v. John Hoffman and Leonard C. Buck. Second Judicial District Court of Nevada in and for the County of Washoe. This case went to trial. Dan's report and testimony in court involved determination of damages due to improper funding and management by the trustee.
- HSK Trust v. Jason Hecker. Clark County Probate Court. Gerety & Associates, CPAs prepared the trust accounting and Dan testified regarding the mismanagement of trust assets by the trustee.
- Christopher W. Chingros and Arthur S. Chingros v. Carolyn A. Chingros. Clark County District Court. Dan wrote a report regarding valuation of a limited partnership distributed and the underfunding of a trust upon death of grantor. Deposition taken June 30, 2010.
- Thomas A. Hantges, USACM Liquidating Trust v. Lucius Blanchard; Lucius Blanchard Children's Irrevocable Trust and Palomino Partners Limited Partnership. Michael W. Carmel, Chapter 11 Trustee for the Estate of Thomas A. Hantges v. Thomas A. Hantges and Trustees of the Hantges Children's Education Trust. USACM liquidating Trust v. Eagle Ranch, LLC; Eagle Ranch Residential, LLC; Willowbrook Residential, LLC, etc. United States Bankruptcy Court, District of Nevada. Expert report covered and reviewed all cash transactions and loans with USA Commercial Mortgage, accounting of loans and payback of loans between related entities, analyzed the set up of the Trust, reasonableness of the Trust's earnings, investment, profits, cash flow and amortization from loans with USA Commercial Mortgage and rebuttal of other expert witness' report.
- Rowell v. Frontier Logistics, LP. Dan helped determine the value of minority partner buyout of several LPs and S-Corps. He consulted with Frontier and attorneys to help arrive at a fair value to offer to buy out a disgruntled partner. He also reviewed many of the filings to give input on case. Case settled through Arbitration by American Arbitration Association in Houston, TX.
- Valeria Saint Clair v. Michael Foresta; dealing with trust and partnership accounting. Case was settled out of court.
- Thomas G. Wiley Trust. Clark County District Court. Dealt with dispute between co-trustees and preparation of proper trust accounting to determine personal vs. trust expenses. The accounting Dan prepared was accepted as part of the settlement agreement.
- Mark Brandenburg, as trustee of the Ghelfi Family Residual Trust v. Daniel E. Rubin, entailed the taxation of the share of profits in a partnership agreement and the

allocations and taxation of these interests. Dan testified in the arbitration. Dan's testimony was accepted over the other experts in this case.

- Other cases have included two executive compensation suits. *Michael Starr v. MGM Mirage*, United States District Court, District of Nevada. Provided declaration of lost benefits. *Klem Belt v. Health South*, had deposition taken in Albuquerque, NM regarding lost benefits of terminating deferred compensation plan and split-dollar life insurance agreement. There have been a number of estate and trust accounting matters and one divorce case in which the attorneys on both sides relied on Dan's advice to tell them what the tax consequences would be, based on drafts of the property settlement agreements. Another case that went to arbitration was a lawsuit against Bank of America. Dan was Bank of America's expert witness. The case involved trustee matters and the taxation of life insurance.

Dan has been a Special Master to the Court three times. On April 23, 2015, in the matter of the Bernard Trust dated May 2, 1985, the District Court of Clark County, Nevada appointed Dan successor trustee of the Bernard Trust and as a special master under NRCP 53 to review accountings and investigate assets, income and expenses of the Bernard Trust. He was also appointed as Special Administrator of the Estate of James Gerke in the related Probate case on the same matter. At one time, he was Co-Special Master to the Court with Governor Bob Miller and retired Judge Richardson on the William Perry case in Clark County District Court. He wrote the report that advised the Judge on what should be done with the money that was confiscated until it could be determined who the creditors were. The other case dealt with the valuation of a business and the split up of an estate between its heirs and was held in Clark County Probate Court. Dan evaluated the business valuations that were prepared, and the opinion of another accounting firm that was an expert on the case, and then advised the Judge on how to proceed.

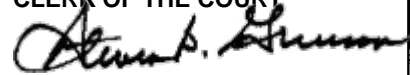
Dan has spoken to numerous groups over the years including twice for the Illinois CPA Society's Real Estate Conference regarding asset protection and how real estate investments should be held. He has also spoken to the Southern Nevada CPA Society regarding estate tax planning. Dan has not authored any articles. Lorman Educational Services may have published one of the presentations that he co-wrote and presented titled Estate Planning in Nevada. Dan wrote the section titled Estate, Gift and GST Tax after the 2001 Tax Act. This talk was presented on February 19, 2002. His most recent presentations have been as follows:

- June 15, 2017, presented the following topics: (1) Trimming Down Income Taxation of Trusts and Estates; (2) How to Smoothly Navigate Form 706; and, (3) Making the Greatest Use of the Tax Basis Step-up Rules for the National Business Institute two-day seminar, *Advanced Trusts and Estates: A "How to Guide."*
- October 25, 2016, presented *Marijuana Taxation* for the National Business Institute seminar, *Marijuana Business Law in Nevada*.
- June 10, 2016, presentation on *Nevada Commerce Tax* to clients and centers of influence.

- May 30, 2013, presented Obama Care Changes Affecting Individuals and Business to clients and centers of influence.
- February 13, 2013, presented Top Estate Planning Techniques for the National Business Institute.
- October 17, 2012, Federal Estate Tax Return, presented to Northern Nevada Estate Planning Council
- September 13, 2012, Tax Planning for Trust and Estates for the National Business Institute with Serena Baig, Robert L. Bolick, and Heidi C. Freeman.
- March 28, 2012, Part of panel of professionals leading discussion for Collaborative Succession Planning Workshop for Financial Planning Association of Nevada.
- November 8, 2011, Succession Planning for Law Firms, presented to the Las Vegas Association of Legal Administrators.
- June 6, 2011, Trust Administration: Preventing and Litigating Fiduciary Liability, Compliant Trust Taxation and Reporting, presented for NBI: National Business Institute.
- April 21, 2011, appeared on KLAV Radio Family Law & Order Show. Spoke on income tax issues for families and domestic partners.
- February 22, 2011, IRS Guidance on Filing Requirements for Domestic Partners, presented for the Gay & Lesbian Community Center of Southern Nevada.
- November 10, 2009, Choice of Entity, Presented to the Las Vegas Association of Legal Administrators.
- January 22, 2009, Deductibility of Fees Paid to Las Ventanas as Medical Expenses, presented for Las Ventanas, Las Vegas, NV
- October 22, 2008, Accounting for Estates And Trusts in Nevada, Presented for Lorman Educational Service. I covered Income Taxation of Trusts and Estates and Types of Trusts and Estates.
- February 6, 2008, Tax Update including Cover your Assets and Estate Planning Issues affecting Domestic Partners, presented for Because We aRe Different, Las Vegas, NV
- June 12, 2007, Choice of Entity, presented to Las Vegas Association of Legal Administrators.
- December 1, 2005, Cover Your Assets, Las Vegas, NV
- October 27, 2005 Current Year Tax Update, Las Vegas, NV
- July 30, 2004, Advanced Estate Planning and Creditor Protection Strategies in Nevada, Presented for Lorman Educational Services with Richard and Steven Oshins, Las Vegas, NV. I presented on To Disclose or Not to Disclose a Sale to a Defective Trust on A Gift Tax Return and Postmortem Planning.
- June 15, 2004 Income Taxation for Trusts and Estates, Presented for RSM McGladrey, Inc Annual Tax Conference, Kansas City, MO
- February 26, 2004, Choice of Entity, Presented to the Society of Financial Service Professionals, Las Vegas, NV
- July 30, 2003, Estate Planning and Creditor Protection Strategies in Nevada for Lorman Educational Services with Jeffrey Burr, Richard Oshins and Steven

Oshins, Las Vegas, NV. I presented the Charitable Planning section of this seminar.

- July 11, 2002, Cover Your Assets, presented to the CFO Group, Las Vegas, NV
- May 22, 2002, Covering Your Assets, presented for Illinois CPA Society & Foundation 2002 Taxation on Real Estate Workshop, Chicago, IL
- May 05, 2002, Covering Your Assets, presented to Radiology Associates of Nevada, Las Vegas, NV
- February 19, 2002, Estate Planning In Nevada, presented for Lorman Educational Services with Stephen Nicolatus and Scott Swain, Las Vegas, NV
- October 16, 2001, Cover Your Assets, presented for the 28th Annual Illinois CPA Society & Foundation 2001 Real Estate Conference, Chicago, IL
- March 22, 2001, Cover Your Assets, presented to the Green Valley Rotary, Henderson, NV
- February 12, 2001, Cover Your Assets, presented to the Construction Financial Management Association, Las Vegas, NV
- January 30, 2001, Cover Your Assets, presented to the Las Vegas 100, Las Vegas, NV
- September 21, 2000, The Beneficiary Controlled Dynasty Trust: Leveraging it with Installment Sales, GRAT Remainder Sales and Opportunity Shifting Strategies, Presented to the Nevada Society of CPA's Las Vegas Chapter with Steven Oshins, Las Vegas, NV
- I may have missed some above and I have presented many more times prior to 2000.



ORDR
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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 MODIFYING COURT'S
PREVIOUS ORDER OF
FEBRUARY 7, 2018
APPOINTING A SPECIAL
MASTER**

On February 7, 2018, the Court entered an Order Granting Plaintiffs' Motion to Appoint a Special Master. That Order appointed as a Special Master in this case Michael Rosten of Piercy Bowler Taylor & Kerns in Las Vegas, Nevada. Since entry of that Order, the Court has received correspondence from Defendants' counsel, Esther Rodriguez, concerning a purported conflict of interest with the appointment of Mr. Rosten as Special Master. The Court has also received a responsive letter from Plaintiffs' counsel, Leon Greenberg.


As of this writing, it has been at least nineteen (19) days since the Court Ordered that a Special Master be appointed, and yet inadequate progress is being made toward implementation of that Order. The Court is extremely concerned with the passage of time in this matter for reasons previously expressed.

In order to prevent one more issue from injecting itself into these proceedings,

1 and in light of the possibility that any local firm may trigger another objection due to
2 purported conflicts of interest, the Court rescinds its appointment and its selection of
3 Michael Rosten and the firm of Piercy Bowler Taylor, & Kerns as Special Master and
4 selects Dr. Ali Saad and the firm of Resolution Economics to be the Special Master in
5 this case. Mr. Rosten and Piercy Bowler Taylor & Kerns may present their bill for
6 services rendered to the Defendant A Cab who shall have 10 days to pay the same and
7 this matter will proceed to its conclusion.


8 The Court's Order of February 7, 2018 appointing a Special Master is hereby
9 amended to substitute Dr. Ali Saad and the firm of Resolution Economics where that
10 Order referred to Michael Rosten and the firm of Piercy Bowler Taylor & Kerns. The
11 various time limits for action to be taken under that Order shall now commence from
12 the date of entry of this Order. All other terms of the Court's Order of February 7,
13 2018 in this case shall remain in effect.

14 **IT IS SO ORDERED.**

15 
16 Honorable Kenneth Cory
17 District Court Judge

Feb 13, 2018
Date

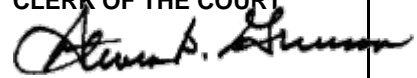
18 LEON GREENBERG PROFESSIONAL CORP.

19 
20 Leon Greenberg, Esq. NSB 8094
21 LEON GREENBERG PROFESSIONAL CORP.
22 2965 S. Jones Boulevard - Ste. E-3
23 Las Vegas, NV 89146
24 Tel (702) 383-6085
25 Attorney for the Plaintiffs

2/13/18
Date

26 Approved as to Form and Content:

27 NOT Approved
28 Esther C. Rodriguez, Esq. NSB 6473 _____ Date
RODRIGUEZ LAW OFFICES P.C.
10161 Park Run Drive - Suite 150
Las Vegas, Nevada, 89145
Tel (702) 320-8400
Attorney for the Defendants



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TRAN

**EIGHTH JUDICIAL DISTRICT COURT
CIVIL/CRIMINAL DIVISION
CLARK COUNTY, NEVADA**

| | | |
|---------------------------------|---|----------------------|
| MICHAEL MURRAY, et al, |) | CASE NO. A-12-669926 |
| |) | |
| Plaintiffs, |) | DEPT. NO. I |
| |) | |
| vs. |) | |
| |) | |
| A CAB TAXI SERVICE, LLC, et al, |) | |
| |) | |
| Defendants. |) | |

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE
THURSDAY, FEBRUARY 15, 2018

**TRANSCRIPT RE:
APPOINTMENT OF SPECIAL MASTER**

APPEARANCES:

| | |
|---------------------|--|
| For the Plaintiffs: | LEON GREENBERG, ESQ. DANA SNIEGOCKI, ESQ. CHRISTIAN GABROY, ESQ. KAINE MESSER, ESQ. |
|---------------------|--|

| | |
|---------------------|---------------------------|
| For the Defendants: | ESTHER C. RODRIGUEZ, ESQ. |
|---------------------|---------------------------|

| | |
|---------------|-------------------|
| ALSO PRESENT: | CREIGHTON J. NADY |
|---------------|-------------------|

RECORDED BY: Lisa Lizotte, Court Recorder

AA006427

1 LAS VEGAS, NEVADA, THURSDAY, FEBRUARY 15, 2018, 10:13 A.M.

2 * * * * *

3 THE CLERK: Michael Murray versus A Cab Taxi Service. Case Number
4 A669926.

5 THE COURT: Will counsel enter their appearances, please.

6 MR. GREENBERG: Leon Greenberg, Dana Sniegocki, Christian Gabroy
7 and Kaine Messer for plaintiff.

8 MS. RODRIGUEZ: Good morning, Your Honor. Esther Rodriguez for the
9 defendants. And Creighton J. Nady is present as well.

10 MR. NADY: Good morning.

11 THE COURT: Good morning. Thank you all for being able to come on short
12 notice. I thought that it was important that we try and get through this latest issue
13 as quickly as possible in order to proceed ahead with all dispatch and all due speed
14 on the Court's previous order.

15 I have a packet of documents which I have received and which I will
16 make a record of. The first is the order granting plaintiff's motion to appoint a
17 special master. As you will recall, I advised the parties on January 25th, I'm sure
18 as a surprise to both sides, that the Court was going to grant the motion which had
19 been filed some two years previously, May 19th of 2015, to appoint a special master
20 and the Court indicated the reasons why it was doing so. You will recall we met
21 approximately a week after that to try and attend to the details necessary and make
22 -- and get that to proceed ahead with all dispatch. After both sides nominating
23 several parties and of course the Court selected Mr. Rosten from Piercy Bowler,
24 then I received an email on Monday, February 12th, from Michael Rosten, who

1 indicates as follows. It was actually addressed to my JEA, Joan Lawson. "Joan,
2 as we discussed, I have attached correspondence received last week related to
3 our special master appointment which addresses the issue of our managing
4 shareholder's brother being a cab driver for A Cab. But after close of the class
5 period, because of counsel's disagreement this seems a prime issue for
6 consideration by Judge Kenneth Cory."

7 And with that I received the letter of February 9th from Ms. Rodriguez
8 and a responsive letter dated the same date, February 9th, from Mr. Greenberg.
9 Upon receiving these and looking at them, as you can probably tell from the order
10 which I then entered on February 13th -- it was filed that date, anyway, and signed
11 on that date, I entered a minute order first indicating why I was just proceeding
12 ahead and modifying the previous order. Much of my concern is that we not stop
13 and sort out issues that could arise along the way if we had a more deliberative
14 process. We're at a different stage of the passage of time in this case. And on
15 that basis and because I indicated that it is possible that any local firm who might
16 be appointed in the place of Michael Rosten and Piercy Bowler might have some
17 connection to one side or the other, and if so then we would have a further issue
18 along the way that wouldn't make any progress towards the significant job that
19 needs to be done by the special master in this case. And on that basis I entered
20 the order of February 13th.

21 I then received from Ms. Rodriguez a fax dated February 13th which
22 transmits her letter of the same date in which she raises objection to the fact --
23 mostly, I think, and you can correct me if I'm wrong, Ms. Rodriguez, mostly to the
24 fact the Court had ordered the defendant to pay the bill of Mr. Rosten. That letter

1 included a number of allegations which prompted plaintiff's counsel then on the
2 next day, Valentine's Day, to send a letter -- it looks like I have the original of the
3 letter. I don't know, it must have been hand delivered. It indicates copies to
4 Esther Rodriguez and Michael Wall by email. I'm not clear at this point -- I assume,
5 Ms. Rodriguez, that you received this letter by email. At any rate, this is where
6 Mr. Greenberg is at pains to clarify the record from his perspective or clarify the
7 allegations presented by Ms. Rodriguez in her letter from the previous day.

8 That brings us to this point, and I thought I'd better get the people
9 in here because we're going to wind up with some kind of a giant issue that once
10 again takes time away from the work at hand based on these allegations of -- and
11 this certainly is not the first time that we've had counsel, rather than dealing with
12 the issues of the case, have taken to sniping at each other.

13 At any rate, to the extent that I'm accurate, Ms. Rodriguez, that your
14 objection in your most recent letter was that your client is being made to pay for
15 what Mr. Rodriguez -- I'm sorry, what Mr. Rosten has done, which I don't know if
16 there's a bill yet from him, whether we know how much that is, but the objection
17 to the defendant having to pay.

18 My view, and I'll hear from both sides before I rule on this, but my
19 view is that it's not untoward to have the defendant pay for the objection raised
20 to this local firm. It is unclear to me -- I mean, I don't have -- I have not made a
21 ruling and I aspire not to make a ruling on the issue of whether the brother of the
22 managing partner of Piercy Bowler actually is a member of this class. My purpose
23 in modifying the motion was to eliminate any possibility of this sort of thing, at least
24 as best as possible. So the only thing that I have in mind that I think needs to be

1 sorted out is this last objection raised by Ms. Rodriguez to having to pay for the bill
2 of Mr. Rosten and the firm of Piercy Bowler.

3 Ms. Rodriguez, do you have further argument to make in that regard?

4 MS. RODRIGUEZ: I do, Your Honor. Thank you. And you're correct, that
5 is the primary objection with the present draft order that was submitted to the Court.
6 There was a series of emails where the -- Mr. Greenberg sent me the proposed
7 email and I think gave me an hour or so to respond before he submitted it to the
8 Court. I actually didn't even see any of his email correspondence until about three
9 hours later --

10 THE COURT: Uh-huh.

11 MS. RODRIGUEZ: -- so that's why my letter came later in the day. I was
12 out of the office until later that afternoon.

13 But when Your Honor -- when we met at chambers and Your Honor
14 asked me to go back and talk to our proposed names and get some further budget
15 and C.V. and things like that, I did that. And I know that one of those proposed
16 people, Mr. Liano (phonetic) that we submitted, did substantial work over the
17 weekend reviewing things to try to put together a proposal as well, to be considered
18 by the Court for special master. And I assume all the other people that Mr.
19 Greenberg contacted, as well as I did, did work. None of those people have
20 submitted a bill to me, and I don't know if they've submitted a bill to Mr. Greenberg,
21 because that was part of the work --

22 THE COURT: I wouldn't expect them to do so.

23 MS. RODRIGUEZ: To be considered by the Court for appointment. That
24 was part of -- if you wanted to be considered, this is what the Court is asking you

1 to do. So I would not expect that we would be billed for any of that information
2 that was submitted to Mr. Rosten. That was one of my arguments before, was like,
3 I don't even know what has been submitted to Mr. Rosten.

4 THE COURT: Uh-huh.

5 MS. RODRIGUEZ: And that's going to be one of my requests to the Court
6 is that we no longer engage in any kind of ex parte communications with these
7 special masters. I don't think it's proper. And I argued this before when we met
8 in chambers that one party should not be communicating with select data --

9 THE COURT: What's the ex parte communication?

10 MS. RODRIGUEZ: I don't know. I don't know. I don't know what was
11 submitted to Mr. Rosten. I'm waiting to see his bill to see what he's reviewed.
12 In his proposal, along with some of the other folks, they said --

13 THE COURT: Oh, you mean prior to?

14 MS. RODRIGUEZ: Between Mr. Greenberg and the special master. Correct.
15 The proposed special master.

16 THE COURT: But you're talking about prior to --

17 MS. RODRIGUEZ: Correct.

18 THE COURT: -- the Court entering any order?

19 MS. RODRIGUEZ: Right. Right. I'm not talking about the most recent --

20 THE COURT: Well --

21 MS. RODRIGUEZ: -- thing that Your Honor just clarified this morning, that
22 it was an email from Mr. Rosten to the Court that apparently he didn't copy either
23 one of us on that as well --

24 THE COURT: Yeah.

1 MS. RODRIGUEZ: -- I'm assuming. I'm assuming Mr. Greenberg didn't
2 have notification of Mr. Rosten's communications with the Court, which I don't think
3 was altogether proper, either. Basically my problem with Mr. Rosten is I don't know
4 if he's ever been considered as a special master, but the very basic primer thing
5 that you do is run a conflicts check. Before I talked to any of these folks that we
6 submitted to the Court, I said here are the attorneys, here are the parties that are
7 involved, run a conflicts check before I even give you any additional data. It doesn't
8 appear that Mr. Rosten did that. I don't know if the guy that you've now appointed,
9 if he's done that; if Mr. Greenberg asked any of these people to run a conflicts
10 check. And it's not a matter of that they just have a relative out there that's a
11 cab driver. This is an actual current cab driver of A Cab that is the brother of the
12 managing shareholder of this firm.

13 THE COURT: Uh-huh.

14 MS. RODRIGUEZ: If there had been any circulation to the partners or the
15 managing shareholder to say this is who we're going to be involved with is A Cab --
16 I don't think that was done until obviously, what, two weeks later after -- or ten days
17 later after he's received notification of doing the proposal and doing the submission
18 to the Court. So that's my objection, is you should have started right there, run a
19 conflicts check and then you would know to raise that, to put the parties on notice.
20 I think Mr. Greenberg probably wouldn't even have submitted him if Mr. Rosten
21 had said my brother -- I mean, the brother works at A Cab.

22 THE COURT: Well, if he's a cab driver for A Cab, are you saying that you
23 would expect a putative special master, someone who is being considered, to run
24 a conflicts check with every member of the class, all the taxi drivers?

1 MS. RODRIGUEZ: No, absolutely not.

2 THE COURT: Well, how else --

3 MS. RODRIGUEZ: First of all, A Cab is one of the smallest cab companies
4 in town. There's not that many drivers to begin with, compared to something like
5 Frias or Yellow-Checker-Star or anything like that. So this is a very limited group.
6 So -- and Mr. Greenberg's response saying I've represented over 20,000 people
7 in the Las Vegas valley, so I have no idea who I've represented or whether there's
8 ever been a conflict and eventually probably somebody is going to be related, I think
9 that is a far stretch from the reality of going to a CPA firm and saying is your brother
10 a current cab driver of A Cab. I mean, that conflict is fairly obvious. I found three
11 people that don't have a relative at A Cab or that have never been represented
12 by Mr. Greenberg with my first phone calls. So that's also my problem with
13 understanding --

14 THE COURT: Well, that are currently cab drivers, but of those --

15 MS. RODRIGUEZ: Ever.

16 THE COURT: Okay. So, how many members of the class do we have?

17 MS. RODRIGUEZ: How many members of the class?

18 THE COURT: Mr. Greenberg, do you know?

19 MR. GREENBERG: Your Honor, there are in excess of 1,000 individuals.

20 THE COURT: I'm sorry, how many?

21 MR. GREENBERG: I would say in excess of 1,000.

22 THE COURT: All right.

23 MR. GREENBERG: There's some lack of precision there. It certainly is more
24 than 500, less than 1,500, Your Honor.

1 THE COURT: All right. Okay, thank you.

2 MS. RODRIGUEZ: And whether one of those cab drivers at A Cab is going
3 to be related to a managing shareholder of a CPA, I think the statistics are fairly low,
4 Your Honor, in reality.

5 THE COURT: Well, of course for this type of objection we wouldn't be limited
6 to the managing partner, either. Wouldn't it be anybody who's much of anything
7 with Piercy Bowler? So, I guess -- well, okay, let me -- go ahead and finish with
8 your --

9 MS. RODRIGUEZ: Well, along those lines, Your Honor --

10 THE COURT: And my question is really is your objection to having to pay
11 Mr. Rosten and Piercy Bowler for the time -- and I will say you brought up, you
12 know, what about -- are they supposed to pay for everything they did before they
13 were appointed, and my answer would be no.

14 MS. RODRIGUEZ: Okay. That's fair, Your Honor, and I appreciate that.
15 Part two, then, is from the time that they've been appointed, A Cab, per your order,
16 is supposed to furnish them with all of the trip sheets and all of the QuickBooks
17 data, etcetera, for them to review. We have not provided that to Mr. Rosten. And
18 I was just discussing that with Mr. Greenberg this morning that I'm glad I hadn't
19 provided that to him because he probably would have billed the heck out of it and
20 now we've been paying for it. So, Mr. Rosten should not have done any work as
21 of this date unless --

22 THE COURT: Well, it strikes me that perhaps we're objecting before we
23 know whether there's an issue.

24 MS. RODRIGUEZ: Exactly. I don't know. Maybe he's not even going to

1 submit a bill, but it's in your order for him to work up a bill and submit it to A Cab,
2 so that is my objection.

3 THE COURT: Well, certainly there's opportunity. One of the reasons I
4 made it 10 days to make a payment was to give opportunity to object if you found
5 anything --

6 MS. RODRIGUEZ: Uh-huh.

7 THE COURT: -- untoward in the billing. But what I am most concerned
8 with at this point is not having what I consider a side issue do anything to stop the
9 process of getting this matter brought to completion.

10 MS. RODRIGUEZ: Okay.

11 THE COURT: And so if there remains some objection to the bill after it's
12 submitted, certainly there would be opportunity to object to it without sort of hijacking
13 the process. So what I was concerned with when I saw this flurry of emails going
14 back and forth, allegations of ex parte communications and all manner of things,
15 you know, it goes -- I mean, I wouldn't be surprising anyone with the remark or the
16 observation that there is certainly less than the usual cordiality between counsel
17 in this case, and I don't want that to interfere with the litigation itself.

18 MS. RODRIGUEZ: Absolutely not, Your Honor. But I think you can probably
19 put yourself in my position where I've sent a letter to Mr. Rosten. Mr. Rosten was
20 very ambiguous about disclosing the conflict, anyway. First he sat on it. Then he
21 said, oh, by the way, my managing shareholder has a brother who works at A Cab.
22 So I had to ask him, can you give me a name? Can you tell me who this is? And
23 then he said -- I wish I had brought his email. I think I probably have it. He said
24 something like, oh, he's just a lowly cab driver at A Cab named Dennis Donahue.

1 And then I had to go back and find out, well, who is this person?

2 So the first part of that, I was very uncomfortable with Mr. Rosten's
3 handling of that whole situation, as I mentioned. I mean, this is basic attorney
4 protocol to have your client check for a conflict. I don't know if Mr. Greenberg asked
5 him to check for a conflict, but if he's ever being considered for a special master,
6 he should know to check for a conflict. That's the very first thing.

7 Number two is, I sent him a letter, then, saying I've consulted with my
8 co-counsel, I've consulted with my client. He's a current cab driver. We're asking
9 you to recuse yourself.

10 THE COURT: Uh-huh.

11 MS. RODRIGUEZ: I don't hear anything back. The next thing I hear is a
12 minute order from this Court.

13 THE COURT: Uh-huh.

14 MS. RODRIGUEZ: So obviously I'm thinking, well, what has triggered the
15 minute order? Who submitted things to the Court? I don't know if it's Mr. Greenberg
16 or Mr. Rosten.

17 THE COURT: Well, I would not really --

18 MS. RODRIGUEZ: I kind of suspected it wasn't Mr. Greenberg, that it was
19 Mr. Rosten, but I don't know. I'm sure he doesn't know.

20 THE COURT: Well, I would have been surprised if Mr. Rosten had handled
21 it any other way than to turn it over to the Court --

22 MS. RODRIGUEZ: Uh-huh.

23 THE COURT: -- the way that he did. I wouldn't have expected him -- at that
24 point he is -- he has been appointed.

1 MS. RODRIGUEZ: Right.

2 THE COURT: And it wouldn't make sense for him, in my way of thinking,
3 to engage then in some further conversation with you or with Mr. Greenberg about
4 the matter, other than to say, wait a minute, there's an issue that's been presented;
5 here you go, Judge. I mean, that's kind of the way I took the email that he sent.

6 MS. RODRIGUEZ: Except that we didn't see -- we were not privy to that
7 email, Your Honor. And I would think if he knows enough -- I looked at his proposal
8 again and he's put paragraphs in there about being appointed as a quasi-judicial
9 and we should receive immunity and not be sued and this and that. He knows
10 enough to put that in his proposal, but he doesn't know enough to copy the parties
11 on communications to the Court or to run a conflicts check. So I am very pleased
12 to see that Your Honor is considering somebody else because I don't know Mr.
13 Rosten. I've never had one discussion with him. But I think his handling thus far
14 did not -- it showed a lack of professionalism in his handling.

15 THE COURT: All right.

16 MS. RODRIGUEZ: Where, number two --

17 THE COURT: Well, he's not here to defend himself --

18 MS. RODRIGUEZ: I don't know him, Your Honor, but.

19 THE COURT: -- and I don't propose to go into making a record against
20 someone who is not here to defend themselves because they got appointed as a
21 special master.

22 MS. RODRIGUEZ: I understand. But part two of your order says that the
23 Court is accepting or giving some credibility to the fact that Mr. Greenberg has said
24 because I've represented 20,000 people it's impossible to have a local firm come in

1 and handle this. That's what I'm understanding is your reasoning for appointing
2 an out-of-state person now.

3 THE COURT: My reasoning came as much from your letter as it did Mr.
4 Greenberg's.

5 MS. RODRIGUEZ: Okay. I think there's plenty of qualified local people,
6 so this is --

7 THE COURT: Well, that's not even on the table at this point.

8 MS. RODRIGUEZ: Well --

9 THE COURT: I made the appointment --

10 MS. RODRIGUEZ: Okay.

11 THE COURT: -- and I do not wish to change it again.

12 MS. RODRIGUEZ: Well --

13 THE COURT: Part of the reason why I selected Piercy Bowler was that I --
14 I don't remember if they were the absolute cheapest, but they were certainly less
15 than bringing in some outside firm.

16 MS. RODRIGUEZ: Uh-huh.

17 THE COURT: And I think I even made a comment in court at some point
18 when we were meeting subsequent to the Court's order -- subsequent to January
19 25th when I indicated I was granting that motion that I would have loved to have
20 used a local firm --

21 MS. RODRIGUEZ: Uh-huh.

22 THE COURT: -- and do away with communications problems. But I would
23 not and I will not allow a potential issue such as the one that's come up with this to
24 happen rather than get the work done. And it seems to me at this point the most --

1 the way that's most likely to do away with this kind of an issue because of somebody
2 in the special master's operation knows somebody on one side or the other of this
3 litigation, the way to do it is I'm going to use somebody outside, so I have appointed
4 Resolution --

5 MS. RODRIGUEZ: Dr. Saad.

6 THE COURT: Yes.

7 MS. RODRIGUEZ: S-a-a-d? Okay.

8 THE COURT: Yes.

9 MS. RODRIGUEZ: And that's fine, Your Honor, but your question this
10 morning was about any obstacles that are going to prohibit the parties from moving
11 forward and that's why I'm raising this issue right now because I would like to know
12 whether Dr. Saad has even run a conflicts check so we don't run into anything else.
13 Since the first guy didn't, I don't know if this guy has --

14 THE COURT: Uh-huh.

15 MS. RODRIGUEZ: -- or what the relationship is with Mr. Greenberg. You
16 know, how he found this person. If we could get a little bit of that, then we know
17 there's not going to be an obstacle to the appointment of this person.

18 THE COURT: Well, certainly I will ask Mr. Greenberg to speak to that.
19 However, the time to object, I think, was when the names were submitted. The
20 time for each of you to object to what had been submitted was then.

21 MS. RODRIGUEZ: And I think I did, Your Honor. I did submit -- I asked
22 at that point -- we had this discussion in chambers where you said, well, you know,
23 go back and get some additional information.

24 THE COURT: Okay.

1 MS. RODRIGUEZ: But I had no idea that these people hadn't run a conflicts
2 check and I just -- again, I thought that was a basic understanding, that we would
3 not be having a current employee of A Cab or a current cab driver. So we're back
4 to square one, and so I'm asking what has --

5 THE COURT: All right. Well, let's ask --

6 MS. RODRIGUEZ: -- has a conflicts check even been run with Dr. Saad.

7 THE COURT: Let's ask Mr. Greenberg to speak to that.

8 MR. GREENBERG: Your Honor, there is a conclusion being voiced to the
9 Court that Mr. Rosten did not run a conflict check, okay. I cannot speak to what he
10 did or did not actually do. I can only speak to my communications with him. And
11 when he was initially contacted, as was every one of -- I believe there were five or
12 six nominees I gave the Court -- every single one of those nominees did inquire
13 with me about any conflict based upon their firm's involvement in other matters.

14 THE COURT: You say they did inquire of you?

15 MR. GREENBERG: They did inquire and they were provided with a copy
16 of the complaint, the pleading in the case --

17 THE COURT: Okay.

18 MR. GREENBERG: -- so they could satisfy themselves that there was no
19 conflict.

20 THE COURT: Okay.

21 MR. GREENBERG: What they did at that point I can't speak to, obviously,
22 Your Honor. So -- and Mr. Saad and Resolution Economics, Dr. Saad did that as
23 well and assured me.

24 Now, the Court is aware, in my view, this question of conflict is sort of

1 expanded by defendants beyond all kind of workable sort of sensibilities, but that's
2 not the issue here, Your Honor. Your Honor has made your decision how to handle
3 this. What Mr. Rosten did or didn't do, his services rendered in the six days he was
4 actually special master, those are all collateral issues I don't -- from my view, Your
5 Honor, I don't see that this is something that I should be addressing unless the
6 Court wishes --

7 THE COURT: No, I do not.

8 MR. GREENBERG: -- to hear from me about any of that, okay.

9 THE COURT: I do not.

10 MR. GREENBERG: Okay. The only thing I would like to hear today, and
11 I had a brief conversation with Ms. Rodriguez before Your Honor took the bench,
12 is a commitment from defendants to deliver to Dr. Saad overnight the necessary
13 materials so he can commence his work, which consists of the trip sheets which
14 are approximately 300,000 individual PDFs. I mean, I actually have with me today
15 the hard drive that was provided to me by defendants in the litigation which has
16 about three-quarters of those materials. Ms. Rodriguez represented to me before
17 you took the bench that she has everything prepared. She's prepared to give it
18 to the special master directly, which is fine. I mean, that way if it comes directly
19 from defendants there will be no question that there was any contamination or
20 mishandling by me in terms of getting the source materials to the special master.

21 THE COURT: Uh-huh.

22 MR. GREENBERG: So it's the trip sheets. Ms. Rodriguez has also advised
23 me that defendants want the special master to work with the raw QuickBooks data --

24 THE COURT: Uh-huh.

1 MR. GREENBERG: -- and come up with the gross wage numbers. There
2 was a provision in the order from February 7th saying the parties could potentially
3 stipulate as to what the gross wage amounts were --

4 THE COURT: Uh-huh.

5 MR. GREENBERG: -- per pay period because we've done work on that
6 on my end. Defendants are declining to enter into that agreement, which is fine.
7 They will also provide the raw QuickBooks data and that will be part of the special
8 master's work. I just want to see that the materials get to the special master as
9 soon as possible so he can get this done and we can meet the time pressures of
10 the litigation, Your Honor. So I have nothing further I need to address to the Court
11 or feel important to address to Your Honor besides that, unless you have questions.

12 THE COURT: Okay. So you do not know whether any conflicts check was
13 made or what was done in that regard?

14 MR. GREENBERG: It was represented to me by Mr. Rosten and every single
15 nominee I gave you --

16 THE COURT: No, I'm not talking about Rosten. I'm talking about Mr. Saad.

17 MR. GREENBERG: Yes, it was represented to me by Mr. Saad and his firm
18 that they did a conflicts check as well.

19 THE COURT: Okay.

20 MR. GREENBERG: I can only tell you what they represented to me and
21 what they requested of me when I initially contacted them.

22 THE COURT: Okay.

23 MR. GREENBERG: That was one of the first things they asked was, well,
24 we need to know who the parties are.