

**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.

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) Supreme Court No. 77050

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Clerk of Supreme Court

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

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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 Statute of Limitations, filed 08/28/2015	IV	AA000600-AA000650
172	Plaintiffs' Response in Opposition to Defendants' Motion for Dismissal of Claims on an Order Shortening Time, filed 10/17/2018	XLVI	AA009289-AA009297
8	Plaintiffs' Response in Opposition to Defendants' Motion Seeking Reconsideration of the Court's February 8, 2013 Order Denying Defendants' Motion to Dismiss, filed 03/18/2013	I	AA000181-AA000187
154	Plaintiffs' Response to Defendants' Ex-Parte Motion to Quash Writ of Execution on an OST and Counter-Motion for Appropriate Judgment Enforcement Relief, filed 09/24/2018	XLIV	AA008919-AA008994
109	Plaintiffs' Response to Defendants' Motion in Limine to Exclude Expert Testimony, filed 01/12/2018	XXX, XXXI	AA006002-AA006117
184	Plaintiffs' Response to Special Master's	XLVII	AA009665-



	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 XLIX 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](mailto:leongreenberg@overtimelaw.com)  
[Dana@overtimelaw.com](mailto:Dana@overtimelaw.com)

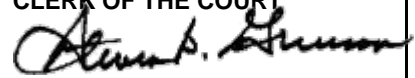
*Attorneys for Respondents*

DATED this 5<sup>th</sup> day of August, 2020.

*/s/ Kaylee Conradi*

---

An employee of Hutchison & Steffen, PLLC



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](mailto:leongreenberg@overtimelaw.com)  
[dana@overtimelaw.com](mailto: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' OBJECTIONS  
TO CLAIMS OF EXEMPTION  
FROM EXECUTION AND  
NOTICE OF HEARING**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,  
hereby submit these Objections to Claims of Exemptions from Execution filed by A  
Cab, LLC. Pursuant to NRS 21.112(4) these objections also include a Notice of  
Hearing.

Dated: December 19, 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

AA009892

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Dated: December 19, 2018

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

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## OBJECTIONS

**I. The Defendant A Cab, LLC has already exhausted its “wildcard” exemption under NRS 21.090(1)(z) and is not entitled to assert it again.**

Plaintiffs, via the Las Vegas Constable, served a Writ of Execution and Garnishment on Bank of Nevada on November 13, 2018. *See*, Ex. “A.” A response from Bank of Nevada indicating that it was in possession of a total of \$1.00 in an account belonging to the judgment debtor. *Id.* A check, in the amount of 98 cents was remitted to plaintiffs’ counsel by the Office of the Constable. *Id.*

In prior proceedings before this Court, which were held on December 4, 2018, the Court granted defendants a single claim of exemption from execution under NRS 21.090(1)(z). *See*, minutes from hearing on December 4, 2018. Under this section, known as Nevada’s “wildcard” exemption, a judgment debtor may exempt from execution property, including money, in an amount not to exceed \$10,000.00.

Defendants, after receiving notice of the writ of execution and garnishment served on Bank of Nevada, filed the Ex. “B” Claim of Exemption from Execution. As the Court has already allowed defendants to retain the maximum allowable \$10,000.00 as exempted funds from the over \$233,000.00 seized from defendants’ bank accounts, they have exhausted this exemption and are not entitled to reassert it.

**II. Defendant asserts an additional exemption which is inapplicable and/or incomplete and should be denied.**

In addition to its redundant asserted “wildcard” exemption, defendant also asserts an exemption under NRS 21.105 seeking retention of \$400 or the entire money existing in a *personal bank account* subject to direct-deposit benefits. Ex. “B” at p. 4-5. First, the account subject to this writ of execution and garnishment was a business account titled to the judgment debtor A Cab, LLC and possessing its designated Employer Identification Number; it was not a personal bank account subject to an exemption under NRS 21.105. Moreover, to claim such exemption, defendant is



1 required to “attach proof of direct-deposit benefits.” *Id.* at p. 4. No such attached  
2 proof of direct-deposit benefits exist in defendant’s filing. Accordingly, this  
3 exemption should be denied.

4 **III. An award of attorney’s fees should be granted.**

5 Plaintiffs’ counsel, upon being served with defendant’s frivolous exemption  
6 claim, contacted defendant’s counsel and requested such baseless claim of exemption  
7 be withdrawn as it is clearly improper. Ex. “C,” e-mail of December 11, 2018.  
8 Defendant’s counsel has neither acknowledged such communication nor offered to  
9 withdraw the claim of exemption. As a result, plaintiffs’ counsel was forced to  
10 prepare and file the instant objections. Preparing and filing the instant objections  
11 consumed no less than 1.5 hours of associate attorney time. It is further anticipated  
12 that additional attorney time and costs will be expended should the Court require a  
13 hearing on this matter. Accordingly, plaintiffs’ counsel requests the Court grant an  
14 award of attorney’s fees in an amount that is no less than \$500.00, or some other  
15 amount that the Court deems appropriate, for defendant’s and their counsel’s refusal to  
16 withdraw what is clearly a frivolous claim of exemption from execution.

17  
18 **CONCLUSION**

19 Wherefore, relief should be granted to plaintiffs as aforesaid.

20  
21 Dated this 19<sup>th</sup> day of December, 2018.

22 Leon Greenberg Professional Corporation

23 By: /s/ Dana Sniegocki  
24 DANA SNIEGOCKI, Esq.  
25 Nevada Bar No.: 11715  
26 2965 South Jones Blvd- Suite E3  
27 Las Vegas, Nevada 89146  
28 (702) 383-6085  
Attorney for Plaintiffs

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## PLAINTIFFS' OBJECTIONS TO CLAIMS OF EXEMPTION FROM EXECUTION AND NOTICE OF HEARING

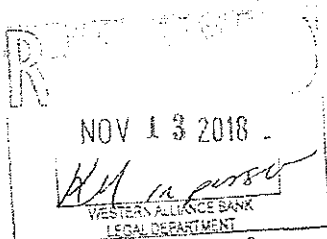
TO:

Jay A. Shafer, Esq.  
PREMIER LEGAL GROUP  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128

---

Dana Sniegocki

# EXHIBIT "A"



Electronically Issued  
11/7/2018 2:11 PM

LVTC# 34275

WRIT

Leon Greenberg, Esq. NV Bar No. 8094

(Name and Bar Number (if any))

2965 South Jones Blvd., Suite E-3

(Address)

Las Vegas, NV 89146

(City, State, Zip Code)

702.383.6085; 702.385.1827

(Telephone and Facsimile Number)

leongreenberg@overtimelaw.com

(E-mail Address)

Date + Time 11-13-18 1:00pm

Rec'd via courier

Branch # 2142

name Lacey Woods

initial KLW

Make Check Payable To:

Office of the Ex-Officio Constable

301 E. Clark Avenue, Suite 100

Las Vegas, NV 89101

702-455-4099

Put Case # & Name on Check

☒ Attorney for (Name):

☒ Plaintiff, ☐ Counterclaimant, or ☐ Third-Party Plaintiff, In Proper Person

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

Michael Murray and Michael Reno et al.

Plaintiff(s),

vs.

A Cab Taxi Service LLC A Cab LLC et al.

Defendant(s).

Case No.: A-12-669926-C

Dept. No.: I

WRIT OF EXECUTION

☐ EARNINGS

☒ BANK ACCOUNT

☐ OTHER PROPERTY

THE PEOPLE OF THE STATE OF NEVADA:

To the Sheriff of Clark County or the Constable for the Township of Las Vegas

Greetings:

☒ To Financial Institutions: This judgment is for the recovery of money.

On August 21, 2018, a judgment was entered by the above-entitled court in the

above-entitled action in favor of Michael Murray, as Judgment

creditor and against A Cab LLC, A Cab Taxi Service LLC, and A Cab

Series LLC, as Judgment Debtor, for:

\$ 900,317.34 Principal,

Date and Time: 11/13/18 3:46 PM

\$ 132,710.47 Pre-Judgment Interest,

Received Via: Email

\$ 0.00 Attorney's Fees, and

Branch/Dept.: Legal Ops

\$ 0.00 Costs, making a total amount of

Name: John Bonds

1,033,027.81 The judgment as entered, and

Initials: JB

1 WHEREAS, according to an affidavit or a memorandum of costs after judgment, or both, filed  
2 herein, it appears that further sums have accrued since the entry of judgment, to wit:

3 \$ 0.00 Accrued Interest, and

4 \$ 0.00 Accrued Costs, together with

5 \$ 10.00 Fee, for the issuance of this writ, making a total of

6 \$ 10.00 As accrued costs, accrued interest and fees.

7 Credit must be given for payments and partial satisfactions in the amount of

8 \$ 233,619.54

9 which is to be first credited against the total accrued costs and accrued interest, with any excess credited  
10 against the judgment as entered, leaving a net balance of

11 \$ 799,418.27

12 actually due on the date of the issuance of this writ, of which

13 \$ 799,418.27

14 bears interest at 7.00 percent per annum, in the amount of \$ 153.31 per day, from the date  
15 of judgment to the date of levy, to which must be added the commissions and costs of the officer executing  
16 this writ.

17 NOW, THEREFORE, CONSTABLE/SHERIFF, you are hereby commanded to satisfy this judgment with  
18 interest and costs as provided by law, out of the personal property of the judgment debtor, except that for any  
19 workweek, 82 percent of the disposable earnings of the debtor during that week if the gross weekly salary or wage  
20 of the debtor on the date the most recent writ of garnishment was issued was \$770 or less, 75 percent of the  
21 disposable earnings of the debtor during that week if the gross weekly salary or wage of the debtor on the date the  
22 most recent writ of garnishment was issued exceeded \$770, or 50 times the minimum hourly wage prescribed by  
23 section 206(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. §§ 201 *et seq.*, and in effect at the time  
24 the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if  
25 sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid  
26 county, and make return to this writ within not less than 10 days or more than 60 days endorsed thereon with what  
27 you have done.

28 Any Bank account of funds on deposit with Bank of Nevada belonging to the judgment  
debtor A Cab LLC or A Cab Series LLC and titled under the Employee Identification  
Number (EIN) of 0590.

1 You are required to return this Writ from date of issuance not less than 10 days or more than 60  
2 days with the results of your levy endorsed thereon.

3 STEVEN D. GRIERSON  
4 CLERK OF COURT

5 By:  11/8/2018  
6 Deputy Clerk Date  
7 Alexander Banderas

8 Issued at the direction of:

9 (Signature) 

10 ☒ Attorney for (Name):

11 ☒ Plaintiff, ☐ Counterclaimant, or ☐ Third-Party Plaintiff, In Proper Person

12 Name: Leon Greenberg Esq.  
13 Address: 2965 South Jones Blvd. Suite E-e  
14 City, State, Zip: Las Vegas, NV 89146  
15 Phone: 702.383.6085  
16 E-mail: leongreenberg@overtimelaw.com

17 SHERIFF OR CONSTABLE INFORMATION

18 AMOUNTS TO BE COLLECTED BY LEVY:

19 RETURN:

20 NET BALANCE: 799,418.27

21 Not satisfied \$

22 Satisfied in sum of \$

23 Garnishment Fee: 5

24 Costs retained \$

25 Mileage: 3

26 Commission retained \$

27 Levy Fee: 30

28 Costs incurred \$

29 Postage:

30 Commission incurred \$

31 Other:

32 Costs received \$

33 Sub-Total: 799,455.27

34 Commission: 40,491.78

35 Total Levy 803,505.05

36 REMITTED TO JUDGMENT CREDITOR:

37 \$

38 I hereby certify that I have this date returned the foregoing Writ of Execution with the results of the levy  
39 endorsed thereon.

40 SHERIFF OF CLARK COUNTY or  
41 CONSTABLE FOR THE TOWNSHIP OF

42 A. Lourenco P #15510

43 By:

44 Title

45 Date

1 WRIT

2 Leon Greenberg, Esq.

(Name)

3 2965 South Jones Blvd. Suite E-3

(Address)

4 Las Vegas, Nevada 89146

(City, State, Zip Code)

5 702.383.6085

(Telephone Number)

6 leongreenberg@overtimelaw.com

(E-mail Address)

7 ☒ Plaintiff/ ☐ Counterclaimant, In Proper Person

8 EIGHTH JUDICIAL DISTRICT COURT

9 CLARK COUNTY, NEVADA

10 Michael Murray and Michael Reno et al.

11 Plaintiff(s),

12 vs.

13 A Cab Taxi Service A Cab LLC et al.

14 Defendant(s).

Case No.: A-12-669926-C

Dept. No.: I

WRIT OF GARNISHMENT

15 THE STATE OF NEVADA TO:

16 Bank of Nevada 100 South City Parkway Las Vegas, Nevada 89106, Garnishee.

17 You are hereby notified that you are attached as garnishee in the above-entitled action, and you  
18 are commanded not to pay any debt from yourself to A Cab LLC or A Cab Taxi Service LLC or  
19 A Cab Series LLC, Defendant(s), and that you must retain possession and control of  
20 all personal property, money, credits, debts, effects, and choses in action of said Defendant(s) in order that  
21 the same may be dealt with according to law; where such property consists of wages, salaries,  
22 commissions or bonuses, the amount you shall retain shall be in accordance with 15 U.S. Code 1673 and  
23 Nevada Revised Statutes 31.295.

24 Plaintiff believes that you have property, money, credits, debts, effects, and choses in action in  
25 your hands and under your custody and control belonging to said Defendant(s), more particularly  
26 described as:  
27  
28

LVIC# 34275

This writ must be answered,  
signed and returned to:  
Office of the Ex-Officio Constable  
301 E. Clark Avenue, Suite 100  
Las Vegas, NV 89101

1 Bank accounts or monies on deposit with Bank of Nevada that are owned by judgment debtors

2 A Cab LLC, A Cab Taxi Service LLC, or A Cab Series LLC under the EIN of [REDACTED] 0590

3 **YOU ARE REQUIRED** within 20 days from the date of service of this Writ of Garnishment to  
4 answer the interrogatories set forth herein and forward such answer to the office of the Sheriff or  
5 Constable which issued the Writ of Garnishment. In case of your failure to answer the interrogatories  
6 within 20 days, a Judgment by Default will be entered against you for:

7 (a) The amount demanded in the Writ of Garnishment or the value of the property described in  
8 the writ, as the case may be; or

9 (b) If the garnishment is pursuant to NRS 31.291, the amount of the lien created pursuant to that  
10 section, which amount or property must be clearly set forth in the Writ of Garnishment.

11 **IF YOUR ANSWERS TO** the interrogatories indicate that you are the employer of the  
12 Defendant(s), this Writ of Garnishment shall be deemed to **CONTINUE FOR 180 DAYS** or until the  
13 amount demanded in the attached Writ of Execution is satisfied, whichever occurs earlier.

14 **YOU ARE FURTHER DIRECTED** to forward all funds due to the Defendant(s) each payday  
15 in the future, **UP TO 180 DAYS**, less any amount which is exempt and less \$3.00 per pay period (not to  
16 exceed \$12.00 per month) which you may retain as a fee for compliance. The \$3.00 fee does not apply to  
17 the first pay period covered by this Writ of Garnishment.

18 **YOU ARE FURTHER REQUIRED** to serve a copy of your answers to the interrogatories on  
19 Plaintiff and Defendant(s) at the addresses listed below.

20 Issued at direction of (sign and check one):

21   
Leon Greenberg, Attorney for Plaintiff's

22 Michael Murray and Michael Reno  
c/o Leon Greenberg Esq.,

23 2965 S. Jones Blvd. Ste E-3 Las Vegas, NV 89146

24 Name and address of Plaintiff or Counterclaimant

25 A Cab LLC, A Cab Taxi Service LLC, A Cab Series LLC  
c/o Esther Rodriguez, Esq.

10161 Park Run Drive, Suite 150 Las Vegas, NV 89145

Name and address of Defendant(s)

SHERIFF/CONSTABLE - CLARK COUNTY  
A. Lourenco P #15510

Title

Date



1 STATE OF NEVADA )  
2 ) ss:  
3 COUNTY OF CLARK )

4 The undersigned being duly sworn states that I received the within WRIT OF GARNISHMENT  
5 on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and personally served the same on the \_\_\_\_\_ day  
6 of \_\_\_\_\_, 20\_\_\_\_ in the same manner as provided by rule of court or law of this  
7 state for the service of a summons in a civil action, and I tendered the statutory fee of \$5.00 to  
8 \_\_\_\_\_ at \_\_\_\_\_  
9 \_\_\_\_\_, City of \_\_\_\_\_, County of  
10 \_\_\_\_\_, State of Nevada.

11 By: \_\_\_\_\_ Title \_\_\_\_\_  
12

13 **INTERROGATORIES TO BE ANSWERED BY THE GARNISHEE AND SIGNED UNDER**  
14 **PENALTY OF PERJURY:**

15 1. Are you in any manner indebted to the Defendant(s) A Cab LLC, A Cab Taxi Service LLC, or A  
16 Cab Series LLC

17 \_\_\_\_\_, or either of them, either in property or money, and is the  
18 debt now due? If not due, when is the debt to become due? State fully all particulars.

19 Answer: NO  
20

21 2. Did you have in your possession, in your charge or under your control, on the date the Writ of  
22 Garnishment was served upon you, any money, property, effects, goods, chattels, rights, credits or  
23 choses in action of the Defendants A Cab LLC, A Cab Taxi Service LLC, or A Cab Series LLC,  
24 or either of them, or in which Defendants are interested? If so, state its value, and state fully all  
25 particulars.

26 Answer: YES: \$1.00 sent to the constable.  
27  
28

1 3. Are you a financial institution with a personal account held by one or all of the Defendants? If so,  
2 state the account number and the amount of money in the account which is subject to garnishment. As  
3 set forth in section 3 of Assembly Bill 223 (76th Sess. 2011), \$2,000 or the entire amount in the  
4 account, whichever is less, is not subject to garnishment if the financial institution reasonably  
5 identifies that an electronic deposit of money has been made into the account within the immediately  
6 preceding 45 days which is exempt from execution, including, without limitation, payments of money  
7 described in section 3 of Assembly Bill 223 or, if no such deposit has been made, \$400 or the entire  
8 amount in the account, whichever is less, is not subject to garnishment, unless the garnishment is for  
9 the recovery of money owed for the support of any person. The amount which is not subject to  
10 garnishment does not apply to each account of the judgment debtor, but rather is an aggregate amount  
11 that is not subject to garnishment.

12 Answer: NO

13  
14  
15 3. Are you a financial institution that previously maintained an account held by A Cab LLC, A Cab Taxi  
16 Service LLC, or A Cab Series LLC that was active on or after January 1, 2013 but is now closed? If  
17 so, state the account number of all such closed accounts and whether, when such account was closed,  
18 the remaining funds in that account were transferred to any different account, either at your financial  
19 institution or another institution, and all particulars known to you about such account to which the  
20 funds were transferred, including the account number, institution name and address, Employer  
21 Identification Number associated with the account (if applicable), and the name of the account holder.

22 Answer: Any additional information on accounts closed would  
23 require a subpoena.

24  
25 4. State your correct name and address, or the name and address of your attorney upon whom written  
26 notice of further proceedings in this action may be served.

27 Answer: Jim Alkshis

**WESTERN ALLIANCE BANK**

Alliance Association Bank | Alliance Bank of Arizona  
Bank of Nevada | Bridge Bank | First Independent Bank | Torrey Pines Bank

Attn: Legal Processing

P.O. box 98814

Las Vegas, NV 89193

1  
2 I declare under penalty of perjury that the answers to the foregoing interrogatories by me  
3 subscribed are true and correct.

4 Executed on the 30<sup>th</sup> day of the month of December of the year 2018.

5  
6 Jim Alkshis - Bank of Nevada - A Division of  
7 (Signature of Garnishee) Western Alliance Bank  
8 Print name: Jim Alkshis  
9 Title: Legal Specialist

10 **NOTE:** Under 31.297, if an employer, without legal justification, refuses to withhold the earnings of a  
11 Defendant demanded in a WRIT OF GARNISHMENT or knowingly misrepresents the earnings of the  
12 Defendant, the court may order the employer to appear and show cause why he should not be subject to the  
13 following penalties:

14 (1) If the Plaintiff has received a judgment against the Defendant, an order to the employer to pay the  
15 Plaintiff the amount of arrearages caused by the employer's refusal to withhold or his misrepresentation of the  
16 Defendant's earnings.

17 (2) In addition, the court may order the employer to pay the Plaintiff punitive damages in an amount not to  
18 exceed \$1,000 for each pay period in which the employer has, without legal justification, refused to withhold  
19 the Defendant's earnings or has misrepresented the earnings.

**CLARK COUNTY, NEVADA**  
 500 S GRAND CENTRAL PARKWAY  
 PO BOX 551220  
 LAS VEGAS, NEVADA 89155-1220

VENDOR NO. 780000

CHECK NO. 1591279

Invoice Number	Invoice Date	Document Number / Assignment Text	Gross Amount	Discount Adjustment	Net Amount
A12669926C	12/06/2018	3019115051 / *CONSTABLE CONSTABLE CLAIM-18LVTC034275	0.98	0.00	0.98
<b>CLARK COUNTY</b>			<b>TOTAL</b>		
			0.98	0.00	0.98

Retirees of the Public Employees' Retirement System of Nevada are subject to existing allocations as independent contractors of a public employer. To validate compliance with NRS 286.520, all independent contractor information is subject to inspection by or disclosure to the Public Employees' Retirement System of Nevada.

**THIS DOCUMENT IS PRINTED IN TWO COLORS. DO NOT ACCEPT UNLESS BLUE AND GREEN ARE PRESENT**



**CLARK COUNTY, NEVADA**  
 500 S GRAND CENTRAL PARKWAY  
 PO BOX 551220  
 LAS VEGAS, NEVADA 89155-1220

**BANK OF AMERICA**  
 NORTH CAROLINA

66-798  
 531

**CHECK NUMBER**  
 1591279

NOTICE  
 CASH WITHIN 90 DAYS

**PAY ZERO AND 98/100 DOLLARS**

TO THE ORDER OF **LEON GREENBERG**  
 2965 S JONES BLVD STE E  
 LAS VEGAS NV 89146

DATE	AMOUNT
12/07/2018	\$*****0.98*

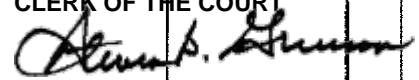
*J. Colvin*  
*Robert S. Hyatt*

1591279

053107989: 000480106223

AA009906

# EXHIBIT “B”



1 **DOC**

2 Jay Shafer, Esq. #9184 Premier Legal Group

3 (Name)

4 1333 North Buffalo Drive, Suite 210

5 (Address)

6 Las Vegas, Nevada 89128

7 (City, State, Zip Code)

8 (702) 794-4411

9 (Telephone Number)

10 jshafer@premierlegalgroup.com

11 (E-mail Address)

12 ☒ Defendant/ ☐ Other, In Proper Person

13 **EIGHTH JUDICIAL DISTRICT COURT**

14 **CLARK COUNTY, NEVADA**

15 MICHAEL MURRAY and MICHAEL RENO,

16 Plaintiff(s),

17 vs.

18 A CAB TAX SERVICE LLC and A CAB LLC, et. al.

19 Defendant(s).

Case No.: A-12-669926-C

Dept. No.: ☒

**CLAIM OF EXEMPTION FROM  
EXECUTION**

20 I, (insert your name) A CAB LLC, by and through Premier Legal Group, submit this Claim of  
21 Exemption from Execution pursuant to NRS 21.112 and state as follows:

22 (Check only one of the following boxes.)

23 ☒ I am a Defendant in this case and have had my wages withheld or have received a Notice of  
24 Execution regarding the attachment or garnishment of my wages, money, benefits, or  
25 property.

26 ☐ I am not a Defendant in this case, but my wages, money, benefits, or property are the subject  
27 of an attachment or garnishment relating to a Defendant in this case. (NRS 21.112(10).)

28 My wages, money, benefits, or property are exempt by law from execution as indicated below.  
Pursuant to NRS 21.112(4), if the Plaintiff/Judgment Creditor does not file an objection and notice of  
hearing in response to this Claim of Exemption within eight judicial days after my Claim of Exemption  
from Execution has been served, any person who has control or possession over my wages, money,  
benefits, or property (such as my employer or bank, for example) must release them to me within nine

1 judicial days after this Claim of Exemption from Execution has been served.

2 (Check all of the following boxes that apply to your wages, money, benefits, or property.)

- 3 ☐ Money or payments received pursuant to the federal Social Security Act, including retirement,  
4 disability, survivors' benefits, and SSI. (NRS 21.090(1)(y) and 42 U.S.C. § 407(a).)
- 5 ☐ Money or payments for assistance received through the Nevada Department of Health and  
6 Human Services, Division of Welfare and Supportive Services, pursuant to NRS 422.291. (NRS  
7 21.090(1)(kk) and 422A.325.)
- 8 ☐ Money or payments received as unemployment compensation benefits pursuant to NRS 612.710.  
9 (NRS 21.090(1)(hh).)
- 10 ☐ Money or compensation payable or paid under NRS 616A to 616D (worker's compensation/  
11 industrial insurance), as provided in NRS 616C.205. (NRS 21.090(1)(gg).)
- 12 ☐ Money or payments received as veteran's benefits. (38 U.S.C. § 5301.)
- 13 ☐ Money or payments received as retirement benefits under the federal Civil Service Retirement  
14 System (CSRS) or Federal Employees Retirement System (FERS). (5 U.S.C. § 8346.)
- 15 ☐ Seventy-five percent (75%) of my disposable earnings or eighty-two (82%) of my disposable  
16 earnings if my gross weekly salary is \$770 or less. "Disposable earnings" are the earnings  
17 remaining "after the deduction . . . of any amounts required by law to be withheld." (NRS  
18 21.090(1)(g)(1).) The "amounts required by law to be withheld" are federal income tax,  
19 Medicare, and Social Security taxes.
- 20 ☐ Check here if your disposable weekly earnings do not exceed \$362.50 or 50 times the  
21 federal minimum wage ( $50 \times \$7.25 = \$362.50$ ), in which case ALL of your disposable  
22 earnings are exempt. (NRS 21.090(1)(g).)
- 23 ☐ Check here if your disposable weekly earnings are between \$362.50 and \$483.33, in which  
24 case your exempt income is always \$362.50. Your non-exempt income is your weekly  
25 disposable earnings minus \$362.50, which equals (insert amount here): \$ \_\_\_\_\_ per  
26 week. (NRS 31.295.)
- 27 ☐ Money or benefits received pursuant to a court order for the support, education, and maintenance  
28 of a child, or for the support of a former spouse, including arrearages. (NRS 21.090(1)(s)-(t).)

- ☐ Money received as a result of the federal Earned Income Tax Credit or similar credit provided under Nevada law. (NRS 21.090(1)(aa).)
- ☒ \$10,000 or less of my money or personal property, identified as *(describe the specific money or property you wish to make exempt)* Funds held by Bank of Nevada up to the sum of \$10,000.00 which is not otherwise exempt under NRS 21.090. (NRS 21.090(1)(z).)
- ☐ Money, up to \$1,000,000, held in a retirement plan which conforms with or is maintained pursuant to applicable limitations and requirements of the Internal Revenue Code, including, but not limited to, an IRA, 401k, 403b, or other qualified stock bonus, pension, or profit-sharing plan. (NRS 21.090(1)(r).)
- ☐ All money, benefits, privileges, or immunities derived from a life insurance policy. (NRS 21.090(1)(k).)
- ☐ Money, benefits, or refunds payable or paid from Nevada's Public Employees' Retirement System pursuant to NRS 286.670. (NRS 21.090(1)(ii).)
- ☐ A homestead recorded pursuant to NRS 115.010 on a dwelling (house, condominium, townhome, and land) or a mobile home where my equity does not exceed \$550,000. (NRS 21.090(1)(l).)
- ☐ My dwelling, occupied by me and my family, where the amount of my equity does not exceed \$550,000, and I do not own the land upon which the dwelling is situated. (NRS 21.090(1)(m).)
- ☐ Check here if the judgment being collected arises from a medical bill. If it does, your primary dwelling and the land upon which it is situated (if owned by you), including a mobile or manufactured home, are exempt from execution regardless of your equity. (NRS 21.095.)
- ☐ My vehicle, where the amount of equity does not exceed \$15,000, or I will pay the judgment creditor any amount over \$15,000 in equity. (NRS 21.090(1)(f).)
- ☐ Check here if your vehicle is specially equipped or modified to provide mobility for you or your dependent and either you or your dependent has a permanent disability. Your vehicle is exempt regardless of the equity. (NRS 21.090(1)(p).)
- ☐ A prosthesis or any equipment prescribed by a physician or dentist for me or my dependent. (NRS 21.090(1)(q).)
- ☐ My private library, works of art, musical instruments, jewelry, or keepsakes belonging to me or



- 1 my dependent, chosen by me and not to exceed \$5,000 in value. (NRS 21.090(1)(a).)
- 2 ☐ My necessary household goods, furnishings, electronics, clothes, personal effects, or yard
- 3 equipment, belonging to me or my dependent, chosen by me and not to exceed \$12,000 in value.
- 4 (NRS 21.090(1)(b).)
- 5 ☐ Money or payments received from a private disability insurance plan. (NRS 21.090(1)(ee).)
- 6 ☐ Money in a trust fund for funeral or burial services pursuant to NRS 689.700. (NRS 21.090(1)(ff).)
- 7 ☐ My professional library, equipment, supplies, and the tools, inventory, instruments, and materials
- 8 used to carry on my trade or business for the support of me and my family not to exceed \$10,000
- 9 in value. (NRS 21.090(1)(d).)
- 10 ☐ Money that I reasonably deposited with my landlord to rent or lease a dwelling that is used as my
- 11 primary residence, unless the landlord is enforcing the terms of the rental agreement or lease.
- 12 (NRS 21.090(1)(n).)
- 13 ☐ Money or payments, up to \$16,150, received as compensation for personal injury, not including
- 14 compensation for pain and suffering or actual pecuniary loss, by me or by a person upon whom I
- 15 am dependent. (NRS 21.090(1)(u).)
- 16 ☐ Money or payments received as compensation for loss of my future earnings or for the wrongful
- 17 death or loss of future earnings of a person upon whom I was dependent, to the extent reasonably
- 18 necessary for the support of me and my dependents. (NRS 21.090(1)(v)-(w).)
- 19 ☐ Money or payments received as restitution for a criminal act. (NRS 21.090(1)(x).)
- 20 ☐ Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270. (NRS
- 21 21.090(1)(jj).)
- 22 ☐ Child welfare assistance provided pursuant to NRS 432.036. (NRS 21.090(1)(ll).)
- 23 ☐ Other: \_\_\_\_\_

24

25 **AUTOMATIC BANK ACCOUNT EXEMPTIONS**

26 *(Some direct-deposit funds are automatically protected and should not be taken from your bank account. If automatically*

27 *protected money was taken from your bank account, check the appropriate box below and attach proof of direct-deposit benefits.)*

- 28 ☐ All exempt federal benefits that were electronically deposited into my account during the prior

1 two months are protected, and I am, therefore, entitled to full and customary access to that  
2 protected amount. (31 C.F.R. part 212.6(a).) Money in my personal bank account that exceeds  
3 that amount may be subject to the exemptions stated above.


4 ☐ Exempt state or federal benefits were electronically deposited into my personal bank account  
5 during the 45-day period preceding Plaintiff's service of the writ of execution or garnishment  
6 relating to my personal bank account, and under Nevada law, I am entitled to full and customary  
7 access to \$2,000 or the entire amount in the account, whichever is less, regardless of any other  
8 deposits of money into the account. Money in my personal bank account that exceeds that  
9 amount may be subject to the exemptions stated above. (NRS 21.105.)

10 ☒ A writ of execution or garnishment was levied on my personal bank account, and under Nevada  
11 law, I am entitled to full and customary access to \$400 or the entire amount in my account,  
12 whichever is less, unless the writ is for the recovery of money owed for the support of any person.  
13 Money in my personal bank account that exceeds \$400 may be subject to the exemptions stated  
14 above. (NRS 21.105.)

15 Pursuant to NRS 21.112(4), if you are a Garnishee or other person who has control or possession  
16 over my exempt ☐ wages, ☒ bank accounts, ☐ benefits, ☒ other accounts/funds, or ☒ personal or real  
17 property, as stated above, you must release that money or property to me within nine judicial days after  
18 my Claim of Exemption from Execution was served on you, unless the Plaintiff/Judgment Creditor files  
19 an objection and notice of hearing within eight judicial days after service of my Claim of Exemption from  
20 Execution, which the Plaintiff/Judgment Creditor will serve on you by mail or in person.

21 DATED this 7th day of December, 2018.

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

24  (signature)  
Steve Beck (print name)  
25 ☒ Defendant/ ☐ Other, In Proper Person

**CERTIFICATE OF MAILING**

I HEREBY CERTIFY that on the 7th day of December, 2018, I placed  
a true and correct copy of the foregoing **CLAIM OF EXEMPTION FROM EXECUTION** in the  
United States Mail, with first-class postage prepaid, addressed to the following *(insert the name and address of the*  
*following parties/entities):*

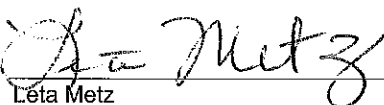
Attorney for Plaintiff/Judgment Creditor: Leon Greenberg Esq. Christian Gabroy, Esq. Leon  
(or Plaintiff/Judgment Creditor directly if unrepresented) Greenberg PC Gabroy Law Offices  
2965 S. Jones #E4 170 S. Green Valley #280  
Las Vegas, NV 89146 Henderson, NV 89012

☐ Sheriff or ☒ Constable: Office of Ex-Officio Constable  
301 E. Clark Avenue #100  
Las Vegas, Nevada 89101

Garnishee: ☐ Employer Bank of Nevada  
☒ Bank Corporate Headquarters  
☐ Other 4730 S. Ft. Apache Rd. #300  
Las Vegas, NV 89147

DATED this 7th day of December, 2018.

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

 (signature)  
Leta Metz (print name)  
☐ Defendant/ ☒ Other, In Proper Person

# EXHIBIT "C"

**Subject:** Re: Claim of Exemption - Nevada State Bank Judgment Execution Writ  
**From:** Leon Greenberg <wagelaw@hotmail.com>  
**Date:** 12/11/2018 2:59 PM  
**To:** Jay Shafer <JShafer@premierlegalgroup.com>, Dana Sniegocki <dana\_s@overtimelaw.com>, dana sniegocki <dana@overtimelaw.com>  
**CC:** Esther Rodriguez <esther@rodriguezlaw.com>, "Michael K. Wall, Esq." <mwall@hutchlegal.com>

I am writing to urge you to review this (served on 12/7/18) and suitably withdraw it, as it is senseless for all concerned. Specifically:

1. I am advised that Nevada State Bank had \$1 in their account for A Cab. That is right, \$1. The Constable has remitted 98 cents to me. See the attached.
2. Your invocation of the the "wildcard" exemption of \$10,000 is baseless in any event. It has been ordered applied to the Wells Fargo Account so it is exhausted.

I see no reason for you to proceed with this. If I am forced to file objections to this I will ask the Court to award fees to my office. The only point of such an exemption/objection process would be to harass plaintiffs' counsel and force them to do, yet again, additional work compelled by defendants for no reason (except to compel the performance of such work and burden plaintiffs' counsel).

On 12/11/2018 2:07 PM, Jay Shafer wrote:

I am ok with the changes on the motion to dismiss. Please advise if I can attach your electronic signature or if you would prefer to send over.

Jay A. Shafer  
1333 N. Buffalo Drive, Suite 210  
Las Vegas, Nevada 89128  
(702) 794-4411  
(702) 794-4421 fax

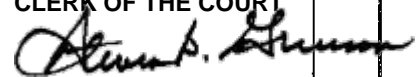
[jshafer@premierlegalgroup.com](mailto:jshafer@premierlegalgroup.com)

CONFIDENTIAL. This e-mail message and the information it contains are intended to be privileged and confidential communications protected from disclosure. If you are not the intended recipient, any dissemination, distribution or copying is strictly prohibited. If you have received this e-mail message in error, please notify the sender by e-mail at [jshafer@premierlegalgroup.com](mailto:jshafer@premierlegalgroup.com) and permanently delete this message.

---

From: Dana Sniegocki [[mailto:dana\\_s@overtimelaw.com](mailto:dana_s@overtimelaw.com)]

AA009915



**ORDER**

JAY A. SHAFER, ESQ.  
Nevada Bar No. 006791  
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, )

Plaintiff, )

v. )

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

Defendants. )

Case No. : A-12-669926-C

Dept. No.: I

**ORDER ON MOTION FOR  
DISMISSAL OF CLAIMS ON ORDER  
SHORTENING TIME**

Date of Hearing: October 22, 2018

Time of Hearing: 9:00 a.m.

**ORDER ON MOTION FOR DISMISSAL OF CLAIMS  
ON ORDER SHORTENING TIME**

Defendants' motion for Dismissal of Claims on Order Shortening Time was heard on  
October 22, 2018, Plaintiffs were represented by Leon Greenberg and Dana Sniegocki.

Defendants were represented by Esther Rodriguez, Michael Wall and Jay Shafer.

Defendants moved for dismissal based on the court's lack of subject matter jurisdiction  
over the claims. Specifically, Defendants moved for dismissal pursuant to NRCP 12 (h)(3) and  
NRCP 12 (6)(1). Defendants argue that pursuant to Article 6, Section 6 of the Nevada  
Constitution, the District Courts shall have original jurisdiction in all cases excluded by law from  
the original jurisdiction of the Justice Courts. Further, if a District Court lacks subject matter

AA009916

1 jurisdiction, the judgment rendered is void. *Univ. of Nevada v. Tarkanian*, 95 Nev. 389, 396, 594  
2 p. 2d 1159, 1163 (1979). Whether a court lacks subject matter jurisdiction can be raised by the  
3 parties at any time, or sua sponte by a court of review, and cannot be conferred by the parties.  
4 *Swam v. Swam*, 106 Nev. 464, 469, 796 P. 2d 221, 224 (1990).

5 Defendants rely upon *Castillo v. United Federal Credit Union*, wherein the Nevada  
6 Supreme Court “conclud[ed] that in Nevada, aggregation of putative class member claims is not  
7 permitted to determine jurisdiction”. *Castillo v. United Fed. Credit Union*, 134 Nev. Adv. Op.  
8 No. 3 (February 1, 2018); 409 P. 3d 54. Defendants argue that all claims asserted by the named  
9 Plaintiffs as well as all potential class members fall well-below the District Court’s minimum  
10 threshold of \$15,000 per NRS 4.370. Further, Defendants argue that Plaintiffs’ claims for  
11 injunctive relief are a non-issue as their claims cease as of December 31, 2015; and injunctive  
12 relief was not pursued by Plaintiffs. An injunction is appropriate when monetary damages are  
13 inadequate. *Czipott v. Fleigh*, 87 Nev. 496, 499, 489 P.2d 681, 683 (1971).

14 Plaintiffs argue that subject matter jurisdiction over the class claims is proper as they  
15 sought, still seek, and were granted equitable relief. Plaintiffs argue that the District Court’s  
16 jurisdiction extends to all damage claims, of whatever amount, when those claims are brought as  
17 part of an action seeking equitable relief. Further, Plaintiffs assert that once the claim for  
18 equitable relief is properly made, the District Court does not lose subject matter jurisdiction over  
19 these damages claims also made in the same case even if equitable relief is denied. *Edwards v.*  
20 *Emperor’s Garden Rest.*, 122 Nev. 317, 326 (2006).

21 Plaintiffs further argue that the Supreme Court’s “Order Denying Motion to Depublish”  
22 filed June 12, 2018 in the Castillo matter, confirms that any conclusion pertaining to aggregation  
23 of claims would be a reliance on non-precedential dicta.

24 Having reviewed the pleadings and heard<sub>2</sub> the arguments of the parties, the court does not  
25  
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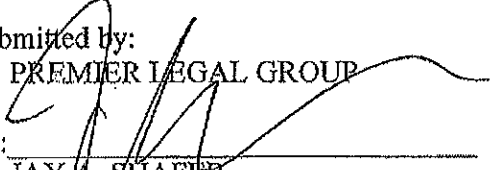
1 believe that it is devoid of jurisdiction in this matter for the reasons argued by the Defendants  
2 and accordingly that motion is DENIED.

3 IT IS SO ORDERED.

4  
5 Dated this 18<sup>th</sup> day of December, 2018.

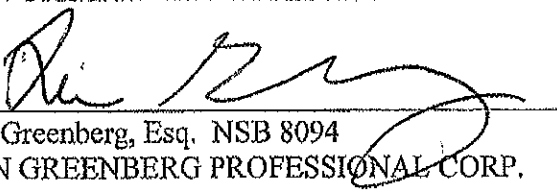
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DISTRICT COURT JUDGE

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12 Submitted by:  
13 PREMIER LEGAL GROUP

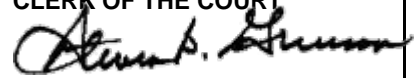
14 By:   
15 JAY A. SHAFER  
16 Nevada Bar No. 9184  
17 1333 North Buffalo Drive, Suite 210  
18 Las Vegas, Nevada 89128  
19 (702) 794-4411  
20 Fax: (702) 794-4421  
21 JShafer@premierlegalgroup.com  
22 Attorney for Defendant

23 Approved as to Form and Content:

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





1 **NOEO**  
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](mailto:leongreenberg@overtimelaw.com)  
[dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
Attorneys for Plaintiffs

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

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

11 Plaintiffs,

12 vs.

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

15 Defendants.  
16

Case No.: A-12-669926-C

Dept.: I

NOTICE OF ENTRY OF ORDER

17 PLEASE TAKE NOTICE that the Court entered the attached Order on  
18 December 18, 2018.

19 Dated: January 2, 2019

20 LEON GREENBERG PROFESSIONAL CORP.

21 /s/ Leon Greenberg  
22

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

AA009919

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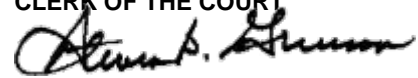
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7 | TO:

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14



1 ORDER

3 EIGHTH JUDICIAL DISTRICT COURT  
4 CLARK COUNTY, NEVADA

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

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

13 Defendants.

Case No.: A-12-669926-C

Dept.: I  
**ORDER GRANTING PLAINTIFFS'  
COUNTER MOTION FOR  
JUDGMENT ENFORCEMENT  
RELIEF**

Hearing Dates:  
September 26, 2018  
September 28, 2018  
December 13, 2018

14 On September 21, 2018, Defendants filed "Defendant's Ex-Parte Motion to  
15 Quash Writ of Execution and, in the Alternative Motion for Partial Stay of  
16 Execution on Order Shortening Time. The Court set the hearing for September  
17 26, 2018. On September 24, 2018, Plaintiffs filed "Plaintiffs' Response to  
18 Defendants' Ex-Parte Motion to Quash Writ of Execution on an OST and  
19 Counter-Motion for Appropriate Judgment Enforcement Relief." In Plaintiffs'  
20 Counter-Motion, Plaintiffs requested a) ordering a Judgment-Debtor  
21 examination, b) ordering property be deposited with plaintiffs' counsel, c)  
22 enjoining any transfer of funds from A Cab LLC and any of its series LLCs, d)  
23 issuing an order of attachment, and/or e) appointing a receiver. In Plaintiffs'  
24 Counter-Motion, Plaintiffs advised "Plaintiffs' counsel understands that the  
25 Court may not wish to issue any relief on the counter-motion at the scheduled  
26  
27  
28

1 hearing given the short notice.” This Court agreed, and continued Plaintiffs’  
2 Counter-Motion for Appropriate Judgment Enforcement Relief to October 22,  
3 2018, to be heard at the same time as the several other pending motions  
4 scheduled for that day, so that Defendants may be afforded an opportunity to  
5 respond to Plaintiffs’ Counter-Motion. On October 15, 2018, Defendants’ filed  
6 their Opposition to Plaintiffs’ Counter-Motion for Appropriate Judgment Relief.  
7  
8

9 On October 22, 2018, the Court heard 1) Defendants’ Motion for Dismissal  
10 of Claims on Order Shortening Time, 2) Defendants’ Motion for  
11 Reconsideration, Amendment, For New Trial, and For Dismissal of Claims, and  
12 3) Plaintiffs’ Motion to Amend Judgment. Because of the issues discussed during  
13 that hearing, the Court stayed the matter for 10 days, and continued Plaintiffs’  
14 Counter-Motion for Appropriate Judgment Relief to November 29, 2018, to be  
15 heard with the several other pending motions set to be heard on that day. On  
16 November 20, 2018, the Court issued a minute order setting those pending  
17 motions to December 4, 2018 for announcement of decision.  
18  
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20

21 On December 4, 2018, the Court announced its decision on the majority of  
22 the pending motions, and heard from both sides regarding Plaintiffs’ still pending  
23 Counter-Motion which requested the appointment of a receiver. The Court  
24 inquired of counsel as to the appropriate scope of the receivership and set the  
25 matter over to December 13, 2018 so that the Court may appropriately and  
26 thoughtfully determine what powers to grant the receiver given the complexity  
27 this case has presented. The Court, having reviewed the papers and pleadings on  
28

1 file, having heard oral argument by counsel, and based on the entire record of  
2 these proceedings, enters the following order:  
3  
4

5 **The Request for Appointment of a Receiver**

6 The plaintiffs request the appointment of a receiver pursuant to NRS  
7 Chapter 32. The Court, given the circumstances presented, as discussed at the  
8 hearing on December 4, 2018, concludes at this time it would be more  
9 appropriate to appoint a Special Master. Accordingly, the request is granted to a  
10 limited extent in the form of an appointment of a Special Master as follows:  
11  
12

13 1. George C. Swarts is appointed as a Special Master pursuant to  
14 NRCP Rule 53;

15 2. The Special Master shall be provided by the judgment debtor A Cab  
16 LLC also known as A Cab Series LLC, including Creighton J. Nady and any  
17 other agents of judgment debtors, copies of all electronic and paper financial and  
18 business records of the judgment debtor A Cab LLC also known as A Cab Series  
19 LLC that the Special Master deems advisable to possess for the preparation of  
20 the report directed in this order, including but not limited to all such records  
21 involving all of its contracts or agreements with any other entity or person,  
22 including any series LLC it has issued pursuant to NRS 86.296. Upon being  
23 presented with a copy of this Order all persons and entities possessing any such  
24 records of the judgment debtor A Cab LLC also known as A Cab Series LLC  
25 shall deliver them to the Special Master;  
26  
27  
28

1           3.     The Special Master shall promptly advise plaintiffs' counsel of all  
2 property of the judgment debtor A Cab LLC also known as A Cab Series LLC  
3 that it has identified and plaintiffs' counsel shall take no action to proceed with  
4 any legal execution upon such property to satisfy plaintiffs' judgment pending  
5 further order of the Court following the Special Master's report;  
6

7           4.     The Special Master shall issue a report by February 1, 2019 to the  
8 Court advising the Court of:  
9

10       (a)    A proposed plan, to the extent that they deem it feasible, for the Special  
11 Master to be appointed Receiver pursuant to NRS Chapter 32 over the operations  
12 of judgment debtor A Cab LLC also known as A Cab Series LLC in a manner  
13 that will allow the profits from the operation of the taxi medallions authorized to  
14 it to be applied towards satisfaction of the plaintiffs' judgment.  
15  
16

17           5.     Plaintiffs' counsel shall be required to make available to the  
18 Special Master, from the funds they have collected on the plaintiffs' judgment  
19 and are holding in their IOLTA account pursuant to this Court's prior Orders, a  
20 sum not to exceed \$20,000 (Twenty Thousand Dollars) to pay for the Special  
21 Master's services. The Special Master shall be entitled to be paid a fee not  
22 exceeding \$300.00 (Three Hundred Dollars) per hour for their services. The  
23 Special Master shall be authorized, in their discretion, to cease further work and  
24 present the report discussed in paragraph 4 to the Court, to the extent it is able to  
25 complete such a report, once the cost for their services have exceeded 90% of the  
26  
27  
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1 amount specified in this paragraph that plaintiffs' counsel shall be required to  
2 make available to pay for such services.

3           6.     The information and records received by the Special Master  
4 shall be kept confidential and subject to a protective order issued by the Court,  
5 precluding production to the general public except as directed by the Court.  
6

7           7.     Judgment debtors shall not create any additional Series LLCs  
8 without further order of this Court.  
9

10                   **The Request for a Judgment Debtor Exam**

11           As the Court ruled at the December 4, 2018 hearing this issue is the subject  
12 of a separate motion and will be addressed by a separate order.  
13

14                   **The Request to Enjoin Certain Transfers of Funds**

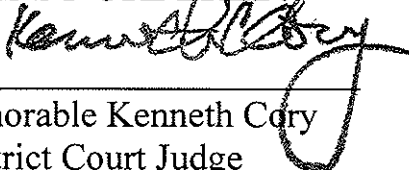
15           The plaintiffs requested that A Cab and any series LLC it has issued (the  
16 "series LLCs" that defendants also refer to as "cells" of A Cab) be enjoined from  
17 transferring any funds to defendant Nady or any of his family members. At the  
18 December 4, 2018 hearing the Court was advised by counsel for A Cab that  
19 defendant Nady's prior deposition testimony about regular transfers of funds  
20 from the series LLCs to Nady was incorrect and such transfers were actually to a  
21 trust. This branch of plaintiffs' motion is granted to the limited extent of  
22 prohibiting the transfer of any monies or other property owned by judgment  
23 debtor A Cab LLC (also known as A Cab Series LLC) to defendant Nady, to any  
24 of his family members, or to any trust of which Nady or any of his family  
25 members is a trustor, trustee or beneficiary. To the extent plaintiffs' motion  
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1 sought further restraints on transfers by the series LLCs it is, without prejudice,  
2 denied at this time.  
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5

6 **Other Requested Relief**

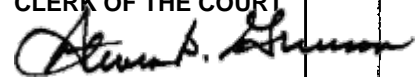
7  
8 Plaintiffs' other requested forms of relief are, without prejudice, denied by  
9 the Court at this time.  
10

11 **IT IS SO ORDERED.**

12   
13 Honorable Kenneth Cory  
14 District Court Judge  
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12/17/2018  
Date





**ODM**

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*Attorneys for Defendants*

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

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

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

Plaintiffs,

vs.

A CAB TAXI SERVICE LLC and A CAB, LLC,

Defendants.

**ORDER DENYING DEFENDANTS' COUNTER-MOTION TO STAY PROCEEDINGS**

**AND COLLECTION ACTIONS**

Defendants' Counter-Motion to Stay Proceedings and Collection Actions was filed on November 30, 2018, and heard on December 4, 2018. Plaintiffs were represented at the hearing by their attorneys, Leon Greenberg and Dana Sniegocki of Leon Greenberg Professional Corporation. Defendants were represented at the hearing by Jay A. Shafer of Premier Legal Group.

2 The Court having, read all the pleadings and papers on file herein, hearing the arguments of  
3 the parties, and good cause appearing,


4 **IT IS HEREBY ORDERED** that Plaintiffs' Counter-Motion to Stay Proceedings and  
5 Collection Actions **IS DENIED**.

6 DATED this 7 day of Jan, 2018.

7  
8   
9 **DISTRICT COURT JUDGE**  
10

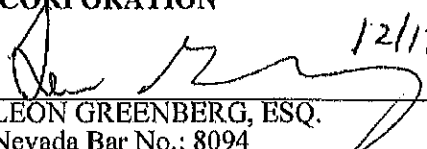
11 Submitted by:

12 **PREMIER LEGAL GROUP**

13  12/18/18  
14  
15 **JAY A. SHAFER, ESQ.**  
16 Nevada State Bar No. 6791  
17 1388 North Buffalo Drive, Suite 210  
18 Las Vegas, Nevada 89128  
19 *Attorneys for Defendants*

Approved as to form and content:

20 **LEON GREENBERG PROFESSIONAL CORPORATION**

21  12/18/18  
22  
23 **LEON GREENBERG, ESQ.**  
24 Nevada Bar No.: 8094  
25 **DANA SNIEGOCKI, ESQ.**  
26 Nevada Bar No.: 11715  
27 2965 South Jones Boulevard, Suite E3  
28 Las Vegas, Nevada 89146  
*Attorneys for Plaintiffs*

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[info@rodriguezlaw.com](mailto:info@rodriguezlaw.com)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

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

## AMENDED NOTICE OF APPEAL

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

Notice is given that A Cab, LLC, Creighton J. Nady, and A Cab Series, LLC, defendants in the above-captioned matter,<sup>1</sup> appeal to the Supreme Court of Nevada from the district court's order granting summary judgment, severing claims, and directing entry of final judgment entered on August 21, 2018.

AA009929

1 Notice is also given that A Cab, LLC, Creighton J. Nady, and A Cab Series, LLC,  
2 appeal to the Supreme Court of Nevada from the following listed orders of the district court:

3 (1) The district court's order entered on October 22, 2018, amending its August 21,  
4 2018 judgment to add A Cab Series, LLC, as a party defendant.

5 (2) The district court's order entered on December 18, 2018, granting plaintiffs'  
6 counter-motion for judgment enforcement relief (receiver and injunction).

7 (3) The district court's order entered on December 18, 2018, granting in part and  
8 denying in part plaintiffs' objections to defendants' claims of exemption from execution.

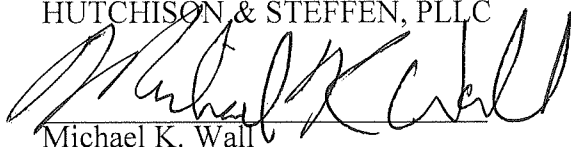
9 (4) The district court's order entered on December 18, 2018, denying defendants'  
10 motion to quash writ of execution.

11 (5) The district court's order entered on December 20, 2018, denying defendants'  
12 post-judgment motion to dismiss for lack of subject matter jurisdiction.

13 (6) All other judgments and orders of the district court rendered appealable by any  
14 of the foregoing orders and judgments.

15 DATED this 15 day of January, 2019.

16 HUTCHISON & STEFFEN, PLLC

17 

18 Michael K. Wall  
19 10080 West Alta Drive, Suite 200  
20 Las Vegas, NV 89145  
21 Tel: (702) 385-2500  
22 Attorney for defendants  
23 A Cab, LLC, and Creighton J. Nady  
24  
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# CERTIFICATE OF SERVICE

Pursuant to NRCp 5(b), I certify that I am an employee of HUTCHISON & STEFFEN,  
and that on this 15<sup>th</sup> day of January, 2019, I caused the above and foregoing **AMENDED**  
**NOTICE OF APPEAL** to be served as follows:

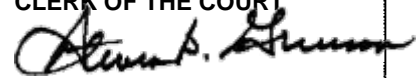
- ☐ by placing same to be deposited for mailing in the United States Mail, in a sealed envelope upon which first class postage was prepaid in Las Vegas, Nevada; and/or
- ☐ pursuant to EDCR 7.26, to be sent **via facsimile**; and/or
- ☒ pursuant to EDCR 8.05(a) and 8.05(f), to be electronically served through the 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
- ☐ to be hand-delivered;

to the attorney(s) listed below at the address and/or facsimile number indicated below:

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](mailto:leongreenberg@overtimelaw.com)  
[Dana@overtimelaw.com](mailto:Dana@overtimelaw.com)

*Attorneys for plaintiffs*

  
An employee of HUTCHISON & STEFFEN, PLLC



**MOT**  
LEON GREENBERG, ESQ., SBN 8094  
DANA SNIEGOCKI, ESQ., SBN 11715  
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[dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
Attorneys for Plaintiffs

**DISTRICT COURT**  
**CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.


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

Defendants.

Case No.: A-12-669926-C

Dept.: I

**MOTION TO AMEND THE  
COURT'S ORDER ENTERED  
ON DECEMBER 18, 2018**

*Feb 6, 2019*  
*9:00 am* 

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,  
hereby move this Court to Amend the Court's Order entered on December 18, 2018.  
This motion is made and based upon the annexed declaration of counsel, the  
memorandum of points and authorities submitted with this motion, the attached  
exhibits, and the other papers and pleadings in this action.

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1 whether based upon information provided by Special Master George Swarts or  
2 otherwise. It indicated it agreed no such restraint was necessary as class counsel was  
3 already required, pursuant to the August 18, 2018 judgment and order, to *not* dispose  
4 of any such collected funds but place them in their IOLTA account until an appropriate  
5 further Order was issued by the Court. Ex. "B" transcript December 13, 2018, p. 27, l.  
6 3 - p. 29, l.1

7 The Court should amend the December 18, 2018 Order to conform with the  
8 Court's stated intent. No basis exists to restrict class counsel's ability to take action on  
9 information provided by George Swarts. Not amending that Order will leave class  
10 counsel in the anomalous position of having to *not* receive information from the  
11 special master George Swarts out of fear such information will identify assets that  
12 they, under such Order, will then be prohibited from attaching to satisfy their clients'  
13 judgment. Such a situation would be senseless.

#### 14 **CONCLUSION**

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

17 Dated: January 10, 2019

18  
19 LEON GREENBERG PROFESSIONAL CORP.

20 /s/ Leon Greenberg  
21 Leon Greenberg, Esq.  
22 Nevada Bar No. 8094  
23 2965 S. Jones Boulevard - Ste. E-3  
24 Las Vegas, NV 89146  
25 Tel (702) 383-6085  
26 Attorney for the Class  
27  
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**Motion to Amend the Court's Order Entered on December 18, 2018**

TO:

Jay Shafer, Esq.  
Premier Legal Group  
1333 North Buffalo Drive - Suite 210  
Las Vegas, NV 89128

---

Dana Sniegocki

# EXHIBIT "A"



**LEON GREENBERG**

Professional Corporation

Attorneys at Law

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Las Vegas, Nevada 89146

(702) 383-6085

Leon Greenberg

Member Nevada, California

New York, Pennsylvania and New Jersey Bars

Dana Sniegocki

Member Nevada and California Bars

Fax: (702) 385-1827

December 20, 2018

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

VIA HAND DELIVERY

Re: Murray v. A Cab A-12-669926-C  
Order Entered on December 18, 2018 appointing Special Master

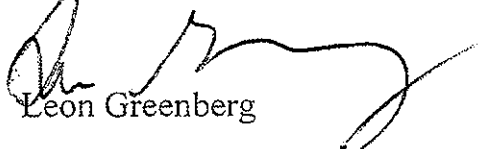
Dear Judge Cory:

The above Order (copy attached) at page 4, paragraph 3, lines 4 to 6, the language appearing after the words "plaintiffs' counsel" that states "....shall take no action to proceed with any legal execution upon such property to satisfy plaintiffs' judgment pending further order of the Court following the Special Master's report." I believe this language is in error.

At the December 13, 2018 hearing plaintiffs' counsel stated they would prefer to NOT be advised about the judgment debtor's property by the Special Master rather than be so advised and simultaneously restrained from judgment execution activity in respect to such property. Your Honor agreed at the hearing to remove this language from the Order, as the Court's prior Order and Judgment restrains plaintiffs' counsel from disbursing any monies collected on the judgment and requires that they maintain all collected funds in their IOLTA account.

I am requesting the Court amend this Order to comply with the Court's ruling on this issue at the December 13, 2018 hearing. I can submit a written Order for that purpose if that would be of assistance to the Court.

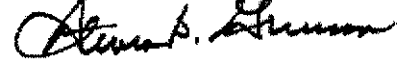
Respectfully submitted,

  
Leon Greenberg



cc: All Counsel (Via Email)

AA009937



1 ORDR

2  
3 **EIGHTH JUDICIAL DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**  
5

6  
7 MICHAEL MURRAY, and MICHAEL  
8 RENO, Individually and on behalf of others  
9 similarly situated  
10 vs.

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

13 Defendants.  
14

Case No.: A-12-669926-C

Dept.: I  
**ORDER GRANTING PLAINTIFFS'  
COUNTER MOTION FOR  
JUDGMENT ENFORCEMENT  
RELIEF**

Hearing Dates:  
September 26, 2018  
September 28, 2018  
December 13, 2018

15 On September 21, 2018, Defendants filed "Defendant's Ex-Parte Motion to  
16 Quash Writ of Execution and, in the Alternative Motion for Partial Stay of  
17 Execution on Order Shortening Time. The Court set the hearing for September  
18 26, 2018. On September 24, 2018, Plaintiffs filed "Plaintiffs' Response to  
19 Defendants' Ex-Parte Motion to Quash Writ of Execution on an OST and  
20 Counter-Motion for Appropriate Judgment Enforcement Relief." In Plaintiffs'  
21 Counter-Motion, Plaintiffs requested a) ordering a Judgment-Debtor  
22 examination, b) ordering property be deposited with plaintiffs' counsel, c)  
23 enjoining any transfer of funds from A Cab LLC and any of its series LLCs, d)  
24 issuing an order of attachment, and/or e) appointing a receiver. In Plaintiffs'  
25 Counter-Motion, Plaintiffs advised "Plaintiffs' counsel understands that the  
26 Court may not wish to issue any relief on the counter-motion at the scheduled  
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28

1 hearing given the short notice.” This Court agreed, and continued Plaintiffs’  
2 Counter-Motion for Appropriate Judgment Enforcement Relief to October 22,  
3 2018, to be heard at the same time as the several other pending motions  
4 scheduled for that day, so that Defendants may be afforded an opportunity to  
5 respond to Plaintiffs’ Counter-Motion. On October 15, 2018, Defendants’ filed  
6 their Opposition to Plaintiffs’ Counter-Motion for Appropriate Judgment Relief.  
7  
8

9 On October 22, 2018, the Court heard 1) Defendants’ Motion for Dismissal  
10 of Claims on Order Shortening Time, 2) Defendants’ Motion for  
11 Reconsideration, Amendment, For New Trial, and For Dismissal of Claims, and  
12 3) Plaintiffs’ Motion to Amend Judgment. Because of the issues discussed during  
13 that hearing, the Court stayed the matter for 10 days, and continued Plaintiffs’  
14 Counter-Motion for Appropriate Judgment Relief to November 29, 2018, to be  
15 heard with the several other pending motions set to be heard on that day. On  
16 November 20, 2018, the Court issued a minute order setting those pending  
17 motions to December 4, 2018 for announcement of decision.  
18  
19  
20

21 On December 4, 2018, the Court announced its decision on the majority of  
22 the pending motions, and heard from both sides regarding Plaintiffs’ still pending  
23 Counter-Motion which requested the appointment of a receiver. The Court  
24 inquired of counsel as to the appropriate scope of the receivership and set the  
25 matter over to December 13, 2018 so that the Court may appropriately and  
26 thoughtfully determine what powers to grant the receiver given the complexity  
27 this case has presented. The Court, having reviewed the papers and pleadings on  
28

1 file, having heard oral argument by counsel, and based on the entire record of  
2 these proceedings, enters the following order:  
3  
4

5 **The Request for Appointment of a Receiver**

6 The plaintiffs request the appointment of a receiver pursuant to NRS  
7 Chapter 32. The Court, given the circumstances presented, as discussed at the  
8 hearing on December 4, 2018, concludes at this time it would be more  
9 appropriate to appoint a Special Master. Accordingly, the request is granted to a  
10 limited extent in the form of an appointment of a Special Master as follows:  
11  
12

13 1. George C. Swarts is appointed as a Special Master pursuant to  
14 NRCP Rule 53;

15 2. The Special Master shall be provided by the judgment debtor A Cab  
16 LLC also known as A Cab Series LLC, including Creighton J. Nady and any  
17 other agents of judgment debtors, copies of all electronic and paper financial and  
18 business records of the judgment debtor A Cab LLC also known as A Cab Series  
19 LLC that the Special Master deems advisable to possess for the preparation of  
20 the report directed in this order, including but not limited to all such records  
21 involving all of its contracts or agreements with any other entity or person,  
22 including any series LLC it has issued pursuant to NRS 86.296. Upon being  
23 presented with a copy of this Order all persons and entities possessing any such  
24 records of the judgment debtor A Cab LLC also known as A Cab Series LLC  
25 shall deliver them to the Special Master;  
26  
27  
28

1           3.     The Special Master shall promptly advise plaintiffs' counsel of all  
2 property of the judgment debtor A Cab LLC also known as A Cab Series LLC  
3 that it has identified and plaintiffs' counsel shall take no action to proceed with  
4 any legal execution upon such property to satisfy plaintiffs' judgment pending  
5 further order of the Court following the Special Master's report;  
6

7           4.     The Special Master shall issue a report by February 1, 2019 to the  
8 Court advising the Court of:  
9

10       (a)    A proposed plan, to the extent that they deem it feasible, for the Special  
11 Master to be appointed Receiver pursuant to NRS Chapter 32 over the operations  
12 of judgment debtor A Cab LLC also known as A Cab Series LLC in a manner  
13 that will allow the profits from the operation of the taxi medallions authorized to  
14 it to be applied towards satisfaction of the plaintiffs' judgment.  
15  
16

17           5.     Plaintiffs' counsel shall be required to make available to the  
18 Special Master, from the funds they have collected on the plaintiffs' judgment  
19 and are holding in their IOLTA account pursuant to this Court's prior Orders, a  
20 sum not to exceed \$20,000 (Twenty Thousand Dollars) to pay for the Special  
21 Master's services. The Special Master shall be entitled to be paid a fee not  
22 exceeding \$300.00 (Three Hundred Dollars) per hour for their services. The  
23 Special Master shall be authorized, in their discretion, to cease further work and  
24 present the report discussed in paragraph 4 to the Court, to the extent it is able to  
25 complete such a report, once the cost for their services have exceeded 90% of the  
26  
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28

1 amount specified in this paragraph that plaintiffs' counsel shall be required to  
2 make available to pay for such services.

3           6.     The information and records received by the Special Master  
4 shall be kept confidential and subject to a protective order issued by the Court,  
5 precluding production to the general public except as directed by the Court.

6           7.     Judgment debtors shall not create any additional Series LLCs  
7 without further order of this Court.

8  
9  
10                   **The Request for a Judgment Debtor Exam**

11           As the Court ruled at the December 4, 2018 hearing this issue is the subject  
12 of a separate motion and will be addressed by a separate order.

13  
14                   **The Request to Enjoin Certain Transfers of Funds**

15           The plaintiffs requested that A Cab and any series LLC it has issued (the  
16 "series LLCs" that defendants also refer to as "cells" of A Cab) be enjoined from  
17 transferring any funds to defendant Nady or any of his family members. At the  
18 December 4, 2018 hearing the Court was advised by counsel for A Cab that  
19 defendant Nady's prior deposition testimony about regular transfers of funds  
20 from the series LLCs to Nady was incorrect and such transfers were actually to a  
21 trust. This branch of plaintiffs' motion is granted to the limited extent of  
22 prohibiting the transfer of any monies or other property owned by judgment  
23 debtor A Cab LLC (also known as A Cab Series LLC) to defendant Nady, to any  
24 of his family members, or to any trust of which Nady or any of his family  
25 members is a trustor, trustee or beneficiary. To the extent plaintiffs' motion  
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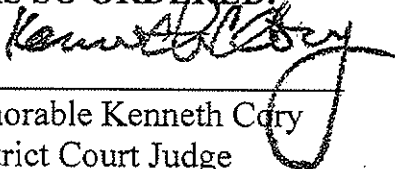


1 sought further restraints on transfers by the series LLCs it is, without prejudice,  
2 denied at this time.

3  
4  
5  
6 **Other Requested Relief**

7 Plaintiffs' other requested forms of relief are, without prejudice, denied by  
8 the Court at this time.

9  
10  
11 **IT IS SO ORDERED.**

12   
13 Honorable Kenneth Cory  
14 District Court Judge  
15 *vr*

12/17/2018  
Date

# EXHIBIT "B"



1 **TRAN**

2  
3 **EIGHTH JUDICIAL DISTRICT COURT**  
4 **CIVIL/CRIMINAL DIVISION**  
5 **CLARK COUNTY, NEVADA**

6 MICHAEL MURRAY, et al, ) CASE NO. A-12-669926  
7 Plaintiffs, ) DEPT. NO. I  
8 vs. )  
9 A CAB TAXI SERVICE, LLC, et al, )  
10 Defendants. )

11  
12 BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE  
13 THURSDAY, DECEMBER 13, 2018

14 **TRANSCRIPT RE:**

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

18 **APPEARANCES:**

19 For the Plaintiffs: LEON GREENBERG, ESQ.  
20 CHRISTIAN GABROY, ESQ.  
21 KAINE MESSER, ESQ.  
22 For the Defendants: ESTHER C. RODRIGUEZ, ESQ.  
23 MICHAEL K. WALL, ESQ.  
24 JAY A. SHAFER, ESQ.  
For Resolution Economics: PETER DUBOWSKY, ESQ.  
ALSO PRESENT: JONATHAN WILSON  
Resolution Economics  
CREIGHTON J. NADY

RECORDED BY: Lisa Lizotte, Court Recorder

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 13, 2018, 10:39 A.M.

2 \* \* \* \* \*

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

5 THE COURT: Good morning.

6 COUNSEL IN UNISON: Good morning, Your Honor.

7 THE COURT: Will counsel enter your appearances, please.

8 MR. GREENBERG: Leon Greenberg for plaintiff, Your Honor.

9 MR. DUBOWSKY: Peter Dubowsky for the special master, Resolution  
10 Economics. And my client is here also, Mr. Jonathan Wilson.

11 MR. GABROY: Christian Gabroy, Bar Number 8805, for the plaintiffs.

12 MR. MESSER: Kaine Messer also for the plaintiffs.

13 THE COURT: All right.

14 MR. SHAFER: Good morning, Jay Shafer for A Cab.

15 MS. RODRIGUEZ: Good morning. Esther Rodriguez for the defendants.

16 MR. WALL: And Michael Wall for the defendants.

17 THE COURT: Good morning. And I see that Mr. Nady is here.

18 All right. As it stands this morning, Mr. Greenberg, what is the  
19 plaintiff's suggestion to the Court as to how to proceed?

20 MR. GREENBERG: Well, Your Honor, it was my understanding from our  
21 appearance last week there were two issues Your Honor wished to address today.  
22 One has to do with the TRO you signed.

23 THE COURT: Please be seated, folks.

24 MR. DUBOWSKY: Thank you.

1           MR. GREENBERG: The TRO you signed and the request for the transfer of  
2 those motor vehicles or an order coordinating the transfer, so to speak, or assisting  
3 me in having those motor vehicles transferred ultimately to the sheriff for sale on  
4 judgment execution. And the other issue was this question of the appointment of  
5 a receiver pursuant to what I understood to be your concerns last week. I did  
6 submit, as you instructed, on Friday two different proposed orders for the Court's  
7 consideration and some correspondence that Your Honor may have seen. I did  
8 get a call yesterday from your law clerk, who asked me to provide those orders  
9 in computer format, presumably for further review by the Court. I'm pleased to  
10 address either of those issues or anything else I can help the Court with, but that's  
11 my understanding as to what I'm supposed to be doing here today.

12           THE COURT: All right. We have this morning the matter of whether to  
13 appoint a receiver, and if so, under what terms. You've seen the proposed order  
14 submitted by the defendants, which modifies the order which you had proposed.  
15 What is your view of that?

16           MR. GREENBERG: Well, Your Honor, I have two concerns regarding the  
17 order that they are proposing on that issue. One is that they are removing the  
18 provision that I had proposed to the Court. And just by way of background, Your  
19 Honor, I had essentially proposed two approaches here consistent with my  
20 understanding of the Court's concerns voiced last week. One would be really a  
21 limited form of receivership which would allow the receiver to take possession of  
22 assets that are under the control of the judgment debtor corporation, A Cab, LLC,  
23 and hold those assets, potentially pay liabilities in his discretion if he thought it was  
24 important to preserve the business, and to also gather information for a report to

1 the Court and a proposal, if possible, for actually managing the business in full for  
2 the purposes of satisfying the judgment, Your Honor. He would not have the power,  
3 essentially, to interfere or control any of the operations at this point, which is truly  
4 what a receiver does in the normal course.

5 As part of that receiver proposal, he would have also had the authority  
6 to withhold operation of the medallions which are possessed by the judgment debtor  
7 from the Series, these cells to which I am sure they have all now been leased and  
8 put in possession of who are generating revenue from them, not for the purpose  
9 of doing anything with those medallions but simply to assure cooperation from  
10 those cells in his work so that he can gather appropriate information. And if the  
11 cells refuse to cooperate, the cells of course are all controlled by Mr. Nady. He  
12 would have the authority to terminate those leases or if necessary ask the Taxi  
13 Commission to terminate -- excuse me -- terminate the leases of those medallions  
14 or ask the Taxi Commissioner to terminate the use of those medallions, essentially  
15 just to give him the power so that he could, if necessary, coerce sufficient  
16 cooperation so he can get the information he needs to do his job because as Your  
17 Honor is aware, it is the position of the defendants that these 200 or so cells are  
18 separate entities, they're not subject to o the judgment. We have no asked the  
19 Court to, you know, go beyond or deal with that issue.

20 The other form of order I proposed to the Court was far more limited  
21 and that was based on my discussion with Mr. Swarts last week, who said that  
22 perhaps a special master appointment would be more appropriate here, and that  
23 is far more limited. The special master would not actually take possession of any  
24 assets of A Cab. He would have no authority to pay expenses. He would simply

1 be essentially in charge of obtaining the records and reviewing the books and have  
2 access to the information of the company. He would have no coercive power in  
3 respect to the taxi medallions as I was proposing for the limited receiver. And he  
4 also would have a report to the Court with a proposal as to whether a receivership  
5 could be managed and how it would be managed for the business.

6 Under the special master proposal, which is obviously the far more  
7 limited of the two, that's the model the defendants have proposed a variation on  
8 to Your Honor, okay. Their variation of that model does two things that I would be  
9 strongly opposed to. First is it removes the provision that the special master would  
10 provide to plaintiffs' counsel information as to assets he locates that are in the name  
11 of the judgment debtor. The judgment is outstanding. I believe if there is going to  
12 be a special master appointment we're not going to have a receiver who's actually  
13 going to take possession of any assets. Plaintiff's counsel should be told, you know,  
14 what assets the special master comes up with so we can take effective means, if  
15 we can, to secure those assets for the benefit of our clients. They've removed that  
16 power from their proposed special master appointment.

17 The other thing that they have done is they've capped the fee that  
18 would be paid to the special master at \$5,000. That's clearly going to be an  
19 inadequate amount for me to get anyone to be willing to accept the appointment.  
20 I'm not pleased with seeing large amounts of money spent on a special master or  
21 a receiver. I have, as I've told the Court, believed it would be appropriate to commit  
22 some portion of the funds that have been attached in the Wells Fargo accounts  
23 and I actually did submit an order to the Court, I believe it was two days ago, asking  
24 Your Honor to direct the disbursement of those funds from the core \$10,000 to the

1 defendants, with the rest to go into my IOLTA account. This was ruled on last week  
2 by Your Honor at the hearing. But \$5,000 is not going to be enough. Mr. Schwarz'  
3 normal hourly fee is \$300 an hour. That is fairly substantial, although I suspect it's  
4 probably within the range of people typical with his experience in this area. I'm not  
5 eager to see, again, a large amount of money earmarked for a special master or a  
6 receiver, but I suspect a commitment more in the range of \$20,000 probably needs  
7 to be made to assure some kind of meaningful efforts are undertaken by anyone  
8 who's appointed for a special master or a receiver.

9           And the way I structured both of the orders I proposed to Your Honor  
10 is that the person so appointed would be earmarked such amount from the funds  
11 collected that Your Honor believes is appropriate and in the event that they have,  
12 you know, gone through 90 percent of that earmarked funds, they will at that point  
13 sum up whatever they can and provide whatever report they can to the Court at that  
14 point, even if it is a partial or incomplete report; the point being that we would like  
15 to get some sort of completed result from this process of having a special master or  
16 receiver appointed. Ultimately the cost of a receiver or special master really should  
17 be borne by the defendants, Your Honor, not by my clients, but I understand the  
18 problems we've had in this case and I cannot contemplate Mr. Swarts or anyone  
19 else being willing to take on such an appointment, particularly given the history  
20 we've had here, without an assurance that there are funds that have been dedicated  
21 in advance to pay them for some measure of their work and also an assurance that  
22 they will be relieved from doing unpaid work, which is why I tried to structure the  
23 orders I presented to Your Honor in that fashion.

24           So I think that reviews what I've proposed to the Court, the thoughts



1 I have about this, the concerns I have with the alternative proposal that was given  
2 yesterday by defendants. If the Court has questions, I'd like to help if I can.

3 THE COURT: All right, thank you. We are at this juncture, of course,  
4 because of the refusal of the defendants, including Mr. Nady, to come forward with  
5 funds necessary to pay the special master.

6 Mr. Nady, I asked you to be here -- well, more than that. I ordered you  
7 to be here today and I indicated that I was seriously considering putting you in jail for  
8 contempt of court. You might be asking, well, what brought that about? But when  
9 I see that your attorneys are in here complaining that you simply can't pay -- first it  
10 was \$25,000 and then it was \$41,000 to the special master to do the work that  
11 really should have been done by you originally to make sure that the drivers were  
12 receiving under the law the minimum wage and that, you know, secondarily, if it  
13 wasn't done before there should have been evidence forthcoming from your side  
14 as to what the appropriate amount was. And all we ever heard was it can't be done,  
15 it can't be done; the trip sheets are the only accurate way to do it. And so we had  
16 a way to accomplish that through the special master, admittedly an expensive  
17 proposition, but that's what happens when you have to come back and clean up  
18 somebody else's mess.

19 When I found that you, despite your protests in September and  
20 October that you simply didn't have the money to pay the special master and then  
21 the plaintiff effected a seizure of a bank account and there's some \$230,000 laying  
22 in that bank account, I have become extremely immune to cries from an individual or  
23 a company individual that they just don't have the money to pay the special master  
24 to complete this work. And so it has resulted in the special master coming to the

1 Court and asking to be paid. It was the Court that appointed the special master  
2 and I am certainly more than amenable to making sure that the special master gets  
3 paid for the work that they've put into the project, up to the point where the Court  
4 found that it was going to be so cumbersome and so expensive that it was better  
5 to simply grant the plaintiffs' earlier motion for summary judgment that included  
6 approximations. And according to the United States Supreme Court, those -- if  
7 that's what you have, that's what you have and you can rely on those in a judgment.

8           So perhaps you can understand why it seemed to the Court that I  
9 might have to just put you in jail in order to get your attention. Well, fortunately for  
10 you and perhaps for all of us, rather than blow this matter up even further, there is  
11 a way that I believe I can accomplish that without having to put you in jail. It gives  
12 me no great pleasure to put you in jail, Mr. Nady, which is why I was so late coming  
13 to the point of seriously considering doing that. It's my belief that with the proposals  
14 that have been put forward by the plaintiff and been modified proposal by your  
15 counsel that there is a way that we can get the special master paid, albeit it is a  
16 way that will incur more fees that have to be paid.

17           I'm going to grant the relief that the plaintiffs have asked for in the  
18 sense of having a special master appointed again. This time we're not going to use  
19 the special master that previously was there. They have -- I wouldn't ask them to  
20 continue on at this point, but I am highly likely in a few minutes -- I want to hear  
21 from your attorney first, but I'm highly likely to appoint a special master, to have it  
22 Mr. Swarts and to order the defendants and their agents, and at this point that's  
23 where you come in, to give a full and complete disclosure of all the financial records  
24 that pertain to the company.

1 I wanted to say that at this point because maybe it's just if you were  
2 feeling nervous and if you have your toothbrush in your pocket, I wanted you to  
3 realize that I'm not going to send you to jail today. Notwithstanding that, I hope that  
4 out of all of this you will come to realize that the Court is very serious about having  
5 this case proceed to its final resolution, including the payment of the judgments  
6 which have been awarded.

7 So with that, Mr. Shafer, what do you have to say further? I have  
8 received your opposition with your modifications of the proposed order by the  
9 plaintiffs. One of those was for confidentiality, which I think is appropriate. Anything  
10 which is revealed to the plaintiff should not be revealed to the public at large. I don't  
11 assume that there's any problem with that from the plaintiffs. I am inclined, as I just  
12 indicated, to not even make it an appointment of a receiver at this point, but I am  
13 inclined to make it be a special master with a view towards, if need be, becoming a  
14 receiver. Partly I have come to that conclusion because of your protests that when  
15 it comes to those medallions, at least, that you can't have someone else running the  
16 company or you run into problems. I don't know whether that is accurate, but I don't  
17 propose to jump into the middle of that issue by literally turning the company over  
18 to a receiver at this point. I agree with plaintiffs' counsel that to put a limit of \$5,000  
19 for a special master at this point is not realistic for the job at hand. I may say that  
20 my whole purpose in doing this -- immediate purpose is to get the previous special  
21 master paid. Those are the things that I'm considering doing. What do you say?

22 MR. SHAFER: And I appreciate it, Your Honor. Obviously we've I think  
23 addressed most of our big points in our opposition. I think that you've hit the nail  
24 on the head that at least in our interpretation of the statutory authority appointment

1 of any operational control over A Cab would result in termination of its business or  
2 at least the current operators would have to go to the Taxicab Authority and say  
3 we can't operate anymore, which I think would cause problems for everybody.

4 As far as -- so we stand by our objection to the appointment of any  
5 receiver or special master on the record, just because it's an extraordinary remedy.  
6 They haven't even had a chance to look at our responses to their post-judgment  
7 debtor request for production yet. I think we're a little premature on that. But given  
8 that the Court's inclination is to appoint a receiver, we would like to make that as  
9 limited as possible with the goal of accomplishing what the Court's concerns are,  
10 and that's to maintain the assets to make sure we know what the current status is.

11 And I want to -- I'm glad the Court brought up the issue of the  
12 \$230,000 or \$250,000 that was taken in September of this year. That was not  
13 A Cab's money. As we briefed before the Court, and perhaps Mr. Dubowsky was  
14 not aware of this when he filed his motion for the special master, a majority of that  
15 money was held in trust either to pay employee tax provisions, the employer side  
16 tax provisions, FICA, and to pay the State, the Taxicab Authority its revenue and  
17 to pay the airport for its revenue. Those -- while those are collected daily, those  
18 are remitted quarterly. So those funds, a large majority of those funds represents  
19 payments that were held in escrow to be submitted to the State and its Authority.  
20 So it's not like they had a quarter million dollars sitting in an account that was  
21 available to pay whoever they wanted. That was already earmarked to be paid  
22 and was owed to be paid for sales tax, transfer tax and other authority.

23 As far as the issue of the receiver, our goal should be to limit the  
24 amount of costs that are incurred, the friction loss that is involved in this. My client

1 does not have the money to pay it. There is a limited amount of funds. And so  
2 the more duplicative work that is done will decrease the return to the actual drivers.  
3 As minimal as it is now, we would like to avoid that further.

4           So our request is just to limit it just to receipt and review of the  
5 financial records of the company with the appropriate protective order. We put a  
6 placeholder \$5,000, indicating our desire to have that be minimal. Whether or not  
7 that's an accurate one, I don't know, but given the problem we had in this case of  
8 the \$200,000 special master, we would like -- we have no objection to Mr. Swarts  
9 being appointed, particularly if the Court is inclined to do that, but we would like it  
10 to be limited. And if additional funds were needed to complete additional review, we  
11 would rather them come back to the Court and ask for additional funds, rather than  
12 being unlimited and all of a sudden we run up a \$20,000 bill within the first week  
13 and not have additional funds later on. So that is why we put that placeholder, but  
14 if you'll notice we left most of the blanks -- we left placeholders for most of the other  
15 fees. But our goal is to have it as limited as possible and A Cab will cooperate to  
16 provide the financial records to minimize the costs and expenses that it is being  
17 forced to incur for the special master if the Court does grant that special master.

18           I think that's --

19           THE COURT: Let me do this. I have reworked the draft that was submitted  
20 by the plaintiff and it's the short version. I've made some changes to it. This is  
21 what I am considering ordering. I think it would be best maybe if we just took a few  
22 minutes at least to let both sides see what's in the order that I'm thinking of signing  
23 and seeing whether or not that covers the various needs and issues of the parties.  
24 So why don't we run a couple of copies of this and let counsel have it and -- let's

1 see, let's make about four copies. My law clerk will run copies of that.

2 Let's -- while they're doing that, that kind of takes care of what -- on  
3 my check-off sheet that takes care of two out of three. One is the appointment of  
4 a receiver. I'm going to make that a special master for now. The prime objective  
5 of the receiver of Mr. Swarts, assuming that he's the one that accepts this, will be to  
6 get the previous special master paid. I want to see that happen and I want to see it  
7 happen as a primary goal of the special master at this point. That is more important  
8 to me than pulling funds out to pay the judgment creditor.

9 As to the contempt, I've already indicated I'm not going to hold Mr.  
10 Nady -- well, I have held the defendants in contempt, but I'm not going to put Mr.  
11 Nady into jail, until such time as he complies with the Court's order.

12 That leaves the final thing as being the temporary restraining order  
13 not to sell items. Is there anything more that needs to be argued about that? I don't  
14 see that it impedes the defendant's business to simply enter an order that says don't  
15 sell any of the assets, whether they are the automobiles or anything else, any of the  
16 assets without clearing it with the Court first.

17 Do defendants have problems with that?

18 MR. SHAFER: Our concern I think is just the transactional nature of this,  
19 whether or not -- you know, when they -- if they dispose of a certain asset, whether  
20 they have to get clearance from the Court to throw away a broken stapler or to --  
21 you know, if a car is wrecked, to deal with that issue. We would probably put in  
22 a request that anything be -- if there is a sale that it be for equivalent value and  
23 records be maintained of that. So if they do sell that broken stapler, they donate it  
24 to charity, there's a record of that, or if they have to -- if there is a wrecked car and

1 they get an insurance payoff, that there's an earmark or identification of that --

2 THE COURT: Uh-huh.

3 MR. SHAFER: -- which would -- and our concern is --

4 THE COURT: Well, in terms of a wrecked car, that's -- if the only prohibition  
5 is from selling it -- oh, you're saying that it would be so wrecked you wouldn't be  
6 fixing it.

7 MR. SHAFER: Yeah. And, you know, the insurance company would  
8 probably require a sign-over of the wrecked vehicle in exchange for insurance  
9 proceeds, I imagine. And I think that also deals with our other concern that exerting  
10 control over the company might be considered exerting control over the operations  
11 and would put us in violation of the statute.

12 THE COURT: Well, if it's a special master and he's given no power to control  
13 at least initially, then that shouldn't be a problem, should it?

14 MR. SHAFER: I am not -- my concern is not reporting that to the special  
15 master or not notifying the special master or not including that in the finances, but as  
16 to the TRO and the Court exerting control over or precluding transfer or dealing with  
17 those assets as they are in the ordinary course of business. That's our only objection  
18 to that. We do not anticipate a sell-off of assets or otherwise deprive defendants of  
19 any rightful recovery that they have. And so I think it is over-broad to require -- to  
20 preclude them from transferring any asset, unless there is an exception --

21 THE COURT: Well, if we put a dollar amount in there and say something like  
22 don't dispose of any assets of a value of \$500 or more without at least advising the  
23 special master first --

24 MR. SHAFER: I think if the restriction is to reporting it to the special master,

1 I think that would probably be fine because that is -- you're not exerting control over  
2 the operations of the business, just requiring disclosure of the financial records,  
3 which is consistent with our position on the limitation and the nature of the special  
4 master.

5 THE COURT: Well, but I'm talking about doing more than simply requiring  
6 a reporting to the special master. I'm talking about saying don't dispose of assets.  
7 Obviously we don't want to see the assets walking out the back door when we're in  
8 a mode of trying to get a special master paid and then trying to get a plaintiff paid.  
9 So I don't see that it's, you know, assuming any managerial role in the company  
10 to have that kind of an order in place that the defendant is not to sell off assets.

11 MR. SHAFER: Our only caveat would be to -- if such an order is entered,  
12 to be in the -- it's not to be sold off except in the ordinary course of business.  
13 With that exception and with a notification requirement we can be assured that the  
14 judgment creditor would receive equivalent value. Whether it's in a car or whether  
15 it's in cash, it would make no difference to the judgment creditor. And would -- with  
16 the notification requirement if a car is sold for a dollar and it is clearly a fraudulent  
17 transfer, they would be notified of that transfer and would be able to recover it back.

18 THE COURT: All right. Then I'll go for that as long as there's some time  
19 period of delay after notifying the special master before you actually dispose of the  
20 assets. It doesn't do much good to tell the special master and then just go ahead  
21 and sell the asset. If we say that, we haven't accomplished anything more than  
22 the provisions that all the financial -- that the finances of the company be made  
23 available to the special master.

24 MR. SHAFER: I understand. If I might have just one moment to --



1 THE COURT: Yeah.

2 MR. SHAFER: Your Honor, I would suggest five business days would be  
3 an appropriate length of time.

4 THE COURT: All right, that will work. Let's make it say that no asset of a  
5 value of more than \$500 will be disposed of, sold, given away, whatever, without  
6 giving five days notice to the special master.

7 MR. SHAFER: Okay.

8 THE COURT: All right. Why don't we just take a few minutes while you guys  
9 take a look at the order that I've handed out and then I'd like to hear from you again  
10 before I finalize it.

11 Yes, sir?

12 MR. DUBOWSKY: May I address the issue of contempt, Your Honor?

13 THE COURT: Yes.

14 MR. DUBOWSKY: I understand Your Honor not putting Mr. Nady in  
15 incarceration. I understand that. But Your Honor did adjudicate him in contempt.

16 THE COURT: Uh-huh.

17 MR. DUBOWSKY: Under Nevada law for a civil contempt is just to compel  
18 compliance and whether this order addresses it or not, I'm not clear, but my client  
19 has not been paid. They've been ordered to be paid. I think Your Honor needs to  
20 -- in that you already made the order finding him guilty of contempt, just compel  
21 compliance. Payment plus attorney's fees in order to comply with the Court order  
22 by a date certain so we comply with the contempt rules. And whatever else needs  
23 to be paid can be dealt with in the order, but Your Honor, you have found him to be  
24 in contempt. Another order just saying that my client is going to be paid, we have

1 those orders already. So I'm going to ask Your Honor to make an order, which we  
2 requested before, for civil contempt to do something that compels compliance.

3 THE COURT: In other words, that you be paid, your client be paid by a date  
4 certain or else what, Mr. Nady goes to jail?

5 MR. DUBOWSKY: That's within Your Honor's discretion, but yes, there's  
6 ways of dealing with that. But that would be one way, yes.

7 THE COURT: Uh-huh.

8 MR. DUBOWSKY: And under NRS 22.100, subsection 3, there's also  
9 attorney's fees because we've had to spend a lot of attorney's fees just to ask the  
10 Court --

11 THE COURT: Yeah.

12 MR. DUBOWSKY: -- to have him comply and we still can't get compliance.  
13 And I can tell Your Honor that we have not been approached to say, listen, we don't  
14 want to be in contempt. But under the Nevada rules he has to purge himself of  
15 the contempt and that means compliance plus attorney's fees. And that has to be  
16 addressed separately so that my client can be paid and we can be out of here. And  
17 whatever else needs to be paid through this process, that's fine, but, Your Honor,  
18 he is in contempt. He has to comply with the \$41,000 order.

19 MR. GREENBERG: Your Honor, if I may?

20 THE COURT: Uh-huh.

21 MR. GREENBERG: On behalf of my clients I do want to make clear on the  
22 record that I respect Your Honor's authority and discretion to proceed however you  
23 feel best within the confines of the law. And what you are proposing is within your  
24 discretion. However, I want to make clear on the record that on behalf of my clients,

1 we definitely object to the idea that a special master should be appointed. The  
2 funds that have been executed on my client's judgment should be earmarked to  
3 pay that special master, with the purpose of that being really to try to locate funds or  
4 come up with a further plan to pay the prior special master who was already ordered  
5 to be paid by the Court. So to that extent we do not support the Court's direction  
6 on that issue that you were voicing a little while ago, but I respect Your Honor's --

7 THE COURT: What is it that you don't support?

8 MR. GREENBERG: Well, Your Honor, as counsel for the special master who  
9 has already been appointed was pointing out, they are due their funds pursuant to  
10 a long-standing order of this Court. The defendants are properly held in contempt.  
11 And candidly, Your Honor, I don't think that the defendants will comply with anything  
12 unless they're coerced to do it. An order of contempt that was being proposed could  
13 simply be that they either have to pay it by a date certain or Your Honor is going to  
14 suspend the use of their medallions.

15 I mean, at this point, Your Honor, the judgment debtor in this case,  
16 A Cab, LLC, I am sure has no assets except those medallions and the motor vehicles  
17 that are still titled -- and titled inadvertently, no doubt, because Mr. Nady has made  
18 it a point of transferring all of the assets to these various Series LLCs, the cells, as  
19 he calls them. We did execute on those funds at the Wells Fargo. I have had  
20 executions served on a variety of other banks. I was advised by Nevada State Bank  
21 there was one dollar in an account there. No doubt the business is still running, but  
22 they've acquired a new EIN number. They're running the operation through a new  
23 legally-registered entity, whether it's one of the series with a Tax I.D. number or  
24 something else. So --

1 THE COURT: Presumably that's something you will find out in your judgment  
2 debtor examination.

3 MR. GREENBERG: I will, Your Honor. And as counsel for the defendants  
4 have pointed out, well, if there's transfers of assets, you know, plaintiffs have their  
5 remedy. We can proceed with fraudulent conveyance actions. And obviously we  
6 may have to do that, Your Honor, but I don't wish to be involved in just a ceaseless  
7 series of litigation here involving transfers of assets. It's not in the interest of my  
8 clients. And defendants are essentially just working to exhaust my time, my  
9 resources. I have other clients I'm committed to. I have other cases I have to  
10 work on.

11 So ultimately the only way that anybody, my clients or the special  
12 master may get paid is if this Court uses its coercive power and simply tells the  
13 defendants, look, you either pay or the business is going to be shut down. Your  
14 Honor clearly has the authority to suspend the use of those medallions. And that's  
15 it. That's the only asset that the judgment debtor has and it only has that asset,  
16 Your Honor, because they can't actually transfer the right to those medallions. It's  
17 a limited franchise that's given to them under their CPCN. But they can lease them  
18 out, they can direct the revenue from those medallions to, you know, Tom, Dick and  
19 Harry, which is essentially what they've done here. I mean, this is the whole nature  
20 of the financial operation that Mr. Nady has run with the business to evade this  
21 judgment, to evade his creditors. So anything short of that --

22 THE COURT: Whose name are those medallions in?

23 MR. GREENBERG: The medallions are a limited license that's granted to  
24 A Cab Series, LLC, the judgment debtor. And we have the CPCN, it's in the record

1 here. It's a one page document. They're authorized for 73 or 120 or 94 or whatever  
2 it is medallions. And they are free -- they can't sell the medallions. They're not --  
3 again, it's the nature of the license, but they can lease them, they are leasing  
4 them. And ultimately unless some coercive power is applied to the use of those  
5 medallions, I don't think the special master is going to get paid and I don't think my  
6 clients are going to get paid by the judgment debtor because that's really the only  
7 arrow we have left in the quiver here, Your Honor, against Mr. Nady because the  
8 way the entire business is structured at this point, unless the Court is going to go --  
9 and we may have to reach this point of proceeding with an examination of the legal  
10 issues regarding the supposed separation of the cells, the Series LLCs from the  
11 judgment debtor.

12 As Your Honor is aware, we do have an alter ego claim pending  
13 against Mr. Nady which is currently stayed. Presumably the Court could some time  
14 in the new year reconvene, proceed to trial on that, gather evidence, make findings.  
15 I understand all of that, Your Honor, and perhaps that will have to be done at some  
16 point as well. But I don't see that there's going to be any other way to get the very  
17 substantial judgment rendered on behalf of my clients paid or the special master  
18 paid unless some coercion is applied to the judgment debtor here and Mr. Nady's  
19 business operations because essentially, Your Honor, the business is generating  
20 a large amount of cash, \$50,000 or more a month. Mr. Nady is free to fund this  
21 litigation, to fund the defense from the receipts of the business as long as he can  
22 keep it going. I think he values having the business, as he should. He worked hard  
23 to make the business and to keep it running, but he needs to respect the authority  
24 of this Court.

1           And I'm trying to propose the simplest, most direct means, given the  
2 posture of this litigation right now, for this Court to accomplish its objective, which  
3 is to get the special master paid and to see that the judgment debtors (sic) are paid.  
4 And short of hanging that prospect over the defendants that their medallions are  
5 going to be suspended, that they're going to be shut down, I don't see that the Court  
6 has any other authority; again, given the current posture of this case. If we go to  
7 further proceedings and then we examine this whole issue of the alter ego claims  
8 against Mr. Nady and the legal issues presented by the supposed existence of  
9 these cells, that might be another avenue, Your Honor. But I think Your Honor  
10 understands my point and I respect Your Honor's thoughtful efforts here to reach  
11 an appropriate resolution and respect the interests of the parties.

12           THE COURT: Mr. Shafer, is this all a procedure that is going to wind up  
13 without getting even the special master paid?

14           MR. SHAFER: I don't believe so. And if it is, it's because there's no money  
15 to be paid and not out of any intent to avoid the judgment. And I understand --

16           THE COURT: Well, you know, to say that there's no money to pay is not  
17 going to work because in that case then why wouldn't I cause the business to be  
18 shut down and sell off whatever assets are left and --

19           MR. SHAFER: Well, I apologize, Your Honor. I tried to make my statement  
20 conditional that if there is no money to be paid the result is the same. They receive  
21 nothing. It is our argument that the Court's remedy in appointing a special master  
22 to review the finances and conduct a review of the assets of A Cab would provide  
23 some illumination both to this Court and to plaintiffs' counsel. As of now plaintiffs'  
24 counsel is essentially making up out of whole cloth the financial condition of A Cab

1 and what A Cab does or does not do and the status of --

2 THE COURT: Well, I'm not so sure we can say that at this point, Mr. Shafer.  
3 A Cab has been under a standing Court order since at least last September to pay  
4 the special master and not one dime has gone to payment.

5 MR. SHAFER: And I will distinguish between the special master's request  
6 for payment and the judgment collection. They are different and distinct. And  
7 I appreciate that the Court -- as a special master they are subject to the Court's  
8 review and discretion and they are essentially an adjunct to the Court and they  
9 have their own set of limited remedies. The statute provides that if a special master  
10 is not paid, they are entitled to a writ of execution.

11 THE COURT: Uh-huh.

12 MR. SHAFER: I don't believe that it is on that basis -- I think that the  
13 appointment of the special master you've suggested to review the finances at least  
14 on a limited basis would provide security both to the judgment creditor and to the  
15 special master, as well as continuing the operations if they exist or are able to be --  
16 if A Cab is able to continue on, then that will provide some illumination on that issue.  
17 If the judgment creditor wants to shut down the company it has various methods  
18 to do that. They can file for an involuntary bankruptcy. They can ask for other  
19 extraordinary relief. But we are distinguishing between the judgment creditor and  
20 the special master because there has been no contempt as to the judgment creditor.  
21 It is limited only to the special master and the payment based on the Court's prior  
22 order ordering the \$41,000 be paid. The Court will recognize we made objections,  
23 but the Court issued that order. So there is a distinction between those two.

24 I do not think, responding to Mr. Dubowsky's point, that it is fair or

1 reasonable to impose a date certain by which a certain amount should be paid  
2 because one of the important aspects in any contempt hearing is the ability. It has  
3 not been established that as of now A Cab or Mr. Nady has the ability to pay, or  
4 A Cab has the ability to pay the special master fees.

5 THE COURT: Well, if they don't -- if they don't, then why don't we just wind  
6 up the business and pull out whatever assets to pay the judgment creditor -- I'm  
7 sorry, to pay the special master and the judgment creditor whatever there is and  
8 be done with it?

9 MR. SHAFER: Well, and that would be -- that would be subject to either  
10 negotiation or some subsequent motion practice subsequently. But my point is  
11 is that it is not --

12 THE COURT: Well, no, that kind of evades the question. I mean, what  
13 you're telling me is that your client basically simply cannot pay, so therefore we don't  
14 want to have any order that you must pay by a certain date or else because, gee,  
15 now we have to have a trial after the trial to show that your client can pay. Well,  
16 that's not my understanding of the way the process generally works. This is a  
17 judgment. And --

18 MR. SHAFER: It is. And we have two competing claims on these funds.  
19 Plaintiff's counsel took \$250,000 from our client, from A Cab. That money, most  
20 of it, as we discussed before, was earmarked for other purposes which have  
21 precedence to the State. But if there was any free funds, that could have been  
22 used to pay Mr. Dubowsky's client, the special master. And so now we're in a  
23 situation where my client does not have 1.6 million dollars to pay out of its ready  
24 cash right now. Does that mean that they might not be able to pay a reasonable



1 amount over time? I don't know. I don't have personal knowledge of the finances  
2 of the company. And even if I did, I'm not sure that the Court would believe me.

3 That's why I think it is imperative that the special master make the  
4 report before any further recommendations be enacted -- certainly on the contempt.  
5 If the special master determines that there is not sufficient funds nor sufficient  
6 profits to pay off the special master and their award, then the Court will make its  
7 determination based upon that when they make their report in thirty or whatever  
8 reasonable amount of time they make their report. I don't presume to indicate what  
9 time the special master would be able to complete that. But they would be no worse  
10 off than they are today because of the Court's order precluding the transfer of  
11 assets or the sale of assets according to the conditions that the Court has put in  
12 place and the continued operations of the business. They will be no worse off than  
13 they are today and they will still have the ability to recover those funds.

14 So I really seen no authority, also, to shut down the business. They  
15 haven't cited to any case law or statute that permits a judgment creditor to shut  
16 down a business or to preclude operations of its assets, except according to a  
17 receiver or some other writ of execution. The certificates are not subject to a writ  
18 of execution because they are not something that can be transferred. So, again,  
19 that goes back to the most reasonable course of action at this point is to allow the  
20 special master to conduct its review and to conduct the finances.

21 We are -- we have asked, as this Court knows, we asked for a stay  
22 pending a resolution and settlement and an appeal. We are getting pummeled,  
23 Your Honor, with the amount of motion practice and other procedures that are going  
24 through as a result of the defendant and the special master. We're trying to get our

1 feet underneath us to negotiate a resolution. We asked the Court for a stay and  
2 it wasn't inclined to issue that stay. We are now seeking an emergency stay with  
3 the supreme court to try to resolve this so we can just figure out where everybody  
4 stands and what the assets are and what resources would be available to pay the  
5 judgment creditor and to work out a fair resolution. But I think that -- I understand  
6 the Court's concerns about assets not being diminished and it certainly would never  
7 be my intention to intentionally avoid any order of this Court or judgment debt that is  
8 properly entered, but is also imperative that due process follow. And I think that the  
9 imposition of the special master accomplishes all of the necessary goals to maintain  
10 that the judgment creditor and the special master be paid, that the judgment debtor  
11 also have its business assets not be unnecessarily disturbed.

12 THE COURT: All right.

13 MR. SHAFER: So that's -- I think we would object to any date certain be  
14 paid.

15 MR. GREENBERG: Your Honor, if I might just clarify. On behalf of my  
16 clients, the plaintiffs, the class members, I do not want to see the business close  
17 because I don't think that's going to be in their interest in terms of getting paid.  
18 My suggestion to the Court was in respect to the special master's claim that the  
19 Court do issue an order with the course of power I was proposing, giving A Cab,  
20 the defendants, a date certain to pay or to face the closure of their business. The  
21 reason why I proposed that is the amount that is owed to the special master is of  
22 a magnitude that I think they will definitely find the money to pay the special master  
23 what he was awarded and that issue will be closed and done with. In terms of  
24 appointing a special master going forward or a receiver, we've discussed this and

1 that is the avenue that I believe is in the interest of my clients. I think Your Honor  
2 understands my position.

3 THE COURT: Uh-huh.

4 MR. GREENBERG: Mr. Dubowsky may want to address the Court.

5 THE COURT: Mr. Dubowsky.

6 MR. DUBOWSKY: Thank you, Your Honor. I don't understand Mr. Shafer's  
7 argument. Number one, he can't just come into court when his client has already  
8 been found in contempt and say we don't have the financial ability and it is the  
9 burden of the plaintiff to put us in involuntary bankruptcy. Well, number one, I'm  
10 no expert in bankruptcy, although I've worked alongside your brother for many  
11 years in different bankruptcy cases. I believe you need three creditors to get into  
12 an involuntary. But more important, in Your Honor's order, page 31, it says, "If  
13 A Cab truly lacks the financial resources to comply with those orders" -- this is to  
14 pay my client -- "it has a remedy under the United States Bankruptcy Code to  
15 seek protection of the bankruptcy court and its power to relieve it of those orders,"  
16 etcetera.

17 In other words, Your Honor, we are going through the same thing  
18 again. It's the same song and dance. They're going to come in and say we don't  
19 have the money. Your Honor, we're past that. If they don't have the money, they  
20 have to file bankruptcy. And if they do, then everything gets resolved with the  
21 bankruptcy courts. But as it is right now, as we stand here today, Your Honor  
22 adjudicated them in contempt because they refuse to pay my client. And, yes,  
23 a date certain to pay -- not if they have the ability.

24 THE COURT: Uh-huh.

1 MR. DUBOWSKY: No. That is the exception -- Your Honor, we know what's  
2 happening here because so far as to my client, which was brought in by Your Honor,  
3 nothing you have ordered will change anything in the lives of the defendants or their  
4 counsel. Nothing.

5 THE COURT: Uh-huh.

6 MR. DUBOWSKY: So it's come to this point. I want to get my client paid.  
7 Our attorney's fees are also under statute, and then we just want to go. We were  
8 brought in by the Court. We want to make sure Your Honor gets us paid. You  
9 already found willful contempt. Respectfully, Your Honor, this is not going to do  
10 anything for my client. You already see that. So, yes, if they were smart they  
11 would have come in today with the money and say we want to purge ourselves of  
12 contempt. But under Nevada law you have to be purged of the contempt if they had  
13 already been found to be in willful violation of this Court's order. That means purge,  
14 pay the \$41,000 plus attorney's fees per statute and then that's it. Then we can  
15 leave. We'll be out of the picture. But, Your Honor, they're in contempt saying no,  
16 we can't comply. Your Honor, please, that is -- I think Your Honor can see through  
17 that. And again, another Court order is not going to help us. Please get us paid  
18 so we can get out. That's all I'm asking, Your Honor.

19 THE COURT: Let's take five minutes or so and let you folks look at the order  
20 and then we'll come back and I will make the decision on what we're going to do.

21 (Court recessed from 11:32 a.m. until 11:42 a.m.)

22 THE COURT: All right, please be seated. What I'm looking for, folks, here  
23 is minor tweaks to this order if there's anything that would help make this process  
24 work. I'm not looking for entire this is our position on the granting of an order. I'm

1 going to sign this order.

2 So, the plaintiff.

3 MR. GREENBERG: Yes, Your Honor. My main concern is in paragraph 3.  
4 It directs the special master to advise plaintiffs' counsel of property it identifies,  
5 but then simultaneously restrains plaintiffs' counsel from performing any judgment  
6 execution on any such property identified.

7 THE COURT: Uh-huh.

8 MR. GREENBERG: Candidly, Your Honor, that's counterproductive. I mean,  
9 if I'm told about the property and then told I can't execute on it, it doesn't do me  
10 any good in terms of the interest of my clients. I'd almost rather not be told by the  
11 special master because if I found out about it myself presumably I wouldn't be  
12 bound by the restraint in this order. The purpose -- I mean, when I had drafted this  
13 originally that restraint was not in the draft.

14 THE COURT: That's correct.

15 MR. GREENBERG: I understand this was part of your thought process that  
16 wound up putting that term in there, Your Honor.

17 THE COURT: Uh-huh.

18 MR. GREENBERG: Again, Your Honor, if the special master was not a  
19 special master but was the form of limited receiver I was proposing and was actually  
20 taking possession of the property, then that would safeguard my clients' interests.

21 THE COURT: Yeah.

22 MR. GREENBERG: But to the extent that there's property that is attachable  
23 because it is solely in the name of the judgment debtor at the current time that the  
24 judgment is entered against, my clients would like to preserve their right to proceed

1 with judgment execution, which is another issue we have with these motor vehicles,  
2 Your Honor.

3 THE COURT: Uh-huh.

4 MR. GREENBERG: Candidly, I don't think there is any property, as we've  
5 been discussing. But nonetheless, I think my clients should be entitled to execute  
6 on it. So I would ask that that provision --

7 THE COURT: The reason -- there's one reason I did not and that is that if  
8 you execute on it then you've got it, and my intention is to try and get the previous  
9 special master paid.

10 MR. GREENBERG: I understand, Your Honor. And under the terms of the  
11 existing judgment any amounts that I collect have to be held in trust. I cannot  
12 disburse any of those funds without an order from Your Honor. I mean, that is the  
13 existing --

14 THE COURT: Uh-huh.

15 MR. GREENBERG: -- limitation I am under in all respects, in respect to any  
16 money that is collected on the judgment. So if Your Honor was of a mind to require  
17 amounts that I collected on the judgment be paid over to the current special master  
18 I would object to that, but that would clearly be within your power to do so.

19 THE COURT: Uh-huh.

20 MR. GREENBERG: And of course I have a duty currently to hold all those  
21 funds in trust pending Your Honor's direction. So this additional provision is not  
22 necessary to preserve that interest, so to speak, that Your Honor was concerned  
23 about because it is already preserved under the current arrangement, the current  
24 instructions accompanying the judgment, Your Honor.

1 THE COURT: All right. Mr. Dubowsky.

2 MR. DUBOWSKY: Thank you, Your Honor. Again, unless I'm misinterpreting,  
3 is this supposed to address the contempt?

4 THE COURT: No.

5 MR. DUBOWSKY: Okay.

6 THE COURT: This really does not -- I mean, it only does in this sense. It is  
7 an attempt to get you paid first and get you paid in full, but it does not address  
8 specifically the contempt.

9 MR. DUBOWSKY: Will that be addressed, Your Honor? Because there is  
10 a finding of contempt. Will that be addressed?

11 THE COURT: Well, I think probably then what we should do is you should  
12 submit an order that does that separately because you are correct, the Court has  
13 found the defendant to be operating in contempt of court. Before -- we'll revisit that  
14 before we leave here.

15 Any minor tweaks?

16 MR. SHAFER: We do. I'll first respond to the issue on paragraph 3 that he's  
17 addressed. I think that the Court's inclination on that is wise to preserve the status  
18 quo. And I understand the concern that they have that if they identify the assets in  
19 the report that they're barred from ever executing on them. While my client would  
20 love that, we probably think that's probably not what the Court intended --

21 THE COURT: No.

22 MR. SHAFER: -- and think it would be --

23 THE COURT: My intention was to leave that in place until I get the report of  
24 the special master.

1 MR. SHAFER: And I think if you added that additional term, shall not execute  
2 it until after the special master's report is issued, that would both simultaneously  
3 accomplish maintaining the status quo, not precluding them from executing and  
4 allowing for the special master to get paid. I would echo that Mr. Greenberg brought  
5 up the fact that the Court could order the \$80,000 or the \$40,000 be disbursed from  
6 the monies that were already taken from A Cab. That would both simultaneously  
7 cure the contempt of A Cab and satisfy the special master's concerns immediately.

8 THE COURT: Uh-huh.

9 MS. SHAFER: We do have some other concerns on some of the other  
10 provisions.

11 THE COURT: Okay. Like what?

12 MR. SHAFER: Well, I think number two, Your Honor, and I hope this is not a  
13 feature but rather a bug in part of the drafting. If we turn that, it requires the special  
14 master -- it gives the special master powers to obtain records.

15 THE COURT: Uh-huh.

16 MR. SHAFER: And going down to lines -- well, 24, 25, 26, where it says,  
17 "including but not limited to all such records involving (comma) and all of its  
18 contracts or agreements with (comma) any other entity or person including any  
19 Series LLC it has issued pursuant to the statute." Because of the commas it creates  
20 a parenthetical phrase which you read by excluding that, which would mean that  
21 they have the ability to get all such records involving any other person. And then  
22 when you refer back to the prior sentence, that requires Mr. Nady and any other  
23 Series LLC to provide any document it has concerning any other agreement with  
24 anybody ever at any time. So if they wanted to find out Mr. Nady's --



1 THE COURT: Which language are you looking at again?

2 MR. SHAFER: So, yeah, the --

3 THE COURT: I'm looking at lines 23, 24.

4 MR. SHAFER: Yeah. So it says that -- if we look at the first part it says:

5 "The special master shall be provided by judgment debtor, including Creighton J.  
6 Nady and any other agents of judgment debtors."

7 THE COURT: Uh-huh.

8 MR. SHAFER: And then it describes the type of documents: "Copies of all  
9 electronic and paper financial business records of the judgment debtor" --

10 THE COURT: Right.

11 MR. SHAFER: -- "also known as A Cab Series, that the special master  
12 deems advisable." No concerns with the provision on that, other than we do a little  
13 bit to Mr. Nady as to his personal records. But the biggest concern is the part about  
14 "including but not limited to," where it makes that exception.

15 THE COURT: Uh-huh.

16 MR. SHAFER: "Including but not limited to (comma) all such records  
17 involving." And because of the parenthetical phrase that follows comma, and all  
18 of its contracts or agreements with (comma), when you are reading that order you  
19 have to exclude that clause for reading and interpreting the contract. So it's read  
20 as including all such records involving any other entity or person --

21 THE COURT: Uh-huh.

22 MR. SHAFER: -- which would mean that that would entitle the special master  
23 to review any marriage contracts, divorce records, contracts with attorneys,  
24 contracts with -- communications. And I think it's probably not the Court's intention

1 to require that, but rather to all such records involving all of its contracts --

2 THE COURT: Does not "its" refer to the judgment debtor here or debtors?

3 MR. SHAFER: It does, Your Honor, but when you are reading that because  
4 it is bracketed by commas you have to exclude that when you are interpreting the  
5 scope of the documents because that --

6 THE COURT: Oh. All right. So take the comma out, then? Involving -- all  
7 such records involving and all of its contracts or agreements with any other entity  
8 or person, including any Series LLC. Is that what you're suggesting?

9 MR. SHAFER: All such records involving -- I would say all such records  
10 involving it and all of its contracts or agreements with any other person.

11 THE COURT: Well, it says all of its contracts --

12 MR. SHAFER: Correct.

13 THE COURT: -- or agreements with.

14 MR. SHAFER: But it doesn't -- because of the comma, then, all such records  
15 involving is not limited to the judgment debtor.

16 THE COURT: All right. Take the comma out. Anything else?

17 MR. SHAFER: Very quickly, on subparagraph 4A, which is on page 4, line --  
18 I guess that would be 15.

19 THE COURT: Uh-huh.

20 MR. SHAFER: We would suggest that the -- it states: "that will allow the  
21 profits from the operation of the taxi medallions authorized to it to be applied  
22 towards satisfaction of plaintiffs' judgment." We would modify that to say "the  
23 operation of the business of A Cab, LLC to be applied."

24 THE COURT: Let's see. So where does that pick up?

1 MR. SHAFER: So we would omit "taxi medallions authorized to it" and  
2 substitute "business of A Cab, LLC." And the distinction then is to take the profits  
3 of the company rather than the profits of an asset of the company.

4 MR. GREENBERG: Your Honor, may I? I have no problem including that,  
5 along with the specification regarding the operation of the taxi medallions. The  
6 business of A Cab, LLC has no profits. The business is structured to have no profits  
7 because the profits, the revenue all flows to these supposed separate series entities  
8 and then out of those entities into the trust. Your Honor is familiar with all of this.  
9 So if the special master's authority is limited to proposing a plan relating to directing  
10 the profits of A Cab Series LLC to the benefit of the judgment creditors, there will  
11 be no plan. There will be no profits.

12 That's the reason why when I drafted this I referred to the operation  
13 of the tax medallions that are authorized to A Cab Series LLC, because ultimately  
14 those taxi medallions are the only asset of the business. They're the only asset of  
15 the business -- of the judgment debtor that can't be transferred, as defendant's  
16 counsel stated. So I have no problem inserting that additional language, but the  
17 reference to the operation of the taxi medallions as part of the special master's  
18 report to examine is critical here, Your Honor.

19 THE COURT: Okay. So where would you insert this language, Mr. Shafer?

20 MR SHAFER: I would substitute "he taxi medallions authorized to it" on lines  
21 15 and 16 and substitute "business of A Cab LLC." And the reason is if revenue  
22 from the medallions is seized before its workers are paid, there won't be continuing  
23 to be, you know, a business, if they try to step ahead of the current costs and  
24 expenses of operating that medallion.

1 THE COURT: We're talking about simply a proposed plan here to do this.

2 MR. SHAFER: Correct.

3 THE COURT: We're not talking about effecting any plan. I don't see a  
4 reason to change that language. What else?

5 MR. SHAFER: The final change is in the last -- in the request to transfer  
6 certain funds. Two parts. In line 10 of page 5 there is a request to -- well, I guess --  
7 no, I apologize. I'll retract that one. My concern on the transfers, precluding  
8 transfers to defendant Nady to any of his family members or to any trust which  
9 Nady or his family members is a trust or trustee and beneficiary, my concern is that  
10 that excludes any payment of salaries, any payment pursuant to any contracts that  
11 are within the company or in the ordinary course of business. Mr. Nady is currently  
12 continuing to operate the business and is entitled to and is being paid a salary for  
13 that.

14 THE COURT: What is his salary?

15 MR. SHAFER: I do not know. And obviously that would be identified to the  
16 special master that's being appointed. And in fact, I don't know that he is being  
17 paid, but that's --

18 THE COURT: Mr. Nady, what is your salary?

19 MR. NADY: It varies by month. I couldn't tell you exactly what it is.

20 THE COURT: How is it calculated? Is it a percentage?

21 MR. NADY: No, sir. It's just whatever happens -- needs happen to come up.

22 MR. SHAFER: And I do not have an encyclopedic --

23 THE COURT: When you say the needs that happen, you mean personal  
24 needs?

1 MR. NADY: Yes, sir.

2 THE COURT: Okay.

3 MR. SHAFER: So that would be our only concern is that that would preclude  
4 that and put them in a very dire financial situation. I understand that it's the Court's  
5 concern that all of the assets and profits will go out the back door and I think that our  
6 proposal -- and this is kind of the first time seeing this -- is that it would be carveout  
7 those exceptions and those exceptions would need to be explicitly identified to the  
8 special master and would be subject to a reservation of rights, I presume.

9 THE COURT: My view is that if Mr. Nady needs to take less funds or no  
10 funds as salary until the special master gets paid, the previous special master, that's  
11 how -- one way to purge himself from the contempt of the court. At this moment  
12 it's not the Court's concern to protect Mr. Nady in his need, personal need for salary  
13 over the needs and rightful debt to the special master.

14 MR. SHAFER: And I respect that distinction, Your Honor. Unfortunately the  
15 language in this proposed order does not make that distinction and precludes any  
16 transfer until the judgment debtor is satisfied.

17 THE COURT: Yeah.

18 MR. SHAFER: And on that basis I think it is -- there is a distinction between  
19 the two.

20 THE COURT: Well, it does -- the language says enjoined from transferring  
21 any funds to defendant Nady or any of his family members. That's -- if that's what  
22 it takes to get the special master paid, then that's what it's going to be.

23 MR. SHAFER: And, respectfully, I think is a distinction that is not reflected  
24 in this order because it doesn't put a limit on --

1 THE COURT: Well, it says --

2 MR. SHAFER: Because it's referring --

3 THE COURT: It says enjoined from transferring any funds to defendant  
4 Nady. How much -- how do we make that clearer?

5 MR. SHAFER: Because this order entered now continues on without end.

6 THE COURT: No. No, that's not necessarily so. Once I see that the  
7 special master has been paid and once I get the report of the new special master,  
8 Mr. Swarts, you know, all of the wording of this may be subject to being changed.

9 MR. SHAFER: If that's the Court's intention, we would suggest that that  
10 language -- that limiting language be placed in this, that this will occur until the  
11 special master is paid.

12 THE COURT: Well, I think we're past that. At this point we have someone  
13 who's been found in contempt. As you yourself have said, Mr. Nady is the one  
14 operating this business. It's under his control. If he chooses to get the special  
15 master paid and off his back, then he can do so. If he would rather not do so and  
16 he winds up violating this order, then we'll deal with it at that point.

17 MR. SHAFER: And perhaps my inartful speaking has not conveyed the point  
18 I wish to convey, and that's that the remedy that you structured that Mr. Nady should  
19 be precluded from being paid until the special master is paid is distinct from what  
20 is here.

21 THE COURT: Well, let's put it this way. What Mr. Nady and the other  
22 defendants have been found to be -- how they've been found to be in contempt  
23 of court is they were ordered at one point to pay \$41,000 to the special master.  
24 They didn't do so and they still haven't. So it is an ongoing contempt as far as I'm

1 concerned. If he wants to get some relief from the order of the Court, then obey  
2 the order of the Court, pay the \$41,000 and then let's talk.

3 MR. SHAFER: And I understand your -- I believe I understand what the  
4 Court is saying and all we're asking for is that that clause, that purge clause be  
5 contained in this order that once the special master is paid that this restriction and  
6 prohibition on Mr. Nady be excused.

7 THE COURT: No. We're past that, Mr. Shafer. We're past that. This Court  
8 entered orders last September, October, and they've just -- to this point just been  
9 blown off.

10 MR. SHAFER: And I understand.

11 THE COURT: So I'm not inclined to put those kinds of changes into this  
12 order. Once I see that the Court's orders are being obeyed and that once we can  
13 get the previous special master paid and out of this picture --

14 MR. SHAFER: So it is not --

15 THE COURT: -- that things can change.

16 MR. SHAFER: So it's not the intention of the Court to preclude payments  
17 until the 1.6 million dollar judgment is satisfied?

18 THE COURT: No.

19 MR. SHAFER: Okay.

20 THE COURT: No.

21 MR. SHAFER: That is our concern because that's the way we interpret this  
22 language being drafted. And if I'm incorrect --

23 THE COURT: I think Mr. Nady gets himself subject to this kind of language  
24 when he commits contempt of court by just flat refusing to pay an amount that he

1 was ordered to be paid to the special master. That's all.

2 All right. Thank you for your input.

3 MR. GREENBERG: Your Honor, I have one additional suggestion. You  
4 might want to include a provision in this order to prohibit A Cab Series, LLC from  
5 issuing any additional Series LLCs without further order of the Court because  
6 essentially that has been the gateway --

7 THE COURT: Uh-huh.

8 MR. GREENBERG: -- for them to avoid this Court's orders. And they are the  
9 judgment debtor in this case. They ultimately are the one with the power to issue --

10 THE COURT: Yeah.

11 MR. GREENBERG: -- these supposed separate entities. I would ask Your  
12 Honor to consider that and add a provision. I know I did not previously suggest that,  
13 but I think it would be a meaningful restraint on sort of limiting what we've been  
14 dealing with here in the future and appropriate under the circumstances.

15 THE COURT: All right, thank you. The Court is going to sign the order the  
16 way that you see it, plus I don't know that -- did they get the one that shows the  
17 confidentiality sits? We've included as paragraph 6 at the top of page 5, it now  
18 says: "The information and records received by the special master shall be kept  
19 confidential and subject to a protective order issued by the Court precluding  
20 production to the general public, except as directed by the Court." So it does  
21 include that confidentiality. The Court is going to say that the report of the special  
22 master called for in paragraph number 4 -- I'm going to say February 1st. That is a  
23 significant amount of time, but we do have the Christmas holidays in the meantime  
24 so he'll need extra time. The Court is appointing George Swarts as the special



1 master. The amounts in paragraph 5 are going to be the sum shall not exceed  
2 \$20,000 to pay for the special master's services. A fee not exceeding \$300 an hour.  
3 And I will -- I am going to add the provision that the judgment debtors will not create  
4 any further Series LLCs without further order of this Court.

5 MR. SHAFER: Your Honor, if I could just make a record on that very briefly?

6 THE COURT: Yeah.

7 MR. SHAFER: That is an issue that is of an extraordinary remedy because  
8 it precludes their correct business operations and their liberty to engage in business.  
9 It is not -- if they acquire a new taxicab, if there is another business that requires  
10 them to set up a new Series LLC, there would be no basis to preclude that. It does  
11 not -- creation of an LLC does not mean that any assets are being disbursed or are  
12 otherwise being diverted. There is no benefit to the judgment creditor to have that  
13 preclusion. There is no basis in law or in fact to preclude the entity from creating  
14 a new business entity.

15 THE COURT: Now, that would be a business entity to do what?

16 MR.. SHAFER: I don't know, Your Honor and neither do they.

17 THE COURT: Well, then --

18 MR. SHAFER: And that's -- but this is a blanket prohibition. If you want to  
19 include that they cannot create a Series LLC to receive assets of A Cab, LLC, that  
20 might be a reasonable imposition.

21 THE COURT: Well, you just gave an example if there's a new taxicab. Is  
22 that it?

23 MR. SHAFER: If there is a new taxicab or if there's some other reason they  
24 need to create a new -- and the reason that they hold each taxicab is so if the taxi

1 is in an accident that liability doesn't spill over to the other assets of the corporation.

2 THE COURT: Uh-huh. Well, that doesn't say that they can never do it, it  
3 just says without further order of the Court and that's going to be in there.

4 Yes?

5 MR. DUBOWSKY: Can we address the contempt, Your Honor?

6 THE COURT: Yes.

7 MR. DUBOWSKY: What is Your Honor going to do to order to purge -- to  
8 have --

9 THE COURT: Well, as I've already stated verbally here, but it would probably  
10 be good to have an order on file that the judgment debtors are found to be in  
11 contempt of court by virtue of not having paid previous Court orders. One was  
12 \$25,000 and then it was raised to \$41,000. That's the way it stands at this point.  
13 I am not going to put a deadline in there at this point but I am considering doing that  
14 once I get the report from the special master.

15 I recognize that it doesn't do what you're wanting the Court to do,  
16 which is basically to enter an order and then if they don't pay it then they -- then  
17 I guess you ask for the Court to arrest Mr. Nady or do something like that. I am  
18 cognizant that in the statute that talks about payment of the special master it talks  
19 about allowing the special master to attach and execute on the resources. I think  
20 that is going to be closer to, assuming that there is some compliance by the time  
21 we next meet, that may be the route that the Court would go. It is of a concern  
22 to the Court and it hasn't been explained away how after being ordered to pay  
23 those amounts, a short while later it's found that he's sitting on a bank account  
24 with \$230,000 in it. And that has not been explained to the Court's satisfaction.

1 MR. DUBOWSKY: Your Honor, we're very concerned without a date certain  
2 to pay my client. Again, we just want to get paid and get out.

3 THE COURT: I understand.

4 MR. DUBOWSKY: If this is wide open, we're back where we were in May  
5 where Your Honor ordered the \$41,000. And then we have another order that they  
6 have to pay it and now we don't even have any kind of date certain and we still have  
7 the contempt that's up in the air. So I am going to ask Your Honor for some kind --

8 THE COURT: Well, he's looking at -- they're looking at losing control of their  
9 business if the Court proceeds to implement a plan proposed by the special master  
10 to make it be a receiver, notwithstanding their great concern that that's going to put  
11 them in violation of other court statutes. I don't know that that's the case yet, but  
12 that's the risk they take by further violation of this Court's orders. I think that is a  
13 significant hatchet, if you will, hanging over your head to know that if you continue  
14 to blow off Court orders you're going to lose control of your business.

15 MR. DUBOWSKY: I understand, Your Honor, but again I have to tell my  
16 client when they're going to be paid. And if they're going to say, well, we don't still  
17 have the money to pay, we need some kind of date certain for Your Honor, for  
18 the dignity of the Court to have some kind of date certain how to purge them of  
19 contempt to say, yes, by a certain date you have to pay the special master Your  
20 Honor hired so we can at least have some certainty.

21 THE COURT: In other cases I would be willing to do so. In this case at this  
22 juncture, given all of the competing interests, I am not willing to enter such an order.  
23 When we come back on February 1st -- well, let's see. We'll see what that --  
24 actually I guess it calls for the report to be made by February 1st. It isn't a court

1 date. So let's set a court date shortly after February 1st, at which we will take up  
2 further, you know, generally these matters and specifically take up the matter of  
3 the contempt of court.

4 MR. DUBOWSKY: One final issue, Your Honor. The order was for \$41,000,  
5 however the fee is for \$85,280.56.

6 THE COURT: I'm sorry, say it again.

7 MR. DUBOWSKY: The order was for \$41,000.

8 THE COURT: Right.

9 MR. DUBOWSKY: However, the actual invoiced amount is for \$85,280.56.

10 THE COURT: Well, that is true, but I don't think that -- I mean, if I were  
11 representing them, at least, let's put it that way, if it's for contempt of court on a  
12 Court order, it's \$41,000. Then we deal with the rest of it.

13 MR. DUBOWSKY: Yes, Your Honor. So are you finding then that the  
14 \$41,000 is the order, but they are due to be paid the \$85,000 that is in our motion  
15 for fees?

16 THE COURT: The principal factor or goal of any plan that I put in place with  
17 the special master or a receiver is to get your client paid first. It is fairly ludicrous  
18 that after everything that's gone on in this case that the special master appointed  
19 by the Court to effectuate the judgment can't even get paid, so that is upper most  
20 in the Court's mind. But I'm still trying to do this in such a way that -- the defendants  
21 seem to be saying that they would pay the judgment, given an appropriate plan to  
22 do so. The plaintiffs seem to be saying we don't want to put them out of business,  
23 we want them to pay the judgment. We'll see what comes out from the special  
24 master and we'll see whether or not that's a workable goal or not.

1 MR. GREENBERG: Your Honor, in respect to scheduling for the  
2 proceedings, I was going to suggest that Your Honor perhaps schedule a tentative  
3 date towards the end of January, maybe within a week or two prior to when the  
4 special master's report is due so that he could report to the Court if he's having  
5 any obstacles in completing his report at that time. If he's moving ahead smoothly,  
6 then we would cancel that and we would simply reconvene after the report is issued.  
7 I think such a contingency might help move things along. Do you understand my  
8 suggestion?

9 THE COURT: Well, I assume if the special master sees that he's not getting  
10 cooperation and is running into problems that he will -- in other cases I have a  
11 special master contact the Court and say I'm having this problem and then we  
12 schedule something.

13 MR. GREENBERG: I understand. Then if Your Honor prefers to simply set  
14 a date after the February 1st report, then that is of course appropriate.

15 THE COURT: Sure. I don't want -- for all I know, the special master may  
16 come back right after January 1st and say this is not working.

17 MR. GREENBERG: Yes, Your Honor.

18 THE COURT: And if so, then we will meet again.

19 MR. GREENBERG: Very well, Your Honor. Your staff will propose to date  
20 to us for February?

21 THE COURT: Yeah.

22 THE CLERK: February 6th at 9:00 a.m.

23 THE COURT: February 6th. If you'll submit an order, Mr. Dubowsky, holding  
24 the defendants, including Mr. Nady, in contempt of court for failure to pay the

1 \$41,000 to the receiver -- I'm sorry, the special master, then I will be signing that.

2 MR. DUBOWSKY: Thank you, Your Honor. I can do that. I'm not sure  
3 what the terms on how to purge them, but I can prepare that order. You made that  
4 finding. But to clarify, the \$41,000 is what's ordered, but the invoice amounts are  
5 for the \$85,000 figure which we presented. That is what is going to be paid in due  
6 course, correct, Your Honor?

7 THE COURT: That is my intention, yeah.

8 MR. DUBOWSKY: Thank you, Your Honor.

9 MR. GREENBERG: Your Honor, the only other issue was the TRO and the  
10 request for the turnover regarding those motor vehicles. I do have a proposed  
11 order that would direct the defendants to cooperate with the sheriff in respect to  
12 an execution. It would be my intent if Your Honor was to sign the order -- May I  
13 approach?

14 THE COURT: Yes.

15 MR. GREENBERG: And this order is essentially the same as what I had  
16 presented when we were here last week and I had given the defendants at that time.  
17 It would be my intention if Your Honor signed this order to prepare the executions,  
18 deliver them to the sheriff and the sheriff would then go through the normal process.  
19 But the defendants would be bound by this order to cooperate with the process.  
20 My concern is that without such an order the sheriff is simply not going to be able  
21 to effectively seize the vehicles because we're talking about five vehicles among,  
22 you know, a business that has maybe a hundred or more vehicles in use on their  
23 property.

24 And again the way this order is set up is that if A Cab can demonstrate

1 that they are in fact not the sole titleholder on these vehicles, then obviously they're  
2 not subject to execution. I've documented to the Court that we have the titles as  
3 issued by the DMV for the first four. The fifth one, the Mercedes-Benz, is based  
4 upon other information I have. But again, if they can produce documentation that  
5 it's not titled to the judgment debtor, then it won't be subject to execution.

6 THE COURT: If we're going down the road which you indicated earlier that  
7 on behalf of your clients you're not looking to put the defendants out of business,  
8 you're looking to get the judgment paid, then if we start seizing the cabs that they  
9 make their living with, are we --

10 MR. GREENBERG: Well, Your Honor, these vehicles are only titled to the  
11 judgment debtor because obviously it was an oversight by them not to have had  
12 them titled to one of the Series LLCs.

13 THE COURT: Uh-huh.

14 MR. GREENBERG: These are the only ones that I was able to identify. I did  
15 do a thorough investigation from the sources available to me.

16 THE COURT: Okay.

17 MR. GREENBERG: This is it. I mean, the Wells Fargo account was attached.  
18 There are not going to be any other bank accounts that are going to be attachable  
19 at this point because defendants have shifted all of the liquid assets, the cash funds  
20 into other entities, other registrations. The same thing with their motor vehicle fleet.  
21 This is the only asset that is actually in the possession of A Cab, LLC are these  
22 motor vehicles. There's nothing else, Your Honor.

23 THE COURT: So what are you saying? You want to go ahead and execute  
24 on these?

1           MR. GREENBERG: I do. I do wish to go ahead and execute. I'm just trying  
2 to explain to Your Honor in my view the impairment of the business by the seizure  
3 of these assets is going to be nominal. It is some meaningful amount I can collect  
4 for my clients. I think I'm duty bound to ask the Court to effectuate the seizure. If  
5 the Court declines, the Court can decline to do so. You know, I could send it to the  
6 sheriff without the Court's order. The Court restrained the transfer of these titles.  
7 If the Court lifts that restraint, presumably those titles are going to be transferred  
8 very quickly.

9           THE COURT: Well, I'm not -- I haven't lifted the restrain, have I?

10          MR. GREENBERG: You have not, Your Honor. I understand that. And if  
11 Your Honor --

12          THE COURT: If I have, I certainly don't intend to. No.

13          MR. GREENBERG: I understand, Your Honor. And this is a request for  
14 assistance by the Court. It is within your discretion, Your Honor --

15          THE COURT: Uh-huh.

16          MR. GREENBERG: -- either to proceed in the fashion I'm requesting or to  
17 deny my request. I understand that.

18          THE COURT: Uh-huh.

19          MR. GREENBERG: And I don't want to belabor the point with the Court.  
20 You were inquiring as to why we were proceeding in this fashion and our view, given  
21 that I did advise the Court and I have repeatedly advised the Court that I think the  
22 best way to get my clients paid is to see this business continue to operate over time  
23 to pay them, and that ultimately is the big picture here. But in respect to this  
24 particular issue, this is a very limited portion of the assets. It is the only asset that



1 I think I'm ever going to be able to attach directly of the judgment debtor at this point.  
2 So absent the appointment of a receiver or absent we hold further proceedings and  
3 the Court makes further findings regarding, you know, these Series LLCs, the alter  
4 ego issues and so forth, Your Honor, this is probably the only other asset that I'm  
5 going to be able to collect for my clients. That's why I'm asking the Court to let me  
6 proceed in this fashion.

7 THE COURT: Well, it seems to me we're going down two -- trying to go down  
8 two roads at the same time now. I'm not inclined to do that at this time. I am inclined  
9 -- make no mistake, I consider these five vehicles to be under the Court's order that  
10 they not be disposed of in any fashion, whether they're sold, given away, anything.  
11 They're not to be disposed of. If it is possible to use these vehicles as part of a way  
12 to get the plaintiff judgment creditors paid and the previous special master paid, then  
13 they will be useful for that. But I'm not going to order them to be subject to execution  
14 at this point unless we're just saying let's grab any assets we can.

15 MR. GREENBERG: Well, Your Honor, we have a right to execute on these  
16 assets. I'm asking for the Court's assistance. If Your Honor declines to sign the  
17 order in the form I've submitted, I can still go to the sheriff and ask the sheriff to use  
18 his efforts to find them on the street and seize them. I'm trying to make that process  
19 more streamlined here in the interest of my clients because the sheriff is going to  
20 have to be paid for their efforts. If the sheriff possesses this order, he can go down  
21 to the business premises and the defendants will be bound by the Court's order to  
22 cooperate with that process. They're not necessarily bound to cooperate with the  
23 sheriff terribly much in locating or turning over the assets. That's why I'm asking for  
24 the Court's assistance, because we do have a right to seize these assets. They're

1 not exempt from execution.

2 So if Your Honor is not going to -- Your Honor has been very patient.  
3 You've given us a lot of time today, as you have in this case continually, so I don't  
4 want to belabor the point with the Court. But I do disagree with what you're telling  
5 me. If Your Honor is not going to sign the order in the current form, I would ask  
6 that Your Honor at least allow me to submit another order specifically prohibiting  
7 the transfer of these vehicles' titles.

8 THE COURT: Yes, I would sign that. I would prohibit the transfer of these  
9 specifically. They're already under the general order. But, you know, to clarify it  
10 I would make it and make it very specific. I would sign an order that prohibits the  
11 defendants from disposing of these five vehicles in any manner.

12 MR. GREENBERG: I understand, but there's nothing to keep them from  
13 keeping them locked away or secreted somewhere where the sheriff will never find  
14 them and I'll never be able to execute on them, either. Your Honor, you've made  
15 your decision.

16 THE COURT: It sounds like you're inviting me to issue such an order.

17 MR. GREENBERG: Your Honor, you've made your decision. Let me not  
18 take up more of your time. I said I was not.

19 THE COURT: All right.

20 MR. GREENBERG: I understand.

21 THE COURT: Okay. Anything else?

22 MR. SHAFER: Your Honor, just very briefly. The Mercedes identified does  
23 not belong to A Cab. Let's make that for the record. It is titled to another entity.  
24 So that's our only --

1 THE COURT: Okay. What entity?

2 MR. SHAFER: I do not know if it's -- the exact name. I believe it's the --

3 MR. NADY: I sold it.

4 MR. SHAFER: It's been sold. So obviously if it was titled to A Cab, that will  
5 be part of it, but it wasn't. I don't know what information --

6 THE COURT: Mr. Nady, do you still have the four cabs -- these four Toyotas,  
7 rather?

8 MR. NADY: They're -- excuse me, Your Honor. Two of them have liens  
9 and two of them don't. We still have them. The answer to your question is yes,  
10 we're still operating those cabs every day if they're not in a crash or anything.

11 THE COURT: When you say they have liens, what kind of liens?

12 MR. NADY: The bank owns them. The bank has the title to them.

13 THE COURT: Okay.

14 MR. NADY: I think the bank may own the title to all of them, but they do most  
15 of them, but I don't know for sure.

16 THE COURT: All right. Do you know if they're in service? Are they being  
17 used as taxis?

18 MR. NADY: They're probably in service. I have no reason to believe they're  
19 not.

20 THE COURT: All right.

21 MR. NADY: They're part of my -- part of the operating.

22 THE COURT: Mr. Nady --

23 MR. NADY: Cabs get 100,000 miles a year. They have holes in the top  
24 where the hats are held on. The retail value of a cab when it's done, we sell them

1 for about two hundred bucks. There's no great value in these cars that Mr.  
2 Greenberg will actually (inaudible). They're -- we put a lot of hard miles on these  
3 cars. To sell them, the return would be nil, honestly.

4 MR. GREENBERG: Your Honor, these are new vehicles so they do have  
5 value. And I would be pleased to see them continue in operation with the business  
6 if the revenue that they were generating or at least some portion of it was being  
7 paid to satisfy my clients' judgments. I concur with Mr. Nady that would be a more  
8 efficient economic use of them. The problem is that's not what they're being used  
9 for. Essentially the revenue is being used to fund this litigation and obstruct the  
10 collection of my clients' judgment, Your Honor --

11 THE COURT: Uh-huh.

12 MR. GREENBERG: -- in my view.

13 THE COURT: Well, I'm going to leave that as it is until we meet again.

14 MR. GREENBERG: Yes, Your Honor. I would just remind the Court I did  
15 submit orders earlier in this week regarding the turnover of those funds from the  
16 Clerk of the Court to my trust account and confirming the award of attorney's fees  
17 that Your Honor had granted last week. Hopefully Your Honor and your staff will  
18 be able to review those. There was also --

19 THE COURT: I'm sorry, say which order it is again.

20 MR. GREENBERG: There were two orders I submitted earlier this week.  
21 One was submitted yesterday. I believe one was submitted on Tuesday. Your  
22 Honor on our last meeting last week had granted the motion for the award of  
23 attorney's fees to myself and Mr. Gabroy and costs.

24 THE COURT: Uh-huh.

1 MR. GREENBERG: I submitted that order for signature pursuant to your  
2 findings last week. I had also submitted an order directing the Clerk of the Court  
3 to release \$10,000 of the funds on deposit from the Wells Fargo execution to the  
4 judgment debtor and to remit the rest of those funds to my trust account --

5 THE COURT: Yeah.

6 MR. GREENBERG: -- which Your Honor also ordered last week. So those  
7 orders are with the Court. I would ask the Court in due course, hopefully soon, to  
8 review those and have them signed. I would also just remind the Court there was  
9 a fairly lengthy order involving some substantial findings regarding the motion to  
10 quash the judgment execution. That was submitted more than 30 days ago. The  
11 Court probably is still working on that. I'm just reminding the Court that we are  
12 awaiting the Court's attention to that.

13 THE COURT: What was the thrust of that order?

14 MR. GREENBERG: Your Honor, we held two days of hearings regarding this  
15 issue of the status of the Series --

16 THE COURT: What was the thrust of the order?

17 MR. GREENBERG: That the Wells Fargo accounts were properly executed  
18 upon for various reasons, based upon the findings that Your Honor made. The  
19 defendants had moved to quash the execution and Your Honor denied that.

20 THE COURT: Yeah.

21 MR. GREENBERG: I think it would be helpful for the record to have of  
22 course that ultimately entered. It's just a reminder to the Court, that's all.

23 (The Court confers with the law clerk)

24 THE COURT: All right.

1 MR. GREENBERG: I don't wish to take up any more of the Court's time.

2 THE COURT: All right. Well, then if there's no other business, we will  
3 adjourn. Thank you all.

4 MR. DUBOWSKY: Thank you, Your Honor.

5 THE COURT: I hope that you have good holidays.

6 MR. GABROY: Thank you, Your Honor. Happy Holidays.

7 MR. GREENBERG: Thank you, Your Honor. Yes, Happy Holidays to all.

8 THE COURT: And I trust that when we meet again it will be under slightly  
9 happier circumstances.

10 MR. SHAFER: Thank you, Your Honor.

11 MR. GREENBERG: I hope so, Your Honor.

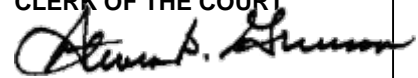
12 THE COURT: Thank you.

13 (PROCEEDINGS CONCLUDED AT 12:28 P.M.)

14 \* \* \* \* \*

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

18   
19 Liz Garcia, Transcriber  
20 LGM Transcription Service  
21  
22  
23  
24



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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

**MOTION TO DISTRIBUTE  
FUNDS HELD BY CLASS  
COUNSEL**

*Feb 6, 2019*  
*9:00 am* 

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,  
hereby move this Court for an order granting class counsel leave to distribute funds  
held by them and collected on the judgment entered by this Court. This motion is  
made and based upon the annexed declaration of counsel, the memorandum of points  
and authorities submitted with this motion, the attached exhibits, and the other papers  
and pleadings in this action.

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Dated: January 10, 2019

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

The following facts are confirmed by the declaration of class counsel, Leon Greenberg, at Ex. "A":

- 1



1  
2 2. Class counsel request the Court authorize distribution of that  
3 \$223,494.54 in the following fashion:  
4

5 (a) \$20,000 to George Swarts, the Special Master appointed  
6 by the Court in its Order entered on December 18, 2018;  
7

8 (b) \$53,098.84 to class counsel, Leon Greenberg, for  
9 expenses incurred in the prosecution of this case and the  
10 collection of the judgment (Ex. "A", ¶ 2);  
11

12 (c) \$50,131 to class counsel, Leon Greenberg and Christian  
13 Gabroy, in partial payment of their attorney's fees;  
14

15 (d) \$93,116.60 to 159 detailed class members in the  
16 scheduled amounts set forth in Ex. "B" for the reasons  
17 explained *infra* that such distribution is just and expeditious  
18 under the circumstances;  
19

20 (e) A disbursement not to exceed \$4,300 to Simpluris class  
21 action administrators to issue the payments (mail checks,  
22 handle and account for funds) to 157 detailed class members  
23 in the scheduled amounts set forth in Ex. "B";  
24

25 (f) With the remaining amount of at least \$2,848.10, along  
26 with any uncashed checks of the \$93,116.60 to 159 detailed  
27 class members in the scheduled amounts set forth in Ex. "B,"  
28 to be held by class counsel in their IOLTA account until a

1 further Order of the Court should issue.

2 **ARGUMENT**

3 **I. THE REQUESTED DISTRIBUTION OF FUNDS SHOULD**  
4 **BE GRANTED AS IT IS FAIR, EQUITABLE, AND EFFICIENT**  
5 **UNDER THE RELEVANT CIRCUMSTANCES**

6 **A. Payment of Class Counsel's Expenses and George Swarts**

7 Class counsel has incurred very substantial expenses on behalf of the class and  
8 should be allowed to recoup those expenses in the first instance from the judgment.  
9 As of the date of this motion those expenses total \$53,098.84. Ex. "A" ¶ 2. In  
10 addition, the Court's Order of December 18, 2018 reserved \$20,000 of the funds held  
11 in class counsel's IOLTA account to pay George Swarts for his services. That  
12 \$20,000 should be turned over to him to discharge that obligation.

13 **B. Payment to Class Counsel of a Partial Fee of \$50,131, which is**  
14 **One-Third of the Remaining Funds, is Reasonable and Proper.**

15 At the hearing held on December 4, 2018 the Court held that it was awarding  
16 \$568,071 in attorney's fees to class counsel (Order to be entered, transcript at Ex. "C"  
17 p. 6). It is appropriate that one third (\$50,131) of the \$150,395.57 remaining after  
18 payment of class counsel's expenses and to George Swarts be paid to class counsel as  
19 a partial payment of their attorney's fees.

20 **C. Payment of \$93,116.60 to 159 detailed class members in the**  
21 **scheduled amounts set forth in Ex. "B" is just and expeditious**  
22 **under the circumstances.**

23 The total amount of funds available for distribution, after paying the expenses of  
24 George Swarts and class counsel, is \$150,395.57. That sum is less than 10% of the  
25 combined damages judgment and attorney fee award of over \$1,600,000 (\$1,033,027  
26 and \$568,071) in this case. The judgment amounts awarded to the class member vary  
27 greatly in amount and most class members hold relatively small judgments. Of the 890  
28 class member judgment holders (Ex. "A" ¶ 3):

(a) There are 592 (66.5%) who hold judgments of less than \$1,000;

(b) There are 436 (48.98%) who hold judgments of less than \$500;

1 (c) There are 309 (34.72%) who hold judgments of less than \$300;

2 (d) There are 179 (20.11%) who hold judgments of less than \$150.

3 A "down the line" distribution of the collected funds (approximately 10% of  
4 each judgment amount to each class member) would be highly inefficient. The cost of  
5 actually issuing a check for \$50 or \$30 or \$15 or less would, in many instances, exceed  
6 the value of the check issued. Ex. "A" ¶ 4. In addition, the large majority of the  
7 damages owed to the class members are owed to a relatively small group of the class  
8 members. For example, \$634,345 of the total damages judgment, or 61.4% of the  
9 total judgment, is owed to just the 159 class members, or 17.86% of the class, who  
10 possess individual judgments exceeding \$2,000 and are listed on Ex. "B." *Id.*, ¶ 5.

11 Class counsel proposes a distribution of class funds to the 159 class members  
12 who possess judgments exceeding \$2,000 as set forth in the Ex. "B" schedule. That  
13 schedule proposes 157 of the class members receive payments equal to 14% of their  
14 judgment amount with the smallest such payment to be made equaling \$281.18. Ex.  
15 "A" ¶ 5. They propose the two named plaintiffs, class representatives Michael P.  
16 Murray and Michael Reno, receive payments equal to 50% of their judgment amounts,  
17 \$2,962.77 and \$2,849.11 respectively. *Id.* That higher level of payment to them is  
18 justified for their work in this case as class representatives. They both submitted to  
19 depositions and without their commitment to this litigation there would have been no  
20 recovery on the class claims. *Id.*

21 Utilizing the Ex. "B" schedule to distribute the class funds is just and  
22 appropriate under the circumstances. Payment of the limited funds available is  
23 properly made in meaningful amounts to those class members who have sustained the  
24 greatest damages. As some point in the future, when there will hopefully be  
25 additional sums to distribute to class members, the Court can tailor a different means  
26 of distribution targeted to the class members besides these 159 persons.

1                   **D.    Payment of no more than \$4,300 to Simpluris to process**  
2                   **the Schedule “B” payments to the class members is proper,**  
3                   **just and expeditious under the circumstances.**

4           Class counsel should not have to incur the time and expense of issuing the  
5   proposed 157 Ex. “B” schedule settlement checks (besides those to the named  
6   plaintiffs Reno and Murray). Simpluris is an experienced third party class action  
7   settlement administrator located in Costa Mesa, California who have advised that they  
8   can economically set up a dedicated settlement fund and issue and mail the 157  
9   proposed checks. Ex. “D” Simpluris proposal. In connection with that mailing they  
10   will update the last known addresses for such 157 persons with the United States  
11   Postal Service’s last known address from the NCOA (National Change of Address)  
12   system and by doing so ensure a more accurate delivery of the same. Simpluris also  
13   advises that they maintain errors and omissions insurance in excess of the amount they  
14   are to distribute. The cost of their services will not exceed \$4,300 and class counsel is  
15   working on a revised proposal with Simpluris that may reduce that cost to \$3,200 or  
16   about \$20 per class member check issued. Ex. “A” ¶ 4

16                   **E.    Retention of the remaining funds, a minimum of \$2,848.10**  
17                   **along with any uncashed checks of the \$93,116.60 to be**  
18                   **distributed, in Class Counsel’s IOLTA Account is appropriate.**

19           Class counsel should continue to hold in their IOLTA account, subject to further  
20   Order of the Court, the remaining minimum of \$2,848.10 that is not proposed for  
21   distribution and any uncashed check funds. If the Court wishes it can direct class  
22   counsel to suitably report about the status of those funds once Simpluris has completed  
23   its work and returned to class counsel the funds from all uncashed checks.

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**CONCLUSION**

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

Dated: January 10, 2019

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

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## Motion to Distribute Funds Held by Class Counsel

TO:

Jay Shafer, Esq.  
Premier Legal Group  
1333 North Buffalo Drive - Suite 210  
Las Vegas, NV 89128

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Dana Sniegocki

# EXHIBIT "A"

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

12 **DISTRICT COURT**

13 **CLARK COUNTY, NEVADA**

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

17 Plaintiffs,

18 vs.

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

21 Defendants.

Case No.: A-12-669926-C

Dept.: I

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

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

24 1. I offer this declaration in support of plaintiffs' motion for an Order  
25 authorizing the requested distribution of \$223,494.54 held in my attorney IOLTA  
26 account and collected on the judgment entered in this case on August 21, 2018 in the  
27 total amount of \$1,033,027.81 on behalf of 890 class members.

28 2. Today I reviewed the fully updated records of my office's expenses incurred  
in the prosecution of this matter. Those expenses total \$53,437.79. Of that amount I  
received reimbursement of \$638.95 in court report costs as per the Court's sanctions



1 order entered on March 4, 2016, leaving an unpaid balance of \$53,098.84 in expenses.  
2 In my declaration filed with the Court on October 29, 2018 I advised the Court that my  
3 itemized, and unreimbursed, expenses for the prosecution of this case were, as best I  
4 ascertained at that time, \$46,528.07. I have now completed a full accounting of all  
5 expenses incurred by my office on this case through the end of 2018 (that information  
6 was not available to me on October 29, 2018). That accounting reveals there are an  
7 additional \$6,570.77 in unreimbursed expenses, including Wiznet filing charges and  
8 judgment execution fees paid to the Las Vegas Sheriff and Constable in 2018.  
9 Accordingly, I am requesting reimbursement for the full amount of my office's  
10 unreimbursed expenses, through the current date, of \$53,098.84.

11 3. I have thoroughly reviewed the Court's judgment for the 890 class  
12 members entered on August 18, 2018 and that judgment total of \$1,033,027.81 is  
13 distributed as follows:

14 (a) There are 592 class members (66.5%) who hold judgments of less than  
15 \$1,000;

16 (b) There are 436 class members (48.98%) who hold judgments of less than  
17 \$500;

18 (c) There are 309 class members (34.72%) who hold judgments of less than  
19 \$300;

20 (d) There are 179 class members (20.11%) who hold judgments of less than  
21 \$150.

22  
23 4. I have conferred with Simpluris a class action settlement administrator  
24 that has successfully administered class action settlements in other cases I have  
25 litigated. I have no financial or personal relationship Simpluris and can attest, from  
26 my experience, that they are among the least expensive class action administrators and  
27 also have competently performed their duties. They maintain errors and omissions  
28

1 insurance in an amount in excess of the amount of class member funds they will be  
2 handling. The have provided me with a proposal to distribute 157 checks to 157 of the  
3 class members as part of a total distribution of \$93,116.60 in funds from my office's  
4 IOLTA account to 159 class members (I would personally distribute two of those  
5 payments, \$2,962.77 and \$2,849.11, to the named representative plaintiffs Murray and  
6 Reno). They have proposed to complete that process at a cost of no more than \$4,300  
7 and I believe they may be able to do so for a cost of no more than \$3,200 (I am  
8 attempting to confirm that lower amount with them). I believe engaging their services  
9 accordingly will be very cost effective, with a 'per check' cost of about \$20, and less  
10 than \$30, per class member check issued. They will also perform an NCOA trace  
11 (U.S. Postal Service National Change of Address) to locate current class member  
12 addresses prior to mailing those checks, and by doing so help ensure the check's more  
13 likely receipt by the class member. They will void and return the funds from all  
14 uncashed checks to my IOLTA account after a 90 day period from mailing.

15         5. I believe the proposed distribution of funds to 159 class members is  
16 appropriate given the configuration of the judgment entered by the Court. Most of  
17 that judgment, \$634,345, or 61.4% of the judgment, is owed to the 159 class members,  
18 or 17.86% of the class, who possess judgment amounts of \$2,000 or more. For that  
19 reason I am proposing a distribution, at this time, of funds just to those persons. It  
20 makes little sense to send a class member a check for \$50 or \$30 or \$20 or even less  
21 when there is a limited amount of money to distribute. As a result, I have drafted the  
22 Ex. "B" schedule submitted with this motion to calculate an amount equal to 14% of  
23 the judgment amount for 157 of class members holding judgments in excess of \$2,000  
24 with the smallest such payment being \$281.18. I have also drafted that schedule to  
25 pay the two named plaintiffs, class representatives Michael P. Murray and Michael  
26 Reno, payments equal to 50% of their judgment amounts, \$2,962.77 and \$2,849.11  
27 respectively. That higher level of payment to them is justified given their service to  
28 the class members. Without their efforts (they both gave depositions in this case) there

1 would have been no relief granted to any of the other 888 class member judgment  
2 holders. It is only appropriate that they be recognized and rewarded in that fashion.

3  
4 I have read the foregoing and affirm the same is true and correct.

5 Affirmed this 8th day of January, 2019

*/s/ Leon Greenberg*

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7 Leon Greenberg  
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# EXHIBIT "B"

	A	B	C	D	E
	<p align="center"><b>Total Judgement for All 159 Class Members With Judgments of \$2,000 or More:</b></p>				<p align="center"><b>Total Proposed to Be Distributed to 159 Class Members is \$93,116.60</b></p>
1				\$635,228.92	
2	<b>EE</b>	<b>Last Name</b>	<b>First Name</b>	<b>Total Judgment Entered with Pre-Judgment Interest</b>	<b>14% of judgment amount and for Michael P. Murray and Michael Reno 50% of the judgment amount</b>
3	<b>Number</b>				
4	3606	Abebe	Tamrat	\$3,454.44	\$483.62
5	3661	Ali	Abraham	\$2,552.82	\$357.40
6	2903	Allen	Otis	\$10,965.65	\$1,535.19
7	2968	Amato	Richard	\$4,589.78	\$642.57
8	3672	Anderson	Roosevelt	\$2,426.36	\$339.69
9	3037	Archuleta	Alex	\$2,330.96	\$326.33
10	26553	Arnwine	Howard	\$2,318.78	\$324.63
11	3828	Aseffa	Mulubahan	\$2,285.84	\$320.02
12	2926	Awalom	Alemayehu	\$9,410.35	\$1,317.45
13	27358	Baca-Paez	Sergio	\$2,438.08	\$341.33
14	3838	Baker	Timothy	\$2,450.64	\$343.09
15	27315	Bakhtiari	Marco	\$2,403.53	\$336.49
16	3909	Barbu	Ion	\$2,877.34	\$402.83
17	100158	Barnes	Benjamin	\$6,812.00	\$953.68
18	23373	Bey	Ronald	\$3,996.57	\$559.52
19	2960	Bialorucki	Richard	\$7,502.40	\$1,050.34
20	3072	Blumentha	Alan	\$2,209.10	\$309.27
21	3101	Bly	Vertito	\$4,538.50	\$635.39
22	2487	Boling	Freddy	\$2,950.85	\$413.12

	A	B	C	D	E
22	2802	Borja	Virginia	\$4,206.37	\$588.89
23	28324	Bradley	Leroy	\$2,744.36	\$384.21
24	2056	Brauchle	Michael	\$7,346.62	\$1,028.53
25	3716	Brimhall	Tracy	\$4,365.69	\$611.20
26	3621	Brisco	Allen	\$3,701.93	\$518.27
27	3249	Chico	David	\$4,569.12	\$639.68
28	3588	Christense	Rosa	\$2,155.22	\$301.73
29	3885	Cohoon	Thomas	\$2,394.77	\$335.27
30	3552	Coizeau	Leonardo	\$3,769.81	\$527.77
31	3738	Conway	James	\$3,993.82	\$559.13
32	2051	Costello	Brad	\$2,613.44	\$365.88
33	109796	Curtin	Ronald	\$2,170.52	\$303.87
34	3777	Daniels	Donald	\$3,757.26	\$526.02
35	3428	D'Arcy	Timothy	\$6,253.52	\$875.49
36	28065	Davis	Bradley	\$2,580.64	\$361.29
37	2031	Dinok	Idiko	\$3,478.41	\$486.98
38	3756	Disbrow	Ronald	\$2,840.56	\$397.68
39	3704	Dobzewicz	Gary	\$2,614.57	\$366.04
40	3478	Dontchev	Nedeltcho	\$3,964.86	\$555.08
41	2871	Draper	Ivan	\$5,739.72	\$803.56
42	2637	Edwards	Jeffrey	\$2,583.42	\$361.68
43	3381	Egan	Joseph	\$4,091.77	\$572.85
44	3595	Ekoue	Avi	\$3,228.50	\$451.99
45	3125	Elam	Damon	\$2,717.46	\$380.44
46	3567	Ernst	William	\$2,376.27	\$332.68
47	2682	Fears	Thomas	\$5,133.60	\$718.70
48	3549	Fesehazior	Teabe	\$2,458.98	\$344.26
49	3877	Fifel	Kamal	\$3,600.84	\$504.12
50	3705	Fleming	Gary	\$3,703.17	\$518.44
51	2782	Garcia	John	\$11,608.72	\$1,625.22
52	3522	Gardea	Alfred	\$2,971.01	\$415.94
53	3328	Gelane	Samuel	\$5,453.13	\$763.44
54	3121	Gleason	John	\$4,945.41	\$692.36

	A	B	C	D	E
55	3391 Grafton	Natasha		\$2,699.54	\$377.94
56	19253 Gray	Gary		\$3,585.16	\$501.92
57	3197 Green	Tony		\$3,452.77	\$483.39
58	2755 Greever	Rickey		\$4,400.72	\$616.10
59	2971 Gross	Timothy		\$2,101.65	\$294.23
60	3402 Hansen	Jordan		\$2,292.03	\$320.88
61	2564 Harris	Jay		\$2,173.95	\$304.35
62	3855 Harris	Dennis		\$2,817.84	\$394.50
63	3742 Haskell	William		\$4,364.03	\$610.96
64	2206 Hay	Mark		\$4,403.72	\$616.52
65	3808 Hays	Larry		\$2,357.84	\$330.10
66	3822 Holt	John		\$3,350.60	\$469.08
67	2289 Huffman	Britton		\$2,193.60	\$307.10
68	2400 Hughes	Jerry		\$3,120.94	\$436.93
69	2751 Hurtado	Hubert		\$7,111.57	\$995.62
70	3701 Jackson	Willie		\$3,073.67	\$430.31
71	108839 Jackson	Frederick		\$3,186.18	\$446.07
72	2483 Javelona	Mario		\$3,671.36	\$513.99
73	3315 Jimenez	Michael		\$3,796.31	\$531.48
74	3109 Jin	Casey		\$2,587.54	\$362.26
75	2253 Jones	Glenn		\$4,259.29	\$596.30
76	3784 Joseph	Leroy		\$2,800.21	\$392.03
77	3772 Kaiyoora/Chaipan			\$3,517.55	\$492.46
78	2736 Kenary	Brian		\$3,959.06	\$554.27
79	3484 Kern	Gary		\$10,591.89	\$1,482.86
80	3893 Klein	Phillip		\$4,168.54	\$583.60
81	3630 Kogan	Martin		\$7,772.22	\$1,088.11
82	3685 Leal	Jill		\$2,503.43	\$350.48
83	3702 Lee	Thomas		\$3,388.06	\$474.33
84	3006 Loyd	Gary		\$3,499.87	\$489.98
85	3326 Lucero	Arturo		\$2,094.93	\$293.29
86	3778 Macato	Jaime		\$2,818.73	\$394.62
87	2912 Mahmud	Omar		\$2,822.46	\$395.14

	A	B	C	D	E
88	3096	Mainwarin David		\$4,993.64	\$699.11
89	2757	Majors John		\$11,770.32	\$1,647.84
90	3583	Maras Maria		\$2,519.05	\$352.67
91	2587	McCarter Patrick		\$4,330.85	\$606.32
92	3690	McCarthy John		\$3,986.97	\$558.18
93	2596	Meloro Paul		\$5,653.96	\$791.55
94	2838	Mersal Beth		\$2,979.89	\$417.18
95	2959	Miller Darryl		\$5,806.88	\$812.96
96	17855	Milliron Darrol		\$2,470.06	\$345.81
97	2933	Mitchell Jimmy		\$5,244.30	\$734.20
98	31966	Mitrikov Ilko		\$2,559.19	\$358.29
99	105284	Monforte I Peter		\$5,822.92	\$815.21
100	3664	Moreno James		\$5,017.71	\$702.48
101	2162	Morris Robert		\$3,317.13	\$464.40
102	8321	Morris Thomas		\$5,277.68	\$738.88
103	2642	Murray MichaelJ		\$3,045.99	\$426.44
104	2018	Murray MichaelP		\$5,925.53	\$2,962.77
105	3859	Nazarov Mikael		\$2,817.84	\$394.50
106	1098	Nicol Thaddeus		\$2,742.98	\$384.02
107	3876	Norvell Chris		\$5,383.49	\$753.69
108	3753	Olen Virginia		\$2,551.91	\$357.27
109	2810	Paranhos Eurico		\$2,008.45	\$281.18
110	3597	Pariso David		\$5,498.67	\$769.81
111	3624	Patry Michael		\$2,508.64	\$351.21
112	1076	Peterson Steven		\$4,174.92	\$584.49
113	2473	Phillips Gordon		\$3,451.69	\$483.24
114	3523	Pilkington Margaret		\$2,484.22	\$347.79
115	107617	Pineda Carlos		\$3,435.52	\$480.97
116	3265	Pletz David		\$4,801.08	\$672.15
117	3201	Presnall Darryl		\$2,686.80	\$376.15
118	2568	Price James		\$4,079.75	\$571.17
119	3525	Rasheed Willie		\$5,105.98	\$714.84
120	2237	Relopez Craig		\$2,485.76	\$348.01



	A	B	C	D	E
121	3544	Reno	Michael	\$5,698.22	\$2,849.11
122	3191	Rivas	Victor	\$2,023.03	\$283.22
123	2842	Roberts	James	\$2,015.70	\$282.20
124	3814	Rohlas	Polly	\$3,425.39	\$479.55
125	3104	Rosenthal	John	\$2,425.31	\$339.54
126	3504	Rotich	Emertha	\$2,409.06	\$337.27
127	3323	Saevitz	Neil	\$2,713.30	\$379.86
128	3169	Salameh	George	\$2,458.27	\$344.16
129	3042	Saleh	Jemal	\$9,630.99	\$1,348.34
130	3648	Saravanos	John	\$5,901.46	\$826.20
131	25981	Schroeder	William	\$2,421.42	\$339.00
132	3313	Schwartz	Steven	\$5,259.91	\$736.39
133	3134	Serio	John	\$4,291.21	\$600.77
134	3057	Serrano	Hector	\$2,862.36	\$400.73
135	2899	Shallufa	Azmy	\$11,250.30	\$1,575.04
136	105863	Siljkovic	Becir	\$2,128.06	\$297.93
137	3041	Smith	Lottie	\$7,713.81	\$1,079.93
138	3770	Sorrosa	Juan	\$2,167.38	\$303.43
139	3055	Spilmon	Mark	\$9,471.24	\$1,325.97
140	3757	Steck	Gregory	\$6,688.75	\$936.43
141	3165	Stevenson	John	\$3,055.03	\$427.70
142	3713	Stonebreal	Dawn	\$2,285.92	\$320.03
143	3726	Thomas	Scott	\$3,067.17	\$429.40
144	3867	Thompson	Glen	\$3,351.95	\$469.27
145	27963	Thompson	Michael	\$7,738.38	\$1,083.37
146	22120	Travis	Brian	\$2,046.14	\$286.46
147	3207	Tucker	Kenlon	\$3,296.72	\$461.54
148	2925	Van Camp	Carl	\$4,076.58	\$570.72
149	2846	Vaughan	William	\$4,459.40	\$624.32
150	3721	Viado	Ramon	\$2,354.16	\$329.58
151	3796	Vongthep	Christopher	\$3,110.20	\$435.43
152	3820	Wallace	Roy	\$4,224.00	\$591.36
153	3496	Weaver	Gerie	\$5,540.23	\$775.63

	A	B	C	D	E
154	3616	Welzbache Daniel		\$2,716.47	\$380.31
155	3071	White Donovan		\$2,365.28	\$331.14
156	3608	Wilson Jr. Mose		\$3,823.64	\$535.31
157	3910	Wong Jorge		\$2,667.79	\$373.49
158	3092	Yabut Gerry		\$6,228.67	\$872.01
159	108389	Yamaguchi Alicia		\$3,544.50	\$496.23
160	17259	Yurckonis Hilbert		\$2,748.69	\$384.82
161	2273	Zawoudie Masfen		\$3,048.31	\$426.76

# EXHIBIT "C"



RTRAN

DISTRICT COURT  
CLARK COUNTY, NEVADA  
\* \* \* \* \*

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

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE

TUESDAY, DECEMBER 4, 2018

**RECORDER'S TRANSCRIPT OF HEARING:**  
**ALL PENDING MOTIONS**

APPEARANCES:

FOR THE PLAINTIFFS:                   LEON GREENBERG, ESQ.  
  DANA SNIEGOCKI, ESQ.

FOR THE DEFENDANTS:               JAY A. SHAFER, ESQ.

FOR THE SPECIAL MASTER:       PETER DUBOWSKY, ESQ.

RECORDED BY: LISA LIZOTTE, COURT RECORDER  
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 4, 2018

2 (Case called at 10:18 A.M.)

3 THE CLERK: -- 9926.

4 THE COURT: Good morning.

5 MR. GREENBERG: Good morning, Your Honor. Leon  
6 Greenberg, Dana Sniegocki for plaintiffs.

7 MS. SNIEGOCKI: Good morning.

8 THE COURT: Good morning.

9 MR. DUBOWSKY: Good morning, Your Honor. Peter  
10 Dubowsky, counsel for the Special Master, Resolution  
11 Economics.

12 THE COURT: Ah, good morning.

13 MR. SHAFER: Just me, Jay Shafer, for defendant.

14 THE COURT: Good morning.

15 MR. SHAFER: Good morning.

16 THE COURT: This is a little different type of  
17 calendar than I usually I have. I put it on to give the  
18 ruling on some motions that are on the chambers calendar, have  
19 been on a chambers calendar. And then we have still, argument  
20 on the TRO motion, and I believe that's it for -- for today.  
21 Am I correct?

22 MR. GREENBERG: I believe so, Your Honor.

23 THE COURT: All right.

24 MR. SHAFER: Yeah.

25 THE COURT: I did not set this up so that we could

1 have further argument on these. I just thought that perhaps  
2 it would make a little more sense if I explained, and some of  
3 this, I'll just flat be reading and you can, you know,  
4 hopefully, it will find its way into the order which is  
5 ultimately entered on these.

6 I'm going to take this out of order somewhat from  
7 perhaps the way that it was listed on our chambers calendar.  
8 The first one I'm going to deal with is the separate Motion  
9 for an Order Granting a Judgment Debtor Examination and for  
10 Other Relief. In response to that motion, the defendants  
11 argue that there are a number of objections, including that  
12 the plaintiffs' request is overbroad.

13 The Court has determined that the -- at this  
14 juncture in the case that it is sufficient -- it is sufficient  
15 that the interests that are argued in the Defendants'  
16 Opposition, that they are protected by having in place a  
17 Protective Order.

18 Accordingly, it's going to be the order of the Court  
19 that the Motion for Judgment Debtor Examination is granted,  
20 and an appropriate protective order, which I assume counsel  
21 will be able to work out, if not, then come back in front of  
22 me and we'll fashion an appropriate protective order.

23 There are allegations by the defendant that it would  
24 include turning over personal information on these -- on some  
25 of the individual cab drivers. Presumably, they are part of

1 Mr. Greenberg's clientele in this lawsuit. But as a  
2 precaution, I'm going to enter a protective order that none of  
3 the information which is turned over to -- or discovered  
4 through the judgment debtor examination by the plaintiff, none  
5 of it may be revealed beyond those -- to anyone other than  
6 those directly involved with this case.

7           It is not to be -- and that protective order applies  
8 to all personnel in Mr. Greenberg's firm -- they are not to  
9 reveal any of the information which is received except that  
10 which is brought up in court if it -- if it results in further  
11 court action.

12           As to the Plaintiffs' Motion for an Award of  
13 Attorneys' Fees and Costs, the Court is granting that motion.  
14 Several figures were put forward by the plaintiff with  
15 different rationale or criteria for each of them.

16           The Court is awarding what amounts to sort of the  
17 middle position which is \$568,071 in attorneys' fees. The  
18 Court is satisfied over the objection of the defendants that  
19 the plaintiff has kept records, and we have seen them  
20 previously, some of them, in this lawsuit.

21           I'm not going to require the plaintiffs' counsel to  
22 cough up the 1,220 individual timesheets and -- nor am I -- do  
23 I agree that they -- that those fees are excessive. It  
24 probably would do with noting that we are dealing here with  
25 attorneys' fees which are mandated by the Constitution of the

1 State of Nevada to a prevailing party.

2 And this important factor is one which comes back  
3 into play in a number of the issues, both past issues, as well  
4 as those that are currently before the Court, because some of  
5 the arguments that the defense puts forward are not well-taken  
6 in the face of a cause of action which itself is vouchsafed,  
7 if you will, as a -- as a right in the Constitution of the  
8 State. And we could -- we could argue all day long about  
9 whether we agree with the philosophy of making essentially a  
10 -- what is otherwise handled as a statutory cause of action  
11 putting it into a constitution, but it's not for me to quibble  
12 about that.

13 It is, as a fact -- matter of fact part of the  
14 Constitution and this Court will do everything it can to  
15 vouchsafe those rights which are enumerated in our  
16 Constitution, and I consider this to be one of those rights.

17 The defendant contends that the plaintiffs will have  
18 -- will collect another 50 percent of the judgment, in  
19 addition to whatever fees the Court is awarding. I think that  
20 the plaintiffs have adequately responded. But, Mr. Greenberg,  
21 is it true that your fees will be exclusively from whatever  
22 the Court awards as attorneys fees and that you will not be  
23 taking, in addition to that, part of the judgment award as  
24 part of your fees?

25 MR. GREENBERG: Your Honor, I cannot do that under



1 the retainer agreements with the representative plaintiffs.  
2 I'm not authorized to do that, because Your Honor is setting  
3 my fee. But beyond whether I would argue that you authorized,  
4 I wouldn't as a matter of practice, and also, I can't in  
5 compliance with the judgment you entered in this case, Your  
6 Honor. The Judgment you entered back in August authorizes  
7 collection, but it specifically prohibits any disbursement of  
8 funds without further order from you.

9           So there may be circumstances where I would feel  
10 that it would be justified for me to come to the Court and ask  
11 that I be paid from the recovery, but that will be subject to  
12 your approval and submission to Your Honor.

13           THE COURT: All right. Thank you.

14           So the Court orders that those attorneys fees in the  
15 amount of \$568,071 are awarded pursuant to Article 15, Section  
16 16 of the Nevada Constitution.

17           In response to the defendants' argument that the  
18 plaintiffs have failed to exceed an Offer in Judgment, this is  
19 my decision regarding that.

20           While the defendants contend that plaintiffs did not  
21 beat the Offer in Judgment, when the \$7500 to plaintiff,  
22 Michael Murray, and \$15,000 to plaintiff, Michael Reno, were  
23 offered in an offer in judgment the -- while the defendants  
24 argue that plaintiff Reno was ultimately awarded 4966.19, and  
25 plaintiff Murray was awarded 770.33, and therefore, it is not

1 a more favorable judgment, well, without addressing any  
2 argument that could come up perhaps under our old statute  
3 about a reasonableness of rejecting such an offer, the Court  
4 simply finds that the plaintiffs did secure a judgment in  
5 excess of a million dollars on behalf of more than 900  
6 plaintiffs, and the Court holds that plaintiffs did obtain a  
7 more favorable judgment pursuant to Article 15, Section 16, of  
8 the Nevada Constitution, and Rule 68.

9 As I indicated, Article 15, Section 16 of the Nevada  
10 Constitution states that a prevailing plaintiff in one of  
11 these causes of action, quote, "shall be awarded his or her  
12 reasonable attorneys fees and costs", close quote.

13 At the time that those offers of judgment were made,  
14 plaintiffs' counsel had already expended more than 70 hours  
15 totaling at least \$20,000. The offers of judgment to the  
16 plaintiffs in the amount of \$7,500 and \$15,000 were, quote,  
17 "inclusive of interest, costs and attorneys fees", close  
18 quote.

19 Partly because we are dealing here with a  
20 constitutional provision, which serves a compelling public  
21 purpose, the Court finds that the award of attorneys fees to a  
22 prevailing plaintiff is mandated by the Constitution and  
23 therefore it must be read into the calculation, if you will,  
24 of the offer in judgment, and whether or not it was exceeded  
25 by the plaintiffs.

1           As to defendants' arguments that the plaintiffs'  
2 request is untimely as the plaintiff has argued and shown to  
3 the Court, the contention that under Rule 54(d) (2) (B) one has  
4 only 20 days after Notice of Entry of Judgment is served, that  
5 provision also says that the time for filing the Motion for  
6 Fees and Costs may not be extended after it has expired  
7 whereas in this case the judgment itself provided that the  
8 time was extended to 60 days after the service of the order  
9 with Notice of Entry.

10           The Order was filed August 21st, 2018. Notice of  
11 Entry was filed August 22nd, 2018, and so the deadline to file  
12 the Motion for Attorneys Fees was approximately October 21st  
13 and the Motion for Fees was actually filed on October 12th,  
14 which was well within the 60-day period afforded by the Court.

15           Next, the defendants' argument that the costs must  
16 be denied. The argument includes the point that plaintiffs  
17 are seeking in excess of \$29,000 for experts who were never  
18 utilized. And then the defendant brings up the argument that  
19 -- that these experts were subject to being stricken as not  
20 having met the required standards for admissibility, and it  
21 cites us to the defendants' own Motion in Limine to exclude  
22 the plaintiffs' experts.

23           And because the Court granted the plaintiffs' Motion  
24 for Summary Judgment, at that point in time, the Court never  
25 really ruled on Defendants' Motion in Limine to exclude the

1 plaintiffs' experts. For that reason, I will indicate that  
2 the Court was prepared to deny the defendants' motion and hold  
3 that the Court was satisfied that both Charles Bass and  
4 Terrence Claurite, however he says it, have the requisite  
5 knowledge, skill, experience, training and education to  
6 express expert opinions on the plaintiffs' model and that  
7 their testimony as to the reliability of the model and the  
8 propriety of using such a model in the instant case would  
9 assist the trier of fact in determining whether and to what  
10 extent wages are owed to the class members. It is, as well,  
11 it is appropriately limited in scope to each of their areas of  
12 expertise and, finally, is based upon sufficiently reliable  
13 methodology, and that it's largely based on particularized  
14 facts.

15           That record was not made because the Court granted  
16 the Motion for Summary Judgment in its place, but to -- to  
17 argue -- any argument that the issue raised by the defendants  
18 in their Motions in Limine would have precluded the granting  
19 of costs, for those experts, is not well-taken.

20           So in these post-summary judgment proceedings, the  
21 defendants continue to allege that they were blindsided by the  
22 Court appointing a Special Master and the subsequent granting  
23 of Plaintiffs' Motion for Summary Judgment. And they cite,  
24 again, to their Motion in Limine. So the Court will take this  
25 opportunity to explain to the defendants somewhat, part of the

1 course and reasoning of the December and January proceedings.

2         The Court heard the plaintiffs' Motion for Partial  
3 Summary Judgment on December 14th of 2017. The Court granted  
4 that motion, but only to the extent of holding that the  
5 plaintiff had established liability. Thereafter, the  
6 plaintiff filed the plaintiffs' supplement in support of the  
7 Motion for Partial Summary Judgment arguing that the damages  
8 and liability are inextricably related.

9         And the defendants also filed their Motion for  
10 Summary Judgment on November 27th, 2017, which was heard  
11 January 2nd, 2018. Other motions before the Court in the end  
12 of December 2017, and early January of this year, included the  
13 plaintiffs' Motion to Place Evidentiary Burden on the  
14 defendant and the Plaintiffs' Motion to Bifurcate or Limit  
15 Issues at Trial.

16         The defendants' objection to the Discovery  
17 Commissioner's Report and Recommendation was also filed. Both  
18 defendants' and plaintiffs' Motions in Limine, the Defendants'  
19 Supplement Regarding January 2nd Hearing, and both sides'  
20 objections pursuant to Rule 16.1(3), and the Plaintiffs'  
21 motions to strike affirmative defenses was -- it was upon  
22 review of all of those motions that the Court found that  
23 liability and damages were, indeed, inextricably related and  
24 that is precisely why the Court gave defendants one more  
25 opportunity to present evidence which would rebut that

1 liability, but they could not.

2 In preparation of those pretrial motions the Court  
3 inquired into what evidence would be submitted and presented  
4 at trial. In the defendants' Motion in Limine the defendants  
5 argued that the plaintiffs' expert's methodology was  
6 unreliable because it calculated damages derived from  
7 inaccurate information, despite the plaintiffs' experts using  
8 the information consisting of computer data -- computer data  
9 files, which were in fact provided by A Cab.

10 The defendants argued at that time that the trip  
11 sheets were the only accurate information, and that is  
12 precisely why this Court appointed a Special Master who,  
13 unfortunately, apparently, alleges at least, that they  
14 expended some \$85,000 before it was stopped, in order to  
15 review those trip sheets and those trip sheets, it bears  
16 repeating again, did not comply with NRS 608.115, and the  
17 Special Master was doing this in an attempt to make a  
18 determination on a precise calculation of hours.

19 The defendants continued to make their noncompliance  
20 with the recordkeeping statutes, use it as both a sword and a  
21 shield, and that is when this Court decided to apply the  
22 reasoning of the Mt. Clemens, United States Supreme Court  
23 opinion, which stated that, quote, "The employer cannot be  
24 heard to complain that the damages lacked the exactness of  
25 measurement that would be possible had he kept records," close

1 quote.

2 Contrary to the defendants' assertions that the  
3 experts were never utilized, the plaintiffs' experts were  
4 necessary to this Court in granting summary judgment. It was  
5 the defendants' lack of evidence of the precise amount of work  
6 performed to negate the reasonableness of the inferences to be  
7 drawn from the employees' evidence, which warranted the  
8 granting of summary judgment. Again, that is pursuant to  
9 Anderson v. Mt. Clemens Potter Co., 328 U.S. 680, 687, a 1946  
10 case which essentially holds that, The burden shifts to the  
11 employer to come forward with evidence of the precise amount  
12 of work performed or with evidence to negative or negate the  
13 reasonableness of the inferences to be drawn from the  
14 employees' evidence. If the employer fails to produce such  
15 evidence the Court may then award damages to the employee,  
16 even though the result be only approximate.

17 Now, I believe that case was probably in response to  
18 a federal cause of action, not one that was in the State  
19 Constitution like ours, but I see no reason why I would  
20 differentiate on that basis, the reasoning. The reasoning is  
21 equally applicable to this type of a case.

22 The Court gave the defendants every opportunity to  
23 come forward with precise evidence but the defendants failed  
24 to provide the initial \$25,000 deposit that was ordered by  
25 this Court for the Special Master.

1           The defendants might have a colorable argument  
2 against the plaintiffs' expert costs had the Special Master  
3 completed his work regarding the trip sheets and had the trial  
4 proceeded on that basis. However, as we know, that's not the  
5 case here. That's not what happened.

6           Plaintiffs' experts were necessary and their  
7 expenses were reasonable given the extent of the work  
8 performed in calculating the damages based upon the computer  
9 data information which was provided by A Cab. Therefore, the  
10 costs are awarded in their entirety.

11           There was, additionally, a claim of exemption filed  
12 in the case, together with Plaintiffs' Objections to the  
13 Claims of Exemption, exemption from execution.

14           The Court agrees with the plaintiffs' analysis  
15 regarding their objections. The defendants' claims of  
16 exemption are denied except as to the Nevada "Wildcard"  
17 exemption, which it does appear to be appropriate pursuant to  
18 NRS 21.090(1)(z). Therefore, the "Wildcard" exemption is  
19 applied in this case and the Clerk of the Court shall remit  
20 \$10,000 out of -- we're speaking of the funds that were seized  
21 from the Bank -- \$10,000 to A Cab, LLC, and the remainder of  
22 the funds shall be -- which have been deposited with the Clerk  
23 of the Court, shall be remitted to Plaintiffs' counsel for  
24 placement in their IOLTA account pending further order of the  
25 Court.



1           Now, having made those determinations, I go back to  
2 a -- kind of a -- not a boilerplate, but expansive motion, and  
3 that is, plaintiffs' countermotion. When the defendants  
4 filed their Ex-Parte Motion to Quash the Writ of Execution,  
5 the plaintiffs' filed a Counter-Motion for Appropriate  
6 Judgment Enforcement Relief in which they asked for a judgment  
7 debtor examination. The Court's already granted that from the  
8 specific order.

9           So, I suppose that this would actually, in terms of  
10 this Counter-Motion, would be denied as moot, since it was  
11 already granted in the specific motion filed by the  
12 plaintiffs.

13           They also asked that the Court order the property in  
14 the possession of the series LLC's belonging to A Cab, LLC, be  
15 deposited with plaintiffs' counsel.

16           For now, as will be explained a little bit further  
17 in a minute, the Court is going to not order that it be given  
18 to plaintiff's counsel, but that it not be -- the terms of the  
19 TRO that the plaintiffs have obtained -- well, I guess that is  
20 what is on calendar though, isn't it -- that it be -- not be  
21 sold off or given away, that the property be maintained  
22 pending further Order of the Court.

23           The plaintiffs also ask that the Court enjoin any  
24 transfer of funds from A Cab, LLC to any of its series LLC's,  
25 or to Defendant Nady, or any family members, without further

1 order of the Court. It follows, that the Court is going to  
2 grant that. In doing so, I am well aware that that is a  
3 terribly stifling order on a business.

4           Something has got to change in terms of the  
5 collectability of the judgment here. I have, in the past,  
6 spoken of not wanting to kill the goose that lays the golden  
7 egg, but perhaps this is a place to insert the comment that  
8 Mr. Nady himself indicated his understanding of this series,  
9 LLC legislation was that it would enable him to avoid  
10 liability, and he certainly has taken steps apparently to do  
11 so in this case.

12           You cannot do that. I cannot condone that and say  
13 that that's the purpose of the legislation. If I did say it  
14 was the purpose of the legislation -- and by that what I mean  
15 is to prevent collection of legitimate debts, like a judgment,  
16 then I would have to make some sort of balancing determination  
17 between the constitutional provision, and the legislation.

18           I don't believe it's necessary, because I don't  
19 think that it was the legislature's intent to allow someone to  
20 utilize that device in order to avoid paying one's debts  
21 ordered pursuant to a judgment, most particularly, one  
22 mandated by our Constitution.

23           The plaintiff also asked for an Order of Attachment  
24 of assets including the CPCN Medallion and the sale of same.  
25 The Court is not ordering that at this time. It's my belief,

1 as I'll get into -- well, I'll just say that I will leave that  
2 hanging until we determine the viability of the TRO which is  
3 on calendar today.

4 The plaintiff also asked that the Court appoint a  
5 receiver. I have avoided doing that since the problem that  
6 arose when the Court appointed a Special Master. The -- I  
7 don't know how we would -- I don't know how we would pay for  
8 the Receiver. I'm sure that the plaintiff has a notion on  
9 that, but I just -- I have made no determination on that point  
10 to this -- to this point.

11 That brings us then finally -- let's see -- to what  
12 is on calendar today and, let's see, that is the Motion for a  
13 TRO and the order requiring the turnover of certain property  
14 of the judgment debtor pursuant to NRS 21.320.

15 So with that, I'll hear argument from the plaintiffs  
16 first and then see what the defense has to say.

17 MR. GREENBERG: Your Honor, just to answer your  
18 question that you asked a few minutes ago about appointment of  
19 a receiver in this case and paying a receiver, from my  
20 perspective, the class here is presented with two fairly  
21 unattractive choices in terms of judgment enforcement at this  
22 point.

23 One is to proceed to attempt to liquidate whatever  
24 property can be attached from the business which I don't think  
25 is going to be enough to easily satisfy the judgment. The

1 alternative would be to have a Receiver appointed which is  
2 going to be an expense to run the business and hopefully  
3 collect over time enough revenue to pay the judgment because I  
4 do think the business has value as an ongoing operation,  
5 greatly in excess of what its value would be in liquidation.

6 But of the two choices that are presented, neither  
7 are terribly attractive, but I think it would be in the  
8 interest of class members to see a Receiver appointed rather  
9 than see the business -- seize doing business or simply be  
10 sent into liquidation which is the other road that we have  
11 available to us.

12 So to answer Your Honor's question about how a  
13 Receiver would be appointed, as I understand it, Your Honor,  
14 is authorizing the continued holding of the Wells Fargo funds  
15 that were executed on, and that would be deposited in my  
16 attorney trust account.

17 THE COURT: That's correct.

18 MR. GREENBERG: There are approximately \$200,000 of  
19 funds there. That would be enough, obviously, to at least pay  
20 a Receiver to sit down and go over the books and come up with  
21 some sort of plan of operation. My understanding is that the  
22 business has positive cash flow of approximately \$50,000 a  
23 month based on the financials that we have, you know, which  
24 are a couple years old.

25 THE COURT: Um-h'm.

1           MR. GREENBERG: But the more current financials show  
2 that A Cab's volume of business, as reported to the Tax  
3 Commission has been strong. Not every operator in Nevada --  
4 in Las Vegas has been doing so well, but their business is  
5 apparently stable, or strong in terms of just the volume of  
6 trips they're taking, because they do have to publically  
7 report that.

8           So there's every reason to believe that a Receiver  
9 could step in here, and even though, you know, they may have  
10 to be paid some thousands of dollars a month to perform their  
11 job and oversee the operations, that it could, over time,  
12 generate enough revenue to pay the judgment.

13           And that would be our preference, Your Honor, rather  
14 actually -- I mean, the vehicles that I'm asking that be  
15 seized towards judgment satisfaction, I'm not sure these  
16 vehicles are even being used, actually, in the operations of  
17 the business.

18           But candidly, Your Honor, they're a fairly small  
19 asset upon liquidation value compared to the amount of the  
20 judgment. The reason why I've come to the Court and requested  
21 action on them is because it's simply the only other option I  
22 have available to me at this point.

23           THE COURT: What if you did, you know, sort of a  
24 standard Writ of Execution to go after them at which point the  
25 defendant could put forward their claim for exemption or any

1 other objection to it, and the Court could rule on it then?

2 MR. GREENBERG: Well, Your Honor, part of my problem  
3 is that the normal process with the Sheriff to execute on a  
4 vehicle is they want to have a license plate number, not just  
5 a VIN number. You can't get license plate numbers directly  
6 from the Department of Motor Vehicles. It is possible I could  
7 hire a private investigator who would have access to that  
8 information and be able to provide it, and then I could  
9 provide it to the Sheriff.

10 Setting aside the additional expense of doing that,  
11 the Sheriff still has to actually physically locate the  
12 vehicles. This is a fleet of vehicles, I mean, A Cab has a  
13 fleet of maybe a hundred vehicles, 70 vehicles, dozens of  
14 vehicles, Your Honor.

15 THE COURT: Um-h'm.

16 MR. GREENBERG: They have to go to the premises and  
17 try to find the vehicles, whether they -- if they don't have  
18 license plate numbers, it's pretty difficult to actually  
19 examine each vehicle to find the VIN number on it.

20 The purpose of the requested order -- and I actually  
21 drafted an order here that I could present to Your Honor for  
22 consideration to counsel -- it's really just to compel them to  
23 cooperate with the Sheriff in respect to these vehicles. I  
24 mean, if the Order is in place and the Sheriff goes down to  
25 the property, there's no question that they're under an

1 obligation to say, okay, well, we'll bring the vehicle in at  
2 3:00 o'clock or it's out -- it's out being used right now.

3           When it comes off shift, we're going to hold it and  
4 turn it over to you, etcetera, etcetera. There's no -- Your  
5 Honor understands, these things can be difficult when it comes  
6 to, you know, collecting, or getting property in these kinds  
7 of situations.

8           I don't see that there's any -- Your Honor mentioned  
9 this question of exemption and I actually did -- because they  
10 raised this in their Opposition, and I was examining yesterday  
11 the provisions of 21.090 which contain the exemption  
12 provisions, and 1(f) provides for an exemption for one vehicle  
13 if the judgment debtor's equity does not exceed \$15,000.

14           I -- if defendants were to exempt one of these six  
15 vehicles that we've identified -- and there may be more, Your  
16 Honor, but my investigation leads me to believe that the -- 90  
17 percent of their fleet, or whatever it is, the vast majority  
18 is actually titled to the series LLCs, not A Cab, LLC, the  
19 judgment debtor, which is the reason why I'm not bringing the  
20 issue before Your Honor as to the status of property that's --  
21 that's titled allegedly to these separate non-debtor entities.  
22 I'm just focusing on what is, in fact, clearly, by public  
23 record, titled to the judgment debtor.

24           But if one of these vehicles were to be exempted,  
25 then the others would be subject to execution. I mean, the

1 Sheriff can take possession of the vehicles and at that point  
2 the question of exemption can be taken care. Obviously, I  
3 will cooperate and authorize pursuant to a court order and  
4 understanding, the release of one of the vehicles, and the  
5 other four or five can be, you know, processed and sent to  
6 auction through -- through the normal course. I don't really  
7 have much more to say about this, Your Honor. I mean --

8 THE COURT: Okay.

9 MR. GREENBERG: -- if Your Honor would like to see  
10 the proposed order I drafted here, I could -- I could -- I  
11 could approach the Bench --

12 THE COURT: All right.

13 MR. GREENBERG: -- if you have questions.

14 THE COURT: Has the other side seen it?

15 MR. GREENBERG: No, I will give it -- I'll give it  
16 to them right now. But it's --

17 THE COURT: Okay.

18 MR. GREENBERG: -- it's two pages, it's about two  
19 paragraphs.

20 THE COURT: Okay.

21 MR. GREENBERG: It's relatively short, Your Honor.  
22 (Mr. Greenberg hands document to Mr. Shafer and to the Court)

23 THE COURT: Is this essentially a turnover order  
24 that -- such as you were arguing for, or does this merely  
25 prevent them from selling or otherwise getting rid of the



1 vehicles?

2 MR. GREENBERG: Well, the actual recital of relief,  
3 the bottom paragraph of page one, makes clear that the relief  
4 being ordered is in respect only to the fact that A Cab, LLC  
5 is the sole title of any motor vehicles. So to the extent  
6 that there are motor vehicles that are owned by the series,  
7 that are owned by multiple owners on title, they are not  
8 affected by this order. I mean, I'm trying to limit this  
9 clearly to the property that is solely in the possession of  
10 the judgment debtor, Your Honor.

11 THE COURT: Okay.

12 MR. GREENBERG: And that is -- that's on the first  
13 -- the bottom paragraph on the first page.

14 THE COURT: Okay.

15 MR. GREENBERG: And the particular relief that I'm  
16 suggesting the Court order is confined to the top half of the  
17 second page.

18 And the purpose is to require that the defendants  
19 deliver, disclose upon inquiry by, or otherwise fully  
20 cooperate with the Sheriff of Clark County and make available  
21 for judgment execution all motor vehicles of which A Cab is  
22 the sole owner, including, but not limited to the following  
23 vehicles, unless the following vehicles, in fact, are not  
24 owned by them.

25 And, you know, to the extent that they say that I am

1 in error on the titles, the title information I've presented  
2 to the Court is not correct, they obviously could still  
3 establish that under this order and be excused from, you know,  
4 turning those vehicles over to the Sheriff. But these  
5 vehicles I have identified as having title held solely in the  
6 name of the judgment debtor.

7           They have not disputed that, Your Honor, in their  
8 Opposition. And the judgment is of record, Your Honor. I  
9 don't see that there's a basis to deny the relief that's  
10 requested here. I think Your Honor understands. If there's  
11 any questions, anything I could assist the Court with?

12           THE COURT: Okay. The Motion and Order are directed  
13 solely to these vehicles; correct?

14           MR. GREENBERG: Well, it commands their cooperation  
15 in respect to any motor vehicle.

16           THE COURT: Okay.

17           MR. GREENBERG: So it identifies these. It says,  
18 the following listed vehicles, including but not limited to.  
19 Candidly, Your Honor, I don't believe there are any other  
20 vehicles or if there are any other vehicles, their value is  
21 probably fairly small because they are very old.

22           THE COURT: Okay. All right.

23           MR. SHAFER: I'll just respond. I think this is  
24 indicative of the problem, that there are shortcuts here. And  
25 I respect the Court's position regarding the validity of the

1 judgment and I'm not going to begin to address that.

2           The thing here is, it is enshrined in our  
3 Constitution, a respect for due process, and a respect for the  
4 execution of the -- that is set out in the statute. They are  
5 asking essentially for an injunction to shut down the  
6 business. They want every vehicle that A Cab uses. And, in  
7 fact -- and I'll -- I'll briefly address this. If -- well,  
8 would you -- I'd like to address the issue of the restraint of  
9 the transfer of funds to the series LLC. Would you like me to  
10 do that now or at the end of my argument?

11           THE COURT: Let's -- let's talk first about the --

12           MR. SHAFER: Okay.

13           THE COURT: -- vehicles --

14           MR. SHAFER: All right.

15           THE COURT: -- and then we'll go on to the other.

16           MR. SHAFER: So they have essentially asked for  
17 injunctive relief for all of the property, regardless of the  
18 fact that it is neither owned by A Cab, however, that there is  
19 a claim of exemption for that. They haven't engaged in the --  
20 in the process or the evaluation that is required under  
21 injunctive statute, but you have to go through the test for  
22 setting out whether they have a reasonable probability of  
23 success, the suffering of irreparable harm, a balancing of the  
24 hardship, including a balancing of the hardship to the public  
25 and whether the present -- it maintains the status quo.

1 Forcing --

2 THE COURT: The question I would have for you is how  
3 applicable is that at the, you know, following judgment? That  
4 certainly is the correct standard when you're dealing on the  
5 front end of a case where you don't have all the facts  
6 ascertained and the -- so you have to go through the test.  
7 But in this case, we're at the judgment.

8 MR. SHAFER: Correct.

9 THE COURT: So does those --

10 MR. SHAFER: We are --

11 THE COURT: -- does those -- is there some authority  
12 that says that you still apply the balancing kind of test that  
13 you would if this were a TRO on the front end of a case?

14 MR. SHAFER: Well, they are asking for injunctive  
15 relief not just as to A Cab but to all the other series. We  
16 have not been subjected to due process or, you know, service  
17 in this case.

18 It would be one thing if they were executing a  
19 single Writ as to, for example, the 2008 Toyota Corolla with a  
20 VIN ending 5153 because there is a set statutory process for  
21 which they execute the Writ, there's a basis for an objection  
22 and then a hearing is heard on that vehicle. They're asking  
23 for injunctive relief as to all vehicles, and precluding --  
24 precluding A Cab from either transferring or acquiring new  
25 they, you know, if they have a defunct cab that they need to

1 sell for parts they can't do that. They can't operate in the  
2 normal business.

3 And so if the Court enjoins these cars, and forces  
4 the turnover of these cars without the due process required in  
5 the writ process, it will deprive -- of the four cars which  
6 they alleged are owned by A Cab, that will put 8 to 12 cab  
7 drivers out of work. Moreover --

8 THE COURT: So those are -- those are cabs? Those  
9 are being used as cabs; is that right?

10 MR. SHAFER: I believe so. I mean, they -- A Cab  
11 doesn't own any vehicles that they don't use for cabs.

12 THE COURT: All right.

13 MR. SHAFER: It will also deprive the public of  
14 being --

15 THE COURT: Well, are they using the Mercedes Benz as  
16 a cab?

17 MR. SHAFER: No. The Mercedes Benz is a personal  
18 vehicle, I understand.

19 THE COURT: Okay.

20 MR. SHAFER: And the other vehicle is registered to  
21 another company called Guard Force out of Arizona. It's my  
22 understanding that that -- that's what the use of those two  
23 vehicles.

24 THE COURT: Is that the Ford Transit?

25 MR. SHAFER: Correct.

1 THE COURT: Okay.

2 MR. SHAFER: That's my understanding of what the  
3 situation is. And they certainly say that their investigation  
4 has led them to believe that these are owned by A Cab but  
5 there's no documentation of that.

6 THE COURT: Uh-huh.

7 MR. SHAFER: My understanding is that they're not  
8 owned by A Cab, that they're owned by other entities. And  
9 therein lies the problem; without a hearing or proper source  
10 of claim for exemption they could basically take anything or  
11 put my client in a significant risk of harm for trying to, you  
12 know, dispose of their personal property if they're subject to  
13 this --

14 THE COURT: So are --

15 MR. SHAFER: -- TRO.

16 THE COURT: -- you saying that contrary to what the  
17 plaintiff is claiming that these -- let's take the four  
18 Toyotas -- that they are not owned by the defendant?

19 MR. SHAFER: I'm -- I'm not making a position on  
20 that either way at this point. Because of the shortness of  
21 time that we had to respond, just a few days, I was not able  
22 to get that information as to whether or not they are still  
23 owned by A Cab, or whether they had been transferred to and --  
24 or sold to another entity.

25 THE COURT: Well, I guess that kind of puts us right

1 into what the quandary is. The plaintiffs are saying don't  
2 let them sell off the property --

3 MR. SHAFER: Right.

4 THE COURT: -- and --

5 MR. SHAFER: Well, and --

6 THE COURT: -- spend the money.

7 MR. SHAFER: Well, and the thing is, they would have  
8 used this isn't their ordinary course of business. I'm not  
9 saying that they have been, I'm just saying I don't know. I  
10 do not know what the status of these vehicles is, above the  
11 purported document that they have submitted in support of  
12 their motion which claims to be from the DMV. So I'm not  
13 contesting that they are or they aren't subject to that, but I  
14 know --

15 THE COURT: Okay.

16 MR. SHAFER: -- I've been told that the Mercedes and  
17 the Ford are not A Cab's vehicles.

18 THE COURT: Would it make more sense from your  
19 standpoint, or at least comport more with your -- your notion  
20 of due process, etcetera, if the Court merely entered a  
21 Restraining Order preventing any of the defendants from  
22 hypothecating, selling, giving away, whatever, any of the  
23 vehicles which are currently in the name of the -- in other  
24 words, and then require the -- the plaintiff to do a Writ of  
25 Execution and defendant would have -- defendants would have

1 opportunity then to --

2 MR. SHAFER: Okay.

3 THE COURT: -- do any claim of exemption. Would  
4 that --

5 MR. SHAFER: The answer to that is I have no problem  
6 with them proceeding with the Writ except subject to a caveat  
7 which we have filed in our Opposition and Counter-Motion for  
8 Stay, but we can reach that in just a minute.

9 THE COURT: Yeah.

10 MR. SHAFER: As to the transfer, the problem with  
11 the transfer of the vehicles is that they acquire the vehicles  
12 and then they are transferred to the series LLC to establish  
13 new entities or sometimes they are sold to another cab company  
14 depending on -- as to these four vehicles, I would be fine  
15 with an order of the Court precluding their transfer or sale  
16 or further encumbrance as to these four Toyotas, if -- if they  
17 still owned them at the time that they were served with the --  
18 with the order.

19 THE COURT: What about a restraining order that was  
20 broader than that, that simply said that the defendants are  
21 enjoined from selling off, giving away, getting rid of any of  
22 the vehicles owned by these defendants?

23 MR. SHAFER: By A Cab? I think that that might be  
24 okay.

25 THE COURT: By A Cab Taxi Service, A Cab, LLC --



1 MR. SHAFER: Correct.

2 THE COURT: -- I believe, also A Cab Series, LLC,  
3 and Mr. Nady.

4 MR. SHAFER: Well, Mr. Nady is not subject to the  
5 judgment, nor has he been brought in, has no restrictions. He  
6 can sell or dispose of his personal property as he would like.  
7 And that's not here.

8 I have no problem with the A Cab. My concern is as  
9 to the other series which own their own vehicles that are not  
10 subject to this jurisdiction at this point which we're still  
11 undergoing and may have an issue. But as to these four  
12 vehicles, I have no problem stipulating that A Cab will not  
13 transfer or if it hadn't -- if it still had them at the time  
14 that they were served with the Writ.

15 THE COURT: Um-h'm.

16 MR. SHAFER: Because if they somehow sold it before  
17 the Writ was served upon us then we can't maintain it if it's  
18 gone already. Other than that, I have no problem with that.

19 My concern is just the overbroadness of the  
20 potentially anything. You know, and they have a protection,  
21 because under the statute, if there were a transfer that  
22 wasn't in the ordinary course of business and value wasn't  
23 received, then there -- they can move to set that aside as a  
24 fraudulent transfer. You know, if A Cab sells these vehicles  
25 for a dollar to B Cab, or some other entity, or you know,

1 Desert Cab or some other entity, without getting value for the  
2 receipt, then that would be subject to a set-aside under the  
3 fraudulent transfer statute.

4           If they sell the cab for \$25,000 because they need  
5 it to fund on going operations, they have received value for  
6 it and the plaintiffs are not in any worse condition that they  
7 -- that there is liquid funds versus actual property to be  
8 executed upon. In fact, they're probably better off, because  
9 they don't have the transactions costs from the Sheriff and  
10 get a highest and best value.

11           You know, we would be happy to keep records of any  
12 transfer of sale of the property, such that there's no concern  
13 about the property going out the back door or under cover of  
14 night, that they know where it is and where everything went --  
15 received.

16           It is not our intention to try to pull a fast one or  
17 pull the wool over their eyes. We have a significant,  
18 obviously, a dispute that is on appeal regarding the validity  
19 of this and that needs to go through the process and then -- I  
20 think as to why we have a stay, or why we've asked for a stay.

21           But certainly, I think that an order requiring a  
22 defendant to turnover all of it's property is overbroad. As  
23 to these specific four vehicles, that's a different matter.  
24 There is the question though of whether or not it is in the  
25 best interests to force a turnover, to deprive 8 to 12

1 employees of their gainful employment and to cease service to  
2 the community. There was a reference to the appointment of a  
3 Receiver.

4 THE COURT: Is this where we get into the employees  
5 and the holiday season and putting them out of work and --

6 MR. SHAFER: I think we've addressed that in our  
7 Opposition and I won't belabor the point.

8 THE COURT: Okay.

9 MR. SHAFER: But I think that is a significant  
10 concern. Contrary to where -- where we are now in the  
11 operation of the Cab business is substantially less profitable  
12 than it was 5 or 6 years ago. With the advent of Uber, Lyft  
13 and the other companies, there's been a significant drain on  
14 the demand for taxi companies. Further, there has been an  
15 increased vehicle cost. Vehicles cost more now than they used  
16 to. Gas costs more now than it used to. All the materials  
17 cost more now than they used to.

18 Labor costs more because now there's been an  
19 additional change in how they do that, I suppose. So they are  
20 less profitable now than they were 5 or 6 years ago.

21 And certainly, and I think this is where we go to,  
22 if they are precluded from transferring money to the series  
23 LLCs, that means that A Cab can't pay for the maintenance of  
24 the company. It can't pay for the operations because it can't  
25 pay its labor. It can't pay for the use of the medallions or

1 the taxis because that's how they pay for it. They have  
2 transfers between the series LLCs to account for the economic  
3 value that each one contributes.

4 And if they're precluded from doing so there is no  
5 way to pay its ongoing bills and expenses. But as far -- so I  
6 think as far as the TRO, I think it is overbroad. I think  
7 they -- they had their TRO. Now, they are asking for further  
8 injunctive relief.

9 THE COURT: Um-h'm.

10 MR. SHAFER: Because they want any property ever  
11 that -- that A Cab has, any vehicle that they ever have to be  
12 subject to turnover by the -- by the -- to the -- to the  
13 Sheriff.

14 And they haven't gone through the analysis under the  
15 injunctive relief and I don't believe that it's appropriate at  
16 this time to enter such an expansive relief.

17 THE COURT: Well, I wonder if in making these  
18 arguments which I -- which I -- I think are credible  
19 arguments, and one that the Court would have to deal with, and  
20 the plaintiffs would have to deal with, I wonder if you aren't  
21 -- if it doesn't become an argument in favor of putting a  
22 Receiver in, that that's the only thing that will preserve the  
23 assets without having to stop and run to court every time we  
24 turn around to try and get, you know --

25 MR. SHAFER: Yeah.

1 THE COURT: -- to have all these skirmishes over  
2 whether --

3 MR. SHAFER: Yeah.

4 THE COURT: -- the property belongs to the  
5 defendant, whether the defendant can hypothecate it or, you  
6 know.

7 MR. SHAFER: Well, and I think I could address that.  
8 There has been no significant risk of harm for A Cab disposing  
9 of its assets improperly. Apart from the arguments --

10 THE COURT: Say that again? There's been no risk  
11 of harm --

12 MR. SHAFER: Let me -- let me -- rephrase this.

13 THE COURT: Okay.

14 MR. SHAFER: Plaintiffs have argued that money might  
15 go out the back door, that it might get transferred  
16 inappropriately, precluding their execution on the judgment.

17 THE COURT: Um-h'm.

18 MR. SHAFER: There's no -- been no risk or  
19 indication or any factual evidence that such a -- that that  
20 either could or would occur. There's been no evidence that  
21 there's been a significant transfer of funds to Jay Nady or  
22 some other entity, that there's been a massive sell-off of its  
23 assets or other transfer. They are continuing to operate  
24 their business as they have and continuing to serve the public  
25 as they have and continuing to account for, as they always

1 have. There is no risk of harm that the plaintiffs will have  
2 if they continue -- if they allow this to go forward in the  
3 ordinary course.

4           You have ordered a judgment debtor exam and for the  
5 turnover of financial records. That will essentially  
6 determine what a Receiver would uncover anyway without the  
7 additional expense.

8           Now, there are times where Receivers are appropriate  
9 and I think useful. In this instance, I don't know that they  
10 are, not only because of the additional costs, but because of  
11 the nature of the business, I do not know that a Receiver  
12 could be appointed to a regulated business such as this. I  
13 have not researched that issue but I know that there are  
14 strict limitations put on the operation of a business that has  
15 a Certificate of Public Necessity.

16           And so I don't know that if we were to appoint a  
17 Receiver that they could continue to operate as a cab company  
18 because that Receiver would then have to be subject to  
19 investigation and approval by the Taxi Cab Authority, if they  
20 are making business decisions and operational decisions about  
21 the company.

22           THE COURT: Is that because this is a license, the  
23 type of license that --

24           MR. SHAFER: That is my understanding, correct.

25           THE COURT: Um-h'm. Okay.

1 MR. SHAFER: So -- and again, that's not been  
2 briefed, and I think that's why these ad hoc arguments do not  
3 serve any party and it would be better to take this in the  
4 ordinary course and with a calm and measured approach to how  
5 things are to go forward.

6 Obviously, if there's transfers, you know, a million  
7 dollars in gold bouillon goes out the back door to Jay Nady  
8 and he starts tiling his walk with it or something like that,  
9 then we've got a different situation. But we don't have that,  
10 Your Honor. We have they're continuing to operate, continuing  
11 to provide taxi service to the public.

12 So, I think that you have ordered a judgment debtor  
13 exam which somebody from A Cab will show up and produce  
14 records subject to these objections which will show the  
15 finances. There is -- and so on that basis, without getting  
16 too much into our countermotion for stay, unless you'd like us  
17 to address that now --

18 THE COURT: No.

19 MR. SHAFER: -- I think that the -- our sole  
20 position is that the TRO or the injunctive relief as to all  
21 vehicles is just overbroad and there's no basis for it at this  
22 point. If they have the specific four vehicles that they  
23 would like turned over, that should go through the Writ  
24 process.

25 THE COURT: Okay. Mr. Greenberg?

1 MR. GREENBERG: Yes, Your Honor. The problem here  
2 is that there's representations made that, you know, well,  
3 there's no diversion of funds, there's no money that's going  
4 out the back door. We don't really know what's going on, Your  
5 Honor. And more to the point is, again, the value of the  
6 business here is as an ongoing operation.

7 And what's going on here is that the operation of  
8 the business through the series LLCs is completely dependent  
9 upon the judgment debtor status holding that CPCN. They hold  
10 the CPCN. They have the medallions. They then have this  
11 arrangement with this multitude of series LLCs to have them  
12 use the medallions to actually generate money.

13 So, the series can't operate without the cooperation  
14 of the judgment debtor in terms of giving them access to the  
15 medallions. Mr. Nady's testimony at his deposition -- and  
16 this is in the record, otherwise, I have it on my computer  
17 here -- is that the way the business functions is that the  
18 revenue comes in in the first instance to the cells, to the  
19 series, LLCs, which are running the tabs. And then at the end  
20 of the day, the money gets transferred out of that company  
21 into a personal account of mine.

22 THE COURT: Um-h'm.

23 MR. GREENBERG: So what happens is, is that -- the  
24 fruits of the enterprise are going directly to Mr. Nady by his  
25 own testimony. There's no reason under this business



1 structure that any money should ever come back to the judgment  
2 debtor. That is how the business is organized, Your Honor.  
3 So ultimately, the purpose of appointing a Receiver is a  
4 Receiver who has control over the judgment debtor and the  
5 judgment debtor's use of those medallions is going to have to  
6 come in and essentially have the business restructured so that  
7 the profits that are earned, the revenue that's earned from  
8 the operation of those medallions, comes back to the judgment  
9 debtor for purposes of paying the creditors here which are my  
10 clients, the class members. Under the current structure, that  
11 money is just gone at the source or origin, essentially.

12 THE COURT: Um-h'm.

13 MR. GREENBERG: You understand my point, Your Honor.

14 THE COURT: Um-h'm.

15 MR. GREENBERG: And in terms of appointing a  
16 Receiver and how this may be a problem in respect to the  
17 operation of the Tax Commission and the CPCN, we're not  
18 suggesting that Mr. Nady be displaced from managing the  
19 business. I mean, we're simply asking that a Receiver come in  
20 and be responsible for seeing that the revenue of the  
21 business, as generated, is directed for the benefit of the  
22 creditors, here, for my client.

23 And we would be very amenable, and presumably the  
24 Court would be willing to supervise some sort of plan whereby  
25 the Receiver would earmark a certain amount of that revenue

1 and that profit to pay towards the judgment and a certain  
2 amount would be reserved for the owners of the business to  
3 continue. I mean, we can be cooperative here in terms of  
4 working out what would be akin, Your Honor, to in the  
5 bankruptcy process, a Chapter 13 restructuring, but here in  
6 the State Court, under your supervision with the guidance of a  
7 Receiver.

8           The problem is the defendants are simply not going  
9 to cooperate with any process like that unless Your Honor  
10 directs it. They have no incentive to. The revenue that's  
11 coming into the business, it's going out to the -- to the  
12 beneficiaries of the business directly from the operations at  
13 the source.

14           So the purpose of the Receiver is not actually to  
15 make them do anything different in respect to the -- the day-  
16 to-day operations of the business. It's only essentially to  
17 go in, do an accounting, see that the funds are, in fact,  
18 being directed to pay the judgment creditors, or in a  
19 cooperative basis, some portion of the funds, at least, are  
20 directed to pay for the judgment creditor --

21           THE COURT: So --

22           MR. GREENBERG: -- Mr. -- Mr. Nady presumably should  
23 be entitled to compensation for running the business if he's  
24 going to manage the business actively, as I think he has been  
25 doing.

1           THE COURT: So it would be more of a simply a  
2 reporting process that Mr. Nady would make to the Receiver of  
3 monies that had been received by any of the defendants,  
4 corporate defendants?

5           MR. GREENBERG: Well, Your Honor, under the current  
6 structure, as limited documentation we have, is essentially  
7 the series LLCs have the medallions. They generate the fare  
8 revenue from the passengers, and then they -- they pass  
9 certain portions of that revenue on to a company that pays the  
10 driver, that pays for the maintenance and other series that  
11 pays for the maintenance of the vehicle, and whatever profit  
12 is left goes directly to Mr. Nady. That profit amount needs  
13 to go back to the judgment debtor. It needs to go back to A  
14 Cab, LLC so it can be available to pay the creditors of the  
15 judgment debtor. The purpose --

16          THE COURT: So how would you -- what I'm trying to  
17 get at is what -- what would this order of appointing a  
18 Receiver, what would his duties and powers be?

19          MR. GREENBERG: His duties would be to have control  
20 over the use of all the medallions that are issued to the  
21 judgment debtor, which the judgment debtor has essentially  
22 leased to all the individual Series and to require that the  
23 judgment debtor get value for the use of those medallions.

24          Currently, the judgment debtor is giving those  
25 medallions out to all of the series, and the judgment debtor

1 is not getting anything back, because none of the money comes  
2 back to it. They, in fact, right now are making very  
3 meticulous care to be sure none of it comes back to them  
4 because it will be attached on the judgment. The money -- the  
5 profit from the business goes out to Mr. Nady directly from  
6 the Series themselves which are generated the fair revenue.

7 And, Your Honor, part of the -- part of what we  
8 wanted in terms of the way the judgment debtor examination was  
9 the financials that were filed with the Taxi Commission,  
10 because I am sure they are filing a consolidated financial  
11 statement with the Taxi Commission which indicates that A Cab  
12 is, in fact, operating as a single business entity. It's not  
13 -- it's 200 separate individually financially, you know,  
14 sustaining entities as they are alleging as a matter of law in  
15 respect to the attachment of its assets and income.

16 Essentially, A Cab, the judgment debtor itself, in  
17 the defendants' view has no income because all of the revenue  
18 that comes in is, again, at the source. It goes to the -- it  
19 goes to these various separate Series LLCs. And to the extent  
20 that there's any profit there it goes directly from there to  
21 Mr. Nady. It never comes back to --

22 THE COURT: Well, I'm still trying to figure out  
23 what -- how you would -- how you would formulate the duties  
24 and powers of this Receiver --

25 MR. GREENBERG: Well, Your Honor, if the --

1 THE COURT: -- in terms of this -- this cash flow  
2 business.

3 MR. GREENBERG: If the Receiver's duties would be to  
4 review how the medallions issued to the judgment debtor are  
5 being used and to ensure that the profits generated from those  
6 medallions are coming back to A Cab, LLC, the judgment debtor.  
7 They are not going from the operators, which are the series to  
8 Mr. Nady.

9 THE COURT: Well, but what -- see, I'm trying to get  
10 at, what -- where does the Receiver insert himself or herself  
11 into the business functioning of A Cab? Does he or she simply  
12 get bank statements, get reports of this money that's flowing  
13 through --

14 MR. GREENBERG: Well --

15 THE COURT: -- A Cab -- well, through all the series  
16 and then to Mr. Nady and then from Mr. Nady back to A Cab?

17 MR. GREENBERG: -- you -- you -- well, when Mr. Nady  
18 was examined at his deposition in 2017 about this, about how  
19 the fares are collected --

20 THE COURT: Uh-huh.

21 MR. GREENBERG: -- and what happens to the money,  
22 the revenue that's generated, and he was specifically asked  
23 about this. This is at page 70 of his deposition transcript.  
24 I believe this may be in the record elsewhere. He says, "At  
25 the end of the day, all those sales is most of the money. The

1 sales all have money on them all the time, but most of the  
2 money gets transferred out of the company into a personal  
3 account of mine and then the next day it goes back into the  
4 administration company or the payroll company as it is  
5 required."

6 THE COURT: Okay.

7 MR. GREENBERG: So the money goes directly from the  
8 cab that's generating the fares, the series -- the single  
9 series entity that is operating that taxi cab and gets that  
10 fare in the first place, then gives the money to Mr. Nady.  
11 Mr. Nady then returns such monies as are necessary at that  
12 point to fund administration of the company, maintenance of  
13 the vehicles, payroll, etcetera.

14 THE COURT: Okay.

15 MR. GREENBERG: Whatever he doesn't need to return  
16 he keeps.

17 THE COURT: So what --

18 MR. GREENBERG: The --

19 THE COURT: -- do you want the Receiver to do?

20 MR. GREENBERG: What I want the Receiver to do is to  
21 compel that the series that's operating that medallion, remit  
22 the fares to A Cab, LLC, to the company. And --

23 THE COURT: So cut Mr. Nady out of that flow?

24 MR. GREENBERG: Right. Have -- the funds need to go  
25 back to the judgment debtor from all the medallion operations

1 and then -- and then the Receiver will have oversight as to  
2 what happens. I mean, Mr. Nady's presumably knows how to run  
3 a taxi business, I mean, they've been running a successful  
4 taxi business.

5 Again, we are not advocating that he should be  
6 removed from management of the business, but the funds need to  
7 go from the operators of the medallions into the judgment  
8 debtor's account, and then the Receiver will authorize the  
9 payment for maintenance costs, employee costs and so forth.

10 THE COURT: So the Receiver -- no payments could be  
11 made from the judgment debtor's accounts without approval of  
12 the Receiver?

13 MR. GREENBERG: That is correct, Your Honor. And  
14 the Receiver needs to restructure the business so that the --  
15 the fares generated by the medallions come back to the  
16 judgment debtor. Currently, they don't come to the --

17 THE COURT: When you say --

18 MR. GREENBERG: -- judgment debtor.

19 THE COURT: -- when you say restructure the business  
20 do you mean simply that Mr. Nady be cut out of the cash flow  
21 at least at that initial stage --

22 MR. GREENBERG: Correct. He -- he --

23 THE COURT: -- let the money go to the -- to the  
24 judgment debtor or debtors, and that it not be disbursed  
25 without the approval of the Receiver.

1 MR. GREENBERG: Correct. And -- and --

2 THE COURT: Which presumably would then disburse all

3 normal business expenses to be paid.

4 MR. GREENBERG: Correct, Your Honor, and that could

5 include an appropriate salary compensation to Mr. Nady for

6 managing the business. The Receiver would -- would have a

7 plan, would come to Your Honor for approval. We would

8 cooperate with that process.

9 THE COURT: Okay.

10 MR. GREENBERG: To the extent that there's profit

11 leftover that would be -- go to pay the creditors, my clients.

12 THE COURT: Okay. Let's get a snapshot response

13 from Mr. Shafer and see what he thinks of that.

14 MR. SHAFER: I think our snapshot response is that

15 we're getting sandbagged here. They're bringing up relief --

16 they've had plenty of opportunity to bring up the issue of a

17 Receiver; they've been collecting for months. And given the

18 issues that I have, I don't think we can capitulate to this

19 given the significant issues we think might exist.

20 THE COURT: The -- given --

21 MR. SHAFER: As far as the Receiver --

22 THE COURT: -- the what?

23 MR. SHAFER: -- as far as the appointment of the

24 Receiver and whether it conflicts with the licensing of it.

25 They've also asked for a restructuring. It is cleverly



1 argued, essentially, he wants to structure it so that no  
2 payments can be made to these separate companies. The  
3 payments can't be made to me as his -- their attorney to  
4 defend the case. The payments can't be made to their gas  
5 company --

6 THE COURT: Well --

7 MR. SHAFER: -- without appointment of a Receiver  
8 which is -- that is a possibility --

9 THE COURT: -- yeah, that --

10 MR. SHAFER: -- for a Receiver, but that's a  
11 significant --

12 THE COURT: -- that the Receiver would --

13 MR. SHAFER: -- expense.

14 THE COURT: -- would have the say-so, whether the  
15 money goes to those various places --

16 MR. SHAFER: Yeah. And that's a --

17 THE COURT: -- right?

18 MR. SHAFER: -- significant involved process, that  
19 substantially increases the expenses. And I don't know that  
20 there's --

21 THE COURT: Well, then what if -- what if initially  
22 the order did not quite go that far but simply said the  
23 Receiver will be made aware of all payments? In other words,  
24 that he -- he get access to the bank accounts of the debtors,  
25 judgment debtors, and that he be made aware of what payments

1 are going where.

2 MR. SHAFER: And I think my -- my response to that I  
3 think would be that we still have some of the same issues as  
4 far as briefing and the additional expense. And I don't know  
5 what additional value it would bring given that the Court has  
6 already required us to turn over the financial information as  
7 part of the judgment debtor exam process. I don't know  
8 what --

9 THE COURT: Well, that's on a one-time basis though,  
10 right?

11 MR. SHAFER: Yeah.

12 THE COURT: We're talking about doing something that  
13 we'd try to keep -- you know, once again we revisit the notion  
14 of whether to keep the goose alive.

15 MR. SHAFER: Well, it's not going to. And I just --

16 THE COURT: Why?

17 MR. SHAFER: Well, given the Court's instruction  
18 that A Cab can't transfer any funds to the other Series,  
19 that's going to shut down the business. And that's why I  
20 wanted to --

21 THE COURT: No, I say, what if initially it was  
22 merely that the Receiver be there and be able to monitor all  
23 those payments, not necessarily that the Receiver has to give  
24 permission for any payments to be made, but that be made aware  
25 of exactly what payments are going where?

1 MR. SHAFER: I think my response to that would be  
2 tied in with both the opportunity -- we'd like to have an  
3 opportunity to brief that issue for the Court and the  
4 potential complex -- complexities that might arise being a  
5 regulated business, and also our request for a stay that we  
6 hadn't really addressed at this point.

7 THE COURT: Yeah.

8 MR. SHAFER: But we had made a counter-motion for a  
9 stay for two reasons. First, there are some issues, some of  
10 which are the orders which were delivered today that we may  
11 need to be seeking a writ on appeal. We've not had an  
12 opportunity to do so which directly come into whether or not  
13 we can be collected on.

14 The other issue is that the Supreme Court has  
15 ordered a stay on the proceedings pending assignment to the  
16 Supreme Court Settlement Program. So A Cab can't take forward  
17 it's appeal and can't get the timely relief because it's been  
18 assigned to the Supreme Court Settlement Program.

19 And I'm hopeful that that might resolve the issues.  
20 But it would be best for all parties to go in on equal footing  
21 and not feel like we are unable to proceed in that Supreme  
22 Court Settlement Program.

23 THE COURT: Well, are you -- are you saying that  
24 because of the stay imposed that the Court, essentially, has  
25 lost jurisdiction and can't order any of these things?

1           MR. SHAFER: I -- well, I don't know on that issue.  
2 I think practically that would be the case. I mean, if the  
3 Supreme Court isn't proceeding, has instituted a stay, I think  
4 it would only be fair the District Court institute a stay for  
5 the same period of time until this matter can be heard through  
6 the Supreme Court Settlement Program.

7           THE COURT: Well, when you say through the Supreme  
8 Court Settlement Program --

9           MR. SHAFER: Um-h'm.

10          THE COURT: -- let's assume that these folks don't  
11 get along any better than they have in the past, and that it  
12 doesn't settle.

13          MR. SHAFER: Um-h'm.

14          THE COURT: How long would we simply hang fire?

15          MR. SHAFER: Until it -- until the stay is in place  
16 with the Supreme Court Settlement Program. It would track  
17 concurrently.

18          THE COURT: I'm sorry? Until --

19          MR. SHAFER: It would track concurrently. So  
20 because right now we can't go forward with the briefing on the  
21 issue and get it in front of the Supremes because it's  
22 assigned to the settlement program.

23          THE COURT: Yeah.

24          MR. SHAFER: And I think it is our argument that  
25 during that period of time collection should not be allowed to

1 occur that would harm A Cab's ability to either make a  
2 voluntary -- you know, a voluntary payment settlement, or to  
3 be hindered in its ability to address this. If we're  
4 constantly having to fight against collection and having to  
5 spend the time and resources there, it incurs a loss to  
6 plaintiff and a loss to A Cab by diverting resources which  
7 could be used to pay for or voluntarily given to plaintiffs to  
8 satisfy the judgment.

9 THE COURT: Is there any reason to believe that  
10 these folks will, after the knockdown, drag out that we've  
11 been through to this point, that they will be able to agree as  
12 to most anything, even the time fo day?

13 MR. SHAFER: I don't -- I --

14 THE COURT: I mean, I have to --

15 MR. SHAFER: No, I know.

16 THE COURT: -- look at that notion with a bit of a  
17 jaundiced eye.

18 MR. SHAFER: And I think that is absolutely  
19 appropriate. We have certainly had cases -- I've had cases  
20 where we think they are going to settle and they don't,  
21 wherein they don't --

22 THE COURT: Yeah.

23 MR. SHAFER: -- and they -- and then they end up  
24 settling.

25 THE COURT: Yeah.

1           MR. SHAFER: But I think that all parties recognize  
2 the seriousness of this judgment. While A Cab has issues with  
3 the -- some of the issues which led up to it and are on  
4 appeal, they recognize that even if some of those issues are  
5 not -- are, you know, remanded for further, you know, issues,  
6 that there is the cost of defense and the possibility that a  
7 judgment still may be entered against them.

8           THE COURT: Um-h'm.

9           MR. SHAFER: And so they are certainly willing to  
10 negotiate and have -- are motivated to resolve this. But I  
11 think that's our point is let's have an opportunity to sit  
12 down at the table.

13           And I can't speak to what happened before my  
14 involvement two months ago, but since I've been involved,  
15 there certainly hasn't been any discussion as to a potential  
16 resolution, so or that I'm aware of.

17           THE COURT: Um-h'm.

18           MR. SHAFER: But I think that's our request is that  
19 let's maintain the status quo until such time as this matter  
20 can at least be heard in front of a settlement conference and  
21 that there is a good faith opportunity to try to resolve this.

22           If my client -- if A Cab has to give up all its  
23 vehicles, it can't operate. It doesn't have any ability to  
24 try to resolve this. And it just -- it'll result in a  
25 liquidation and this matter will be mooted as a matter of

1 course.

2 As far as the payments and the representations as to  
3 what happened, respectfully, that is not necessarily what  
4 happens. Mr. Nady doesn't get payments himself personally.  
5 Payments are made to a --

6 THE COURT: Until what?

7 MR. SHAFER: The payments are not made to Mr. Nady  
8 personally.

9 THE COURT: It thought that's what his testimony  
10 was.

11 MR. SHAFER: Well, he was mistaken. They are made  
12 to a trust. And that is, again --

13 THE COURT: To his trust?

14 MR. SHAFER: To a trust, a trust.

15 THE COURT: Of which -- of which he is the trustor,  
16 I assume?

17 MR. SHAFER: Actually, he -- I don't -- I think  
18 someone else is the trustee for the trust.

19 THE COURT: Well, he is the trustor, he's the one  
20 who set up the trust?

21 MR. SHAFER: I believe so. And I don't know whether  
22 it's a revocable or a irrevocable trust or what the nature of  
23 the trust is. But my point is that we're -- we're going off  
24 with arguments about counsel -- about what's supposed to  
25 happen without things being fully briefed. And it's our

1 requesting [sic], that a request for stay, that everybody take  
2 a breath and take a step back to try to negotiate this and to  
3 reach a resolution which maximizes the return to plaintiffs to  
4 satisfy their judgment and doesn't shut down the company.

5 THE COURT: Well, you know, nine times out of ten I  
6 would be all ears on that --

7 MR. SHAFER: Well, I understand.

8 THE COURT: -- because parties typically can work  
9 out something that's better than, you know, some arbitrary  
10 third party coming in and ruling.

11 MR. SHAFER: Um-h'm.

12 THE COURT: But in this case, that has not been the  
13 case. That -- the history of this case all the way through  
14 has not involved most any kind of -- that kind of cooperation.  
15 It just hasn't.

16 MR. SHAFER: Well, I'd like to think I might make a  
17 difference but that might be a little --

18 THE COURT: Well --

19 MR. SHAFER: -- hubris on my part.

20 THE COURT: -- you know, I mean, I'm --

21 MR. SHAFER: So essentially --

22 THE COURT: So what are you asking the Court to do  
23 then?

24 MR. SHAFER: I'm asking the Court to deny their --  
25 their injunctive relief regarding the vehicles except as to



1 the four Toyotas identified in their motion.

2 THE COURT: Okay.

3 MR. SHAFER: To the extent that they were still the  
4 property of A Cab at the time they were -- the writ -- the  
5 order was served, and that we will go through the normal debt  
6 collection process including the judgment debtor exam, and  
7 propounding of the finances at that time.

8 I think that might actually help a settlement  
9 because they'll see what the actual finances of A Cab are at  
10 that point. And that there be a stay in place, at least a  
11 temporary stay so that we can take these issues, these orders  
12 up on appeal.

13 So at least, at the very least, maybe another stay  
14 for a month so that we can seek the appropriate relief either  
15 first in this court on a stay or to the Supremes on these new  
16 orders that were announced today.

17 THE COURT: All right. Mr. Greenberg, what's your  
18 view of the -- the question of what's the impact on anything  
19 that this Court might do, of the fact that the Supreme Court  
20 has placed a stay?

21 MR. GREENBERG: Your Honor, the Supreme Court has  
22 just stayed the appeal process. This is normal. I mean, you  
23 know, when you file an appeal almost all of the appeals are  
24 sent to the mediation program, and until the mediation efforts  
25 are fulfilled with respect to the appeal, briefing is

1 suspended. That's all that's happened here.

2 In respect to Your Honor staying proceedings in this  
3 case, Your Honor did stay proceedings for about two weeks last  
4 time we saw you. And I was hopeful during that time there  
5 would be discussions about trying to work out a resolution. I  
6 did get a phone call from Ms. Rodriguez who proposed something  
7 to me, I don't think it's appropriate for me to go into  
8 details. I did invite us to have a further dialogue at that  
9 point. She told me there would be no further dialogue. That  
10 proposal was not, in my mind, appropriate. And that was where  
11 that sort of ended. I wish it had extended further, Your  
12 Honor.

13 THE COURT: Um-h'm.

14 MR. GREENBERG: In respect to appointing a Receiver  
15 what I would suggest Your Honor might want to do here is to  
16 have a receiver who's empowered to monitor the operations of  
17 the business, form an accounting, come up with a proposal, not  
18 actually implement any proposal for operations, but come up  
19 with a proposal to submit to the Court to take over or to  
20 direct the operations of the business so that the revenue can  
21 be used to pay the class members.

22 And also invest the Receiver with the power to  
23 withhold use of the medallions if they do not get cooperation  
24 in preparing their report and gathering that information. The  
25 reason why that third element is necessary, Your Honor, is

1 because it's defendants' position that the medallions are  
2 actually being operated by people who aren't debtors to this  
3 case, all of these series LLCs.

4           So I can very easily envision if Your Honor appoints  
5 a Receiver over the judgment debtor they will come in and  
6 there will be very little for them to examine because the  
7 position of the defendants -- and I'm using "the defendants"  
8 broadly -- is well, this series LLCs are not defendants in  
9 this case. They're not the judgment debtor here. We don't  
10 have access to their information.

11           The only way the Receiver would be able to get  
12 access to that information would be if they had the power to  
13 withhold use of the medallions, because the medallions have  
14 been leased by the judgment debtor to all of these other  
15 series entities.

16           So, that is the key to getting anything done through  
17 the use of a Receiver here on behalf of the plaintiffs.  
18 Without that power, the Receiver is essentially powerless  
19 because I don't -- I don't think the judgment debtor is  
20 keeping a penny in their own account.

21           And presumably, none of the actual operations of the  
22 business, they will acknowledge, at least in respect to these  
23 proceedings, as being undertaken in the name of the judgment  
24 debtor. They've been working very hard to have everything  
25 undertaken in the name of, you know, hundreds of different

1 series LLCs that they continually change. We've been through  
2 this before, Your Honor. You don't need me to remind you of  
3 that background. So I would --

4 THE COURT: You would be able to structure an order  
5 that would accomplish those things without granting to the  
6 Receiver any managerial powers then for the present time?

7 MR. GREENBERG: That is correct. I mean, the  
8 Receiver -- the Receiver -- the only -- the power of the  
9 Receiver would be to examine the books and records of A Cab,  
10 LLC and the Series LLCs with which it has given use of the  
11 medallions to. And if -- if the medallion -- and if those  
12 separate series LLCs do not wish to cooperate with the  
13 Receiver's efforts, the Receiver will have the power to  
14 withhold use of the medallion. Because the medallion is a  
15 property of the judgment debtor, Your Honor.

16 THE COURT: Uh-huh.

17 MR. GREENBERG: I mean, we should be able to attach  
18 that and obtain -- and obtain control over it. That is the  
19 only sort of, you know, how would one say, leverage we have  
20 here, Your Honor, to get any sort of understanding of what's  
21 actually going on with the business here or cooperation  
22 because as Your Honor was commenting, Mr. Nady's entire sort  
23 of position here in this litigation has been that the business  
24 is operated by this multitude of separate entities that,  
25 therefore, are beyond reach of the Court's judgment.

1 I'm not asking the Court to get into this whole  
2 issue of, you know, setting aside or ignoring their claim that  
3 these series LLCs have separate legal status and so forth. I  
4 mean, we might get into that. But if we can side-step that  
5 issue, I think it's in the interest of my clients, it's in the  
6 interest of Your Honor.

7 Clearly, the medallions are possessed by the  
8 judgment debtor. There is no dispute over that. The use of  
9 those medallions is at the sufferance of the judgment debtor.  
10 If the Receiver who is appointed has control over the use of  
11 the medallions they can then get a complete financial picture  
12 as to what is going on with the operation of the business,  
13 what the series LLCs are doing with the medallions. And if  
14 they refuse to cooperate, we'll suspend use of the medallions.  
15 I mean, essentially, they'll have to cooperate or they'll go  
16 -- or the business will have to stop operating Your Honor.

17 Short of the Receiver having that power, I don't see  
18 that the Receiver's going to be do anything. And I'm not  
19 asking Your Honor to empower the Receiver to actually  
20 structure the business, as I was talking about before, and  
21 require that the funds come back into the judgment debtor at  
22 this point.

23 I believe that is justified, but if Your Honor  
24 doesn't want to go that far, Your Honor doesn't have to go  
25 that far. We can simply commission the Receiver to report

1 back with a plan based on their valuation of the business as  
2 to how the business could be conducted to ensure that the  
3 judgment creditors here, my clients, actually get paid because  
4 the money is in the continuing operation of the business.

5           In respect to the defendants' request to continue a  
6 stay of these proceedings, as I was explaining to Your Honor  
7 before, the business seems to have a positive cash flow. It  
8 could be \$50,000 a month on average, it could be close to a  
9 million dollars a year. I don't know. In prior years, Mr.  
10 Nady did present financial information indicating that the  
11 business was clearing in excess of a million dollars a year as  
12 recently as, I believe, 2015, or 2014.

13           I need to do something on behalf of my clients  
14 here, Your Honor, and that's why we're here. I would much  
15 rather we not be here. I'd much rather there was some  
16 cooperative basis to resolve this case.

17           I mean, I believe defendants haven't proceeded to  
18 bankruptcy court because -- presumably because the business is  
19 solvent. If we went to bankruptcy court, I suspect the  
20 bankruptcy court would compel the payment of not necessarily  
21 the entire judgment to my clients, but probably a lot of it.  
22 And they don't want to pay it.

23           As well as the fact that the bankruptcy court is  
24 going to ignore the series LLC status. There is very well-  
25 established law that the bankruptcy court is not going to

1 ignore the related entity status. They will look at it as a  
2 single debtor and a single business.

3 And to the extent that there were transfers out of  
4 the corporation to Mr. Nady or to the trust, they may also  
5 look to set those aside in bankruptcy court.

6 Now, I know defendants have said, well, to the  
7 extent that there's been transfers, we have our remedy, there  
8 can be a fraudulent conveyance; Your Honor, we've been  
9 litigating this case, as you've said, for many years now.

10 THE COURT: Yeah.

11 MR. GREENBERG: The last thing I have enthusiasm for  
12 is to be bringing satellite litigation regarding, you know,  
13 conveyance issues.

14 So I would like to have Your Honor order the  
15 turnover of the four vehicles for sale by the Sheriff.

16 And by the way, Your Honor, I do have information  
17 relating to the other two vehicles, and I will concede upon  
18 close examination, if Your Honor wants to look at this -- the  
19 Ford Sports Van apparently is jointly titled to A Cab series,  
20 LLC and another entity. And I'd ask Your Honor only to direct  
21 the turnover as to motor vehicles exclusively titled to the  
22 judgment debtor. So, presumably, that would be excluded from  
23 the scope of the order. This is an investigative report, this  
24 is not the actual title document. The other Ford vehicles, I  
25 gave Your Honor the title documents I got from the DMV. And

1 there really isn't any dispute that those are clearly and  
2 exclusively titled, the four Toyotas, to A Cab, LLC. The  
3 other two vehicles --

4 THE COURT: Have you already done a Writ of  
5 Execution on those and has the defendant, you know, filed any  
6 exemption?

7 MR. GREENBERG: Well, Your Honor, I haven't, in  
8 part, because the Sheriff's Office' written instructions say  
9 they need a license plate number. I don't have a license  
10 plate number. They need a license plate number because --

11 THE COURT: Oh.

12 MR. GREENBERG: -- because they want to -- I guess  
13 they want to visually be able to find the vehicle. And in  
14 addition, they want a \$400 deposit per vehicle for a tow truck  
15 and so forth and so on.

16 I already have \$50,000 in costs in this case, close  
17 to it, invested Your Honor. I could -- I could proceed in  
18 that fashion. It just -- it just seems unduly burdensome and  
19 inefficient. I believe if Your Honor issues the order and  
20 directs that they cooperate with the Sheriff they will  
21 cooperate with the Sheriff. The vehicles will be turned over.  
22 I mean, the Sheriff can go to the -- their place of  
23 business. The vehicles could be out in use. They could be,  
24 you know, wherever. There's -- there's dozens of vehicles  
25 that they have. I don't know if the Sheriff can really locate



1 them effectively. My impression is it would be very difficult  
2 for them to execute in that fashion.

3 THE COURT: Interesting question; what's -- what  
4 does the Sheriff's Office do if you have a vehicle that  
5 doesn't have a license plate?

6 MR. SHAFER: Well --

7 MR. GREENBERG: I -- yes --

8 MR. SHAFER: I can address that.

9 THE COURT: Yeah.

10 MR. SHAFER: They will take it. We've done it many  
11 times. They do not require the license plate.

12 THE COURT: Okay. Here's my inclination and you  
13 guys can see if anybody talks me out of it. My inclination is  
14 to take a look -- a hard look at any proposed order that the  
15 plaintiff might put forward at this time. I -- I need  
16 something that gives a concrete idea of what the powers are  
17 that are given to a Receiver at this point. And I think  
18 before really addressing that further, I really need to see  
19 what is it exactly that you're -- you're asking the Receiver  
20 to be able to do.

21 MR. SHAFER: To that end, Your Honor, could we treat  
22 their motion today as an oral motion? We could then have 10  
23 days to file a response. We could even do it a little  
24 shorter, I suppose, on the issue of --

25 THE COURT: Well, it's an oral --

1 MR. SHAFER: -- the Receiver.

2 THE COURT: -- motion to appoint a Receiver; is that  
3 what you're saying?

4 MR. SHAFER: Yeah, that's a -- this is the first  
5 we're hearing --

6 THE COURT: Well, they've --

7 MR. SHAFER: -- of it.

8 THE COURT: -- they -- they did ask for that in  
9 their countermotion previously.

10 MR. SHAFER: I think that was just other relief.  
11 There wasn't the -- we would like to have the opportunity to  
12 respond on the issue of Receiver particularly as it applies to  
13 the statutory issues.

14 THE COURT: Well, I think that --

15 MR. SHAFER: I mean, I think --

16 THE COURT: -- that -- did it not --

17 MR. SHAFER: -- even until the end of next week.

18 THE COURT: -- did that motion not specifically say  
19 appoint a Receiver?

20 MR. GREENBERG: Yes, Your Honor On October 15th,  
21 the defendants did -- did file an Opposition to the  
22 countermotion and, I mean, it's fairly short. The  
23 countermotion did specifically ask for, as Your Honor recited  
24 earlier, a variety of different relief, or proposed a variety  
25 of different relief including the appointment of a Receiver.

1 THE COURT: Um-h'm.

2 MR. GREENBERG: And --

3 MR. SHAFER: Because we have significant concerns  
4 regarding the effect that an appointment of a Receiver,  
5 especially if it has coercive powers. It can do violence to  
6 the company, including withholding improperly of revenues  
7 under a leased medallion. They have represented that these  
8 are the property of defendant. They have not done so -- that  
9 is not correct.

10 Under the case of Hagerman v. Tom Lee that we cited  
11 to in our Opposition, if there is a claim by a third party to  
12 the property it cannot be assigned without a hearing. There  
13 has to be -- they have to bring them into due process.

14 The series LLC have a claim of right or a claim of  
15 property as to these medallions, or at least to use of them.  
16 And so the Court can't assign a Receiver that does -- that can  
17 withhold that, without bringing them in as a property third  
18 party, anymore than a Receiver can withhold payment to me as  
19 their attorney or demand money back that I have been paid as  
20 an attorney for providing services to A Cab.

21 But that's what they're asking for is the power to  
22 withhold payment to anybody who doesn't cooperate without --

23 THE COURT: Well, I don't --

24 MR. SHAFER: And on that issue --

25 THE COURT: I'm not -- I'm not -- you're talking

1 about what the precise powers are that they're -- that they're  
2 asking for. What I'm saying is, let me get a clear view of  
3 what the plaintiff is requesting, because I kind of get this  
4 (indicates), I kind of get, you know, it could do this and  
5 this and this, but then again, then it gets more --

6 MR. SHAFER: Okay.

7 THE COURT: -- invasive, if you will, or it gets  
8 more powers. I want to see what's the least intrusive powers  
9 that a Receiver could do so that at least the Court can get a  
10 clear picture of what's going on in the company.

11 MR. GREENBERG: Yes, Your Honor.

12 THE COURT: So that's why I want to see a specific  
13 proposal. I'm not suggesting that -- that I'd simply submit  
14 it in chambers and I would either sign it or not sign it. I  
15 think I'd have to come back and see what your further  
16 objections are. But in point of fact, I'm looking at page six  
17 of the plaintiffs' counter-motion, and that was one of the  
18 specific requests of the -- of the plaintiff.

19 So in terms of, you know, you asking them for ten  
20 days to respond, well, that time has kind of come and gone.  
21 This is a fluid issue because it makes all the difference in  
22 the world as to what powers the Receiver would have and that's  
23 what I need to have sorted out.

24 I'm going to ask the plaintiff to submit such an  
25 order to the Court and make it very precise as to what powers

1 the Receiver would have. And then let me -- let me just.  
2 (Court/Clerk conferring)  
3 THE COURT: How long would it take you to get me a  
4 proposed order on the Receiver?  
5 MR. GREENBERG: I would hope I could do that towards  
6 the end of next week, Your Honor. Is that -- is that  
7 appropriate for the Court's schedule?  
8 THE COURT: That's not -- that's not going to work.  
9 We need to know before we go dark for the -- for Christmas.  
10 MR. GREENBERG: Okay. What would be suitable for  
11 the Court's schedule?  
12 THE COURT: I would like to have you get it to me by  
13 the end of this week and come back next week on Thursday at  
14 10:30. And --  
15 MR. GREENBERG: Yes. We will comply with that  
16 desire, Your Honor.  
17 THE COURT: Okay.  
18 MR. GREENBERG: I will make it a point --  
19 THE COURT: And that --  
20 MR. GREENBERG: -- to do so.  
21 THE COURT: If you can get it by the end of this  
22 week then the defendants have an opportunity to see  
23 specifically what powers I'm contemplating doing. And --  
24 anyway, that's it.  
25 MR. SHAFER: It's my hope --

1 MR. GREENBERG: Your Honor, I can also give Your  
2 Honor two different potential orders involving different sort  
3 of approaches. It sounds to me like Your Honor is concerned  
4 at having, as you said, a structure that would be as minimally  
5 intrusive as possible --

6 THE COURT: Yeah.

7 MR. GREENBERG: -- in terms of interfering with the  
8 defendants' business operation.

9 THE COURT: Right.

10 MR. GREENBERG: But also, hopefully as a result,  
11 giving the Court a clear understanding of the financial  
12 circumstances and the options that would be available to help  
13 the -- my clients, the judgment creditors here, you know, get  
14 their judgment satisfied. I will see that something gets  
15 distributed hopefully by midday Friday. I --

16 THE COURT: All right.

17 MR. GREENBERG: I'm not going to be working too late  
18 Friday. Your Honor, question just in respect to the judgment  
19 debtor examination which intersects this to some extent  
20 because that does involve some disclosure of the financial  
21 information; you indicated you were granting the request, and  
22 part of the request is that the financial statements be  
23 produced, particularly, the ones that have been filed with the  
24 Taxi Commission, because they do have to file some yearly  
25 statements with the Taxi Commission as to their operations.

1 I had requested that the judgment debtor exam be  
2 before Your Honor. And I had requested that simply because of  
3 my --

4 THE COURT: Oh, that's right.

5 MR. GREENBERG: -- my feeling is that if it is not,  
6 which is typical, I'm afraid I'm going to run into some  
7 problems with it not being effective. But that is within your  
8 discretion, Your Honor, and I just -- you didn't say one way  
9 or the other your inclination in that regard.

10 THE COURT: Well, I don't -- I don't really see that  
11 that's likely to happen before the end of the year at this  
12 point.

13 MR. GREENBERG: I understand, Your Honor.

14 THE COURT: So we can certainly --

15 MR. GREENBERG: In submitting an order --

16 THE COURT: -- consider that.

17 MR. GREENBERG: -- on that should I include a  
18 recital that the Court will set a date for the examination --

19 THE COURT: If you wish --

20 MR. GREENBERG: -- for Your Honor?

21 THE COURT: If you wish you can -- you can insert  
22 it. I mean, I don't -- I don't know what the chances are that  
23 the Court's going to wind up just signing any order that you  
24 submit at this point anyway.

25 MR. SHAFER: Okay.

1           THE COURT: But as far as a Receiver is concerned  
2 anyway, but --

3           MR. GREENBERG: Well, yes, Your Honor, I just --

4           THE COURT: -- I just want to be able to consider  
5 it, but with a clearer picture of what enumerated powers the  
6 Receiver would have.

7           MR. GREENBERG: I understand. The order in respect  
8 to the Receiver will be a priority for this week. In terms of  
9 the judgment debtor examination, that's a different order,  
10 different issue --

11          THE COURT: Yeah.

12          MR. GREENBERG: -- Your Honor. I was just trying to  
13 get your information on your -- your inclination on that  
14 because you did not clearly address it in what you discussed  
15 with us otherwise, Your Honor.

16          MR. SHAFER: My suggestion on that point is we'll  
17 try to mutually agree on a date that somebody on behalf of A  
18 Cab would be available to be subject to that examination.

19          THE COURT: Um-h'm.

20          MR. SHAFER: And if we can't resolve it, at a  
21 reasonable point, they will give us three available dates and  
22 we'll pick one of them.

23          THE COURT: Um-h'm.

24          MR. SHAFER: So that they --

25          THE COURT: Why don't you -- why don't you guys make



1 it a priority of trying to hammer that out during this week as  
2 well --

3 MR. SHAFER: I'm happy to do that.

4 THE COURT: -- so that when you come back -- I'm  
5 going to have you back next Thursday at 10:30.

6 MR. SHAFER: Okay.

7 MR. GREENBERG: Yes, Your Honor.

8 THE COURT: And at that point, hopefully, you can  
9 tell me there's some agreement. Now, of course, there's  
10 nothing to preclude you all from engaging in that -- in those  
11 discussions, those settlement discussions that Mr. Shafer  
12 brought up, potential for some sort of overall agreement. I  
13 would certainly welcome it. But --

14 MR. SHAFER: As would I.

15 THE COURT: -- it is --

16 MR. GREENBERG: As would I, Your Honor.

17 THE COURT: -- we're in the mode of a judgment has  
18 been rendered and the Court is trying to do what is  
19 unfortunate, but necessary. So I don't think the defendant  
20 can count on the Court granting the leeway that the Court did  
21 prior to judgment.

22 Frankly, I feel that the Court's earnest attempt to  
23 make sure that the goose that lays the golden egg doesn't get  
24 done in, in the process, has not worked to this point. It has  
25 not worked.

1           MR. SHAFER: And I respect the Court's position  
2 regarding --  
3           THE COURT: Yeah.  
4           MR. SHAFER: -- this is post-judgment although I  
5 believe that there's due process, even post-judgment, AND  
6 certainly as to the third parties that have not been subject  
7 to any jurisdictional elements. And I'm concerned that that's  
8 where we get into the problem is the --  
9           THE COURT: Yeah.  
10          MR. SHAFER: -- the shortcuts that are being taken  
11 have the -- have a likelihood to infringe upon the rights of  
12 those third parties and we don't want to have a --  
13          THE COURT: Well, what shortcuts are you talking  
14 about?  
15          MR. SHAFER: Well, for example, the TRO and the  
16 turnover instead of proceeding to through the Writ of  
17 Execution.  
18          THE COURT: Well, I'm not -- I'm not -- I haven't  
19 agreed to any turnover order at this point.  
20          MR. SHAFER: And I -- and I -- and I appreciate  
21 that.  
22          THE COURT: I think that's a problematic area you  
23 need to address further.  
24          MR. GREENBERG: Can we revisit that when we  
25 reconvene next week, Your Honor?

1 THE COURT: Yeah.

2 MR. GREENBERG: We will leave the TRO in place?

3 THE COURT: Yeah. Yeah, it will remain in place.

4 And most specifically, what I don't want to have happen is

5 that any of the named defendants get rid of any property in

6 the -- you know, without --

7 MR. SHAFER: Okay.

8 THE COURT: -- without specific permission of the

9 Court to do so.

10 MR. SHAFER: And just for clarification, the two

11 vehicles which are not the property A Cab, the Ford and the

12 Mercedes, you're not ordering them to --

13 THE COURT: Right. I think there's --

14 MR. SHAFER: -- them be restrained?

15 THE COURT: -- agreement that both the Mercedes and

16 the Ford Transit Van are --

17 MR. GREENBERG: Uh --

18 THE COURT: -- are not subject to this order; is

19 that right?

20 MR. GREENBERG: Well, Your Honor, the information on

21 the Mercedes, I can show it here to counsel.

22 THE COURT: Okay.

23 MR. GREENBERG: My investigative information is

24 title is held solely in the name of A Cab, LLC. That is not

25 true with the Ford. I apologize for my oversight.

1 THE COURT: Okay.

2 MR. SHAFER: Well, respectfully, this from a 2013

3 issue date. I've been advised that it is now titled in

4 Arizona in another entity's name. So --

5 MR. GREENBERG: They --

6 THE COURT: Well, there you go.

7 MR. GREENBERG: Then they're not restrained, Your

8 Honor, if the title --

9 MR. SHAFER: Well and I --

10 MR. GREENBERG: -- is not --

11 MR. SHAFER: -- and I agree. But the order

12 specifically references that car and VIN number. And so --

13 THE COURT: Yeah.

14 MR. SHAFER: -- that's the problem.

15 THE COURT: Well, let's do this then. I'm going to

16 leave that in there. It's not being turned over.

17 MR. SHAFER: Okay.

18 THE COURT: Your clients are simply ordered not to

19 get rid of any such property. And -- and if it's in

20 Arizona --

21 MR. SHAFER: Well, the vehicle is located here

22 sometimes.

23 THE COURT: All right. Well, if -- whatever. If

24 you think that it's not subject to the Court's order for some

25 reason, then I suggest you submit some evidence to that

1 effect.

2 MR. SHAFER: I -- well, that's -- again, that's  
3 where we came into the Writ of Execution process. But in --  
4 under the --

5 THE COURT: Yeah, I agree with the rest of the  
6 stuff.

7 MR. SHAFER: Yeah.

8 THE COURT: But we're already to this point with  
9 these named items. And we're not talking about even turning  
10 it over. This is not about -- what I am most concerned with  
11 is -- at this moment is not so much whether it all gets turned  
12 over or what if anything --

13 MR. SHAFER: Yeah.

14 THE COURT: -- gets turned over; what I am concerned  
15 about is whether they get rid of it so it's outside of the  
16 Court's power to do anything with it.

17 MR. SHAFER: And if it were A Cab's property, I  
18 absolutely agree. But they have no more jurisdiction over  
19 this Mercedes than they have over my personal vehicle, if it's  
20 a third party that's unrelated to this. So I --

21 THE COURT: Well, I trust that you'll be able to  
22 show that to the Court then.

23 MR. GREENBERG: And, Your Honor, I fully agree. If  
24 it's not titled to the judgment debtor exclusively it should  
25 not be subject --

1 THE COURT: Yeah.

2 MR. GREENBERG: -- to the TRO.

3 MR. SHAFER: Well, and respectfully, under the case  
4 -- established case law you can't -- a third party cannot be  
5 required to turn over information regarding its finances  
6 unless they are subject to the jurisdiction that's established  
7 in the procedures either through a Writ of Execution or  
8 another action. So, I mean --

9 THE COURT: All right. I think --

10 MR. SHAFER: -- by -- by ordering --

11 THE COURT: -- you'd better start your Writ of  
12 Execution process at least as far as the Mercedes is  
13 concerned.

14 MR. GREENBERG: Your Honor, I understand. And  
15 again, there's no dispute. If the title isn't held by the  
16 judgment debtor we are not asking for judicial action against  
17 it.

18 Just one other question, Your Honor; when you  
19 announced your decision on the award of the attorneys' fees  
20 and costs, the amount of the costs that were sought were  
21 submitted to Your Honor initially and then about eight days  
22 later I had submitted a supplement to Your Honor and there was  
23 separate briefing on that regarding approximately another  
24 \$1400 in costs --

25 THE COURT: Yeah.

1           MR. GREENBERG:  -- that was omitted from the initial  
2 submission.  
3           THE COURT:  That's correct.  
4           MR. GREENBERG:  I just want to be clear in terms of  
5 what Your Honor is granting in respect to the costs request so  
6 we can get --  
7           THE COURT:  The --  
8           MR. GREENBERG:  -- an order to Your Honor  
9 accordingly --  
10          THE COURT:  The --  
11          MR. GREENBERG:  -- with -- yes.  
12          THE COURT:  The amount in the supplement, what the  
13 total expenses or costs at that point, were \$46,528.07.  And  
14 the -- order of the Court is that those amounts are costs and  
15 they are ordered to be collectible.  
16          MR. GREENBERG:  Does -- does that mean that Your  
17 Honor is -- is -- is denying the request for the costs that  
18 were specified in the -- in the supplement?  
19          THE COURT:  Oh, I'm sorry.  I thought --  
20          MR. GREENBERG:  Yeah.  
21          THE COURT:  -- the supplement -- I thought the  
22 supplement, the total at the end of the supplement was --  
23 that's the amount it says.  It says --  
24          MR. GREENBERG:  Um --  
25          THE COURT:  -- paragraph number 4, "As per above and

1 set forth in the motion filed October 12th, my office requests  
2 reimbursement."

3 MR. GREENBERG: Yeah, \$46,528.07. I apologize, Your  
4 Honor.

5 THE COURT: Yeah.

6 MR. GREENBERG: It's my confusion.

7 THE COURT: That's the amount that is ordered --

8 MR. GREENBERG: Thank you.

9 THE COURT: -- of costs.

10 MR. GREENBERG: We will -- we will submit an order  
11 accordingly to the Court.

12 THE COURT: All right.

13 MR. GREENBERG: And I will have a proposed order to  
14 Your Honor Friday, as we discussed. And --

15 THE COURT: All right So we will see you all on --

16 MR. DUBOWSKY: Tuesday, Your Honor.

17 THE COURT: You're on Tuesday?

18 MR. DUBOWSKY: Yes, Your Honor, for the --

19 THE COURT: Oh, boy.

20 MS. DUBOWSKY -- the Special Master's motion is on  
21 for Tuesday of next week, one week from today, Your Honor.

22 THE COURT: Is that something that is resolvable  
23 without taking account of the rest of this that's going on?  
24 I'm wondering if that should be moved over to Thursday.

25 MR. SHAFER: I'm sure we'd all appreciate coming on



1 one day.

2 THE COURT: Yeah. I think it would --

3 MR. DUBOWSKY: I'd like to keep it on Tuesday, Your  
4 Honor. It is a separate issue and I do have --

5 THE COURT: Yeah.

6 MR. DUBOWSKY: -- I do have -- I potentially will  
7 have at least two people coming in, one from New York City,  
8 one from Los Angeles. So they're already set hopefully to be  
9 here on Tuesday for the hearings.

10 THE COURT: Ah.

11 MR. DUBOWSKY: I'm requesting that it stay on  
12 Tuesday.

13 THE COURT: All right. Okay. We'll do that. We'll  
14 leave it on Tuesday.

15 MR. DUBOWSKY: Thank you, Your Honor.

16 THE COURT: All right. Under other circumstances,  
17 I'd be happy to put those together, but.

18 MR. SHAFER: And I apologize, one final  
19 clarification.

20 THE COURT: Yeah.

21 MR. SHAFER: You'd mentioned that there was a  
22 preclusion of transfers to the series, LLC. Are you  
23 precluding any transfer of funds between the different series?  
24 Are you precluding -- you're not precluding A Cab for paying  
25 the maintenance company for the maintenance expenses or the

1 employee company for the employee expenses?

2 THE COURT: No. I'm really more -- more -- was

3 dwelling on the -- on property, not funds per se.

4 MR. SHAFER: Okay.

5 THE COURT: Not the --

6 MR. SHAFER: Okay. So it can continue --

7 THE COURT: -- business expenses.

8 MR. SHAFER: -- to operate and pay for the --

9 THE COURT: Yeah.

10 MR. SHAFER: -- the value its received?

11 THE COURT: Yeah.

12 MR. SHAFER: Okay. Thank you.

13 THE COURT: I'm not -- I'm not trying to -- that

14 would be a total shutdown.

15 All right. We'll see you Tuesday then.

16 MR. DUBOWSKY: Thank you, Your Honor.

17 THE COURT: Okay.

18 MR. GREENBERG: Yes, Your Honor, in terms of the --

19 the Court's -- well, we need to submit an order to the Court

20 and we will do so. I'm just -- to be clear on the -- the TRO,

21 the TRO as signed by the Court was in terms of the motor

22 vehicles. Your Honor from the Bench had mentioned restraining

23 transfers of property from the Series -- from A Cab or the

24 Series LLCs to Mr. Nady or any trust or family members he

25 controlled. We're not -- our position, Your Honor, is because