IN THE SUPREME COURT OF THE STATE OF NEVADA

A CAB, LLC; AND A CAB SERIES, LLC, Appellants, v. MICHAEL MURRAY; AND MICHAEL RENO, INDIVIDUALLY AND ON BEHALF OF ALL OTHERS SIMILARLY SITUATED, Respondents.	)	Supreme Court No. 77050

Electronically Filed
Aug 05 2020 04:56 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APPENDIX TO
APPELLANTS OPENING BRIEF
VOLUME XXX of LII

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

HUTCHISON & STEFFEN, PLLC

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

Chronological Index

Doc No.	Description	Vol.	Bates Nos.
1	Complaint, filed 10/08/2012	I	AA000001-AA000008
2	Defendant's Motion to Dismiss Complaint, filed 11/15/2012	I	AA000009-AA000015
3	Response in Opposition to Defendants' Motion to Dismiss, filed 12/06/2012	I	AA000016-AA000059
4	Defendant's Reply in Support of Motion to Dismiss Complaint, filed 01/10/2013	I	AA000060-AA000074
5	First Amended Complaint, filed 01/30/2013	I	AA000075-AA000081
6	Decision and Order, filed 02/11/2013	I	AA000082-AA000087
7	Defendant's Motion for Reconsideration, filed 02/27/2013	I	AA000088-AA000180
8	Plaintiffs' Response in Opposition to Defendants' Motion Seeking Reconsideration of the Court's February 8, 2013 Order Denying Defendants' Motion to Dismiss, filed 03/18/2013	I	AA000181-AA000187
9	Defendant's Motion to Strike Amended Complaint, filed 03/25/2013	I	AA000188-AA000192
10	Defendant's Reply in Support of Motion for Reconsideration, filed 03/28/2013	I	AA000193-AA000201
11	Plaintiffs' Response in Opposition to Defendants' Motion to Strike First Amended Complaint and Counter-Motion for a Default Judgment or Sanctions Pursuant to EDCR 7.60(b), filed 04/11/2013	II	AA000202-AA000231

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

	08/28/2015		
24	Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 08/28/2015	IV	AA000651-AA000668
25	Defendants Reply In Support of Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 09/08/2015	IV	AA000669-AA000686
26	Defendant's Reply In Support of Motion for Declaratory Order Regarding Statue of Limitations, filed 09/08/2015	IV	AA000687-AA000691
27	Defendant's Motion to Dismiss Plaintiffs' First Claim for Relief, filed 09/11/2015	IV	AA000692-AA000708
28	Defendant A Cab, LLC's Answer to Second Amended Complaint, filed 09/14/2015	IV	AA000709-AA000715
29	Defendant's Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 09/21/2015	IV	AA000716-AA000759
30	Defendant's Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Reno, filed 09/21/2015	IV, V	AA000760-AA000806
31	Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' First Claim for Relief, filed 09/28/2015	V	AA000807-AA000862
32	Defendant Creighton J. Nady's Answer to Second Amended Complaint, filed 10/06/2015	V	AA000863-AA000869
33	Response in Opposition to Defendants' Motion to Dismiss and for Summary Judgment Against Plaintiff Michael Murray, filed 10/08/2015	V	AA000870-AA000880
34	Response in Opposition to Defendants' Motion to Dismiss and for Summary	V	AA000881-AA000911

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

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

	From Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief, filed 11/10/2016		
53	Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) with Respect to All Claims for Damages Outside the Two-Year Statue of Limitations, filed 11/17/2016	VIII	AA001587-AA001591
54	Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 11/29/2016	IX	AA001592-AA001621
55	Opposition to Defendants' Motion for Judgment on the Pleadings, Counter Motion for Toll of Statue of Limitations and for an Evidentiary Hearing, filed 12/08/2016	IX	AA001622-AA001661
56	Opposition to Defendants' Motion for Leave to Amend Answer to Assert Third-Party Complaint and Counter-Motion for Sanctions and Attorney's Fees, filed 12/16/2016	IX, X, XI	AA001662-AA002176
57	Notice of Withdrawal of Defendants' Motion for Leave to Amend Answer to Assert a Third-Party Complaint, filed 12/16/2016	XI	AA002177-AA002178
58	Reply in Support of Defendants' Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) with Respect to All Claims for Damages Outside the Two-Year Statue of Limitation and Opposition to Counter Motion for Toll of Statue of Limitations and for an Evidentiary Hearing, filed 12/28/2016	XI	AA002179-AA002189
59	Motion for Partial Summary Judgment, filed 01/11/2017	XII, XIII, XIV, XV	AA002190-AA002927

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

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

76	Declaration of Charles Bass, filed 02/27/2017	XX	AA003889-AA003892
77	Transcript of Proceedings, May 18, 2017	XX, XXI	AA003893-AA004023
78	Supplement to Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment, filed 05/24/2017	XXI	AA004024-AA004048
79	Supplement to Defendants' Opposition to Plaintiffs' Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady From Liability of Corporate Defendants or Alternative Relief, filed 05/31/2017	XXI	AA004049-AA004142
80	Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/02/2017	XXI	AA004143-AA004188
81	Decision and Order, filed 06/07/2017	XXI	AA004189-AA004204
82	Defendants' Opposition to Plaintiffs' Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/09/2017	XXII	AA004205-AA004222
83	Transcript of Proceedings, June 13, 2017	XXII	AA004223-AA004244
84	Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of March 9, 2017 and Compelling Compliance with that Order, filed 07/12/2017	XXII	AA004245-AA004298
85	Order Denying Plaintiffs' Motion for Partial Summary Judgment, filed 07/14/2017	XXII	AA004299-AA004302
86	Order, filed 07/17/2017	XXII	AA004303-AA004304

87	Order, filed 07/17/2017	XXII	AA004305-AA004306
88	Order, filed 07/17/2017	XXII	AA004307-AA004308
89	Defendants' Opposition to Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of March 9, 2017 and Compelling Compliance with that Order, filed 07/31/2017	XXII	AA004309-AA004336
90	Order Denying Plaintiff's Counter-Motion for Sanctions and Attorneys' Fees and Order Denying Plaintiffs' Anti-SLAPP Motion, filed 07/31/2017	XXII	AA004337-AA004338
91	Declaration of Plaintiffs' Counsel Leon Greenberg, Esq., filed 11/02/2017	XXII, XXIII, XXIV, XXV	AA004339-AA004888
92	Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid, filed 11/02/2017	XXV	AA004889-AA004910
93	Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 11/03/2017	XXV	AA004911-AA004932
94	Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid, filed 11/20/2017	XXV, XXVI	AA004933-AA005030
95	Defendants' Motion for Summary Judgment, filed 11/27/2017	XXVI	AA005031-AA005122
96	Defendants' Opposition to Plaintiffs' Motion for Bifurcation and/or to Limit Issues for	XXVI	AA005123-AA005165

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

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

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

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

142	Defendants' Supplemental Authority in Response to Declaration of June 20, 2018, filed 07/10/2018	XLI	AA008349-AA008402
143	Michael Rosten's Response to Defendants' Objection to Billing by Stricken Special Master Michael Rosten, filed 07/13/2018	XLI	AA008403-AA008415
144	Plaintiffs' Supplement in Reply and In Support of Entry of Final Judgment Per Hearing Held June 5, 2018, filed 07/13/2018	XLI, XLII	AA008416-AA008505
145	Defendants' Supplemental Authority in Response to Plaintiffs' Additional Supplement Filed July 13, 2018, filed 07/18/2018	XLII	AA008506-AA008575
146	Plaintiffs' Supplement in Reply to Defendants' Supplement Dated July 18, 2018, filed 08/03/2018	XLII	AA008576-AA008675
147	Notice of Entry of Order Granting Judgment, filed 08/22/2018	XLIII	AA008676-AA008741
148	Motion to Amend Judgment, filed 08/22/2018	XLIII	AA008742-AA008750
149	Defendants' Motion for Reconsideration, Amendment, for New Trial, and for Dismissal of Claims, filed 09/10/2018	XLIII	AA008751-AA008809
150	Opposition to Plaintiffs' Motion to Amend Judgment, filed 09/10/2018	XLIII	AA008810-AA008834
151	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Amend Judgment, filed 09/20/2018	XLIII, XLIV	AA008835-AA008891
152	Defendant's Ex-Parte Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening Time, filed 09/21/2018	XLIV	AA008892-AA008916

153	Notice of Appeal, filed 09/21/2018	XLIV	AA008917-AA008918
154	Plaintiffs' Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OST and Counter-Motion for Appropriate Judgment Enforcement Relief, filed 09/24/2018	XLIV	AA008919-AA008994
155	Plaintiffs' Response in Opposition to Defendants' Motion for Reconsideration, Amendment, for New Trial and for Dismissal of Claims, filed 09/27/2018	XLIV	AA008995-AA009008
156	Plaintiffs' Supplemental Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OSt, filed 09/27/2018	XLIV	AA009009-AA009029
157	Defendant's Exhibits in support of Ex-Parte Motion to Quash Writ of Execution and, In the Alternative, Motion for Partial Stay of Execution on Order Shortening Time, filed 10/01/2018	XLIV, XLV	AA009030-AA009090
158	Claim of Exemption from Execution - A Cab Series, LLC, Administration Company, filed 10/04/2018	XLV	AA009091-AA009096
159	Claim of Exemption from Execution - A Cab Series, LLC, CCards Company, filed 10/04/2018	XLV	AA009097-AA009102
160	Claim from Exemption from Execution - A Cab Series, LLC, Employee Leasing Company Two, filed 10/04/2018	XLV	AA009103-AA009108
161	Claim of Exemption from Execution - A Cab Series, LLC, Maintenance Company, filed 10/04/2018	XLV	AA009109-AA009114
162	Claim from Exemption from Execution - A Cab Series, LLC, Medallion Company, filed 10/04/2018	XLV	AA009115-AA009120

163	Claim from Exemption from Execution - A Cab Series, LLC, Taxi Leasing Company, filed 10/04/2018	XLV	AA009121-AA009126
164	Claim of Exemption from Execution - A Cab, LLC, filed 10/04/2018	XLV	AA009127-AA009132
165	Plaintiffs' Motion for an Order Granting a Judgment Debtor Examination and for Other Relief, filed 10/05/2018	XLV	AA009133-AA009142
166	Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 10/12/2018	XLV	AA009143-AA009167
167	Plaintiffs' Objections to Claims from Exemption from Execution and Notice of Hearing, filed 10/15/2018	XLV	AA009168-AA009256
168	Opposition to Plaintiffs' Counter-Motion for Appropriate Judgment Relief, filed 10/15/2018	XLV	AA009257-AA009263
169	Plaintiffs' Reply to Defendants' Response to Plaintiffs' Counter-Motion for Appropriate Judgment Enforcement Relief, filed 10/16/2018	XLV	AA009264-AA009271
170	Reply in Support of Defendants' Motion for Reconsideration, Amendment, for New Trial, and for Dismissal of Claims, filed 10/16/2018	XLV	AA009272-AA009277
171	Defendants' Motion for Dismissal of Claims on Order Shortening Time, filed 10/17/2018	XLV	AA009278-AA009288
172	Plaintiffs' Response in Opposition to Defendants' Motion for Dismissal of Claims on an Order Shortening Time, filed 10/17/2018	XLVI	AA009289-AA009297
173	Notice of Entry of Order, filed 10/22/2018	XLVI	AA009298-AA009301

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

183	Opposition to Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt, filed 11/26/2018	XLVII	AA009647-AA009664
184	Plaintiffs' Response to Special Master's Motion for an Order for Payment of Fees and Contempt, filed 11/26/2018	XLVII	AA009665-AA009667
185	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution, filed 11/28/2018	XLVII	AA009668-AA009674
186	Defendant's Opposition to Plaintiffs' Ex-Parte Motion for a Temporary Restraining Order and Motion on an Order [sic] Requiring the Turnover of Certain Property of the Judgment Debtor Pursuant to NRS 21.320, filed 11/30/2018	XLVII	AA009675-AA009689
187	Resolution Economics' Reply to Defendants' Opposition and Plaintiffs' Response to its Application for an Order of Payment of Special Master's Fees and Motion for Contempt, filed 12/03/2018	XLVII	AA009690-AA009696
188	Minute Order from December 4, 2018 Hearing	XLVIII	AA009697-AA009700
189	Transcript of Proceedings, December 4, 2018	XLVIII	AA009701-AA009782
190	Transcript of Proceedings, December 11, 2018	XLVIII	AA009783-AA009800
191	Defendant's Opposition to Plaintiffs' Motion for Other Relief, Including Receiver, filed 12/12/2018	XLVIII	AA009801-AA009812
192	Transcript of Proceedings, December 13, 2018	XLVIII	AA009813-AA009864

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

205	Minute Order from February 5, 2019 Hearing	L	AA01208-AA01209
206	Notice of Entry of Order Granting Resolution Economics' Application for Order of Payment and Contempt, filed 02/05/2019	L	AA010210-AA010219
207	Notice of Entry of Order Granting Plaintiffs' Motion for Attorney's Fees and Costs, filed 02/07/2019	L	AA010220-AA010230
208	Defendants' Motion for Reconsideration of Judgment and Order Granting Resolution Economics' Application for Order of Payment of Special Master's Fees and Order of Contempt, filed 02/25/2019	L	AA010231-AA010274
209	Order, filed 03/04/2019	L	AA010275-AA010278
210	Order Denying in Part and Continuing in Part Plaintiffs' Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove Up Hearing, and Coordinate Cases, filed 03/05/2019	L	AA010279-AA010280
211	Order on Defendants' Motion for Reconsideration, filed 03/05/2019	L	AA010281-AA010284
212	Second Amended Notice of Appeal, filed 03/06/2019	L	AA010285-AA010288
213	Special Master Resolution Economics' Opposition to Defendants Motion for Reconsideration of Judgment and Order Granting Resolution Economics Application for Order of Payment of Special Master's Fees and Order of Contempt, filed 03/28/2019	LI	AA010289-AA010378
214	Notice of Entry of Order Denying Defendants' Motion for Reconsideration of	LI	AA010379-AA010384

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

Alphabetical Index

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

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

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

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

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

	12/22/2017		
202	Defendants' Motion to Pay Special Master on Order Shortening Time, filed 01/17/2019	L	AA010104-AA010114
140	Defendants' Objection to Billing By Stricken Special Master Michael Rosten, filed 06/27/2018	XLI	AA008294-AA008333
131	Defendants' Opposition to Plaintiffs' Declarations; Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant Partial Summary Judgment, Direct a Prove up Hearing, and Coordinate Cases, filed 05/20/2018	XXXV	AA007065-AA007092
108	Defendants' Opposition to Plaintiffs' Omnibus Motion in Limine #1-25, filed 01/12/2018	XXX	AA005967-AA006001
94	Defendants' Opposition to Plaintiffs' Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid, filed 11/20/2017	XXV, XXVI	AA004933-AA005030
51	Defendants' Opposition to Plaintiffs' Motion to Enjoin Defendants from Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief, filed 11/04/2016	VIII	AA001523-AA001544
82	Defendants' Opposition to Plaintiffs' Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/09/2017	XXII	AA004205-AA004222
96	Defendants' Opposition to Plaintiffs' Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 11/27/2017	XXVI	AA005123-AA005165

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

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

			AA01209
218	Minute Order from June 1, 2018 Hearing	LII	AA10521
47	Minute Order from March 28, 2016 Hearing	VIII	AA001417
217	Minute Order from May 23, 2018 Hearing	LII	AA10520
39	Minute Order from November 9, 2015 Hearing	VI	AA001171
93	Motion for Bifurcation and/or to Limit Issues for Trial Per NRCP 42(b), filed 11/03/2017	XXV	AA004911-AA004932
92	Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on Defendants to Establish "Lower Tier" Minimum Wage and Declare NAC 608.102(2)(b) Invalid, filed 11/02/2017	XXV	AA004889-AA004910
59	Motion for Partial Summary Judgment, filed 01/11/2017	XII, XIII, XIV, XV	AA002190-AA002927
80	Motion on Order Shortening Time to Extend Damages Class Certification and for Other Relief, filed 06/02/2017	XXI	AA004143-AA004188
148	Motion to Amend Judgment, filed 08/22/2018	XLIII	AA008742-AA008750
200	Motion to Amend the Court's Order Entered on December 18, 2018, filed 01/15/2019	XLIX	AA009932-AA009996
60	Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief, filed 01/12/2017	XV, XVI	AA002928-AA003029
17	Motion to Certify this Case as a Class Action Pursuant to NRCP Rule 23 and Appoint a Special Master Pursuant to NRCP Rule 53, filed 05/19/2015	II	AA000257-AA000398

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

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

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

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

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

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

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

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

155	Plaintiffs' Response in Opposition to Defendants' Motion for Reconsideration, Amendment, for New Trial and for Dismissal of Claims, filed 09/27/2018	XLIV	AA008995-AA009008
11	Plaintiffs' Response in Opposition to Defendants' Motion to Strike First Amended Complaint and Counter-Motion for a Default Judgment or Sanctions Pursuant to EDCR 7.60(b), filed 04/11/2013	II	AA000202-AA000231
24	Plaintiffs' Response in Opposition to Defendants' Motion to Dismiss Plaintiffs' Second Claim for Relief, filed 08/28/2015	IV	AA000651-AA000668
23	Plaintiffs' Response in Opposition to Defendants' Motion for Declaratory Order Regarding Statue of Limitations, filed 08/28/2015	IV	AA000600-AA000650
172	Plaintiffs' Response in Opposition to Defendants' Motion for Dismissal of Claims on an Order Shortening Time, filed 10/17/2018	XLVI	AA009289-AA009297
8	Plaintiffs' Response in Opposition to Defendants' Motion Seeking Reconsideration of the Court's February 8, 2013 Order Denying Defendants' Motion to Dismiss, filed 03/18/2013	I	AA000181-AA000187
154	Plaintiffs' Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OST and Counter-Motion for Appropriate Judgment Enforcement Relief, filed 09/24/2018	XLIV	AA008919-AA008994
109	Plaintiffs' Response to Defendants' Motion in Limine to Exclude Expert Testimony, filed 01/12/2018	XXX, XXXI	AA006002-AA006117
184	Plaintiffs' Response to Special Master's	XLVII	AA009665-

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

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

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

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

CERTIFICATE OF SERVICE

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

Leon Greenberg, Esq.
Dana Sniegocki, Esq.
Leon Greenberg Professional Corporation
2965 S. Jones Blvd., Ste. E3
Las Vegas, NV 89146
Telephone: (702) 383-6085
Facsimile: (702) 385-1827
leongreenberg@overtimelaw.com
Dana@overtimelaw.com

Attorneys for Respondents

DATED this 5th day of August, 2020.

/s/ Kaylee Conradi

_____

An employee of Hutchison & Steffen, PLLC

Electronically Filed
1/9/2018 5:57 PM
Steven D. Grierson
CLERK OF THE COURT

SUPP

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

DISTRICT COURT
CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO, Individually and on behalf of others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC, A CAB, LLC, and CREIGHTON J. NADY, Defendants.	Case No.: A-12-669926-C Dept.: I **PLAINTIFFS' SUPPLEMENT IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT** Hearing Date: 1/23/18 Hearing Time: 9:00 A.M.

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation, hereby file this supplement in support of the plaintiffs' motion for an Order granting partial summary judgment as per the Court hearing held on January 2, 2018.

REASON FOR SUPPLEMENT

On December 14, 2017 the Court heard argument and stated it believed it would grant partial summary judgment "only to the extent Plaintiff has established the liability claim; the only thing left are the damages." Ex. "A" minutes. At that hearing plaintiffs sought clarification of that statement, as a liability finding that minimum wages are owed ("liability") **depends** upon **and cannot be separated from** a finding that some specific amount of minimum wages are established as owed ("damages"). Essentially, the damages and liability findings in a minimum wage case are inseparable. The Court at the December 14, 2017 hearing indicated it was going to

consider the issue further and clarify its ruling on this issue.

Because no further minute order was issued this matter was raised with the Court again at the next hearing held in this case on January 2, 2018. At that hearing the Court acknowledged the concern of plaintiffs' counsel and indicated it would further address this issue. The filing of supplements by the parties by January 9, 2018 was directed with the Court to hear further argument on January 23, 2018.

NATURE OF SUPPLEMENT AND QUESTIONS POSED BY THE COURT

Plaintiffs seek partial summary judgment for unpaid minimum wages for the period January 1, 2013 through December 31, 2015, at $7.25 an hour, based upon:

1. Payroll records (Quickbooks computer files) produced by A Cab in discovery that, as testified to by A Cab at an NRCP Rule 30(b)(6) deposition, contain accurate information on (A) The wages paid to each class member for each of 14,200 payroll periods and (B) The hours worked by that class member during each of those payroll period; and;
2. A calculation performed by an Excel file, verified as arithmetically correct by plaintiffs' expert, Terrence Clauretie, Ph.D., (and, as discussed, *infra*, by defendants' expert) on each of those 14,200 payroll periods which sets forth the amount, if any, that the wages paid during the payroll period, as shown by the A Cab payroll (Quickbooks) records were less than the $7.25 an hour minimum wage. That Excel file also sets forth the cumulative amount so owed (if any) to each of the class members for all of those pay periods.

At the January 2, 2018 hearing the Court advised it was seeking answers to the following two questions so it could resolve this matter:

1. Was A Cab bound by the information contained in the Quickbooks records and thus unable to dispute the accuracy of the wages paid, and

hours worked, as recorded in those records for 2013-2015?

and

2. Was the accuracy of the calculations presented by plaintiffs on the 14,200 payroll periods (Ex. "D" to plaintiffs' motion filed November 2, 2017), showing amounts owed at $7.25 an hour, subject to any material factual dispute?

A Cab cannot dispute the accuracy of the Quickbooks records as it has sworn at a NRCP Rule 30(b)(6) that they are accurate. A Cab also raises no material factual dispute regarding the accuracy of the plaintiffs' calculations derived from those records.[1] Accordingly, summary judgment must be granted for the $174,839 owed in amounts of at least $10 (at the "lower tier" $7.25 an hour minimum wage) to the 319 class members (identified with their respective amounts of unpaid minimum wages at column "D" of Ex. "E" to plaintiffs' motion filed November 2, 2017). Class counsel should also be awarded interim fees and costs from A Cab pursuant to Article 15, Section 16, of the Nevada Constitution of at least $135,000.

THE "TIP CREDIT" CAUSING THE MINIMUM WAGE VIOLATIONS

During the 2013-2015 period at issue A-Cab, as documented by its Quickbooks payroll records, complied with the *federal* $7.25 an hour minimum wage. That is because the $7.25 an hour federal minimum wage A Cab had to pay was reduced by the tips its taxi drivers received (the federal minimum wage "tip credit"). Nevada's

---

[1] At oral argument and in their briefs A Cab disputes **other proposed calculations to be presented at trial that have nothing to do with the summary judgment motion.** These involve certain dispatch (Cab Manager) records or an estimated "average shift length" or whether health insurance was available. None of those things have any bearing on the summary judgment motion which relies solely upon the payroll (Quickbooks) records. The $174,839 in minimum wages owed are shown by the "face" of those records (the wages paid on those records were not sufficient for the hours shown by those records to meet the "lower tier" $7.25 an hour minimum wage). A Cab does not dispute those "face of the records" calculations.

Constitution does not allow any such tip credit and A Cab had to pay the full $7.25 an hour Nevada minimum wage *not reduced* by the tips its taxi drivers received. The $174,839 owed and at issue arises because prior to July of 2014 A Cab, while complying with federal minimum wage law, failed to comply with Nevada law. That $174,839 is the amount of tips from January 1, 2013 through June 30, 2014 that A Cab, as shown by its own payroll records, improperly credited against its Nevada minimum wage obligations.[2] Defendant Nady acknowledged at his deposition that such improper tip credit was taken until the June 2014 *Thomas v. Yellow Cab* decision by the Nevada Supreme Court.[3]

ARGUMENT

I. A CAB CANNOT DISPUTE THE ACCURACY OF THE INFORMATION CONTAINED IN THE QUICKBOOKS RECORDS IT PRODUCED

A. A Cab has sworn at its NRCP Rule 30(b)(6) deposition that the Quickbooks records contain fully accurate information on the wages paid to, and hours worked by, the class members from 2013-2015.

A Cab, at a duly noticed NRCP Rule 30(b)(6) deposition, produced a witness to testify about how it produced its paychecks for the class members and its retention of all computer data files (Quickbooks records) of such payments. Ex. "B" deposition notice, subject #3, directing testimony on specifically identified paystubs, copies at Ex.

---

[2] A-Cab's cessation of its violations of Nevada's $7.25 an hour "lower tier" minimum wage, as shown by the "face" of their payroll records, after July 1, 2014 is documented in column "K" of Ex. "D" of the moving papers. For pay periods starting in July of 2014, as shown by that document, A Cab increased its minimum wage subsidy payments and stopped taking a tip credit and stopped, based upon the hours it recorded in its payroll records, violating Nevada's $7.25 an hour minimum wage.

[3] **Q: Mr. Nady, my question was very simple. It's a yes or a no answer. Between February of 2013 until the Thomas decision was issued in 2014, did A Cab for purposes of complying with the minimum wage law continue to credit tips that employees received against its minimum wage obligation?**
A: Yes. Ex. "F" p. 274 l. 19-25.

"C."[4] That deposition was held on August 18, 2015 (excerpts Ex. "D") where defendant Nady, the designated NRCP 30(b)(6) witness testified that A Cab uses Quickbooks to process its payroll for its taxi drivers.[5] He further testified that the class members' paper paystubs, furnished with their paychecks and detailing what they have been paid, are prepared from (printed from) information stored in Quickbooks.[6] He also agreed that all of the information printed on the paystubs (the "intersections" of the table printed on the paystub itemizing the payments made, tax deductions, etc.)

---

[4] Item 3 of the notice commands testimony under NRCP 30(b)(6) on:

The information utilized to produce the numeric entries on the documents produced in this case at BATES SARGEANT 1 to 4 including but not limited to the numbers appearing at the intersection of the line 'minimum wage subsidy" and the column "Qty" (which for example on BATES SARGEANT 2 have the numbers 22.81 and 57.08). Such witness will testify on all sources of information used to create all numbers, whether appearing on BATES SARGEANT 1 to 4 or on other payroll documents of defendants' taxi cab driver employees or stored in other computer records of the defendants. Such witness will also testify as to the reason such numbers were so created or calculated by defendants and how they were so calculated. Such witness will also testify as to the date when defendants started to create such numbers and keep records of such numbers. Such witness shall also testify as to what computer system (Quickbooks or other software) was used to create the printed records at BATES SARGEANT 1 to 4 and where defendant keeps or has kept the computer data files used by such computer system.

[5] **Q. You mentioned the use of QuickBooks, Mr. Nady. Is that the system that A Cab uses to process its payroll for its taxi drivers?**
A. Yes, it is.
Q. How long has it used that system for?
A. Since 2001. Ex. "D" p. 90, l. 10-15.

[6] **Q. And how are those pay stubs prepared?**
A. Off of QuickBooks.
Q. So the information from QuickBooks is printed on to the pay stub; correct?
A. Yep. Ex. "D" p. 94, l. 1-5.

would be in the Quickbooks files, if those files were preserved.[7]

In addition to confirming that the Quickbooks records contained all of the information on the payments made by A Cab to the class members,[8] A Cab confirmed that those records for the 2013-2015 period set forth the hours that each class member was determined by A Cab to have worked in exchange for each paycheck. That number of pay period hours was recorded as the "Qty" amount of the pay period's "Minimum Wage Subsidy" item on the printed paystub. Ex. "D" NRCP 30(b)(6) deposition testimony of defendant Nady, 8/18/15, p. 150, l. 25 - p. 153, l. 14. ("So A Cab in making that calculation [of Minimum Wage Subsidy pay] has figured that this person worked 57.08 hours [as appearing in the "Qty" column of such line] for that pay period?" "That's correct.").[9] Ex. "C" Sargeant 2, top half, is this pay stub.

In subsequent testimony Nady, again as an NRCP 30(b)(6) witness (Ex. "E" notice), insisted that the hours used by A Cab to pay the class members (the Quickbooks recorded hours) were *more accurate* than the trips sheets maintained by the drivers themselves and that arguably also constitute a record of their working time:

---

[7] **Q. Okay. Now QuickBooks would be able to produce to me in electronic form, to the extent that those files were preserved, all of the numbers that appear at those intersections; correct?**

A. To the -- with that reservation or with that caveat, yes.

Ex. "D" p. 150, l. 16-21.

[8] No dispute exists that the class members were paid by A Cab the amounts indicated by their paystubs and the Quickbooks records. A Cab has never asserted otherwise.

[9] Because these hours of work records ("Qty" amount of "Minimum Wage Subsidy") are only recorded in the 2013-2015 Quickbooks records summary judgment was only sought for that period.

> Q. .....My question isn't whether A Cab was going to do that or trying to do that; my question was, what records of that working time did A Cab understand it needed to keep?
>
> A: Trip sheets.
>
> Q: Did it have any understanding as to any other records that it needed to keep?
>
> A: **Well, the trip sheets didn't reflect when they came in and dinked around for 5 minutes or 10 minutes or when they come in and dinked around for 5 minutes or took the stuff out of their cab and put it in their car on the way in to start to do their manipulation on the computer or the time it took them to do the inspection, so we estimated that time.** We met with a good portion of drivers. We're going to pay you six minutes for this and six minutes for that, and then we raised it to eight minutes about a few months later when we started timing it. So what records do we keep? We keep records based on when they start and then we just allow time for it. That's the best we have. I don't think we can do it any better. It's an honest effort to do so.
> Ex. "F" deposition 11/22/16, p. 128, l. 14 - p. 129, l. 11.

Nady further insisted that A Cab's payroll records documented *all* working hours of the class members so they could be properly paid for all of those hours. He was "....sure that we [A-Cab] are using the timestamps from their trip sheets for their [payroll hours] time" and that "...we also add eight minutes to the beginning and end of the shift [as recorded in the trip sheets]..." for payroll purposes. *See*, Ex. "F" deposition 11/22/16, p. 66, l. 9-20.

Defendant Nady also duplicatively testified, with reference to certain discussed payroll period records (pay stubs) issued in 2014, that such hours of work records were derived from (incorporated the information from) the class members' trip sheets and added additional "counseling" time that would not be recorded on the trip sheets. *See*, Ex. "F" deposition 11/22/16 pages 117-124, confirming at p. 117, l. 18 - p. 118, l. 10 and p. 120, l. 5-8, among other things, that drivers would be recorded as working, and paid for, "counseling" time that was not recorded by their trip sheet time stamps.

B. A Cab was Ordered to produce the Quickbooks records <u>and cannot now claim such production is incomplete.</u>

Via its Order entered on March 4, 2016 the Court sanctioned A Cab's evasion of

its discovery obligations and Ordered A Cab to produce the Quickbooks records for the period 2008 through December 31, 2015. Ex. "G" p. 7, l. 2-8. A Cab does not claim the Quickbooks records it furnished to plaintiffs are incomplete or in error, rather its counsel asserts that it "does not know" if such production was accurate. It insisted it did not know how to produce those Quickbooks records and forced plaintiffs' counsel, at considerable expense, to hire a consultant to document a protocol for their production. Ex. "H" letter of May 18, 2016 to Discovery Commissioner Bulla with Declaration of Quickbooks consultant Nancy Whissel. In light of the Court's express Order directing this production A Cab, and A Cab's election to follow the protocol provided by plaintiffs' counsel and not fashion a different method for its production, A Cab should now be estopped from asserting that production was incomplete or otherwise erroneous.

C. A Cab does not claim there is a single error in the Quickbooks materials they produced or plaintiffs' summary of the 14,200 payperiods from 2013-2015 into 14,200 lines of information.

As discussed in the moving papers (expert report of Dr. Clauretie, Ex. "B" of moving papers including the declaration of Charles Bass incorporated therein) the Quickbooks records for the 14,200 class member pay periods at issue have been summarized. On each line of that summary the two necessary pieces of information from the Quickbooks records appear: (1) The hours worked by the class member during the pay period; and (2) The total amount of wages paid by A Cab to the class member for the pay period (wages for minimum wage purposes under Nevada law not including tips). Dr. Clauretie reviewed that summary prepared by Charles Bass and the methodology he employed to create that summary from the Quickbooks records (at Ex. "D" of the motion filed 11/2/17 and consisting of 375 pages). He confirmed it was done correctly.

Defendants do not identify a single error, either in the Quickbooks records they provided or the 375 page line by line summary of that data filed with the Court. Their

expert witness, Scott Leslie, CPA, who was paid over $47,000 by A Cab, testified he made no attempt to determine if that summary accurately set forth the Quickbooks data provided by A Cab and offered the opinion he believed it was "fine." Ex. "I" deposition of Scott Leslie 10/10/2017 p. 35, l. 4-24 ("I did not go back [to the Quickbooks records] to make sure that the numbers were correct. As I said I believe that that part of the data you have in the file is fine.").

D. A Cab is barred by the "sham affidavit" rule from contradicting its prior sworn testimony that the Quickbooks records are accurate (not that they even offer such an affidavit).

It is well established that a party cannot create a material issue of fact and defeat summary judgment by contradicting its earlier sworn statement. *See, Aldabe v. Adams,* 402 P.2d 34, 36-37 (Nev. Sup. Ct. 1965), discussed and reaffirmed in *Sawyer v. Sugarless Shops,* 792 P.3d 14, 16 (Nev. Sup. Ct. 1990). A Cab has sworn the Quickbooks records are correct and accurately contain the 2013-2015 information relied upon in plaintiffs' partial summary judgment motion (the wages paid and hours worked for 14,200 pay periods). They produced those records under Court Order, meaning they represented under penalty of contempt those records were accurately and completely produced. They cannot now contradict those facts. Nor do they even offer such a "sham" affidavit or any other documentary evidence purporting to do so. They simply proffer the unsupported assertions of their counsel.

II. A CAB DOES NOT DISPUTE THE ACCURACY OF THE CALCULATIONS MADE AT THE "LOWER TIER" $7.25 AN HOUR RATE AND UPON WHICH PARTIAL SUMMARY JUDGMENT IS SOUGHT

A. Partial Summary Judgment is only sought at the "health insurance provided" lower tier $7.25 an hour minimum wage rate.

As originally presented, plaintiffs' motion argued in favor of awarding partial summary judgment at the "higher tier" $8.25 an hour minimum wage rate. The Court rejected the basis for those arguments. Accordingly, the only issue remaining is whether partial summary judgment at the "lower tier" $7.25 an hour ("health insurance

provided") minimum wage rate is proper.

B. A Cab does not introduce any evidence that the summary's calculation (wages paid divided by hours worked) is in error or that it fails to properly calculate the amounts owed to the class members as a result of A Cab's failure to properly pay the lower tier $7.25 an hour minimum wage rate.

A Cab does not dispute the arithmetic on even a single line of the Quickbooks records summarized into 14,200 lines (payroll periods) and upon which partial summary judgment is based (Ex. "D" of the partial summary judgment motion). It does not point to any error, of any sort, in the calculated amounts shown on those lines to be owed at the $7.25 an hour rate: $174,839 in total owed in varying amounts of at least $10 to 319 class members (Column "D" to Ex. "E" to plaintiffs' motion filed November 2, 2017). In their reply on the partial summary judgment motion plaintiffs illustrated, using a "manual" walk through and an actual "paper paycheck" stub, the accuracy of their calculations. (Ex. "J" hereto, excerpt of pages 8-10 of the reply).

A Cab's expert also concurs that plaintiffs' "math is good" and free of any errors in respect to the calculations they have made and upon which they seek partial summary judgment (Ex. "I" relevant deposition excerpts):

> Q: My question was you understand that the payroll records from A Cab for the period of 2013 through 2015, for every pay period, have a stated amount of hours worked for the pay period by the employee?
>
> A: Yes.
>
> Q: So, my question was when the A Cab OLE[10] spreadsheet accepts those hours and uses those hours

[10] "OLE" is a phonetic error by the transcriber, it should be "ALL." Leslie refers to the "ACAB-ALL" Excel file while acknowledging during his deposition that the "2013-2015 Payroll Analysis" Excel file used for plaintiffs' partial summary judgment motion summary was part of the "ACAB-ALL" Excel file. Ex. "I" p. 23-25.

recorded in the payroll records to calculate minimum wages owed either at a constant 7.25 rate or the constant 8.25 rate, using again those hours from the payroll records, does it do so correctly?

Improper objections and obstructions by defendants' counsel, Mr. Leslie is directed to answer:

A: The math foots through.

Q: By foot through, you are confirming that it is your understanding that when the A Cab OLE file uses the hours from the payroll records for that 2013-2015 period and calculates amounts at minimum wages that are owed at 7.25 and 8.25 an hour, constantly for all pay periods in each scenario, it is doing so correctly?

Improper objections and obstructions by defendants' counsel again, Mr. Leslie is directed to answer:

A: I think the math works.

Ex. "C" p. 29, l. 13 - p. 30, l. 20. *See, also,* p. 19, l. 20-201 "Dr. Cloretti's review of the math I think is good."

III. A CAB DOES NOT DISPUTE THAT AN INTERIM AWARD OF ATTORNEY'S FEES AND EXPENSES SHOULD BE MADE TO CLASS COUNSEL IF PARTIAL SUMMARY JUDGMENT IS GRANTED

Defendants do not dispute that an interim award of class counsel fees and expenses is proper if partial summary judgment is granted. Nor do they argue that the amount of fees and expenses sought ($135,000) in the moving papers is excessive. Their sole argument is that defendants have made unspecified and undetailed offers of judgment in this case (they have not presented those offers as part of their opposition).

Defendants have made no offer of judgment, or any class settlement proposal to the Court (they can make such a proposal without class counsel's support) exceeding the $174,839 indisputably due to the class members based upon A-Cab's payroll records and its improper use of a "tip credit" prior to July of 2014. Class counsel should receive the requested interim fee and expense award (they have incurred, as documented in the moving papers, over $35,000 in expenses including over $27,000 in expert costs to corroborate A Cab's minimum wage violations contained in its payroll records, violations of which A Cab is clearly aware of but refuses to pay).

CONCLUSION

Plaintiffs' motion for partial summary judgment should be granted to the extent of awarding $174,839 in varying amounts of at least $10 to 319 class members (Column "D" of Ex. "E" to plaintiffs' motion filed November 2, 2017) along with interest thereon and an interim award of class counsel fees and expenses of $135,000 together with such other further and different relief that the Court deems proper.

Dated: January 9, 2018

LEON GREENBERG PROFESSIONAL CORP.

/s/ *Leon Greenberg*

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

CERTIFICATE OF SERVICE

The undersigned certifies that on January 9, 2018, she served the within:

PLAINTIFFS' SUPPLEMENT IN SUPPORT OF MOTION FOR PARTIAL SUMMARY JUDGMENT

by court electronic service to:

TO:

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

/s/ *Sydney Saucier*

Sydney Saucier

EXHIBIT “A”

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Civil Filing | COURT MINUTES | December 14, 2017

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

December 14, 2017 09:00 AM Plaintiff's Motion for Partial Summary Judgment And Motion to Place Evidentiary Burden on Defendants to Establish Lower Tier Minimum Wage and Declare Nac 608.102(2)(B) Invalid

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

COURT CLERK: Tucker, Michele

RECORDER: Lizotte, Lisa

REPORTER:

PARTIES PRESENT:

Creighton J Nady	**Defendant**
Esther C. Rodriguez	**Attorney for Defendant**
Leon Greenberg	**Attorney for Plaintiff**

JOURNAL ENTRIES

Mr. Greenberg argued as to factual issue of wages and listed the three facts. Ms. Rodriguez argued the plaintiff's argument is relied upon inadmissible evidence and argued Rule 56(e). The experts used by the plaintiff do not meet the Hallmark requirement and their reports are not admissible. Further arguments by counsel. COURT ORDERED, Plaintiff's Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on Defendants to Establish Lower Tier Minimum Wage and Declare NAC 608.102(2)(B) Invalid DENIED as to Motion to Place Evidentiary Burden on Defendants to Establish Lower Tier Minimum Wage and Declare NAC 608.102(2)(B) Invalid and GRANTED only to the extent Plaintiff has established the liability claim; the only thing left are the damages. Mr. Greenberg to prepare the Order.

EXHIBIT “B”

NOTC
LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
leongreenberg@overtimelaw.com
dana@overtimelaw.com
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO, Individually and on behalf of others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC, and A CAB, LLC, Defendants.	Case No.: A-12-669926-C Dept.: I **NOTICE TO TAKE DEPOSITION**

PLEASE TAKE NOTICE that pursuant to Nevada Rules of Civil Procedure § 26 and § 30(b)(6), plaintiffs, by their attorneys, Leon Greenberg Professional Corporation, will take the deposition of defendants, A CAB TAXI SERVICE LLC, and A CAB, LLC by the person(s) most knowledgeable as to the following specified subjects.

DEFINITIONS

The following terms have the following meanings as used herein

1. The term "plaintiffs" refers to the individual named plaintiffs in the complaint filed in this action and all persons similarly situated to the named plaintiffs, meaning all persons employed as taxicab drivers by defendants from July 1, 2007 through the present.

The witness(es) produced by defendants shall be most knowledgeable about the following for the time period from July 1, 2007 to the present:

1. All computer systems, computer software, and computer data files in the possession of defendants, or previously in the possession of defendants, that, at least in part, contain information, or have previously contained or been used to process information, about any of the following things:

(A) The activities of defendants' taxicabs;

(B) The activities of defendants taxi cab drivers;

(C) The activities of the taxi meters used in defendants' taxicabs;

(D) The compensation paid to defendants' taxi cab drivers, including how that compensation was calculated;

(E) The hours of work of the defendants' taxi drivers.

2. The information utilized to produce defendants' payroll statements and paychecks, tax reporting (W-2 and similar documents) statements, and that is otherwise used by defendants to calculate and keep track of the compensation paid to, earned by and/or owed to defendants' taxicab drivers, including but not limited to the document produced in this case bates stamped MURRAY RENO 000002. This includes all information used to produce "Employee Pay Stub" statements and the "Payroll Detail Report" at Bates Murray Reno 2 and/or the calculations of fares collected and commissions, meaning wages, earned from those fares by taxi drivers that are in turn used to arrive at any of the figures set forth on those payroll statements, paycheck and tax reporting documents, samples of such "Employee Pay Stub" documents being produced by defendants in this litigation at Bates Numbers "A Cab 0001-0081." Such person shall also be most knowledgeable of the computer system used by defendants (Quickbooks or any other software) to create the foregoing identified documents and defendants' procedure for using that computer system to do so and gather the information used to do so. Such person shall also be most

knowledgeable about all computerized records of the wages paid by defendants to their taxicab drivers, *e.g.,* their computerized payroll records, including, without limitation, all computer software, such as Quickbooks or other computer software, from which they can print reports on the payroll of any particular employee and/or otherwise access historic information on an employee's paid wages. Such person shall also be most knowledgeable about where the computer data files used by such Quickbooks or other computer software are stored, the time period covered by those data files, whether any such files that previously existed have been destroyed or have been lost and the circumstances surrounding the destruction or loss of such computer data files, and defendants' ability to produce copies of those computer data files still in their possession. Such defendant shall also be most knowledgeable about how the defendants' "Payroll Detail Report," sample at Bates Murray Reno 2 is produced, defendants' ability to produce those reports, the information used to produced those reports, and defendants' ability to export from their computer software the information contained in those reports into a computer data file (Excel and all other computer data formats).

3. The information utilized to produce the numeric entries on the documents produced in this case at BATES SARGEANT 1 to 4 including but not limited to the numbers appearing at the intersection of the line 'minimum wage subsidy" and the column "Qty" (which for example on BATES SARGEANT 2 have the numbers 22.81 and 57.08). Such witness will testify on all sources of information used to create all numbers, whether appearing on BATES SARGEANT 1 to 4 or on other payroll documents of defendants' taxi cab driver employees or stored in other computer records of the defendants. Such witness will also testify as to the reason such numbers were so created or calculated by defendants and how they were so calculated. Such witness will also testify as to the date when defendants started to create such numbers and keep records of such numbers. Such witness shall also testify as to what computer

system (Quickbooks or other software) was used to create the printed records at BATES SARGEANT 1 to 4 and where defendant keeps or has kept the computer data files used by such computer system.

4. All aspects of the defendants' "Cab Manager" software system, including but not limited to:

(a) The location of all computer hard drives containing the database files used by the Cab Manager software;

(b) All the ways in which the Cab Manager software is used by defendant;

(c) All information stored in or used by the Cab Manager system including whether, how, and for how long, such system stores information from bar code readings (whether of trip sheets, taxi driver cards, or other things), from taxi meter uploads of data and drop safe activities and all other things and how that information is used by the Cab Manager system;.

(d) All information that defendant has or can access in the Cab Manager system, whether in a the form of an existing report that defendant can use or has access to or in another fashion.

(e) The ability of the Cab Manager system to generate customized reports containing particular information selected by a system user, whether for an individual taxi driver, taxi cab, taxi meter, group of taxi drivers, or anything else.

(f) Whether any computer file stored information previously existing in or available to the Cab Manager system has been overridden, erased or lost.

(g) All formats that the Cab Manager system can export information or reports in (paper, PDF, Excel, CSV, etc.).

(h) All materials in defendants' possession, including without limitation, instructions, handbooks, training manuals, in whatever form, that discuss the capabilities of the Cab Manager system and/or how that system can be used.

5. Defendants' archiving, meaning preservation, of computer data files. This includes defendants policies in respect to creating back up copies of computer files and their storage of such back up files, including where such files are stored and what such files are so stored. This includes what data files may have been so archived at one time but are not longer in existence or cannot be located. This includes what data files have never been so archived and which are now lost.

6. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of the "check in" time that is obtained from a taxi driver's "TA card" barcode scan or that is manually entered by a supervisor, as explained in defendants' written "Check-In Procedure" in the document produced by defendants in this ligation at Bates Number "A Cab 00649."

7. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of the "meter readings" performed by their taxi drivers, *e.g.,* all of the information that each of defendants' taxi drivers were responsible for having transmitted from their assigned taxi cab to defendants' "servers for checkout" at the end of each shift, as explained in defendants' written "Check-Out Procedure" in the document produced by defendants in this litigation at Bates Number "A Cab 00649."

8. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of the time and date of the "meter readings" that each of defendants' taxi drivers were responsible for having transmitted from their assigned taxi cab to defendants' "servers for checkout" at the end of each shift were so transmitted, as explained in defendants' written "Check-Out Procedure" in the document produced by defendants in this litigation at Bates Number "A Cab 00649" the existence of such a record of such time and date of transmission being evidenced

by the receipts annexed to the taxi driver trip sheets produced by defendants in this litigation, including at Bates Number "A Cab 00525."

9. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of the record of the time and date a supervisor clocked defendants' taxi drivers "back in" at the end of their shift once such taxi driver brought their keys, tripsheet and medallion (if needed) to the supervisor shack, as explained in defendants' written "Check-Out Procedure" in the document produced by defendants in this ligation at Bates Number "A Cab 00649."

10. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of the information indicating the time and date of the computer "scan [of] the barcode near the top of their tripsheet" conducted at the end of a taxi driver's work shift, as explained in defendants' written "Check-Out Procedure" in the document produced by defendants in this ligation at Bates Number "A Cab 00650."

11. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of the record setting forth a time and date which is generated by the "Validated Drop" of cash performed by taxi drivers at the end of their work shift, as explained in defendants' written "Check-Out Procedure" in the document produced by defendants in this litigation at Bates Number "A Cab 00650" the existence of such a record being generated by a "Validated Drop" being evidenced by the receipts annexed to the taxi driver trip sheets produced by defendants in this litigation, including at Bates Number "A Cab 00525."

12. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of all details of each driver's "gross book" and the calculations, and results of all calculations, done on each taxi driver's "gross book" to determine the commissions paid to the driver, including but not limited to those used to ensure or record that such commissions would "always be consistent with Nevada State Minimum Wage Laws of $7.25/hour" as explained in the document produced by

defendants in this ligation at Bates Numbers "A Cab 00651" and/or that otherwise involve the application of the formula described in that document to each driver's "gross book" to calculate the commissions that were actually paid by the defendants to their taxi drivers.

13. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of information on taxi drivers having "a prolonged period of time without meter activation indicating a passenger has hired the Taxicab," such periods of time being subject to being considered "personal time" of the taxi driver by the defendants and "excluded from any minimum wage computation," as set forth in defendants' policy recited in the document produced by defendants in this ligation at Bates Number "A Cab 00651." This would include knowledge of all computer records and other records, without limitation, that record periods of meter activation or inactivity irrespective of whether defendants determined any "period of time without meter activation" so recorded would be considered "personal time" as set forth in such policy.

14. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of all information used by defendants in their application of the "Tip Compliance Agreement with the IRS" which is set forth in the document produced by defendants in this litigation at Bates Number "A Cab 00651." This would include, but not be limited to, knowledge of any such records that exist which defendants use(d) or assist(ed) defendants in calculating and applying the "tip credit" referenced in such document and how they complied with, or attempted to measure or record their compliance with, the statement in such document that such "tip credit allowed for tipped employees will not permit wages to be less than $5.12 per hour." Such witness shall also be able to testify as to all details of this "Agreement with the IRS" including its purpose (as best understood by defendants), when it was entered into, and all details of such agreement and terms and circumstances surrounding its creation and negotiation.

16. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of all information related to all rides for hire performed by each of defendants' taxicab drivers. Specifically, such person must have knowledge on the use of the taxicab meters in defendants' taxicabs and the ability of such meters to record activities conducted by taxicab drivers, meaning the time such meters were "in use" or "activated," meaning fares were being recorded as being charged in such meter. Moreover, such persons must be knowledgeable about the connection between, the association with, or the interplay of, the taxi cab meters located inside each of the taxicabs driven by defendants' taxicab drivers, such meters being referenced in the document produced by defendants in this litigation at Bates Number "A Cab 00649," and "Cab Manager" and all other computer software used by defendants. Such person must be knowledgeable about the existence of computer data files that contain information from such taxicab meters, such data consisting of information on the number of hours and minutes such meters were "in use" or "activated" and the total fares collected for each trip recorded by such taxicab meters and all other information recorded by such taxicab meters. Such person must also be most knowledgeable about all materials in defendants' possession, including without limitation, instructions, handbooks, training manuals, in whatever form, that discuss the capabilities of the taxi cab meters and/or how they can be used and the information they generate, store, transmit and maintain.

17. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of all information associated with and generated by defendants' operation of "drop safes" including all records generated by such "drop safes" when defendants' taxicab drivers performed a "cash drop" in such drop safes, including, whether such information so generated is recorded, stored, archived, maintained, and capable of being copied and/or reproduced. Such person must also be most knowledgeable about all materials in defendants' possession, including without

limitation, instructions, handbooks, training manuals, in whatever form, that discuss the capabilities of the "drop safes" and/or how they can be used and the information they generate, store, transmit and maintain.

18. Defendants' creation, in response to a United States Department of Labor investigation, or for any other purpose, of summaries, compilations, or other computer data files ("compilations" whether created in Excel form or any other form), of information contained in its taxi drivers' trip sheets, such compilations being intended by defendants to contain the hours of work of taxi drivers as originally set forth on such trip sheets. Such witness shall testify as to the form (Excel file or otherwise) and scope (time frame, drivers information contained) of any such compilations, their use by defendants and anyone else, to whom copies of such compilations have been made available or provided, what conclusions defendants have arrived at from examining such compilations in respect to the existence of any minimum wage violations under the Fair Labor Standards Act and Nevada Law by the defendants, the location of such compilations and the form (software and/or data format, such as Excel or CSV) in which defendants can produce a copy of such compilations and if they cannot produce a copy of such compilations why they cannot do so.

19. Defendants' use, in its computer system and all other fashions and forms, and its retention in all forms, of all information on the activities of the defendants' taxi medallions, including, but not limited to, those records they were required to submit to the Nevada Taxi Commission in the Excel template set forth at the Nevada Taxi Commission's website. Additionally, such person shall also be knowledgeable about all other computerized records that defendants relied upon or consulted with to create those Excel templates that they submitted to the Nevada Taxi Commission and/or that otherwise recorded, in part or in full, the information set forth in those Excel templates that they submitted to the Nevada Taxi Commission. Such witness shall also be most

knowledgeable about whether any such computer files that previously existed have been destroyed or have been lost and the circumstances surrounding the destruction or loss of such computer data files, and defendants' ability to produce copies of such computer data files still in their possession and if they cannot produce a copy of such computer data files why they cannot do so.

20. Such person shall also be knowledgeable about all information contained within computerized records, computer systems, and software, that was made available for inspection to the United States Department of Labor's Wage and Hour Division. This shall include the information contained within all computerized records compiled, maintained, and/or created by defendants that were subsequently printed out on paper or from which reports were generated which were in turn furnished or made available to the United States Department of Labor's Wage and Hour Division even if such office never actually inspected such computerized records, computer systems, or software.

21. Such person shall be most knowledgeable about all efforts defendants have made to produce computer records, whether from Quickbooks, Cab Manager, or any other source, in response to requests for production made by the plaintiffs in this litigation or in response to requests for information from the United States Department of Labor or to otherwise ascertain whether any of the below information is contained in computer records in the possession of the defendants. This will include all efforts defendants have made to ascertain if any computer data files in their possession, including but not limited to those used by the Cab Manager system, contain or preserve any record of the following:

(i) "bar code" scans their taxi drivers were required to perform;

(ii) the times and dates that are printed on taxi driver trip sheets

and that appear in the "Time Start" identified box in the upper right corner of such trip sheets as demonstrated in Bates A Cab 1690;

(iii) the date and time appearing on printed VALIDATED DROP receipts such as the one depicted at Bates A Cab 1691;

(iv) the date and time appearing on printed METER DETAILS receipts such as the one depicted at Bates A Cab 1693;

(v) the hours or time any taxi driver has worked in any particular day, week or other time period;

(vi) any other computer data files containing a time and date that is associated with any activity of any of defendants' taxi drivers, taxi medallions, taxi cabs or taxi meters, irrespective of whether such time and date record is believed by defendants to be accurate or inaccurate.

22. In respect to all information contained in computer data files in the possession of defendants, including but not limited to those contained in or used by the Cab Manager or Quickbooks software, all efforts defendants have made to ascertain their ability to produce a copy of such information in computer file form, either in its entirety or in part. This would include all conversations had by defendants with any non-party about whether such computer file copies could be produced.

23. In respect to all representations made in this litigation by defendants' counsel, or defendants, about the existence of information in computer data files in the defendants' possession and the ability or inability of defendants to produce copies of that information or those computer files in a computer database usable file (such as Excel, CSV, etc., and not PDF) format :

(A) The information provided to defendants' counsel upon which

such counsel based those representations, whether made to the Court or in a written response to a request for production, including who provided that information, what information was provided if it was provided orally, and what other materials were provided to such counsel if such information was not provided orally;

(B) The basis for such representations by defendants, whether in written responses to requests for production or as testified to by Jay Nady to the Court on March 18, 2015.

The witness(es) is to be produced on the **18th day of August, 2015** at the hour of **11:00 a.m.** or another agreed data and time at **Litigation Services, 3770 Howard Hughes Parkway, Suite 300, Las Vegas, Nevada 89169** and will continue day to day until completed. Such witness(es) will be examined as to all facts and circumstances bearing upon any and all issues in this litigation. Such deposition shall be recorded by audio or video means and may also be stenographically recorded.

Dated: August 12, 2015

LEON GREENBERG PROFESSIONAL CORP.

/s/ *Leon Greenberg*

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

CERTIFICATE OF MAILING

The undersigned certifies that on August 12, 2015, she served the within:

NOTICE OF DEPOSITION

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 “C”

A CAB, SERIES LLC Employee Leasing Company

12889

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

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

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

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

Net Pay	346.52	1,487.64

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

A CAB, SERIES LLC Employee Leasing Company

12959

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

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

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

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

Net Pay	151.45	1,639.09

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

A CAB, SERIES LLC Employee Leasing Company

12959

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

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

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

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

Net Pay	151.45	1,639.09

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

SARGEANT 3

AA005864

A CAB, SERIES LLC Employee Leasing Company

12044

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

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

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

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

CAB TAXI

EXHIBIT “D”

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3
MICHAEL MURRAY, and MICHAEL)
4 RENO, individually and on)
behalf of others similarly)
5 situated,) CASE NO: A-12-669929-C
)
6 Plaintiffs,) DEPT NO: I
)
7 vs.)
)
8 A CAB TAXI SERVICE LLC, and)
A CAB, LLC,)
9)
Defendants.)
10 _____)

11

12

13 DEPOSITION OF CREIGHTON NADY

14 LAS VEGAS, NEVADA

15 TUESDAY, AUGUST 18, 2015

16

17

18

19

20

21

22

23

24 REPORTED BY: BRITTANY J. CASTREJON, CCR NO. 926

25 JOB NO.: 261171

1 **would be lying to me?** 02:16:44
2 MS. RODRIGUEZ: Objection. Calls for 02:16:45
3 speculation. Lacks foundation. 02:16:47
4 THE WITNESS: They may not be lying. They 02:16:50
5 may have an ulterior motive to be saying that, but as 02:16:53
6 far as I know, and I think I know more about it than 02:16:57
7 most, it ain't possible. And if anyone told you that, 02:17:01
8 they're a damn liar. 02:17:06
9 BY MR. GREENBERG: 02:17:08
10 **Q. You mentioned the use of QuickBooks, Mr. Nady.** 02:17:15
11 **Is that the system that A Cab uses to process its** 02:17:18
12 **payroll for its taxi drivers?** 02:17:23
13 A. Yes, it is. 02:17:26
14 **Q. How long has it used that system for?** 02:17:26
15 A. Since 2001. 02:17:30
16 **Q. And where are the data files for the QuickBooks** 02:17:34
17 **kept?** 02:17:39
18 A. In my office. 02:17:39
19 **Q. Is any copy made of those files?** 02:17:40
20 A. No. 02:17:43
21 **Q. Are those files maintained on a single computer** 02:17:43
22 **hard drive or on more than one computer hard drive?** 02:17:46
23 A. On a single computer hard drive. 02:17:50
24 **Q. Is any back up made of those files?** 02:17:52
25 A. No. 02:17:55

1 **Q. And how are those pay stubs prepared?** 02:22:18
2 A. Off of QuickBooks. 02:22:21
3 **Q. So the information from QuickBooks is printed on** 02:22:23
4 **to the pay stub; correct?** 02:22:28
5 A. Yep. 02:22:29
6 **Q. And your testimony is that you -- please correct** 02:22:30
7 **me if I'm wrong -- that A Cab has preserved the paper** 02:22:35
8 **pay stubs --** 02:22:39
9 A. That's correct. 02:22:42
10 **Q. -- from 2010?** 02:22:42
11 A. Yes, sir, we have. 02:22:44
12 **Q. But you don't know if A Cab has produced the** 02:22:46
13 **QuickBooks files that those pay stubs were printed from** 02:22:48
14 **going back to the same period of 2010?** 02:22:51
15 A. I don't think we have to, and I don't think we 02:22:54
16 did. Why would I keep those, that data? 02:22:59
17 **Q. Well, could you tell me why the pay stubs, the** 02:23:02
18 **paper pay stubs, would be preserved but not the** 02:23:06
19 **QuickBooks data files?** 02:23:08
20 A. Data files are deleted automatically, and we kept 02:23:10
21 the pay stubs because somebody sued us. 02:23:14
22 **Q. Well, when you --** 02:23:18
23 A. Actually, we kept them in that particular time 02:23:19
24 period because we got a notice from the DOL. And then 02:23:23
25 after we got the DOL notice, we got your lovely letter. 02:23:26

1 two tenths of an hour. So we gave him a buck 45 for his 03:48:09
2 time that he spent with somebody reviewing his trip 03:48:14
3 sheet. But we paid them while they were doing that. 03:48:17
4 Is that -- understand what I'm trying to say? So 03:48:20
5 yes. I'm just trying to explain before you ask me what 03:48:26
6 each one of these are. 03:48:30
7 **Q. Now, each of the pieces of information that** 03:48:31
8 **appears at an intersection of a column and row on these** 03:48:37
9 **pay stubs, some of those intersections are blank, but** 03:48:46
10 **some of those intersections contain numbers.** 03:48:49
11 **You understand that?** 03:48:52
12 A. Some are black? 03:48:53
13 **Q. Some are blank, sir, and some contain numbers.** 03:48:54
14 **You understand that?** 03:48:57
15 A. Yep. 03:48:58
16 **Q. Okay. Now QuickBooks would be able to produce to** 03:48:58
17 **me in electronic form, to the extent that those files** 03:49:01
18 **were preserved, all of the numbers that appear at those** 03:49:08
19 **intersections; correct?** 03:49:12
20 A. To the -- with that reservation or with that 03:49:14
21 caveat, yes. 03:49:19
22 **Q. Are you familiar with QuickBooks' ability to** 03:49:23
23 **produce reports in Excel?** 03:49:26
24 A. No. 03:49:29
25 **Q. Now on this document at the top, it says QTY, and** 03:49:37

1 **that intersects that column with the line minimum wage** 03:49:46
2 **subsidy. And the number 57.08 appears at that** 03:49:50
3 **intersection.** 03:49:57
4 A. Right. 03:49:57
5 **Q. What does that number 57.08 refer to?** 03:49:58
6 A. Well, minimum wage subsidy is based on the fact 03:50:08
7 that our total number of his total wages were not 03:50:12
8 enough; that if we did his calculation based on the 03:50:20
9 number of hours that he had, it was -- that his rate of 03:50:25
10 pay would have been 4.27 an hour. Wait a second. Let 03:50:29
11 me make sure of what I speak here. So we had to -- he 03:50:36
12 had 57.8 hours of hours, and we subsidized it from 4.27. 03:50:44
13 So I think if you add those two together, and you 03:50:54
14 multiply one times the other, you get that. His 03:50:59
15 commission was -- wait a minute here. I'm going to 03:51:02
16 guess, so I don't want to do that right now. It's been 03:51:11
17 so long. 03:51:15
18 **Q. I don't want you to guess, Mr. Nady.** 03:51:15
19 A. All right. Then I don't know. 03:51:17
20 **Q. My question though was limited to the number that** 03:51:18
21 **appears at that intersection of minimum wage subsidy in** 03:51:22
22 **QTY where it says 57.08.** 03:51:25
23 **Does that number refer to the number of hours** 03:51:30
24 **this person worked during a pay period?** 03:51:33
25 A. I just said a minute ago. This will be twice 03:51:36

now. I don't know. This is not a current paycheck, so 03:51:40
I don't know. But I will grant you this: I think it 03:51:42
has something to do with the number of hours, but it 03:51:45
might be something else. 03:51:48
Q. Well, just to be clear, Mr. Nady, you obviously 03:51:51
wouldn't know personally whether this individual worked 03:51:54
57.08 hours during the pay period discussed by that pay 03:51:57
stub. 03:52:03
My question, to you to be more precise, is 03:52:04
whether that 57.08 is the number that A Cab uses in 03:52:07
terms of its calculations for how many hours this person 03:52:13
worked during that pay period? 03:52:17
A. Here's one way to figure it out. If you take a 03:52:19
look at the current, the 4 -- or the 243.73 and divide 03:52:22
it by 4.27, you might get 57.08. 03:52:27
Q. And if those numbers do add up as you are 03:52:35
saying -- 03:52:39
A. Would you like me to try it? 03:52:39
Q. I will represent to you that they do, Mr. Nady. 03:52:40
A. What? 03:52:43
Q. I have done that calculation. 03:52:44
A. Oh. 03:52:45
Q. They do reach -- 03:52:46
A. There you go. 03:52:47
Q. They do reach that result that you've just 03:52:48

1 **hypothesized.** 03:52:50
2 A. Well, thank you. 03:52:52
3 **Q. Are you telling me that because it -- well, you** 03:52:52
4 **tell me. Go ahead what you're trying to get through** 03:52:56
5 **from this observation.** 03:52:59
6 A. I'm telling you that those two equal that we 03:52:59
7 supplemented his wage by $243.73 to the commissions that 03:53:01
8 he earned that week in order for him to make minimum 03:53:09
9 wage. 03:53:13
10 **Q. So --** 03:53:15
11 A. And -- go ahead. I'll stop. 03:53:15
12 **Q. So A Cab in making that calculation, has figured** 03:53:17
13 **that this person worked 57.08 hours for that pay period?** 03:53:23
14 A. That's correct. 03:53:28
15 **Q. Now, on this pay stub as well you will see that** 03:53:33
16 **there is an amount that says tips supplemental, and** 03:53:37
17 **further on down that same column, it says tips out.** 03:53:42
18 **Both of those numbers are the same except one is** 03:53:46
19 **negative and one is positive.** 03:53:49
20 **Do you understand why those numbers appear that** 03:53:53
21 **way? Could you explain to me why they do?** 03:53:55
22 A. Yes. 03:54:07
23 **Q. And why do they appear that way?** 03:54:08
24 A. We assume -- and we have a contract with the 03:54:10
25 drivers or we did, whether we do now or not, I don't 03:54:13

1 remember, but that they agreed to for us via an 03:54:18
2 agreement with the IRS that would absolve them from 03:54:22
3 audit if they -- if we inputted 5.5 percent of their 03:54:26
4 book as additional earned income. 03:54:30
5 So we add that in so that at the end of the day, 03:54:36
6 we have -- we have a total amount of 460.45 as for 03:54:41
7 calculating how much withholding tax we should withhold 03:54:50
8 from that. 03:54:54
9 So we base the withholding tax based on that, and 03:54:55
10 as you can see, the taxes below the federal withholding, 03:54:59
11 the Social Security, and the Medicare, those are taken 03:55:04
12 out. 03:55:07
13 So it would appear that within -- we took that 03:55:08
14 much taxes out and put them into his Medicare account on 03:55:12
15 his behalf, and from that we -- then we deducted the 03:55:16
16 amount that we added in as a calculation only because he 03:55:21
17 already got that from his tips, and he also paid a loan 03:55:24
18 of $10. 03:55:29
19 So we reduced his pay by that amount, $346.52. 03:55:31
20 In other words, I lent the guy ten bucks, which was nice 03:55:40
21 to get back. 03:55:49
22 **Q. The pay stub version that you're looking at there** 03:56:20
23 **in Exhibit 3, that's the version that is currently used** 03:56:22
24 **by A Cab?** 03:56:25
25 A. No. 03:56:26

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

3 CERTIFICATE OF REPORTER

4 I, Brittany J. Castrejon, a Certified Court
5 Reporter licensed by the State of Nevada, do hereby
6 certify: That I reported the DEPOSITION OF CREIGHTON
7 NADY, on Tuesday, August 18, 2015, at 11:13 a.m.;
8 That prior to being deposed, the witness was duly
9 sworn by me to testify to the truth. That I thereafter
10 transcribed my said stenographic notes into written
11 form, and that the typewritten transcript is a complete,
12 true and accurate transcription of my said stenographic
13 notes. That the reading and signing of the transcript
14 was requested.
15 I further certify that I am not a relative,
16 employee or independent contractor of counsel or of any
17 of the parties involved in the proceeding; nor a person
18 financially interested in the proceeding; nor do I have
19 any other relationship that may reasonably cause my
20 impartiality to be question.
21 IN WITNESS WHEREOF, I have set my hand in my
office in the County of Clark, State of Nevada, this
22 31st day of August, 2015.
23
24 Brittany J. Castrejon, CCR NO. 926
25

EXHIBIT “E”

ELECTRONICALLY SERVED
11/07/2016 01:17:41 PM

NOTC
LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
leongreenberg@overtimelaw.com
dana@overtimelaw.com
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO, Individually and on behalf of others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC, A CAB, LLC and CREIGHTON J. NADY, Defendants.	Case No.: A-12-669926-C Dept.: I **NOTICE TO TAKE DEPOSITION**

PLEASE TAKE NOTICE that pursuant to Nevada Rules of Civil Procedure § 26 and § 30(b)(6), plaintiffs, by their attorneys, Leon Greenberg Professional Corporation, will take the deposition of defendants, A CAB TAXI SERVICE LLC, and A CAB, LLC. (hereafter "defendant") by a person(s) that it designates as possessing and having acquired prior to such deposition the best knowledge of such corporate defendant as to the following specified subjects.

TIME FRAME TO BE COVERED BY REQUESTED TESTIMONY

The testimony requested for the below subjects concerns the time frame from July 1, 2007 through the date of the deposition.

TESTIMONY REQUESTED

1. The length of the work shifts to which taxi drivers employed by defendant were assigned, meaning the length of time from the beginning of the work shift to the end of the work shift, irrespective of whether the taxi driver may have been "off duty" or "on break" or "on personal time" during one or more periods of time between the beginning and the end of the work shift. If the length of time of such assigned work shifts was not consistent throughout the period covered by this litigation the witness shall state what that length of time was during each period (*e.g.*, that it was XXX hours during the dates DATE A to DATE B and was YYY hours during the dates DATE C to DATE D and so forth). If the length of time of such assigned work shifts was not the same for all taxi drivers the witness shall provide details as to the same.

2. The average amount of time taxi drivers employed by the defendant worked each shift to which they were assigned. This means the amount of time from the beginning of their shift to the end of their shift that each taxi driver was, on average, working and not on a break (a break being a period of time during which the taxi driver was not working and was fully relieved of all work responsibilities). This includes defendant's knowledge of the amount of break time taxi drivers employed by defendant usually, on average, took each work shift and how defendant has acquired that knowledge.

3. The time(s) of day taxi drivers were expected by defendant to be present at the defendant's place of business prior to beginning their work shift each day and the time(s) each day taxi drivers were expected by defendants to

end their work shift by returning their assigned taxi cab to defendant. Such testimony will include how defendant calculated the start and stop time of each taxi driver's work day for the purpose of recording the total amount of hours a taxi driver worked, including the policies set forth in A Cab bates 0577, how those policies were enforced, records relating to the enforcement of those policies, and when that document was issued and such policies were created. Such testimony shall include how the written policy at A Cab 00633 directing cab drivers to report 15 minutes prior to their scheduled shift was enforced and whether records were kept of its enforcement and the duration of that policy if it was not in use consistently by defendant. Such testimony will include whether the Check In and Check Out procedures set forth at Bates A Cab 00650 were followed by defendant and for what time periods they were so followed and whether defendant recorded the start and stop of the work shift for each taxi driver employee based upon such driver's start and end of those procedures, and if it was so recorded in what fashion and where.

4. The amount of time during each assigned work shift that taxi driver employees of defendant were allowed under defendant's policies to take as break time, including but not limited to the taking of lunch or other meal breaks. Such testimony will include all policies that defendant had as to the taking of lunch breaks by taxi drivers and all other breaks from work that taxi drivers were authorized by defendants to take during their work shift. Such testimony will include all policies requiring taxi drivers to use their radios or cell phones to report to defendants that they were going to, or sought permission to, commence a break and all records kept by the defendants of such break times. Such testimony will include the policy on break time set forth at A Cab 00601, including whether that

policy was enforced, how it was enforced, records if any that were kept of its enforcement or violations of that policy, when that policy was first implemented, why it was implemented and the person(s) making the decision to implement such policy. Such testimony will include whether that policy was ever relaxed or modified during work shifts where drivers had a strong enough demand for passenger rides that they would, if they fulfilled that demand, not have the time to take the full amount of mandatory breaks during the shift set forth in that policy.

5. How defendant enforced any policies requiring taxi drivers to monitor their radio or respond to radio or cell phone calls. Such testimony will include whether taxi drivers were required by defendant to monitor their two way radio while on lunch breaks or other breaks, how they were expected by defendant to monitor those two way radios, and whether taxi drivers were required to remain in or at their taxi cabs during break periods so they could hear and monitor their two way radios. Such testimony will include how defendant enforced the policy set forth at A Cab Bates 00651 about defendant considering periods of time that taxi drivers could not be reached by radio or cell phone as "personal time," what periods of time that policy was enforced, records of its enforcement, why that policy was implemented, who decided to implement, and if it was not implemented or used why no written communication was issued about defendant's decision to not implement or use that policy and why defendant's employee handbook was not updated to remove that policy.

6. The means by which defendant determined if a taxi driver employee was maintaining "an average or above productivity rate" as specified in Bates A Cab 00635 including what defendant did if a taxi driver did not meet

that standard and how defendant made the determination as to whether that standard was, or was not, met.

7. Defendant's break time policies in respect to what drivers were required to do or refrain from doing during their break times, including but not limited to whether they were required to or allowed to park and get out of their taxi cabs and required to interrupt, or prohibited from interrupting, their breaks by accepting customers, and whether they were required to be available for customer assignments by radio calls or cell phones during their break times.

8. All safety meetings taxi drivers required to attend as specified at defendant's document A Cab Bates 00625 including the frequency and length of such meetings and if compensation was ever paid by defendant to taxi drivers for attending such meetings and if so in what amounts and how that compensation was calculated and the records kept of the attendance at all safety meetings and the payment of any compensation for attending such meetings. Such testimony will include what actions defendant took or did not take in response to taxi drivers failing to attend safety meetings.

9. All systems used by defendant, including computer systems, to keep track of the hours worked by their taxi drivers and/or their compensation paid.

10. All records maintained by the defendant of the hours worked during each pay period by each of defendant's taxi driver employees and the compensation they were paid and/or earned or were reported as earning

for tax purposes. This will include testimony on how and why amounts of time were recorded in defendants' Quickbooks system as a "Quantity" denominated under the item "Minimum Wage Subsidy" including how those amounts were recorded in decimal form, why they took the decimal form recorded in those records, the identities of all persons who entered or had recorded that decimal form information in Quickbooks, where such information was gathered from, and the defendants' processes for gathering such information and recording the same.

11. All records maintained by the defendant of the hours worked during each workday by each of defendant's taxi driver employees. This includes all records of the break time that taxi drivers employed by defendant took during their work shifts.

12. All computer systems and software used by defendant that recorded the activities of their taxi cabs and taxi drivers, including whether such computer systems and software created records of the dates and times that taxi cabs and their drivers were engaged in any specific activities, and if so, what records of such activities were created and whether such records still exist and if they do so exist for what time frame. This includes all computer records that indicate or record that a taxi driver did work on a particular day, such as a record of a "shift" of taxi driving being performed by a particular driver on a particular day, even if such computer records sets forth no record of the amount of time such taxi driver was working on that day.

13. All written statements defendant has given to each of its taxi driver employees since June 1, 2007 advising the taxi driver employees of the

minimum hourly wage set forth in Nevada's Constitution. Such testimony will include when those written statements were given, their contents, how they were distributed including if they (it) were (was) posted in one or more locations for an intended viewing by such taxi driver employees collectively or if given to each taxi driver employee individually in writing.

14. All efforts defendant has made to ascertain what obligations it has under the law to maintain records of the hours worked by its employees, including but not limited to its taxi driver employees, and including the form of such records. This shall include all communications it had with legal counsel about such topic both prior to and after the commencement of this litigation and all changes, if any, it has made to its keeping of such records since the commencement of this lawsuit. This shall include defendant's understanding of what records it was legally obligated, under state and federal law, to keep of the total hours worked by its employees during each pay period and when it obtained such understanding (or if it has had different understandings of that obligation when it obtained each such understanding).

15. Defendant's knowledge of the minimum wage requirements of the Fair Labor Standards Act prior to the commencement of this lawsuit and all efforts, if any, that it has made prior to and after the commencement of this lawsuit to comply with the same. Such testimony is to include all records, procedures or policies defendant has implemented, used, or relied upon any time in an attempt to monitor or ensure its compliance with those requirements.

16. Defendant's communications with the United States Department of Labor. Such testimony shall include all information about meetings and communications with that office and all parties who were present at all such meetings and a party to such communications and what was said by each such person involved with or present at such meetings and communications. Such testimony shall include all information defendant possesses about what documents or other information or things were provided by defendants to, or made available for review by, the United States Department of Labor in connection with all of that office's investigations and audits of defendant. Such testimony shall include all information defendant possesses or has under its, or its agents including its attorneys, custody and control about all actions that were taken by defendant in response to communications by the United States Department of Labor or information provided by the United States Department of Labor. **Such testimony will include all facts bearing on the defendants' preservation, loss of, previous possession of, preparation of, and efforts since this litigation was commenced to locate a copy of the Excel file prepared in response to that agency's investigation, such Excel file (the "final Excel file") being testified about by defendant Nady at his deposition held on August 18, 2015. Such testimony will include the identity of all persons who participated in the preparation of such final Excel file and/or designed and/or oversaw the collection and input of information that was gathered for that final Excel file, all details of how it was prepared, and whether that final Excel file was prepared from separate Excel files and the existence, location and preservation of those separate Excel files. Such testimony will include testimony on the existence of any prior, draft or less than fully complete prior versions of the final Excel file or other Excel files that**

were used to construct that final Excel file that ever existed, whether that final Excel file or any prior drafts or separate Excel files that were assembled into that final Excel file were preserved, and the identity and location of all computer hard drives where any copies of either that final Excel file and/or other Excel files used to construct that final Excel file or any portion or prior versions of either were stored, including whether any such files were stored on a computer server. Such testimony will include testimony on defendant's data preservation policies and why such final Excel file and/or other Excel files used to construct that final Excel file or any portion or prior versions of such files cannot be located in any data archive or backup of any computer hard drives that were or are maintained by defendants and all of defendants' efforts to locate the same in such archives or backups. Such testimony will include the identity of all persons ever having possession of such final Excel file and/or other Excel files used to construct that final Excel file and when defendants (which includes all of their agents and employees) last saw or had possession of such Excel files, where that was and the persons who did so. Such testimony will include all circumstances surrounding the supposed "loss" of such file(s). Such testimony will include all that is known about the contents of such file(s) and any communications made by defendants to other persons (including counsel for the defendants) about such contents.

17. The health insurance benefits, if any, defendant's taxi driver employees were eligible to participate in by virtue of their status as employees of the defendant. Such information shall include:

(A) The amounts taxi drivers had to pay to secure coverage, including the differing amounts, if any, required for them to secure coverage just for themselves, for just themselves and their spouse, for themselves and their dependent children, and for themselves, their spouse, and their dependent children (the latter being "family coverage");

(B) All qualifications that the defendant's taxi drivers had to fulfill to be eligible to participate in the health insurance plan(s) made available by defendant. This would include any waiting period after the commencement of their first day of employment for them to be eligible to receive such insurance or any requirement that they continue to work a minimum number of shifts or hours in any month or other specified period. This would include the amounts defendant's taxi drivers had to pay to continue to receive such insurance, after they had started receiving such insurance, if they failed to meet a minimum number of shifts or hours of work requirement.

(C) The nature of the health insurance provided, including the coverage limitations (if any) expressed in dollars and whether such insurance provided coverage for hospital costs, physician costs, and surgical costs, and the amounts (percentages and dollar amounts) of all deductibles and co-payments required by taxi driver employees participating in such health insurance.

18. Defendant's awareness of this Court's Order entered on February 11, 2013 and such Order's finding that defendant's taxi driver employees must be paid the minimum wage specified in Nevada's Constitution. Such testimony will include:

(a) When defendant first became aware of such Order;

(b) What modifications, if any, defendant made to how it paid its taxi driver employees after it became aware of that Order; the date it implemented all such modifications; why it made such modifications, and why it made such modifications on the date(s) it elected to do so and not on earlier date(s);

(c) Whether defendant was aware its method of compliance with the minimum wage requirements of the Fair Labor Standards Act, under which it included amounts received by its taxi drivers as tips towards such minimum wage requirements (its use of a "tip credit"), was not permitted for purposes of its compliance with the minimum wage requirements of the Nevada Constitution. Such testimony will include when it first became aware of the same and why, after becoming aware of the same, it did not, for any time period after February 11, 2013, fully comply with the minimum wage requirements of the Nevada Constitution and pay its taxi drivers the minimum hourly wage required by Nevada's Constitution not reduced by any "tip credit." Such testimony will also include the identity of the person who made such decision for the defendant to not comply with the

Nevada Constitution and the reasons why they made that decision. Such testimony will include why defendant, if it is now aware it did not comply with the minimum wage requirements of Nevada's Constitution after February 11, 2013 for its taxi drivers, has not made payments to the affected taxi drivers for the amounts of unpaid minimum wages they are owed.

(d) All procedures defendant currently uses, and has used since February 11, 2013, to ensure it pays its taxi driver employees the minimum wage required by Nevada's Constitution. This includes how defendant has determined what minimum wage rate it is required to pay under the Nevada Constitution to its taxi driver employees including the minimum wage rate it is currently paying those taxi driver employees, and if it has determined that rate is not the same for all of its employees how it has made that determination. Such testimony will include how defendant has determined, and currently determines, whether a taxi driver can properly be paid the minimum wage rate applicable to employees for whom "health benefits" are provided (currently a $7.25 an hour rate) instead of the minimum wage rate applicable to employees for whom no "health benefits" (currently an $8.25 an hour rate) are provided. If defendant makes no such determination, and instead only assures all employees of a minimum wage equal to the "health benefits" rate (currently $7.25 an hour) it shall so state.

19. The identity, name and address, and job title and job responsibilities of every person who was employed by defendant A-Cab after July 1, 2007 and who (1) Is not currently employed by defendants and (2) As part of their job for A-Cab (such job not being as a taxi driver) were involved in supervising or managing taxi drivers and/or preparing payroll for taxi drivers and/or reviewing, recording or maintaining any records of the hours worked by taxi drivers.

20. All persons and entities, including defendants' counsel and agents, that have ever had possession of the Excel spreadsheet file created by defendant A-Cab and discussed at pages 228 to 239 of defendant Nady's deposition of August 18, 2015. Defendant A-Cab shall also advise of the location of all computer hard drives where that Excel spreadsheet file has ever been placed on and the location of such computer hard drives. Defendant A-Cab shall also testify as to all efforts it has made to locate that Excel file and produce it in this litigation.

21. All procedures defendant A-Cab uses to pay to taxi drivers tips that are charged by customers to credit cards including all records of such payments that are possessed by A-Cab.

22. **In respect to the defendants' maintenance of copies of the trip sheets of class members, whether all or some of those trip sheets are already in the possession of the defendants**

in the form of PDF files (scans of the original paper trip sheets). If any are so possessed in PDF form by the defendants testimony shall be given about to what extent they exist in that form, where and how they are maintained and organized in that form (including whether on a computer hard drive, a server, in an archived data form) and what defendants would have to do to provide a copy of all such PDF file(s) on a portable hard drive or other media. Defendants shall also testify about when it started maintaining those trip sheets in PDF form and for what period of time, if any, it currently only possesses in paper form either those original trip sheets or paper copies of such trip sheets.

23. In respect to the defendants' production of selected information from its Cab Manager software, including but not limited to its production of the computer file "DataExport 7-15-16.txt" it shall explain why for certain periods of time such information includes additional details, specifically why such produced information for certain taxi driver shifts includes a "Cab_Start" time and a "Cab_Finish" time but for other taxi driver shifts no such information has been provided. Such testimony will include all efforts made by defendants to produce Cab Manager information in this litigation, what they attempted to produce and how they attempted to produce it, and the contents of, and parties to, all communications about such production with any non-employees of

defendants who assisted defendants in providing such information. Such testimony will also include whether the defendants' Cab Manager stored information ever included a "Cab_Start" time and a "Cab_Finish" time for the taxi drivers' work shifts that defendants are now unable to produce such information for. Such testimony will also involve all uses of the Cab Manager stored information by the defendants including their use, if any, of such "Cab_Start" time and a "Cab_Finish" times.

24. **In respect to defendant's attempts to comply with plaintiffs' seventh request for production of documents items 1 to 3, with plaintiffs' third set of interrogatories, items 3 to 5, and to provide information on the health insurance benefits (the term "health insurance benefits" means medical insurance benefit plans such as those offered to class members and described in Ex. "A" hereto, which is only an example applicable to the certain limited periods detailed therein) offered to class members ("the health insurance information"), defendant shall advise:**

(1) Of the nature of all records maintained by the defendants that contain any of the information sought by class counsel in respect to the health insurance benefits offered by defendants to the class members. This would include, without limitation, the existence of originals or copies of all executed applications and contracts for health insurance and all documents (whether as part of

those applications or contracts or otherwise) detailing the nature of the health insurance secured by defendants through such contracts and the cost that would be paid by each participant in such insurance depending on the level of insurance coverage they elected; records of enrollment of class members in such health insurance plans; records of payments made by defendants for such health insurance plans; records of when class members became eligible to participate in such health insurance plans including the notifications they were given about such eligibility; and all other records in the defendants' possession that contain information on the eligibility of the class members to participate in its health insurance benefits and/or such eligibility standards and/or the insurance premium that would have to be paid by the class members depending upon their participation in such insurance under single (employee coverage only), married (employee and spouse coverage) and dependent (employee and children or employee, spouse and children coverage) coverage status.

(2) In respect to the records identified in (1) immediately preceding, detail the nature of such records and how they are maintained, either in a computer file form or on paper, and their location and how they can be accessed; whether defendants maintain any record of class members' health insurance eligibility status in their computer system (in which event they must

specify how such information is recorded and can be accessed or retrieved) and how (including who is responsible for doing so) they keep track of that status and take steps to be sure they properly advise class members of that status.

(3) Defendants must identify the name and address of all agents or insurance brokers who have assisted them or been involved in providing them with, and/or in their application for, health insurance that class members were eligible to participate in. Defendants shall also testify about all communications they have had with such agents or brokers about providing the health insurance information to defendants, and all other efforts they made to gather such health insurance information, both prior to, and after, asserting in their answer to Interrogatory number 3 that it would be "unduly burdensome" to provide such information. Defendants shall also state what efforts they made to collect the information set forth in response to plaintiff's Interrogatories numbers 4 and 5, including who undertook those efforts and what they did to ascertain the information set forth in those interrogatory responses.

(4) In respect to the "Employee Health Plan" summaries discussed in the affidavit of Creighton J. Nady dated September 21, 2016, defendants shall explain how such documents have previously been kept by defendants;

where they have been kept in the past by defendants; and all efforts made to locate additional "Employee Health Plan Summaries" that such affidavit says cannot be located, including the identity of all persons undertaking those efforts and what those efforts consisted of, the dates such efforts were undertaken and the results of such efforts including all contacts and communications made with defendants' insurance broker(s) about obtaining copies of the same.

The witness(es) is to be produced on the **22th day of November, 2016** at the hour of **9:30 a.m.** or another agreed date and time at **the office of plaintiffs' counsel, address below,** and will continue day to day until completed. Such witness(es) will be examined as to the foregoing and all facts and circumstances bearing upon any and all issues in this litigation. Such deposition shall be recorded by audio and/or video and/or stenographically.

Dated this 4th day of November, 2016.

Leon Greenberg Professional Corporation

By: /s/ *Leon Greenberg*

LEON GREENBERG, Esq.
Nevada Bar No.: 8094
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned certifies that on November 4, 2016, she served the within:

NOTICE OF DEPOSITION

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 “F”

DISTRICT COURT

CLARK COUNTY, NEVADA

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

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

CREIGHTON NADY

Taken on November 22, 2016

At 9:41 a.m.

Evolve Downtown

400 South 4th Street, Suite 300

Las Vegas, Nevada 89101

Page 66

1 Q: Mr. Nady, just again, just to be
2 clear, and I apologize for having to continue with
3 this because I don't think your testimony is
4 completely clear, you're not really sure if there's
5 any different system used by A Cab now to keep track
6 of the time the drivers are working besides
7 information that's on those trip sheets. Is that
8 correct?
9 A: I am sure that we are using the
10 timestamps from the trip sheets for their time.
11 **Q: For their working time?**
12 A: Yes, sir.
13 **Q: Now, do you know if that time**
14 **simply remains recorded on the trip sheets or is it**
15 **taken off the trip sheets and recorded somewhere**
16 **else?**
17 A: It's not… we also add eight minutes
18 to the beginning and end of the shift.
19 **Q: Who does that?**
20 A: Whoever does their payroll.
21 **Q: Donna? Anybody else?**
22 A: Donna does that. Just add it on.
23 **Q: Does anybody else do that?**
24 A: If Donna is not there to do
25 payroll, I would have to do most of it myself.

Page 117

1 looking at the second of the two on this sheet...
2 A: I'm sorry?
3 Q: There are two pay stubs on the
4 first sheet of this document. You were reviewing the
5 bottom one and you were referring to the 22.81
6 number, which is at the intersection of minimum wage
7 subsidies, and QTYs referencing the hours. For
8 payroll purposes, for that payroll period, if we go
9 to the one at the top, the intersection of those two
10 are 57.08, which would indicate in that payroll
11 period 57.08 were the hours that Mr. Sergeant was
12 paid to have been working for payroll purposes by A
13 Cab?
14 A: Right. Correct.
15 Q: Thank you.
16 A: Thank you for your help on that. I
17 sort of screwed it up.
18 Q: Now, Mr. Nady, do you have any
19 knowledge as to how A Cab in those two numbers, 57.08
20 and 22.81, arrived at those decimal amounts, the 0.08
21 or the 0.81 amounts?
22 A: I think it has to do with the
23 minutes that they had, most likely when they came in,
24 because his book had a pretty health $135 below
25 minimum wage. He probably had a counseling with

Page 118

1 somebody to say, "Hey, your book is pretty lousy
2 here," so during that time we give him… we adjust his
3 time by a certain number of minutes. And how it
4 comes up with the seconds is we divide it somehow,
5 and I don't know what the formula is.
6 **Q: Well, whoever was keeping track of**
7 **the time Mr. Sergeant was working for counseling or**
8 **whatever it may be is recording it in minutes,**
9 **correct?**
10 A: Yes.
11 **Q: And then those minutes are put into**
12 **a total hours amount like we see here on this page?**
13 A: That would probably be 1/12 of a
14 minute… Let's see. 1/12 of an hour, so how much is
15 1/12 of an hour? It's divided by 6, so that would be
16 2 minutes or something or 12 minutes, understand?
17 **Q: Well…**
18 A: 08, I would imagine having seen
19 this before that it's 57.0833, which is .0833 equals
20 1/12, so 1/12 is five minutes. Do you understand
21 that?
22 **Q: Yes. Do you know if in fact these**
23 **numbers we've been discussing, the 57.08 and the**
24 **22.81 were rounded from a thousandths of a decimal?**
25 A: I didn't a thousandths from a

Page 119

1 decimal. You're making some assumptions…
2 **Q: No, I didn't say you said it. I'm**
3 **asking if you know…**
4 A: I don't know if it's made from a
5 thousandths or not, but I can tell you that 0.08 is
6 1/12 and 1/12 of an hour is 5 minutes, so I would
7 imagine they gave him 5 minutes on that. Somewhere
8 along the line where we calculated his time, it ended
9 in five minutes.
10 **Q: Is there a minimum interval that**
11 **whoever is recording the time for Mr. Sergeant uses,**
12 **a minimum of five minutes? Do they record one-minute**
13 **or two-minute intervals? Do you have any knowledge**
14 **as to how it's recorded?**
15 A: Well, I think if we take the
16 minutes from the trip sheets and the minutes from the
17 counseling, we keep track of them.
18 **Q: Well, the minutes from the trip**
19 **sheet are taken from, you stated, the time record,**
20 **correct, on the punches? So if I'd say 12:33…**
21 A: What's a punch?
22 **Q: Well, a timeclock, scan…**
23 A: Timeclock, right.
24 **Q: So that would be to an exact**
25 **minute, 12:33, 10:37, whatever it might be?**

Page 120

1 A: Correct.
2 Q: Okay. When time is also credited
3 to Mr. Sergeant here, for example for counseling as
4 you were hypothesizing about, how is that time
5 recorded? It's not recorded through looking at the
6 intervals between two timestamps as on the trip
7 sheets.
8 A: Right.
9 Q: Do you have any knowledge of how
10 that time is recorded?
11 A: Well, that… in this particular time
12 we only had five different classifications, so it
13 would simply be added to it.
14 Q: Right, but the person who is
15 reporting that time to have it added to his payroll
16 record, do they report it in minimum increments of
17 1/10 of an hour, 5 minutes…
18 A: I think the minimum was five
19 minutes, but I'm not sure. I thought it was six
20 minutes, to be honest with you. I thought they'd get
21 1/10 of an hour if they have to have counseling.
22 Q: If we go to page 2 of… or actually
23 it would be page 3 of this document, which is
24 Sergeant 4 at the bottom, the number that has the
25 intersection of minimum wage subsidy and QTY has the

Page 121

1 number 87.48. Do you see that?
2 A: Right.
3 Q: Which again would be the time that
4 A Cab recorded Mr. Sergeant was working for payroll
5 purposes…
6 A: Right.
7 Q: … for this pay period? 0.48 of an
8 hour is 28.8 minutes.
9 A: Is it?
10 Q: Yes. Do you have any explanation
11 as to how he would arrive at 0.48 of an hour as
12 opposed to 0.4 or 0.5 of an hour?
13 A: Other than having different days
14 where they were different and the addition and
15 subtraction could've been inaccurate, but to answer
16 your questions, I don't know how that happened. But
17 it was input by someone at 48 it should've been 50,
18 most likely.
19 Q: Is information from Cab Manager
20 system ever used to record hours of work in
21 QuickBooks?
22 A: I don't think so.
23 Q: Well, when you say you don't think
24 so, do you know that?
25 A: I think you've asked this of me

Page 122

1 three times in other depositions, and the same answer
2 I'll give you now is that I don't think so. If I
3 knew so, I would say no. If I thought yes, I would
4 say I think it is, but I don't think it is.
5 Q: Mr. Nady, if you can't answer that
6 you know, when you say, "I think so," you're going to
7 get another question from me, because your answer
8 really should be you don't know. So if you don't
9 know the answer to that question, you don't know. So
10 just again to be clear on the record, you don't know
11 if information from Cab Manager is ever used to
12 record time worked in QuickBooks. Is that correct?
13 MS. RODRIGUEZ: Objection; misstates
14 his testimony. You can answer. I'm sorry if you
15 did. I missed your answer.
16 A: Could you ask the question again?
17 I'm sorry. I thought you were chastising me and I
18 stopped listening.
19 Q: Mr. Nady, do you know if
20 information from Cab Manager was ever used to record
21 working time in QuickBooks?
22 A: I don't know.
23 Q: Does A Cab currently use a
24 timeclock system? By timeclock, Mr. Nady, I mean a
25 system whereby employees would each have a card or a

Page 123

1 code that they would punch in to the system when they
2 start work each day and end work each day.
3 A: Yes, they have a timeclock.
4 Q: Is that timeclock system used for
5 taxi drivers?
6 A: No.
7 Q: Is there any reason it's not used
8 for taxi drivers?
9 A: I never thought of it.
10 Q: It didn't occur to you after the
11 department of labor investigations that it might be
12 good to have taxi drivers use that timeclock system?
13 A: They have a timeclock system. They
14 punch in and punch out.
15 Q: Well, I'm talking about the
16 timeclock you were just referring to that is used by
17 some employees but not taxi cab drivers at A Cab.
18 I'm referring to that timeclock system.
19 A: Yes.
20 Q: Did it ever occur to you after the
21 department of labor investigation to extend use of
22 that timeclock system to the taxi drivers?
23 A: And I've answered just about a
24 minute ago. I said no, because they already use a
25 timeclock. That's twice now. If you ask me again,

Page 124

1 I'll wait.
2 Q: And by timeclock in that answer,
3 Mr. Nady, you're referring to the record that is kept
4 on the trip sheets, correct?
5 A: I am. I think that's in
6 compliance, don't you?
7 Q: Now, Mr. Nady, the meters that are
8 in the taxi cab upload information into the Cab
9 Manager system, correct?
10 A: Yes.
11 Q: So it will tell A Cab's computer
12 system the amount of fares that were recorded on the
13 meter during their shift, correct?
14 A: That's correct.
15 Q: Will it also record the individual
16 trips that were taken on the meter?
17 A: I don't know. I could say maybe,
18 but I don't know.
19 Q: Has A Cab ever considered having an
20 out-of-service recording feature to be available on
21 the taxi meters for the drivers?
22 A: I don't know if we have one or not.
23 I know that sounds bad, but I don't recall. I
24 haven't discussed it for so long. It might be on
25 there now, but I don't think so. It might… I think

Page 128

1 preparing to work or gets ready, gets his cab ready,
2 until the moment he gets in and gets his work
3 completed, unless anytime when he specifically
4 reports that he has taken his cab for some personal
5 use or drives home or pulls into McDonald's or does
6 something that he reports on the trip sheet. We try
7 to pay them from the time they get there to the time
8 they leave.
9 Q: My question, Mr. Nady, was
10 different, which is, what is A Cab's understanding of
11 the kind of records it was required to keep of the
12 time the drivers were working as you've described?
13 And I understand A Cab indents to pay the drivers for
14 all of their working time, as you've described. My
15 question isn't whether A Cab was going to do that or
16 trying to do that; my question was, what records of
17 that working time did A Cab understand it needed to
18 keep?
19 A: Trip sheets.
20 **Q: Did it have any understanding as to**
21 **any other records that it needed to keep?**
22 A: Well, the trip sheets didn't
23 reflect when they came in and dinked around for 5
24 minutes or 10 minutes or when they come in and dinked
25 around for 5 minutes or took the stuff out of their

Page 129

1 cab and put it in their car on the way in to start to
2 do their manipulation on the computer or the time it
3 took them to do the inspection, so we estimated that
4 time. We met with a good portion of drivers. We're
5 going to pay you six minutes for this and six minutes
6 for that, and then we raised it to eight minutes
7 about a few months later when we started timing it.
8 So what records do we keep? We keep records based on
9 when they start and then we just allow time for it.
10 That's the best we have. I don't think we can do it
11 any better. It's an honest effort to do so.
12 **Q: Well, what you're describing is A**
13 **Cab has made and is making an effort to keep track of**
14 **the time the drivers are working. And…**
15 A: Thank you.
16 **Q: Has A Cab ever consulted with**
17 **anyone about the specific form that those records**
18 **should take?**
19 A: Can you give me an example of who
20 you think we might've talked with, because maybe you
21 can tell me who I might've talked with?
22 **Q: Mr. Nady, it's a question of**
23 **whether you have any knowledge of anyone at A Cab on**
24 **behalf of the company consulting with someone about**
25 **this issue.**

Page 274

Q: Counsel…

MS. RODRIGUEZ: You have to give him a chance to answer the question.

A: … gave us that idea, so I was doing what I was told by the state. I have authority to do so from them.

Q: That's not my question, Mr. Nady.

MS. RODRIGUEZ: Mr. Greenberg, you have to allow him…

Q: Strike as non-responsive.

MS. RODRIGUEZ: … to answer the question.

A: Oh, Mr. Greenberg, what was your question?

Q: My question again…

A: You want me to answer my question in a certain way to what you want to hear. Mistakes? No. I answered your question.

Q: Mr. Nady, my question was very simple. It's a yes or a no answer. Between February of 2013 until the Thomas decision was issued in 2014, did A Cab for purposes of complying with the minimum wage law continue to credit tips that employees received against its minimum wage obligation?

A: Yes.

Page 318

1 CERTIFICATE OF RECORDER

2 STATE OF NEVADA)

3 COUNTY OF CLARK)

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

5 I, Shaynelle McCalister, a duly commissioned

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

7 certify: That I recorded the taking of the

8 deposition of the witness, Creighton Nady,

9 commencing on 11/22/2016.

10 That prior to being examined the witness was

11 duly sworn to testify to the truth.

12 I further certify that I am not a relative or

13 employee of an attorney or counsel of any of the

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

15 counsel involved in said action, nor a person

16 financially interested in the action.

17 IN WITNESS WHEREOF, I have hereunto set my

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

19 Nevada, this 11/22/2016.

20

21 _____

22 Shaynelle McCalister Notary

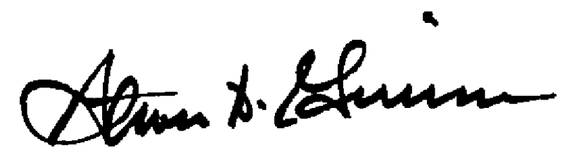
23

24

25

EXHIBIT “G”

Electronically Filed
03/04/2016 12:59:23 PM



CLERK OF THE COURT

DCRR

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATION

Hearing Date: November 18, 2015
Hearing Time: 9:00 a.m.

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

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

I.

FINDINGS

1. This matter was heard before the Discovery Commissioner on Plaintiffs' Motion to Compel the Production of Documents, which was originally heard by the Court on March 18, 2015 and continued for a further hearing on November 18, 2015 and was heard on that date along with Plaintiffs' Motion to Extend the Discovery Schedule. This matter was also heard on a status check to advise the Court of the parties' progress on conducting Rule 30(b)(6) depositions, first recommended by the Discovery Commissioner at the May 20, 2015 status check, on information relevant to the plaintiffs' Motion to Compel Production of Documents.

2. Plaintiffs' motion to compel seeks the production of those portions of the electronic computer data records from defendants' Cab Manager software system which would assist at trial in determining the times that defendants' taxi drivers start and end their shifts, as well as the location and activity of any given ~~the defendants not otherwise maintaining any computerized time~~ Cab. M ~~records on their taxi drivers' hours of work.~~ Plaintiffs position is as follows: Taxi drivers conduct certain activities at the start and end of their shifts which activities communicate information into the Cab Manager software. Those activities involve having the bar codes on their Taxicab Authority identification cards and trip sheets scanned and uploading their taxi meter totals into the Cab Manager software system. The taxi drivers also deposit money into electronic drop safes at the end of their shifts and information about that activity

may also be communicated to the Cab Manager software. The trip sheets the taxi drivers use also come with "start times" printed on them and those "start times" are printed by the Cab Manager software. The times the defendants' taxi drivers conducted the foregoing activities, and the printed "start times" on their trip sheets, if preserved in the Cab Manager computer data records, are relevant and discoverable information that should be produced. In addition, records showing that a particular taxi cab was operated by a particular taxi driver on a particular day, along with the attendant records, if any, of the times during such day such taxi cab was operated, and placed into service and taken out of service, is relevant and discoverable information that should be produced. Based on the foregoing, Defendants are to produce the portion of the Cab Manager computer data records containing the foregoing information for all of defendants' taxicab drivers and/or cabs from October 8, 2008 through the present. Additionally, plaintiffs' request for electronic computer data records from defendants' Quickbooks software system showing the wages paid (excluding tips actually received or credited as gross income), shifts worked, and hours worked (or hours recorded for payroll purposes or minimum wage compliance purposes as having been worked), of defendants' taxicab drivers also seeks relevant information that can be produced and must be produced for the time period of October 8, 2008 through the present.

3. Defendants have not complied with their obligation to respond to plaintiffs' discovery requests ~~in an informed, good faith, and appropriate manner~~ timely and in accordance with NRCP 16.1. The

defendants' principal, Creighton J. Nady, ~~misrepresented to~~ told the Court at the March 18, 2015 hearing the difficulties defendants' faced in producing the information originally sought by plaintiffs in February 2015 and specifically that burdensome computer "code" would have to be written to produce such information. ~~A conclusion that such misrepresentation was intentional is supported by the course of events in this case. Even if that misrepresentation was not intentional it was, by defendants' own admission, uninformed, not the product of appropriate due diligence, and without any actual basis in fact.~~ This representation was incorrect. Despite having a duty to do so, defendants never inquired with any knowledgeable person, which clearly should have been their computer consultant James Morgan, about what would be necessary to produce such information. ~~Such dereliction of their responsibility to cooperate with the discovery process, or their affirmative misrepresentation, resulted in the need for plaintiffs' counsel to conduct a~~ A previous Rule 34 inspection that was terminated early by defendants, ~~and~~ ultimately resulted in the Discovery Commissioner recommending the Plaintiffs take the the ~~unnecessary~~ deposition of non-party James Morgan. The foundational information secured from James Morgan on the Cab Manager system during that deposition was always available to defendants. Defendants should have been able to consult ~~complied with their duty to inquire~~ or with James Morgan about producing the information sought by plaintiffs and taken appropriate action to produce such information. There was no need for the deposition of James Morgan to determine the accessibility of the information at issue.

4. Defendants' non-compliance with their obligation to respond to plaintiffs' discovery request in an informed, ~~good faith~~, and appropriate manner, was also manifested in the deposition held of defendants' principal, Creighton J. Nady as an NRCP Rule 30(b)(6) witness. ~~That deposition was required for the same reason, defendants' failure to comply with their discovery obligations as specified in paragraph 3, supra, as the unnecessary deposition of James Morgan. Many or most of the NRCP Rule 30(b)(6) subjects inquired about at that deposition were unnecessary for the same reasons the James Morgan deposition was unnecessary.~~ In addition the conduct of Mr. Nady at the deposition was ~~highly inappropriate and~~ inexcusable. ~~He was not a proper NRCP Rule 30(b)(6) deposition witness as he conceded he made no attempt to inform himself as to certain noticed deposition topics, that he was not informed about those topics, and indicated other personnel of the defendants, known to him, had knowledge about those topics.~~ He was abusive to examining counsel, and Plaintiffs' position is that he was also evasive and ~~confrontational beyond any appropriate or allowable boundaries, and was not~~ cautioned or counseled to curb his behavior by defendants' counsel. Unfortunately, it does not appear based on a review of the record Mr. Nady was uninformed as to several topic areas, which has not yet been specifically addressed by opposing counsel.

5. An extension of the discovery schedule, as requested by the plaintiffs, is also warranted in light of the plaintiffs' motion to compel the production of documents which has been pending for eight months and the resolution of which was delayed by defendants. Accordingly, the discovery deadlines in this matter will be extended as specified below.

II.

RECOMMENDATIONS

IT IS THEREFORE RECOMMENDED that Plaintiffs' Motion to Compel the Production of Documents is GRANTED. The electronic computer data records from the Cab Manager software system recording the dates, times, and activities specified in paragraph 2 of the Findings shall be produced by defendants for each of their taxicab drivers, and taxi cabs, from October 8, 2008 through the present must be produced. Such information is to be produced in an Excel spreadsheet format or in an otherwise searchable electronic format and be produced to plaintiffs on or before December 31, 2015.

Defendants' counsel is instructed to work with Cab Manager personnel, including Jim Morgan who provided testimony in this matter regarding the Cab Manager software system and stated he had the ability to review the Cab Manager computer data records and segregate and produce the information, if it existed, specified in paragraph 2 of the Findings.

Difficulties in producing the Cab Manager information as recommended may result in the Commissioner requiring the entire Cab Manager database to be copied and produced. The specifics of such production will be deferred until such time it becomes necessary.

~~Defendants' counsel should also communicate with plaintiffs' counsel should any issues arise with the production of the records being compelled. As the testimony of Morgan indicates that the entire Cab Manager database can be copied and produced in bulk without difficulty, should the portion of the data being compelled by this Report and Recommendation be unable to be extracted and provided to the plaintiffs' counsel, the Court will require the entire contents of the Cab Manager database to be~~

turned over to plaintiffs' counsel ~~who must then sort and extract the relevant information plaintiffs sought in their motion to compel~~. Additionally, defendants must also provide to plaintiffs' counsel, no later than December 31, 2015, electronic computer data records in Excel spreadsheet or an otherwise searchable electronic format from defendants' Quickbooks system as specified in paragraph 2 of the Findings for the time period of October 8, 2008 through the present.

No other information contained within defendants' Quickbooks system, such as defendants' internal business or accounts payable records, are being compelled in this Report and Recommendation, provided that defendants produce the information as specified in paragraph 2 of the Findings. If they fail to do so, or assert they cannot extract such information, the Discovery Commissioner will likely require ~~Court will require the parties to enter into a~~ suitable ~~protective order preserving the confidentiality~~ of the Quickbooks database ~~and~~ for the applicable time frame to be produced ~~defendants shall turn over the entire contents of the Quickbooks database~~ to plaintiffs' subject to an appropriate protective order. The counsel who must then sort and extract the relevant ~~information plaintiffs sought in their motion to compel~~ specifics of such production will be deferred until such time as it becomes necessary.

IT IS FURTHER RECOMMENDED that based upon paragraph 3 of the Findings defendants are ordered to pay the costs and fees of plaintiffs' counsel for having to proceed with the unnecessary deposition of James Morgan on July 8, 2015. The Discovery Commissioner has determined that plaintiffs' counsel must be reimbursed $638.95 for court reporter fees, plus $400 per hour for plaintiffs' counsel's time in connection with the Morgan deposition. The Discovery Commissioner is

satisfied that plaintiffs' counsel's time records showing 2.5 hours of preparation, 2.8 hours of attendance, and 1.2 hours for travel relating to the Morgan deposition are fair. Accordingly, defendants are required to submit to plaintiffs' counsel, a check for $3,238.95 to cover the costs and fees associated with the Morgan deposition. These costs and fees will be due and owing within 30 days after this Report and Recommendation is signed by the District Court Judge. [illegible]

IT IS FURTHER RECOMMENDED that based upon paragraphs 3 and 4 of the Findings the imposition of additional fees and costs upon defendants in connection with plaintiffs' motion to compel, including but not limited to the deposition of Creighton J. Nady, be reserved for further consideration and recommendations by the Discovery Commissioner at the parties' next status check on January 13, 2016 at 9:00 a.m. [illegible]

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

Close of Discovery:	**June 29, 2016**
Deadline to Amend Pleadings and Add Parties:	**April 1, 2016**
Deadline to Disclose Expert Reports:	**April 1, 2016**
Deadline to Disclose Rebuttal Expert Reports:	**April 29, 2016**
Dispositive Motion Deadline:	**July 29, 2015**

Further, the case will now be ready for trial on or after 9-12-16; and the current trial date of 1-4-16 is vacated. [illegible]

The parties are further ordered to appear back before the Discovery Commissioner on January 13, 2016 at 9:00 a.m. for a status check on compliance with the foregoing. The parties may provide additional briefings to the Discovery Commissioner regarding compliance with this Report and Recommendation no later than January 8, 2016.

CASE NAME: *Murray et al. v. A Cab Taxi Service LLC., et al.*
Case No. A-12-669926-C
Hearing Date: November 18, 2015

The Discovery Commissioner, met with counsel for the parties, having discussed the issues noted above and having reviewed any materials proposed in support thereof, hereby submits the above recommendations.

DATED: December 11, 2015.

DISCOVERY COMMISSIONER

Respectfully submitted:

LEON GREENBERG, ESQ.
DANA SNIEGOCKI, ESQ.
LEON GREENBERG PROFESSIONAL CORPORATION
2965 South Jones Blvd., #E4
Las Vegas, NV 89146
Tel (702) 383-6085
Fax (702) 385-1827
dana@overtimelaw.com
Attorney for Plaintiffs

Approved as to form and content:

NOT Approved

ESTHER C. RODRIGUEZ, ESQ.
NV Bar 006473
RODRIGUEZ LAW OFFICES, P.C.
10161 Park Run Drive.
Suite 150
Las Vegas, NV 89145
Tel: (702) 320-8400
Fax (702) 320-8401
info@rodriguezlaw.com
Attorney for Defendant

NOTICE

Pursuant to N.R.C.P. 16.1(d)(2), you are hereby notified you have five (5) days from the date you receive this document within which to file written objections.

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

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

_____ Mailed to the parties at the following address on the _____ day of _____.

_X_ Placed in the folders of Plaintiff's/Defendant's counsel in the Clerk's Office on the 17 day of Dec.

STEVEN D. GRIERSON

By Jennifer Lott
DEPUTY CLERK

CASE NAME: *Murray et al. v. A Cab Taxi Service LLC., et al.*
Case No. A-12-669926-C
Hearing Date: November 18, 2015

ORDER

The Court, having reviewed the above report and recommendations prepared by the Discovery Commissioner and,

_____ The parties having waived the right to object thereto,

_____ No timely objections having been received in the office of the Discovery Commissioner pursuant to E.D.C.R. 2.34(f),

__X__ Having received the objections thereto and the written arguments in support of said objections, and good cause appearing,

AND

__X__ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted.

_____ IT IS HEREBY ORDERED the Discovery Commissioner's Report and Recommendations are affirmed and adopted as modified in the following manner:

_____ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report and Recommendations is set for the ____ day of _____ 2015, at __:__ a.m./p.m.

Dated this 29 day of Feb, 2015.

DISTRICT COURT JUDGE

CERTIFICATE OF MAILING

The undersigned certifies that on March 4, 2016, she served the within:

Order on Discovery Commissioner's Report and Recommendation

by court electronic service to:

TO:

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

/s/ *Dana Sniegocki*

Dana Sniegocki

EXHIBIT “H”

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

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

Dana Sniegocki
Member Nevada and California Bars

Fax: (702) 385-1827

May 17, 2016

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

VIA HAND DELIVERY ON MAY 18, 2016

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

Dear Commissioner Bulla:

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

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

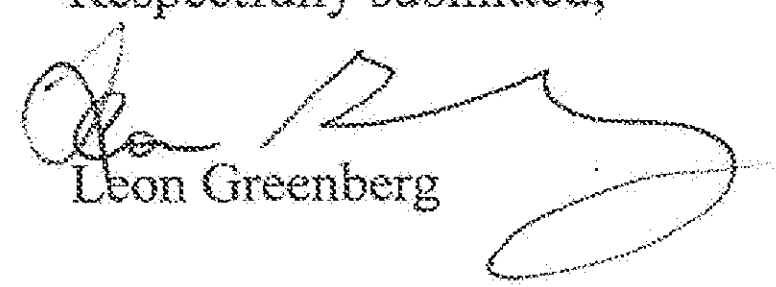
Quickbooks), which I delivered to the defendants' counsel today. Exhibit "3" of the declaration (previously provided to defendants' counsel on May 13, 2016) is an illustrated step by step process to produce the Quickbooks data in a suitable format. I believe Your Honor may gain a beneficial understanding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

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

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

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

Respectfully submitted,



Leon Greenberg

cc: Esther Rodriguez, Esq. (Via Email)

REGISTER OF ACTIONS

CASE NO. A-12-669926-C

Michael Murray, Plaintiff(s) vs. A Cab Taxi Service LLC, Defendant(s)	§	Case Type:	Other Civil Filing
	§	Subtype:	Other Civil Matters
	§	Date Filed:	10/08/2012
	§	Location:	Department 1
	§	Cross-Reference Case Number:	A669926
	§		

PARTY INFORMATION

Defendant	A Cab LLC	Lead Attorneys Esther Rodriguez *Retained* 7023208400(W)
Defendant	A Cab Taxi Service LLC	Michael K. Wall *Retained* 7023852500(W)
Defendant	Nady, Creighton J	Esther C. Rodriguez *Retained* 7023208400(W)
Plaintiff	Murray, Michael	Leon Greenberg *Retained* 7023836085(W)
Plaintiff	Reno, Michael	Leon Greenberg *Retained* 7023836085(W)

EVENTS & ORDERS OF THE COURT

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

Minutes
03/16/2016 10:00 AM

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

Arguments by counsel. Print out of production provided from Mr. Greenberg to Commissioner in Open Court. Colloquy re: data disclosed. Discussion re: the Behena Decision. Commissioner DENIED Mr. Greenberg's request for Defense counsel to correspond with him in writing. Colloquy re: providing information with a Motion pending. Ms. Rodriguez will re-format the data from Quickbooks in a meaningful way. Colloquy re: submission in camera. COMMISSIONER RECOMMENDED, produce 1) employees (absent names until the Court rules on class certification), 2) wage earned and hours, 3) pay period, and 4) any deductions and for what (including health deductions). Commissioner advised Mr. Greenberg to put in writing to Defense counsel a letter re: what is necessary and an explanation, and courtesy copy Commissioner; Ms. Rodriguez will identify employees by number and develop a key. No Report and Recommendation today. Commissioner expects better communication between counsel. COMMISSIONER RECOMMENDED, Status Check SET in 30 days. 6/20/16 10:00 a.m. Status Check: Status of Case.

Parties Present
Return to Register of Actions

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

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

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

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

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

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

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

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

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

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

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

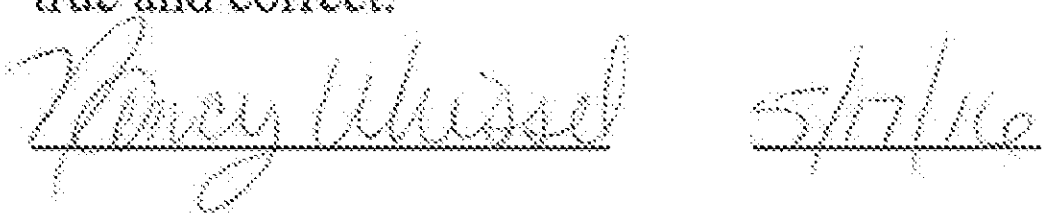
7. The process I describe in Exhibit "3" will, once performed, allow the easy creation, within Excel, of the desired "single line" Excel worksheet that is illustrated at Exhibit "2." That is because each outputted line of information from Quickbooks, using the Exhibit "3" method, will have a common reference,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

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

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

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

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



Nancy Whissel Date

EXHIBIT "1"

EXHIBIT "1"

A CAB, SERIES LLC Employee Leasing Company

12889

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

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

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

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

Net Pay	346.52	1,487.64

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

A CAB, SERIES LLC Employee Leasing Company

12959

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

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

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

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

Net Pay	151.45	1,639.09

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

A CAB, SERIES LLC Employee Leasing Company

12044

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

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

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

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

CAB TAXI

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

A CAB, SERIES LLC Employee Leasing Company

12613

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

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

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

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

CAB TAXI

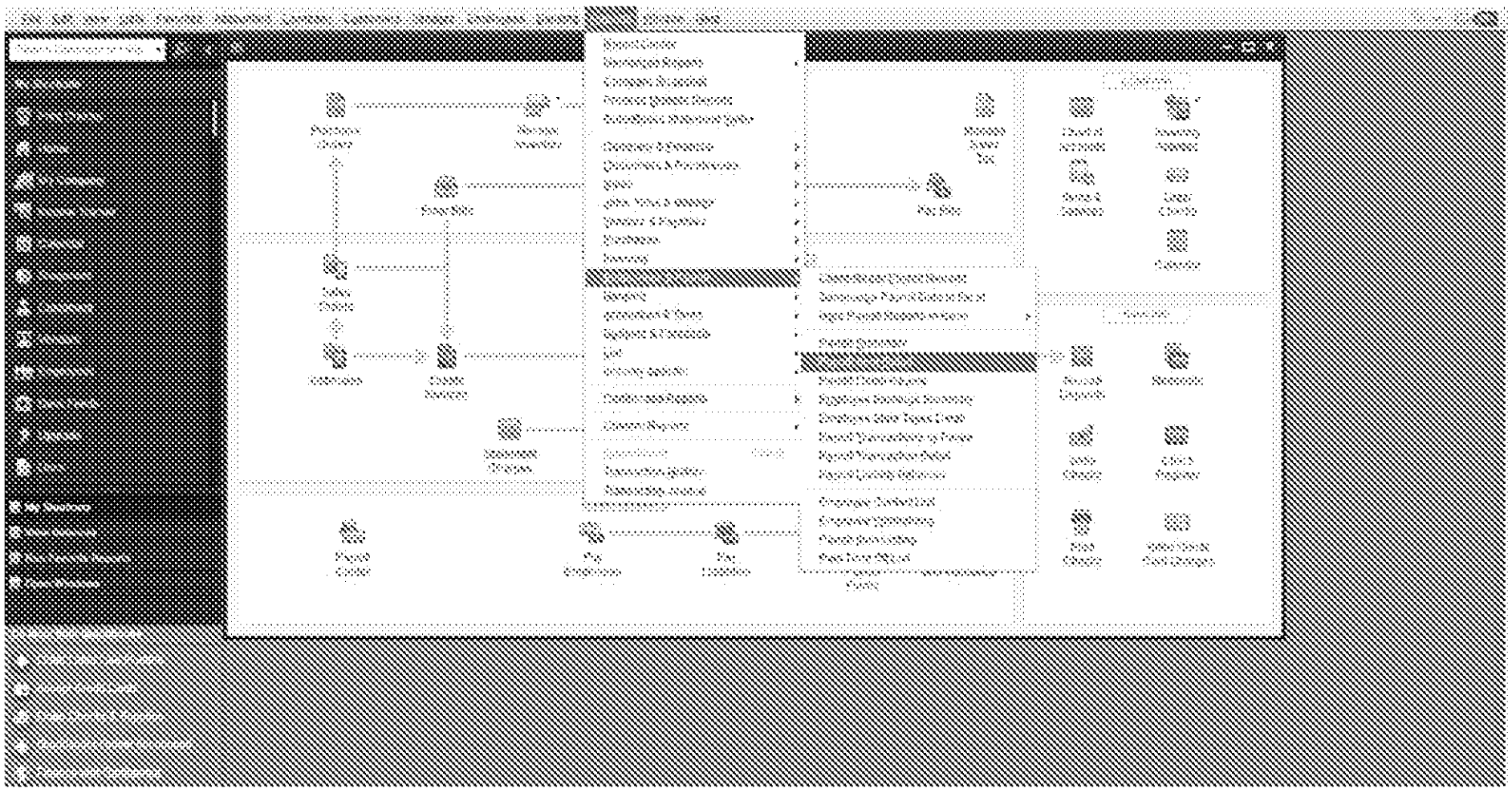
A Cab, LLC. 1500 Searles Avenue, 1500 Searles Avenue, Las Vegas, NV 89101-1123, A CAB TAXI SERVICE LLC

EXHIBIT "2"

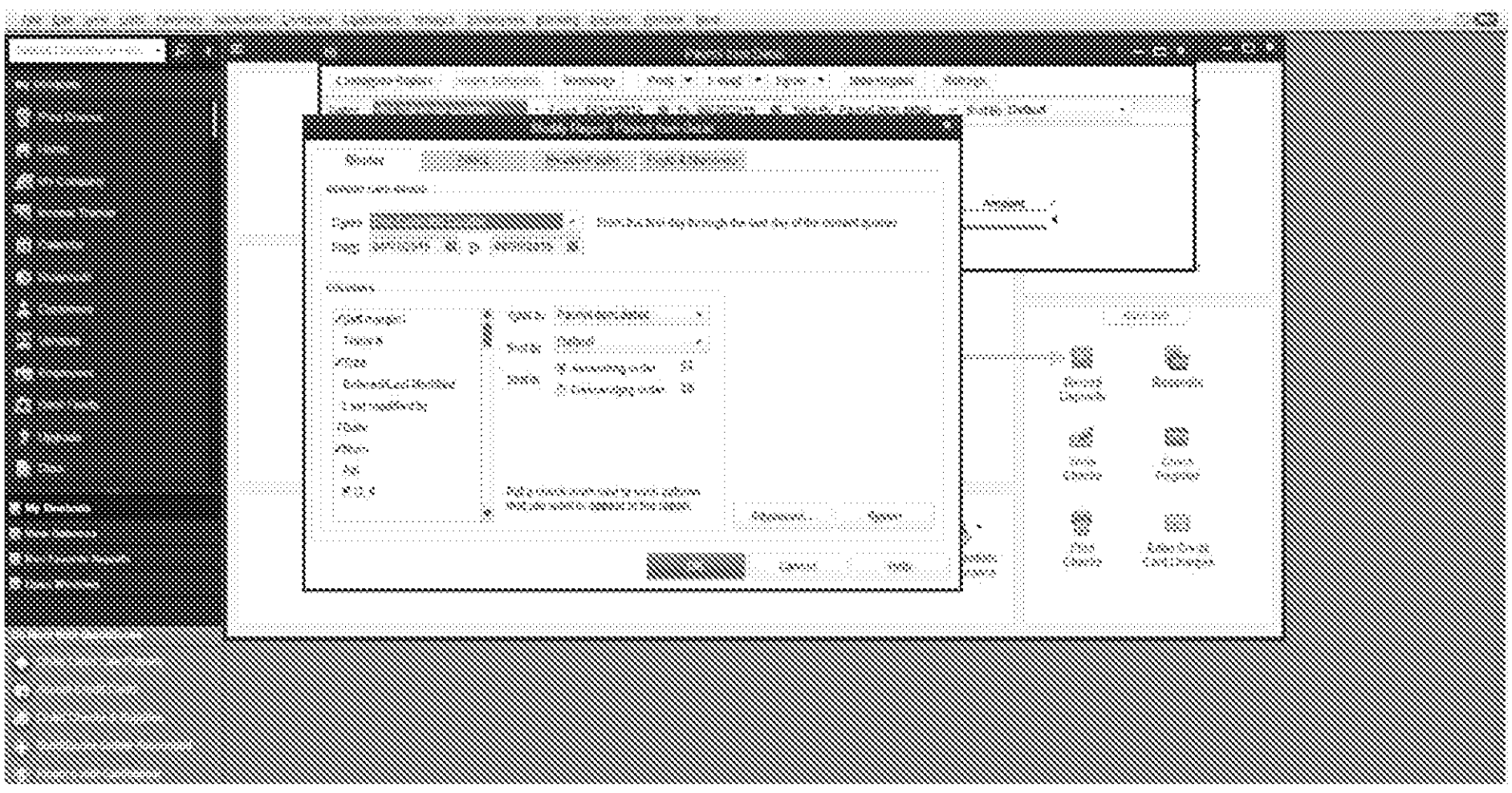
	A	B	C	D	E	F	G	H	I	J	K	L	M
1	SAMPLE FORM OF EXCEL SPREADSHEET DESIRED												
2	Name-Last	Name-First	Pay Period Last Date	Pay Date	Minimum Wage Subsidy - Qty	Minimum Wage Subsidy - Current	Driver Commission - Current	Incentive #5 - Current	Tips Supplemental - Current	Supervisor Counseling Pay - Current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

EXHIBIT "3"

1. Run Payroll Item Detail Report



2. Click on Customize Report

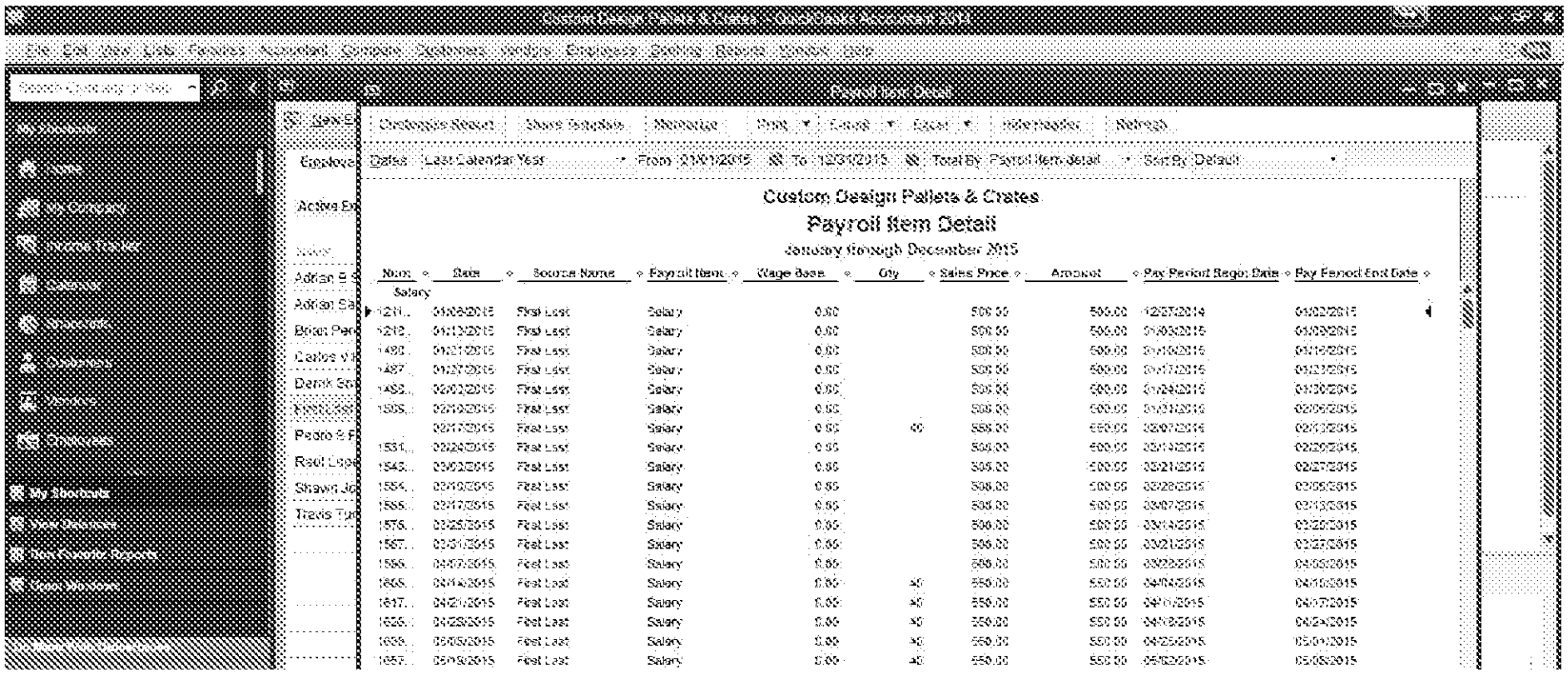


3. Choose the desired date range.

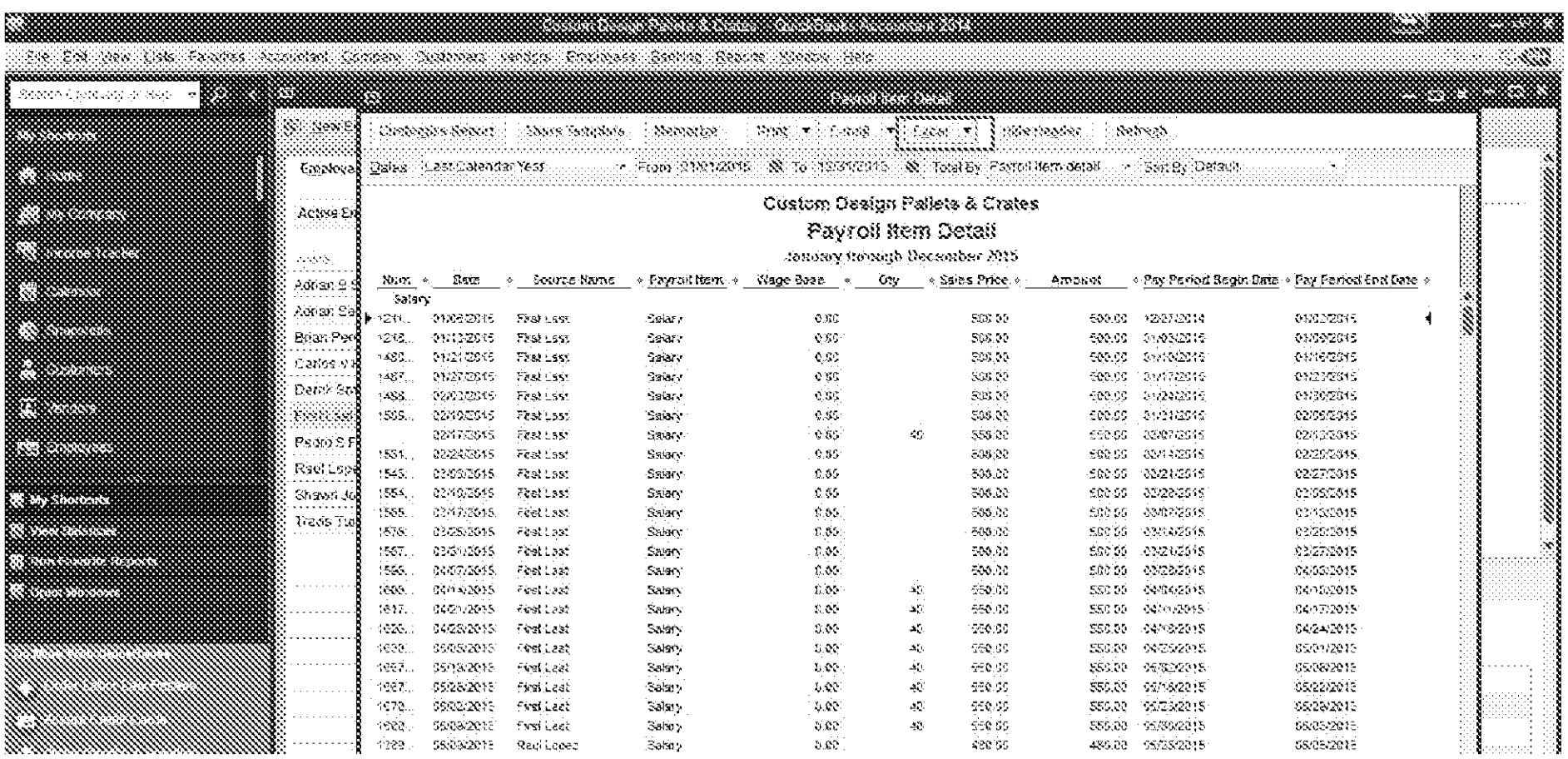
4. In the Columns section, Uncheck (left margin), Type and Wage Base.

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

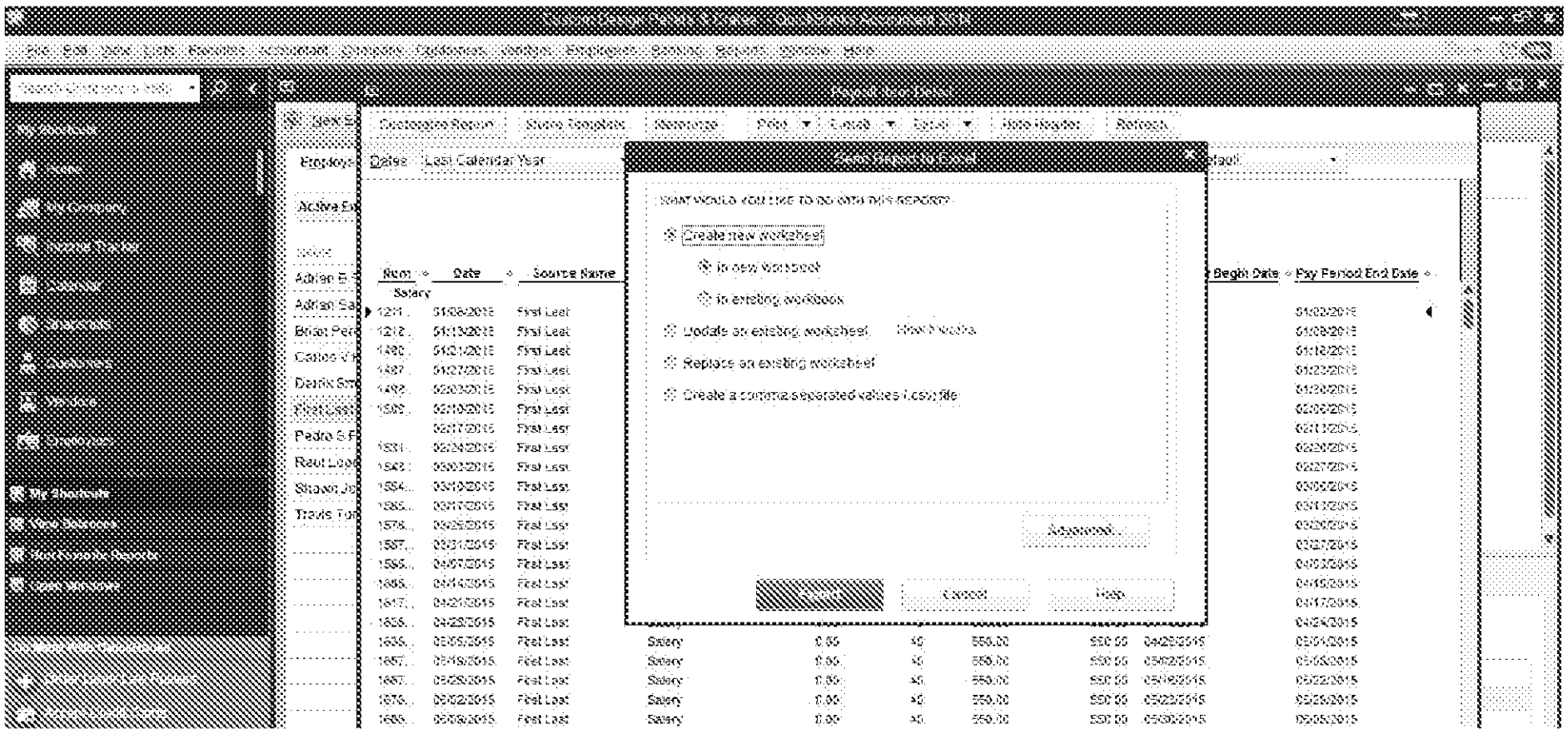
6. The resulting report will contain the paycheck detail for all employees grouped by Payroll Item Detail. It will show all of the check dates with the first wage rate grouped together with a total and then the next wage rate grouped together with a total and so on for each Payroll Item.



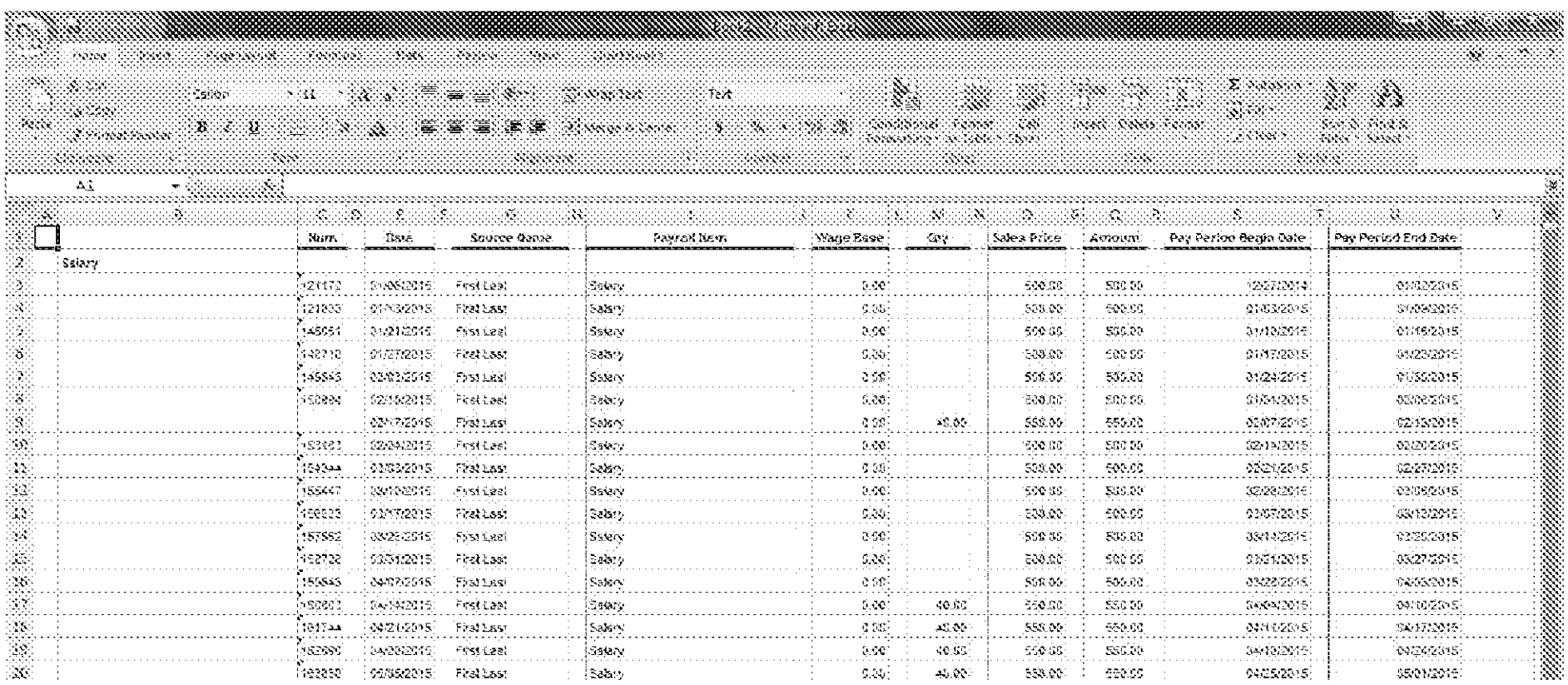
7. Click the Excel button that is just above the report in the window. Choose Create New Worksheet.



8. Click the blue Export button.



9. The result will be as shown below:



	Num	Date	Source Name	Payroll Item	Wage Base	Qty	Sales Price	Amount	Pay Period Begin Date	Pay Period End Date
Salary										
	121172	01/05/2015	First Last	Salary	0.00		500.00	500.00	12/27/2014	01/02/2015
	121833	01/13/2015	First Last	Salary	0.00		500.00	500.00	01/03/2015	01/09/2015
	145651	01/21/2015	First Last	Salary	0.00		500.00	500.00	01/10/2015	01/16/2015
	148710	01/27/2015	First Last	Salary	0.00		500.00	500.00	01/17/2015	01/23/2015
	149543	02/03/2015	First Last	Salary	0.00		500.00	500.00	01/24/2015	01/30/2015
	150894	02/10/2015	First Last	Salary	0.00		500.00	500.00	01/31/2015	02/06/2015
		02/17/2015	First Last	Salary	0.00	x0.00	550.00	550.00	02/07/2015	02/13/2015
	153183	02/24/2015	First Last	Salary	0.00		500.00	500.00	02/14/2015	02/20/2015
	1543aa	03/03/2015	First Last	Salary	0.00		500.00	500.00	02/21/2015	02/27/2015
	155447	03/10/2015	First Last	Salary	0.00		500.00	500.00	02/28/2015	03/06/2015
	156525	03/17/2015	First Last	Salary	0.00		500.00	500.00	03/07/2015	03/13/2015
	157552	03/25/2015	First Last	Salary	0.00		500.00	500.00	03/14/2015	03/20/2015
	158722	03/31/2015	First Last	Salary	0.00		500.00	500.00	03/21/2015	03/27/2015
	159845	04/07/2015	First Last	Salary	0.00		500.00	500.00	03/28/2015	04/03/2015
	160801	04/14/2015	First Last	Salary	0.00	40.00	550.00	550.00	04/04/2015	04/10/2015
	1617aa	04/21/2015	First Last	Salary	0.00	x0.00	550.00	550.00	04/11/2015	04/17/2015
	162690	04/28/2015	First Last	Salary	0.00	40.00	550.00	550.00	04/18/2015	04/24/2015
	163850	05/05/2015	First Last	Salary	0.00	x0.00	550.00	550.00	04/25/2015	05/01/2015

EXHIBIT "I"

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO, Individually and on behalf of others similarly situated,	) Case No.: A-12-669926-C) Dept. No.: I
Plaintiffs,	)
vs.	)
A CAB TAXI SERVICE LLC, and A CAB, LLC,	)
Defendants.	)

RECORDED DEPOSITION OF ROBERT SCOTT LESLIE

Taken on October 10, 2017

At 1:16 p.m.

GABROY LAW OFFICES

170 South Green Valley Parkway Suite 280,

Henderson, Nevada 89012

Page 2

1 APPEARANCES:

2 For the Plaintiffs: LEON GREENBERG, ESQ.

3 LEON GREENBERG PROFESSIONAL CORPORATION

4 2965 South Jones Blvd, Suite E3

5 Las Vegas, Nevada 89146

6

7 CHRISTIAN GABROY, ESQ.

8 LIZA ARONSON, LAW CLERK

9 GABROY LAW OFFICES

10 170 South Green Valley Parkway

11 Suite 280

12 Henderson, Nevada 89012

13

14 For the Defendants: ESTHER RODRIGUEZ, ESQ.

15 RODRIGUEZ LAW OFFICES, P.C.

16 10161 Park Run Drive, Suite 150

17 Las Vegas, Nevada 89145

18

19 Owner of A Cab: Creighton J. Nady

20

21

22

23

24

25

Page 3

INDEX

Witness	Direct	Cross
MR. LESLIE	PAGE 7	
(BY MR. GREENBERG)		

EXHIBITS

Number	Description
Exhibit 1	Report
Exhibit 2	Report
Exhibit 3	Spreadsheet
Exhibit 4	Trip Sheets
Exhibit 5	Excel File
Exhibit 6	Estimate of Wage and Hour Settlement
Exhibit 7	Trip Sheets

Page 4

MR. MAREZ: Job number 306411. We are now on the record in the matter of Michael Murray versus A Cab Taxi Service, LLC. My name is Jared Marez. I am the videographer and officer. I work for Evolve Deposition Services located at 10080 Alta Drive, Suite 100, Las Vegas, Nevada 89145.

Today`s date is October 10th, 2017. The time is 1:16 p.m. This deposition is being held at Gabroy Law Offices, 170 South Green Valley Parkway, Suite 280, Henderson, Nevada 89012. This is the recorded deposition of Scott Leslie. Would you please raise your right hand, sir?

Do you solemnly swear or affirm that the testimony you`re about to give will be the truth, the whole truth, and nothing but the truth to the best of your knowledge?

MR. LESLIE: I do.

MR. MAREZ: You can lower your hand. Can you please state your name with the spelling for the record?

MR. LESLIE: Okay. It`s Robert Scott Leslie. I go by Scott. The spelling is R-O-B-E-R-T S-C-O-T-T L-E-S-L-I-E.

MR. MAREZ: Thank you. This deposition is an audio and visual-recorded deposition. This

Page 19

A: Generally, yes.

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

A: Okay.

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

A: Yes.

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

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

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

Page 20

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

A: It seems like--

MS. RODRIGUEZ: Objection.

A: Okay.

MS. RODRIGUEZ: Misstates prior testimony.

Q: Please answer the question.

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

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

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

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

MS. RODRIGUEZ: Objection. Lacks foundation.

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

Page 21

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

Page 22

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

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

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

A: Yes.

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

Page 23

let`s say...

A: At the minimum tier?

Q: At the 7.25 tier.

A: If you had all the—

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

A: I`m sorry. Okay.

MS. RODRIGUEZ: Are you finished?

Q: Yes.

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

Q: Please answer the question.

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

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

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

Q: Well, there is a separate Excel file

Page 24

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

A: No.

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

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

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

A: That`s what I think—

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

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

Q: Okay. Those tabs--

A: I believe.

Page 25

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

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

Q: Right.

A: --and total hours or something.

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

A: Yes.

Q: Do you recall looking at those sheets?

A: Yes.

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

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

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

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

Page 26

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

Page 27

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

Page 28

period. Do you understand that?

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

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

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

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

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

A: Yes.

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

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

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

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

Page 29

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

Page 30

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

Page 35

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

Page 108

CERTIFICATE OF RECORDER

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

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

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

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

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

_____

Jared Marez Notary

EXHIBIT “J”

A CAB, SERIES LLC Employee Leasing Company

12044

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

SSN ***-**-5207
Status (Fed/State) Single/(none)
Pay Period: 05/24/2014 - 06/06/2014

Allowances/Extra Fed-1/0/NV-0/0
Pay Date: 06/13/2014

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

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

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

CAB TAXI

Exhibit "A"

3	Payroll Check Date	Payroll Records Employee Account Number	Last Name	First Name	Date Became Qualified for Health Insurance	Pay Period Start Date	Pay Period End Date	Hours for Pay Period From Payroll Records	Total Wages Paid	Minimum Wages Owed at $7.25 an Hour for all Hours	Minimum Wages Owed at $8.25 an Hour for all Hours	Wages Owed at $8.25 an Hour for Pay Periods Prior to Date Qualified for Insurance and at $7.25 an Hour after that
	B	C	D	E	F	G	H	I	J	K	L	M
11158	6/14/2013	29769	Sans	Thomas	9/1/2013	5/25/2013	6/7/2013	88.43	$542.49	$98.63	$187.06	$187.06
11159	6/28/2013	29769	Sans	Thomas	9/1/2013	6/8/2013	6/21/2013	78.74	$479.99	$90.88	$169.62	$169.62
11160	7/12/2013	29769	Sans	Thomas	9/1/2013	6/22/2013	7/5/2013	86.48	$554.82	$72.16	$158.64	$158.64
11161	7/26/2013	29769	Sans	Thomas	9/1/2013	7/6/2013	7/19/2013	50.81	$317.80	$50.57	$101.38	$101.38
11162	8/9/2013	29769	Sans	Thomas	9/1/2013	7/20/2013	8/2/2013	66.37	$415.22	$65.96	$132.33	$132.33
11163	8/23/2013	29769	Sans	Thomas	9/1/2013	8/3/2013	8/16/2013	91.86	$580.84	$85.15	$177.01	$177.01
11164	9/6/2013	29769	Sans	Thomas	9/1/2013	8/17/2013	8/30/2013	91.93	$585.18	$81.31	$173.24	$173.24
11165	9/20/2013	29769	Sans	Thomas	9/1/2013	8/31/2013	9/13/2013	73.99	$467.20	$69.23	$143.22	$69.23
11166	10/4/2013	29769	Sans	Thomas	9/1/2013	9/14/2013	9/27/2013	56.25	$364.28	$43.53	$99.78	$43.53
11167	10/18/2013	29769	Sans	Thomas	9/1/2013	9/28/2013	10/11/2013	106.57	$671.44	$101.19	$207.76	$101.19
11168	6/13/2014	26687	Sargeant	Michael	9/1/2014	5/24/2014	6/6/2014	87.48	$541.51	$92.72	$180.20	$180.20
11169	6/27/2014	26687	Sargeant	Michael	9/1/2014	6/7/2014	6/20/2014	66.68	$411.60	$71.83	$138.51	$138.51
11170	7/11/2014	26687	Sargeant	Michael	9/1/2014	6/21/2014	7/4/2014	54.78	$397.23	$0.00	$54.71	$54.71
11171	7/25/2014	26687	Sargeant	Michael	9/1/2014	7/5/2014	7/18/2014	57.08	$413.74	$0.09	$57.17	$57.17
11172	8/8/2014	26687	Sargeant	Michael	9/1/2014	7/19/2014	8/1/2014	22.81	$165.47	$0.00	$22.71	$22.71
11173	10/16/2015	108509	Sattari	Ahmad	12/1/2015	9/26/2015	10/9/2015	11.61	$111.09	$0.00	$0.00	$0.00
11174	10/30/2015	108509	Sattari	Ahmad	12/1/2015	10/10/2015	10/23/2015	21.62	$173.86	$0.00	$4.51	$4.51
11175	3/20/2015	108213	Savino	Christopher	5/1/2015	2/28/2015	3/13/2015	22.06	$159.88	$0.06	$22.12	$22.12
11176	4/3/2015	108213	Savino	Christopher	5/1/2015	3/14/2015	3/27/2015	101.82	$795.51	$0.00	$44.51	$44.51
11177	4/17/2015	108213	Savino	Christopher	5/1/2015	3/28/2015	4/10/2015	92.20	$706.05	$0.00	$54.60	$54.60
11178	5/1/2015	108213	Savino	Christopher	5/1/2015	4/11/2015	4/24/2015	99.00	$737.87	$0.00	$78.88	$78.88
11179	5/15/2015	108213	Savino	Christopher	5/1/2015	4/25/2015	5/8/2015	105.28	$763.77	$0.00	$104.79	$0.00
11180	5/29/2015	108213	Savino	Christopher	5/1/2015	5/9/2015	5/22/2015	104.75	$759.95	$0.00	$104.24	$0.00
11181	6/12/2015	108213	Savino	Christopher	5/1/2015	5/23/2015	6/5/2015	104.88	$760.48	$0.00	$104.78	$0.00
11182	6/26/2015	108213	Savino	Christopher	5/1/2015	6/6/2015	6/19/2015	116.82	$885.40	$0.00	$78.37	$0.00
11183	7/10/2015	108213	Savino	Christopher	5/1/2015	6/20/2015	7/3/2015	113.54	$866.64	$0.00	$70.07	$0.00
11184	7/24/2015	108213	Savino	Christopher	5/1/2015	7/4/2015	7/17/2015	103.02	$760.27	$0.00	$89.64	$0.00
11185	8/7/2015	108213	Savino	Christopher	5/1/2015	7/18/2015	7/31/2015	62.35	$525.88	$0.00	$0.00	$0.00
11186	8/21/2015	108213	Savino	Christopher	5/1/2015	8/1/2015	8/14/2015	80.98	$675.16	$0.00	$0.00	$0.00
11187	9/4/2015	108213	Savino	Christopher	5/1/2015	8/15/2015	8/28/2015	92.79	$789.29	$0.00	$0.00	$0.00
11188	9/18/2015	108213	Savino	Christopher	5/1/2015	8/29/2015	9/11/2015	86.31	$815.24	$0.00	$0.00	$0.00
11189	10/2/2015	108213	Savino	Christopher	5/1/2015	9/12/2015	9/25/2015	88.34	$837.75	$0.00	$0.00	$0.00
11190	10/16/2015	108213	Savino	Christopher	5/1/2015	9/26/2015	10/9/2015	80.56	$759.52	$0.00	$0.00	$0.00
11191	10/30/2015	108213	Savino	Christopher	5/1/2015	10/10/2015	10/23/2015	78.92	$715.98	$0.00	$0.00	$0.00
11192	11/13/2015	108213	Savino	Christopher	5/1/2015	10/24/2015	11/6/2015	88.12	$750.56	$0.00	$0.00	$0.00
11193	11/27/2015	108213	Savino	Christopher	5/1/2015	11/7/2015	11/20/2015	92.35	$874.17	$0.00	$0.00	$0.00
11194	12/11/2015	108213	Savino	Christopher	5/1/2015	11/21/2015	12/4/2015	63.77	$462.30	$0.03	$63.80	$0.03
11195	12/25/2015	108213	Savino	Christopher	5/1/2015	12/5/2015	12/18/2015	62.94	$456.10	$0.22	$63.16	$0.22

295 of 375

Ex. "D" to moving papers at p. 295

- The Ex. "A" pay stub shows Michael Sargeant worked 87.48 hours that pay period (the number appearing as the "QTY" and "Minimum Wage Subsidy" intersection) (**shown above**).

- That same 87.48 hours number for that same pay period appears at column "I" of Exhibit, line 11168 produced at Ex. "D" of the moving papers, at p. 295 (**that page reproduced with its column headings above**).

- The total wages paid by A-Cab for that pay period, excluding tips as shown on the pay stub (the $92.79 in "Tips Supplemental" must be excluded), is $541.51 ($416.4 in commission + $125.10 in "Minimum Wage Subsidy").

- That same $541.51 number also appears on line 11168, column "J" of Exhibit "D" of the moving papers as "Total Wages Paid" (**shown above**).

- To determine the unpaid minimum wages owed for this pay period at $7.25 an hour multiply **$7.25** by the hours worked of **87.48**, which equals **$634.23**.

- As shown in Exs. "A" and "D" above, Mr. Sargeant was actually paid only **$541.51**, so he is owed the difference between $634.23 and $541.51, which is **$92.72**.[1]

- That $92.72 amount appears in column "K" of line 11168 of Ex. "D" page 295 of the moving papers as the amount owed for that pay period at a $7.25 an hour minimum wage (**shown above**).

---

[1] The amount of $92.72 that is owed is identical to the $92.72 in tips earned by Michael Sargeant as shown on the pay stub. This is because A-Cab was illegally crediting the tips earned by him and the other class members against the $7.25 an hour minimum wage it owed, under its own record keeping system, until July of 2014.

HOURS	WAGES PAID	MATH PERFORMED
87.48	$541.51	87.48 x $7.25 = $634.23 $634.23- $541.51 = **$92.72**

Plaintiffs have performed 14,199 additional fully accurate calculations on 14,199 additional pay periods, in the same fashion as detailed above, by using an Excel file (the "2013-2015 Payroll Analysis" file). That Excel file was provided to the Court with an explanation of how it can be examined to verify the correctness of its calculations on each of the 14,200 pay periods it examined. Ex. "B." Defendants have not disputed, in any fashion, the proper functioning of that Excel file, which was provided to defendants months ago with Dr. Claurettie's report.

C. Defendants' expert also confirms that the calculations performed on the 2013-2015 payroll data are accurate.

While defendants insist their expert has meaningful evidence to present that supports the denial of the plaintiffs' partial summary judgment motion, they never present or explain that evidence. No such evidence exists and defendants' expert concurs that the calculations performed in the "2013-2015 Payroll Analysis" file are arithmetically correct and accurate. The relevant deposition excerpts are annexed as Ex. "C" which also demonstrate defendants' counsel's most improper obstruction of the questioning of Mr. Leslie on this subject:

> Q: My question was you understand that the payroll records from A Cab for the period of 2013 through 2015, for every pay period, have a stated amount of hours worked for the pay period by the employee?
>
> A: Yes.

Electronically Filed
1/12/2018 6:10 PM
Steven D. Grierson
CLERK OF THE COURT

OML
Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
RODRIGUEZ LAW OFFICES, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
702-320-8400
info@rodriguezlaw.com

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

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY and MICHAEL RENO, Individually and on behalf of others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC and A CAB, LLC, and CREIGHTON J. NADY, Defendants.	Case No.: A-12-669926-C Dept. No. I Hearing Date: January 23, 2018 Hearing Time: 9:00 a.m.

DEFENDANTS' OPPOSITION TO PLAINTIFFS' OMNIBUS MOTION IN LIMINE #1-25

Defendants A Cab, LLC and Creighton J. Nady, by and through their attorneys of record, ESTHER C. RODRIGUEZ, ESQ., of RODRIGUEZ LAW OFFICES, P.C., and MICHAEL K. WALL, ESQ., of HUTCHISON & STEFFEN, LLC, hereby submit this opposition to Plaintiffs' Omnibus Motion in Limine #1-25 (hereinafter "*Plaintiffs' Motion*"). This Opposition is made and based upon the papers and pleadings on file herein, and on the following points and authorities.

. . .

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

I.

POINTS AND AUTHORITIES

Pursuant to the Minute Order of this Court dated March 6, 2017 "an omnibus motion in limine is a sure tip-off that the very stock motions which EDJCR 2.47 seeks to avoid are being filed and accordingly should not be filed." **Exhibit 1**, *Minute Order of the Court March 6, 2017*. Further, there are numerous items contained within Plaintiffs' motion herein which were not discussed in compliance with EDCR 2.47, and should not be considered by the Court.

The purpose of a *motion in limine* is to narrow the issues, and to preclude introduction of those items which are more prejudicial than probative. NRS 48.035. With this Motion, Plaintiffs are merely seeking to exclude the items which are detrimental to their case and their causes of action. This is not the purpose of a *motion in limine*. Additionally, many of the items sought are not evidentiary, but rather are dispositive motions and seek to preclude affirmative defenses in their entirety.

SUBJECTS AND MATERIALS TO BE EXCLUDED

Plaintiffs' Motions #1, #7, and #17:

#1 - Materials or Testimony Related to any "good faith" or "reliance on government advice" defense.

#7 - Claims that any monies owed to the plaintiffs are not owed by defendant A-Cab but by a non-party.

#17 - Exclusion of U.S. Department of Labor "Certificate of Appreciation" or testimony on the same.

Plaintiffs now detail a number of items they seek to exclude in their motion (*Plaintiffs' Motion*, p. 5:18-6:10; and Motion #7). These items were not raised pursuant to NRS 48.035. Instead, Plaintiffs proposed that Defendants agree to a blanket request that any testimony relating to a good faith reliance on government advice would be excluded, which of course Defendants could not agree to. (**Exhibit 2**, *Greenberg correspondence of December 18, 2017*.) Now Plaintiffs name witnesses and specify the documents which they seek to exclude. Accordingly, the Court should not entertain this request which does not comply with NRS 48.035.

Further, despite Defendants moving for dismissal of the punitive damages claims in this action, punitive damages are still being asserted. Accordingly, Defendants have a right to defend themselves in demonstrating it took all steps available to it to make sure the company was in compliance with all State and Federal rules and regulations. In fact, one such agency regulating wage and hours recognized Defendant Nady for his compliance. Plaintiffs seek to tie Defendants' hands in presenting a defense, which is not the purpose of a motion in limine; and to present a distorted view in support of their claims for punitive damages. Plaintiffs specifically claim that Defendants are subject to liability and damages, as "Defendants were aware that the highest law enforcement officer of the State of Nevada, the Nevada Attorney General, had issued a public opinion" which "Defendants consciously elected to ignore that opinion." *Plaintiffs' Second Amended Complaint*, para. 17. Yet, Plaintiffs argue to preclude introduction of all other items in contradiction to this opinion. (This is the substance of Plaintiffs' Motion #7 as well.)

Plaintiffs also seek a ruling for strict liability in this instance, by attaching a recent order from Judge Israel. *Plaintiffs' Motion*, 4:3-8. This is not a *motion in limine*, but rather a motion for summary judgment on this issue.

Again, Plaintiffs defy this Court's instruction that "a motion in limine should not be a motion for summary judgment in disguise." **Exhibit 1**, p. 2. Of note is that Judge Israel's order upon which Plaintiffs' rely is currently on appeal to the Supreme Court. *Nevada Yellow Cab, et al v. Eighth Judicial District Court*, Case No. A-12-661726-C; Supreme Court No: 74166. Plaintiffs are aware of this fact as Leon Greenberg and Dana Sniegocki are counsel of record for Real Parties in Interest Christopher Thomas and Christopher Craig in the appeal.

<u>Plaintiffs' Motions #2, #9, #12, #13</u>:

#2 - Materials and Testimony Related to any "failure to mitigate" or "failure to perform job duties" or "fraud or theft" of "low productivity" by the Plaintiffs.

#9 - Plaintiffs' failure to declare tip income on their income tax returns with the IRS.

. . .

. . .

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

#12 - Exclusion of testimony about other MWA lawsuits against other Las Vegas Taxi Companies or representative plaintiff Michael Sargeant's participation in those lawsuits.

#13 - Exclusion of testimony about class representative receiving any class service award or other benefit beyond the minimum wages they are owed from this lawsuit.

Plaintiffs' claims are based upon a theory where they were forced to write in fraudulent break times. Further, pursuant to representations to the Court, Plaintiffs will be testifying and asserting to the jury that they worked 12 hour shifts. Therefore, the credibility of the Plaintiffs is at issue. If Plaintiffs will be testifying as to these disputed facts of number of alleged hours worked, and break times of which they were allegedly deprived, Defendants have a right to present evidence of Plaintiffs' credibility including their track records of fraud and theft. This would include any fraud perpetrated upon the U.S. Government.

Further, it is relevant that these same Plaintiffs who will assert to the jury that they are working diligently for 12 hours, are the same ones who are being written up for failure to perform job duties. The documented evidence that these drivers are failing to perform basic job duties presents a completely different picture than that which the Plaintiffs seek to present in order to prejudice the jury against the Employer. Plaintiffs want to present a picture of an evil employer working its drivers for 12 hours straight, and not even paying a minimum hourly wage. The reality is completely the opposite, where the Employer was paying maximum subsidies to drivers who were working minimal hours, and taking the cabs to their homes to sleep. It is left to the fact finder to determine credibility, as a direct result of Plaintiffs putting forth this claim for unpaid hours AND 12 hour shifts.

Similarly, Defendants should not be precluded from disclosing to the jury that the fact that Michael Sargeant is a litigant involved in multiple suits class action suits. At A Cab, he merely worked a 2 month period, but is designated as the representative Plaintiff who speaks on behalf of the class as to all of the claims. Defendants repeatedly argued that he was not a proper Plaintiff representative, but Plaintiffs have argued to keep him. As such, Plaintiff Sargeant is subject to

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

cross examination on his multiple claims, as well as the fact that he receives an incentive as a class representative.

This evidence, which Plaintiffs seek to preclude, is relevant and Defendants should not be prohibited from defending themselves with the reality of the documented evidence.

This is not the straightforward calculation of an alleged underpayment which Plaintiffs now seek to present, as they are basing the claims and alleged damages on the testimony of Plaintiffs themselves. Defendants have a right to cross-examine the witnesses; and credibility is at the heart of the matter. All relevant evidence is admissible. NRS 48.025.

Plaintiffs' Motion:

#3 - Claims and testimony related to any "ratification" by the plaintiffs of A-Cab's practice of paying less than minimum wage or their knowledge that they were, or were not, being paid less than minimum wages.

Plaintiffs want to paint a picture of a slave shop where drivers were paid abysmally by an employer rolling in the dough. Specifically Plaintiffs claim that "Defendant so acted consciously, willfully, and intentionally **to deprive such taxi driver employees of any knowledge** that they might be entitled to such minimum hourly wages." *Plaintiffs' Complaint*, para. 18.

Plaintiffs lodge this claim, but seek to preclude any questioning of the witnesses as to whether they even knew they were owed a minimum wage, despite ongoing efforts to subsidize them. Further, the multiple advisements that were provided to each of the employees is relevant to this claim against Defendants.

Plaintiffs Motion:

#4 - Claims and testimony related to any failure by the plaintiffs to pursue an administrative remedy or communicate with government agencies about their unpaid minimum wages.

This evidence is relevant to Defendants' affirmative defense of failure to mitigate damages, and Plaintiffs' causes of action. Plaintiffs' Second Claim for Relief is for claims under NRS 608.020, NRS 608.030, and NRS 608.040. These are all statutes within the purview of the Nevada Labor Commissioner. Therefore, Defendants should not be precluded from presenting evidence as

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

to whether any plaintiff communicated with the Labor Commissioner's office.

Plaintiffs have mixed and mingled Chapter 608 and the Constitutional Amendment when it suits them. Here, Plaintiffs want to preclude any introduction of the statutes which address the administrative requisites and remedies for unpaid wages, arguing that this is a constitutional issue. At the same time, Plaintiffs argue that they should be allowed to rely upon NRS 608.115, a record-keeping statute in this same chapter unrelated to the constitutional amendment. Plaintiffs also have a claim for the 30 day penalty provisions under Chapter 608; but want to preclude Defendants from relying upon the same statutes which address administrative remedies. If Defendants are precluded from addressing Chapter 608 and communications with the Labor Commissioner, Plaintiffs should be precluded from pursuing their second claim for relief at a minimum.

Plaintiffs' Motion:

#5 - Claims and testimony related to any resolution of the plaintiffs' claims in this case, or reduction in the amount of their claims, from any other lawsuit including the one brought by the United States Department of Labor or any other "non-payroll" payments made.

Plaintiffs seek to introduce select portions of the U.S. Department of Labor audits and documents (Plaintiffs' Motion, p. 22-24); and yet want to preclude Defendants from revealing the truth to the jury - that being, that the claimants have already received monies for any underpayment. Plaintiffs seek to shield the jury from reality, in hopes of a double recovery.

Further, if Plaintiffs continue to put forth the argument that Defendants could have paid the drivers at any point during this litigation; in turn, Defendants should not be precluded from presenting evidence that payments have indeed already been made and received by Claimants.

Plaintiffs' Motion #6, #8, and #16:

#6 - Claims that any minimum wages owed to the plaintiffs should be reduced based upon their failure to pursue those claims sooner.

#8 - Evidence on plaintiffs' sources of income besides wages paid by A-Cab.

#16 - Exclusion of testimony about work by plaintiffs at other Las Vegas taxi companies.

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

Plaintiffs are making the argument that Defendants could have discovered and paid the Plaintiffs at anytime. Further, Plaintiffs specifically claim: "Defendants so acted in the hope that by the passage of time whatever rights such taxi driver employees had to such minimum hourly wages owed to them by the defendants would expire, in whole or in part, by operation of law." *Plaintiffs' Complaint*, para. 18. Plaintiffs now seek to preclude Defendants from presenting the defense that Plaintiffs sat on their hands (laches), never bringing the matter to anyone's attention.

Based on Plaintiffs' own pleadings wherein they have stated Defendants deprived Plaintiffs of any knowledge of their rights, and were simply waiting on an obligation to expire, it can be anticipated that Plaintiffs will feign ignorance before a jury as to minimum wage issues. Defendants should not be precluded from presenting evidence that Plaintiffs are in fact knowledgeable from other employment, as well as experience in the taxicab industry itself. Further, if Plaintiffs are allowed to make such a claim as is contained in their pleadings, Defendants must be allowed to provide the defense that Plaintiffs are similarly in the same situation with no incentive to advise the employer of an alleged underpayment.

Plaintiffs' Motion:

#10 - Exclusion of report of Nicole Omps or any testimony from her.

Plaintiffs seek to put on select evidence of their estimates of damages; but want to preclude evidence of other estimates which have been performed for this same class. Ms. Omps was timely named as a witness, but Plaintiffs never took any steps to depose her or to obtain her expert file, etc. Plaintiffs' failure to conduct discovery on this witness should not serve as a basis for precluding her from testifying as a witness for the defense.

#11 - Exclusion of testimony or evidence on non-wage benefits provided by A-Cab to the plaintiffs and allowing evidence on health insurance benefits only to the extent raised by plaintiffs.

Plaintiff have specifically claimed that Defendants have illegally obtained the property of the plaintiffs, and have committed conversion of such property. *Plaintiffs' Complaint*, para. 19. Plaintiffs continue that as a result, defendants should be subject to all forms of equitable relief and legal sanctions to return such property and to make plaintiffs whole, including a suitable Court

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

Order directing restitution for all property taken. *Id.* With such a presentation of the claims to the jury, implying and resembling criminal behavior, the jury should not be shielded from the reality of the workplace. A Cab is a pleasant workplace with a high rate of retention and re-employment of its drivers who frequently return, due to its benefits, perks, and enjoyment of the workplace. The health insurance benefits are some of the best in the industry; and Defendants have complied in offering these to its drivers. Plaintiffs now seek to limit Defendants' use of this evidence in a holding pattern, based on what they may or may not introduce. Such a request is improper and without any legal basis whatsoever. Defendants should be allowed to present this evidence to demonstrate there is no basis whatsoever for even considering the $8.25 higher wage.

Further, as Plaintiffs have opened the door to conversion and restitution, Defendants should not be precluded from presenting the evidence in its defense that nothing could be further from the truth. The owner not only does not steal from his employees, he provides multiple benefits for free in appreciation, and as an added value to his employees.

#14 - Exclusion of testimony or evidence by defendants' expert Leslie on the "earlier spreadsheets" or "February 2017" spreadsheets in violation of the mediation and settlement communication privilege.

Plaintiffs have never been clear in what documents constitute Charles Bass' expert report as required by NRCP 16.1. In all designations, Plaintiffs have hidden the ball saying we haven't really decided, but we think he's kind of an expert. Ultimately, they have represented to the Court that Mr. Bass is an expert; and yet they seek to preclude the defense expert from commenting on the only work received from Plaintiffs' expert.

Mr. Bass also indicated during his deposition that he shared all of his work with Expert #2, Dr. Clauretie so that he could formulate his opinions. **Exhibit 4**, *Deposition of Charles Bass*, pp. 43:14-44:14. We can't know for sure what Mr. Bass shared because he kept no records. **Id**., p. 45:5-22. And further, Defendants have been precluded from obtaining pertinent documents with the assertion that the experts' work is attorney-client privileged and work product. **Exhibit 3**, *Plaintiffs' Objections to Subpoena Duces Tecum Served on Terrence M. Clauretie and Charles Bass*. Now, Plaintiffs seek to hide versions of their expert's work which was analyzed by

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

Defendants' expert, by asserting a third privilege of settlement communication. Mr. Bass testified he was modifying the same spreadsheet which Plaintiffs do not want referenced. Because of the atypical manner in which Plaintiffs danced around a routine expert disclosure, Defendants were forced to have their expert review the modified spreadsheet and annotate the lines where there was differences.

It is Plaintiffs' game playing that caused the messes with the spreadsheets by piece-mealing what purported to be an expert "report." (Note: to date Plaintiffs are still piece-mealing new spreadsheets and even new witnesses; Plaintiffs' Disclosures Pursuant to NRCP 16.1(a)(3) naming new witnesses, served January 5, 2018 at 8:18 p.m.; Plaintiffs' Eleventh Supplemental Disclosures producing 48 pages of new spreadsheets, served January 5, 2018 at 8:13 p.m. With their present request to the Court, Plaintiffs are wanting to only present the spreadsheets they are satisfied with, and to preclude Defendants from presenting evidence of the flaws in their methodology.

Plaintiffs' expert Charles Bass testified that his spreadsheets were an evolving project, in which he would continue to modify per Mr. Greenberg's instructions. **Exhibit 4**, *Deposition of Charles Bass*, p. 25:22-25; p. 111:17-24. Plaintiffs now want to only use the final product from Mr. Bass; and to tie Defendants hands during cross examination of this witness.

#15 - Exclusion of FOIA document bates 2324.

This document was produced timely within discovery – unlike the multiple supplements Plaintiffs continue to serve as recent as **this week**. Plaintiffs never requested to conduct any further discovery on this one page document produced last June, but now argue 7 months later it is "unfair" without further explanation. Plaintiffs' motion on this issue is not supported, and should be denied.

#18 - Testimony of Steve Essakow Designated as a Witness on 6/25/17.

This witness was timely designated within the discovery period last June. Plaintiffs never requested any further discovery or the deposition of this witness in the last 7 months. Plaintiffs' failure to conduct appropriate discovery on this witness is not a basis for exclusion of the witness. Plaintiffs' motion on this issue is not supported, and should be denied.

#19 - Testimony of Steven J. Oshins, Esq., designated on 6/6/17.

This witness was timely designated within the discovery period last June. Plaintiffs never

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

requested any further discovery or the deposition of this witness in the last 7 months. Plaintiffs' failure to conduct appropriate discovery on this witness is not a basis for exclusion of the witness. Further, Plaintiffs' counsel's inability to formulate a proper question not seeking attorney-client communications is not a basis for exclusion of the witness. Plaintiffs' motion on this issue is not supported, and should be denied.

#20 - Exclusion of testimony by defendant witnesses on the "average working time" per shift by taxi drivers as A Cab's designated NRCP 30(b)(6) deposition witness stated A Cab lacked that knowledge and any testimony by defendants that the 2013-2015 payroll records do not accurately set forth the hours of work.

The Court will note that what is attached to Plaintiffs' Motion as Exhibit "J" is the purported notice of deposition for the person most knowledgeable. The Notice is 18 pages, consisting of 24 separate categories with multiple subheadings - an outrageous task for any witness to prepare for to say the least. Further, the notice covered multiple years of the time period of July 1, 2007 through the present. The witness complied with his obligations in doing the best he could to prepare himself for voluminous areas of questioning. Ironically, much of the questioning was outside of the scope of this notice, despite the 24 categories. Nevertheless, the witness did indeed provide his best answer, which Plaintiffs cut short in their Motion. At Exhibit K to Plaintiffs' Motion, the witness continues:

Q. Do you know if A Cab ever undertook to conduct any study to determine what the average amount of time was that drivers work per shift?

A. I think the DOL forced us to do something like that.

Q. Do you remember what result was obtained from that study?

A. It, too, would be a guess, but **my best recollection was about eight and a quarter hours**.

Deposition of Creighton J. Nady, 44:16-25, attached as Exhibit K to Plaintiffs' Motion.

Plaintiffs' Motion is without merit as multiple witnesses and source documents demonstrate hours worked. There is no basis for precluding Defendants from presenting this evidence.

. . .

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

#21 - Exclusion of testimony about plaintiffs' counsel's improper "seeking of profit" from this case.

Defense counsel agreed to this issue, and is unsure why it is being addressed herein. The agreement was no reference to attorney fees from either side to the jury. This included references as well by Plaintiffs as to Defendants choosing to pay expert fees and defense costs rather than pay the money to the drivers. Defendants reserve the right to present evidence and to argue against any claim for attorney fees at a later stage.

#22 - Exclusion of testimony how plaintiffs came to retain an attorney to bring this case.

Because Plaintiffs base their case upon the testimony of witnesses pertaining number of hours worked and alleged unpaid wages, the credibility and motive of the witness is relevant. Plaintiffs have no documented proof of actual damages or monies owed, but will base their claim to the jury on self-serving testimony of the drivers. Accordingly, Defendants should not be precluded from inquiring into the motive and expectations for recovery from the lawsuit. One such expectation came from the ads the drivers answered to sign up for the lawsuit.

MATERIALS SOUGHT TO BE ADMITTED

#23 - United States Department of Labor Narrative Report Dated January 30, 2013.

This is a hearsay document which is also incomplete and redacted throughout the document. It serves no purpose other than to inflame the jury; and to substitute one fact finder's impressions for that of the jury. At the recent hearing on Defendants' Motion for Summary Judgment, the Court sought Mr. Greenberg's assurances that he would not attempt to introduce claims of fraud into the trial, as Defendants had moved for decertification on this basis. Defendants have ordered a transcript from these proceedings to ascertain whether Mr. Greenberg committed to no introduction of fraud claims. The primary facts contained in this narrative involve the accusation, "trip sheets are falsified to show breaks when in reality the drivers do not take breaks." DOL-45, *Plaintiffs' Motion*, Exhibit L.

If Plaintiffs counsel is indeed raising once again the fraud claims, Defendants ask the Court to reconsider the motion for summary judgment for decertification of the class claims.

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

#24 - Portion of One Page Remaining "Summary" of Trips Sheet Review Performed In Connection With U.S. Department of Labor Audit.

As the document attached as Plaintiffs' Exhibit "O" does not contain a batestamp number, it is difficult to confirm whether either party has produced this document during the course of discovery. It is believed this is part of a series of documents exchanged with the Department of Labor during settlement negotiations; and would be inadmissible for any purposes in this trial. Further, it appears that Plaintiffs are advocating for redacting the portions of the document which are harmful to their case; and only seeking to admit select portions, so as not to provide the jury with a complete picture of the document. Based upon Plaintiffs' own arguments, this is where the confusion would come from, in redacting bits and pieces to have the document represent something that it is not in reality.

#25 - Excel Spreadsheets "ACAB ALL" and "Damages 2007 to 2010" should be admitted.

This item was not discussed in compliance with EDCR 2.47, and should not be considered by the Court at all. Further, Defendants have briefed the impropriety of Plaintiffs' experts and their reports in *Defendants' Motion in Limine to Exclude Plaintiffs' Experts*.

II.

CONCLUSION

Based on the foregoing, Defendants respectfully request that this Court deny *Plaintiffs' Omnibus Motion in Limine #1-25* in its entirety.

DATED this 12th day of January, 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

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 12th day of January, 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.

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

EXHIBIT 1

EXHIBIT 1

DISTRICT COURT
CLARK COUNTY, NEVADA

Other Civil Filing | **COURT MINUTES** | **March 06, 2017**

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

March 06, 2017 **Minute Order**

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

COURT CLERK: Michele Tucker

JOURNAL ENTRIES

The Jury Trial for this case has been continued to a Stack date of 02/05/18 at 1:30 p.m.

The continuance was by stipulation between counsel pursuant to Rule 2.35 EJDCR. The stipulation should contain the dates for the close of discovery pursuant to Rule 2.35. The date for the deadline for filing dispositive motions shall remain no more than 30 days following the discovery cutoff, pursuant to NRCP 16.1 (c) (8). Counsel should not presume that by informally stipulating to continue some discovery past the discovery cutoff date that the above deadline for dispositive motions is somehow affected. The deadline to file motions in limine, in accordance with Rule 2.47 EJDCR remains no less than 45 days prior to the stacked trial date, and heard not less than 14 days prior to the same stacked trial date.

The Pretrial Conference/Calendar Call will be held on 01/18/18 at 9:00 a.m. in District Court Dept. 1. The lead trial attorney trying the case shall attend and should come prepared with his/her calendar for the entire 5-week stack, as well as the 5-week calendar for all witnesses to be called in the trial. Your case may be tried anywhere within the 5-week stack, regardless of age of the case. The Court notes that it becomes increasingly difficult to accommodate the schedules of out-of-state witnesses, particularly expert witnesses. It is up to counsel to anticipate scheduling difficulties with witnesses and to notify the Court and opposing counsel well in advance of the Pretrial Conference/Calendar Call date. It will not do to simply appear at Calendar Call expecting to notify the Court at that late date of the need to reschedule the trial. If you do so, you may expect to be treated with the same consideration which you have shown for both the Court and opposing counsel. A ready alternative to live, in-court testimony is available through the use of either deposition testimony or live video testimony, through the use of now-available technology installed by the Eighth Judicial District

Court. The Court has presided over a number of trials where expert testimony was admitted utilizing a live video feed technique and has noted little or no diminution in the effectiveness of live video testimony compared to live in-court testimony.

Rule 2.47 EJDCR The Court is singularly unimpressed with attorneys who wait too close to motion deadlines to hold meaningful conferences pursuant to EJDCR 2.47(b), prompting the filing of many form motions in limine, or worse yet, a form omnibus motion in limine, with little or no particularized reference to the facts of the present case. Often the motions merely ask that settled law be enforced at trial. A motion in limine is moving counsel s opportunity to raise prior to trial those few evidentiary issues which are novel or as to which the law is thus far silent. Rather than ask that settled law be enforced in a motion in limine, counsel are invited to file a trial brief outlining an issue in which, in counsel s estimation, the Court may not be as well versed as counsel would wish. **An omnibus motion in limine is a sure tip-off that the very stock motions which EJDCR 2.47 seeks to avoid are being filed and accordingly should not be filed. The failure to evidence that meaningful Rule 2.47 conferences are being held will likely result in all motions in limine being stricken by the Court sua sponte.** The Court will make the determination not only from the certificate evincing compliance with the Rule but also from the substance of the motions themselves. Also, given that the deadline for filing dispositive motions will have already passed, a motion in limine should not be a motion for summary judgment in disguise.

This Order shall supplement the original trial order, which counsel are invited to re-read.

2/5/18 1:30 PM JURY TRIAL

1/18/18 9:00 AM PRETRIAL CONFERENCE

CLERK'S NOTE: The above minute order has been distributed to: Leon Greenberg, Esq. Esther Rodriguez, Esq., and Michael Wall, Esq. /mlt

EXHIBIT 2

EXHIBIT 2

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

Member Nevada, California
New York, Pennsylvania and New Jersey Bars

Fax: (702) 385-1827

December 18, 2017

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

VIA EMAIL ONLY

Re: Murray v. A-Cab
Pretrial Order, Motion in Limine Issues

To facilitate our telephone conference on 12/19/17 at 3:00 p.m. as per EDCR 2.47 I provide, in advance, the following topics/issues for your consideration:

Subject Matter, Testimony, and Documents to be Excluded at Trial

1. Exclusion of testimony or information on wages or other sources of income of the plaintiffs and class members. This would include any mention of tax returns being filed that include disclosures of tip income.

2 Exclude testimony regarding amounts paid by A-Cab under U.S. DOL settlement.

3. Exclusion of testimony that would relate to any good faith or reasonable belief or reliance on government agency advice by defendants, as in the 22nd & 26th affirmative defenses

   This would include (but not be limited to) testimony on NRS 608.250, the prior Taxi Cab minimum wage exemption or defendants' belief they were exempt or that they were exempt prior to the time at issue in this

lawsuit. This would exclude testimony from labor commissioner personnel or K. Sakelhide, all information from the Nevada Labor Commissioner. Any mention of the *Lucas* decision. Any mention of the *Thomas* decision, all claims made in interrogatory 27,

4. Exclude testimony from experts regarding settlement communications or bearing upon settlement. This would include any testimony from Nicole Omps as her only proposed "expert" (or other) testimony concerns an evaluation of a proper settlement amount.

5. Exclude all testimony on attorney's fees, either those paid by defendants or potentially to be paid to plaintiffs' counsel or how plaintiffs' counsel are being paid or amount of costs advanced by plaintiffs' counsel.

6. Exclude all testimony regarding any other non-wage benefits provided by A-Cab (except, potentially for Health Insurance, which is also an issue to be addressed by the Court's grant or denial of the bifurcation request). This would include any testimony regarding A-Cab providing food, meals, sporting event tickets, etc., to the taxi drivers.

7. Exclude testimony about other taxi companies being sued. This would include any discussion of Michael Sargeant being a participant in any of those other lawsuits.

8. Exclude any mention of class representatives potentially receiving any incentive or class service award payment for prosecuting this case.

9. Any questions about the plaintiffs' conduct or earnings at other cab companies.

10. Any mention of criminal convictions of non-party witness Gagliano or any plaintiffs or class members. This includes any introduction of the Murray court documents produced by defendants at Bates 1837-1839 or any mention of the nature of that conviction or the nature of the accusations against Murray leading to that conviction.

11. Any introduction of the "Driver Statistics" documents for Michael Sargeant, Bates 02302-02303 produced on 6/25/17.

12. Any introduction of the "FOIA" document Bates 02324 produced on 6/25/17

13. All comments by Mr. Leslie regarding mediation materials (he refers to them as the "earlier spreadsheets" or "February 2017" spreadsheets) or any comparison between those materials and the spreadsheets (A-CAB ALL and Payroll Analysis 2013-2015) provided with Dr. Claurettie's report. No portion of Leslie's report discussing those materials will be allowed.

14. Any updated or different employee manual or written employee directives, rules, etc., not previously produced.

15. Any introduction of the USDOL "Certificate of Appreciation" Bates 1720 or testimony about that document being issued to A-Cab.

16. Any testimony from Steve Essakow designated on 6/25/17 as a witness.

17. Any testimony from Steven J. Oshins designated 6/6/17 as a witness.

18. Any testimony from any A-Cab employees on any subject matter contained in plaintiffs' NRCP Rule 30(b)(6) deposition notice and for which defendant Nady, who was the designated witness for all such topics, was examined about. This includes all such matters that he stated he lacked knowledge about in response to such examination.

19. Documents (which relate to the foregoing issues) identified by the following numbers in the defendants' 23rd supplemental 16.1 disclosure:

    4, 5, 21 through 29, 31, 37

20. Any evidence in support of defendants' claimed 3rd affirmative defense alleging "others" besides A-Cab are responsible for plaintiffs' damages, who are claimed to be government agency personnel advising A-Cab in the answer to interrogatory 19.

21. Any evidence of any "set off" of plaintiffs' damages including any claim that the plaintiffs took passenger fares without turning on the

cab meter.

22. Any testimony or claim that the plaintiffs had the "ability to control, minimize or escalate" their claimed damages (as in 19th and 20th interrogatory response) or that any failure to earn minimum wages by the plaintiffs was due to their lack of skill and diligence in locating and transporting paying passengers or their poor job performance. This includes the 2nd and 5th and 16th affirmative defenses identified in the 20th and 21st and 16th interrogatory responses as alleging a failure to mitigate damages by failing to earn enough commissions to make minimum wages, that they failed to advise management that they were not making minimum wages, that they failed to ask for payment of unpaid minimum wages, that they failed to accept offers of resolution for amount far in excess of minimum wages owed.

23. Any testimony or claim that the plaintiffs' counsel has "caused and escalated plaintiffs' claimed damages, seeking to profit from the continued litigation of others." (as in 19th interrogatory response)

24. Any testimony or claim as to how the plaintiffs' claims are barred by prior resolution with the US Dept. of Labor lawsuit, res judicata, collateral estoppel, as resolved by the Nevada Labor Commissioner as claimed in the 7th and 8th and 23rd Affirmative defenses and interrogatory answers 22 and 23 and 26

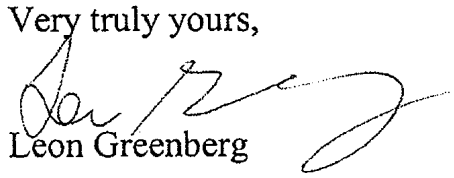
25. Any testimony as to how the plaintiffs came to retain an attorney to prosecute this case or as to their communications or lack of communications with the Nevada Labor Commissioner.

Documents to be Admitted

1. The reports of the United States Department of Labor, which are covered by the hearsay exception as government agency records.

We look forward to discussing the foregoing with you tomorrow.

Very truly yours,



Leon Greenberg

From:	Leon Greenberg
To:	Esther Rodriguez; Michael K. Wall, Esq.; Christian Gabroy; "Dana Sniegocki"
Subject:	Murray v. A-Cab
Date:	Monday, December 18, 2017 6:52:31 PM
Attachments:	171218184435_0001.pdf

Please see the attached in advance of our telephone discussion for 3 p.m. on Tuesday as it should help facilitate the same.

Thank you.

--

Leon Greenberg
Attorney at Law
2965 South Jones Boulevard #E-3
Las Vegas, Nevada 89146
(702) 383-6085
website: overtimelaw.com
Member of Nevada, California, New York,
New Jersey and Pennsylvania Bars

EXHIBIT 3

EXHIBIT 3

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

Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO, Individually and on behalf of others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC, and A CAB, LLC, Defendants.	Case No.: A-12-669926-C Dept.: I **PLAINTIFFS' OBJECTIONS TO SUBPOENA DUCES TECUM SERVED ON TERRENCE M. CLAURETIE AND CHARLES BASS**

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

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

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

DATED this 3rd of October, 2017

Leon Greenberg Professional Corporation

By: /s/ *Dana Sniegocki*
Dana Sniegocki, Esq.
Nevada Bar No.: 11715
2965 South Jones Boulevard - Suite E3
Las Vegas, Nevada 89146
Tel (702) 383-6085
Fax (702) 385-1827
dana@overtimelaw.com

CERTIFICATE OF SERVICE

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

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

by court electronic service to:

TO:

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

/s/ *Sydney Saucier*

Sydney Saucier

EXHIBIT 4

EXHIBIT 4

1 DISTRICT COURT

2 CLARK COUNTY, NEVADA

3 MICHAEL MURRAY and MICHAEL RENO, Individually and on 4 behalf of other similarly situated,	)	
5 Plaintiffs,	)	Case No.: A-12-669926-C
6 vs.	)	Dept. No.: I
7 A CAB TAXI SERVICE LLC and A 8 CAB, LLC, and CREIGHTON J. NADY,	)	
9 Defendants.	)	
10	)	

11

12

13 VIDEOTAPED EXPERT DEPOSITION OF CHARLES M. BASS

14 Taken on THURSDAY, OCTOBER 19, 2017

15 By a Certified Court Reporter

16 At 1:38 p.m.

17 Held at 3770 Howard Hughes Parkway, Suite 300

18 Las Vegas, Nevada

19

20

21

22

23

24 Reported by: Amber M. McClane, NV CCR No. 914

25 Job No.: 423068

1 APPEARANCES:

2 For the Plaintiffs:

3 BY: LEON GREENBERG, ESQ.
LEON GREENBERG PROFESSIONAL CORPORATION
4 2965 South Jones Boulevard, Suite E-3
Las Vegas, Nevada 89146
5 (702) 383-6085
leongreenberg@overtimelaw.com
6 -AND-

7 BY: CHRISTIAN GABROY, ESQ.
BY: ELIZABETH E. ARONSON, ESQ.
8 GABROY LAW OFFICES
170 South Green Valley Parkway, Suite 280
9 Henderson, Nevada 89012
(702) 259-7777
10 christian@gabroy.com
earonson@gabroy.com
11

12 For the Defendants:

13 BY: ESTHER C. RODRIGUEZ, ESQ.
RODRIGUEZ LAW OFFICES, P.C.
14 10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
15 (702) 320-8400
esther@rodriguezlaw.com
16

17 Also Present:

18 SCOTT LESLIE, CPA/ABV, CVA, CFF
SCOTT LESLIE & ASSOCIATES
19 9107 West Russell Road
Las Vegas, Nevada 89148
20 (702) 878-2476

21 * * * * *

22

23

24

25

1 **Q. Okay.**
2 A. That type of thing.
3 **Q. And you've saved all of those?**
4 A. Saved all those.
5 **Q. So you would be able to go back and print out**
6 **a listing of what those are?**
7 A. Mm-hmm.
8 **Q. Is that a "yes," sir?**
9 A. Yes. I'm sorry. Yes.
10 **Q. Okay. And would such a listing reflect the**
11 **dates that -- not necessarily that you created each one**
12 **but the final version of that particular spreadsheet?**
13 A. It may or may not. Because with Excel, any
14 time you open something and save it again, it re-puts a
15 date on it. So the dates may not -- I have them
16 summarized by month that I worked on them, but the file
17 dates may be -- because I may have had to go back and
18 look at something that I did three months ago and --
19 and get something that I had to make one little change
20 there and hit save.
21 **Q. Right. Okay.**
22 **And ultimately all of those spreadsheets were**
23 **incorporated into what has become your final --**
24 A. Correct.
25 **Q. -- model?**

1 thing where you're taking data and putting it in a
2 spreadsheet and adding and subtracting numbers.
3 MS. RODRIGUEZ: Okay. Well, my question,
4 just so that we're clear -- because Mr. Greenberg and I
5 will take this up with the Judge. My question was, was
6 it pertaining to another minimum wage case, and that's
7 the question you're instructing him not to answer?
8 MR. GREENBERG: That is correct.
9 MS. RODRIGUEZ: Okay.
10 **Q. (By Ms. Rodriguez) So -- so we talked about**
11 **earlier, if he instructs you not to answer, you don't**
12 **have to answer the question.**
13 A. Thank you.
14 **Q. So earlier we were talking about all your**
15 **underlying spreadsheets that ultimately led to the "A**
16 **Cab - All" --**
17 A. Correct.
18 **Q. -- spreadsheet.**
19 **Do you know which ones of those items that**
20 **you shared with Dr. Clauretie?**
21 A. I think they're referenced in Dr. Clauretie's
22 report. So there would be a listing there.
23 **Q. Okay. Did you understand that I deposed**
24 **Dr. Clauretie a couple of days ago?**
25 A. Yes.

1 Q. And he talked about the meetings that he had
2 with you --
3 A. Mm-hmm.
4 Q. -- which he recalled being four; is that
5 correct? Is that your recollection?
6 A. I remember three. Maybe four.
7 Q. Okay. And --
8 A. That's not counting phone calls in between.
9 Q. Okay.
10 A. Yeah.
11 Q. And basically how he described was that he
12 would be at your office, and you'd have the
13 spreadsheets up on the screen --
14 A. Correct.
15 Q. -- and -- and you would explain to him your
16 methodology.
17 A. Yes.
18 Q. Is -- do you agree with that description
19 of -- of what was occurring in your meetings?
20 A. Yes.
21 Q. Okay. So I asked Dr. Clauretie which ones of
22 those -- of Mr. Bass' spreadsheets did you look at, and
23 basically his answer was everything he had up on the
24 screen. And so now I'm asking you specifically.
25 Because it sounds to me like you had a whole bunch of

1 **mini spreadsheets that ultimately were modified,**
2 **combined. I think you described --**
3 A. Right.
4 **Q. -- deleted, addition, added.**
5 **So do you know specifically, if you're going to**
6 **end up providing me a list of those, which ones**
7 **Dr. Clauretie viewed in your meetings?**
8 A. Well, I think he put -- I mean, he -- he
9 referenced them I think in his report --
10 **Q. Mm-hmm.**
11 A. -- the names of the files and that type of
12 thing.
13 **Q. Okay.**
14 A. So those are -- I didn't burden him with
15 every single step. You know, it's like, here's the
16 data, here's the pay, here's where it came from, here's
17 step one, and here's that same number that appears
18 here, and that's where that -- these numbers came from.
19 There may have been another spreadsheet that had
20 to take all of the numbers and add them together, that
21 type of thing. So he's -- that's -- that's the type of
22 thing.
23 **Q. Okay. All right. So let's look at some of**
24 **those, and then maybe we'll start seeing which ones --**
25 **make -- making heads or tails out of which ones you**

1 hired to do.

2 Q. So looking at Exhibit 11 and 12 that you have

3 before you --

4 A. Mm-hmm.

5 Q. -- correct me if I'm wrong, but these are

6 basically the same types of things that we looked at a

7 little bit earlier but just for a different time

8 period?

9 A. Correct.

10 Q. The 2013 to 2015 period?

11 A. Right.

12 Q. And in both of these spreadsheets you're

13 combining a calculation based on what you saw out of

14 the payroll records and a calculation based on what you

15 saw out of the Cab Manager?

16 A. Correct.

17 Q. Okay. And is this basically what we've been

18 talking about throughout your deposition? This is the

19 final evolution --

20 A. Yes.

21 Q. -- of those -- all that -- those prior

22 spreadsheets that -- that you were working on for

23 really the last couple of years or so?

24 A. The last year, yeah.

25 Q. Okay.

1 CERTIFICATE OF REPORTER

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

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

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

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

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

24 Amber M. McClane

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

Electronically Filed
1/12/2018 2:00 PM
Steven D. Grierson
CLERK OF THE COURT

RESP
LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
2965 South Jones Blvd- Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
(702) 385-1827(fax)
leongreenberg@overtimelaw.com
dana@overtimelaw.com
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO, Individually and on behalf of others similarly situated, Plaintiffs, vs. A CAB TAXI SERVICE LLC, A CAB, LLC, and CREIGHTON J. NADY, Defendants.	Case No.: A-12-669926-C Dept.: I **PLAINTIFFS' RESPONSE TO DEFENDANTS' MOTION IN LIMINE TO EXCLUDE EXPERT TESTIMONY** Trial Date: February 5, 2017 Hearing date: Jan. 23, 2018 Hearing time: 9:00 a.m.

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation, hereby submit this response to defendants' motion in limine to exclude the testimony of plaintiffs' experts.

OVERVIEW OF EXPERT TESTIMONY AT ISSUE

The only disputed fact in this case is the hours worked by the class members. The wages they were paid are known and accurately set forth in A Cab's records. The issue for trial is whether those wages each pay period were enough to meet the minimum wage requirements of Nevada law. The expert testimony proposed by plaintiffs will assist in determining what minimum wages, if any, are owed to the class based upon the "hours worked" determination made at trial. The experts do not opine on what hours were worked by the class members. They only provide

information on the amount of minimum wages that are owed based upon whatever hours of work determination is made by the jury.

The "expert" testimony at issue consists of: (1) That of Charles Bass, who assembled from computer payroll and other computer records of the defendant a "model" (certain Excel spreadsheets) that summarizes those records and will calculate the minimum wages (if any) owed to the class members based upon a finding at trial of the "hours worked" by the class members; and (2) That of Dr. Terrence Clauretie, who has examined the model created by Charles Bass and offers an expert opinion that based upon its arithmetic accuracy it can accurately estimate unpaid minimum wages owed to the class based on the information it incorporates and upon a uniform "average shift length" and other information or assumptions. Neither Dr. Clauretie nor Charles Bass offer any "opinion" on the amount of minimum wages that are owed. They only provide a methodology, and via only Dr. Clauretie an expert opinion on the soundness of that methodology, for determining that amount owed *after* it is determined how many hours the class members worked. To the extent the "model" created by Charles Bass is not just a summary and calculation of defendants' voluminous records under NRS 52.275, his "opinion" as an "expert" is limited to his "expert" assembly of that model from defendants' records. Dr. Claurettie offers an expert opinion about the appropriateness of using that model, which he confirms is arithmetically correct, to determine the minimum wages owed under various "hours of work" findings for the class members.

ARGUMENT

I. CHARLES BASS IS BOTH QUALIFIED AS AN EXPERT AND PRESENTS A SUMMARY OF DEFENDANTS' RECORDS, AND A CALCULATION ON THOSE RECORDS, PERFORMED WITH A RELIABLE METHODOLOGY

Defendants argue that the testimony of Charles Bass should be excluded because it incorporates "gross speculation"; because he is not qualified as an expert

to offer "damages testimony"; and because he is an "interested party" in another litigation against a different Las Vegas cab company. None of those assertions have any basis in fact. His testimony is limited to his work preparing a summary of defendants' records of wages paid to the class members and shifts worked. That summary (spreadsheet or model) can also perform a calculation upon those records depending upon a trial finding of hours worked by the class members. He does not and will not offer testimony on the actual "damages" (if any) owed to the class members but only his work preparing that spreadsheet model and how that model operates. That he may be interested in another litigation against a different Las Vegas cab company does not disqualify him as an expert in this case, as that fact, at most, bears on the weight the jury should give to his testimony, not its admissibility.

A. Charles Bass is properly identified as someone who may give expert testimony and is properly deemed an "expert" within the scope of the testimony he may give.

1. Charles Bass is properly designated as someone who will be available for expert testimony on his work preparing the spreadsheets relied upon and reviewed by Dr. Clauretie.

A Cab asserts that Charles Bass has not been clearly, or properly, identified as an expert witness. This is untrue. In the plaintiffs' Ninth Supplemental Disclosures, served 7/29/17, at Ex. "3" of defendants' motion, which designates Dr. Clauretie as an expert witness and provides his report, the following statement is made:

> Plaintiffs had previously designated Charles Bass as an expert witness in the event his summarization of, and calculations made upon, the defendants records', now contained in the two Excel files ACAB-ALL and 2013-2015 Payroll Analysis, were deemed to constitute materials requiring expert testimony for their consideration by the Court. Because Dr. Clauretie has now been designated as an expert witness, and furnished an expert report based upon those two Excel files, plaintiffs designate as an expert witness, and reserve the right to have testify at trial, Charles Bass, whose testimony, if called to testify at trial, will concern his work contained in the two Excel files ACAB-ALL and 2013-2015 Payroll Analysis and upon which Dr. Clauretie's report is based. He has no separate report or other expected testimony to offer.

As the foregoing makes clear, defendants have been expressly advised that Charles Bass was being reserved as an expert witness to testify on the Excel files (spreadsheets) he created that summarize and perform calculations upon A Cab's records and upon which Dr. Clauretie's report is based. His testimony is limited to that issue. He is not proposed to offer any opinions or any testimony on damages, only on his work in creating those Excel files discussed by Dr. Clauretie.

2. Charles Bass is properly deemed an expert on the summarizing of information in computer data files into Excel spreadsheets that perform further calculations.

The "expertise" that Charles Bass possesses, and that is not possessed by the typical layperson, is in the summarization of information from computer data files and the use of Excel software (Excel spreadsheets) to perform calculations on such summarized information. His work, as reviewed by Dr. Clauretie in his report (Ex. "B"), consisted of two tasks. The first was taking A Cab's Quickbooks and Cab Manager records and, for every pay period of every class member, setting forth on a each line in an Excel spreadsheet a minimum of two pieces, and maximum of four pieces, of information from those records:

(1) The amount of wages (which excludes tips) paid by A Cab to the class member for their work during a single pay period, as originally set forth in A Cab's computerized payroll (Quickbooks) records produced in this case;

(2) The amount of hours worked during that pay period as recorded in the Quickbooks records (such information only being available from 2013-2015);

(3) The amount of hours the class member was recorded in A-Cab's Cab Manager system as having a taxi cab during that pay period (such information only being available from 2013 to 2015);

(4) The number of shifts worked by the class member during that pay

period, as recorded in A Cab's Cab Manager system's records.

The second task performed by Charles Bass was having the Excel spreadsheet calculate the unpaid minimum wages owed to the class member, for the pay period, by determining if the wages paid for the hours worked during the pay period was equal to at least the minimum wage (either $7.25 or $8.25 an hour after July 1, 2010). The Excel spreadsheet can perform that calculation in three basic forms:

(A) By using the "payroll hours" for 2013-2015;

(B) By using the "cab manager" hours for 2013-2015 with an option for the Excel spreadsheet's user to modify the length of every work shift in the pay period by a uniform amount (minus 1 hour or plus 15 minutes or anything else);

(C) By using for the hours a uniform length (as selected by the Excel spreadsheet's user) for every shift worked during the pay period (for example, setting that length to 10 hours per shift times the 8 shifts in the pay period for a total of 80 pay period working hours).

The Excel spreadsheet also allows for two other secondary calculations to be performed that attempt to examine whether the "lower tier"$7.25 an hour "health insurance provided" rate, or "higher tier" $8.25 an hour "no health insurance provided" rate, should be used for the pay period and then calculates the minimum wages owed (if any) using the A, B and/or C hours above.

Dr. Clauretie in his report confirms that Charles Bass has correctly performed the two forgoing tasks. The spreadsheets created by Charles Bass were provided to defendants so they can examine them and determine if they fail to summarize the information they purport to summarize from A-Cab's records (A Cab has those original records). Defendants can also determine if those spreadsheets make any erroneous calculations (they can "check the math"). Charles Bass was also deposed and available to testify about both the tasks he performed and the resulting Excel

spreadsheets.

In respect to the scope of what Charles Bass may offer "expert" testimony about: his skills at extracting information from computer files; transferring that information into an Excel spreadsheet; and configuring that Excel file to perform certain calculations on such information, he is a qualified "expert." As attested to in a declaration previously provided in this case (Ex. "A" ¶ 1) he has over 30 years experience working with computer databases and Excel software. He has a bachelors degree in mathematics, a masters degree in finance, and has many years of experience in the computer programing and computer software fields (CV at Ex. "1" to Ex. "A"). He is qualified as an expert in such matters based upon such experience, he need not have some sort of advanced degree or formal certification as an "Excel Spreadsheet" or "Computer Data Files" expert. *See*, *Cheyenne Construction v Hozz,* 720 P.2d 1224, 1226 (Nev. Sup. Ct. 1986) ("Many courts, including this Court, permit witnesses to testify as experts based on the witness' practical experience.")[1]

A-Cab's attack on the "expert" qualifications of Charles Bass is based upon its self-serving insistence that he is offering testimony as to some sort of "assumptions" about damages. He is not. Nor is it true that, as A Cab claims, Charles Bass's proposed testimony about the Excel spreadsheets will improperly concern "...a tool which selects certain data for input, ignoring all other data at the discretion of the user or person doing the data input - in this case Mr. Bass." Nowhere does A Cab explain what data should be in the spreadsheets that Charles Bass "ignores" or how he is using "discretion" or assumptions to create an unreliable summary of A Cab's records or calculations on those records.

---

[1] Although not germane to his testimony in this case, Charles Bass has extensive experience testifying as a defense expert witness giving economic valuations on things such as lost wages and medical rehabilitation. Ex. "C" at 17:5-20.

The testimony of Charles Bass concerns not damages, but **data** from A Cab's records and *calculations upon that data.* A jury, after making a finding about the class members' hours of work, may find that information useful in determining damages. He does not, and will not, as A Cab claims, engage in a "guessing at an average shift length." His testimony will not concern, in any fashion, the proper finding the jury should make on the hours of work or average shift length of the class members. It will be limited to the summary of the A Cab records he prepared and the use of the Excel spreadsheets to calculate and reasonably estimate the unpaid minimum wages owed based upon an "hours worked" finding that the jury may choose to make.

B. Whatever objections A Cab may raise to the methodology employed by Charles Bass, or his alleged "bias" as an interested party to other litigation, goes to the weight of his expert testimony, not its admissibility.

1. No deficiencies in the methodology used by Charles Bass are actually presented by A Cab.

A Cab provides no explanation of how the methodology used by Charles Bass is unreliable or unscientific. Instead it argues he should have used *other* sources of information, such as taxi driver trip sheets, or conversations with taxi drivers, or direct references to Nevada's minimum wage laws rather than the information he relied upon, which consisted of (1) Computer data files from A Cab; (2) Assumptions that the information in those files were what they purported to be and labeled as in those records (commissions paid, taxi cab time dispatched or returned, etc.); (3) And information given to him by class counsel about the applicable hourly minimum wage rates during different time periods (currently $7.25 or $8.25 an hour) and other discovery and testimony given by A Cab in this case.

The methodology employed by Charles Bass is proper. To the extent A Cab challenges the reliability and accuracy of the information he relied upon, that is a

question of the weight properly given to such information, not the methodology Charles Bass employed to summarize such information and make it available for calculations. A Cab improperly cuts off a deposition answer of Charles Bass to depict him as making unfounded "assumptions" about A Cab's Cab Manager records and improper interpretations of those records based upon his personal experience as a taxi driver. He did neither of those things. As explained in the portion of his deposition answer A-Cab improperly cuts off, his "column headings" (characterizations of what the Cab Manager information concerns) are the exact same ones used in the Cab Manager records themselves, *e.g.,* he is assuming nothing about that information but only giving it the same meaning as Cab Manager purports to give it:

> But if you look at the column headings that comes out of Cab Manager, they're pretty self-explanatory. Where it says driver checkout, cab start, cab finish, and there's different -- different stops. You can see the date/time. So you can tell exactly what that means. The trip start, trip finish would tell you what that is. And those are the column headings that were provided from the Cab Manager.

Ex. "C", p. 75, l. 1 - 7.

2. That Charles Bass has an interest in litigation against another cab company does not disqualify him from testifying as an expert in this case.

A Cab provides no explanation as to how the nominal interest of Charles Bass, as a class member in another case against a different Las Vegas taxi company, disqualifies him as an expert in this case. It does not. Such fact is only, at most, something that goes to his alleged bias, an issue to be weighed by the jury at trial. This is no different than the sort of bias allegations weighed against expert witnesses everyday in trials, as to their historic relationships with a party's counsel, their compensation for their testimony, their proclivity to testify for either defendants or plaintiffs, and so forth.

II. DR. CLAURETIE IS BOTH QUALIFIED AS AN EXPERT AND PRESENTS EXPERT OPINIONS AND TESTIMONY THAT SHOULD BE ADMITTED

A. Dr. Clauretie is well qualified to give expert testimony, he is not adopting "opinions" of Charles Bass, and he can state as an expert his observations on the spreadsheets' arithmetic accuracy and the methodology used to create the spreadsheets and the propriety of their use.

Dr. Clauretie is a highly experienced economist and indisputably well qualified expert witness. He does not adopt or "regurgitate" any "opinions" of Charles Bass who does not offer any "opinions" but only an Excel spreadsheet that summarizes, and performs calculations upon, certain of A Cab's records. The ultimate purpose of Dr. Clauretie's testimony is to inform the trier of fact of the propriety of using that Excel spreedsheet to calculate damages based upon the *other* factual findings (hours of work) that are made.

Defendants do not concede that the Excel spreadsheets created by Charles Bass (the "ACAB ALL" spreadsheet reviewed by Dr. Clauretie) are arithmetically correct or accurately summarize information from A Cab's records. But they also fail to point out any arithmetical errors in that spreadsheet or in its summary of information from A Cab's records (and defendants' expert at his deposition opined its summary of information and its arithmetical calculations are correct). In the event that defendants, at trial, are allowed, despite this failure, to assert the ACAB ALL spreadsheet is arithmetically erroneous, or does not contain a proper summary of information from A Cab's records, Dr. Clauretie should be able to testify as to his expert opinions regarding that spreadsheet (not just the propriety of its use).

Much of Dr. Clauretie's report (Ex. "B", p. 7-17) concerns his review of the methodology used by Charles Bass to collect various information from A Cab's records and place it into the ACAB ALL spreadsheet. He finds that methodology to be sound. As an economist, and someone experienced in making economic

projections of damages based upon various information, he is qualified as an expert to offer that opinion. That he, himself, did not actually create the spreadsheet is irrelevant. Whether the information contained in A Cab's records that Charles Bass collected and placed in the spreadsheet was accurate is also a different issue and one that Dr. Clauretie does not, and cannot, offer any opinion on.

Similarly, given his experience as an expert in calculating and projecting various types of damages, Dr. Clauretie can given an expert opinion on the accuracy of the arithmetic functions performed by the ACAB ALL spreadsheet. Again, such an opinion is not an attestation as to the accuracy of A Cab's records, or what sort of "average shift length" should be assumed and placed in the spreadsheet, only that the arithmetic calculations performed by the spreadsheet are accurate, *e.g.,* they do what they purport to do on the information contained in the spreadsheet.[2]

B Dr. Clauretie can, and does, give a proper expert opinion on the propriety of using the ACAB ALL spreadsheet to estimate the class members' damages.

As Dr. Clauretie states in the excerpt of his testimony recited in defendants' moving papers, he does not opine on the "reasonableness" of any particular scenarios (such as an assumption as to any particular hours of work or average shift length) but on whether the ACAB ALL spreadsheet functions in a "mathematically correct" fashion and can thus give "**reliable estimates given the data that was available.**" The ultimate purpose of Dr. Clauretie's testimony is to give his opinion, as an expert skilled in estimating and projecting damages from a variety of

---

[2] The foregoing is succinctly stated at page 25 of Dr. Clauretie's report:

I am opining only on (1) The arithmetical correctness of the calculations performed in the two Excel files I am relying upon for my conclusions; and (2) The correctness of the methodology that Mr. Bass has explained to me and used to place various information into those two Excel files from their source materials and how he has performed his calculations. I cannot offer any opinion on whether the source materials that are incorporated into those two Excel files are accurate records.

numeric data, on the proper, and reliable, use of the ACAB ALL spreadsheet. Such expert opinion testimony by him is proper.

Part V and pages 27-30 of Dr. Clauretie's report contain his expert opinions on the propriety of using the ACAB ALL spreadsheet to estimate damages under a variety of assumptions regarding the class members' working hours, including using a constant average shift length or a shift length taken from the Cab Manager information. Again, he does not opine on *what* finding should be made regarding the hours of work of the class members, only the ability of the ACAB ALL spreadsheet to accurately calculate damages based upon such a finding.[3] He also offers an expert opinion on the potential "bias" or distortion of damages that would occur from the use of an "average shift length" based upon the actual historic Cab Manager information summarized in the ACAB ALL file. *See,* Ex. "B", p. 29.

All of Dr. Clauretie's testimony is that of a properly admissible expert. It is based upon sound arithmetical principles, not speculation or conjecture. That A Cab may take issue with the reliability or accuracy of the information contained in its records, and summarized into the ACAB ALL spreadsheet and relied upon by Dr. Clauretie, is a different issue. Dr. Clauretie only provides an expert opinion on an arithmetically and scientifically sound method of using that information to make a damages finding based upon the class members' estimated hours of work. It is

---

[3] Page 30 of his report:

The use of the foregoing described variables [in the ACAB ALL Excel file] would allow a fully accurate damages calculation to be made using the ACAB ALL Excel file based upon a determination by the Court at trial of either (1) The average length of every single shift worked by every taxi driver; and/or (2) An amount by which every inferred shift working time taken from the 2013 2015 Cab Manager should be increased or decreased. All that would be necessary would be to insert the trial Court's findings on those issues into the appropriate cell on the spreadsheets and the resulting damages, under those findings, will be calculated as I have described elsewhere in this report.

perfectly proper expert testimony that should be, and is, admissible at trial.

CONCLUSION

For all the foregoing reasons, defendants' motion should be denied.

Dated: January 12, 2018

LEON GREENBERG PROFESSIONAL CORP.

/s/ *Leon Greenberg*

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

PROOF OF SERVICE

The undersigned certifies that on January 12, 2018, she served the within:

Plaintiffs' Response to Defendants' Motion in Limine to Exclude Expert Testimony

by court electronic service to:

TO:

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

/s/ *Dana Sniegocki*

Dana Sniegocki

EXHIBIT “A”

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

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Charles Bass hereby affirms, under penalty of perjury, that:

1. I am self-employed as a computer systems and software consultant. I have over 30 years of experience in working with computer spreadsheets and databases including Microsoft Excel software. A curriculum vitae detailing my education and experience is attached to this declaration as Exhibit "1."

THE SUMMARIZATION THAT I PERFORMED

2. Attorney Leon Greenberg, who I understand represents the plaintiffs in this case, has engaged my services to summarize and compile certain information from

two Excel files that he has provided to me. The results of that summarization are set forth to this declaration in Exhibit "2," a "per paycheck" summary of that information and Exhibit "3," a "per person" summary of that information which sets forth the total of the "per paycheck" summary for that person. I was advised by Leon Greenberg that those two files I summarized contain payroll information provided by the defendants from the A-Cab company's Quickbooks records. My specific assignment was to summarize, from the information in those Excel files, the following:

(A) The total amount of "non-tip" earnings those records show were paid to each individual each pay period; and;

(B) The amount, if any, that those "non-tip" earnings in each pay period were below either $7.25 an hour or $8.25 an hour for the hours that those records show each individual worked during the pay period.

THE INFORMATION THAT I SUMMARIZED

3. The two Excel files provided to me by Leon Greenberg that I summarized are named "10-10-2012 thru 6-27-2014 ssn.xlsx" which was created on October 03, 2016 at 6:25:15 p.m. and modified on that date at 6:25:26 p.m. and is 14,633,039 bytes in size and "06-28-2014 thru -5-27-2016 ssn.xlsx" which was created on October 03, 2016 at 5:35:01 p.m. and modified on that date at 5:35:28 p.m. and is 18,912,120 bytes in size. Those Excel files contain 10 columns that identify, on each line of those Excel files, the following pieces of information:

Column "C" which is titled "Num" – I am advised that this is the payroll check

number or a payroll transaction number if no physical check was issued, as would be the situation if employee payments were made by direct deposit. In this declaration I use the terms "paycheck" and "paycheck number," the latter meaning the number appearing as the "Num" entry at Column "C" of the Excel files, even though no physical paycheck may have been created and that "paycheck number" may be an electronic transaction reference;

Column "D" which is titled "Date" – I am advised that this is the payroll check or payroll transaction date.

Column "E" which is titled "Name Account #" – I am advised that the number in this column corresponds to an employee's name. Leon Greenberg provided me with an Excel file "Driver contact list.xlsx" with a creation date of July 6, 2016 at 1:08:41 p.m. and a modified date of July 1, 2016 at 2:37:35 p.m. which is 162,990 bytes in size. That Excel file contains the names of "Employees" in Column "C" with Column "G" of the same line setting forth an "Account No." I am advised that those names and account numbers correspond to the "Name Account #" of Column "E" in the Excel files I summarized.

Column "F" which is titled "SSN/Tax ID" – I am advised that this 4 digit number is the last 4 numbers of the employee's social security number.

Column "G" which is titled "Payroll Item" – I am advised this identifies a particular type of payment to the employee or deduction from the employee's pay that was performed or calculated on that line of the Excel file as part of the paycheck identified by the number in Column "C";

Column "H" which is titled "Qty" – Except when Column "G" contains the Payroll Item "Minimum Wage Subsidy" this column contains either a zero, a 1, or no entry. When Column "G" contains the Payroll Item "Minimum Wage Subsidy" this column may also contain a number larger than 1 expressed with two decimals. I am advised that when this Column "H" Qty item contains a number and on the same line the Column "G" Payroll Item is identified as "Minimum Wage Subsidy" the Column "H" Qty number is the number of hours the employee worked during the period of time covered by the paycheck being issued;

Column "I" which is titled "Sales Price" – This column contains either a positive or negative number or a percentage expressed as a positive or negative amount. I did not use the information in this column in creating

the Exhibit "B" and "C" summaries.

Column "J" which is titled "Amount" – This column contains either a zero, a positive number, or a negative number, which I have been told indicates a payment to the employee, or if a negative number a deduction from the employee's pay, of the type (most often commission or incentive pay or tax deductions) described by the Column "G" "Payroll Item" entry appearing on the same line;

Column "K" which is titled "Pay Period Begin Date" – This column contains a date. I am advised that this date is the first day of the 14 day period of work (the payroll period) covered by the paycheck referenced by the Column "C" "Num" entry.

Column "L" which is titled "Pay Period End Date" – This column contains a date. I am advised that this date is the last day of the 14 day period of work (the payroll period) covered by the paycheck referenced by the Column "C" "Num" entry. This date also can be, for the final paycheck issued to the employee, a date less than 14 days after the "Pay Period Begin Date" that is associated with that paycheck.

HOW I CREATED THE SUMMARY

4. I combined the two Excel files I discuss in paragraph 3 into a single Excel file and eliminated from that single Excel file all lines where the Column "D" "Date" contained a date prior to January 1, 2013. I also eliminated 126 lines in that Excel file that contained information on paychecks that were "not matching" any particular employee in the "Driver contact list.xlsx" file. The inability to match paychecks, and those lines of information, to any particular employee resulted from (1) The Excel files I was summarizing containing in Column "E" no "Name Account #" entry on the line; or (2) The Excel file contained in Column "E" a "Name Account #" entry on the line that did not match any "Account No." in Column "G" of the "Driver contact list.xlsx" file, something that happened for just one "Name Account #" entry: 100286+. All of those lines I eliminated because there was no "Name Account #" entry to try to match to the "Driver contact list.xlsx" file contained the description "Child Support" or "Rent" or "Tax Levy" or "Wage Garnishment" as the "Payroll Item" in Column "G" of the line. I was able to perform the foregoing deletions of lines from the Excel files by having the Excel software sort the lines of data on the "Date" (Column "D") information and the "Name Account #" (Column "E") information in numeric and chronological order. I also used the Excel lookup function to confirm what "Name Account #" (Column "E") entries could match up with an "Account No." in Column "G" of the "Driver contact list.xlsx" file

5. After performing the steps I describe in paragraph 4 the amount of gross wages, meaning non-tip compensation, that was paid each pay period to each employee, was added up. To do that I deleted from the Excel file I was working with all lines where Column "G" which is the "Payroll Item" had on the same line in Column "J" a negative number as an "Amount," meaning that line was detailing a payroll deduction. I also deleted from the Excel file all lines where Column "G" stated that the "Payroll Item" was "Tips Supplemental." I was able to perform the foregoing deletions of lines from the Excel files by having the Excel software sort the lines of data on the "Amount" (Column "C") information and the "Payroll Item" (Column "G") information in numeric and alphabetical order.

6. After eliminating all of the lines from the Excel files that contained deductions from the employee paychecks, or that recorded the payment of tips, I determined the total amount of gross wages paid to each employee in each paycheck. Each paycheck number would appear on a line with the "Payroll Item" in Column "G" being listed as "Minimum Wage Subsidy" and every paycheck number would also appear on at least one other line as well. Most of the paychecks would have more than two Excel lines for the paycheck number other than the "Minimum Wage Subsidy" line with each of those other lines showing a different kind of pay being made as part of that paycheck, commonly both "Driver Commission" and "Incentive" pay being listed in the "Payroll Item" in Column "G." I would use the totaling function of the

Excel software to create a total amount of all such pay types contained in the paycheck to figure the total gross wages paid by that paycheck. I placed that amount as the "Total Wages Paid" in Column "G" of Exhibit "2." As an example, I attach as Exhibit "D" the payroll items I used to figure the gross wages paid by paycheck number 22602 as set forth in the Excel file "06-28-2014 thru -5-27-2016 ssn.xlsx." The gross wages totaled in my summary of the Exhibit "D" example is $1,176.26 (consisting of zero in "Minimum Wage Subsidy" pay, $1,101.15 in "Driver Commission" pay, $9.00 in "Incentive #5" pay, and $66.11 in "We Did Good Bonus" pay) for the payroll period 10/24/2015 through 11/06/2015. That amount of $1,176.26 appears as the "Total Wages Paid" at Column "G" of Exhibit "2" at the line for paycheck number 22602.

7. Every paycheck in the Excel file I was summarizing had a "Pay Period Begin Date" and "Pay Period End Date" in Columns "K" and "L" in that Excel file. I placed in Column "C" of Exhibit "2" as the "Pay Period End Date" the date listed in Column "L" of that Excel file. In Exhibit "2" there is a 14 day gap (or two week payroll period) for every "Pay Period End Date" for every individual, except when the paycheck issued was the final one for that person, in which event the payroll period may be shorter than 14 days.

8. In each line of Exhibit "2," in addition to specifying the "Total Wages

Paid" and "Ending Date" of the 14 day payroll period, as I describe in paragraph 7, I also placed in Column "D" the "Account Number" and in Columns "E" and "F" the "Last Name" and "First Name" to which that line corresponds. That was done by taking the matching employee name and "Name Account #" and "Account No." information in the Excel files I was summarizing and the "Driver contact list.xlsx" file, as such information corresponded to each paycheck used in figuring the "Total Wages Paid" as I describe in paragraph 6. I also placed in Exhibit "2" in Column "A" the "Check Number" which corresponds to the "Num" listed in Column "C" of the Excel files I was summarizing, such "Check Number" appearing on every line of those Excel files that was added together to reach the "Total Wages Paid" amount placed in Column "G" of Exhibit "B." I also placed in Exhibit "2" in Column "B" as the "Payroll Check Date" the "Date" that was present in Column "D" of the Excel files I was summarizing and that corresponded to every line where the check number I placed in Column "A" of Exhibit "2" appeared in those Excel files.

9. In each line of Exhibit "2" I also placed in Column "H" as the "Total Hours Worked" for the 14 day period ending on the Column "C" "Pay Period End Date." That "Total Hours Worked" number comes from the "Qty" amount in Column "H" of the Excel files I was summarizing when that "Qty" amount was on the same line with a Column "G" Payroll Item described as "Minimum Wage Subsidy" for the same pay period including the Column "C" "Pay Period End Date" in Exhibit "2." Pursuant to the instructions of Leon Greenberg, I also eliminated all lines from the

Excel file that became Exhibit "2" providing information on paychecks issued to the following persons: Abraham Ali, Leroy Bradley, Tracy Brimhall, Alfred Catoggio, Leonardo Coizeau, Scott Dorsch, Jasminka Dubric, Steven Essakow, Michael Griffith, James Hunter, Timothy Ivey, David Kingsley, Brian Leacock, Ronald Linn, Ahmed Mahmoud, Luis Antonio Magana, Arleny Nobels, Francis O'Grady, Renee Pearson, Marvin Reid, Anthony Romano, James Rosenthal, George Schwartz, Jepthy Smith, Samuel Wood and Lora Woolard.

10. Exhibit "2" shows the amounts, if any, that the "Total Wages Paid" in Column "G" were, for the "Total Hours Worked" in Column "H," below a $7.25 or $8.25 an hour minimum wage for the 14 day pay period (or in when the paycheck is the last one for the employee a payroll period that may be shorter than 14 days). Using Excel formulas I placed in every line an amount in Column "I" that is the "Amount Owed at $7.25 an Hour Minimum Wage," which is determined by multiplying the "Total Hours Worked" in Column "H" by $7.25 and then subtracting the "Total Wages Paid" in Column "G." If that calculation yields a positive number, such positive number is the amount of unpaid minimum wages owed for the pay period at $7.25 an hour and is set forth as an amount owed, in Column "I." If that calculation yields a negative number, or a zero, nothing is owed for that pay period under that calculation and a $0.00 is recorded in Column "I." The same calculation is performed in Exhibit "2" Column "J" except that $8.25 is multiplied by the "Total Hours Worked" in Column "H," that process resulting in the amount owed, if any, in

unpaid minimum wages at $8.25 an hour.

11. In Column "K" of Exhibit "2" the calculations discussed in paragraph 10 are performed but at an $8.25 an hour rate for "new hires" for 90 days or 60 days and then after such period at a $7.25 an hour rate. A "new hire" is an employee whose first paycheck is dated after March 4, 2013. If their first paycheck is issued before May 2, 2014 the "new hire" is calculated to be owed minimum wages at $8.25 an hour for their first 90 days of employment, meaning their first six paychecks issued 14 days apart (covering six pay periods of 14 days each), and minimum wages at $7.25 an hour for all later 14 day pay periods. If their first paycheck is issued after May 2, 2014 the "new hire" is calculated to be owed minimum wages at $8.25 an hour for their first 60 days of employment, meaning their first four paychecks issued 14 days apart (covering four pay periods of 14 days each), and minimum wages at $7.25 an hour for all later 14 day pay periods.

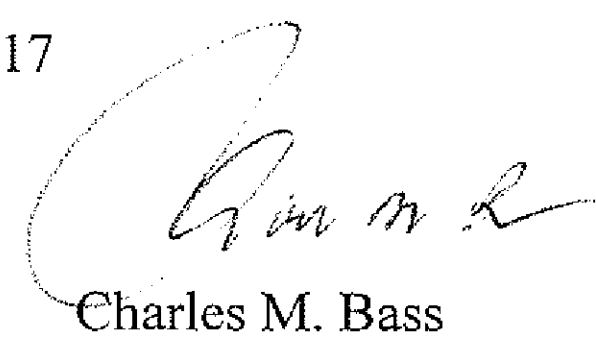
12. Exhibit "3" is a "per person" summary that compiles, using the Excel software and from the Exhibit "2" Excel file I created, the total amount, if any, in unpaid minimum wages owed to each employee listed in Exhibit "3" as calculated on each line of Exhibit "2" that corresponds to such employee and under each of the three assumptions performed in Exhibit "2." The result is that Exhibit "3" sets forth for each employee the total owed at Column "J" at a $7.25 an hour minimum wage for all hours; at Column "K" at a $8.25 an hour minimum wage for all hours; and at Column "L" at an $8.25 an hour minimum wage for 60 or 90 days for new hires and afterwards

at $7.25 an hour. In the event that the amount so compiled from the Exhibit "2" Excel file is less than $10.00 under any one of those three assumptions the entry in Column "J," "K," or "L" of Exhibit "3" has the amount $0.00 listed. Under the $7.25 an hour minimum wage for all hours worked assumption (Exhibit "3" Column "J") there are 321 employees, of the total of 650 employees listed in Exhibit "3," who are owed $10.00 or more in unpaid minimum wages. The average amount owed to those 321 employees under that assumption is $543.44 with the largest single amount owed under that assumption being $3,176.83.

13. I have no personal relationships with plaintiffs' attorneys nor any of the parties to this case and no personal interest in the outcome of this case. I have been paid my normal hourly consulting rate for the services I have rendered in preparing the Exhibit "2" and "3" summaries and assisting plaintiffs' counsel in this matter. That normal hourly rate is $50.00 an hour and I have been paid, to date, by plaintiffs' counsel a total amount of $4,975.00 for my services in this case.

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

Affirmed this 11 day of January, 2017



Charles M. Bass

EXHIBIT "1"

CHARLES M. BASS

3418 Overo Ct.
North Las Vegas, NV 89032
702-914-0100
email: cbass@lvicc.com

EDUCATION :

Master of Science (M.S.), The American College, Bryn Mawr, PA, 1982, Major: Financial Services
Bachelor of Arts (B.A.), University of Maryland, Baltimore, MD, 1972, Major: Mathematics

EXPERIENCE :

SYSTEMS CONSULTANT, Regency Envisions Corp., Denver, CO, 1985-2001, Hardware and software design and implementation for small to medium size companies involving Internet, electronic mail, data transfer, bulletin boards, database configuration, presentation graphics and financial analysis. Programming involving Foxpro, Clipper, Dbase, C++, Visual Basic, SQL Server, Windows NT.

ECONOMIC ANALYST, Regency Econometrics, Denver, CO, 1985-1989, Financial and Economic Valuations and Appraisals involving personal injury litigation, professional sports contracts, and corporate finance. Extensive design and presentation of spreadsheets and graphics applications for negotiations, mediations and trials.

GENERAL MANAGER, Manufacturers Financial Group, Denver, CO, 1983-1985, Directed entire fiscal, marketing, legal and administrative activities in Colorado and Wyoming for $20 Billion Canadian financial and insurance conglomerate. Created and designed computer systems for administrative and marketing uses.

DIRECTOR, Structured Financial Services, Inc., Baltimore, MD, 1982-1985, Advisory Board to National Structured Settlement Company dealing in annuity settlements for personal injury litigation cases. Created computerized systems for headquarters and 18 regional offices.

PARTNER, Bass, Bridge & Associates, Columbia, MD, 1976-1983, Founder and Senior Partner of marketing firm dealing in insurance, investments and financial services for businesses and individuals. Created and implemented marketing program for fastest growing insurance sales organization in region.

LIFE UNDERWRITER, Equitable Life Assurance Society, Baltimore, MD, 1973-1976, Sales and design of insurance programs for businesses and individuals based on Human life value analysis. Was the youngest person to attain the Chartered Life Underwriter designation in the state of Maryland and qualified for the highest sales awards in the first year.

GROUP REPRESENTATIVE, Monumental Life Insurance Company, Baltimore, MD, 1972-1973, Design and implementation of employee benefit plans including life and medical insurance, disability income, pension and profit sharing plans.

AFFILIATIONS :

PRESIDENT, Colorado Association of Computer Consultants, Denver, CO, 1988-Present

MEMBER, Denver Clipper Users Group, 1988-Present, Electronic Bulletin Board Operator

DIRECTOR, Rocky Mountain Fox Users Group, 1991-Present, Electronic Bulletin Board Operator

AFFILIATIONS (continued) :

PRESIDENT, Las Vegas Internet Chamber of Commerce, 2002-2010

MEMBER, Denver Borland Users Group / Developers Conference, 1992-Present, Electronic Bulletin Board Operator

MEMBER, Microsoft Solution Provider, 1992-Present

MEMBER, I/O Group, 1992-Present, Invitation Only Developers Group, Electronic Bulletin Board Operator

DIRECTOR, Denver Association of Life Underwriters, 1984-1986, Field Practices & Ethics Chairman, State Directory Chairman, Awards Chairman

PRESIDENT, Columbia/Howard County Life Underwriters Association, Columbia, MD, 1982-1983

VICE-CHAIRMAN, Howard County Economic Development Advisory Council, 1978-1983, Ellicott City, MD, Industrial Revenue Bond Committee

MEMBER, American Society of Chartered Life Underwriters, 1976-1992

MEMBER, National Association of Life Underwriters, 1972-1987

MEMBER, International Association of Financial Planners, 1981-1989

MEMBER, National Association of Securities Dealers, 1981-1987

MEMBER, National Association of Estate Planning Councils, 1978-1983

PRESIDENT, Howard County Business Club, 1976-1983

LIFE MEMBER, Million Dollar Round Table, 1974-1987

HONORS :

CHAIRMAN, United Way Campaign, Howard County, MD, 1978

Outstanding Young Men of America, 1978 Edition

Who's Who in the East, 1981-1982, 1983-1984 Editions

Who's Who in the West, 1985-1986, 1987-1988, 1989-1990, 1991-1992, 1993-1994 Editions

Who's Who in the World, 1986-1987, 1988-1989 Editions

Who's Who in Society, 1986 Edition

Who's Who in Finance and Industry, 1987 - 1995 Editions

Who's Who in Emerging Leaders of America, 1987 - 1995 Editions

Who's Who in the Computer Industry, 1990, 1991, 1992 Editions

Published articles in industry journals on business usage of computers and financial analysis.

Addressed Bar Associations, Computer Industry Trade Shows, Life Underwriter Groups, C.L.U. Chapters and Computer Consultant's Organizations on business and financial analysis, creative usage of computers and marketing.

REFERENCES : *Available upon request.*

EXHIBIT “B”

REVIEW OF THE CALCULATION OF DAMAGES: MICHAEL MURRY AND MICHAEL RENO

V.

A CAB TAXI SERVICE LLC. ET. AL.

Terrence M. Clauretie, Ph.D.
July 18, 2017

I. ASSIGNMEMT

I have been asked by Ms. Sharon Nelson and Mr. Leon Greenberg to review the calculation of damages made in this case by Mr. Charles Bass. The purpose of the review will be to indicate if, in my opinion, the calculations have been made appropriately, within a standard of reasonableness for such calculations, to produce results that may be relied upon for a court in determining damages, and if I have suggestions for any modifications to the results obtained by Mr. Bass.

II. PURPOSE OF THE BASS CALCULATIONS

It is my understanding the plaintiffs in this action allege an underpayment of wages by the defendants to their employees in violation of minimum wage legislation in the State of Nevada. Mr. Charles Bass was retained to calculate the alleged underpayment. He has done so by taking information from the defendants' wage payment records regarding the amount of wages paid to those employees each pay period and by applying various assumptions and calculations to those records. One portion of his calculations covers approximately 583 employees (cab drivers) and, as he advised me, examines every complete two week payroll period for those taxi drivers that started on or after January 1, 2013 and that ended on or prior to December 31, 2015.[1] Those calculations are contained in the "2013-2015 Payroll Analysis" Excel file that I discuss, *infra*, and that I am providing with this report. I am advised during all of the

[1] Damage calculations were also made on approximately 527 drivers in the 2010 to 2012 time period.

time periods discussed in this report the State of Nevada required employers to pay a minimum wage of $7.25 per hour to those employees for whom the employer made available certain health insurance and $8.25 per hour to those employees for whom such health insurance was not made available. Furthermore, I have been told by counsel in this case that a "shortage" of pay below the minimum requirements for a particular employee for a particular "pay period" cannot be offset by an "overage" in a previous or subsequent pay period. It is also my understanding that employees did not have available from the employer any health insurance for an initial "probationary" or waiting period of time.[2]

To reach conclusions about the amount of unpaid minimum wages owed to the drivers Mr. Bass used Excel software. He created various Excel spreadsheets to perform certain calculations on information taken from the defendants' payroll records, from information provided by defendants and plaintiffs' attorneys, and from information taken from the computer files created from the Cab Manager software used by the defendants. As discussed, *infra*, during certain years reviewed the Cab Manager records contain information that infers the times drivers started and ended each of their work days. It also, for the entire 2010 through 2015 time period reviewed, indicates if a driver drove, or was recorded as being assigned to drive, a particular taxi cab on a particular date. It is my understanding that all of the information and computer files used by Mr. Bass were acquired from the defendants

[2] I am not in a position to opine on the assumptions made by Mr. Bass on the length of such waiting period.

during the discovery process in this case. Ultimately Mr. Bass placed the information he collected and processed into two different Excel files that I examined and that provide the basis for the conclusions I make in this report.

One of the Excel files that Mr. Bass created and that I have used to reach the conclusions in this report is the "ACAB-ALL" file. Mr. Bass advises that file contains all of the information he collected for the taxi drivers for the time period October 8, 2010 through December 31, 2015. That file is constructed to allow a calculation of the minimum wages owed, if any, to each driver for each pay period in several different ways:

(1) For the period January 1, 2013 through December 31, 2015 (in the "2013-2015" tab) it performs that calculation based upon the hours recorded for each pay period for each driver in the payroll records and also does so based upon the times it is inferred from the Cab Manager system's records that the driver began and ended each work shift;

[2) For the period January 1, 2013 through December 31, 2015 it can perform that calculation based upon the driver's shift length times as inferred from the records of the Cab Manager system with each shift's length either increased, or decreased, by a uniform amount as specified in Cell O2 (the "O2 Variable") of the spreadsheet in the 2013-2015 tab. This allows such a calculation (which appears in columns Z through AD) to incorporate an assumption that drivers did not actually work for 1 hour, or some other uniform period of time, during

each shift because they were taking a 1 hour meal break or other amount of non-working break time between their Cab Manager inferred shift start and end times;

(3) For the period January 1, 2013 through December 31, 2015, and separately for the period October 8, 2010 through December 31, 2012, it can perform that calculation by applying a uniform shift length to each shift the taxi driver is recorded to have worked in the Cab Manager records, *e.g.*, by assuming every shift worked during the pay period by the employee was the same constant length. This calculation is performed by specifying the desired shift length to be assumed in cell N2 of the "2010-2012" tab and by specifying the desired shift length to be assumed in cell N2 of the 2013-2015 tab (the "N2 Variable"), which generates those calculations in columns Z through AD in the 2013 to 2015 tab and T through X in the 2010 to 2012 tab.

The "ACAB-ALL" file also compiles, from the 2013-2015 and 2010-2012 tabbed spreadsheets "per employee" totals that appear in the spreadsheets tabbed at "2013-2015 per EE" and "2010-2012 per EE." Those two latter spreadsheets are linked, respectively, to the 2013-2015 and 2010-2012 tabbed spreadsheets and update their compiled per employee calculations based upon any changes to the N2 or O2 Variables.

The other Excel file created by Mr. Bass and upon which I rely is the "2013-2015 Payroll Analysis" Excel file. Mr. Bass advises me this file includes the information from defendants' payroll records for the period January 1, 2013 through December 31, 2015. That file calculates the unpaid minimum wages (if any) owed to each driver for each pay period (except for drivers and pay periods that are excluded, as detailed *infra*) at $7.25 an hour, at $8.25 an hour, and at a combination of both rates, based defendant's payroll records and, to the extent it uses both of those rates, certain assumptions about when each of those rates should be used for a particular pay period. Those calculations appear at columns T through X of the spreadsheet at the "2013-2015" tab of that file and the spreadsheet at the "2013-2015 per EE" tab of that file compiles at columns D through H for each employee the totals of columns T through X, respectively, of the "2013-2015" tabbed spreadsheet for that employee's pay periods.

The 2013-2015 Payroll Analysis file indicates that if the hours of work each pay period in the payroll records are assumed to be accurate the drivers, collectively, for the pay periods reviewed, are owed $175,057 at a constant $7.25 an hour minimum wage rate, $651,567 at a constant $8.25 an hour minimum wage rate, and amounts between those figures under various assumptions that Mr. Bass has used to apply those two rates during different time periods. I understand that Mr. Bass, in a declaration submitted to the Court in February of 2017, further examined the records he summarized in the 2013-2015 Payroll Analysis file and determined that if drivers owed less than $10.00 were excluded from that analysis, the remaining drivers were