

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

Appellants,

v.

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

Respondents.

) Supreme Court No. 77050

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

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

HUTCHISON & STEFFEN, PLLC

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

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

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

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

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

CERTIFICATE OF SERVICE

I certify that I am an employee of HUTCHISON & STEFFEN, LLC and that on this date **APPENDIX TO APPELLANTS OPENING BRIEF VOLUME XLVII 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

1 right?

2 A No, no.

3 Q And not during the time that you were a
4 road supervisor either; correct?

5 A Well, that's a fine line, because as a
6 road supervisor, you're a driver also.

7 Q Okay. But as a road supervisor, weren't
8 you also being paid the \$10 an hour?

9 A No.

10 Q Okay. Can you explain to me -- I thought
11 you just said that you were being paid \$10 an hour
12 when --

13 A That was as a dispatcher.

14 Q Okay.

15 A As a road supervisor, I was paid \$15 an
16 hour --

17 Q Okay.

18 A -- but only if I was working an accident
19 or a breakdown. The rest of the time, I was being a
20 driver.

21 Q And have you, in any way, figured out what
22 time period you were working at \$15 an hour while
23 you were employed with A Cab?

24 A No. You can't figure something like that
25 because on a 12-hour shift, you might have one hour

1 Q Well, I'll represent to you that the
2 Department of Labor did an audit of A Cab and made a
3 determination to settle your claim for \$130.70.

4 Did anybody ever communicate that to you?

5 A No.

6 Q Okay. Have you received a check in that
7 amount --

8 A No.

9 Q -- from the Department of Labor?

10 A I haven't heard anything from the
11 Department of Labor. In fact, I'm enlightened to
12 know that I have money coming to me.

13 Q Well, that's my next question, if you get
14 that check, if you're intending to accept that, if
15 you know.

16 MS. SNIEGOCKI: Objection: Calls for
17 spec- --

18 A I'd have to discuss that with my attorney.
19 BY MS. RODRIGUEZ:

20 Q Are you aware that A Cab tried to resolve
21 your outstanding wages with you?

22 A No.

23 Q Were you aware that they had offered you
24 \$7,500 for your wages?

25 A Oh, yes, I'm aware of that.

1 Q When did you become aware of that?

2 THE WITNESS: When was that; do you know?

3 MS. SNIEGOCKI: Don't ask me.

4 A It wasn't that long ago. I believe it was
5 just a couple of months ago I was made aware that
6 A Cab had made an offer of 7,500, but I was also
7 counseled by my attorney, Leon Greenberg --

8 MS. SNIEGOCKI: Hang on. We're not going
9 to discuss what you were counseled by your attorney.

10 THE WITNESS: Okay.

11 MS. SNIEGOCKI: The question is just
12 whether or not you were informed that there was an
13 offer of --

14 THE WITNESS: Yes, I was.

15 BY MS. RODRIGUEZ:

16 Q Well, the question was: When you were
17 made aware of that offer.

18 MS. SNIEGOCKI: I'm sorry. You're right.

19 A Two months ago.

20 BY MS. RODRIGUEZ:

21 Q I'm going to hand you this. I'm not
22 marking it as an exhibit.

23 MS. SNIEGOCKI: I'm just going to object
24 to the not marking it as an exhibit. I mean, he can
25 go ahead and review it, but it would be my position

1 that it should be marked if he's going to be
2 examined on the document.

3 A I've never seen this document.

4 MS. SNIEGOCKI: Hang on. Let a question
5 be asked.

6 MS. RODRIGUEZ: Well, then, I'll go ahead
7 and have it marked as Exhibit 2.

8 MS. SNIEGOCKI: Okay.

9 MS. RODRIGUEZ: And I'm going to go off
10 the record for just a quick break while the court
11 reporter marks it.

12 (Deposition Exhibit 2 was marked for
13 identification.)

14 (Recess taken.)

15 BY MS. RODRIGUEZ:

16 Q Mr. Murray, you ready?

17 A Yes.

18 Q I'll remind you you're under oath. We
19 took a little, short break, but you're still under
20 oath to tell the truth this afternoon.

21 Do you understand that?

22 A Yes.

23 Q And at the request of your counsel, I've
24 gone ahead and marked Exhibit No. 2, which you have
25 in front of you.

1 A Yes.

2 Q And I think you were saying that you had
3 not seen this document.

4 Have you seen this document before?

5 A No, not until today.

6 Q Okay. And do you understand this to be an
7 offer to resolve your case for \$7,500?

8 A Yes.

9 Q And when did you learn of that offer?

10 MS. SNIEGOCKI: Objection: Asked and
11 answered.

12 You can answer.

13 A Approximately two months ago.

14 BY MS. RODRIGUEZ:

15 Q And how did you learn about the offer,
16 then?

17 A A telephone conversation with my attorney.

18 Q Okay. And did you choose not to accept
19 that?

20 A Yes, I did.

21 Q And why not?

22 A I didn't think it was enough.

23 Q Okay. Well, I asked you earlier if -- if
24 you had any idea how much -- what you were claiming,
25 and I think your statement was you didn't know what

1 last question and answer was, please.

2 (Record read by reporter.)

3 BY MS. RODRIGUEZ:

4 Q So in answer to why you didn't accept
5 that, is it your testimony that you didn't think it
6 was enough?

7 MS. SNIEGOCKI: I'm going to object. That
8 has been asked and answered.

9 I'm also going to just caution you that
10 you're not going to discuss or you're not going to
11 testify as to any of the contents of the
12 communications you may have had with myself or your
13 other counsel, Mr. Greenberg.

14 THE WITNESS: Okay.

15 MS. RODRIGUEZ: Can we have the question
16 read back to the deponent, please. I thought there
17 was a question.

18 (Record read by reporter.)

19 MS. SNIEGOCKI: I'm going to assert the
20 same objection. It's already in the record.

21 And I'll again caution you that you're not
22 going to testify as to any communications you've had
23 with myself or Mr. Greenberg during the course of
24 representation. You can answer the question.

25 A I'm going to cite the Fifth on that.

1 BY MS. RODRIGUEZ:

2 Q You're going to cite the Fifth on that?

3 A Um-hmm.

4 Q Is that a "yes"?

5 A No.

6 Q You have to say your answers verbally. I
7 know you're nodding your head to me, but...

8 A Yes.

9 Q Okay. I'm not accusing you of anything
10 criminal in this. I'm just asking you -- and I know
11 we got a little confused with people coming in and
12 out of the office, so I may have repeated my
13 question, but I just wanted to make sure I
14 understood you right.

15 And I think you said that -- when I asked
16 you earlier if you didn't accept -- why you didn't
17 accept this, and I understood your testimony to say
18 that you thought it wasn't enough, and I was trying
19 to find out if that's, indeed, what you said.

20 MS. RODRIGUEZ: And I know we got
21 objections, and I will accept your objections on the
22 record.

23 BY MS. RODRIGUEZ:

24 Q But now I'm asking you to confirm that.
25 Is that what you said?

1 A Yes.

2 Q And you're asserting the Fifth?

3 A Yes. That was my answer.

4 Q All right. And you made that
5 determination approximately two months ago?

6 A Yes.

7 Q So as we sit here today, we're at the end
8 of August, and is it your testimony that you
9 declined this offer --

10 A Yes.

11 Q -- in the June time frame?

12 A Yes.

13 Q Okay. If you didn't believe that the
14 \$7,500 was enough, do you have a figure in your mind
15 as to what you're expecting from this case?

16 A No.

17 Q Well, when you file a complaint, you have
18 to make a complaint for damages. Do you understand
19 that?

20 A Yes.

21 MS. SNIEGOCKI: Objection. I think you're
22 sort of misstating the law to him, but he can answer
23 the question.

24 A I'm sorry. What was the question?

25 BY MS. RODRIGUEZ:

1 Q When you file a complaint against
2 somebody, you normally ask for damages. You
3 understand that; right?

4 A Yeah.

5 Q And in this case, do you know what your
6 damages are?

7 MS. SNIEGOCKI: Objection: Asked and
8 answered.

9 You can answer.

10 THE WITNESS: I don't want to answer.

11 MS. SNIEGOCKI: Well, you have to answer
12 the question, if you know.

13 A Okay. I don't know.

14 BY MS. RODRIGUEZ:

15 Q Do you believe them to exceed \$7,500?

16 A Yes, I do.

17 Q But you're not able to tell me, as we sit
18 here today, what you believe them to be?

19 A No.

20 Q Have you based that on anything, your
21 figure that you have in your mind?

22 MS. SNIEGOCKI: Objection: Vague and
23 assumes facts not in evidence.

24 You can answer.

25 A I believe it's not enough because of the

1 you're not going to get a good shift. You're not
2 going to get the same shift, or you could even be
3 terminated. I'm not saying I'm going to terminate
4 you, because I don't have that authority; right?
5 But if you don't do what's required of you, then
6 you're not being a team player," is the way I
7 explained it to them.

8 Q So were you telling the other drivers to
9 write down four hours of break time?

10 A No, I wasn't, because I wasn't in the
11 shack. That was his responsibility. If they didn't
12 do it, he would call them off to the side and say,
13 "Listen, you've got to fill in more break times.
14 You can't just have one break. You need three more
15 breaks, and spread them out so they don't conflict
16 with your rides."

17 Q Um-hmm. So is it your testimony, then, in
18 a 12-hour shift, you were writing down four hours of
19 break time in which you were actually working?

20 A Yes.

21 Q And you were instructed by the supervisor
22 at the shack to do this?

23 A Yes.

24 Q And you don't recall that person's name?

25 A I wish I could, but I don't.

1 MS. SNIEGOCKI: Right. She can't take
2 down "um-hmm," so you've got to say "yes."

3 BY MS. RODRIGUEZ:

4 Q So in that circumstance, out of your
5 12-hour shift, you would have five hours reflected
6 as a break time?

7 MS. SNIEGOCKI: I'm going to object again,
8 just that it calls for speculation and it's an
9 improper hypothetical.

10 But you can answer.

11 A It was basically just four hours.

12 BY MS. RODRIGUEZ:

13 Q Okay.

14 A I wouldn't put down an extra hour of break
15 if I didn't take that extra hour, and I very seldom
16 ever took an hour break, except to use the restroom
17 or grab a quick hamburger through the drive-through,
18 especially if there was a convention in town.

19 I mean, you'd have to be a moron to ignore
20 rides and say, "Well, it's time for my break, and
21 I'm going to be gone an hour. Come back and check
22 with me in an hour. If I'm still here, I'll give
23 you a ride."

24 Q So when you went to the Labor Commissioner
25 to file your complaint against A Cab --

1 ambiguous.

2 You can answer.

3 BY MS. RODRIGUEZ:

4 Q Let me clarify that question. I'll ask it
5 better.

6 A Okay.

7 Q I'll try.

8 Throughout your employment with A Cab, did
9 you receive that instruction, that you were supposed
10 to write down four hours of break time?

11 A I don't recall. I don't think it was
12 throughout my entire employment with A Cab, but -- I
13 would say the last two years, but I'm not positive
14 of the time frame.

15 Q Is it your contention, then, that A Cab
16 owes you money for those hours that you worked and
17 were not paid?

18 MS. SNIEGOCKI: Objection: Calls for a
19 legal conclusion; speculation.

20 But you can answer.

21 A Reask the question again.

22 BY MS. RODRIGUEZ:

23 Q I'll have the court reporter read it back
24 to you. Okay?

25 A Okay.

1 (Record read by reporter.)

2 A I don't understand it.

3 BY MS. RODRIGUEZ:

4 Q Do you think that you worked hours that
5 you have not been paid for?

6 A Yes.

7 Q Is it your understanding that by writing
8 in the break times on the trip sheet, that that
9 would give you a shorter number of hours reflected
10 on the trip sheet as worked?

11 A Yes.

12 Q Okay. So with that shorter amount of
13 hours, say 12 minus four, would reflect eight hours
14 of work; right?

15 A Correct.

16 Q Okay. So is it your understanding, then,
17 if the trip sheet reflected eight hours of work,
18 your pay stub would reflect that you were paid
19 appropriately for those eight hours?

20 MS. SNIEGOCKI: I'm going to object to the
21 form of the question: Calls for speculation; it's
22 hypothetical; it's vague and ambiguous.

23 Now you can answer.

24 A Now I'm becoming confused, because you're
25 asking, basically, the same question in a different

1 Q So that leaves -- so your trip sheet is
2 going to reflect that you're working eight hours?

3 A Correct.

4 Q Okay. So then you see what you're getting
5 paid for that particular day?

6 A Um-hmm.

7 Q Correct?

8 A Yes.

9 Q And at the end of the day, it's going to
10 say he got \$200 for working an 8-hour shift; right?

11 A Correct.

12 Q Okay. And is it your understanding, then,
13 that at that point, the eight hours that are
14 reflected on the trip sheet and your pay stub, you
15 would have been paid at least the minimum wage for
16 those eight hours?

17 MS. SNIEGOCKI: I'm going to object again
18 and assert the same objection as the prior
19 objection.

20 You can answer.

21 A I think I've answered the question more
22 than adequately, and that's all I'm going to say on
23 that.

24 BY MS. RODRIGUEZ:

25 Q Okay. Well, I'm not asking you to -- I

1 A I don't know it for a fact, no.

2 MS. SNIEGOCKI: Okay. That's all.

3 CONTINUED EXAMINATION

4 BY MS. RODRIGUEZ:

5 Q Well, as a follow-up to Ms. Sniegocki's
6 questions to you, then, sir, basically, your claim
7 is for hours that you worked and were not paid for;
8 is that correct?

9 A Correct.

10 MS. SNIEGOCKI: Objection: That exceeds
11 the scope of my examination.

12 BY MS. RODRIGUEZ:

13 Q You can answer the question.

14 A Correct.

15 MS. RODRIGUEZ: Okay. Thank you. I
16 appreciate your testimony today.

17 THE WITNESS: Thank you.

18 MS. RODRIGUEZ: All done.

19 THE REPORTER: As far as your copy?

20 MS. SNIEGOCKI: We're going to read and
21 sign, please, and PDF searchable by e-mail.

22 THE REPORTER: Thank you. No exhibits?

23 MS. SNIEGOCKI: No exhibits.

24 THE REPORTER: Thank you.

25 (Proceedings concluded at 4:36 p.m.)

1 STATE OF NEVADA)
2 COUNTY OF CLARK)

3 CERTIFICATE OF REPORTER

4 I, Andrea N. Martin, a duly commissioned and
5 licensed court reporter, Clark County, State of
6 Nevada, do hereby certify:

7 That I reported the taking of the deposition of
8 Michael Murray, commencing on Wednesday, August 26,
9 2015, at the hour of 1:59 p.m.; that the witness
10 was, by me, duly sworn to testify to the truth and
11 that I thereafter transcribed my said shorthand
12 notes into typewriting, and that the typewritten
13 transcript of said deposition is a complete, true,
14 and accurate transcription of said shorthand notes;
15 that I am not a relative or employee of any of the
16 parties involved in said action, nor a relative or
17 employee of an attorney involved in nor a person
18 financially interested in said action; further, that
19 the reading and signing of the transcript was
20 requested.

21 IN WITNESS WHEREOF, I have hereunto set my hand
22 in my office in the County of Clark, State of
23 Nevada, this 3rd day of September, 2015.

24
25 ANDREA N. MARTIN, CRR, CCR NO. 887

EXHIBIT 3

EXHIBIT 3

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Las Vegas District Office
600 Las Vegas Blvd., S.
Suite 550
Las Vegas, NV 89101-6654
702-388-6001

Investigator:
Richard Quezada

Date:
08/13/2015

Employer Fed Tax ID Number:

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
289. Murray, Michael	5986 Yorba Ct. Las Vegas, NV 89103	10/08/2010 to 10/05/2012	FLSA	\$130.70	\$130.70
29C		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		
		10/08/2010 to 10/05/2012	FLSA		

I agree to pay the listed employees the
amount due shown above by 12/30/2015

Signed: _____

Date: _____

Employer Name and Address:
A Cab, LLC
A Cab, LLC
1500 Searles Ave
Las Vegas NV 89101

Subtotal:

Total:

Form WH-56

Date: 08/13/2015 2:59:10 PM

Case ID: 1611567

AA009511

EXHIBIT 4

EXHIBIT 4

OFFER

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
Attorneys for Defendant A Cab, LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

A CAB TAXI SERVICE LLC and A CAB, LLC,

Defendants.

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

A CAB, LLC'S OFFER OF JUDGMENT TO PLAINTIFF MICHAEL MURRAY

Defendant A Cab, LLC, by and through its attorney of record, ESTHER C. RODRIGUEZ, ESQ., of RODRIGUEZ LAW OFFICES, P.C., and pursuant to NRS 17.115, hereby offers to accept judgment against it and in favor of Plaintiff Michael Murray in the amount of SEVEN THOUSAND FIVE HUNDRED DOLLARS (\$7,500.00) as full and final settlement of this matter. Said offer is inclusive of interest, costs and attorney's fees.

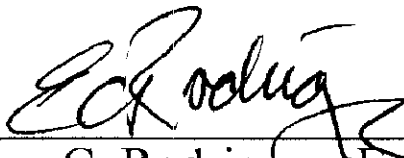
This offer shall not be construed as a waiver of any of Defendant's rights in this matter. This offer of judgment is made solely for the purposes specified in NRCP 68 and NRS 17.115 as a compromise offer of settlement only and shall not be deemed as an admission or introduced into evidence at the time of trial.

Pursuant to NRS 17.115 and NRCP Rule 68, if this offer is not accepted within ten (10) days after service, it will be deemed withdrawn. If this action is thereafter tried or arbitrated and Plaintiff fails to obtain a judgment in excess of this offer, Defendant will seek an award of costs, attorneys'

1 fees, and interest that have been incurred from the time of this offer.

2 DATED this 9 day of March, 2015.

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

4
5 By: 
6 Esther C. Rodriguez, Esq.
7 Nevada Bar No. 6473
8 10161 Park Run Drive, Suite 150
9 Las Vegas, Nevada 89145
10 *Attorneys for Defendant A Cab, LLC*

11 **RECEIPT OF COPY**

12 **RECEIPT OF COPY of A Cab, LLC'S Offer of Judgment to Plaintiff Michael Murray**
13 is hereby acknowledged this 10th day of March, 2015 by:

14 **LEON GREENBERG PROFESSIONAL CORPORATION**

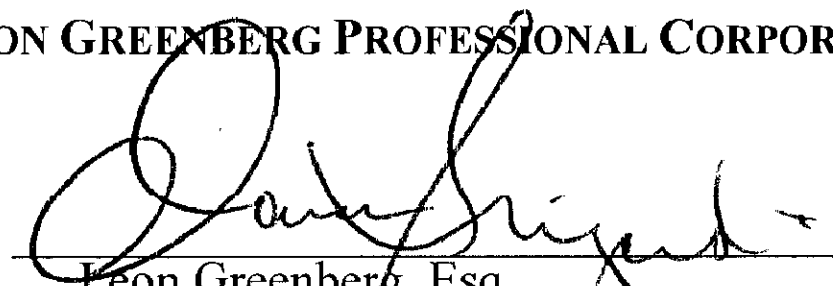
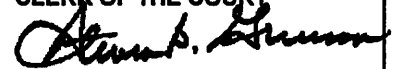
15 By: 
16 Leon Greenberg, Esq.
17 2965 South Jones Boulevard, Suite E4
18 Las Vegas, Nevada 89146
19 *Counsel for Plaintiff*

EXHIBIT 3

EXHIBIT 3



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

6
7 **DISTRICT COURT**
8
9 **CLARK COUNTY, NEVADA**

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

11 Plaintiffs,

12 vs.

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

15 Defendants.

Case No.: A-12-669926-C

Dept.: I

NOTICE OF ENTRY OF ORDER

16
17 PLEASE TAKE NOTICE that the Court entered the attached Order Granting
18 Summary Judgment, Severing Claims, and Directing Entry of Final Judgment on
19 August 21, 2018.

20 Dated: August 22, 2018

21 LEON GREENBERG PROFESSIONAL CORP.

22 /s/ Leon Greenberg

23 Leon Greenberg, Esq.
24 Nevada Bar No. 8094
25 2965 S. Jones Boulevard - Ste. E-3
26 Las Vegas, NV 89146
27 Tel (702) 383-6085
28 Attorney for the Plaintiffs

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CERTIFICATE OF SERVICE

The undersigned certifies that on August 22, 2018, she served the within:

NOTICE OF ENTRY OF ORDER

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

Steven D. Grierson

1 ORDR

2
3
4
5
6
7
8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 **MICHAEL MURRAY and**
12 **MICHAEL RENO, individually and**
13 **on behalf of all others similarly**
14 **situated,**

15 **Plaintiffs,**

16 **vs.**

17 **A CAB TAXI SERVICE LLC, A**
18 **CAB, LLC, and CREIGHTON J.**
19 **NADY,**

20 **Defendants.**

Case No.: A-12-669926-C

DEPT.: I

ORDER GRANTING SUMMARY
JUDGMENT, SEVERING CLAIMS,
AND DIRECTING ENTRY OF FINAL
JUDGMENT

Hearing Date: June 5, 2018
Hearing Time: 3:00 p.m.

21 On June 5, 2018, with all the parties appearing before the Court by their
22 respective counsel as noted in the record, the Court heard argument on plaintiffs'
23 motion filed on April 17, 2018 on an Order Shortening Time seeking various relief
24 ("Plaintiffs' Motion"), including the holding of defendants in contempt for their
25 violation of the Court's prior Orders appointing a Special Master; granting partial
26 summary judgment to the plaintiffs pursuant to their motion filed on November 2,
27 2017; striking defendants' answer, granting a default judgment, and directing a prove
28

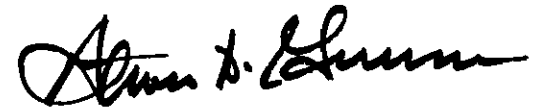
<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

	A	B	C	D	E	F	G	H
555	3318	Mohr	Donald	\$135.02	\$19.90	\$154.92	\$135.02	
556	105284	Monforte	Peter	\$5,074.87	\$748.06	\$5,822.92	\$5,074.87	
557	3882	Monteagu	Oscar	\$937.81	\$138.24	\$1,076.04	\$937.81	
558	3735	Montoya V	Francisco	\$551.62	\$81.31	\$632.93	\$1,112.68	\$561.06
559	30777	Moore	Jimmy	\$1,597.64	\$235.50	\$1,833.13	\$1,597.64	
560	2110	Moore	Jerry	\$1,429.18	\$210.67	\$1,639.85	\$1,471.54	\$42.36
561	3913	Moore	Aileen-Louise	\$328.57	\$48.43	\$377.01	\$328.57	
562	3664	Moreno	James	\$4,373.10	\$644.61	\$5,017.71	\$5,220.56	\$847.46
563	3626	Moretti	Bryan	\$1,422.89	\$209.74	\$1,632.63	\$1,422.89	
564	3411	Morley	David	\$1,407.06	\$207.41	\$1,614.46	\$1,610.99	\$203.93
565	8321	Morris	Thomas	\$4,599.67	\$678.01	\$5,277.68	\$4,599.67	
566	2162	Morris	Robert	\$2,890.99	\$426.14	\$3,317.13	\$2,890.99	
567	106703	Mosely	David	\$1,143.38	\$168.54	\$1,311.92	\$1,143.38	
568	3282	Mosley	Rory	\$177.21	\$26.12	\$203.33	\$177.21	
569	3785	Mostafa	Ahmed	\$500.20	\$73.73	\$573.93	\$500.20	
570	28917	Motazedi	Kamran	\$181.66	\$26.78	\$208.44	\$181.66	
571	27059	Mottaghia	Joseph	\$30.98	\$4.57	\$35.54	\$30.98	
572	107704	Muhtari	Abdulrahman	\$615.74	\$90.76	\$706.50	\$615.74	
573	3518	Muldoon	Thomas	\$345.81	\$50.97	\$396.78	\$345.81	
574	2735	Mumma	Donald	\$388.18	\$57.22	\$445.40	\$388.18	
575	3847	Murawski	Richard	\$1,593.10	\$234.83	\$1,827.93	\$1,593.10	
576	2018	Murray	MichaelP	\$4,393.97	\$647.69	\$5,041.65	\$4,393.97	
577	2642	Murray	MichaelJ	\$2,654.68	\$391.31	\$3,045.99	\$2,654.68	
578	2018	Murray	Michael P.	\$770.33	\$113.55	\$883.88	\$770.33	
579	2717	Murray	Melinda	\$523.81	\$77.21	\$601.02	\$523.81	
580	3856	Murray	Mark	\$23.74	\$3.50	\$27.24	\$23.74	
581	3255	Mutia	Junno	\$173.69	\$25.60	\$199.29	\$173.69	
582	107440	Nantista	Peter	\$212.28	\$31.29	\$243.57	\$212.28	
583	3859	Nazarov	Mikael	\$2,455.84	\$362.00	\$2,817.84	\$2,736.49	\$280.65
584	3804	Ndichu	Simon	\$366.18	\$53.98	\$420.16	\$366.18	
585	102656	Nedyalkov	Atanas	\$321.59	\$47.40	\$369.00	\$321.59	
586	3530	Negashe	Legesse	\$1,456.47	\$214.69	\$1,671.16	\$1,792.40	\$335.93
587	3335	Negussie	Berhanu	\$177.66	\$26.19	\$203.85	\$177.66	

	A	B	C	D	E	F	G	H
654	26679	Polchinski	Paul	\$111.37	\$16.42	\$127.78	\$111.37	
655	3017	Polk	Craig	\$96.33	\$14.20	\$110.53	\$96.33	
656	31149	Pony	David	\$51.52	\$7.59	\$59.11	\$51.52	
657	3563	Portillo	Mario	\$593.50	\$87.48	\$680.98	\$593.50	
658	3287	Portillo-Sa	Carlos	\$417.87	\$61.60	\$479.46	\$417.87	
659	1030	Poulton	Todd	\$11.77	\$1.73	\$13.50	\$11.77	
660	3129	Povolotsky	Anatoly	\$227.53	\$33.54	\$261.07	\$227.53	
661	3152	Prather	Robert	\$445.01	\$65.60	\$510.60	\$445.01	
662	3201	Presnall	Darryl	\$2,341.64	\$345.17	\$2,686.80	\$2,471.47	\$129.83
663	2568	Price	James	\$3,555.64	\$524.12	\$4,079.75	\$5,036.02	\$1,480.38
664	3800	Price	Allen	\$630.95	\$93.00	\$723.95	\$630.95	
665	3449	Prifti	Ilia	\$418.70	\$61.72	\$480.42	\$418.70	
666	26363	Punzalan	Luciano	\$236.08	\$34.80	\$270.87	\$236.08	
667	3687	Purdue	Robert	\$210.21	\$30.99	\$241.20	\$312.22	\$102.01
668	2122	Purvis	James	\$58.24	\$8.58	\$66.83	\$58.24	
669	3556	Pyles	Joseph	\$682.49	\$100.60	\$783.09	\$682.49	
670	3307	Qian	Jie	\$376.94	\$55.56	\$432.51	\$376.94	
671	3002	Rabara	Antino	\$698.55	\$102.97	\$801.52	\$698.55	
672	107548	Rainey	James	\$219.28	\$32.32	\$251.60	\$219.28	
673	3883	Ramirez	Erney	\$760.59	\$112.11	\$872.70	\$760.59	
674	2180	Ramos	Lawrence	\$122.19	\$18.01	\$140.20	\$122.19	
675	3085	Ramsey	Gary	\$1,312.85	\$193.52	\$1,506.37	\$1,312.85	
676	3525	Rasheed	Willie	\$4,450.03	\$655.95	\$5,105.98	\$4,450.03	
677	3812	Ray	William	\$12.61	\$1.86	\$14.47	\$12.61	
678	2857	Reevell	Jeffrey	\$15.47	\$2.28	\$17.75	\$15.47	
679	108758	Regans	Mark	\$379.98	\$56.01	\$435.99	\$379.98	
680	2805	Reina	Linda	\$77.46	\$11.42	\$88.88	\$77.46	
681	2237	Relopez	Craig	\$2,166.42	\$319.34	\$2,485.76	\$2,933.59	\$767.17
682	3544	Reno	Michael	\$4,966.19	\$732.04	\$5,698.22	\$4,966.19	
683	2266	Reynolds	James	\$289.68	\$42.70	\$332.38	\$289.68	
684	14261	Riipi	Karl	\$126.47	\$18.64	\$145.11	\$126.47	
685	109502	Rios-Lopez	Oscar	\$189.76	\$27.97	\$217.73	\$189.76	
686	107701	Risby	Clifford	\$1,060.42	\$156.31	\$1,216.73	\$1,060.42	

EXHIBIT 4

EXHIBIT 4



CLERK OF THE COURT

MAMA
Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
RODRIGUEZ LAW OFFICES, P.C.
10161 Park Run Drive, Suite 150
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Nevada Bar No. 2098
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702-385-2500
mwall@hutchlegal.com
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

Plaintiffs,

vs.

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

Defendants.

DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER
TO ASSERT A THIRD-PARTY COMPLAINT

Defendants A Cab, LLC and Creighton J. Nady, by and through their attorneys of record,
and pursuant to NRCP 10(a) and NRCP 15, hereby move for leave to amend their Answer to Assert
a Third Party Complaint against Leon Greenberg, Esq., Leon Greenberg Professional Corporation,
and Dana Sniegocki, Esq.

...

...

This Motion is based upon the pleadings and papers on file, the attached Memorandum of Points and Authorities, and any oral argument that may be entertained at the hearing of this Motion.

DATED this 27th day of January, 2017.

RODRIGUEZ LAW OFFICES, P. C.

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

NOTICE OF HEARING

PLEASE TAKE NOTICE that Plaintiffs will bring the foregoing Motion on for hearing before this Court on the 27 day of February, 2017, or as soon thereafter as counsel may be heard.
In Chambers

DATED this 27th day of January, 2017.

RODRIGUEZ LAW OFFICES, P. C.

By: /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 Plaintiffs

I.

POINTS AND AUTHORITIES

1. The Requested Amendments Conform to the Evidence

A proposed amended answer with third-party complaint is attached for the Court's review at **Exhibit 1**. The requested amendments are tailored to conform to the evidence obtained during the discovery period. The requested amendment is to assert a third-party complaint against those persons and entities which have engaged in champerty, interfered with business and contractual relations, and seek to profit from the continued litigation of others.

As the Nevada Supreme Court stated in *Schwartz v. Eliades*, 939 P.2d 1034, 113 Nev. 586 (1997):

"A champertous agreement is one in which a person without interest in another's litigation undertakes to carry on the litigation at his own expense, in whole or in part, in consideration of receiving, in the event of success, a part of the proceeds of the litigation." *Martin v. Morgan Drive Away, Inc.*, 665 F.2d 598, 603 (5th Cir.1982), cert. dismissed, 458 U.S. 1122, 103 S.Ct. 5, 73 L.Ed.2d 1394 (1982). "To maintain the suit of another is now, and always has been, held to be unlawful, unless the person maintaining has some interest in the subject of the suit." *Lum v. Stinnett*, 87 Nev. 402, 408, 488 P.2d 347, 350 (1971) (citing *Gruber v. Baker*, 20 Nev. 453, 23 P. 858, 862 (1890)). "Where a person promoting the suit of another has any interest whatever, legal or equitable, in the thing demanded, ... he is in effect also a suitor according to the nature and extent of his interest." *McIntosh v. Harbour Club Villas Condominium*, 421 So.2d 10, 11 (Fla.Dist.Ct.App.1982). *Schwartz v. Eliades*, 939 P.2d at 1036.

See also, *Vosberg Equipment v. Zupancic*, 737 P.2d 522, 103 Nev. 266 (1987) stating:

In 1890 this court held that even in the absence of statute it was, under the common law of England, unlawful to "maintain the suit of another" unless the person maintaining the suit "has some interest in the subject of the suit." *Gruber v. Baker*, 20 Nev. 453, 469, 23 P. 858 (1890). In *Lum v. Stinnett*, 87 Nev. 402, 408, 488 P.2d 347, 350 (1971), we recognized the "common law offense of maintenance" as existing "when a person without interest in a suit officiously intermeddles therein by assisting either party with money or otherwise to prosecute or defend it." Champerty is maintenance with the additional feature of an agreement for the payment of compensation or personal profit from the subject of the suit. *Lum v. Stinnett*, 87 Nev. at 408, 488 P.2d at 350. *Vosberg Equipment v. Zupancic*, 737 P.2d at 523.

In the present case, the evidence has demonstrated that Third-Party Defendants Greenberg, Leon Greenberg Professional Corporation, and Sniegocki are not acting on behalf of their clients'

1 interests, but rather are seeking to profit themselves from prolonged litigation and a fee-shifting
2 mechanism. The depositions and discovery responses of the named Plaintiffs, Michael Murray and
3 Michael Reno, make it clear that both had no interest in the litigation, had no understanding of the
4 litigation, and had merely signed up when solicited by Third-Party Defendants.

5 Further, when Defendant made a good faith attempt to resolve the claim, at a value
6 exceeding 10 times the value of the claim, the clients were not made aware of such offers. Third-
7 Party Defendants had no interest in what was best for the Plaintiffs, but rather stood to obtain
8 further financial gain by prolonging the litigation and escalating attorney fees in a fee-shifting type
9 case.

10 Most recently, Third-Party Defendant Greenberg confirmed that he will not engage in any
11 mediation or alternative type of resolution, nor will he disclose a settlement demand. Further,
12 Third-Party Defendants have now commenced interfering with Third-Party Plaintiffs' ability to
13 resolve and negotiate other matters with other employees.

14 Further, Third-party defendants have tortiously interfered with the contractual relations of A
15 Cab employees, as evidenced in the breach of contract of Wendy Gagliano who was induced by
16 Third party Defendants to breach her contract with Third-Party Plaintiffs. Therefore, Third-Party
17 Plaintiffs assert they have been damaged by Third-Party Defendants' purposeful and intentional
18 acts, and request the Court's leave to amend to conform to the evidence in the record.

19 Also telling is that Third-Party Defendants have continued to drag out the litigation asking
20 for extension after extension with the Court, indicating they need more time to prepare, and
21 compelling discovery which they in fact then do not utilize. In reality, Third-Party Defendants
22 have been prolonging the litigation to continue advertising and attempting to recruit more clients by
23 stating, "**there is no set deadline for this case to be finished.**" *Third-Party Defendants' website*
24 *advertising page, Exhibit 2.* The website and ad is targeted directly to Third-Party Plaintiff A
25 Cab's employees, and in fact is labeled "**A Cab Driver's Page.**" **Exhibit 2.**

26 **2. NRCP 15 Supports That Leave to Amend Should Be Granted.**

27 A party may amend the party's pleading only by leave of court or by written consent of the
28 adverse party; and leave shall be freely given when justice so requires. **NRCP 15.**

1 In the absence of any apparent or declared reason - such as undue delay, bad faith or
2 dilatory motive on the part of the movant - the leave to amend should be freely given. *Stephens v.*
3 *Southern Nev. Music Co.*, 89 Nev. 104, 507 P.2d 138 (1973). Here, there has been no bad faith in
4 seeking these amendments. In fact, Defendants are seeking these amendments well in advance of
5 the new deadlines extended by the Court and the Discovery Commissioner. *See* DCCR extending
6 deadlines at Plaintiffs' request at **Exhibit 3**. The Discovery Commissioner further extended
7 deadlines, making the recommended Close of Discovery April 28, 2017. Therefore, the proposed
8 amendment will not affect the discovery deadlines or trial date.

9 **II.**

10 **CONCLUSION**

11 For the foregoing, Defendants respectfully request that this Court grant Defendants leave to
12 amend and permission to file the Third Amended Complaint attached hereto as **Exhibit 1**.

13 DATED this 27th day of January, 2017.

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

15
16 By: /s/ Esther C. Rodriguez, Esq.
17 Esther C. Rodriguez, Esq.
18 Nevada State Bar No. 6473
19 10161 Park Run Drive, Suite 150
20 Las Vegas, Nevada 89145
21 *Attorneys for Defendants*
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 27th day of January, 2017, I electronically filed the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic filing to the following:

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

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

EXHIBIT 1

EXHIBIT 1

AANS
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702-385-2500
mwall@hutchlegal.com
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

A CAB, LLC, and CREIGHTON J. NADY,

Third-Party Plaintiffs,

v.

LEON GREENBERG; LEON GREENBERG
PROFESSIONAL CORPORATION; and DANA
SNIEGOCKI,

Third-Party Defendants.

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

DEFENDANTS A CAB, LLC and CREIGHTON J. NADY'S AMENDED ANSWER TO
SECOND AMENDED COMPLAINT AND THIRD-PARTY COMPLAINT

Defendants A Cab, LLC and Creighton J. Nady (collectively "Defendants"), by and through
their attorneys of record, pursuant to NRCP Rule 12, 14, and 15 and as their Amended Answer to

Plaintiffs' Second Amended Complaint on file herein ("Complaint"), admit, deny and allege as follows:

JURISDICTION, PARTIES AND PRELIMINARY STATEMENT

1. Answering Paragraph 1 of the Complaint, Defendants are without sufficient information or knowledge to form a belief as to the truth of such allegations, and therefore deny the same. Defendants deny the allegation that Plaintiffs are current employees.

2. Answering Paragraph 2 of the Complaint, Defendants admit A Cab, LLC is a Nevada Limited Liability Company doing business in the County of Clark, State of Nevada, as a taxicab company.

3. Answering Paragraphs 3 and 4 of the Complaint, Defendants admit Nady is the sole and managing member of A Cab, LLC. To the extent these paragraphs contain any other factual allegations requiring a response, Defendants deny same.

CLASS ACTION ALLEGATIONS

4. Answering Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13, and 14 of the Complaint, Defendants assert that the allegations contained therein are a legal conclusion to which no response is required. To the extent these Paragraphs contain any factual allegations requiring a response, Defendants deny same.

**AS AND FOR A FIRST CLAIM FOR RELIEF ON BEHALF OF THE NAMED
PLAINTIFFS AND ALL PERSONS SIMILARLY SITUATED PURSUANT TO
NEVADA'S CONSTITUTION**

5. Answering Paragraph 15 of the Complaint, Defendants repeat and reallege their answers to the allegations contained in Paragraphs 1 through 14 as though fully set forth herein.

6. Answering Paragraph 16 of the Complaint, Defendants assert that the allegations contained therein are a legal conclusion to which no response is required. To the extent this Paragraph contains any factual allegations requiring a response, Defendants deny same.

7. Answering Paragraphs 17 and 18 of the Complaint, Defendants deny each and every allegation contained therein, including all sub-parts.

8. Answering Paragraphs 19, 20, and 21 of the Complaint, Defendants assert that the

1 allegations contained therein are a legal conclusion to which no response is required. To the extent
2 these Paragraphs contain any factual allegations requiring a response, Defendants deny same.

3 **AS AND FOR A SECOND CLAIM FOR RELIEF PURSUANT TO NEVADA REVISED**
4 **STATUTES § 608.040 ON BEHALF OF THE NAMED PLAINTIFFS AND**
5 **THE PUTATIVE CLASS**

6 9. Answering Paragraph 22 of the Complaint, Defendants repeat and reallege their
7 answers to the allegations contained in Paragraphs 1 through 21 as though fully set forth herein.

8 10. Answering Paragraphs 23, 24, 25, and 26 of the Complaint, Defendants assert that
9 the allegations contained therein are a legal conclusion to which no response is required. To the
10 extent these Paragraphs contain any factual allegations requiring a response, Defendants deny same.

11 **AS AND FOR A THIRD CLAIM AGAINST DEFENDANT**
12 **NADY FOR CIVIL CONSPIRACY, AIDING AND ABETTING,**
13 **CONCERT OF ACTION AND AS THE ALTER EGO**
14 **OF THE CORPORATE DEFENDANTS**

15 11. Answering Paragraph 27 of the Complaint, Defendants repeat and reallege their
16 answers to the allegations contained in Paragraphs 1 through 26 as though fully set forth herein.

17 12. Answering Paragraphs 28, 30, 31, 32, 33, 34, 35, 36, 37 and 38 of the Complaint,
18 Defendants deny each and every allegation contained therein, including all sub-parts.

19 13. Answering Paragraph 29 of the Complaint, Defendants assert that the allegations
20 contained therein are a legal conclusion to which no response is required. To the extent this
21 Paragraph contains any factual allegations requiring a response, Defendants deny same.

22 **AS AND FOR A FOURTH CLAIM AGAINST**
23 **Defendants NADY FOR UNJUST ENRICHMENT**

24 14. Answering Paragraph 39 of the Complaint, Defendants repeat and reallege their
25 answers to the allegations contained in Paragraphs 1 through 38 as though fully set forth herein.

26 15. Answering Paragraphs 40, 41, 42, 43, 44 and 45 of the Complaint, Defendants deny
27 each and every allegation contained therein.

28 ...

PRAYER FOR RELIEF

Plaintiffs' prayer for relief requires no response. However, to the extent Plaintiffs' prayer asserts allegations, Defendants deny each and every allegation in the prayer for relief.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

As a first separate and affirmative defense, Defendants allege Plaintiffs' Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

As a second separate and affirmative defense, Defendants allege Plaintiffs have failed to mitigate their alleged damages, if any.

THIRD AFFIRMATIVE DEFENSE

As a third separate and affirmative defense, Defendants allege that Plaintiffs' damages, if any, were caused solely by the conduct of others and are not the result of any conduct of Defendants A Cab, LLC.

FOURTH AFFIRMATIVE DEFENSE

As a fourth separate and affirmative defense, Defendants allege that Plaintiffs' claims are not ripe in this forum.

FIFTH AFFIRMATIVE DEFENSE

As a fifth separate and affirmative defense, Defendants allege that Plaintiffs' claims are barred because Plaintiffs' own actions were the proximate cause of their damages, if any.

SIXTH AFFIRMATIVE DEFENSE

As a sixth separate and affirmative defense, Defendants allege that this Court does not have jurisdiction because Plaintiffs have failed to exhaust their administrative remedies as required by Nevada law.

SEVENTH AFFIRMATIVE DEFENSE

As a seventh separate and affirmative defense, Defendants allege that Plaintiffs' Complaint is barred by the doctrine of res judicata.

EIGHTH AFFIRMATIVE DEFENSE

As an eighth separate and affirmative defense, Defendants allege that Plaintiffs' Complaint is barred by the doctrine of collateral estoppel.

NINTH AFFIRMATIVE DEFENSE

As a ninth separate and affirmative defense, Defendants allege that Plaintiffs have failed to maintain their claims pursuant to Nevada Rule of Civil Procedure 23 governing class actions.

TENTH AFFIRMATIVE DEFENSE

As a tenth separate and affirmative defense, and pursuant to N.R.C.P. 11, all possible affirmative defenses may not have been alleged herein insofar as sufficient facts were not available after reasonable inquiry upon the filing of Defendants' answer to the Complaint, and therefore, these answering Defendants reserve the right to amend their answer to allege additional affirmative defenses if subsequent investigation so warrants.

ELEVENTH AFFIRMATIVE DEFENSE

As an eleventh separate and affirmative defense, Defendants deny each and every allegation of Plaintiffs' Complaint not specifically admitted or otherwise pled to herein.

TWELFTH AFFIRMATIVE DEFENSE

As a twelfth separate and affirmative defense, it has been necessary for this answering Defendants to retain the services of an attorney to defend this action, and Defendants are entitled to a reasonable sum as and for attorney's fees.

THIRTEENTH AFFIRMATIVE DEFENSE

As a thirteenth separate and affirmative defense, Plaintiffs' claims are barred by statute of limitations / laches.

FOURTEENTH AFFIRMATIVE DEFENSE

As a fourteenth separate and affirmative defense, Plaintiffs' claims are barred by unclean hands / in pari delicto/ illegality.

FIFTEENTH AFFIRMATIVE DEFENSE

As a fifteenth separate and affirmative defense, Plaintiffs' claims are barred by fraud / theft.
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SIXTEENTH AFFIRMATIVE DEFENSE

As a sixteenth separate and affirmative defense, Plaintiffs' claims are barred by equitable estoppel.

SEVENTEENTH AFFIRMATIVE DEFENSE

As a seventeenth separate and affirmative defense, Plaintiffs' claims are barred or otherwise limited by offset / setoff / or payments that have already been made to the amounts in question.

EIGHTEENTH AFFIRMATIVE DEFENSE

As a eighteenth separate and affirmative defense, Plaintiffs' demand for attorney fees is barred by the lack of any legal basis for Plaintiff attorney fees.

NINETEENTH AFFIRMATIVE DEFENSE

As a nineteenth separate and affirmative defense, Plaintiffs, through knowledge of all facts relating to the acts alleged in their Complaint, ratified through their respective acts, omissions and/or failure(s) to act, any act alleged to have been done or committed by the Defendants.

TWENTIETH AFFIRMATIVE DEFENSE

As a twentieth separate and affirmative defense, Defendants hereby incorporate by reference those affirmative defenses enumerated in NRCP 8 for the specific reason of not waiving the same.

TWENTY-FIRST AFFIRMATIVE DEFENSE

As a twenty-first separate and affirmative defense, at all times, Defendants acted reasonably and in good faith in their dealings with Plaintiffs.

TWENTY-SECOND AFFIRMATIVE DEFENSE

As a twenty-second separate and affirmative defense, Defendants acted in good faith and did not directly or indirectly perform any acts whatsoever which would constitute a breach of any duty owed to Plaintiffs.

TWENTY-THIRD AFFIRMATIVE DEFENSE

As a twenty-third separate and affirmative defense, Plaintiffs' claims are barred by the doctrine of accord and satisfaction.

TWENTY-FOURTH AFFIRMATIVE DEFENSE

As a twenty-fourth separate and affirmative defense, Plaintiffs unreasonably and

unjustifiably delayed the assertion of their purported claims, all to Defendants' substantial detriment.

TWENTY-FIFTH AFFIRMATIVE DEFENSE

As a twenty-fifth separate and affirmative defense, Plaintiffs' claims are barred as Plaintiffs have received payment in full.

TWENTY-SIXTH AFFIRMATIVE DEFENSE

As a twenty-sixth separate and affirmative defense, Plaintiffs' claims are barred as Defendants based their actions upon information provided by the pertinent state and/or federal agencies, and not in ignorance/violation of the law.

TWENTY-SEVENTH AFFIRMATIVE DEFENSE

As a twenty-seventh separate and affirmative defense, Plaintiffs' claims are barred as punitive damages are not permissible.

WHEREFORE, Defendants prays as follow:

1. That Plaintiffs take nothing by way of their Complaint;
2. That Plaintiffs' Complaint be dismissed with prejudice in its entirety and Judgment entered in favor of Defendants;
3. That Defendants be awarded their attorneys' fees, costs, and interest; and
4. For such other and further relief as this Court deems just and proper.

DATED this 27th day of January, 2017.

RODRIGUEZ LAW OFFICES, P.C.

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

DEFENDANTS' THIRD-PARTY COMPLAINT

Defendants/Third-Party Plaintiffs A CAB, LLC and CREIGHTON J. NADY (hereinafter "Third-Party Plaintiffs"), by and through their attorneys of record, hereby assert their Third-Party Complaint against Third-Party Defendants LEON GREENBERG, LEON GREENBERG PROFESSIONAL CORPORATION, and DANA SNIEGOCKI (hereinafter collectively "Third-Party Defendants"), as follows:

GENERAL ALLEGATIONS

1. At all times mentioned herein, Third-Party Plaintiff A Cab, LLC ("A Cab") is and was a Nevada Limited Liability Company licensed to do business as a taxicab company in the County of Clark, State of Nevada.

2. At all times mentioned herein, Third-Party Plaintiff Creighton J. Nady ("Nady"), a resident of Clark County, Nevada, is and was the sole managing member of A Cab, LLC.

3. At all times mentioned herein, it is believed Third-Party Defendant Leon Greenberg ("Greenberg"), is an attorney practicing in Clark County, Nevada who was not an employee of A Cab or Nady's, and has no relationship to either Third-Party Plaintiff.

4. At all times mentioned herein, it is believed Third-Party Defendant Leon Greenberg Professional Corporation ("Greenberg PC"), is a Nevada Domestic Corporation licensed to do business in the County of Clark, State of Nevada.

5. At all times mentioned herein, it is believed Third-Party Defendant Dana Sniegocki ("Sniegocki"), is an attorney practicing in Clark County, Nevada who was not an employee of A Cab or Nady's, and has no relationship to either Third-Party Plaintiff.

6. A Cab's obligations to pay the plaintiffs arose under employment and/or wage agreements, or in other words through an employer-employee relationship.

7. Plaintiffs' claims in the underlying action arise solely from each driver's employer-employee relationship.

8. At all time mentioned herein, Greenberg, Greenberg PC, and Sniegocki (collectively referred to as "Third-Party Defendants") never had an employer-employee relationship with any of the Third-Party Plaintiffs.

1 9. On or about September 2012, Third-Party Defendants obtained the names and
2 addresses of A Cab's drivers from someone other than A Cab.

3 10. Before Third-Party Defendants had a client or filed a lawsuit, Third-Party
4 Defendants maliciously and willfully trolled for clients by using the private personal information of
5 A Cab's drivers which he and/or she had obtained to solicit new clients. Contacting the employee
6 drivers of A Cab through personalized letters was an invasion of their privacy. Greenberg and/or
7 Sniegocki used private personal information to solicit new clients for the benefit of each of the
8 Third-Party Defendants.

9 11. Since September 2012 through the present, Third-Party Defendants have continued
10 to troll for clients by targeting Third-Party Plaintiffs' employees and drivers, including the use of
11 online marketing, direct mailers, and publications distributed to Third-Party Plaintiffs' employees.

12 12. Third-Party Defendants' solicitation of remunerative employment was a business
13 transaction which he and/or she engaged in for his and/or her own financial benefit. It was a
14 business act or practice. Third-Party Defendants let potential clients know their names and their
15 interest in performing legal services for them.

16 13. Third-Party Defendants' trolling for clients was false and deceptive. Greenberg
17 gave his opinion on liability indicating to Third-Party Plaintiffs' employees that A Cab may have
18 violated Nevada's Minimum Wage laws and may owe them and many other taxi drivers unpaid
19 minimum wages. He made calculations and expressed his personal belief that many taxi drivers
20 were collecting less than minimum wage. Greenberg's unsolicited legal advice was designed to
21 suggest he had some significant personal knowledge about and concern for the recipient.

22 14. Third-Party Defendants acted intentionally in a manner designed to interfere with the
23 agreements and relationships between Third-Party Plaintiffs and its drivers.

24 15. Third-Party Defendants have failed to prosecute the action in the best interest of the
25 Plaintiffs, but rather seek self-profit; and therefore have acted in their own financial interest and
26 benefit.

27 16. Such actions by the Third-Party Defendants include but are not limited to a complete
28 absence of communication with Plaintiffs regarding Third-Party Plaintiffs' offers of resolution, far

1 exceeding the value of the claim. Such offers were in the best interest of the individual Plaintiff,
2 but not of Third-Party Defendants, and therefore were deliberately withheld to the detriment of
3 Plaintiffs and Third-Party Plaintiffs.

4 17. Third-Party Defendants have engaged in an escalation of attorney fees and costs in
5 order to maximize the profit of a fee-shifting provision, and continue to refuse offers of alternative
6 dispute resolution, mediation, or settlement conferences all of which would be in the best interest of
7 the Plaintiffs, but not of Third-Party Defendants.

8 18. Third-Party Defendants have also damaged Third-Party Plaintiffs by interfering with
9 Third-Party Plaintiffs' business and have attempted to enjoin Third-Party Plaintiffs' settlement in
10 other matters.

11 19. Third-Party Defendants have also interfered with the contractual relations between
12 Third-party Plaintiffs and former employees, including but not limited to Wendy Gagliano who was
13 enticed and/or coerced to breach her written contract with Third-Party Plaintiffs.

14 20. With such actions, Third-Party Defendants have damaged Third-Party Plaintiffs with
15 an escalation of legal fees and costs and prolonged litigation, thereby adversely affecting the
16 business, livelihood, well-being, and reputation of Third-Party Plaintiffs.

17 **FIRST CAUSE OF ACTION**

18 **(Champerty)**

19 21. Third-Party Plaintiffs incorporate by reference each and every allegation contained
20 in paragraphs 1 through 20 of the Third-Party Complaint as specifically set forth herein.

21 22. Plaintiffs initially had no interest in this litigation, and through the time of their
22 depositions, had no understanding of their claims against Third-Party Plaintiffs.

23 23. Third Party-Defendants solicited the Plaintiffs to initiate this litigation.

24 24. Third Party-Defendants undertook this litigation at their own expense and
25 prosecuted this action on behalf of Plaintiffs in consideration for receiving, in the event of success,
26 a part of the proceeds of the litigation and personal profit from the litigation.

27 25. The actions taken by Third-Party Defendants have not been in the best interest of the
28 Plaintiffs who they purport to represent, but instead they have acted in their own self-interests in

1 seeking personal profit from litigation.

2 26. This conduct by Third-Party Defendants was unlawful and as a result, Third-Party
3 Plaintiffs have been damaged.

4 27. Third-Party Plaintiffs' damages include its legal fees, interruption of business for the
5 time spent on this case during work hours, and damage to its business interests.

6 **SECOND CAUSE OF ACTION**

7 **(Intentional Interference with Contractual Relations)**

8 28. Third-Party Plaintiffs incorporate by reference each and every allegation contained
9 in paragraphs 1 through 27 of the Third-Party Complaint as specifically set forth herein.

10 29. Third-Party Plaintiffs have entered into contractual relations with third parties which
11 Third-party Defendants have intentionally interfered with to the detriment of Third-party Plaintiffs.

12 30. One such contract was wherein A Cab, LLC entered into a contract known as
13 "Severance Agreement and Release" on or about June 18, 2013, with employee Wendy A. Parison-
14 Gagliano ("Gagliano").

15 31. In this above referenced contract, Gagliano agreed to a nondisclosure and
16 confidentiality clause upon her separation from A Cab, LLC, in which she agreed to keep
17 confidential and not disclose to anyone any information concerning company business not of a
18 public nature.

19 32. Additionally, in the above referenced contract, Gagliano agreed to a
20 nondisparagement clause agreeing not to knowingly publish any oral or written statement that is
21 negative, disparaging, defamatory or critical of Company, its officers or employees.

22 33. In exchange, Gagliano received and accepted \$20,000 severance compensation.

23 34. Third-Party Defendants have deliberately induced and/or coerced Gagliano into
24 breaking her contract with Third-Party Plaintiff.

25 35. Third-Party Defendants have obtained a declaration from Gagliano in which she
26 disparages Third-Party Plaintiffs and its employees, and purports to disclose non-public information
27 regarding company business.

28 36. Third-Party Defendants have engaged in tortious interference with contract rights

wherein they convinced Gagliano to breach her contract with Third-Party Plaintiff through the use of blackmail, threats, and/or influence.

37. Another such contract is wherein Third-Party Plaintiffs entered into an agreement with Jasminka Dubric and other employees on or about December 28, 2016 to resolve the claims arising in the District Court Case No. A721063, *Jasminka Dubric v. A Cab, LLC*.

38. Third-Party Defendants have engaged in tortious interference with contract rights wherein they have attempted to convince Dubric to breach her contract with Third-Party Plaintiffs through the use of blackmail, threats, and/or influence and/or other means.

39. As a result of such intentional acts by Third-Party Defendants, Third-Party Plaintiffs have been damaged.

40. Further, it has become necessary for Third-Party Plaintiffs to retain the services an attorney to defend against the lawsuit and to bring this Third-Party Complaint. Accordingly, Third-Party Plaintiffs are entitled to recover its reasonable attorney's fees and costs incurred herein.

WHEREFORE, Third-Party Plaintiffs, expressly reserving the right to amend this third-party complaint, demand judgment against Third-Party Defendants and each of them as follows:

1. For an award of damages in excess of \$50,000.00;
2. Punitive damages;
3. For attorneys' fees and costs of suit; and
4. For such other and further relief as this Court may deem just and proper.

DATED this 27th day of January, 2017.

RODRIGUEZ LAW OFFICES, P.C.

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

EXHIBIT 2

EXHIBIT 2

HOME CONTACT ABOUT THE SUIT A CAB DRIVERS C

A Cab Drivers

- The lawsuit against A Cab has been certified as a class action for unpaid minimum wages owed to all drivers working for A Cab from July 1, 2007 through December 31, 2015. That means all drivers who worked for the company during that time period are eligible to benefit if this case has a successful outcome.
- We would like all current and former A Cab drivers who worked during the period of July 1, 2007 through the present to register their information with our office. **YOU CAN DO SO USING THE FORM ON THIS PAGE.** Registration is optional and you are not required to register. You may still benefit from the case without registering.
- If you'd like to see a copy of the Court's Order certifying this case as a class action, please click [HERE](#).
- Because there are over 2000 individuals who are members of the class, we are not able to speak to all drivers individually by phone. E-mail communications are much more efficient. There is no set deadline for this case to be finished and the case is not scheduled for trial until January of 2017, at the earliest. The best way to stay updated about this case is by registering your e-mail address with this office so we may communicate important updates to you.

PLEASE FILL OUT THIS FORM

First and Last Name *

Enter text here

Email: *

Enter email address

☐ Check here to receive email updates

Years Employed (example: 2011-2015)

Enter text here

If you'd like to update your mailing address

Enter address

Phone

Enter phone number

May we contact you to help with our case?

☐ Yes

☐ No

☐ You may only contact me about the A Cab case

SUBMIT

EXHIBIT 3

EXHIBIT 3

DCRR
Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
RODRIGUEZ LAW OFFICES, P.C.
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702-320-8400
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Michael K. Wall, Esq.
Nevada Bar No. 2098
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10080 West Alta Drive, Suite 200
Las Vegas, Nevada 89145
702-385-2500
mwall@hutchlegal.com
Attorneys for Defendants

DISTRICT COURT
CLARK COUNTY, NEVADA

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

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

Plaintiffs,

vs.

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

Defendants.

DISCOVERY COMMISSIONER'S REPORT AND RECOMMENDATIONS

Hearing Date: 11/18/16
Hearing Time: 9:00 a.m.

Attorney for Plaintiffs: Leon Greenberg, Esq., and Dana Sniegocki, Esq.,
Leon Greenberg Professional Corporation.

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

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

I.

FINDINGS

1. This matter came before the Discovery Commissioner as a Status Check for continued compliance and production following “*Defendants’ Motion for Protective Order or, in the Alternative, Motion to Terminate Deposition of a Cab, LLC 30(b)(6) Witness; Motion to Limit the Deposition of Creighton J. Nady; and Motion for Protective Order from Plaintiffs’ Written Discovery on Order Shortening Time,*” heard on October 12, 2016; as well as “*Plaintiffs’ Motion to Compel the Production of Documents and Interrogatory Responses*” heard on June 13, 2016.

2. Following the most recent discovery hearing and status check of October 12, 2016, addressing the above referenced motions, the Nevada Supreme Court issued several decisions directly affecting the issues and discovery ordered in this matter, and thus necessitating a further discussion on compliance, production, and scope of discovery.

3. Firstly, following the Nevada Supreme Court decision of *Perry v. Terrible Herbst, Inc.*, 132 Nev. Adv. Op. No. 75 (Oct. 27, 2016), the Discovery Commissioner finds that the applicable statute of limitations and discovery period has been further defined and delineated by the Court. Accordingly, in this matter, such period is limited to a two-year time period prior to the filing of Plaintiffs’ Complaint as held by the Nevada Supreme Court: “When a right of action does not have an express limitations period, we apply the most closely analogous limitations period. The MWA does not expressly indicate which limitations period applies and the most closely analogous statute to the MWA is NRS 608.260, as both permit an employee to sue his employer for failure to pay the minimum wage. Moreover, applying the NRS 608.260 limitations period is consistent with Nevada minimum wage law.” *Id.* at pp. 10-11.

4. The Discovery Commissioner finds that Plaintiffs’ Complaint was filed October 8, 2012, and thus the applicable period for discovery commences October 8, 2010. Plaintiffs disagreed with this finding, arguing for an equitable tolling period. The Discovery Commissioner finds that any argument by Plaintiffs for deviating from the Supreme Court decision will have to be further briefed, and brought by motion.

5. The Discovery Commissioner also finds that further guidance has been provided by the

1 Nevada Supreme Court pertaining to health care benefits and the discovery disputes surrounding
2 this issue. Following the decision of *MDC Rests. v. Eighth Jud. Dist. Ct.*, 132 Nev Adv. Op. No. 76
3 (October 27, 2016), the Supreme Court has indicated “with regard to whether employers must
4 ‘offer’ or ‘enroll’ employees in health benefit plans to pay the lower-tier wage, our holding is
5 consistent with the Labor Commissioner’s promulgations, see NAC 608.102 (2007) (providing that
6 an employer must ‘offer’ health benefits), and the language of the MWA is plain: employers need
7 only offer health benefits to pay the lower-tier wage.” *Id.* at p. 12.

8 6. The Discovery Commissioner finds that the following discovery pertaining to health
9 insurance is appropriate: costs of health insurance for the five years at issue (2010-2015) for all
10 ~~employees at all~~ ^{paid for the employees} levels (individual plan and family plan); the criteria to access or to participate in the plan; and the
11 waiting period for access to the plan.

12 7. In accordance with the parameters outlined by the Discovery Commissioner’s order on
13 *Defendants’ Motion for Protective Order*, the continued deposition of Defendant’s NRCP 30(b)
14 witness was scheduled on November 22, 2016. The Discovery Commissioner further addressed the
15 difficulties presented at the prior deposition by both parties, and indicates that she will be available
16 to the parties should problems arise. In the event that the deposition is discontinued pursuant to
17 Rule 30(d), and the Commissioner hears the Motion for Protective Order, the losing party will pay
18 fees and costs.

19 8. In further discussion pertaining to Defendants’ tax information (including that of non-
20 parties) to be produced to Plaintiffs, the Discovery Commissioner finds that such records should
21 remain confidential pursuant to NRCP 26(c) within the confines of litigation until otherwise ordered
22 by the District Court Judge.

23 9. In further discussion regarding the prior extended discovery dates arising from the hearing of
24 October 12, 2016, Defendants lodged an objection with the District Court asserting they would be
25 prejudiced with the new initial expert deadline falling on December 23, 2016, and rebuttal expert
26 deadline of January 23, 2017, and thus requested through February 3, 2017 to account for the
27 holidays. The Discovery Commissioner finds the following new dates are appropriate, and finds
28 that any *Objection to the DCR&R* will be withdrawn:

Close of Discovery: April 28, 2017;
Deadline to file motions to amend pleadings/add parties: January 27, 2017;
Final dates for initial expert disclosures: January 27, 2017;
Final date for rebuttal expert disclosures: February 28, 2017;
Final date to file dispositive motions: May 31, 2017;
Case Ready for Trial: July 10, 2017.

II.

RECOMMENDATIONS

IT IS HEREBY RECOMMENDED that following the decisions recently issued by the Nevada Supreme Court, the following revisions be made to the prior Discovery Commissioner Report and Recommendation of October 12, 2016 pertaining to "*Defendants' Motion for Protective Order or, in the Alternative, Motion to Terminate Deposition of a Cab, LLC 30(b)(6) Witness; Motion to Limit the Deposition of Creighton J. Nady; and Motion for Protective Order from Plaintiffs' Written Discovery on Order Shortening Time*":

WHEREAS IT WAS PREVIOUSLY RECOMMENDED that alternative relief be provided to Plaintiffs in that Defendant will provide supporting documentation and identification of distributions, salary, payment to Mr. Nady and family for 2007-2015, this RECOMMENDATION is modified to encompass the years 2010-2015.

WHEREAS IT WAS PREVIOUSLY RECOMMENDED that A Cab Taxi Service will provide its profit and loss statements for 2007-2015, this RECOMMENDATION is modified to encompass the years 2010-2015. *Further, the discovery regarding health insurance information will be produce in accordance with paragraph 6*

IT IS FURTHER RECOMMENDED that Defendants' tax information (including that of non-parties) produced to Plaintiffs should remain confidential pursuant to NRCP 26(c) within the confines of litigation until otherwise ordered by the District Court Judge. *Findings Section 3*

THE DISCOVERY COMMISSIONER FURTHER RECOMMENDS that the Objection to the Discovery Commissioner Report and Recommendation of October 12, 2016 be WITHDRAWN and the following dates be implemented:

1. The Discovery Cutoff is extended to April 28, 2017;

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

2. Deadline to file motions to amend pleadings/add parties is extended to January 27, 2017;
3. Initial Expert Disclosures are extended to January 27, 2017;
4. Rebuttal Expert Disclosures are extended to February 28, 2017;
5. The deadline for filing of dispositive motions is May 31, 2017;
6. The case will be ready for trial July 10, 2017.

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

DATED this 9 day of December, 2016.




DISCOVERY COMMISSIONER

Submitted by:

RODRIGUEZ LAW OFFICES, P.C.

Approved as to form and content:

LEON GREENBERG PROFESSIONAL CORPORATION


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Attorneys for Plaintiffs

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

NOTICE

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

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

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

_____ Mailed to Plaintiff/Defendant at the following
address on the ____ day of _____, 201__:

_____ Placed in the folder of counsel in the Clerk's
office on the ____ day of _____, 201__:

✓ _____ Electronically served counsel on Dec. 16, 2016,
Pursuant to N.E.F.C.R. Rule 9.

By Natlie Fehrmann
Commissioner Designee

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

ORDER

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

_____ The parties having waived the right to object thereto,

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

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

* * *

AND

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

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

_____ IT IS HEREBY ORDERED that a hearing on the Discovery Commissioner's Report
and Recommendations is set for _____, 201__, at ____:____ a.m.

Dated this _____ day of _____, 201__.

DISTRICT COURT JUDGE

EXHIBIT 5

EXHIBIT 5

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

June 05, 2017

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

June 05, 2017 3:00 AM All Pending Motions

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

COURT CLERK: Michele Tucker

JOURNAL ENTRIES

DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER TO ASSERT A THIRD-PARTY COMPLAINT PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER TO ASSERT THIRD-PARTY COMPLAINT AND COUNTER-MOTION FOR SANCTIONS AND ATTORNEYS' FEES PLAINTIFFS' RE-NOTICE OF MOTION TO BIFURCATE ISSUE OF LIABILITY OF DEFENDANT CREIGHTON J. NADY FROM LIABILITY OF CORPORATE DEFENDANTS OR ALTERNATIVE RELIEF

COURT ORDERS, Plaintiffs' Re-Notice of Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief GRANT for reasons urged by Plaintiff. Plaintiff to prepare the Order.

COURT ORDERS, Defendant s Motion for Leave to Amend is DENIED WITHOUT PREJUDICE. If the Court were to grant the Motion, it would simply have to severe determination of that cause of action from the Complaint in this case. Plaintiff to prepare the Order.

COURT ORDERS, Plaintiff s Countermotion DENIED WITHOUT PREJUDICE. Additionally, COURT ORDERS, Plaintiff s anti-SLAPP Motion is DENIED as presently MOOT in light of the Court's denial of the Motion for Leave to Amend. Defendant to prepare the Order

Counsel are reminded of the Court's stern admonition at the 05/18/17 hearing to quit fighting amongst themselves and litigate their clients cases first.

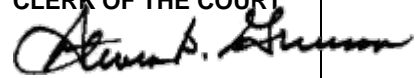
CLERK'S NOTE: The above minute order has been distributed to: Lean Greenberg, Esq. (leongreenberg@overtimelaw.com), Esther Rodriguez, Esq. (esther@rodriguezlaw.com), and Michael Wall, Esq. (mwall@hutchlegal.com). /mlt

PRINT DATE: 06/27/2017

Page 1 of 1

Minutes Date: June 05, 2017

AA009552



MFC
Peter Dubowsky, Esq.
Nevada Bar No. 4972
Amanda Vogler-Heaton, Esq.
Nevada Bar No. 13609
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Attorney for Special Master
Resolution Economics LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO,) Case No.: A-12-669926-C
Individually and on behalf of others similarly)
situated) Dept No.: I

Plaintiff,

vs.

A CAB TAXI SERVICE LLC, A CAB, LLC,)
and CREIGHTON J. NADY and DOES I-X)
and ROE CORPORATIONS I-X, inclusive)

Defendants

RESOLUTION ECONOMICS LLC

Special Master,

vs.

A CAB TAXI SERVICE LLC, A CAB, LLC,)
and CREIGHTON J. NADY and DOES I-X)
and ROE CORPORATIONS I-X, inclusive)

Defendants

**RESOLUTION ECONOMICS' APPLICATION FOR ORDER OF PAYMENT OF
SPECIAL MASTER'S FEES AND MOTION FOR CONTEMPT**

Resolution Economics LLC (“Special Master”) by and through its counsel of record, Peter Dubowsky, Esq. of the DUBOWSKY LAW OFFICE, CHTD. moves for an Order for the payment of its Special Master Fees in the amount of \$85,280.56, and an Order of Civil Contempt. This Application is based on these Points and Authorities and all the papers and proceedings had herein.

Dated: November 5, 2018

DUBOWSKY LAW OFFICE, CHTD.

By: /s/Peter Dubowsky
Peter Dubowsky, Esq.
Attorney for Resolution Economics

NOTICE OF MOTION

TO: ALL PARTIES IN INTEREST AND THEIR ATTORNEYS OF RECORD

Please take notice that the DUBOWSKY LAW OFFICE, CHTD. will bring the foregoing Motion on for hearing on the 11 day of Dec., 2018, in Department 1 of the above entitled Court at 9:00 a.m. or as soon thereafter as counsel can be heard.

Signed: /s/Peter Dubowsky
Peter Dubowsky, Esq.
Attorney for Special Master

I. **SUMMARY OF APPLICATION**

Resolution Economics LLC (“ResEcon” or “Special Master”) was appointed Special Master by this Court in February 2018 for a “complicated and laborious” report project that was ordered to be completed on an expedited basis. As set forth in the Affidavit of Trevor Sturges (“Affidavit”), ResEcon completed the task despite the obstacles. However, ResEcon has not been paid any of its \$85,280.56 fees. ResEcon’s fees total amount to \$85,280.56 through. ResEcon has worked no less than 1,058.80 total hours at the request of this Court,

1 but has been paid none of its fees, which must be paid by law. ResEcon is seeking an award
2 of its Special Master's fees in the amount of \$85,280.56.

3 Although this Court has already found the Defendants in contempt, the Special Master
4 also moves for civil contempt against Defendants for their disobedience of at least two court
5 orders for the payment of ResEcons' fees to compel their obedience.¹ The Defendants have
6 continuously ignored and violated this Court's Orders for the payment of ResEcon's fees.
7 The Defendants initially violated this Court's initial March 6, 2018 Order by failing to pay
8 any of the \$25,000.00 to ResEcon and continue to violate this Court's various Orders by
9 failing to pay any fees to ResEcon.
10

11 II. RELEVANT FACTS

12 1. On February 7, 2018, this Court entered an Order Granting Plaintiffs' Motion
13 to Appoint a Special Master (The February 7, 2018 Appointment Order is **Exhibit "1"**.)

14 2. The February 7, 2018 Appointment Order stated in pertinent part the necessity
15 of the appointment of a Special Master:

16 In light of the above, the Court finds that the appointment of a Special Master
17 is the appropriate solution to determine the hours worked each pay period by
18 each class member and the amount of minimum wages, if any, that each one

19 ¹ The Nevada Supreme Court clarified in Lewis v. Lewis, 132 Nev. Adv. Op. 46 (2016)
20 quoting Rodriguez v. Eighth Judicial Dist. Court, 120 Nev. 798, 804–05 (2004), "[C]ivil
21 contempt is said to be remedial in nature, as the sanctions are intended to benefit a party by
22 coercing or compelling the contemnor's future compliance, not punishing them for past bad
23 acts. Moreover, a civil contempt order is indeterminate or conditional; the contemnor's
24 compliance is all that is sought and with that compliance comes the termination of any
25 sanctions imposed."

1 is owed based upon A Cab's records. The Special Master is being appointed
2 to report on the hours worked, and the wages paid, as documented in A Cabs
3 admittedly accurate records; to what extent that information in those records
4 demonstrates wages of lesser than the minimum wage (that "lower tier" rate
is \$7.25 an hour since July 1, 2010) were paid during any pay period; and the
amount of any such minimum wage deficiencies for each class member.

5 3. The February 7, 2018 Order further commented on the complexity and
6 laboriousness of the Special Master's work:

7 Whether minimum wages are owed for any particular pay period is quite
8 simple when the relevant information (Hours worked and wages paid) is
9 known. But in this case the information must be gathered from over 200,000
10 trip sheets, a complex process simile, performing the calculation on many
thousands of pay periods for approximate 1000 class members is also
complicated and laborious.

11 4. This Court then went on to enumerate the "complicated and laborious" job
12 required of the Special Master that is detailed in **Exhibit "1"**.

13 5. On February 13, 2018, this Court entered an Order Modifying Court's
14 Previous Order of February 7, 2018 appointing a Special Master. The February 13, 2018
15 Modification Order stated, in pertinent part:

16 The Court is extremely concerned with the passage of time in this matter for
17 reasons previously expressed. In order to prevent one more issue from
18 injecting itself into these proceedings, and in light of the possibility that any
19 local firm may trigger another objection due to purported conflicts of interest,
the Court rescinds its appointment and its selection of Mr. Rosten of Piercy
Bowler Taylor & Kerns, and selects Dr. Ali Saad of Resolution Economics to
20 be the Special Master in this case. (emphasis added)

21 (The February 13, 2018 Modification Order is attached as **Exhibit "2"**.)

22 6. On or around March 2, 2018 Defendants filed a Motion For Stay On an Order
23 Shortening Time, claiming *inter alia*, an inability to pay the Special Master the initial \$25,000
24 required by previous court order.

25 7. On March 6, 2018, this Court entered a Minute Order stating in pertinent part:

1 In the meantime [not longer than approximately 3 weeks] the Special Master
 2 is directed to cease all efforts to complete the task previously ordered by this
 3 Court until further order of this Court. Additionally, because there will be a
 4 breathing space of approximately three weeks the Defendants should well be
able to set aside the initial \$25,000 deposit, and are ordered to do so.
 (emphasis added)

5 (The March 6, 2018 Order is **Exhibit “3”**.)

6 8. On May 23, 2018 the Court Ordered:

7 This case needs to go forward and the Court is disinclined to hold up the matter
 8 for non-payment to the special master. COURT FURTHER ORDERED,
 9 \$41,000.00 MUST be posted with the Clerk of the Court and the defendant is
to be present at the next hearing to show proof of the posting. (emphasis
 added)

10 (The May 23, 2018 Court Minute Order is **Exhibit “4”**.)

11 9. On August 21, 2018, this Court entered its Order Granting Summary
 12 Judgment, Severing Claims, and Directing Entry of Final Judgment (“Judgment Order), in
 13 which this Court reiterated the Defendants’ failures to comply with its Orders. The Judgment
 14 Order stated in pertinent part:

15 The Court . . . via Orders entered on February 7, 2018 and February 13, 2018,
 16 appointed a Special Master . . . The Court directed that A Cab pay for such
 17 Special Master because of A Cab's failure to maintain proper records under
 18 NRS 608.115, and to deposit \$25,000 with the Special Master as a payment
 19 towards the cost of their work. . . . A Cab failed to make such payment within
 20 the time period specified by the Court. As a result, the Special Master advised
 21 the Court that they have incurred \$41,000 in costs towards their completion
 of their assignment and will not proceed further with that assignment until
 they are in receipt of sufficient assurances that they will be paid for their work.
 The Special Master has budgeted \$180,000 as the projected total cost to
 complete their assignment.

22 (Judgment Order Page 7 lines 7-25)

23 10. The Judgment Order further stated that “A Cab proposed no cure for its
 24 violation of the Court's Orders appointing the Special Master. It did not state when, if ever,
 25 it intended to comply with those Orders.” (Judgment Order Page 9 lines 1-3)

11. The Court went on to find that the Defendants were in contempt:

[T]he Court finds that Defendants' persistent failure to comply with Court orders . . . warrants holding defendants in contempt . . .

(Judgment Order Page 28 lines 20-22)

...

The willfulness of A Cab in disregarding the Court's Orders appointing a Special Master is apparent and A Cab's assertion its failure to comply with those Orders is a result of a financial inability to pay the Special Master cannot be properly considered and its evidence to establish same is deficient. If A Cab truly lacks the financial resources to comply with those Orders it has a remedy under the United States Bankruptcy Code to seek the protection of the Bankruptcy Court which is empowered to relieve it from those Orders and oversee the proper disposition of whatever financial resources it does possess. It has declined to do so and continues to do business and defend this case in this Court. Having elected to do so, it must comply with this Court's Orders or face the consequences of its failure to do so.

(Judgment Page 31 lines 1-10)

12. The Defendants incurred Special Master Fees of \$85,280.56. (The Invoices are attached to the Affidavit)

III. LAW

This Motion is brought pursuant to N.R.C.P. 53(a)(1), which states:

The court in which any action is pending may appoint a special master therein. . . . The compensation to be allowed to a master shall be fixed by the court, and shall be charged upon such of the parties or paid out of any fund or subject matter of the action, which is in the custody and control of the court as the court may direct. . . . when the party ordered to pay the compensation allowed by the court does not pay it after notice and within the time prescribed by the court, the master is entitled to a writ of execution against the delinquent party.

In Harrison v. Harrison, 376 P.3d 173, 132 Nev. Adv. Op. 56 (Nev., 2016), the Court stated that "NRCP 53(a)(1) provides that a district court may appoint a special master in a pending action." See also Venetian Casino Resort, LLC v. Eighth Judicial Dist. Court, 118 Nev. 124, 130, 41 P.3d 327, 330 (2002) (observing that "[a] party who wishes to object to the

1 appointment of a special master must do so at the time of appointment, or within a reasonable
2 time thereafter, or else its objection is waived”). The Special Master is not aware of any
3 sustained objection to his appointment. Further, the Special Master completed the work
4 ordered by this Court.

5 In this Court’s February 7, 2018 Order, the Court charged the Special Master with,
6 among other tasks, the processing and structuring of 470,000 pages of timekeeping records,
7 and reconciling the information against any available payroll records, e.g. Quickbooks data.
8 ResEcon was given 45 days to complete the complicated and laborious project, while a
9 similar engagement would typically require a minimum of 90 hours. (see Affidavit) To
10 expedite the process, ResEcon purchased additional computing equipment and hired temps
11 as additional data entry resources. ResEcon has worked no less than 1,058.80 total hours at
12 the request of this Court, but has been paid none of its fees. The Defendants owe Resolution
13 Economics \$85,280.00.
14

15 IV. MOTION FOR ORDER OF CONTEMPT

16 ResEcon is seeking a Civil Contempt Order to merely coerce and compel the
17 Defendant’ compliance, not to punish. Pursuant to N.R.S. 22.010, “The following acts or
18 omissions shall be deemed contempts: . . . (3) Disobedience or resistance to any lawful . . .
19 order . . . issued by the court or judge at chambers.” Pursuant to N.R.S. 22.030(1), “If a
20 contempt is committed in the immediate view and presence of the court or judge at chambers,
21 the contempt may be punished summarily.” This Court has already made appropriately
22 detailed and thoughtful written findings in its Judgment Order that Defendants are in
23 contempt of its Special Master payment orders.
24
25

1 As the Nevada Supreme Court stated in Matter of Water Rights of Humboldt River,
2 118 Nev. 901 (2002):

3 The contempt power involves a court's inherent power to protect dignity and
4 decency in its proceedings, and to enforce its decrees. A district court
5 generally has particular knowledge of whether a person has committed
6 contempt. A discretionary standard gives proper deference to the district
court's intricate knowledge of the proceedings, and affords the district court
sufficient leeway to exercise its inherent power.

7 As stated in this Court's August 21, 2018 Judgment Order,

8 The Court has inherent power to appropriately sanction, and tailor remedies
9 for violations of its Orders and in response to a party's improper conduct. See,
10 Young v. Johnny Ribeiro Bldg., 106 Nev. 88, 787 P.2d 777 (1990) ("Litigants
11 and attorneys alike should be aware that these [inherent] powers may permit
sanctions for discovery and other litigation abuses not specifically proscribed
by statute.")

12 (Judgment Order page 29 line 21-Page 31 line 4)

13 To reiterate, on February 7, 2018, this Court ordered the appointment of the
14 predecessor Special Master, stating "COURT ORDERS, the costs of the Special Master shall
15 be borne by the defendant A Cab who shall, within 10 days of the entry of this Order deposit
16 with the Special Master the amount of \$25,000 for their services . . ." On March 6, 2018, the
17 Court stated in its Minute Order, "For the reasons stated herein the Court grants a temporary
18 stay to resolve the Defendants claimed inability to pay the Special Master the initial \$25,000
19 required by previous court order." On May 23, 2018, "COURT FURTHER ORDERED,
20 \$41,000.00 MUST be posted with the Clerk of the Court and the defendant is to be present
21 at the next hearing to show proof of the posting. 6/1/18 10:00 AM"

22
23 This Court ordered the Defendants, at least twice, to prove payment of the Special
24 Master's fees. (see **Exhibits "3"** and **"4"**) The Defendants' disobedience has already been
25

1 found to be contempt. A civil contempt order for the purpose of compelling obedience is
2 appropriate.

3 **CONCLUSION**

4 Based on the foregoing, the Special Master respectfully requests an Order for the
5 payment of \$85,280.56 plus court costs, interest and an award of attorney's fees. The Special
6 Master also seeks an order of civil contempt compelling payment of the Special Master fees.

7 Dated: November 5, 2018

8 DUBOWSKY LAW OFFICE, CHTD.

9 By: /s/Peter Dubowsky

10 Peter Dubowsky, Esq.
11 Nevada Bar No. 4972
12 Amanda C. Vogler-Heaton, Esq.
13 Nevada Bar No. 13609
14 300 South Fourth Street
15 Suite 1020
16 Las Vegas, Nevada 89101
17 (702) 360-3500
18 Fax (702) 360-3515
19 Attorney for Special Master
20
21
22
23
24
25

Pursuant to N.R.C.P 5(b), I hereby certify that on the 5th day of November 2018, I served a true and correct copy of the foregoing RESOLUTION ECONOMICS' APPLICATION FOR ORDER OF PAYMENT OF SPECIAL MASTER'S FEES AND MOTION FOR CONTEMPT upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing Conversion Rules:

Esther C. Rodriguez, Esq.
Attorney for Defendant

- 10

AA009562

Exhibit “1”



ORDR

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DANA SNIEGOCKI, ESQ., SBN 11715
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dana@overtimelaw.com
Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C

Dept.: I

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

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

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

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

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

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

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

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

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

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

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

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

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


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

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

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

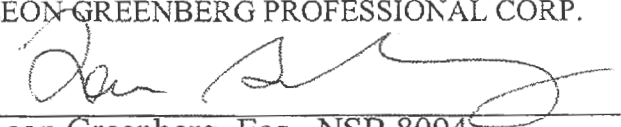
15 IT IS FURTHER ORDERED that the Court will not be entertaining a motion for
16 reconsideration of this order by the defendants.

17
18 **IT IS SO ORDERED.**

19
20 
21 Honorable Kenneth Cory
22 District Court Judge

23 2-7-18
Date

24 LEON GREENBERG PROFESSIONAL CORP.

25 
26 Leon Greenberg, Esq. NSB 8094
27 LEON GREENBERG PROFESSIONAL CORP.
28 2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
Tel (702) 383-6085
Attorney for the Plaintiffs

29 2/6/18
Date

Exhibit “2”



ORDR

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Attorneys for Plaintiffs

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C

Dept.: I

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

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


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

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

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


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

14 **IT IS SO ORDERED.**

15 
16 Honorable Kenneth Cory
17 District Court Judge


Feb 13, 2018
Date

18 LEON GREENBERG PROFESSIONAL CORP.

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

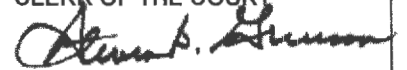
2/13/18
Date

26 Approved as to Form and Content:

27 
28 Esther C. Rodriguez, Esq. NSB 6473
RODRIGUEZ LAW OFFICES P.C.
10161 Park Run Drive - Suite 150
Las Vegas, Nevada, 89145
Tel (702) 320-8400
Attorney for the Defendants

Date

Exhibit “3”



1 LEON GREENBERG, ESQ., SBN 8094
2 DANA SNIEGOCKI, ESQ., SBN 11715
3 Leon Greenberg Professional Corporation
4 2965 South Jones Blvd- Suite E3
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8 leongreenberg@overtimelaw.com
9 dana@overtimelaw.com
10 Attorneys for Plaintiffs

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

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

16 Plaintiffs,

17 vs.

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

20 Defendants.

Case No.: A-12-669926-C

Dept.: I

NOTICE OF ENTRY OF
MINUTE ORDER

21 PLEASE TAKE NOTICE that the Court entered the attached Minute Order on
22 March 6, 2018

23 Dated: March 7, 2018

24 LEON GREENBERG PROFESSIONAL CORP.

25 /s/ Leon Greenberg

26 Leon Greenberg, Esq.
27 Nevada Bar No. 8094
28 2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
Tel (702) 383-6085
Attorney for the Plaintiffs

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CERTIFICATE OF SERVICE

The undersigned certifies that on March 7, 2018, she served the within:

NOTICE OF ENTRY OF MINUTE ORDER

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing

COURT MINUTES

March 06, 2018

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

March 06, 2018

Minute Order

HEARD BY: Cory, Kenneth

COURTROOM: RJC Courtroom 16A

COURT CLERK: Michele Tucker

JOURNAL ENTRIES

The Court has reviewed Defendant's Motion on OST for Stay, received on March 2, 2018, Plaintiffs' Response to Defendant's Motion, Plaintiffs' Motion on OST to enforce the Court's Orders, and the e-mail correspondence from counsel and the Special Master, Dr. Saad.

For the reasons stated herein the Court GRANTS a temporary stay to resolve the Defendants' claimed inability to pay the Special Master the initial \$25,000 required by previous court order.

In addition to Defendants' protestations of their temporary inability to pay the initial \$25,000, the Court also GRANTS a temporary Stay due to health considerations of the Court. The Court has scheduled a necessary surgery for March 8, 2018, which surgery will require a relatively brief recuperation period. The Court is therefore entering an indefinite stay for both reasons, which the Court anticipates will not last longer than approximately 3 weeks.

The Court has considered whether it would make more sense to recuse from the case, and/or request a reassignment by the Chief Judge of the Eighth Judicial District Court. However, the duplication of the time and effort it would take for another judge to become adequately conversant with this case would likely protract this case yet again, and would likely cost the parties more in attorney fees; nor would it facilitate an economical and fair management of this litigation. Recusal or reassignment would necessitate such delay that it should only come as a last resort.

Inasmuch as the anticipated calendared surgery is laparoscopic in nature, the Court feels confident that it will be fully functional and able to proceed ahead within three weeks.

In the meantime, the Special Master is directed to cease all efforts to complete the task previously

PRINT DATE: 03/06/2018

Page 1 of 2

Minutes Date: March 06, 2018

AA009575

ordered by this Court until further order of this Court. Additionally, because there will be a breathing space of approximately three weeks the Defendants should well be able to set aside the initial \$25,000 deposit, and are ORDERED to do so.

The court anticipates setting a hearing date to accomplish the following:

1. Dissolve the stay;
2. Argue and rule on the various motions which have been filed; and
3. Reset the Rule 41(e), i.e., 5-year Rule, date by which this matter must be concluded.

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

Exhibit “4”

[Skip to Main Content](#) [Logout](#) [My Account](#) [Search Menu](#) [New District Civil/Criminal](#)
[Search](#) [Refine Search](#) [Close](#)

Location : District Court Civil/Criminal [Help](#)

REGISTER OF ACTIONS

CASE NO. A-12-669926-C

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

§
§
§
§
§
§

Case Type: Other Civil Filing
 Subtype: Other Civil Matters
 Date Filed: 10/08/2012
 Location: Department 1
 Cross-Reference Case Number: A669926
 Supreme Court No.: 72691

PARTY INFORMATION

Defendant	A Cab LLC	Lead Attorneys Esther C. Rodriguez <i>Retained</i> 7023208400(W)
Defendant	A Cab Taxi Service LLC	Esther C. Rodriguez <i>Retained</i> 7023208400(W)
Defendant	Nady, Creighton J	Esther C. Rodriguez <i>Retained</i> 7023208400(W)
Plaintiff	Murray, Michael	Leon Greenberg <i>Retained</i> 7023836085(W)
Plaintiff	Reno, Michael	Leon Greenberg <i>Retained</i> 7023836085(W)

EVENTS & ORDERS OF THE COURT

05/23/2018 **Motion** (1:30 PM) (Judicial Officer Cory, Kenneth)
Plaintiff's Motion for Miscellaneous Relief

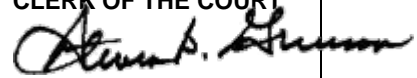
Minutes

05/23/2018 1:30 PM

- Counsel gave summary of case and the case in front of Judge Delaney. COURT ORDERED. Plaintiff's Motion for Miscellaneous Relief DENIED. The Court is not ruling on the suggested renewed motion for preliminary injunction. This case needs to go forward and the Court is disinclined to hold up the matter for non-payment to the special master. COURT FURTHER ORDERED, \$41,000.00 MUST be posted with the Clerk of the Court and the defendant is to be present at the next hearing to show proof of the posting. 6/1/18 10:00 AM PLAINTIFF'S MOTION TO HOLD DEFENDANT IN CONTEMPT, STRIKE THEIR ANSWER

[Parties Present](#)

[Return to Register of Actions](#)



AFFD
Peter Dubowsky, Esq.
Nevada Bar No. 4972
Amanda Vogler-Heaton, Esq.
Nevada Bar No. 13609
DUBOWSKY LAW OFFICE, CHTD.
300 South Fourth Street, Suite 1020
Las Vegas, Nevada 89101
(702) 360-3500
Fax (702) 360-3515
Attorney for Special Master
Resolution Economics LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO,) Case No.: A-12-669926-C
Individually and on behalf of others similarly)
situated) Dept No.: I

Plaintiff,

vs.

A CAB TAXI SERVICE LLC, A CAB, LLC,)
and CREIGHTON J. NADY and DOES I-X,)
and ROE CORPORATIONS I-X, inclusive)

Defendants

RESOLUTION ECONOMICS LLC

Special Master,

vs.

A CAB TAXI SERVICE LLC, A CAB, LLC,)
and CREIGHTON J. NADY and DOES I-X,)
and ROE CORPORATIONS I-X, inclusive)

Defendants

AFFIDAVIT IN SUPPORT OF
RESOLUTION ECONOMICS'
APPLICATION FOR ORDER OF
PAYMENT OF SPECIAL MASTER'S
FEES AND MOTION FOR CONTEMPT

1 STATE OF CALIFORNIA)

2 COUNTY OF LOS ANGELES)

3 Affiant deposes and states:

4 1. I am Trevor Sturges, the Chief Financial Officer of RESOLUTION
5 ECONOMICS LLC (“ResEcon”) and in that capacity I have access to the books and records
6 of Special Master ResEcon and rely upon those books and records in the ordinary course and
7 scope of my duties and I have personal knowledge of the following and I am competent to
8 testify to the same:
9

10 2. This Court appointed ResEcon as Special Master in this matter.

11 3. This Court charged us, as the Special Master with, among other tasks, the
12 processing and structuring of 470,000 pages of timekeeping records, and reconciling the
13 information against any available payroll records.

14 4. ResEcon was given 45 days to complete the complicated and laborious
15 project. A typical engagement of this type would require a minimum of 90 days to complete.

16 5. To expedite the process, ResEcon purchased additional computer equipment
17 and hired temps as additional data entry resources.

18 6. ResEcon employees have worked no less than 1,058.80 hours at the request
19 of this Court, but has been paid none of its fees.

20 7. Defendants owe ResEcon \$85,280.56 for services. (The Billing Statements
21 are attached as **Exhibit “A”**.)
22

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8. I declare under penalty of perjury under the laws of the State of Nevada that the foregoing is true and correct.

Dated: 11/05/18

Signature



Trevor Sturges
Print Name

Exhibit “A”



resolution economics LLC
1925 Century Park East
15th Floor
Los Angeles, CA 90067

Esther Rodriguez, Esq.
Rodriguez Law Offices P.C.
10161 Park Run Drive
Suite 150
Las Vegas, NV 89145

Invoice Number: 085437
Invoice Date: 04/13/2018
Billing Period: 02/01/2018 - 03/31/2018

Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

Item	Description	Amount
Partner		\$3,825.00
Director		\$2,255.00
Manager		\$13,160.00
Senior Consultant		\$16,890.00
Analyst		\$1,530.00
Research Assistant		\$47,545.00
Expenses		\$75.56
AMOUNT DUE:		\$85,280.56

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Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

Date	Staff Member	Description	Hours	Rate	Amount
02/20/2018	Ali I. Saad	review data; call with defense counsel	0.80	\$750.00	\$600.00
02/21/2018	Ali I. Saad	respond to emails; review sheets for data entry process	1.50	\$750.00	\$1,125.00
03/01/2018	Ali I. Saad	communications; review status	2.30	\$750.00	\$1,725.00
03/05/2018	Ali I. Saad	email correspondence	0.50	\$750.00	\$375.00
Sub Total			5.10		\$3,825.00
02/20/2018	Angus Smith	Data Entry	5.00	\$50.00	\$250.00
02/26/2018	Angus Smith	Data Entry	3.50	\$50.00	\$175.00
02/27/2018	Angus Smith	Data Entry	6.50	\$50.00	\$325.00
03/02/2018	Angus Smith	Data entry	4.00	\$50.00	\$200.00
03/05/2018	Angus Smith	Data Entry	3.00	\$50.00	\$150.00
03/06/2018	Angus Smith	Data Entry	4.50	\$50.00	\$225.00
Angus Smith Total			26.50		\$1,325.00

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-Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

02/20/2018	Arthur Huang	Data entry.	7.00	\$50.00	\$350.00
02/21/2018	Arthur Huang	Data entry.	7.00	\$50.00	\$350.00
02/26/2018	Arthur Huang	Data entry.	7.50	\$50.00	\$375.00
02/27/2018	Arthur Huang	Data entry.	7.50	\$50.00	\$375.00
02/28/2018	Arthur Huang	Data entry.	7.50	\$50.00	\$375.00
03/01/2018	Arthur Huang	Data entry.	8.00	\$50.00	\$400.00
03/05/2018	Arthur Huang	Data entry.	7.50	\$50.00	\$375.00
03/06/2018	Arthur Huang	Data entry.	7.00	\$50.00	\$350.00

Arthur Huang Total			59.00		\$2,950.00
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02/26/2018	Artur Ginosyan	Data entry	7.00	\$50.00	\$350.00
02/27/2018	Artur Ginosyan	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Artur Ginosyan	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Artur Ginosyan	Data entry	7.00	\$50.00	\$350.00

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Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

03/02/2018	Artur Ginosyan	Data entry	7.00	\$50.00	\$350.00
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Artur Ginosyan Total			35.00		\$1,750.00
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02/20/2018	Austin Lee	Data Entry	2.00	\$50.00	\$100.00
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02/22/2018	Austin Lee	Data Entry	3.00	\$50.00	\$150.00
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02/23/2018	Austin Lee	Data entry	7.00	\$50.00	\$350.00
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02/27/2018	Austin Lee	Data Entry	3.50	\$50.00	\$175.00
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03/01/2018	Austin Lee	Data entry	4.00	\$50.00	\$200.00
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03/02/2018	Austin Lee	Data entry	7.00	\$50.00	\$350.00
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03/06/2018	Austin Lee	Data Entry	3.00	\$50.00	\$150.00
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Austin Lee Total			29.50		\$1,475.00
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02/26/2018	Bruce Gerber	Data entry	7.00	\$50.00	\$350.00
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02/27/2018	Bruce Gerber	Data entry	7.00	\$50.00	\$350.00
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02/28/2018	Bruce Gerber	Data entry	7.00	\$50.00	\$350.00
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Billing Period: **02/01/2018 - 03/31/2018**

Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

03/01/2018	Bruce Gerber	Data entry	7.00	\$50.00	\$350.00
03/02/2018	Bruce Gerber	Data entry	7.00	\$50.00	\$350.00
Bruce Gerber Total			35.00		\$1,750.00
02/14/2018	Casey Shibuya	Create data entry template	0.70	\$300.00	\$210.00
02/16/2018	Casey Shibuya	Meeting, prepare for data entry project	1.10	\$300.00	\$330.00
02/19/2018	Casey Shibuya	Train and manage data entry	2.60	\$300.00	\$780.00
02/20/2018	Casey Shibuya	Train and manage data entry	1.20	\$300.00	\$360.00
02/21/2018	Casey Shibuya	Train and manage data entry	1.00	\$300.00	\$300.00
02/22/2018	Casey Shibuya	Train and manage data entry	1.10	\$300.00	\$330.00
02/23/2018	Casey Shibuya	Train and manage data entry, perform quality checks	4.90	\$300.00	\$1,470.00
02/24/2018	Casey Shibuya	Manage data entry, check progress	2.00	\$300.00	\$600.00
02/25/2018	Casey Shibuya	Manage data entry, finalize training manual	6.00	\$300.00	\$1,800.00
02/26/2018	Casey Shibuya	Manage and train temps, qc temp data entry	6.30	\$300.00	\$1,890.00

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Billing Period: 02/01/2018 - 03/31/2018

Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

02/27/2018	Casey Shibuya	Manage and train temps, qc temp data entry, write sas qc program	5.50	\$300.00	\$1,650.00
02/28/2018	Casey Shibuya	Manage and train temps, qc temp data entry, write sas qc program	7.50	\$300.00	\$2,250.00
03/01/2018	Casey Shibuya	Manage and train temps and RAs, qc temp data entry	7.40	\$300.00	\$2,220.00
03/02/2018	Casey Shibuya	Manage and train temps and RAs, qc temp data entry	6.50	\$300.00	\$1,950.00
03/05/2018	Casey Shibuya	Manage and train temps and RAs, qc temp data entry	2.30	\$300.00	\$690.00
03/06/2018	Casey Shibuya	Manage and train temps and RAs, qc temp data entry	0.20	\$300.00	\$60.00

Casey Shibuya Total 56.30 \$16,890.00

02/26/2018	Charley Stewart	Data entry	7.00	\$50.00	\$350.00
02/27/2018	Charley Stewart	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Charley Stewart	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Charley Stewart	Data entry	7.00	\$50.00	\$350.00
03/02/2018	Charley Stewart	Data entry	7.00	\$50.00	\$350.00

Total 35.00 \$1,750.00

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Re: **SPM006884 Murray, et al. v. A Cab Taxi Service LLC**

INVOICE

Charley Stewart Total

02/20/2018	Chelsea Grimm	Data entry	2.50	\$50.00	\$125.00
02/21/2018	Chelsea Grimm	Data entry	4.00	\$50.00	\$200.00
02/23/2018	Chelsea Grimm	Data entry	6.25	\$50.00	\$312.50
02/26/2018	Chelsea Grimm	Data entry	4.00	\$50.00	\$200.00
02/28/2018	Chelsea Grimm	Data entry	3.50	\$50.00	\$175.00
03/02/2018	Chelsea Grimm	Data entry	5.00	\$50.00	\$250.00
03/05/2018	Chelsea Grimm	Data entry	4.00	\$50.00	\$200.00

Chelsea Grimm Total

29.25 \$1,462.50

02/26/2018	David Jimenez	Data entry	7.00	\$50.00	\$350.00
02/27/2018	David Jimenez	Data entry	7.00	\$50.00	\$350.00
02/28/2018	David Jimenez	Data entry	7.00	\$50.00	\$350.00
03/01/2018	David Jimenez	Data entry	7.00	\$50.00	\$350.00
03/02/2018	David Jimenez	Data entry	7.00	\$50.00	\$350.00

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Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

David Jimenez Total			35.00		\$1,750.00
03/02/2018	Devin Djorgi	Data entry	7.00	\$50.00	\$350.00
Devin Djorgi Total			7.00		\$350.00
02/14/2018	Emil Czechowski	Prepare case; supervise analysis	0.50	\$550.00	\$275.00
02/15/2018	Emil Czechowski	Prepare for data entry	0.30	\$550.00	\$165.00
02/19/2018	Emil Czechowski	Review methodology	0.40	\$550.00	\$220.00
02/20/2018	Emil Czechowski	Supervise analysis	0.60	\$550.00	\$330.00
02/22/2018	Emil Czechowski	Supervise analysis	0.70	\$550.00	\$385.00
02/23/2018	Emil Czechowski	Supervise analysis	0.30	\$550.00	\$165.00
02/26/2018	Emil Czechowski	Supervise analysis	0.80	\$550.00	\$440.00
02/28/2018	Emil Czechowski	Supervise analysis	0.50	\$550.00	\$275.00

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Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

Emil Czechowski Total			4.10		\$2,255.00
03/02/2018	Eric Bittner	Data entry	5.00	\$50.00	\$250.00
Eric Bittner Total			5.00		\$250.00
03/02/2018	Hadeer Hammad	Data Entry	1.50	\$50.00	\$75.00
Hadeer Hammad Total			1.50		\$75.00
02/26/2018	Ingrid Alexander	Data entry	7.00	\$50.00	\$350.00
02/27/2018	Ingrid Alexander	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Ingrid Alexander	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Ingrid Alexander	Data entry	7.00	\$50.00	\$350.00
03/02/2018	Ingrid Alexander	Data entry	7.00	\$50.00	\$350.00
Ingrid Alexander Total			35.00		\$1,750.00

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Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

02/22/2018	Jack Elliott	Data entry	5.00	\$50.00	\$250.00
02/23/2018	Jack Elliott	Data entry	5.00	\$50.00	\$250.00
02/27/2018	Jack Elliott	Data entry	5.00	\$50.00	\$250.00
03/01/2018	Jack Elliott	Data entry	4.00	\$50.00	\$200.00

Jack Elliott Total			19.00		\$950.00
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02/20/2018	Jack Turzillo	Data entry	4.00	\$50.00	\$200.00
03/01/2018	Jack Turzillo	Data entry	8.50	\$50.00	\$425.00
03/02/2018	Jack Turzillo	Data entry	7.00	\$50.00	\$350.00

Jack Turzillo Total			19.50		\$975.00
----------------------------	--	--	--------------	--	-----------------

02/26/2018	James Freije	Data entry	7.00	\$50.00	\$350.00
02/27/2018	James Freije	Data entry	7.00	\$50.00	\$350.00
02/28/2018	James Freije	Data entry	7.00	\$50.00	\$350.00
03/01/2018	James Freije	Data entry	7.00	\$50.00	\$350.00

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Page



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INVOICE

03/02/2018	James Freije	Data entry	7.00	\$50.00	\$350.00
James Freije Total			35.00		\$1,750.00
02/21/2018	John Salazar	Data entry	2.50	\$50.00	\$125.00
02/22/2018	John Salazar	Data entry	1.50	\$50.00	\$75.00
02/23/2018	John Salazar	Data entry	2.00	\$50.00	\$100.00
02/24/2018	John Salazar	Data entry	5.50	\$50.00	\$275.00
John Salazar Total			11.50		\$575.00
03/05/2018	Jon Kaehn	Data Entry	9.75	\$50.00	\$487.50
03/06/2018	Jon Kaehn	Data Entry	5.80	\$50.00	\$290.00
03/07/2018	Jon Kaehn	Data Entry	1.00	\$50.00	\$50.00
Jon Kaehn Total			16.55		\$827.50

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Page

CONFIDENTIAL

AA009593

SPM_NV_0000031



resolution economics LLC
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Los Angeles, CA 90067

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Billing Period: **02/01/2018 - 03/31/2018**

Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

02/15/2018	Jonathan Wilson	Preparing for data entry project	1.10	\$400.00	\$440.00
02/16/2018	Jonathan Wilson	Preparing for data entry project	3.10	\$400.00	\$1,240.00
02/19/2018	Jonathan Wilson	Preparing for data entry project	10.00	\$400.00	\$4,000.00
02/20/2018	Jonathan Wilson	Receiving data; organizing data entry project	0.80	\$400.00	\$320.00
02/21/2018	Jonathan Wilson	Receiving data; organizing data entry project	3.10	\$400.00	\$1,240.00
02/22/2018	Jonathan Wilson	Organizing data entry project	1.10	\$400.00	\$440.00
02/23/2018	Jonathan Wilson	Organizing data entry	2.50	\$400.00	\$1,000.00
02/24/2018	Jonathan Wilson	Organizing data entry	1.50	\$400.00	\$600.00
02/25/2018	Jonathan Wilson	Organizing data entry project	1.10	\$400.00	\$440.00
02/26/2018	Jonathan Wilson	Organizing data entry project	1.50	\$400.00	\$600.00
02/27/2018	Jonathan Wilson	Organizing data entry project	1.00	\$400.00	\$400.00
02/28/2018	Jonathan Wilson	Organizing data entry project	0.60	\$400.00	\$240.00
03/01/2018	Jonathan Wilson	Organizing data entry project	0.50	\$400.00	\$200.00
03/02/2018	Jonathan Wilson	Organizing data entry project	5.00	\$400.00	\$2,000.00

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resolution economics LLC
1925 Century Park East
15th Floor
Los Angeles, CA 90067

Esther Rodriguez, Esq.
Rodriguez Law Offices P.C.
10161 Park Run Drive
Suite 150
Las Vegas, NV 89145

Invoice Number: 085437
Invoice Date: 04/13/2018
Billing Period: 02/01/2018 - 03/31/2018

Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

Jonathan Wilson Total			32.90		\$13,160.00
02/22/2018	Joseph Thomas	Data Entry	6.00	\$50.00	\$300.00
02/23/2018	Joseph Thomas	Data entry	7.50	\$50.00	\$375.00
02/26/2018	Joseph Thomas	Data entry	7.50	\$50.00	\$375.00
02/27/2018	Joseph Thomas	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Joseph Thomas	Data entry	8.00	\$50.00	\$400.00
03/01/2018	Joseph Thomas	Data entry	7.50	\$50.00	\$375.00
03/02/2018	Joseph Thomas	Data entry	7.00	\$50.00	\$350.00
03/05/2018	Joseph Thomas	Data entry	7.00	\$50.00	\$350.00
03/06/2018	Joseph Thomas	Data entry	4.00	\$50.00	\$200.00
Joseph Thomas Total			61.50		\$3,075.00
02/20/2018	Madeleine Crockett-Fabry	Data entry	5.50	\$50.00	\$275.00
02/23/2018	Madeleine Crockett-Fabry	Data entry	6.00	\$50.00	\$300.00
02/24/2018	Madeleine Crockett-Fabry	Data Entry	4.80	\$50.00	\$240.00

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02/27/2018	Madeleine Crockett-Fabry	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Madeleine Crockett-Fabry	Data entry	5.00	\$50.00	\$250.00
03/02/2018	Madeleine Crockett-Fabry	Data entry	4.00	\$50.00	\$200.00
03/06/2018	Madeleine Crockett-Fabry	Data Entry	5.00	\$50.00	\$250.00

Madeleine Crockett-Fabry Total	37.30	\$1,865.00
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02/26/2018	Maria Bispo	Data entry	7.00	\$50.00	\$350.00
02/27/2018	Maria Bispo	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Maria Bispo	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Maria Bispo	Data entry	7.00	\$50.00	\$350.00
03/02/2018	Maria Bispo	Data entry	7.00	\$50.00	\$350.00

Maria Bispo Total	35.00	\$1,750.00
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02/20/2018	Marlena Eley	Data entry	5.00	\$50.00	\$250.00
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INVOICE

02/21/2018	Marlena Eley	Data entry	7.20	\$50.00	\$360.00
02/22/2018	Marlena Eley	Data entry	3.80	\$50.00	\$190.00
02/23/2018	Marlena Eley	Data entry	5.80	\$50.00	\$290.00
02/24/2018	Marlena Eley	Data entry	6.00	\$50.00	\$300.00
02/26/2018	Marlena Eley	Data entry	5.80	\$50.00	\$290.00
02/27/2018	Marlena Eley	Data entry	5.50	\$50.00	\$275.00
02/28/2018	Marlena Eley	Data entry	5.60	\$50.00	\$280.00
03/01/2018	Marlena Eley	Data entry	5.70	\$50.00	\$285.00
03/02/2018	Marlena Eley	Data entry	5.50	\$50.00	\$275.00

Marlena Eley Total 55.90 \$2,795.00

02/23/2018	Matias Axelrod	Assisting with Quality Control	2.00	\$180.00	\$360.00
02/25/2018	Matias Axelrod	Assisting with Quality Control	6.50	\$180.00	\$1,170.00

Matias Axelrod Total 8.50 \$1,530.00

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Re: **SPM006884 Murray, et al. v. A Cab Taxi Service LLC**

INVOICE

02/21/2018	Matthew Lee	Data entry	2.50	\$50.00	\$125.00
02/22/2018	Matthew Lee	Data entry	6.50	\$50.00	\$325.00
02/23/2018	Matthew Lee	Data entry	6.50	\$50.00	\$325.00
02/26/2018	Matthew Lee	Data entry	4.00	\$50.00	\$200.00
02/27/2018	Matthew Lee	Data entry	7.50	\$50.00	\$375.00
02/28/2018	Matthew Lee	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Matthew Lee	Data entry	7.50	\$50.00	\$375.00
03/02/2018	Matthew Lee	Data entry	7.50	\$50.00	\$375.00

Matthew Lee Total			49.00		\$2,450.00
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02/26/2018	Matthew Stramer	Data entry	7.00	\$50.00	\$350.00
02/27/2018	Matthew Stramer	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Matthew Stramer	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Matthew Stramer	Data entry	7.00	\$50.00	\$350.00

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Page

CONFIDENTIAL

AA009598
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INVOICE

03/02/2018	Matthew Stramer	Data entry	7.00	\$50.00	\$350.00
Matthew Stramer Total			35.00		\$1,750.00
02/26/2018	Melody Sun	Data entry	7.00	\$50.00	\$350.00
02/27/2018	Melody Sun	Data entry	7.00	\$50.00	\$350.00
02/28/2018	Melody Sun	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Melody Sun	Data entry	7.00	\$50.00	\$350.00
03/02/2018	Melody Sun	Data entry	7.00	\$50.00	\$350.00
Melody Sun Total			35.00		\$1,750.00
03/05/2018	Michael Ho	Data entry	8.00	\$50.00	\$400.00
03/06/2018	Michael Ho	Data entry	7.75	\$50.00	\$387.50
03/07/2018	Michael Ho	Data entry	7.58	\$50.00	\$379.00
03/08/2018	Michael Ho	Data entry	6.67	\$50.00	\$333.50

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INVOICE

Michael Ho Total			30.00		\$1,500.00
02/21/2018	Peter Jean-Francois	Data entry	4.50	\$50.00	\$225.00
02/22/2018	Peter Jean-Francois	Data entry	5.50	\$50.00	\$275.00
02/23/2018	Peter Jean-Francois	Data entry	5.50	\$50.00	\$275.00
02/24/2018	Peter Jean-Francois	Data entry	5.00	\$50.00	\$250.00
Peter Jean-Francois Total			20.50		\$1,025.00
02/23/2018	Rahul Sen	Data entry	4.50	\$50.00	\$225.00
02/26/2018	Rahul Sen	Data entry	5.00	\$50.00	\$250.00
02/28/2018	Rahul Sen	Data entry	5.00	\$50.00	\$250.00
03/02/2018	Rahul Sen	Data entry	4.00	\$50.00	\$200.00
03/05/2018	Rahul Sen	Data entry	4.00	\$50.00	\$200.00
Rahul Sen Total			22.50		\$1,125.00

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INVOICE

02/21/2018	Russell Hamilton	Data Entry	2.80	\$50.00	\$140.00
02/23/2018	Russell Hamilton	Data Entry	3.00	\$50.00	\$150.00
02/26/2018	Russell Hamilton	Data Entry	7.50	\$50.00	\$375.00
02/28/2018	Russell Hamilton	Data Entry	3.50	\$50.00	\$175.00
03/02/2018	Russell Hamilton	Data Entry	3.60	\$50.00	\$180.00
03/05/2018	Russell Hamilton	Data Entry	7.50	\$50.00	\$375.00
03/07/2018	Russell Hamilton	Data Entry	0.50	\$50.00	\$25.00
Russell Hamilton Total			28.40		\$1,420.00
03/02/2018	Ryan King	Data Entry	5.50	\$50.00	\$275.00
03/05/2018	Ryan King	Data Entry	5.00	\$50.00	\$250.00
Ryan King Total			10.50		\$525.00
02/22/2018	Samantha Wilson	Data Entry	6.00	\$50.00	\$300.00

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INVOICE

Samantha Wilson Total			6.00		\$300.00
02/22/2018	Sean Kim	Data entry	5.00	\$50.00	\$250.00
02/27/2018	Sean Kim	Data entry	5.00	\$50.00	\$250.00
02/28/2018	Sean Kim	Data entry	7.00	\$50.00	\$350.00
03/01/2018	Sean Kim	Data entry	5.50	\$50.00	\$275.00
Sean Kim Total			22.50		\$1,125.00
02/22/2018	Skye Gable	Data entry	4.50	\$50.00	\$225.00
02/26/2018	Skye Gable	Data entry	3.00	\$50.00	\$150.00
02/27/2018	Skye Gable	Data entry	9.50	\$50.00	\$475.00
02/28/2018	Skye Gable	Data entry	5.00	\$50.00	\$250.00
03/01/2018	Skye Gable	Data entry	9.00	\$50.00	\$450.00
03/02/2018	Skye Gable	Data entry	7.50	\$50.00	\$375.00
03/12/2018	Skye Gable	Data entry	7.00	\$50.00	\$350.00

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INVOICE

03/13/2018	Skye Gable	Data entry	6.00	\$50.00	\$300.00
Skye Gable Total			51.50		\$2,575.00
02/26/2018	Wyatt Kim	Data entry	4.00	\$50.00	\$200.00
02/28/2018	Wyatt Kim	Data entry	4.00	\$50.00	\$200.00
03/02/2018	Wyatt Kim	Data entry	4.00	\$50.00	\$200.00
03/05/2018	Wyatt Kim	Data entry	4.00	\$50.00	\$200.00
Wyatt Kim Total			16.00		\$800.00
TOTAL PROFESSIONAL FEES			107.80		\$85,205.00

Date	Source	Description	Units	Rate	Amount
02/03/2018	Ali I. Saad	WD 2TB External Hard Drive - AMAZON.COM			\$75.56

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Re: SPM006884 Murray, et al. v. A Cab Taxi Service LLC

INVOICE

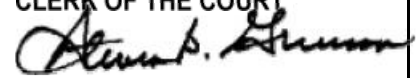
Grand Total

\$75.56

TOTAL EXPENSES

\$75.56

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

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C

Dept.: I

**PLAINTIFFS' REPLY TO
DEFENDANTS' OPPOSITION
TO PLAINTIFFS' MOTION
FOR AN AWARD OF
ATTORNEYS FEES AND
COSTS AS PER NRCP RULE
54 AND THE NEVADA
CONSTITUTION**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,
hereby submit this reply to defendants' opposition to plaintiffs' motion for an award of
attorneys' fees and costs. This reply is submitted based upon the memorandum of
points and authorities below, the attached exhibits, and the other papers and pleadings
on file herein.

Dated: November 8, 2018

Leon Greenberg Professional Corporation

By: /s/ Leon Greenberg

Leon Greenberg, Esq.

Nevada Bar No.: 8094

2965 South Jones Boulevard - Suite E3

Las Vegas, Nevada 89146

(702) 383-6085

Attorney for Plaintiffs

AA009605

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MEMORANDUM OF POINTS AND AUTHORITIES

SUMMARY

Defendants opposition claims, as a matter of law, that (1) Their offers of judgment to named plaintiffs Murray and Reno (but not the class) preclude an award of attorney's fees; and (2) The fee and costs request is untimely. Both assertions are in error. Defendants, having never made any offer of judgment to the class, cannot invoke Rule 68 (their offers of judgment to Murray and Reno, individually, also were exceeded). The Court extended the time for the submission of the plaintiffs' attorney fee and costs request *prior* to the 20 days specified in Rule 54 that constituted the "last date" on which the Court could exercise such discretion and that request was submitted within that extension of time.

Defendants' remaining assertions, such as that the fees claimed are excessive, are unsupported and baseless.

ARGUMENT

I. Plaintiffs Have Secured a Judgment in Excess of One Million Dollars on Behalf of More Than 900 of Defendants' Current and Former Taxicab Driver Employees to Whom Defendants Owed Unpaid Minimum Wages

A. Defendants Made No Offer of Judgment to the Class

The recovery in this case was for a Rule 23 class certified by the Court. Defendants made no offer of judgment for those class claims. If they had they could at least raise an argument that Rule 68 applied. *See, Schouweiler v. Yancey Co.*, 712 P.2d 786, 789-790 (Nev. Sup. Ct. 1985) (Stating, in a footnote, that there is "no express exemption" from Rule 68 to class actions). Since no offer of judgment was made to the class, there is no colorable basis to apply Rule 68 to the claim for attorneys fees and costs under the MWA owed to class counsel.

1 **B. Murray and Reno Individually Bettered Any Rule 68 Offer.**

2 Defendants ingore that their \$7,500 and \$15,000 Offers of Judgment to
3 plaintiffs Murray and Reno respectively (attached at Ex. "1" and "2" to defendants'
4 opposition) were "inclusive of interest, costs and attorney's fees." Under Article 15,
5 Section 16, of the Nevada Constitution (the "MWA"), a prevailing plaintiff in an
6 MWA action "shall be awarded his or her reasonable attorney's fees and costs." Nev.
7 Const., Art. 15, Sec. 16(B). At the time those offers of judgment were made (March
8 9, 2015) plaintiffs' counsel had expended over 70 hours of time on this case and at
9 least \$983 in expenses. Ex. "A" declaration of Leon Greenberg. That fee and
10 expense claim, at that time, was, conservatively, at least \$20,000. *Id.* This means that
11 the recovery actually achieved for Murray and Reno (\$5,736.52) was, when added to
12 that fee and expense claim (as of the time of the offers of judgment were made) greater
13 than the offers of judgment.

14 **C. Rule 68 Cannot Override Nevada's Constitution**

15 Plaintiffs' right to attorney's fees and costs, if they prevail on their MWA
16 claims, is directly conferred by Nevada's Constitution. The Nevada Constitution says
17 nothing about that right being subject to limitations under the Nevada Rules of Civil
18 Procedure and that right cannot be limited by Rule 68. Even if plaintiffs failed to
19 better a Rule 68 offer made to them, they are still entitled to an award of attorney's
20 fees and expenses under Nevada's Constitution.

21 **II. Plaintiffs' Counsel's Fees are Well-Documented and Not Excessive.**

22 Defendants assert that plaintiffs' "have failed to provide a copy of the fee
23 agreements executed with any of their clients which will most likely indicate that they
24 are already receiving fifty percent (50%) of the million dollar judgment entered by this
25 Court." Defendants' Opposition at p. 3. Plaintiffs' counsel **is receiving nothing**
26 **from any recovery secured for their clients except if so authorized by further**
27 **Order of this Court.** Ex. "A." It would be improper for them to do as they serve as
28

1 class counsel under the supervision of the Court, they cannot take any fees from the
2 class members' recoveries without Court approval.

3 Plaintiffs counsel have diligently and painstakingly documented to the Court,
4 through their declarations, their hours of attorney time expended in this case under
5 three different scenarios for fee awards. Nothing more is required.

6 Most tellingly, defendants do not offer any details as to **the fees incurred by**
7 **defendants and what defendants paid to their counsel in this case.** Defendants'
8 bald and unsupported allegations that plaintiffs' counsel fees are excessive and
9 unwarranted, or have been purposefully multiplied through unnecessary work, have no
10 merit. Defendants point to nothing specific that should warrant a reduction in the fees
11 sought by plaintiffs' counsel. Defendants' complete failure to disclose what the fees
12 were for the defense of this case (probably because they were **significantly greater**
13 **than the fees sought by class counsel or even the class judgment!)** renders their
14 claim that class counsel's fees are excessive unworthy of consideration.

15
16 **III. Further documentation on the fees and costs is not**
17 **required but can be provided if the Court so directs.**

18 There is no requirement that class counsel submit actual time records and
19 expense invoices for the Court's review. Defendants are insisting upon such a
20 submission but cite no authority requiring it (because none exists). Plaintiffs must
21 submit their requests for fees and costs in a sworn form, under NRS 18.110 (in respect
22 to costs) which they have done via declarations of counsel. If the Court seeks further
23 details (invoices, time records, etc.), plaintiffs' counsel will provide them but ask they
24 not be burdened with the additional time consuming process of submitting those
25 things.
26
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1 **IV. Plaintiffs' Request is Timely.**

2 Defendants misrepresent NRCP 54(b). This Court has the power to extend the
3 time to submit a fee and costs request as long as such extension is Ordered *prior* to the
4 expiration of the 20 day post judgment period specified in the rule. The Court did so
5 in the very Order directing entry of judgment and plaintiffs' submitted their fee and
6 costs request in a timely manner pursuant to that Order.

7
8 **CONCLUSION**

9 Wherefore, the plaintiffs' motion should be granted in its entirety.

10 Dated: November 8, 2018

11 LEON GREENBERG PROFESSIONAL CORP.

12
13 /s/ Leon Greenberg
14 Leon Greenberg, Esq.
15 Nevada Bar No. 8094
16 2965 S. Jones Boulevard - Ste. E-3
17 Las Vegas, NV 89146
18 Tel (702) 383-6085
19 Attorney for the Plaintiff Class
20
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28 **CERTIFICATE OF SERVICE**

1
2 The undersigned certifies that on November 8, 2018 she served the
3 within:

4 **Plaintiffs' Reply to Defendants' Opposition to Plaintiffs'**
5 **Motion for an Award of Attorneys Fees and Costs as per NRCP**
6 **Rule 54 and the Nevada Constitution**

7 by court electronic service to:

8 TO:

9 Esther C. Rodriguez, Esq.
10 RODRIGUEZ LAW OFFICES, P.C.
11 10161 Park Run Drive, Suite 150
12 Las Vegas, NV 89145

13 /s/ Dana Sniegocki

14 _____
15 Dana Sniegocki
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EXHIBIT "A"

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

10 Plaintiffs,

11 vs.

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

14 Defendants.
15 _____

Case No.: A-12-669926-C

Dept.: I

**DECLARATION OF CLASS
COUNSEL, LEON
GREENBERG, ESQ.**

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

18 1. I have been appointed by the Court as class counsel in this matter. I have
19 personally reviewed the contemporaneous time records maintained by my office
20 recording the attorney time expended in this case through March 9, 2015. Those
21 records indicate that I, personally, expended no less than 30 hours of time through that
22 date on the prosecution of this case and my associate counsel, Dana Sniegocki, no less
23 than 40 hours of time as of that date. I have previously been awarded fees of \$400 an
24 hour in this case on a prior sanctions motion. If these 70 hours of time were awarded at
25 a rate of \$300 an hour (Ms. Sniegocki, an attorney with nearly 10 years of full time
26 litigation experience, is properly awarded a fee at or near that rate) the total fee due my
27 office, as of March 9, 2015, would have been \$21,000.

28 2. I have personally reviewed the expense records maintained by my office.

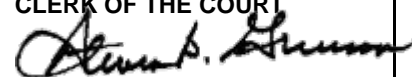
AA009612

As of March 9, 2015 my office had expended \$986.40 in costs on this case.

3. Because plaintiffs' counsel has now been appointed class counsel it has no agreement to take any fee from any portion of any recovery received by any class member in this case or by the named plaintiffs Reno or Murray. It will only receive a fee from any portion of the recovery obtained for anyone (class member or named plaintiff) in this case pursuant to such further Order that this Court may grant. To do otherwise would be improper and is also not permitted under its initial retainer agreements with Murray and Reno.

Affirmed this 8th day of November, 2018

/s/ Leon Greenberg
Leon Greenberg, Esq.



OPPM

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Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

Hearing: December 6, 2018
Chambers

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

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., MICHAEL K. WALL, ESQ., of

HUTCHISON & STEFFEN, LLC, and JAY A. SHAFER, ESQ., of PREMIER LEGAL GROUP, hereby submit this Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs (hereinafter "*Motion*").

In their Motion, Plaintiffs are requesting additional costs that were omitted in *Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution*. However, as fully briefed in *Defendants' Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution*, Plaintiffs' request must be denied in its entirety based upon the following.

Of note, are two things that should be glaring to the Court. First is the request in excess of half a million dollars in fees and costs for a case which never went to trial, and clearly was not prepared to go to the trial, *i.e.* the Court had to step in to appoint a Special Master to do the work which was not performed by the Plaintiffs. Secondly, the Court already extended the required time from 10 days to 60 days to provide the Plaintiffs the extra time to work up their requests for fees and costs; and still Plaintiffs are ill-prepared supplementing and requesting more after this extension.

1. Plaintiffs have failed to exceed Defendants' Offers of Judgment and must be denied pursuant to NRCP 68.

Plaintiffs failed to obtain a more favorable judgment than the Nevada Rule of Civil Procedure 68 offers made to them in this matter. As such, and pursuant to NRCP 68(f)(1) "the offeree cannot recover any costs or attorney's fees and shall not recover interest for the period after the service of the offer and before the judgment." Additionally, pursuant to NRCP 68(f)(2), "the offeree shall pay the offeror's post-offer costs, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney's fees, if any be allowed, actually incurred by the offeror from the time of the offer." As this Court is aware from prior pleadings filed in this matter, Plaintiffs have failed to obtain a more favorable judgment than that which was offered, and are absolutely precluded from obtaining "any costs or attorney's fees and shall not recover interest for the period after the service of the offer and before the judgment."

2. Plaintiffs' request is untimely.

Nevada Rule of Civil Procedure 54(b) states: Unless a statute provides otherwise, the motion

1 must be filed no later than 20 days after notice of entry of judgment is served; specify the judgment
2 and the statute, rule, or other grounds entitling the movant to the award; state the amount sought or
3 provide a fair estimate of it; and be supported by counsel's affidavit swearing that the fees were
4 actually and necessarily incurred and were reasonable, documentation concerning the amount of fees
5 claimed, and points and authorities addressing appropriate factors to be considered by the court in
6 deciding the motion. **The time for filing the motion may not be extended by the court after it**
7 **has expired.**

8 Notice of entry of order was entered August 22, 2018. Plaintiffs' motion for fees was not
9 filed until October 12, 2018, and must be denied in its entirety pursuant to NRCP 54. There is no
10 statute nor does the Constitution extend this time. Plaintiffs' additional request in their current
11 *Motion* is even further beyond the time for filing that **may not be extended by the court after it**
12 **has expired.**

13 Nor have Plaintiffs complied with the requirements of this rule requiring documentation
14 concerning the amount of fees claimed. There is none attached nor addressed.

15 **3. Plaintiffs' request for costs must be denied.**

16 Plaintiffs' request for additional costs is not supported by a Verified Memorandum of Costs
17 pursuant to NRS 18.110, and cannot be considered. No supporting documentation was attached to
18 Plaintiffs' original request as required. Further, Plaintiffs are now seeking in excess of \$30,000 for
19 experts who were never utilized, but more so were subject to being stricken as having not met the
20 required standards for admissibility. See *Defendants' Motion in Limine to Exclude Plaintiffs'*
21 *Experts* filed December 22, 2017.

22 Plaintiffs now also request \$387.50 for the cost of a transcript in *Dubric v. A Cab, LLC, et al*,
23 District Court Case A-15-721063-C "proceedings in May of 2018 as needed to file a petition for a
24 writ to secure certain relief impacting the interests of the class members in this case. The Nevada
25 Supreme Court directed an answer to that writ petition that it subsequently decided did not require a
26 resolution on its merits in light of the entry of a final judgment in this case." Again, Plaintiffs
27 misrepresent the facts and offer self-serving documents. Plaintiffs simultaneously filed an
28 *Emergency Motion for Stay of District Court Proceedings Pending Writ Proceedings Resolution as*

1 *Per NRAP 8(a) and NRAP 27(e)* and a *Writ of Mandamus* with the Supreme Court regarding the
2 pending settlement in the *Dubric* matter. The Supreme Court denied Plaintiffs' Motion for Stay
3 pending resolution of the writ petition (See *Order Denying Stay* attached as **Exhibit 1**). The
4 Supreme Court did not rule upon Plaintiffs' Writ of Mandamus. It was only after the filing of
5 *Motion of Petitioners Michael Murray and Michael Reno to File a Supplement*, which attached a
6 copy of the Order of this court granting Summary Judgment, that the Supreme Court issued the
7 Order Plaintiffs rely upon as justification for costs unnecessarily incurred. What the Supreme Court
8 did rule upon was Defendants' appeal of this Court's Injunction in the *Dubric* matter. As the parties
9 are aware, the Supreme Court issued an Order of Reversal of the injunction (See *Order of Reversal*
10 attached as **Exhibit 2**).

11 CONCLUSION

12 Plaintiffs' request for fees and costs is outrageously excessive for a case never even
13 commencing trial; and yet with the present request, Plaintiffs seek even more than their original
14 request. Because Plaintiffs' underlying Motion for an Award of Fees and Costs is untimely and has
15 not met the minimum requirements for an award, it should be denied in its entirety. Plaintiffs'
16 Motion to file a Supplement should also be denied in its entirety. Further, Plaintiffs have failed to
17 obtain a judgment in excess of the NRCP 68 Offers which were served; and therefore the request for
18 fees and costs must be denied.

19 DATED this 16th day of November, 2018.

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

21
22 /s/ Esther C. Rodriguez, Esq.
23 Esther C. Rodriguez, Esq.
24 Nevada State Bar No. 006473
25 10161 Park Run Drive, Suite 150
26 Las Vegas, Nevada 89145
27 *Attorneys for Defendants*
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 16th day of November, 2018, I electronically filed the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic service to the following:

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

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

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

EXHIBIT 1

EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

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

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
KATHLEEN E. DELANEY, DISTRICT
JUDGE,

Respondents,

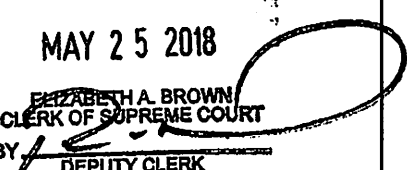
and

JASMINKA DUBRIC; A CAB, LLC; A
CAB SERIES LLC; EMPLOYEE
LEASING COMPANY; AND
CREIGHTON J. NADY,
Real Parties in Interest.

No. 75877

FILED

MAY 25 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK


ORDER DENYING STAY


This original petition for a writ of mandamus challenges a district court order denying petitioners' motion for leave to intervene. Petitioners have moved to stay the district court proceedings pending our resolution of this petition.

In determining whether to grant a stay pending resolution of a writ petition, this court considers the following factors: (1) whether the object of the petition will be defeated if the stay is denied; (2) whether petitioners will suffer irreparable or serious injury if the stay is denied; (3) whether real parties in interest will suffer irreparable or serious injury if the stay is granted; and (4) whether petitioners are likely to prevail on the

merits of the petition. Having considered the motion, the oppositions thereto, and the reply, we conclude that appellants have not demonstrated that these factors militate in favor of a stay at this time, especially as the district court must consider other pending actions when determining class certification questions, *see* NRCP 23(b)(3)(B), and any intervention may be effective even at a later date. Accordingly, we deny the motion for stay.

It is so ORDERED.

 J.
Parraguirre

 J.
Stiglich

CHERRY, J., dissenting:

It appears to me that, while the object of the petition will not be completely defeated absent a stay, whether intervention is warranted is best determined before the district court formally rules on the class certification and preliminary settlement approval questions and the parties then undertake further actions in accordance with the court's orders. To fail to do so limits the purpose of intervening, should intervention later be allowed. Petitioners have raised a substantial case on the merits, and I believe that the balance of equities weighs in favor of granting a stay. *See*

Hansen v. Eighth Judicial Dist. Court, 116 Nev. 650, 655, 6 P.3d 982, 985 (2000). Therefore, I dissent.

Cherry, J.
Cherry

cc: Hon. Kathleen E. Delaney, District Judge
Leon Greenberg Professional Corporation
Rodriguez Law Offices, P.C.
Bourassa Law Group, LLC
Eighth District Court Clerk

EXHIBIT 2

EXHIBIT 2

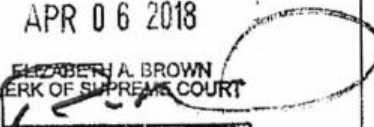
IN THE SUPREME COURT OF THE STATE OF NEVADA

A CAB TAXI SERVICE, LLC; A CAB,
LLC; AND CREIGHTON J NADY,
Appellants,
vs.
MICHAEL MURRAY; AND MICHAEL
RENO, INDIVIDUALLY AND ON
BEHALF OF OTHERS SIMILARLY
SITUATED,
Respondents.

No. 72691

FILED

APR 06 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER OF REVERSAL

This is an appeal from a district court order granting an injunction in a constitutional minimum wage action. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

Appellants A Cab Taxi Service, LLC, A Cab, LLC, and Creighton J. Nady (collectively, ACTS) and respondents Michael Murray and Michael Reno (collectively, Murray) are parties to a class action which involves claims under the Minimum Wage Amendment of the Nevada Constitution. In the order certifying the class, the district court excluded another individual, Jaminska Dubric, from participating in the class.

Dubric later filed a separate action against ACTS (the Dubric action), alleging that ACTS was not paying employees the constitutionally mandated minimum wage. In the Dubric action, ACTS and Dubric were in settlement negotiations and jointly moved the district court to be certified as a class. While the motion to certify was pending, Murray filed a motion to enjoin ACTS from entering into a settlement agreement with Dubric. The district court granted the injunction, precluding ACTS from entering a

settlement with Dubric and requiring ACTS to withdraw the motion to certify. ACTS appeals the order granting the injunction.

The decision to grant an injunction is within the district court's discretion, and we will not disturb that decision "absent an abuse of discretion or unless it is based on an erroneous legal standard." *Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004); *see also Dixon v. Thatcher*, 103 Nev. 414, 417, 742 P.2d 1029, 1031 (1987) ("As a general rule, we will not overturn the district court's ruling on a preliminary injunction. However, where . . . we conclude that the district court erred, we will not hesitate to do so." (citation omitted)). "Before a preliminary injunction will issue, the applicant must show (1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy." *Nevadans for Sound Gov't*, 120 Nev. at 721, 100 P.3d at 187 (internal quotation marks omitted). NRCP 65(d) requires the district court's order granting a preliminary injunction to "set forth the reasons for its issuance; . . . be specific in terms; [and] describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained." However, "the lack of a statement of reasons does not necessarily invalidate a permanent injunction, so long as the reasons for the injunction are readily apparent elsewhere in the record and are sufficiently clear to permit meaningful appellate review." *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 118, 787 P.2d 772, 775 (1990).

Here, the district court's order enjoining ACTS in the Dubric action fails to satisfy the minimum requirements to support injunctive relief under NRCP 65(d). Moreover, our review of the record demonstrates that

the reasons for the injunction are not readily apparent or sufficiently clear. Thus, we conclude that the district court's grant of a preliminary injunction was an abuse of discretion. Accordingly, we reverse the district court's order granting the preliminary injunction.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Gibbons, J.
Gibbons

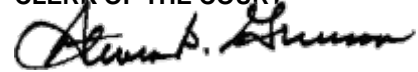
Pickering, J.
Pickering

Hardesty, J.
Hardesty

Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Hon. Kenneth C. Cory, District Judge
Ara H. Shirinian, Settlement Judge
Rodriguez Law Offices, P.C.
Hutchison & Steffen, LLC/Las Vegas
Leon Greenberg Professional Corporation
Eighth District Court Clerk



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

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

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

16 Plaintiffs,

17 vs.

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

20 Defendants.

Case No.: A-12-669926-C

Dept.: I

**PLAINTIFFS' EX PARTE
MOTION FOR A
TEMPORARY RESTRAINING
ORDER AND MOTION ON
AN ORDER REQUIRING THE
TURNOVER OF CERTAIN
PROPERTY OF THE
JUDGMENT DEBTOR
PURSUANT TO NRS 21.320**



21 Plaintiffs, through their attorneys, class counsel, Leon Greenberg and Dana
22 Sniegocki of Leon Greenberg Professional Corporation, hereby move this Court in an
23 *ex parte* fashion for a Temporary Restraining Order pending a hearing on plaintiffs'
24 request, on an Order Shortening Time, for an order requiring the turnover of certain
25 properly belonging to the judgment debtors.

26 This motion is made based upon the declaration of counsel below, the attached
27 exhibits, and the other papers and pleadings in this matter.

28 Dated: November 13, 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

AA009627

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2018 Toyota Corolla sedan with VIN # 2T1BURHE8JC085153;
2018 Toyota Corolla sedan with VIN # 2T1BURHE7JC079328;
2018 Toyota Corolla sedan with VIN # 2T1BURHE5JC081781;
2015 Toyota Camry sedan with VIN # 4T1BF1FK7FU013542;
2009 Mercedes-Benz S550 with VIN # WDDNG71X19A252598;
2015 Ford Transit - Sport Van with VIN # NM0GE9E70F1197097.


Hon. Kenneth Cory, District Judge

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1 900 current and former employees of A Cab for constitutionally mandated minimum
2 wages, is satisfied.

3 3. My office managed to collect \$233,619.54 on the judgment via writs of
4 execution by the Constable from certain Wells Fargo bank accounts. That money has
5 been turned over to the Clerk of the Court pursuant to this Court's order after hearings
6 held by the Court on September 26 and September 28, 2018 (the "Wells Fargo
7 Account Hearings").

8 4. A balance of \$726,380.46 with post-judgment interest still remains to be
9 satisfied by A Cab and is currently subject to collection under the Judgment.

10 5. A Cab has gone to great lengths to place its assets beyond the reach of the
11 Judgment. This was demonstrated during the Wells Fargo Account Hearings where
12 the Court was grappling with A Cab's assertions the Wells Fargo accounts were
13 actually the property of various "series" LLCs issued by A Cab and not property of A
14 Cab subject to judgment execution. The Court rejected that claim by A Cab and
15 declined to quash the writ of execution. A fact that was very germane to that decision
16 was the identification of those funds under the exact same EIN (tax identification)
17 number of A Cab, and that was used to pay the class members their wages, despite
18 such funds being in accounts bearing the "titles" of various alleged "series" LLCs of A
19 Cab.

20 6. My office's investigation has disclosed that at least six motor vehicles,
21 listed above, including four for which it has obtained title reports from the Nevada
22 Department of Motor Vehicles, are owned either in totality or at least in part by A Cab.
23 Ex. "A," Vehicle Title Data reports. These vehicles are titled to A Cab LLC or A
24 Cab Series LLC, the exact name of the judgment debtor in this case. Accordingly, no
25 dispute exists that they are property of A Cab, not just one of its "series" LLCs, and
26 subject to judgment execution.


27 7. I am requesting that the Court, *ex parte*, issue a Temporary Restraining
28 Order against A Cab, restraining it from selling or transferring or encumbering the title

1 to any motor vehicles (including the six with the VIN numbers identified above) that it
2 has an ownership interest in. I appreciate that is an unusual request, but it is one that is
3 significantly justified and appropriate to effectuate the interests of justice in this case.
4 There is a substantial, uncollected, judgment against A Cab. Trying to effectuate a
5 seizure of these motor vehicles, through the normal channels provided for judgment
6 executions on property, is very difficult. The vehicles are in use by A Cab and it is
7 unlikely that the Sheriff will be able to locate, and seize, all, or even any of them,
8 pursuant to any writ. And once A Cab is aware that motor vehicles with titles in its
9 name are being subject to seizure, it will immediately effectuate transfers of the titles
10 of those vehicles to its "series" LLCs or otherwise encumber them. Indeed, my
11 office's research indicates that the vast majority of vehicles used by A Cab in its taxi
12 business are *not* titled to A Cab but to its numerous "series" LLCs. Accordingly, the
13 only hope the plaintiffs have of effectuating an execution of their judgment against any
14 such motor vehicles is through the issuance of a TRO on an *ex parte* basis, prohibiting
15 the transfer or encumbrance of those assets pending their sale by the Sheriff.

16 8. As discussed, *infra*, A Cab and its principal, defendant Nady, have
17 engaged in a prolonged and intentional scheme to avoid satisfying the minimum wage
18 liability at issue in this case by placing A Cab's assets beyond the reach of any
19 judgment. My office's research indicates that these motor vehicle titles are probably
20 the only tangible asset that exists "free and clear" and owned in the name of the
21 judgment debtor, A Cab. All of the other property it uses in its business (such as the
22 real estate it uses for its operations) is titled to other entities controlled or owned by
23 defendant Nady. Presumably it has also placed its operational funds in completely
24 disassociated bank accounts bearing completely unconnected EIN numbers since the
25 Wells Fargo Account hearings so as to render them beyond the reach of the Judgment.
26 If the Court fails to issue the requested TRO, it is apparent that further satisfaction of
27 the judgment will not be achieved through property executions because there will be
28 no property titled to A Cab upon which such an execution can be directly effectuated.

9. I am requesting that the Court set a hearing on an expedited basis because I do not anticipate the Court, on a completely *ex parte* basis, is willing to order the transfer of the motor vehicles at issue to the Sheriff for sale or a complete prohibition on their use by A Cab pending a hearing. Presumably the Court feels A Cab should be afforded an opportunity to be heard before such a transfer Order issues. But, as a judgment debtor, A Cab has no basis to oppose the requested property transfer. Nor should it be allowed, through its continued use and possession of those motor vehicles, to depreciate their value or otherwise expose them to loss. Accordingly, given these circumstances, A Cab should only be given a brief period of time, consistent with the Court's operational schedule, to oppose the request for a turnover order under NRS 21.320 and such Order should most promptly issue. That is particularly true given the nature of this case, involving Nevada's Constitutional minimum wage provision and a class of over 900 employees who now have been waiting for the payment of minimum wages owed to them by A Cab for more than 6 years.

Affirmed this 13th day of November, 2018.


Leon Greenberg, Esq.

ARGUMENT

I. An Order Should Issue Requiring the Transfer of all Motor Vehicles Owned by A Cab to the Sheriff for Sale at Auction.

Pursuant to NRS 21.320, the court may order “any property of the judgment debtor not exempt from execution” and that is “in the hands of the debtor” applied “toward the satisfaction of the judgment.”

The Court can properly Order A Cab to transfer all motor vehicles, including but not limited to those in the Ex. “A” Vehicle Title Data reports from the Nevada Department of Motor Vehicles, and the two additional vehicles plaintiffs’ counsel’s investigation indicates are titled to A Cab (a 2009 Mercedes-Benz S550 with VIN #

1 WDDNG71X19A252598 and a 2015 Ford Transit - Sport Van with VIN #
2 NM0GE9E70F1197097), to the Sheriff for sale at auction and apply the proceeds so
3 earned to the judgment. These vehicles clearly have some value that can be applied to
4 the judgment.

5 Defendants, by their actions and their pronouncements to the Court, make no
6 attempt to hide their intent to avoid this judgment at all costs. In fact, testimony from
7 their NRCP 30(b)(6) witness, and company owner Creighton J. Nady, indicates that
8 defendants entire business structure is designed to avoid an adverse judgment in this
9 case. Ex. "B" 53:13-23; 56:18-57:7; and 60:19-61:12. Under these circumstances, the
10 Court should use its powers under NRS 21.320, as it is otherwise improbable that the
11 class members/judgment creditors will ever satisfy any portion of their judgment from
12 any tangible property of A Cab via a property execution.

13 CONCLUSION

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

16 Dated: November 13, 2018

17 LEON GREENBERG PROFESSIONAL CORP.

18 /s/ Leon Greenberg
19 Leon Greenberg, Esq.
20 Nevada Bar No. 8094
21 2965 S. Jones Boulevard - Ste. E-3
22 Las Vegas, NV 89146
23 Tel (702) 383-6085
24 Attorney for the Plaintiffs and the Class
25
26
27
28

EXHIBIT "A"

STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775) 684-4590

REQUEST DATE : 10/03/2018

SUP.TRAN.ID : 124207911

LEON GREENBERG PROFESSIONAL CORP
2965 S JONES BLVD STE E3
LAS VEGAS NV 89146-5606

VEHICLE TITLE DATA

I - VEHICLE DATA

YEAR : 2018 MAKE : TOYT MODEL : COROLL CYL : 04 OPTL NO : NOT AVL
VIN : 2T1BURHE7JC085153 VEHCL TYPE : VEH-SEDAN 4 DR

II - TITLE INFORMATION

TITLE NO : NV010811719 ODMTR RG : 10
STATUS : ORIGINAL ODMTR BR : ACTUAL MILES
TITLE ISSUE DATE : 08/10/2018

OWNER TYPE : REGISTERED COMBN TYPE : NONE
NAME : A CAB SERIES LLC
ADDRESS : 1500 SEARLES AVE
CITY/STATE : LAS VEGAS NV 89101-1123

PAGE NO: 1** LAST PAGE **

AA009635

STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775) 684-4590

REQUEST DATE : 10/03/2018

SUP.TRAN.ID : 124207911

LEON GREENBERG PROFESSIONAL CORP
2965 S JONES BLVD STE E3
LAS VEGAS NV 89146-5606

VEHICLE TITLE DATA

I - VEHICLE DATA

YEAR : 2018 MAKE : TOYT MODEL : COROLL CYL : 04 OPTL NO : NOT AVL
VIN : 2T1BURHE8JC079328 VEHCL TYPE : VEH-SEDAN 4 DR

II - TITLE INFORMATION

TITLE NO : NV010812008 ODMTR RG : 10
STATUS : ORIGINAL ODMTR BR : ACTUAL MILES
TITLE ISSUE DATE : 08/10/2018

OWNER TYPE : REGISTERED COMBN TYPE : NONE
NAME : A CAB SERIES LLC
ADDRESS : 1500 SEARLES AVE
CITY/STATE : LAS VEGAS NV 89101-1123

PAGE NO: 1** LAST PAGE **

AA009636

STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775) 684-4590

REQUEST DATE : 10/03/2018

SUP.TRAN.ID : 124207911

LEON GREENBERG PROFESSIONAL CORP
2965 S JONES BLVD STE E3
LAS VEGAS NV 89146-5606

VEHICLE TITLE DATA

I - VEHICLE DATA

YEAR : 2018 MAKE : TOYT MODEL : COROLL CYL : 04 OPTL NO : NOT AVL
VIN : 2T1BURHE5JC081781 VEHCL TYPE : VEH-SEDAN 4 DR

II - TITLE INFORMATION

TITLE NO : NV010811782 ODMTR RG : 10
STATUS : ORIGINAL ODMTR BR : ACTUAL MILES
TITLE ISSUE DATE : 08/10/2018

OWNER TYPE : REGISTERED COMBN TYPE : NONE
NAME : A CAB SERIES LLC
ADDRESS : 1500 SEARLES AVE
CITY/STATE : LAS VEGAS NV 89101-1123

PAGE NO: 1** LAST PAGE **

AA009637

STATE OF NEVADA
DEPARTMENT OF MOTOR VEHICLES
CENTRAL SERVICES - RECORDS DIVISION
555 Wright Way
Carson City, Nevada 89711-0250
(775) 684-4590

REQUEST DATE : 10/03/2018

SUP.TRAN.ID : 124207911

LEON GREENBERG PROFESSIONAL CORP
2965 S JONES BLVD STE E3
LAS VEGAS NV 89146-5606

VEHICLE TITLE DATA

I - VEHICLE DATA

YEAR : 2015 MAKE : TOYT MODEL : CAMRY CYL : 04 OPTL NO : NOT AVL
VIN : 4T1BF1FK7FU013542 VEHCL TYPE : VEH-SEDAN 4 DR

II - TITLE INFORMATION

TITLE NO : NV010892629 ODMTR RG : 82974
STATUS : ORIGINAL ODMTR BR : ACTUAL MILES
TITLE ISSUE DATE : 09/07/2018

OWNER TYPE : REGISTERED COMBN TYPE : NONE
NAME : A CAB SERIES LLC
ADDRESS : 1500 SEARLES AVE
CITY/STATE : LAS VEGAS NV 89101-1123

PAGE NO: 1** LAST PAGE **

AA009638

EXHIBIT "B"

DISTRICT COURT
CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL) Case No.: A-12-669926-C
RENO, individually and on) Dept. No.: I
Behalf of others similarly)
Situating,)
 Plaintiffs,)
vs)
A CAB TAXI SERVICE LLC, A CAB,))
LLC and CREIGHTON J. NADY,)
 Defendants.)
_____)

RECORDED DEPOSITION OF CREIGHTON J. NADY

Taken on June 16, 2017

At 1:10 p.m.

Evolve Downtown

400 South 4th Street, 3rd Floor

Las Vegas, Nevada 89101

AA009640

1 A: It's a 1040.

2 Q: And is it correct that that 1040 is
3 Schedule C?

4 A: Exactly.

5 Q: Okay. And that is your personal
6 1040 return?

7 A: It certainly is. Do you remember
8 when I told you in the hallway that you were suing
9 the wrong entities --

10 MS. RODRIGUEZ: Jay, there is no
11 question pending.

12 A: Thank you.

13 Q: Okay. Mr. Nady, you believe that
14 having individual cells of A Cab LLC will protect
15 your business from having to pay judgment against in
16 this case?

17 A: No.

18 Q: Then why were you telling me that
19 we had sued the wrong entity in this lawsuit?

20 A: Because you have not sued any of
21 the cells directly because a Series LLC is a series
22 of cells and you haven't sued each one of them. You
23 just threw a piece of mud up against the wall.

24 Q: So what will happen in your view if
25 this case proceeds to a judgment against A Cab LLC

1 tell me what the law is. What do you believe will
2 happen in that situation?

3 MS. RODRIGUEZ: Same objection.

4 A: I think you've sued the wrong
5 entities, Mr. Greenberg.

6 Q: And I've sued the wrong entities
7 because?

8 A: I don't know why you did it.

9 MS. RODRIGUEZ: Object to the form of
10 the question.

11 Q: Okay.

12 A: You did it because you don't know
13 what an LLC is, that's why.

14 Q: Okay. What would be the right
15 entities to sue, Mr. Nady?

16 A: I wouldn't want to give you legal
17 advice, Mr. Greenberg.

18 Q: Well, you say you believe that the
19 wrong entities are sued. Is that because a judgment
20 against A Cab LLC in this case will not be
21 enforceable against the property of the cells you've
22 described such as the 102 cars?

23 MS. RODRIGUEZ: Objection. Calls for a
24 legal conclusion, and calls for speculation, and
25 lacks foundation.

1 A: Should I answer it?

2 Q: You need to answer the question,
3 Mr. Nady.

4 A: Yeah, that's what I think.

5 Q: Has the cell that is the Employee
6 Leasing Company you described changed over time?

7 A: Yes.

8 Q: When?

9 A: I don't recall when, Mr. Greenberg.

10 Q: What were the names that were used
11 for the Employee Leasing Company's cell?

12 A: I think we had Employee Leasing
13 Company and then Employee Leasing Company II... I
14 think we've got three of them over the years.

15 Q: And why did the name change?

16 A: To a legal advice.

17 Q: And what was that legal advice?

18 MS. RODRIGUEZ: Objection. Calls for
19 attorney-client information.

20 A: Mr. Greenberg, I don't think that I
21 have to give you my legal advice.

22 Q: I just want to be clear on the
23 record, counsel, he --

24 A: I'm invoking my legal counsel.

25 Q: Okay. The witness is invoking an

1 check printing company did that or the group that did
2 this put it in there, but that's never been our name.

3 Q: Has that ever been the name of a
4 cell used by A Cab?

5 A: It's never been our name in
6 anything. I don't know how. I think the check
7 company just printed them incorrectly.

8 Q: So this is a pay stub of a check
9 that was issued on pay date 10/5/2012 it says on the
10 top. Who issued this paycheck?

11 A: A Cab, LLC.

12 Q: So it was issued by A Cab, LLC, and
13 not any cell of A Cab, correct?

14 A: That's correct.

15 Q: When this check was issued in 2012,
16 was A Cab issuing all payroll checks to the drivers
17 directly and not through any cell?

18 A: I don't know.

19 Q: Did A Cab at any point changed a
20 policy of issuing checks directly to its drivers and
21 instead issued those checks through one of the cells?

22 A: A Cab changed this entity from an
23 LLC, a single-member LLC, to a single-member Series
24 LLC sometime along the way.

25 Q: Was it sometime after October of

1 2012?

2 A: I don't know. I think it was.

3 Q: And why did it do that?

4 A: Liability.

5 Q: What liability?

6 A: The one we're doing right now.

7 Mainly for insurance of vehicle damage and accident
8 insurance.

9 Q: When you refer to liability, you're
10 also including the liability represented by this
11 lawsuit, correct?

12 A: I sure do.

13 Q: Was it the intention when A Cab
14 changed its operation to a series LLC to make the
15 taxi drivers all employees of one of the cells?

16 A: Yes.

17 Q: And was the intention of that being
18 that if those taxi drivers were owed any money, their
19 ability to collect any money for their work that they
20 hadn't been paid, their ability to collect that money
21 would be limited to the assets of that cell?

22 A: No.

23 Q: And what was the intent of that?

24 A: We did this in the beginning to
25 avoid a lawsuit for an accident where the driver was

1 CERTIFICATE OF RECORDER

2 STATE OF NEVADA)

3 COUNTY OF CLARK)

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

5I, Peter Hellman, a duly commissioned

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

7 certify: That I recorded the taking of the

8 deposition of the witness, Creighton Nday,

9 commencing on 06/16/2017.

10That prior to being examined the witness was

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

12 transcribed or supervised transcription from Recorded

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

14 true and accurate transcription.

15I further certify that I am not a relative or

16 employee of an attorney or counsel of any of the

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

18 counsel involved in said action, nor a person

19 financially interested in the action.

20IN WITNESS WHEREOF, I have hereunto set my

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

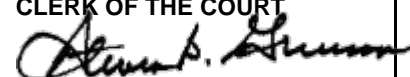
22 Nevada, this 06/16/2017.

23

24_____

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

AA009646



OPPM

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
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PREMIER LEGAL GROUP
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Las Vegas, Nevada 89128
702-794-4411
jshafer@premierelegalgroup.com
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

Hearing: December 11, 2018
9:00 a.m.

**OPPOSITION TO RESOLUTION ECONOMICS' APPLICATION FOR ORDER
OF PAYMENT OF SPECIAL MASTER'S FEES AND MOTION FOR CONTEMPT**

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., MICHAEL K. WALL, ESQ., of
HUTCHISON & STEFFEN, LLC, and JAY A. SHAFER, ESQ., of PREMIER LEGAL GROUP hereby submit

1 this Opposition to Resolution Economics' Application for Order of Payment of Special Master's
2 Fees and Motion for Contempt, hereinafter "Motion."

3 **1. The Appointment of a Special Master is on Appeal to the Supreme Court.**

4 As this Court is aware, Defendants have filed their appeal to the Nevada Supreme Court
5 which includes the Court's appointment of a special master on the eve of trial. Defendants disagree
6 and have appealed the Court's *sua sponte* decision to surprisingly place Plaintiff's motion for
7 appointment of a special master, previously denied, back on calendar without any notice of hearing;
8 and further labeling the hearing as the "reconsideration" hearing, thus denying Defendants any
9 opportunity to be heard on the issue. An important item which would have been heard was not only
10 the impropriety of such an appointment, but the Defendants' inability to finance such a costly
11 endeavor.

12 Upon appointment, Plaintiffs urged the Special Master to conduct the work as quickly as
13 possible and as broadly as possible including a complete work-up of the years which were expected
14 to have little (if no) liability. This was brought to the Court's attention who indicated that if such a
15 finding were true, that some years yielded little to no liability, Plaintiffs would be made to share in
16 the expense. Since no work whatsoever has ever been presented by the Special Master it is unknown
17 whether he ever did address these years as directed, and whether Plaintiffs are to share in this costly
18 expense.

19 Following the appointment and at the first opportunity, Defendants filed their motion to stay
20 on an order shortening time to inform the Court and all involved that they were unable to pay the
21 initial deposit to the Special Master. In fact, Defendants' motion on Order Shortening Time was
22 submitted to the Court on March 1, 2018, prior to even providing the Special Master any instruction
23 or data to commence any work. To remain compliant with the Court order, Defendants supplied the
24 initial data on March 4, 2018 to the Special Master. **Exhibit 1**, Correspondence of March 4, 2018.

25 The Special Master was served with this pleading on March 1, 2018, informing him that
26 Defendants were unable to pay even the initial deposit. While in possession of this notification, he
27 continued at Plaintiffs' urging to run up the bill to over \$85,000 dollars!

28 . . .

2. **Resolution Economics' Has Not Produced Any Work Product.**

Resolution Economics has submitted an invoice for payment in the amount of \$85,280.56 yet has failed to provide **any** work product in this matter. There has been no evidence of any work completed in this matter by the Special Master. Instead, following the Court's decision to appoint a Special Master, the Court subsequently decided to take a completely different route in granting summary judgment based upon a series of excel files prepared by Plaintiffs.

The work of the Special Master appointed by the Court was subsequently completely disregarded by the Court and by the Plaintiffs. There has been no data supplied, nor any evidence prepared by the Special Master.

Some of the main items for a Court to consider in awarding fees is the work actually performed: the skill, time and attention given to the work; as well as the result: what benefits were derived. *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969), citing 7 C.J.S. Attorney and Client § 191 a. (2), p. 1080 et seq.; 5 Am.Jur., Attorneys at Law, section 198. Cf. *Ives v. Lessing*, 19 Ariz. 208, 168 P. 506. Furthermore, good judgment would dictate that each of these factors be given consideration by the trier of fact and that no one element should predominate or be given undue weight. *Id.*

Presently, there is no work whatsoever; and there were no benefits derived at all. No evidence of work has ever been offered by Resolution Economics except an invoice.

3. **Resolution Economics' fees are excessive.**

Pursuant to Resolution Economics' invoice submitted to date in this matter, over \$17,000 has been billed to train their employees. The proposal submitted by Resolution Economics did not include this exorbitant charge; or surely the Court would not have made such an appointment.

The Court appointed Ali Saad as the Special Master and from the invoicing, it appears his involvement was in fact minimal. His billing indicates 5.10 hours spent on the project with only 1 entry for anything to do with data. This was a .8 entry to "review data and a call with defense counsel" on February 20, 2018 (again this was prior to data even being sent to him on March 4, 2018). Mr. Saad's total on the entire project is \$3,825, with a rate of \$1,500 per hour. While this is a completely excessive hourly rate of \$1,500 per hour, Mr. Saad's time is the only item which this

1 Court should consider.

2 This Court should note that Mr. Saad was not even provided the initial set of data nor
3 instruction on what the parties (and the Court) were needing his services for, until March 4, 2018.
4 Yet, the majority of entries in the invoicing pre-date March 4, 2018. There are numerous entries
5 stating “preparing for” and “supervising analysis”; yet there was no data or instruction received as of
6 those dates from the parties. These entries are implausible. There are numerous data entries also all
7 pre-dating any supply of the data; it would therefore appear that all of the data entry being charged
8 to the Defendants was in fact not reliable data and from some unknown source. The Court ordered
9 Defendants to supply the data to the Special Master; Defendants complied with this on March 4,
10 2018. The series of correspondence is attached hereto as Exhibit 1 demonstrating that Mr. Saad was
11 first asked to perform a conflicts check before commencing any work on February 16, 2018 (yet has
12 numerous entries prior to this date); and then when provided with data was asked to stand down by
13 Plaintiffs’ counsel until the issue of the data he was to review and consider was resolved on March
14 4, 2018 and sent to him. Certainly any time entries prior to March 4, 2018 are not reliable; not part
15 of the project; and should not be considered at all by this Court as a charge to Defendants.

16 **CONCLUSION**

17 Based upon the foregoing, this Court should deny the application for order of payment of
18 fees and motion for contempt in its entirety.

19 DATED this 26th day of November, 2018.

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

21
22 /s/ Esther C. Rodriguez, Esq.
23 Esther C. Rodriguez, Esq.
24 Nevada State Bar No. 006473
25 10161 Park Run Drive, Suite 150
26 Las Vegas, Nevada 89145
27 *Attorneys for Defendants*
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 26th day of November, 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

Peter Dubowsky, Esq.
Dubowsky Law Office, Chtd.
300 South Fourth Street, suite 1020
Las Vegas, Nevada 89101
Counsel for Resolution Economics, LLC

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

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

EXHIBIT 1

EXHIBIT 1

RODRIGUEZ

LAW OFFICES, P.C.

www.rodriguezlaw.com

March 4, 2018

Via Electronic Service

Ali Saad, Managing Partner
Resolution Economics
1925 Century Park East, 15th Floor
Los Angeles, CA 90067

Re: *A Cab, LLC adv. Murray & Reno*
District Court Case No. A-12-669926-C

Dear Dr. Saad:

Attached please find correspondence from Mr. Greenberg dated March 1, 2018, indicating the parties' agreement as to the Quickbooks data which will be supplied to you, as well as the items to be included in your calculations of "gross wages." There is an attached 2 page checklist listing the items. As noted in Mr. Greenberg's letter, "tips supplemental" and "supplies" should not be included in your calculations; and nor should you take into account any deductions in calculating the gross wages. I will be preparing a stipulation to be signed by the parties and the Court confirming the above information. In the interim, I have placed the 5 Excel files listed in Mr. Greenberg's letter in the dropbox for you to access. Please contact the parties with any questions or need for clarification of these issues. Thank you.

Sincerely,

RODRIGUEZ LAW OFFICES, P.C.

EC Rodriguez

Esther C. Rodriguez, Esq.

ECR:srd

enc.

cc: Leon Greenberg, Esq.
 via electronic service

ELECTRONICALLY SERVED
3/1/2018 1:24 PM
LEON GREENBERG
Professional Corporation
Attorneys at Law
2965 South Jones Boulevard • Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085

Fax: (702) 385-1827

Leon Greenberg
Member Nevada, California
New York, Pennsylvania and New Jersey Bars
Dana Sniegocki
Member Nevada and California Bars

March 1, 2018

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

VIA ELECTRONIC FILING SYSTEM

Re: Murray v. A Cab - Your letter of yesterday's date

Dear Ms. Rodriguez:

I write in response to your letter of yesterday.

It appears we are in agreement on how the Special Master, Dr. Saad, will review the Quickbooks data and compile the "gross wages paid per pay period" amounts from that data:

1. He will utilize the five Excel files previously provided to me: 07-01-07 to 10-09-08 ssn.xlsx; 10-10-08 to 10-09-10 ssn.xlsx; 10-10-10 thru 10-9-12 ssn.xlsx; 10-10-12 thru 6-27-14 ssn.xlsx; and 06-28-14 thru 05-27-16 ssn.xlsx. You will provide those files to him and send me a duplicate copy of the files you sent to him so all of the parties are satisfied that Dr. Saad is properly in receipt of the agreed upon information.
2. Dr. Saad will add together every item paid to each taxi driver during each indicated pay period that you noted with a check mark on the two pages attached to your letter of yesterday. The total of those items shall be deemed by the parties to be the "gross wages paid for the pay period" for that taxi driver. That total will *not* include any



amounts identified as "tips supplemental." You need to confirm whether he will, or will not, include the item identified as "supplies" in calculating the gross wages amount, your note on the page with the number 46 in the lower right hand corner is unclear.

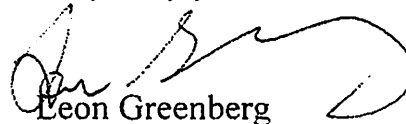
3. Dr. Saad will not be taking any "deductions" from the foregoing amounts he calculates as "gross wages paid for the pay period" for items such a cash loan fees or anything else recorded in the Excel files as a deduction. I am agreeing to that process to streamline the work of Dr. Saad, I do not agree that such deductions are irrelevant for determining whether proper minimum wages have been paid.

If the foregoing is agreeable, please confirm the same and provide a suitable letter of instruction to Dr. Saad and the Excel files and advise me accordingly.

Thank you.

I remain,

Very truly yours,



Leon Greenberg

cc.: All Counsel

February 21, 2018

Via Electronic Service

Leon Greenberg, Esq.
2965 South Jones Boulevard, Suite E4
Las Vegas, Nevada 89146

*Re: A Cab, LLC adv. Murray & Reno
District Court Case No. A-12-669926-C*

Dear Mr. Greenberg:

I am in receipt of your correspondence sent after hours last night, and am responding to same. Last week you raised the issue of including deductions in the data being supplied to the Special Master. Contrary to your accusation that I ignored your letter, I responded as well as forwarded the actual Quickbooks data to you for review. I assumed you would tell me if you had any issue with the gross wage information which was sent to you as well as the Special Master. When I received your letter, I was surprised that you had raised the issue about deductions at this late stage, as we had always been talking about "gross wages" before Judge Cory, and nothing was said about inclusion of deductions for the Special Master's consideration.

As you can see from the data supplied to you, gross wages are detailed and are broken down by commissions, hourly wages, bonuses, incentives and tips as line items. Contrary to your unfounded accusations, this is the same data that was in fact provided to you in this litigation, and pulled from the same Quickbooks. At your request, you were previously provided with additional detail unrelated to the Special Master's tasks in this litigation per the Court's order. However, as stated in my prior letter, if you believe that there are additional items that need to be included, we can address these with the Court if necessary. **I am still waiting to hear back from you as to what detail you believe needs to be provided to the Special Master that is missing from the gross wages data.**

In your most recent correspondence of last night, you now raise a different issue of an employee identification number to be supplied with the data. As you recall, the employee identification number was an issue because of the data contained in the Cab Manager system which you insisted on receiving, although Cab Manager is not a payroll program. At that time, I informed you there were duplicate names in the Cab Manager system, and therefore offered the employee identification number as a solution. I am told this is not the case in the Quickbooks data and thus was not included. If you have reason to think otherwise, please advise.

Leon Greenberg, Esq.
February 21, 2018
Page 2 of 2

It appears to me that you are merely being difficult in attempting to muddy the information provided to the Special Master, forcing him to perform extra work wading through unnecessary data - at A Cab's expense of course. In your recent correspondence to the Special Master you have asked him to "stand down" while you conduct your analysis. A Cab is working on forwarding the remainder of Quickbooks data presently. I reiterate my request to you that if you want other detail included, please advise with specificity and without further delay.

Sincerely,

RODRIGUEZ LAW OFFICES, P.C.

EC Rodriguez

Esther C. Rodriguez, Esq.

ECR:srd

cc: Dr. Ali Saad
Michael Wall, Esq.

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

Fax: (702) 385-1827

Leon Greenberg
Member Nevada, California
New York, Pennsylvania and New Jersey Bars
Dana Sniegocki
Member Nevada and California Bars

February 20, 2018

Dr. Ali Saad
Managing Partner
Resolution Economics
1925 Century Park East - 15th Floor
Los Angeles, CA 90067

VIA EMAIL ONLY

Re: Murray v. A Cab - Special Master Appointment

Dear Dr. Saad:

Today I was provided by A Cab's counsel with 39 or 40 CSV files that appear to each contain certain payroll information for a two week pay period for certain class members for the time period 2014-2015. These files are, presumably, derived from the Quickbooks payroll records of A Cab that are discussed in the Order of February 7, 2018 appointing a Special Master.

A Cab's counsel has failed to communicate with my office (counsel for the class members) about how it is furnishing the Quickbooks payroll records to your office for your work as Special Master. A Cab has *not* agreed to allow you to use the "gross wage per pay period" amounts previously arrived at by my office based upon its consultant's review of the Quickbooks payroll records. This means you will be tasked, as Special Master, with determining those "gross wages paid per pay period" amounts based upon the Quickbooks data. A Cab is, apparently, **not furnishing you with the same Quickbooks payroll records that it previously furnished to my office.** As a result, I am not sure you can, in respect to completing this portion of your work as Special Master, rely upon the Quickbooks data A Cab's counsel is now sending you. I am endeavoring to clarify this



situation and will advise you further as soon as I have more information.

The foregoing CSV files I received today are lacking one presumably important piece of information: unique identifiers for each class member (who are identified only by name in those CSV files) to whom such information apparently is claimed to relate. Certain class members have similar or even the same names, perhaps with spelling variations. Without unique identifiers for each class member relating the Quickbooks payroll information to the correct class member may be a problem. The Quickbooks records previously provided to my office did contain such unique identifiers (employee account or identification numbers, check numbers, and partial social security numbers). A Cab is apparently not including any of those unique identifiers in the information being furnished to your office.

I hope to be in touch with you further this week about this.

Thank you.

Very truly yours,



Leon Greenberg

cc: Esther Rodriguez, Esq.

ELECTRONICALLY SERVED
2/20/2018 5:22 PM
LEON GREENBERG
Professional Corporation
Attorneys at Law

2965 South Jones Boulevard • Suite E-3
Las Vegas, Nevada 89146
(702) 383-6085

Fax: (702) 385-1827

Leon Greenberg
Member Nevada, California
New York, Pennsylvania and New Jersey Bars
Dana Sniegocki
Member Nevada and California Bars

February 20, 2018

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

VIA ELECTRONIC FILING SYSTEM

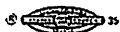
Re: Murray v. A Cab
Your obstruction of the Special Master's work
Defendant's failure to properly provide Quickbooks Data

Dear Ms. Rodriguez:

You have apparently elected to ignore my letter of February 16, 2018, except to the extent you have provided me with certain CSV files today that you are, apparently, also sending to our Special Master, Dr. Saad. I enclose a copy of my letter to Dr. Saad that was sent to him, and you, earlier today by email.

A Cab cannot now provide to Dr. Saad for his work as a Special Master a completely different form of, and clearly more limited, set of Quickbooks information than A Cab has previously provided in discovery in this case to plaintiffs' counsel. Or at least it cannot do so without an agreement by all counsel that Dr. Saad should proceed to work with such a different set of information. **You need to most promptly contact me to discuss this situation or I will have to file an OST with the Court to secure attention from Judge Cory to this situation.** I intend to do so unless I hear from you no later than tomorrow evening (I should be available both tonight and tomorrow until 7 p.m. or later).

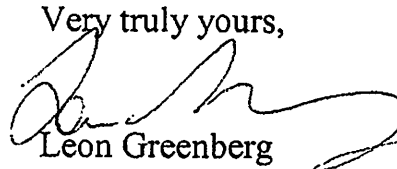
As I have repeatedly emphasized to you, and the Court, my priority is seeing that the Special Master can efficiently, swiftly and accurately perform his



assignment. If you will communicate about this matter with me perhaps we can reach some understanding that will allow Dr. Saad to proceed with his work utilizing something *other* than the "on the record" Quickbooks discovery provided by defendant A Cab in this case. But it is completely unacceptable for you to send Dr. Saad information that is *not* "on the record" in this litigation, that has never been previously provided to plaintiffs' counsel, and insist he use that information to complete his Special Master assignment without plaintiffs' counsel's consent. Indeed, if you persist in doing so you are, in my view, acting in violation of Judge Cory's Order directing that A Cab furnish the Quickbooks data *post haste*, and in the form produced to plaintiffs' counsel in this litigation, directly to the Special Master.

I remain,

Very truly yours,



Leon Greenberg

cc.: All Counsel

RODRIGUEZ

LAW OFFICES, P.C.

www.rodriquezlaw.com

February 16, 2018

Via Electronic Service

Ali Saad, Managing Partner
Resolution Economics
1925 Century Park East, 15th Floor
Los Angeles, CA 90067

**Re: A Cab, LLC adv. Murray & Reno
District Court Case No. A-12-669926-C**

Dear Dr. Saad:

As a basic premise before commencing your work in this matter, and pursuant to direction received from the Court on February 15, 2018, would you please confirm in writing that you have conducted a conflicts check pertaining to the parties involved in this matter, and your firm?

Plaintiffs disclosed the following persons as Plaintiffs, individually and on behalf of others similarly situated:

Plaintiffs

Michael Murray
Michael Reno
Michael Sargeant
Michael Brauchehe

Represented by:

Leon Greenberg, Esq.
Dana Sniegocki, Esq.
Christian Gabroy, Esq.
Kaine Messer, Esq.

Defendants named in this matter are as follows:

Defendants

A Cab, LLC
Creighton J. Nady
A Cab Taxi Service LLC

Represented by:

Esther Rodriguez, Esq.
Michael Wall, Esq.

Please address in detail any potential conflict with your firm and these individuals or entities, as well as any prior involvement with any of these individuals or entities and/or the transportation industry, particularly in Las Vegas, Nevada.

Thank you for your anticipated cooperation in addressing this important issue.

Sincerely,

RODRIGUEZ LAW OFFICES, P.C.

EC Rodriguez

Esther C. Rodriguez, Esq.

ECR:srd

cc: Leon Greenberg, Esq.
via electronic service

RODRIGUEZ

LAW OFFICES, P.C.

www.rodriquezlaw.com

February 15, 2018

Via Overnight Delivery

Ali Saad, Managing Partner
Resolution Economics
1925 Century Park East, 15th Floor
Los Angeles, CA 90067

Re: *A Cab, LLC adv. Murray & Reno*
District Court Case No. A-12-669926-C

Dear Dr. Saad:

In accordance with the Court's instruction of today, enclosed please find an external hard drive containing the trip sheets of A Cab, LLC from October 1, 2010 through December 31, 2015. As was discussed with the Court this morning, A Cab is working to complete the download of the Quickbooks data and expects to overnight this to you tomorrow.

Thank you.

Sincerely,

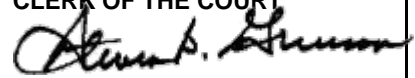
RODRIGUEZ LAW OFFICES, P.C.

EC Rodriguez

Esther C. Rodriguez, Esq.

ECR:srd
enc.

cc: Leon Greenberg, Esq.
 via electronic service w/o enclosure



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
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 SPECIAL MASTER'S
MOTION FOR AN ORDER
FOR PAYMENT OF FEES
AND CONTEMPT**

Hearing Date: December 11, 2018
Hearing Time: 9:00 a.m.

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation, hereby submit this response to the motion of Special Master Resolution Economics for an Order for payment of fees and contempt.

**THE RELIEF GRANTED TO THE SPECIAL MASTER SHOULD
NOT DIRECTLY IMPINGE UPON THE CLASS MEMBERS'
INTERESTS IN COLLECTING THEIR JUDGMENT**

Class counsel for the plaintiffs, except for urging the Court to not act in a fashion that would impair the collection of the class members' judgment, can take no position either supporting or opposing the Special Master's motion. The class members have effectuated the levy of a significant amount of money (the Wells Fargo funds) towards the satisfaction of their judgment, money that has been deposited with the Court. Those seized funds should **NOT** be utilized to pay the Special Master. To the extent the Court grants some form of judgment to the Special Master, it should be consigned to their own self-help remedies and not receive funds class counsel has already levied upon for the benefit of the class members.

1 A Cab's claims it could not pay the Special Master are simply untrue. Rather, it
2 has chosen not to pay the Special Master. Just as it has chosen not to pay the class
3 members minimum wages in the first instance or this Court's judgment rendered on
4 behalf of the class members.

5 To the extent the Court elects to grant relief to the Special Master, class counsel
6 urges the Court to grant such relief (be it an Order of contempt or a monetary award)
7 in favor of the Special Master **against the defendant Creighton J. Nady personally.**
8 Such an award will not, at least directly, impair the collection of the class members'
9 judgment at this time, as their judgment currently is only against A Cab, the corporate
10 defendant. Such an Order against defendant Nady would be proper and justified, as A
11 Cab is wholly controlled by him and its failure to comply with the Court's Order
12 appointing the Special Master is attributable to him, personally.

13 CONCLUSION

14 For all the foregoing reasons, if the Special Master's motion is granted, the Court
15 should fashion the relief it so grants in a fashion that does not impair the ability of the
16 class members to collect their judgment.

17 Dated: November 26, 2018

18
19 LEON GREENBERG PROFESSIONAL CORP.

20
21 /s/ Leon Greenberg
22 Leon Greenberg, Esq.
23 Nevada Bar No. 8094
24 2965 S. Jones Boulevard - Ste. E-3
25 Las Vegas, NV 89146
26 Tel (702) 383-6085
27 Attorney for the Class
28

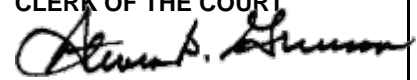
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Plaintiffs' Response to Special Master's Motion for an Order for Payment of Fees and Contempt

TO:

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

Dana Sniegocki



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Attorneys for Plaintiffs

DISTRICT COURT
CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C

Dept.: I

**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**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,
hereby file this Reply to defendants' Opposition to plaintiffs' Motion to supplement
their motion for an award of costs and attorneys fees.

ARGUMENT

**A. The request for the additional \$1,662.50 in costs are presented
in a timely fashion via the plaintiffs' motion to supplement.**

Defendants oppose not just the \$1,662.50 in costs at issue in this motion to
supplement, but the entirety of the costs and fee award requested on the basis it was
untimely under NRCP 54(b). As already explained to the Court in the briefings on the
initial motion for a costs and attorney fee award, the 20 day time limit of Rule 54(b)
was extended by the Court's Order granting final judgment and other relief (at p. 34, ¶
"E") to October 21, 2018. The motion for a costs and attorney fee award was filed on
October 12, 2018. The motion to supplement that still pending motion, to present the

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1 additional \$1,662.50 in costs to the Court for consideration, was filed on October 29,
2 2018. Under these circumstances, with the initial motion filed in a timely fashion, and
3 still not decided or fully briefed, the supplemental motion in respect to the erroneously
4 omitted \$1,662.50 in costs should be deemed presented in a timely fashion.
5 Defendants provide no reason for the Court to hold otherwise.

6 **B. The requested additional \$1,662.50 in costs are proper.**

7 Defendants urge the Court to deny the portion of the \$1,662.50 in costs at issue
8 that were for computer data consultant expenses (\$1,272) on the basis that the total
9 computer data consultant and expert costs sought by plaintiffs (\$30,287) are excessive.
10 Yet defendants acknowledge they spent far more (over \$47,000) in such costs. Ex.
11 “A,” p. 2. Their objection to the plaintiffs’ far smaller such costs is specious.

12 The \$387.50 for the *Dubric* court reporter costs was proper and necessary to the
13 filing of the writ petition in that case to which defendants were Ordered to Answer.
14 That the Nevada Supreme Court, because of the later developments in this case, never
15 reached the merits of that writ petition (it was rendered moot by the final judgment in
16 this case) is irrelevant. Similarly irrelevant is the defendants’ success in the earlier
17 appeal in this case of the injunction related to the *Dubric* case. This expense was
18 properly incurred to protect the class members’ interests and should be paid by
19 defendants.

20 **CONCLUSION**

21 Wherefore, the plaintiffs’ motion should be granted in its entirety.

22 Dated: November 28, 2018

23 LEON GREENBERG PROFESSIONAL CORP.

24
25 /s/ Leon Greenberg
26 Leon Greenberg, Esq.
27 Nevada Bar No. 8094
28 2965 S. Jones Boulevard - Ste. E-3
Las Vegas, NV 89146
Tel (702) 383-6085
Attorney for the Plaintiff Class

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 28, 2018 she served the within:

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

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"

SUPP

Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
RODRIGUEZ LAW OFFICES, P.C.
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mwall@hutchlegal.com
Attorneys for Defendants

DISTRICT COURT

CLARK COUNTY, NEVADA

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

Plaintiffs,

vs.

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

Defendants.

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

DEFENDANTS' SECOND SUPPLEMENT TO

REBUTTAL EXPERT WITNESS DISCLOSURE

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

WITNESSES

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

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

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

DOCUMENTS

1. Curriculum Vitae, Prior Testimony and Fee Schedule of Scott Leslie, CPA/ABV, CVA, CEF, numbered A CAB 02325 - 02329;
2. Rebuttal Report prepared by Scott Leslie, CPA/ABV, CVA, CEF, numbered A CAB 02330 - 02365.
3. **The following files were provided to Mr. Leslie and are being produced simultaneously via Dropbox:**

CHECKLIST 1-1-13 to 12-31-15

CHECKLIST 10-8-10 to 12-31-12

CHECKLIST (with breaks) 1-1-13 to 12-31-15

TEST TRIP SHEETS 1-1-13 to 12-31-15 (1 of 2)

TEST TRIP SHEETS 1-1-13 to 12-31-15 (2 of 2)

TEST TRIP SHEETS 10-8-10 to 12-31-12

TEST TRIP SHEETS (with breaks) 1-1-13 to 12-31-15 (1 of 2)

TEST TRIP SHEETS (with breaks) 1-1-13 to 12-31-15 (2 of 2)

SECOND BATCH

2010-2012 Checklist

2010-2012

2013-2015 Checklist

2013-2015

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

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

DATED this 15th day of September, 2017.

RODRIGUEZ LAW OFFICES, P.C.

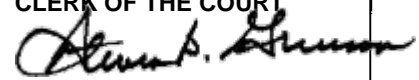
By: /s/ Esther C. Rodriguez, Esq.
Esther C. Rodriguez, Esq.
Nevada Bar No. 6473
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

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

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

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



MTN
JAY A. SHAFER, ESQ.
Nevada Bar No. 9184
PREMIER LEGAL GROUP
1333 North Buffalo Drive, Suite 210
Las Vegas, Nevada 89128
Telephone: (702) 794-4411
Fax: (702) 794-4421
jshafer@premierelegalgroup.com
Attorney for Defendants
CAB TAXI SERVICE LLC and A CAB, LLC

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
Plaintiff,)	
)	
v.)	
)	
CAB TAXI SERVICE LLC and A CAB, LLC,)	
and CREIGHTON J. NADY,)	
)	
Defendants.)	

**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**

**Date of Hearing: December 4, 2018
Time of Hearing: 9:00 am**

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., Michael K. Wall, Esq., of Hutchison & Steffen, LLC, and Jay A. Shafer, Esq. of Premier Legal Group hereby submit this 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. This Motion is based on the attached points and authorities, all pleadings and papers on file herein, and any argument by counsel at the time of the hearing on

AA009675

1 this matter.

2 DATED this 30th day of November, 2018.

3 PREMIER LEGAL GROUP

4 By: /s/ Jay A. Shafer

5 JAY A. SHAFER, ESQ.

6 Nevada Bar No. 9184

7 1333 North Buffalo Drive, Suite 210

8 Las Vegas, Nevada 89128

9 Telephone: (702) 794-4411

10 Fax: (702) 794-4421

11 jshafer@premierelegalgroup.com

12 Counsel for Defendants

13 **POINTS AND AUTHORITIES**

14 **I. INTRODUCTION**

15 Here, Plaintiffs have sought a temporary restraining order, ex parte, as well as an
16 expedited hearing on a new and novel motion to turnover property on less than 5 days' notice.
17 Plaintiffs identify six vehicles which they want turned over to the Sherriff and sold, but only
18 allege ownership of four of the six vehicles¹. The other two vehicles, they allege probably
19 belong to A Cab. The further attempt to justify their actions by falsely alleging that A Cab is
20 engaging in subterfuge and improper actions to preclude the collection of the judgment.²
21 Plaintiff's Motion is bereft of verifiable facts or reliable statements of law, and attempts to
22 circumvent the due process which forms the basis for our legal system as well as the process set
23 out in NRS 21.

24 ///

25 ///

26
27 ¹ See Exhibit "A" to Plaintiffs' Motion.

28 ² The actions which Plaintiffs complains are the creation of a corporation under the laws of the state of Nevada which occurred long before the lawsuit, let alone entry of the judgment.

ARGUMENT

II. PLAINTIFFS' MOTION ATTEMPTS TO CIRCUMVENT DUE PROCESS AND DEPRIVE THIRD PARTIES OF ANY ABILITY TO PROTECT THEIR INTERESTS.

1. Nevada's Collection Regime Set Out In NRS Chapter 21 Provides A Writ Of Collection Is The Method For Enforcement.

Nevada law provides procedures governing execution on a judgment, see NRS 21.010-.260, including proceedings supplementary to execution to aid the judgment creditor in collecting the judgment, see Greene v. Eighth Judicial Dist. Court, 115 Nev. 391, 395, 990 P.2d 184, 186 (1999); see also NRS 21.270-.340; NRCP 69(a) (providing that proceedings "in aid of execution shall be in accordance with the practice and procedure of the State," i.e., NRS Chapters 21 and 31.

NRCP 69(a) specifies that the [p]rocess to enforce a judgment for the payment of money shall be a writ of execution". These writs of execution of judgments are governed by Nevada Revised Statute § 21.010, et seq. Section 21.075 prescribes the form, content, and services that is required for a writ of execution. Subsection 1 states:

Execution on the writ of execution by levying on the property of the judgment debtor may occur only if the sheriff serves the judgment debtor with a notice of the writ of execution pursuant to NRS 21.076 and a copy of the writ. The notice must describe the types of property exempt from execution and explain the procedure for claiming those exemptions in the manner required in subsection 2. The clerk of the court shall attach the notice to the writ of execution at the time the writ is issued.

NEV. REV. STAT. § 21.075(1).

Subsection 2 provides an exemplar of a writ of execution that complies with subsection 1, stating that "[t]he notice required pursuant to subsection 1 must be substantially in the following form" NEV. REV. STAT. § 21.075(2). In turn, section 21.076 governs the manner and time of service of a writ of execution of judgment. In pertinent part, it states that "[t]he service must be mailed by the next business day after the day the writ of execution was served." NEV. REV. STAT. § 21.076

1 This is the appropriate process as it provides notice and an opportunity to respond, such
2 that the judgment creditor's rights are protected as well as the rights of a third party or a
3 judgment debtor's rights in exempt property. Here, Plaintiffs attempt to dispense with this
4 procedure entirely, by improperly invoking NRS 21.320. Plaintiffs fail to establish why the
5 statutorily mandated procedure is inadequate or why the protections and due process contained in
6 the statute should be entirely dispensed with.

7 2. NRS 21.320 is a Limited Remedy for Non-exempt, Non-contested property.

8 NRS 21.320 provides that "The judge or master may order any property of the judgment
9 debtor not exempt from execution . . . to be applied toward the satisfaction of the judgment."

10 This is a permissive and optional remedy, and not applicable when the property is exempt from
11 execution. Although Nev. Rev. Stat. 21.320 only authorizes judicial assignment of property not
12 exempt from execution, the Nevada Revised Statutes permits a debtor to assert a claim of
13 exemption, after which certain obligations are imposed on the creditor. Nev. Rev. Stat. 21.075
14 and 21.112(2). Thus, there is a contradiction between the court's authority to only assign non-
15 exempt assets and the debtor's assertion of a claim of exemption. Greene v. Eighth Judicial Dist.
16 Court of Nevada, 115 Nev. 391, 990 P.2d 184 (1999). Here, Plaintiffs interest in collection
17 cannot override Defendant's ability to claim exemption and protect its interest.

18 Moreover, NRS 21.320 applies only to the property of the judgment debtor and not the
19 property of a third party. A judgment creditor is not automatically entitled to an order requiring a
20 third party to pay over money, unless such person admits the indebtedness and acknowledges the
21 possession or control of the amount due, or these facts are established by indisputable evidence.
22 Mona v. Eighth Judicial Dist. Court, 380 P.3d 836, 841 (Nev. 2016) Here, there is neither an
23 admission, nor indisputable evidence. Indeed the court can only order a turnover when debtor's
24 title thereto is clear and undisputed. Hagerman v. Tong Lee, 12 Nev. 331, 335 (1877) (If there is
25 any dispute as to the ownership of the property, or if the person proceeded against in good faith
26 denies the debt, neither the judge nor the referee has any power or authority ... to decide the
27 disputed question and order the property delivered)
28

1 3. Plaintiff's Motion is Intended to Ambush, and Is Not Brought in Good Faith.

2 Plaintiff's Motion, brought several weeks ago, but just now served, was intended to limit
3 Defendant's ability to participate and have the matter heard on the merits. Plaintiffs condescend
4 to offer a fig leaf of due process in the Declaration of Counsel's statement that "Presumably the
5 Court feels A Cab should be afforded an opportunity to be heard before such a transfer Order
6 issues".³ They go on to deny that A Cab has no basis to oppose, so A Cab should only be given
7 a "brief period of time". It is thus clear that the entire intent of the Motion is to deprive
8 Defendant A Cab of its due process rights and to have a full and fair opportunity to oppose.

9 4. Plaintiff's Motion Precludes Notice to Third Parties.

10 A judgment creditor does not have any right to require the disclosure, let alone turnover, of
11 assets of persons other than the judgment debtor. Rock Bay, LLC v. Eighth Judicial Dist. Court
12 of Nev., 129 Nev. 205, 211, 298 P.3d 441, 445 (2013) A judgment creditor cannot do so even if
13 it has a judgment which arises under the Constitution of the State of Nevada. Here, Plaintiffs
14 have not established that "A Cab LLC" or "A Cab Series LLC" is the actual owner of the
15 property. Plaintiffs purport to show DMV Statements which claim ownership for four vehicles
16 but omit entirely the basis of ownership for the other two. Plaintiffs falsely claim that the court
17 has determined that the various series are subject to the liabilities of A Cab LLC. That is
18 incorrect. The Court has rather held the executed funds with the Clerk, pending a resolution of
19 the various claims.

20 5. Plaintiff's Motion Fails to Address the Required Elements for Injunctive Relief.

21 Plaintiffs' Motion also omits entirely the analysis for their request for injunctive relief.
22 As the Court is aware there is a specific set of requirements which must be established before a
23 temporary restraining order, preliminary injunction, or permanent injunction may be obtained.
24 Boulder Oaks Cmty. Ass'n v. B&J Andrews Enters., LLC, 215 P.3d 27, 31 (Nev. 2009) The
25 party desiring this relief must show 1) reasonable probability of success, 2) the suffering of an
26 irreparable harm, 3) a balancing of the hardships, including the hardship to the public, and 4)
27

28 ³ See Paragraph 9 of the Declaration of Leon Greenberg, Esq. on page 6 of the instant Motion.

1 whether this to preserves the status quo, or is to “preserve a business or property interest.” Id.
2 (*citing* Buion v. Terra Mktg. of Nev., Inc., 90 Nev. 237, 240, 523 P.2d 847, 848 (1974).

3 Here, there is an issue of the reasonable probability of success, as the matter is on appeal,
4 but isn’t even addressed. On the issue of hardship, the request Plaintiffs makes is not necessary
5 to prevent an irreparable harm, as the issue is one of money damages, which is by its nature not
6 irreparable.

7 But it is on the balancing of the hardships, including the hardship to the public, where
8 Plaintiffs claim for relief clearly fails. If Plaintiffs are successful in selling the vehicles, the
9 business will not be able to operate. This is antithetical to maximizing a recovery and minimizing
10 harm. Plaintiffs repeatedly stated in multiple hearings, including the hearing on October 22,
11 2018 that “We don’t want to kill the goose that lays the golden egg” and that the value is in the
12 ongoing operations and not the liquidation of the business. But that is what Plaintiffs are now
13 requesting. They want to cut the assets which form the heart of the company, those vehicles
14 which generate revenue and provide employment for the drivers Plaintiffs represent.

15 Moreover, there is a significant hardship to the public if the taxi service provided by A
16 Cab is interrupted. Hundreds, if not thousands, of people each day will be denied transportation
17 because A Cab is not able to provide service. The Taxicab authority heavily values providing
18 service to various areas, and indeed A Cab’s license was provided on the basis that it would
19 provide transportation services to underserved areas of the Valley. By shutting A Cab down,
20 those individuals will be deprived of transportation or be forced to use substantially inferior
21 options.

22 Also, Plaintiffs failed to post a bond or even address this issue to guard against the
23 improper execution of these vehicles. This is a significant failure, and Plaintiffs’ motion must
24 necessarily fail.

25 Finally, Plaintiffs have failed to establish why such extraordinary relief must be obtained,
26 despite the risk of harm to third parties and the general public. Their failure means that the Court
27 should deny their request when Defendants and third parties have not had a chance to respond
28

1 simply because Plaintiffs' Counsel alleges the specter of difficulty in collection.

2
3 **COUNTERMOTION TO STAY PROCEEDINGS AND COLLECTION ACTIONS**

4 1. The Supreme Court has Stayed this Matter Pending Conclusion of a Mandatory
5 Supreme Court Settlement Conference.

6 As this Court is aware, Defendants have filed an appeal to the Nevada Supreme Court
7 pertaining to the summary judgment order entered in this matter. Exhibit 1, *Notice of Appeal*.
8 The Supreme Court has ordered a mandatory settlement conference and has stayed the appeal
9 pending conclusion of this conference pursuant to NRAP 16(a)(1). Exhibit 2, *Notice of Referral*
10 *to Settlement Program and Suspension of Rules*. Simultaneously, this District Court is allowing
11 Plaintiffs' collection activities to proceed and to seize the assets of Defendants as well as third
12 parties (the series separate entities) which were never part of the underlying matter. These
13 collection activities are having devastating and irreparable results on the taxicab company, all of
14 its employees, and the separate companies which are unrelated to the underlying case involving
15 the drivers. Plaintiffs continue to engage in issuing writs of execution and garnishing bank
16 accounts which are crippling the operation of a Las Vegas taxicab company.

17
18 While the Supreme Court has stayed the proceedings and the appeal of the issues, this
19 District Court is allowing collection to move forward in haste, and with results which cannot be
20 undone. If the appeal is successful on any one of the many issues (e.g. the Court's extension of
21 the 2 year statute of limitations; the Court's interpretation of the Nevada record keeping statute;
22 the Court's reliance on the excel spreadsheets for its finding of a million dollar liability; the
23 severing of the claims), the matter will be remanded for compliance and to be readdressed. At
24 that point, any monies wrongly taken and distributed to individual drivers will be clearly
25 uncollectible.
26
27
28

1 Meanwhile, the present unjust taking of these funds are directly injuring working families
2 right now by shutting down operating funds and seizing payroll accounts. Adding salt to the
3 wounds is that these employees are being wrongly affected during the holiday season. Monies
4 for paychecks and for operations are being seized without warning and without notice, causing
5 workers' paychecks to bounce and causing dire financial hardships for all of these people.

6 2. This Court Should Extend the 2 Week Stay Which it Previously Implemented.

7
8 This Court recently implemented a two week stay on collection activities, asking
9 everyone to step back and to take a breath. In the hearing on October 22, 2018, the Court
10 observed that a stay may be warranted because of the issues which necessarily must be resolved
11 there. And while a limited stay was put in place, the limited period was not sufficient to address
12 the matters with the Nevada Supreme Court.

13 Upon expiration of that stay, Plaintiffs immediately engaged in a full assault seeking 11
14 writs of execution and serving them upon numerous banks in an attempt to seize all funds of any
15 account remotely related to "A Cab series." Now, Plaintiffs seek to obtain **all** of the vehicles
16 Defendants use to conduct business. While Defendants appreciate the Court's two week stay,
17 that was an inadequate period of time to accomplish anything. As stated above, the Supreme
18 Court has stayed the appeal; Defendants' hands are therefore tied and cannot take any steps to
19 push that procedure along. Secondly, the various orders which remain outstanding have not even
20 been entered by this Court. The Order pertaining to the Court's denial of the Motion to Quash
21 was submitted and has not been signed. Defendants cannot therefore appeal this issue. The
22 objections to the writs have not been heard by the Court; therefore an Order cannot even be
23 submitted. This is clearly a scenario where the cart has been put before the horse. Plaintiffs are
24 pressing full throttle in collection activities when the Court has not entered its relevant orders on
25 the issue.
26
27
28

1 Finally, the orders pertaining to the tolling motions have not been entered by the Court,
2 thereby depriving Defendants from moving forward with a proper appeal. Defendants therefore
3 request that this Court stay the proceedings and collection activities until the matter is resolved
4 by the Nevada Supreme Court so that irreparable harm will not continue. There is no harm to the
5 Plaintiffs as these are funds which are sought from as far back as 2007, and Plaintiffs are seeking
6 interest therefrom. With these garnishments, Plaintiffs have even precluded Defendants from
7 obtaining an appeal bond. Defendants have been repeatedly denied a bond; and no financial
8 institution will entertain Defendants' request with these garnishments.
9

10 CONCLUSION

11 For the foregoing reasons, Defendants request that this Court deny Plaintiffs' Motion to
12 Transfer the vehicles identified in said Motion and not grant further injunctive relief. Defendants
13 further request that the Court enter a stay pending resolution of the Issues on Appeal, or at least a
14 stay Coinciding with the Supreme Court's stay.
15

16 DATED this 30th day of November, 2018.

17 PREMIER LEGAL GROUP

18
19 By: /s/ Jay A. Shafer
JAY A. SHAFER, ESQ.
Nevada Bar No. 9184
1333 North Buffalo Drive, Suite 210
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Telephone: (702) 794-4411
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jshafer@premierelegalgroup.com
Counsel for Defendants
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 30th day of November, 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/ Leta Metz
A Representative of PREMIER LEGAL GROUP

EXHIBIT 1

EXHIBIT 1



1 NOAS

2 Michael K. Wall (2098)
3 HUTCHISON & STEFFEN, PLLC
4 10080 West Alta Drive, Suite 200
5 Las Vegas, NV 89145
6 Tel: (702) 385-2500
7 Fax: (702) 385-2086
8 mwall@hutchlegal.com

9 Esther C. Rodriguez, Esq. (6473)
10 RODRIGUEZ LAW OFFICES, P.C.
11 10161 Park Run Drive, Suite 150
12 Las Vegas, NV 89145
13 (702) 320-8400
14 info@rodriguezlaw.com

15 *Attorney for defendants*
16 *A Cab, LLC and Creighton J. Nady*

17 DISTRICT COURT
18 CLARK COUNTY, NEVADA

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

22 Plaintiffs,

23 v.

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

26 Defendants.

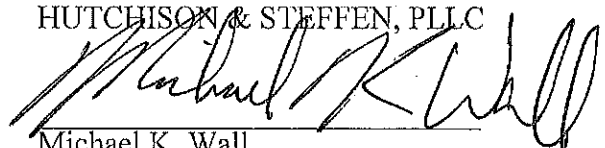
Case No.: A-12-669926-C
Dept. No.: I

27 NOTICE OF APPEAL

28 Notice is given that A Cab, LLC, and Creighton J. Nady, defendants in the above-
captioned matter, appeal to the Supreme Court of Nevada from the Order Granting Summary
Judgment, Severing Claims, and Directing Entry of Final Judgment entered by the district court
on August 21, 2018.

29 DATED this 21 day of September, 2018.

30 HUTCHISON & STEFFEN, PLLC

31 
32 Michael K. Wall
33 10080 West Alta Drive, Suite 200
34 Las Vegas, NV 89145
35 Tel: (702) 385-2500
36 *Attorney for defendants*
37 *A Cab, LLC, and Creighton J. Nady*

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NRCP 5(b), I certify that I am an employee of HUTCHISON & STEFFEN,
3 and that on this 21st day of September, 2018, I caused the above and foregoing **NOTICE**
4 **OF APPEAL** to be served as follows:

5 ☐ by placing same to be deposited for mailing in the United States Mail, in a
6 sealed envelope upon which first class postage was prepaid in Las Vegas,
Nevada; and/or

7 ☐ pursuant to EDCR 7.26, to be sent **via facsimile**; and/or

8 ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the
9 Eighth Judicial District Court's electronic filing system, with the date and time
of the electronic service substituted for the date and place of deposit in the mail;
and/or

10 ☐ to be hand-delivered;

11 to the attorney(s) listed below at the address and/or facsimile number indicated below:

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

17 *Attorneys for plaintiffs*

18
19
20
21 
An employee of HUTCHISON & STEFFEN, PLLC
22
23
24
25
26
27
28

EXHIBIT 2

EXHIBIT 2

**IN THE SUPREME COURT OF THE STATE OF NEVADA
OFFICE OF THE CLERK**

A CAB, LLC; AND CREIGHTON J NADY,
Appellants,
vs.
MICHAEL MURRAY; AND MICHAEL RENO,
INDIVIDUALLY AND ON BEHALF OF ALL
OTHERS SIMILARLY SITUATED,
Respondents.

Supreme Court No. 77050
District Court Case No. A669926

**NOTICE OF REFERRAL TO SETTLEMENT PROGRAM AND SUSPENSION
OF RULES**

TO: Leon Greenberg Professional Corporation \ Leon M. Greenberg, Dana Sniegocki
Rodriguez Law Offices, P.C. \ Esther Rodriguez
Hutchison & Steffen, LLC/Las Vegas \ Michael K. Wall

This notice is to inform you that this appeal may be assigned to the court's Settlement Program. See NRAP 16(a). The issuance of this notice automatically stays the time for filing a request for transcripts under NRAP 9, and for filing briefs under NRAP 31. See NRAP 16(a)(1).

The docketing statement must be filed and served within 20 days of the date of this notice. This timeline is not stayed by this notice.

DATE: September 27, 2018

Elizabeth A. Brown, Clerk of Court

By: Sally Williams
Deputy Clerk

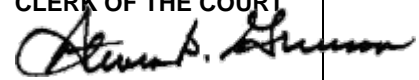
Notification List

Electronic

Hutchison & Steffen, LLC/Las Vegas \ Michael K. Wall
Rodriguez Law Offices, P.C. \ Esther Rodriguez
Leon Greenberg Professional Corporation \ Leon M. Greenberg

Paper

Leon Greenberg Professional Corporation \ Dana Sniegocki



RPLY
Peter Dubowsky, Esq.
Nevada Bar No. 4972
Amanda Vogler-Heaton, Esq.
Nevada Bar No. 13609
DUBOWSKY LAW OFFICE, CHTD.
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Las Vegas, Nevada 89101
(702) 360-3500
Fax (702) 360-3515
Attorney for Special Master
Resolution Economics LLC

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL RENO,) Case No.: A-12-669926-C
Individually and on behalf of others similarly) Dept No.: I
situated)

Plaintiff,

vs.

A CAB TAXI SERVICE LLC, A CAB, LLC,) Date: December 11, 2018
and CREIGHTON J. NADY and DOES I-X) Time: 9:00 a.m.
and ROE CORPORATIONS I-X, inclusive)

Defendants

RESOLUTION ECONOMICS LLC

Special Master,

vs.

A CAB TAXI SERVICE LLC, A CAB, LLC,))
and CREIGHTON J. NADY and DOES I-X))
and ROE CORPORATIONS I-X, inclusive))

Defendants

**RESOLUTION ECONOMICS' REPLY TO DEFENDANTS' OPPOSITION AND
PLAINTIFFS' RESPONSE TO ITS APPLICATION FOR ORDER OF PAYMENT
OF SPECIAL MASTER'S FEES AND MOTION FOR CONTEMPT**

Resolution Economics LLC (“ResEcon” or “Special Master”) by and through its counsel of record, Peter Dubowsky, Esq. of the DUBOWSKY LAW OFFICE, CHTD. replies to both the Opposition of Defendants A Cab, LLC and Creighton J. Nady (“Defendants”) and the Response of Plaintiffs, to ResEcon’s Application for an Order for the payment of its Special Master Fees in the amount of \$85,280.56, and an Order of Civil Contempt. This Application is based on these Points and Authorities and all the papers and proceedings had herein.

Dated: December 3, 2018

DUBOWSKY LAW OFFICE, CHTD.

By: /s/Peter Dubowsky
 Peter Dubowsky, Esq.
 Attorney for Resolution Economics

POINTS AND AUTHORITIES

I. THE DEFENDANTS ARE IN CONTEMPT

ResEcon performed as Special Master at the request of this Court, for which ResEcon has not been paid, notwithstanding Court Orders. The Defendants do not dispute that they are in contempt of this Court for violating this Court’s March 2, 2018 and March 6, 2018 Orders for payment of \$25,000.00 and this Court’s May 23, 2018 Order for payment of \$41,000.00 for ResEcon. The Defendants’ Opposition does not even attempt to dispute that they are in contempt. Therefore, this Court must place both the Defendants in civil contempt in order to “coerce and compel the Defendant’ compliance”¹ for the \$41,000.00. In addition, the full invoice amount of \$85,280.56 must be ordered paid.

¹ See Lewis v. Lewis, 132 Nev. Adv. Op. 46 (2016)

Whether or not ResEcon's report was utilized is irrelevant, and completely outside the control of ResEcon. This Court ordered ResEcon to do the work and ordered Defendants to pay no less than \$41,000.00. ResEcon performed the work but has not been paid. ResEcon is also entitled to an order for payment of the entire \$85,280.56 compensation due to them in addition to the contempt order.

The Defendants' Opposition argues that they "disagree" with the Special Master's appointment.² However, this "disagreement" with the Court's ruling is irrelevant. As briefed in ResEcon's underlying Application, "A party who wishes to object to the appointment of a special master must do so at the time of appointment, or within a reasonable time thereafter, or else its objection is waived. Venetian Casino Resort v. Dist. Ct., 118 Nev. 124 (2002) (emphasis added) Further, the Defendants concede that they acquiesced to the order appointing of ResEcon by turning over data "to remain compliant with the Court order."³ Remarkably, they understood the necessity of complying with this Court's Order, but completely disregarded their compliance obligations under the Orders to pay ResEcon its compensation. The Defendants can't play both sides; in that they concede that they needed to comply with the valid Special Master Order, then they must also have complied with the Orders for ResEcon's compensation. Defendants could pay and must pay ResEcon's compensation. As Plaintiff's state in their Response, "A Cab's claims it could not pay the special master are simply untrue. Rather it has chosen not to pay the Special Master."⁴

In response to Defendant's assertions, the Special Master represents the following facts:

² Defendants' Opposition Page 2 line 5.

³ Defendants' Opposition Page 2 line 23 (emphasis added).

⁴ Plaintiffs' Response Page 2 lines 1-2.

1 Esther Rodriguez requested by phone that ResEcon process all 2014 to 2015 data.
2 Ms. Rodriguez apparently believed this information would be favorable to Defendant, i.e.
3 show less liability.⁵ Ms. Rodriguez delivered data titled "Gross Wage information 2014 -
4 2015" via Dropbox on 20 February 2018.

5 Subsequently, 1) ResEcon commenced work at the direction of this Court and in
6 coordination with all parties; 2) ResEcon first received "Trip Report Data" on 16 February
7 2018, and also received Gross Wage Information 2014 - 2015 on 20 February 2018; and, 3)
8 ResEcon explicitly directed by Ms. Rodriguez to begin work.
9

10 ResEcon has always acted in good faith and Plaintiffs never urged ResEcon to do
11 anything. Also, the majority of ResEcon's fees were incurred before March 1, 2018.

12 ResEcon considered all of the following in light of Defendant's March 1, 2018
13 motion: 1) whether we could retain temporary employees if/when asked to recommence
14 work; 2) the merits of "ramping down" vs. ceasing all work to allow for both a resolution and
15 timely completion of work; and, 3) potential reputational risk for any missed deadlines.

16 ResEcon installed an extensive infrastructure by 19 February 2018 to support this
17 project including, but not limited to, custom VBA code and project-specific data entry
18 protocols. We are leaders in this type of work and can attest to the same.
19

20 Projects of this magnitude require a tremendous investment of both time and money
21 to ensure that data entry, normalization, and assurance is conducted in an accurate, timely
22 and cost-effective manner throughout. So, yes, we do train our employees and this reduces
23 project costs.
24
25

⁵ See Defendants' Opposition Page 2 lines 12-14.

1 Dr. Saad does not conduct data entry. This would result in an astronomical bill and be a
2 horribly inefficient use of his highly sought after time. For clarification, Dr. Saad's effective
3 rate was \$750.00. (\$3,825/5.1hrs does not equal \$1,500.00 per hour as asserted in Opposition
4 page 3 line 27.)

5 It should be noted that the labor of the Special Master was ordered by this Court. The
6 Special Master was not involved in or privy to the procedural matters of which Defendant
7 complains of in its Opposition.
8

9 **II. REPLY TO PLAINTIFF'S RESPONSE**

10 To be clear, ResEcon has no intention of interfering with Plaintiffs' judgment
11 enforcement efforts. However it is emphatic that both Defendants are liable to ResEcon, not
12 just one of the Defendants. As such, there is no basis for Plaintiff's request to, in effect,
13 exculpate Defendant A Cab from its compliance with this Court's orders.

14 Further, Plaintiffs' Response misunderstands that ResEcon's Special Master's
15 compensation is entitled to priority over their Judgment, not the other way around. ResEcon
16 is an administrative creditor of this case, hired by the Court to perform as Special Master.
17 This Court ordered the payment of ResEcon's compensation, not merely awarded ResEcon
18 a judgment to go out and collect on their own through self-help. ResEcon's compensation is
19 by Orders of this Court. As Special Master, ResEcon is entitled certain payment rights by
20 the Court because they are hired by the Court. ResEcon is not a party to this dispute. Pursuant
21 to N.R.C.P. 53(a), "The compensation to be allowed to a master shall be fixed by the court,
22 and shall be charged upon such of the parties or paid out of any fund or subject matter of the
23 action, which is in the custody and control of the court as the court may direct." (emphasis
24
25

1 added) Whereas Plaintiffs are awarded a judgment, entitling them to self-help remedies
2 under Nevada law to enforce their judgment.

3 **CONCLUSION**

4 Based on the foregoing, the Special Master respectfully requests an Order for the
5 payment of \$85,280.56 plus court costs, interest and an award of attorney's fees. The Special
6 Master also seeks an Order of Civil Contempt compelling payment of the Special Master
7 fees.
8

9 Dated: December 3, 2018

DUBOWSKY LAW OFFICE, CHTD.

10 By: /s/Peter Dubowsky

11 Peter Dubowsky, Esq.
12 Nevada Bar No. 4972
13 Amanda C. Vogler-Heaton, Esq.
14 Nevada Bar No. 13609
15 300 South Fourth Street, Suite 1020
16 Las Vegas, Nevada 89101
17 (702) 360-3500
18 Fax (702) 360-3515
19 Attorney for Special Master
20
21
22
23
24
25

CERTIFICATE OF SERVICE

Pursuant to N.R.C.P 5(b), I hereby certify that on the 3rd day of December 2018, I served a true and correct copy of the foregoing RESOLUTION ECONOMICS' REPLY TO DEFENDANTS' OPPOSITION AND PLAINTIFFS' RESPONSE TO ITS APPLICATION FOR ORDER OF PAYMENT OF SPECIAL MASTER'S FEES AND MOTION FOR CONTEMPT upon those persons designated by the parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing Conversion Rules:

Leon Greenberg, Esq.
Attorney for Plaintiff

Esther C. Rodriguez, Esq.
Attorney for Defendant

/s/William Thompson
An employee of Dubowsky Law Office, Chtd.