

1 **2515**

2 CURTIS B. COULTER, ESQ.
3 NSB #3034
4 Law Offices of Curtis B. Coulter, P.C.
403 Hill Street
5 Reno, Nevada 89501
6 P: 775 324 3380
F: 775 324 3381
ccoulter@coulterlaw.net

Electronically Filed
Jan 22 2020 01:28 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

14 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
15
16 IN AND FOR THE COUNTY OF WASHOE

17 JEFF MYERS, Individually and on
behalf of others similarly situated,
18
19 Plaintiffs,

Case No.: CV 15-01359
Dept.: 10

20 vs.

21 RENO CAB COMPANY, INC.,
22 Defendant.

23 ARTHUR SHATZ and RICHARD
24 FRATIS, Individually and on behalf of
others similarly situated,
25 Plaintiffs,

Case No.: CV 15-01385
Dept.: 10

26 vs.

27 ROY L. STREET, individually and
28 doing business as CAPITAL CAB,
Defendant.

NOTICE OF APPEAL

1 Notice is hereby given that JEFF MYERS, ARTHUR SHATZ and RICHARD
2 FRATIS, plaintiffs above named, by and through their counsel of record Leon
3 Greenberg, Esq., hereby appeals to the Supreme Court of Nevada from the District
4 Court's order entered on December 16, 2019 granting Defendants' Reno Cab
5 Company and Roy L. Street, dba CAPITAL CAB's Motion for Summary Judgment
6 and resulting in the entry of a final judgment and all prior Orders entered in these
7 consolidated cases made subject to appeal by such final judgment.

8 **AFFIRMATION:** The undersigned does hereby affirm that the preceding
9 document, Notice of Appeal, does not contain the personal information of any person.

10 Dated: January 13, 2020

11 Submitted by

12 Leon Greenberg Professional Corporation

13 */s/ Leon Greenberg*

14 Leon Greenberg, Esq.
15 LEON GREENBERG PROFESSIONAL
CORPORATION
16 Attorney for the Plaintiffs
2965 South Jones Boulevard - Suite E3
17 Las Vegas, Nevada 89146
(702) 383-6085
18 leongreenberg@overtimelaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Leon Greenberg Professional Corporation and that on this date I caused to be served a true copy of

PLAINTIFFS’ NOTICE OF APPEAL

in this action by electronically filing the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

MARK G. SIMONS, ESQ.
RICARDO N. CORDOVA, ESQ.
SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509

Attorneys for Reno Cab Company, Inc. and
Roy L. Street, dba Capital Cab

Dated: January 13, 2020

/s/ Sydney Saucier

Sydney Saucier

1 **1310**

2 CURTIS B. COULTER, ESQ.
3 NSB #3034
4 Law Offices of Curtis B. Coulter, P.C.
5 403 Hill Street
6 Reno, Nevada 89501
7 P: 775 324 3380
8 F: 775 324 3381
9 ccoulter@coulterlaw.net

10 LEON GREENBERG, ESQ., SBN 8094
11 DANA SNIEGOCKI, ESQ., SBN 11715
12 Leon Greenberg Professional Corporation
13 2965 South Jones Blvd- Suite E3
14 Las Vegas, Nevada 89146
15 (702) 383-6085
16 (702) 385-1827(fax)
17 leongreenberg@overtimelaw.com
18 dana@overtimelaw.com
19 Attorneys for Plaintiffs

20 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
21 IN AND FOR THE COUNTY OF WASHOE

22 JEFF MYERS, Individually and on
23 behalf of others similarly situated,
24
25 Plaintiffs,

Case No.: CV 15-01359
Dept.: 10

26 vs.

27 RENO CAB COMPANY, INC.,
28
29 Defendant.

30 ARTHUR SHATZ and RICHARD
31 FRATIS, Individually and on behalf of
32 others similarly situated,
33
34 Plaintiffs,

Case No.: CV 15-01385
Dept.: 10

35 vs.

36 ROY L. STREET, individually and
37 doing business as CAPITAL CAB,
38
39 Defendant.

CASE APPEAL STATEMENT

1 1. Name of appellants filing this case appeal statement:

2 All plaintiffs: Jeff Myers, Arthur Shatz and Richard Frantis.

3 2. Identify the judge issuing the decision, judgment, or order appealed from:

4 Honorable Elliott A. Sattler, Division D10

5 3. Identify each appellant and the name and address of counsel for each
6 appellant:

7 Jeff Myers, Arthur Shatz and Richard Frantis. All are represented by Leon
8 Greenberg, 2965 South Jones Blvd- Suite E3, Las Vegas, Nevada 89146
9 (702) 383-6085

10 4. Identify each respondent and the name and address of appellate counsel, if
11 known, for each respondent:

12 Respondents: Reno Cab Company, Roy L. Street, individually and doing
13 business as Capital Cab. All are represented by Mark G. Simons, Esq., Ricardo N.
14 Cordova, Esq., Anthony Hall, Esq., Simons Hall Johnston PC, 6490 S. McCarran
15 Blvd., Ste. F-46, Reno, NV 89509.

16 5. Indicate whether any attorney identified above in response to question 3
17 or 4 is not licensed to practice law in Nevada and, if so, whether the district court
18 granted that attorney permission to appear under SCR 42 (attach a copy of any district
19 court order granting such permission):

20 All are admitted to practice law in Nevada.

21 6. Indicate whether appellant was represented by appointed or retained
22 counsel in the district court:

23 Appellants were represented by retained counsel.

24 7. Indicate whether appellant is represented by appointed or retained counsel
25 on appeal:

26 Appellants are represented by retained counsel.

1 8. Indicate whether appellant was granted leave to proceed in forma
2 pauperis, and the date of entry of the district court order granting such leave:
3 Not applicable.

4 No. 9. Indicate the date the proceedings commenced in the district court (e.g.,
5 date complaint, indictment, information, or petition was filed):

6 *Myers v. Reno Cab* was commenced on January 21, 2015 in the District Court
7 for the First Judicial District; *Shatz and Fratis v. Street* was commenced on January
8 16, 2015 in the District Court for the First Judicial District; both cases were
9 subsequently transferred to the District Court for the Second Judicial District and via
10 an Order entered by that Court on January 3, 2017 consolidated for all further
11 proceedings except for trial.

12 10. Provide a brief description of the nature of the action and result in the
13 district court, including the type of judgment or order being appealed and the relief
14 granted by the district court:

15 Both actions allege putative class claims under NRCP Rule 23 seeking unpaid
16 minimum wages alleged to be owed to taxi cab driver employees of the defendants
17 pursuant to Article 15, Section 16, of the Nevada Constitution (the Minimum Wage
18 Amendment or “MWA”) and penalties pursuant to NRS 608.040 arising from the
19 failure to pay such minimum wages. The district court’s Order of December 16, 2019
20 granted summary judgment to all defendants constituting a final judgment in the
21 defendants’ favor by finding that none of the plaintiffs could make the claims asserted
22 because, as a matter of law, they were not employees of any defendant. It arrived at
23 that conclusion based upon the undisputed fact that each plaintiff entered into a lease
24 agreement with the defendant to operate the taxicab that they drove, such lease
25 agreement having been approved pursuant to NRS 706.473 by the Nevada
26 Transportation Authority. The district court found that such approval of that lease
27 agreement rendered all of the plaintiffs, as a matter of law, independent contractors
28 and not employees for the purposes of the MWA and NRS 608.040.

1 11. Indicate whether the case has previously been the subject of an appeal to or
2 original writ proceeding in the Supreme Court and, if so, the caption and Supreme
3 Court docket number of the prior proceeding:

4 No prior appeal or writ proceeding has been taken in this case.

5 12. Indicate whether this appeal involves child custody or visitation:

6 The complaint does not involve child custody or visitation.

7 13. If this is a civil case, indicate whether this appeal involves the possibility
8 of settlement:

9 Based on the parties' prior communications, and their unsuccessful private
10 mediation held in December of 2018 with Retired Judge Brent Adams, appellants do
11 not believe settlement of the appeal is possible.

12
13 **AFFIRMATION:** The undersigned does hereby affirm that the preceding
14 document, Notice of Appeal, does not contain the personal information of any person.

15 Dated: January 13, 2020

16 Submitted by

17 Leon Greenberg Professional Corporation

18 /s/ *Leon Greenberg*

19 Leon Greenberg, Esq.
20 LEON GREENBERG PROFESSIONAL
CORPORATION
21 Attorney for the Plaintiffs
22 2965 South Jones Boulevard - Suite E3
Las Vegas, Nevada 89146
(702) 383-6085
leongreenberg@overtimelaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of Leon Greenberg Professional Corporation and that on this date I caused to be served a true copy of

CASE APPEAL STATEMENT

in this action by electronically filing the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

MARK G. SIMONS, ESQ.
RICARDO N. CORDOVA, ESQ.
SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509

Attorneys for Reno Cab Company, Inc. and
Roy L. Street, dba Capital Cab

Dated: January 13, 2020

/s/ Sydney Saucier

Sydney Saucier

**SECOND JUDICIAL DISTRICT COURT
STATE OF NEVADA
COUNTY OF WASHOE**

Case History - CV15-01385

Case Description: ARTHUR SHATZ ET AL VS. ROY STREET ET AL (D10)

Case Number: CV15-01385 Case Type: OTHER TORT - Initially Filed On: 7/16/2015

Parties

<u>Party Type & Name</u>	<u>Party Status</u>
JUDG - BARRY L. BRESLOW - D8	Party ended on: 1/11/2017 5:17:55PM
JUDG - ELLIOTT A. SATTLER - D10	Active
JUDG - SCOTT N. FREEMAN - D9	Party ended on: 12/11/2015 2:31:37PM
JUDG - CONNIE J. STEINHEIMER - D4	Party ended on: 12/9/2015 12:27:37PM
PLTF - ARTHUR SHATZ - @1279127	Active
PLTF - RICHARD FRATIS - @1279128	Active
DEFT - ROY L STREET - @1279129	Active
DEFT - CAPITAL CAB - @1279130	Active
ATTY - Curtis Brent Coulter, Esq. - 3034	Active
ATTY - Therese M. Shanks, Esq. - 12890	Active
ATTY - Andrew C. Joy, Esq. - 13162	Active
ATTY - Ricardo N. Cordova, Esq. - 11942	Active
ATTY - Michael A. Pintar, Esq. - 3789	Active
ATTY - Mark G. Simons, Esq. - 5132	Active

Disposed Hearings

- 1 Department: D8 -- Event: Request for Submission -- Scheduled Date & Time: 11/18/2016 at 09:18:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT
Event Disposition: S200 - 1/11/2017
- 2 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 1/12/2017 at 12:40:00
Extra Event Text: MOTION FOR SUMMARY JUDGMENT (NO ORDER PROVIDED)
Event Disposition: S200 - 1/20/2017
- 3 Department: D10 -- Event: STATUS HEARING -- Scheduled Date & Time: 1/23/2017 at 14:00:00
Extra Event Text: STATUS HEARING (1 HOUR)(COURT REPT. NOT REQUESTED BY PARTIES)
Event Disposition: D845 - 1/23/2017
- 4 Department: D10 -- Event: HEARING... -- Scheduled Date & Time: 3/14/2017 at 14:00:00
Extra Event Text: HEARING ON MOTION FOR SUMMARY JUDGMENT (2 HOURS)(NO COURT REPT. NEEDED)
Event Disposition: D840 - 3/14/2017
- 5 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 3/14/2017 at 15:30:00
Extra Event Text: (MOTION FOR SUMMARY JUDGMENT FILED 9/30/16 WAS TAKEN UNDER ADVISEMENT AT THE CONCLUSION OF THE HRG ON 3/14/17.)
Event Disposition: S200 - 6/12/2017
- 6 Department: D8 -- Event: TRIAL - JURY -- Scheduled Date & Time: 4/17/2017 at 10:00:00
Extra Event Text: 4 DAYS
Event Disposition: D845 - 1/11/2017
- 7 Department: D10 -- Event: STATUS HEARING -- Scheduled Date & Time: 4/30/2019 at 14:00:00
Extra Event Text: STATUS HEARING REGARDING CASE (1 HOUR)
Event Disposition: D844 - 4/15/2019

Report Does Not Contain Sealed Cases or Confidential Information

- 8 Department: D10 -- Event: STATUS HEARING -- Scheduled Date & Time: 5/1/2019 at 14:00:00
Extra Event Text: STATUS HEARING TO DISCUSS CASE (1 HOUR)(COURT RPT. REQUESTED BY CORDOVA)
Event Disposition: D435 - 5/1/2019
- 9 Department: D10 -- Event: PRE-TRIAL CONFERENCE -- Scheduled Date & Time: 5/3/2019 at 09:30:00
Extra Event Text: PRETRIAL CONFERENCE (JURY TRIAL SET FOR JUNE 24, 2019)(1/2 HOUR)
Event Disposition: D845 - 4/11/2019
- 10 Department: D10 -- Event: TRIAL - JURY -- Scheduled Date & Time: 6/24/2019 at 08:30:00
Extra Event Text: NO. 1 SETTING-JURY TRIAL-WAGE AND LABOR MATTER (5 DAYS)
Event Disposition: D845 - 5/24/2019
- 11 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 7/23/2019 at 11:23:00
Extra Event Text: MOTIONS FOR SUMMARY JUDGMENT FILED 5-30-19
Event Disposition: S200 - 9/3/2019
- 12 Department: D10 -- Event: Request for Submission -- Scheduled Date & Time: 10/16/2019 at 14:47:00
Extra Event Text: COURT TOOK MSJ UNDER ADVISEMENT AT THE CONCLUSION OF THE HRG ON 10/16/19.
Event Disposition: S200 - 12/16/2019
- 13 Department: D10 -- Event: HEARING... -- Scheduled Date & Time: 10/16/2019 at 14:00:00
Extra Event Text: HEARING ON MOTIONS FOR SUMMARY JUDGMENT (1 HOUR)(COURT REPT. REQUESTED BY PARTIES)
Event Disposition: D840 - 10/16/2019

Actions

- | | <u>Filing Date</u> | <u>-</u> | <u>Docket Code & Description</u> |
|---|--------------------|----------|---|
| 1 | 7/16/2015 | - | \$1380 - \$Change of Venue - Accepting
<i>No additional text exists for this entry.</i> |
| 2 | 7/16/2015 | - | 1425 - Complaint - Civil
<i>No additional text exists for this entry.</i> |
| 3 | 7/16/2015 | - | 1130 - Answer ...
<i>No additional text exists for this entry.</i> |
| 4 | 7/16/2015 | - | 1580 - Demand for Jury
<i>No additional text exists for this entry.</i> |
| 5 | 7/16/2015 | - | 1575 - Demand for Change of Venue
<i>No additional text exists for this entry.</i> |
| 6 | 7/16/2015 | - | 2030 - Mtn for Change of Venue
Additional Text: (filed by defendants - Roy L. Street and Capital Cab) |
| 7 | 7/16/2015 | - | 2501 - Non-Opposition ...
Additional Text: NON-OPPOSITION TO DEFENDANT'S MOTION TO CHANGE VENUE |
| 8 | 7/16/2015 | - | PAYRC - **Payment Receipted
Additional Text: A Payment of -\$130.00 was made on receipt DCDC507416.

GLOGOVAC & PINTAR |
| 9 | 7/16/2015 | - | PAYRC - **Payment Receipted |

Additional Text: A Payment of -\$130.00 was made on receipt DCDC507417.

CURTIS COULTER, ESQ.

- 10 7/16/2015 - 1312 - Case Assignment Notification
Additional Text: FROM FIRST JUDICIAL DISTRICT COURT, CARSON CITY - Transaction 5049273 - Approved By: NOREVIEW : 07-16-2015:16:31:41
- 11 7/16/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5049275 - Approved By: NOREVIEW : 07-16-2015:16:32:32
- 12 8/10/2015 - A120 - Exemption from Arbitration
Additional Text: Transaction 5086283 - Approved By: NOREVIEW : 08-10-2015:15:44:35
- 13 8/10/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5086291 - Approved By: NOREVIEW : 08-10-2015:15:48:13
- 14 12/4/2015 - 2605 - Notice to Set
Additional Text: NOTICE TO SET AND NOTICE OF 16.1 CONFERENCE - Transaction 5264512 - Approved By: MCHOLICO : 12-04-2015:14:52:12
- 15 12/4/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5264684 - Approved By: NOREVIEW : 12-04-2015:14:53:10
- 16 12/8/2015 - \$3375 - \$Peremptory Challenge
Additional Text: PLTFS - ARTHUR SHATZ AND RICHARD FRATIS
- 17 12/8/2015 - PAYRC - **Payment Receipted
Additional Text: A Payment of -\$450.00 was made on receipt DCDC523435.
- 18 12/9/2015 - 1312 - Case Assignment Notification
Additional Text: PEREMPTORY CHALLENGE - RANDOMLY REASSIGNED TO DEPARTMENT 9, FROM DEPARTMENT 4 - Transaction 5270811 - Approved By: NOREVIEW : 12-09-2015:12:54:07
- 19 12/9/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5270813 - Approved By: NOREVIEW : 12-09-2015:12:55:08
- 20 12/11/2015 - 3161 - Ord of Recusal
Additional Text: Transaction 5275378 - Approved By: NOREVIEW : 12-11-2015:13:34:53
- 21 12/11/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5275384 - Approved By: NOREVIEW : 12-11-2015:13:35:54
- 22 12/11/2015 - 1312 - Case Assignment Notification
Additional Text: RECUSAL - RANDOMLY REASSIGNED TO DEPARTMENT 8, FROM DEPARTMENT 9 - Transaction 5275635 - Approved By: NOREVIEW : 12-11-2015:14:40:19
- 23 12/11/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5275638 - Approved By: NOREVIEW : 12-11-2015:14:41:19
- 24 12/14/2015 - 3696 - Pre-Trial Order
Additional Text: Transaction 5278148 - Approved By: NOREVIEW : 12-14-2015:16:32:11
- 25 12/14/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5278154 - Approved By: NOREVIEW : 12-14-2015:16:33:10
- 26 12/15/2015 - CHECK - **Trust Disbursement
Additional Text: A Disbursement of \$450.00 on Check Number 31360

- 27 12/18/2015 - 2520 - Notice of Appearance
Additional Text: MARK G. SIMONS, ESQ., THERESE M. SHANKS, ESQ. - Transaction 5285122 - Approved By: RKWATKIN : 12-18-2015:09:16:51
- 28 12/18/2015 - NEF - Proof of Electronic Service
Additional Text: Transaction 5285133 - Approved By: NOREVIEW : 12-18-2015:09:17:35
- 29 2/11/2016 - 3347 - Ord to Set
Additional Text: Transaction 5365451 - Approved By: NOREVIEW : 02-11-2016:11:38:23
- 30 2/11/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5365453 - Approved By: NOREVIEW : 02-11-2016:11:39:25
- 31 2/17/2016 - 2605 - Notice to Set
Additional Text: FEBRUARY 23, 2016 AT 9:00 AM - Transaction 5372721 - Approved By: YVILORIA : 02-17-2016:15:11:24
- 32 2/17/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5373171 - Approved By: NOREVIEW : 02-17-2016:15:12:15
- 33 2/18/2016 - 1580 - Demand for Jury
Additional Text: ARTHUR SHATZ AND RICHARD FRATIS
- 34 2/18/2016 - JF - **First Day Jury Fees Deposit
No additional text exists for this entry.
- 35 2/23/2016 - 1250E - Application for Setting eFile
Additional Text: Transaction 5381620 - Approved By: NOREVIEW : 02-23-2016:10:54:26
- 36 2/23/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5381621 - Approved By: NOREVIEW : 02-23-2016:10:55:17
- 37 8/22/2016 - 4050 - Stipulation ...
Additional Text: SECOND AMENDED STIPULATION FOR CONSOLIDATION - Transaction 5669479 - Approved By: MFERNAND : 08-22-2016:12:57:41
- 38 8/22/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5670295 - Approved By: NOREVIEW : 08-22-2016:12:58:42
- 39 9/30/2016 - \$2200 - \$Mtn for Summary Judgment
Additional Text: Transaction 5735336 - Approved By: RKWATKIN : 09-30-2016:14:17:46
- 40 9/30/2016 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC554207.
- 41 9/30/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5735436 - Approved By: NOREVIEW : 09-30-2016:14:18:47
- 42 11/1/2016 - 3880 - Response...
Additional Text: PLAINTIFFS' RESPONSE TO MOTION FOR SUMMARY JUDGMENT COUNTER-MOTION FOR DISCOVERY PURSUANT TO NRCP RULE 56(F) - Transaction 5784645 - Approved By: RKWATKIN : 11-01-2016:14:08:53
- 43 11/1/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5785222 - Approved By: NOREVIEW : 11-01-2016:14:09:52
- 44 11/14/2016 - 1320 - Case Conference Report
Additional Text: PLAINTIFFS' CASE CONFERENCE REPORT - Transaction 5805552 - Approved By: TBRIITON : 11-15-2016:11:19:37

- 45 11/15/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5806549 - Approved By: NOREVIEW : 11-15-2016:11:20:34
- 46 11/17/2016 - 3795 - Reply...
Additional Text: REPLY TO PLAINTIFFS' RESPONSE TO MOTION FOR SUMMARY JUDGMENT AND OPPOSITION TO COUNTER-MOTION FOR DISCOVERY PURSUANT TO NRCP RULE 56(F) - Transaction 5812509 - Approved By: CSULEZIC : 11-18-2016:08:24:27
- 47 11/17/2016 - 3860 - Request for Submission
Additional Text: MOTION FOR SUMMARY JUDGMENT FILED 9/30/16 - Transaction 5812509 - Approved By: CSULEZIC : 11-18-2016:08:24:27
PARTY SUBMITTING: MARK SIMONS ESQ
DATE SUBMITTED: 11/18/16
SUBMITTED BY: CS
DATE RECEIVED JUDGE OFFICE:
- 48 11/18/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5813134 - Approved By: NOREVIEW : 11-18-2016:08:26:58
- 49 11/28/2016 - 2195 - Mtn for Stay ...
Additional Text: Motion to Stay Discovery - Transaction 5824338 - Approved By: CSULEZIC : 11-29-2016:08:27:05
- 50 11/29/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5825122 - Approved By: NOREVIEW : 11-29-2016:08:27:50
- 51 12/1/2016 - 3795 - Reply...
Additional Text: Plaintiffs' Response to Motion for Summary Judgment Counter-Motion for Discovery Pursuant to NRCP Rule 56 F - Transaction 5832164 - Approved By: PMSEWELL : 12-01-2016:15:43:17
- 52 12/1/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5832415 - Approved By: NOREVIEW : 12-01-2016:15:44:26
- 53 12/6/2016 - 3870 - Request
Additional Text: Request for Oral Argument - Transaction 5838984 - Approved By: YVILORIA : 12-06-2016:15:00:09
- 54 12/6/2016 - NEF - Proof of Electronic Service
Additional Text: Transaction 5839046 - Approved By: NOREVIEW : 12-06-2016:15:01:05
- 55 1/3/2017 - 3370 - Order ...
Additional Text: [GRANTING SECOND AMENDED STIPULATION FOR CONSOLIDATION - ks] - Transaction 5882647 - Approved By: NOREVIEW : 01-03-2017:17:27:09
- 56 1/3/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5882649 - Approved By: NOREVIEW : 01-03-2017:17:28:11
- 57 1/3/2017 - 3370 - Order ...
Additional Text: DIRECTING RANDOM CASE REASSIGNMENT - Transaction 5882655 - Approved By: NOREVIEW : 01-03-2017:17:30:51
- 58 1/3/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5882658 - Approved By: NOREVIEW : 01-03-2017:17:31:51
- 59 1/11/2017 - S200 - Request for Submission Complet
Additional Text: CASE TO BE REASSIGNED TO ANOTHER DEPARTMENT
- 60 1/12/2017 - 1312 - Case Assignment Notification
Additional Text: PER COURT ORDER RANDOMLY REASSIGNED TO DEPARTMENT 10 FROM DEPARTMENT 8 - Transaction 5894644 - Approved By: NOREVIEW : 01-12-2017:10:33:51
- 61 1/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5894652 - Approved By: NOREVIEW : 01-12-2017:10:34:51

- 62 1/12/2017 - 3860 - Request for Submission
Additional Text: - Transaction 5894930 - Approved By: PMSEWELL : 01-12-2017:12:17:54
DOCUMENT TITLE: MOTION FOR SUMMARY JUDGMENT (NO ORDER PROVIDED)
PARTY SUBMITTING: MARK SIMONS, ESQ.
DATE SUBMITTED: JANUARY 12, 2017
SUBMITTED BY: PMSEWELL
DATE RECEIVED JUDGE OFFICE:
- 63 1/12/2017 - 3870 - Request
Additional Text: Request for Oral Argument - Transaction 5894930 - Approved By: PMSEWELL : 01-12-2017:12:17:54
- 64 1/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5895063 - Approved By: NOREVIEW : 01-12-2017:12:18:51
- 65 1/12/2017 - 1250E - Application for Setting eFile
Additional Text: FOR STATUS HEARING ON JANUARY 23, 2017, AT 2:00 P.M. - Transaction 5895324 - Approved By: NOREVIEW : 01-12-2017:13:42:28
- 66 1/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5895327 - Approved By: NOREVIEW : 01-12-2017:13:43:18
- 67 1/20/2017 - 3370 - Order ...
Additional Text: ORDER STAYING DISCOVERY AND ORDER TO SET HEARING ON MOTION FOR SUMMARY JUDGMENT - Transaction 5908116 - Approved By: NOREVIEW : 01-20-2017:12:08:47
- 68 1/20/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5908121 - Approved By: NOREVIEW : 01-20-2017:12:09:47
- 69 1/20/2017 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 70 1/20/2017 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 5909161 - Approved By: NOREVIEW : 01-20-2017:16:23:05
- 71 1/20/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5909163 - Approved By: NOREVIEW : 01-20-2017:16:23:53
- 72 2/14/2017 - 2605 - Notice to Set
Additional Text: FEBRUARY 23, 2017 AT 11:00 AM - Transaction 5950330 - Approved By: TBRIITON : 02-14-2017:12:45:59
- 73 2/14/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5950400 - Approved By: NOREVIEW : 02-14-2017:12:46:52
- 74 2/24/2017 - 1250E - Application for Setting eFile
Additional Text: FOR HEARING ON MOTION FOR SUMMARY JUDGMENT SET FOR MARCH 14, 2017, AT 2:00 P.M. - Transaction 5965936 - Approved By: NOREVIEW : 02-24-2017:10:24:50
- 75 2/24/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5965947 - Approved By: NOREVIEW : 02-24-2017:10:25:53
- 76 3/14/2017 - 2610 - Notice ...
Additional Text: Notice of Recent Authority - Transaction 5995226 - Approved By: PMSEWELL : 03-14-2017:11:03:26
- 77 3/14/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5995317 - Approved By: NOREVIEW : 03-14-2017:11:04:54
- 78 3/14/2017 - MIN - ***Minutes
Additional Text: 3/14/17 - HRG ON MOTION FOR SUMMARY JUDGMENT - Transaction 5996923 - Approved By: NOREVIEW : 03-14-2017:16:08:00

- 79 3/14/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 5996930 - Approved By: NOREVIEW : 03-14-2017:16:09:04
- 80 6/12/2017 - S200 - Request for Submission Complet
No additional text exists for this entry.
- 81 6/12/2017 - 2842 - Ord Denying Motion
Additional Text: ORDER DENYING DEFENDANT'S MOTION FOR SUMMARY JUDGMENT; STAY OF PROCEEDINGS IS LIFTED - Transaction 6144501 - Approved By: NOREVIEW : 06-12-2017:15:10:47
- 82 6/12/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6144509 - Approved By: NOREVIEW : 06-12-2017:15:11:45
- 83 8/10/2017 - 2610 - Notice ...
Additional Text: NOTICE OF UNAVAILABILITY OF COUNSEL - Transaction 6243686 - Approved By: CSULEZIC : 08-11-2017:08:28:54
- 84 8/11/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6244061 - Approved By: NOREVIEW : 08-11-2017:08:31:46
- 85 8/31/2017 - 2610 - Notice ...
Additional Text: Notice of Firm Name Change - Transaction 6278970 - Approved By: CSULEZIC : 08-31-2017:16:16:12
- 86 8/31/2017 - NEF - Proof of Electronic Service
Additional Text: Transaction 6279232 - Approved By: NOREVIEW : 08-31-2017:16:17:51
- 87 1/5/2018 - 2610 - Notice ...
Additional Text: Transaction 6467459 - Approved By: YVILORIA : 01-05-2018:10:30:00
- 88 1/5/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6467640 - Approved By: NOREVIEW : 01-05-2018:10:31:04
- 89 4/23/2018 - 3370 - Order ...
Additional Text: ORDER FOR RESPONSE OR DISMISSAL - Transaction 6643269 - Approved By: NOREVIEW : 04-23-2018:14:56:50
- 90 4/23/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6643273 - Approved By: NOREVIEW : 04-23-2018:14:57:48
- 91 4/24/2018 - 2605 - Notice to Set
Additional Text: 04-25-2018 AT 10:30 AM - Transaction 6645390 - Approved By: JAPARICI : 04-24-2018:15:50:31
- 92 4/24/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6646013 - Approved By: NOREVIEW : 04-24-2018:15:51:29
- 93 4/26/2018 - 1250E - Application for Setting eFile
Additional Text: FOR PRETRIAL CONFERENCE ON MAY 3, 2019, AT 9:30 A.M. AND JURY TRIAL ON JUNE 24, 2019, AT 8:30 A.M. - Transaction 6649341 - Approved By: NOREVIEW : 04-26-2018:10:24:19
- 94 4/26/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6649343 - Approved By: NOREVIEW : 04-26-2018:10:25:07
- 95 10/8/2018 - 3980 - Stip and Order...
Additional Text: STIPULATION AND ORDER TO STAY ALL PROCEEDINGS - Transaction 6916187 - Approved By: NOREVIEW : 10-08-2018:13:46:36
- 96 10/8/2018 - NEF - Proof of Electronic Service
Additional Text: Transaction 6916193 - Approved By: NOREVIEW : 10-08-2018:13:47:53

- 97 4/11/2019 - 1250E - Application for Setting eFile
Additional Text: FOR STATUS HEARING ON APRIL 30, 2019, AT 2:00 P.M. - Transaction 7214953 - Approved By: NOREVIEW : 04-11-2019:16:33:15
- 98 4/11/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7214967 - Approved By: NOREVIEW : 04-11-2019:16:35:01
- 99 4/15/2019 - 1250E - Application for Setting eFile
Additional Text: FOR STATUS HEARING ON MAY 1, 2019, AT 2:00 P.M. - Transaction 7218630 - Approved By: NOREVIEW : 04-15-2019:12:25:27
- 100 4/15/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7218634 - Approved By: NOREVIEW : 04-15-2019:12:26:36
- 101 5/1/2019 - MIN - ***Minutes
Additional Text: 5/1/19 STATUS HEARING - Transaction 7248233 - Approved By: NOREVIEW : 05-01-2019:15:07:34
- 102 5/1/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7248249 - Approved By: NOREVIEW : 05-01-2019:15:09:43
- 103 5/24/2019 - 3980 - Stip and Order...
Additional Text: STIPULATION AND ORDER VACATING TRIAL, STAYING PROCEEDINGS AND ADDRESSING RELATED ISSUES - Transaction 7288115 - Approved By: NOREVIEW : 05-24-2019:11:55:15
- 104 5/24/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7288119 - Approved By: NOREVIEW : 05-24-2019:11:56:10
- 105 5/30/2019 - 2610 - Notice ...
Additional Text: NOTICE OF FIRM NAME CHANGE AND NOTICE OF APPEARANCE - Transaction 7296223 - Approved By: YVILORIA : 05-31-2019:08:16:56
- 106 5/30/2019 - \$2200 - \$Mtn for Summary Judgment
Additional Text: MOTION FOR SUMMARY JUDGMENT - Transaction 7296223 - Approved By: YVILORIA : 05-31-2019:08:16:56
- 107 5/31/2019 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$200.00 was made on receipt DCDC638815.
- 108 5/31/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7296753 - Approved By: NOREVIEW : 05-31-2019:08:17:54
- 109 7/23/2019 - 3795 - Reply...
Additional Text: REPLY IN SUPPORT OF MOTION FOR SUMMARY JUDGMENT - Transaction 7387978 - Approved By: YVILORIA : 07-23-2019:11:21:22
- 110 7/23/2019 - 3860 - Request for Submission
Additional Text: REQUEST FOR SUBMISSION - Transaction 7387978 - Approved By: YVILORIA : 07-23-2019:11:21:22
DOCUMENT TITLE: MOTIONS FOR SUMMARY JUDGMENT FILED 5-30-19
PARTY SUBMITTING: MARK SIMONS ESQ
DATE SUBMITTED: 7-23-19
SUBMITTED BY: YV
DATE RECEIVED JUDGE OFFICE:
- 111 7/23/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7388023 - Approved By: NOREVIEW : 07-23-2019:11:22:17
- 112 9/3/2019 - 3347 - Ord to Set
Additional Text: ORDER TO SET HEARING ON MOTION FOR SUMMARY JUDGMENT - Transaction 7463066 - Approved By: NOREVIEW : 09-03-2019:13:39:09
- 113 9/3/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7463070 - Approved By: NOREVIEW : 09-03-2019:13:40:06

- 114 9/3/2019 - S200 - Request for Submission Complet
Additional Text: ORDER TO SET HEARING ON MOTIONS FOR SUMMARY JUDGMENT FILED SEPTEMBER 3, 2019
- 115 9/6/2019 - 1250E - Application for Setting eFile
Additional Text: FOR HEARING ON MOTIONS FOR SUMMARY JUDGMENT SET FOR OCTOBER 16, 2019 AT 2:00 P.M. - Transaction 7471501 - Approved By: NOREVIEW : 09-06-2019:14:10:03
- 116 9/6/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7471510 - Approved By: NOREVIEW : 09-06-2019:14:11:17
- 117 10/16/2019 - MIN - ***Minutes
Additional Text: 10/16/19 - HRG ON MOTIONS FOR SUMMARY JUDGMENT - Transaction 7541646 - Approved By: NOREVIEW : 10-16-2019:15:00:06
- 118 10/16/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7541682 - Approved By: NOREVIEW : 10-16-2019:15:04:25
- 119 11/24/2019 - 4185 - Transcript
Additional Text: 10/16/19 - Hearing on Motions for Summary Judgment - Transaction 7605323 - Approved By: NOREVIEW : 11-24-2019:16:21:24
- 120 11/24/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7605324 - Approved By: NOREVIEW : 11-24-2019:16:22:14
- 121 12/16/2019 - 3095 - Ord Grant Summary Judgment
Additional Text: Transaction 7640703 - Approved By: NOREVIEW : 12-16-2019:15:29:15
- 122 12/16/2019 - S200 - Request for Submission Complet
Additional Text: ORDER GRANTING MOTION FOR SUMMARY JUDGMENT FILED DECEMBER 16, 2019
- 123 12/16/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7640723 - Approved By: NOREVIEW : 12-16-2019:15:31:37
- 124 12/16/2019 - 2540 - Notice of Entry of Ord
Additional Text: Transaction 7640944 - Approved By: NOREVIEW : 12-16-2019:16:02:49
- 125 12/16/2019 - NEF - Proof of Electronic Service
Additional Text: Transaction 7640981 - Approved By: NOREVIEW : 12-16-2019:16:06:37
- 126 1/13/2020 - \$2515 - \$Notice/Appeal Supreme Court
Additional Text: NOTICE OF APPEAL - Transaction 7683131 - Approved By: YVILORIA : 01-14-2020:08:41:59
- 127 1/13/2020 - 1310 - Case Appeal Statement
Additional Text: Transaction 7683332 - Approved By: NOREVIEW : 01-13-2020:17:07:55
- 128 1/13/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7683334 - Approved By: NOREVIEW : 01-13-2020:17:09:01
- 129 1/14/2020 - PAYRC - **Payment Receipted
Additional Text: A Payment of \$24.00 was made on receipt DCDC653027.
- 130 1/14/2020 - NEF - Proof of Electronic Service
Additional Text: Transaction 7683567 - Approved By: NOREVIEW : 01-14-2020:08:42:55
- 131 1/14/2020 - SAB - **Supreme Court Appeal Bond
Additional Text: Transaction 7685529 - Approved By: YVILORIA : 01-14-2020:15:31:25

132 1/14/2020 - PAYRC - **Payment Receipted

Additional Text: A Payment of \$500.00 was made on receipt DCDC653105.

133 1/14/2020 - NEF - Proof of Electronic Service

Additional Text: Transaction 7685550 - Approved By: NOREVIEW : 01-14-2020:15:34:38

134 1/16/2020 - 1350 - Certificate of Clerk

Additional Text: CERTIFICIATE OF CLERK AND TRANSMITTAL - NOTICE OF APPEAL - Transaction 7690358 - Approved By:
NOREVIEW : 01-16-2020:13:38:10

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

* * *

JEFF MYERS, individually and on behalf of
others similarly situated,

Plaintiff,

Case No.: CV15-01359

vs.

Dept. No.: 10

RENO CAB COMPANY, INC.,

Defendant.

ARTHUR SHATZ and RICHARD FRATIS,
individually and on behalf of others similarly
situated,

Plaintiffs,

Case No.: CV15-01385

vs.

Dept. No.: 10

ROY L. STREET, individually and d/b/a
CAPITAL CAB,

Defendants.

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

Presently before the Court is the MOTION FOR SUMMARY JUDGMENT ("the Motion")
filed by Defendants RENO CAB COMPANY, INC. and ROY L. STREET dba CAPITAL CAB
(collectively, "the Defendants") on May 30, 2019. Plaintiffs JEFF MYERS, ARTHUR SHATZ
and RICHARD FRATIS (collectively, "the Plaintiffs") filed PLAINTIFFS' RESPONSE IN

1 OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ("the Opposition")
2 on July 8, 2019. The Defendants filed the REPLY IN SUPPORT OF MOTION FOR SUMMARY
3 JUDGMENT ("the Reply") on July 23, 2019. The Court held a hearing on October 16, 2019, and
4 took the matter under advisement.

5 The COMPLAINT in CV15-01385 was filed on January 16, 2015, in the First Judicial
6 District, and the COMPLAINT in CV15-01359 was filed on July 1, 2015, in the First Judicial
7 District. The parties stipulated to a change of venue, and the matters were transferred to the Second
8 Judicial District. The parties also stipulated to consolidate the two matters for all purposes, except
9 for trial. *See* SECOND AMENDED STIPULATION FOR CONSOLIDATION (Aug. 19, 2016).
10 This matter is an employment dispute in which the Plaintiffs contend the Defendants failed to pay
11 the Plaintiffs the requisite minimum wage and seek to collect unpaid wages and waiting time
12 penalties. The Plaintiffs are taxicab drivers, and the Defendants are taxicab companies in Washoe
13 County and Carson City. The undisputed facts are as follows: 1) the population in both Washoe
14 County and Carson City, individually, is less than 700,000 people; 2) the lease agreements at issue
15 ("the Leases") were executed between the Plaintiffs and the Defendants; 3) the Plaintiffs signed the
16 Leases; 4) the Nevada Transportation Authority ("the NTA") approved the Leases; and 5) an
17 appropriate Certificate of Public Conveyance and Necessity ("CPCN") was issued to the
18 Defendants allowing them to enter into the Leases. Tr. of Hr'g 6:24; 7:1-24; 8:1-24; 9:1-24;
19 10:1-21.

20 The Defendants contend they are entitled to summary judgment because the Plaintiffs are
21 independent contractors as a matter of law under NRS 706.473. The Motion 3:10-17; 4:2-4. The
22 Defendants contend the Plaintiffs are not entitled to claim a minimum wage or waiting time
23 penalties as independent contractors, thus foreclosing their claims as a matter of law. The Motion
24
25
26
27
28

1 6:15-17; 19:3-12; 24:25-28. The Plaintiffs respond that NRS 706.473 does not define an
2 independent contractor for wage purposes. The Opposition 2:14-17. The Plaintiffs also argue the
3 NTA does not have the power to determine whether an individual is an independent contractor, and
4 compliance with NRS 706.473 does not create an independent contractor relationship for minimum
5 wage purposes. The Opposition 5:18-24; 6:1-2, 18-23; 7:1-7; 9:13-20. The Defendants reply that
6 their compliance with NRS 706.473 is fatal to the Plaintiffs' claims, and the Plaintiffs' argument
7 that NRS 706.473 is inapplicable to wage claims is unsupported by the statutory language. The
8 Reply 3:23-25; 5:15-23; 7:14-28.

10 NRCP 56(a) allows a party to petition the court for summary judgment on a claim or
11 defense. *Shadow Wood Homeowners Ass'n v. New York Cmty. Bancorp, Inc.*, 132 Nev. 49, 55,
12 366 P.3d 1105, 1109 (2016). Summary judgment is appropriate where the moving party
13 demonstrates no genuine issue of material fact, thus entitling the party to judgment as a matter of
14 law. NRCP 56(a). A material fact is one that could impact the outcome of the case. *Wood v.*
15 *Safeway, Inc.*, 121 Nev. 724, 730, 121 P.3d 1026, 1030 (2005) (quoting *Anderson v. Liberty*
16 *Lobby*, 477 U.S. 242, 247-48, 106 S. Ct. 2505, 2509-10 (1986)). "The manner in which each party
17 may satisfy its burden of production depends on which party will bear the burden of persuasion on
18 the challenged claim at trial." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172
19 P.3d 131, 134 (2007). When the party moving for summary judgment does not bear the burden of
20 persuasion at trial, the movant may satisfy the burden of production for summary judgment by
21 "submitting evidence that negates an essential element of the nonmoving party's claim" or
22 "pointing out that there is an absence of evidence to support the nonmoving party's case." *Id.* at
23 602-03, 172 P.3d at 134.

24 //
25
26
27
28

1 When considering a motion for summary judgment, the district court must view the
2 evidence and any reasonable inferences drawn from it in the light most favorable to the
3 nonmoving party. *Wood*, 121 Nev. at 729, 121 P.3d at 1029. However, the nonmoving party must
4 set forth “specific facts demonstrating the existence of a genuine factual issue.” *Pegasus v. Reno*
5 *Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (explaining non-moving party may
6 not stand on “general allegations and conclusions”). Such facts must be predicated on admissible
7 evidence, and the non-moving party is not permitted “to build a case on the gossamer threads of
8 whimsy, speculation and conjecture.” *Id.* “The substantive law controls which factual disputes
9 are material and will preclude summary judgment; other factual disputes are irrelevant.” *Wood*,
10 121 Nev. at 731, 121 P.3d at 1031.
11

12 Statutory construction is a question of law. *Kay v. Nunez*, 122 Nev. 1100, 1104, 146 P.3d
13 801, 805 (2006). *See also Las Vegas Dev. Grp., LLC v. Blaha*, 134 Nev. Adv. Op. 33, 416 P.3d
14 233, 236 (2018). The ultimate goal of statutory construction is to give effect to the Legislature’s
15 intent in enacting the statute. *Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. Adv. Op. 9, 412 P.3d 56,
16 59 (2018). The statute’s plain language is the best indicator of legislative intent. *Id.* Where the
17 language is clear and unambiguous, a court does not look beyond it to ascertain legislative intent.
18 *State v. Plunkett*, 134 Nev. Adv. Op. 88, 429 P.3d 936, 938 (2018). *See also Blaha*, 134 Nev. Adv.
19 Op. 33, 416 P.3d at 235-36 (explaining court gives language its ordinary meaning where language
20 is plain and unambiguous).
21
22
23

24 //

25 //

26 //

27 //

1 NRS 706.473¹ provides in relevant part:

- 2 1. In a county whose population is less than 700,000, a person who holds a certificate
3 of public convenience and necessity which was issued for the operation of a taxicab
4 business may, upon approval from the Authority [NTA], lease a taxicab to an
5 independent contractor who does not hold a certificate of public convenience and
6 necessity. A person may lease only one taxicab to each independent contractor with
7 whom the person enters into a lease agreement. The taxicab may be used only in a
8 manner authorized by the lessor's certificate of public convenience and necessity.
- 9 2. A person who enters into a lease agreement with an independent contractor pursuant
10 to this section shall submit a copy of the agreement to the Authority for its approval.
11 The agreement is not effective until approved by the Authority.
- 12 3. A person who leases a taxicab to an independent contractor is jointly and severally
13 liable with the independent contractor for any violation of the provisions of this
14 chapter or the regulations adopted pursuant thereto, and shall ensure that the
15 independent contractor complies with such provisions and regulations.

16 NRS 706.475 provides:

- 17 1. The Authority [NTA] shall adopt such regulations as are necessary to:
 - 18 (a) Carry out the provisions of NRS 706.473; and
 - 19 (b) Ensure that the taxicab business remains safe, adequate and reliable.
- 20 2. Such regulations must include, without limitation:
 - 21 (a) The minimum qualifications for an independent contractor;
 - 22 (b) Requirements related to liability insurance;
 - 23 (c) Minimum safety standards; and

24 ¹ The Court previously entered an ORDER on June 12, 2017, denying a similar motion for summary judgment filed by
25 the Defendants. In footnote six, the Court stated, “[t]he Court need not consider NRS 706.473 in depth when NRS
26 608.0155 establishes the criteria for an independent contractor relationship.” NRS 608.0155 discusses the conditions
27 which create the presumption an individual is an independent contractor. However, the *Yellow Cab* Court
28 acknowledged the existence of a “statutorily created independent contractor relationship” under NRS 706.463 which
does not depend on control, as NRS 608.0155 does. *Yellow Cab of Reno, Inc. v. Second Jud. Dist. Ct.*, 127 Nev. 583,
592, 262 P.3d 699, 704-05 (2011). The Court’s conclusion that NRS 706.473 was inapplicable was erroneous given the
analysis in *Yellow Cab*. The Court should have examined NRS 706.473 in its previous order. Furthermore, the parties
requested the Court analyze NRS 706.473 given its potentially dispositive nature of the Plaintiff’s claims, and the Court
agreed to do so. See STIPULATION AND ORDER VACATING TRIAL, STAYING PROCEEDINGS AND
ADDRESSING RELATED ISSUES (May 24, 2019).

- 1 (d) The procedure for approving a lease agreement and the provisions that must be
2 included in a lease agreement concerning the grounds for the revocation of such
3 approval.

4 NAC 706.3753 outlines the requirements for lease agreements between independent
5 contractors and taxicab companies. It provides in relevant part:

6 1. Each lease agreement entered into by a certificate holder and an independent contractor
7 pursuant to NRS 706.473 must:

- 8 (a) Be maintained by the certificate holder.
- 9 (b) Be in writing and in a form approved by the Authority [NTA].
- 10 (c) Identify the use to be made of the taxicab by the independent contractor and the
11 consideration to be received by the certificate holder. The use to be made of the
12 taxicab must conform to the authority granted by the certificate to operate the
13 taxicab.
- 14 (d) Be signed by each party, or his or her representative, to the agreement.
- 15 (e) Specifically state that the independent contractor is subject to all laws and
16 regulations relating to the operation of a taxicab which have been established by
17 the Authority and other regulatory agencies and that a violation of those laws and
18 regulations will breach the agreement.
- 19 (f) Specifically state that the certificate holder is responsible for maintaining:
- 20 (1) All required insurance associated with the taxicab and the service which is
21 the subject of the agreement in accordance with NAC 706.191;
- 22 (2) A file which contains the qualifications of the independent contractor to drive
23 the taxicab; and
- 24 (3) A file for records concerning the maintenance of the taxicab.
- 25 (g) Specifically state that the lease agreement does not relieve the certificate holder
26 from any of his or her duties or responsibilities set forth in this chapter and
27 chapter 706 of NRS.
- 28 (h) Specifically state that the taxicab provided pursuant to the lease agreement:
- (1) Will be painted with the name, insignia and certificate number of the
certificate holder; and

1 (2) Is in a good mechanical condition that will meet the requirements for
2 operating taxicabs set forth by this State or the county or municipality in
3 which the taxicab will be operated.

4 (i) Specifically state that the independent contractor shall not transfer,
5 assign, sublease or otherwise enter into an agreement to lease the
6 taxicab to another person.

7 (j) Specifically state that the independent contractor:

8 (1) Shall not operate the taxicab for more than 12 hours in any 24-hour period;
9 and

10 (2) Shall return the taxicab to the certificate holder at the end of each shift to
11 enable the certificate holder to comply with the provisions of NAC 706.380.

12 (k) Contain any other provision which the Authority may determine to be necessary
13 for the protection of the health and safety of members of the public.

14 The *Yellow Cab* Court instructed district courts to consider whether the statutory and administrative
15 requirements outlined in NRS 706.473 have been satisfied to determine whether an independent
16 contractor relationship exists between a taxicab driver and taxicab company. 127 Nev. at 592, 262
17 P.3d at 704-05.

18 The Court will grant the Motion because the Plaintiffs are independent contractors as a
19 matter of law. Contrary to the Plaintiffs' argument, compliance with NRS 706.473 and NAC
20 706.3753 creates an independent contractor relationship as a matter of law. The *Yellow Cab* Court
21 made this abundantly clear when it opined that "[t]he existence of this statutorily created
22 independent contractor relationship turns not on the issue of control," but on the satisfaction of
23 statutory and administrative requirements. 127 Nev. at 592, 262 P.3d at 704. In this case, all of the
24 requirements in NRS 706.473 and NAC 706.3753 have been satisfied, thus creating an independent
25 contractor relationship between the Plaintiffs and the Defendants. Regarding NRS 706.473, it is
26 undisputed that both Washoe County and Carson City individually have populations less than
27 700,000 people. It is also undisputed each of the Defendants held the appropriate CPCN to enter
28

1 into the Leases. Neither party disputes the Leases were executed by the Plaintiffs and the
2 Defendants, and the Leases identify the Plaintiffs as independent contractors. The Motion Ex. 4;
3 Ex. 5; Ex. 6. It is further undisputed the NTA approved the Leases. Therefore, all of the statutory
4 requirements under NRS 706.472 have been satisfied.

5 The Leases contain all of the information required by NAC 706.3753. The Leases were
6 maintained by the Defendants, in writing and in a form approved by the NTA, and state the
7 Defendants will lease a specific taxicab to the Plaintiffs for a rental fee. *See* Ex. 4 ¶ 8; Ex. 5 ¶ 8;
8 Ex. 6 ¶ 8. *See also* NAC 706.3753(1)(a)-(c). The Plaintiffs signed their respective Leases, and the
9 Leases identified the Plaintiffs as independent contractors who were subject to all laws and
10 regulations established by the NTA and other regulatory agencies, the breach of which would
11 constitute a breach of the Leases. *See* Ex. 4 ¶ 10, ¶ 16; Ex. 5 ¶ 10, ¶ 16; Ex. 6 ¶ 10, ¶ 16. *See also*
12 NAC 706.3753(1)(d)-(e). The Leases state the Defendants are responsible for maintaining all
13 required insurance, files regarding driver qualifications and taxicab maintenance records. *See* Ex. 4
14 ¶ 4, ¶ 18; Ex. 5 ¶ 4, ¶ 18; Ex. 6 ¶ 4, ¶ 18. *See also* NAC 706.3753(1)(f). The Leases indicate the
15 Defendants are not relieved of any of their duties under NRS Chapter 706, and the taxicabs will be
16 painted with the name, insignia and certificate number of the Defendants and are in good
17 mechanical condition. *See* Ex. 4 ¶ 1, ¶ 3; Ex. 5 ¶ 1, ¶ 3; Ex. 6 ¶ 1, ¶ 3. *See also* NAC
18 706.3753(1)(g)-(h). The Leases prohibit the Plaintiffs from transferring, assigning or subleasing the
19 taxicab to anyone else and from operating the taxicab for more than twelve hours in a twenty-four-
20 hour period; the Plaintiffs are also required to return the taxicabs at the end of each shift. *See* Ex. 4
21 ¶ 3, ¶ 5, ¶ 6; Ex. 5 ¶ 3, ¶ 5, ¶ 6; Ex. 6 ¶ 3, ¶ 5, ¶ 6. *See also* NAC 706.3752(1)(i)-(j).

22 //

23 //

1 Because all statutory and administrative requirements have been satisfied, the Plaintiffs are
2 independent contractors as a matter of law. As such, the protections afforded to “employees” in the
3 Minimum Wage Amendment (“the MWA”) and NRS 608.040 do not apply. The MWA provides,
4 “[e]ach employer shall pay a wage to each *employee* of not less than the hourly rates set forth in this
5 section.” NEV. CONST. art. 15 ¶ 16(A) (emphasis added). The clear language of the MWA
6 demonstrates it does not apply to independent contractors. Additionally, NRS 608.040 permits
7 “employees” who have been discharged or who have resigned or quit to collect unpaid wages and
8 waiting time penalties. The clear and unambiguous language of NRS 608.040 demonstrates it is
9 applicable to employees only. The use of the term “employee” in the MWA and NRS 608.040 is
10 not mere semantics; rather, it reflects a fundamental employment distinction. As independent
11 contractors, the Plaintiffs are foreclosed from recovery under the MWA and NRS 608.040 as a
12 matter of law.
13
14

15 **IT IS ORDERED** the MOTION FOR SUMMARY JUDGMENT is hereby **GRANTED**.

16 **DATED** this 16 day of December, 2019.
17

18
19
20 

21 ELLIOTT A. SATTLER
22 District Judge
23
24
25
26
27
28

CERTIFICATE OF MAILING

Pursuant to NRCp 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this ____ day of December, 2019, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 16 day of December, 2019, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

CURTIS B. COULTER, ESQ.


LEON GREENBERG, ESQ.

DANA SNIEGOCKI, ESQ.

MARK G. SIMONS, ESQ.

JEREMY B. CLARKE, ESQ.

RICARDO N. CORDOVA, ESQ.


Sheila Mansfield
Judicial Assistant

1 **2540**
MARK G. SIMONS, ESQ.
2 Nevada Bar No. 5132
MSimons@SHJNevada.com
3 RICARDO N. CORDOVA, ESQ.
Nevada Bar No. 11942
4 RCordova@SHJNevada.com
SIMONS HALL JOHNSTON PC
5 6490 S. McCarran Blvd., Ste. F-46
Reno, Nevada 89509
6 Telephone: (775) 785-0088
Attorneys for Defendants Reno Cab Company, Inc.
7 and Roy L. Street, dba Capital Cab
8
9

10 **IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA**

11 **IN AND FOR THE COUNTY OF WASHOE**

12 JEFF MYERS, individually and on behalf of
others similarly situated,

CASE NO.: CV15-01359

13 Plaintiff,

DEPT. NO.: 10

14 vs.

15 RENO CAB COMPANY, INC.,

16 Defendant.
17

18 ARTHUR SHATZ, and RICHARD FRATIS,
19 individually and on behalf of others similarly
20 situated,

CASE NO.: CV15-01385

DEPT. NO.: 10

21 Plaintiffs,

22 vs.

23 ROY L. STREET, individually and doing
24 business as CAPITAL CAB,

25 Defendant.
26
27
28

NOTICE OF ENTRY OF ORDER

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

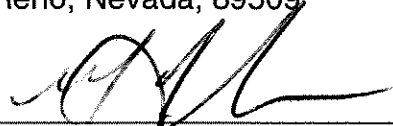
SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

1 PLEASE TAKE NOTICE that an Order Granting Motion for Summary Judgment was
2 entered by the Honorable Elliot A. Sattler on the 16th day of December, 2019, in the above-
3 entitled matters. See **Exhibit 1**.

4 **AFFIRMATION:** The undersigned hereby affirms that the preceding document
5 does not contain the social security number of any person.
6

7 DATED this 16th day of December, 2019.

8 SIMONS HALL JOHNSTON PC
9 6490 S. McCarran Blvd., #F-46
10 Reno, Nevada, 89509



11 MARK G. SIMONS
12 RICARDO N. CORDOVA, Esq.
13 *Attorneys for Reno Cab Company, Inc. and Roy*
14 *L. Street, dba Capital Cab*
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of SIMONS HALL JOHNSTON PC and that on this date I caused to be served a true copy of **NOTICE OF ENTRY OF ORDER** on all parties to this action by the method(s) indicated below:

☐ by placing an original or true copy thereof in a sealed envelope, with sufficient postage affixed thereto, in the United States mail at Reno, Nevada, addressed to:

☒ I hereby certify that on the date below, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which served the following parties electronically:

Curtis Coulter, Esq.
Leon Greenberg, Esq.
Attorneys for Jeff Myers

Curtis Coulter, Esq.
Attorneys for Arthur Shatz, et al.

☐ by personal delivery/hand delivery addressed to:

☐ by facsimile (fax) addressed to:

☐ by Federal Express/UPS or other overnight delivery addressed to:

DATED this 16 day of December, 2019.



Employee of SIMONS HALL JOHNSTON PC

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

SIMONS HALL JOHNSTON PC
6490 S. McCarran Blvd., Ste. F-46
Reno, NV 89509
Phone: (775) 785-0088

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Order Granting SMJ	10

EXHIBIT 1

EXHIBIT 1

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

JEFF MYERS, individually and on behalf of
others similarly situated,

Plaintiff,

Case No.: CV15-01359

vs.

Dept. No.: 10

RENO CAB COMPANY, INC.,

Defendant.

ARTHUR SHATZ and RICHARD FRATIS,
individually and on behalf of others similarly
situated,

Plaintiffs,

Case No.: CV15-01385

vs.

Dept. No.: 10

ROY L. STREET, individually and d/b/a
CAPITAL CAB,

Defendants.

ORDER GRANTING MOTION FOR SUMMARY JUDGMENT

Presently before the Court is the MOTION FOR SUMMARY JUDGMENT ("the Motion")
filed by Defendants RENO CAB COMPANY, INC. and ROY L. STREET dba CAPITAL CAB
(collectively, "the Defendants") on May 30, 2019. Plaintiffs JEFF MYERS, ARTHUR SHATZ
and RICHARD FRATIS (collectively, "the Plaintiffs") filed PLAINTIFFS' RESPONSE IN

1 OPPOSITION TO DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ("the Opposition")
2 on July 8, 2019. The Defendants filed the REPLY IN SUPPORT OF MOTION FOR SUMMARY
3 JUDGMENT ("the Reply") on July 23, 2019. The Court held a hearing on October 16, 2019, and
4 took the matter under advisement.

5 The COMPLAINT in CV15-01385 was filed on January 16, 2015, in the First Judicial
6 District, and the COMPLAINT in CV15-01359 was filed on July 1, 2015, in the First Judicial
7 District. The parties stipulated to a change of venue, and the matters were transferred to the Second
8 Judicial District. The parties also stipulated to consolidate the two matters for all purposes, except
9 for trial. *See* SECOND AMENDED STIPULATION FOR CONSOLIDATION (Aug. 19, 2016).
10 This matter is an employment dispute in which the Plaintiffs contend the Defendants failed to pay
11 the Plaintiffs the requisite minimum wage and seek to collect unpaid wages and waiting time
12 penalties. The Plaintiffs are taxicab drivers, and the Defendants are taxicab companies in Washoe
13 County and Carson City. The undisputed facts are as follows: 1) the population in both Washoe
14 County and Carson City, individually, is less than 700,000 people; 2) the lease agreements at issue
15 ("the Leases") were executed between the Plaintiffs and the Defendants; 3) the Plaintiffs signed the
16 Leases; 4) the Nevada Transportation Authority ("the NTA") approved the Leases; and 5) an
17 appropriate Certificate of Public Conveyance and Necessity ("CPCN") was issued to the
18 Defendants allowing them to enter into the Leases. Tr. of Hr'g 6:24; 7:1-24; 8:1-24; 9:1-24;
19 10:1-21.

20 The Defendants contend they are entitled to summary judgment because the Plaintiffs are
21 independent contractors as a matter of law under NRS 706.473. The Motion 3:10-17; 4:2-4. The
22 Defendants contend the Plaintiffs are not entitled to claim a minimum wage or waiting time
23 penalties as independent contractors, thus foreclosing their claims as a matter of law. The Motion
24
25
26
27
28

1 6:15-17; 19:3-12; 24:25-28. The Plaintiffs respond that NRS 706.473 does not define an
2 independent contractor for wage purposes. The Opposition 2:14-17. The Plaintiffs also argue the
3 NTA does not have the power to determine whether an individual is an independent contractor, and
4 compliance with NRS 706.473 does not create an independent contractor relationship for minimum
5 wage purposes. The Opposition 5:18-24; 6:1-2, 18-23; 7:1-7; 9:13-20. The Defendants reply that
6 their compliance with NRS 706.473 is fatal to the Plaintiffs' claims, and the Plaintiffs' argument
7 that NRS 706.473 is inapplicable to wage claims is unsupported by the statutory language. The
8 Reply 3:23-25; 5:15-23; 7:14-28.

10 NRCP 56(a) allows a party to petition the court for summary judgment on a claim or
11 defense. *Shadow Wood Homeowners Ass'n v. New York Cmty. Bancorp, Inc.*, 132 Nev. 49, 55,
12 366 P.3d 1105, 1109 (2016). Summary judgment is appropriate where the moving party
13 demonstrates no genuine issue of material fact, thus entitling the party to judgment as a matter of
14 law. NRCP 56(a). A material fact is one that could impact the outcome of the case. *Wood v.*
15 *Safeway, Inc.*, 121 Nev. 724, 730, 121 P.3d 1026, 1030 (2005) (quoting *Anderson v. Liberty*
16 *Lobby*, 477 U.S. 242, 247-48, 106 S. Ct. 2505, 2509-10 (1986)). "The manner in which each party
17 may satisfy its burden of production depends on which party will bear the burden of persuasion on
18 the challenged claim at trial." *Cuzze v. Univ. & Cmty. Coll. Sys. of Nev.*, 123 Nev. 598, 602, 172
19 P.3d 131, 134 (2007). When the party moving for summary judgment does not bear the burden of
20 persuasion at trial, the movant may satisfy the burden of production for summary judgment by
21 "submitting evidence that negates an essential element of the nonmoving party's claim" or
22 "pointing out that there is an absence of evidence to support the nonmoving party's case." *Id.* at
23 602-03, 172 P.3d at 134.

24 //
25
26
27
28

1 When considering a motion for summary judgment, the district court must view the
2 evidence and any reasonable inferences drawn from it in the light most favorable to the
3 nonmoving party. *Wood*, 121 Nev. at 729, 121 P.3d at 1029. However, the nonmoving party must
4 set forth “specific facts demonstrating the existence of a genuine factual issue.” *Pegasus v. Reno*
5 *Newspapers, Inc.*, 118 Nev. 706, 713, 57 P.3d 82, 87 (2002) (explaining non-moving party may
6 not stand on “general allegations and conclusions”). Such facts must be predicated on admissible
7 evidence, and the non-moving party is not permitted “to build a case on the gossamer threads of
8 whimsy, speculation and conjecture.” *Id.* “The substantive law controls which factual disputes
9 are material and will preclude summary judgment; other factual disputes are irrelevant.” *Wood*,
10 121 Nev. at 731, 121 P.3d at 1031.
11

12 Statutory construction is a question of law. *Kay v. Nunez*, 122 Nev. 1100, 1104, 146 P.3d
13 801, 805 (2006). *See also Las Vegas Dev. Grp., LLC v. Blaha*, 134 Nev. Adv. Op. 33, 416 P.3d
14 233, 236 (2018). The ultimate goal of statutory construction is to give effect to the Legislature’s
15 intent in enacting the statute. *Dezzani v. Kern & Assocs., Ltd.*, 134 Nev. Adv. Op. 9, 412 P.3d 56,
16 59 (2018). The statute’s plain language is the best indicator of legislative intent. *Id.* Where the
17 language is clear and unambiguous, a court does not look beyond it to ascertain legislative intent.
18 *State v. Plunkett*, 134 Nev. Adv. Op. 88, 429 P.3d 936, 938 (2018). *See also Blaha*, 134 Nev. Adv.
19 Op. 33, 416 P.3d at 235-36 (explaining court gives language its ordinary meaning where language
20 is plain and unambiguous).
21
22

23 //

24 //

25 //

26 //

27 //

1 NRS 706.473¹ provides in relevant part:

- 2 1. In a county whose population is less than 700,000, a person who holds a certificate
3 of public convenience and necessity which was issued for the operation of a taxicab
4 business may, upon approval from the Authority [NTA], lease a taxicab to an
5 independent contractor who does not hold a certificate of public convenience and
6 necessity. A person may lease only one taxicab to each independent contractor with
7 whom the person enters into a lease agreement. The taxicab may be used only in a
8 manner authorized by the lessor's certificate of public convenience and necessity.
- 9 2. A person who enters into a lease agreement with an independent contractor pursuant
10 to this section shall submit a copy of the agreement to the Authority for its approval.
11 The agreement is not effective until approved by the Authority.
- 12 3. A person who leases a taxicab to an independent contractor is jointly and severally
13 liable with the independent contractor for any violation of the provisions of this
14 chapter or the regulations adopted pursuant thereto, and shall ensure that the
15 independent contractor complies with such provisions and regulations.

16 NRS 706.475 provides:

- 17 1. The Authority [NTA] shall adopt such regulations as are necessary to:
 - 18 (a) Carry out the provisions of NRS 706.473; and
 - 19 (b) Ensure that the taxicab business remains safe, adequate and reliable.
- 20 2. Such regulations must include, without limitation:
 - 21 (a) The minimum qualifications for an independent contractor;
 - 22 (b) Requirements related to liability insurance;
 - 23 (c) Minimum safety standards; and

24 ¹ The Court previously entered an ORDER on June 12, 2017, denying a similar motion for summary judgment filed by
25 the Defendants. In footnote six, the Court stated, “[t]he Court need not consider NRS 706.473 in depth when NRS
26 608.0155 establishes the criteria for an independent contractor relationship.” NRS 608.0155 discusses the conditions
27 which create the presumption an individual is an independent contractor. However, the *Yellow Cab* Court
28 acknowledged the existence of a “statutorily created independent contractor relationship” under NRS 706.463 which
does not depend on control, as NRS 608.0155 does. *Yellow Cab of Reno, Inc. v. Second Jud. Dist. Ct.*, 127 Nev. 583,
592, 262 P.3d 699, 704-05 (2011). The Court’s conclusion that NRS 706.473 was inapplicable was erroneous given the
analysis in *Yellow Cab*. The Court should have examined NRS 706.473 in its previous order. Furthermore, the parties
requested the Court analyze NRS 706.473 given its potentially dispositive nature of the Plaintiff’s claims, and the Court
agreed to do so. See STIPULATION AND ORDER VACATING TRIAL, STAYING PROCEEDINGS AND
ADDRESSING RELATED ISSUES (May 24, 2019).

- 1 (d) The procedure for approving a lease agreement and the provisions that must be
2 included in a lease agreement concerning the grounds for the revocation of such
3 approval.

4 NAC 706.3753 outlines the requirements for lease agreements between independent
5 contractors and taxicab companies. It provides in relevant part:

- 6 1. Each lease agreement entered into by a certificate holder and an independent contractor
7 pursuant to NRS 706.473 must:

- 8 (a) Be maintained by the certificate holder.
- 9 (b) Be in writing and in a form approved by the Authority [NTA].
- 10 (c) Identify the use to be made of the taxicab by the independent contractor and the
11 consideration to be received by the certificate holder. The use to be made of the
12 taxicab must conform to the authority granted by the certificate to operate the
13 taxicab.
- 14 (d) Be signed by each party, or his or her representative, to the agreement.
- 15 (e) Specifically state that the independent contractor is subject to all laws and
16 regulations relating to the operation of a taxicab which have been established by
17 the Authority and other regulatory agencies and that a violation of those laws and
18 regulations will breach the agreement.
- 19 (f) Specifically state that the certificate holder is responsible for maintaining:
- 20 (1) All required insurance associated with the taxicab and the service which is
21 the subject of the agreement in accordance with NAC 706.191;
- 22 (2) A file which contains the qualifications of the independent contractor to drive
23 the taxicab; and
- 24 (3) A file for records concerning the maintenance of the taxicab.
- 25 (g) Specifically state that the lease agreement does not relieve the certificate holder
26 from any of his or her duties or responsibilities set forth in this chapter and
27 chapter 706 of NRS.
- 28 (h) Specifically state that the taxicab provided pursuant to the lease agreement:
- (1) Will be painted with the name, insignia and certificate number of the
certificate holder; and

1 (2) Is in a good mechanical condition that will meet the requirements for
2 operating taxicabs set forth by this State or the county or municipality in
3 which the taxicab will be operated.

4 (i) Specifically state that the independent contractor shall not transfer,
5 assign, sublease or otherwise enter into an agreement to lease the
6 taxicab to another person.

7 (j) Specifically state that the independent contractor:

8 (1) Shall not operate the taxicab for more than 12 hours in any 24-hour period;
9 and

10 (2) Shall return the taxicab to the certificate holder at the end of each shift to
11 enable the certificate holder to comply with the provisions of NAC 706.380.

12 (k) Contain any other provision which the Authority may determine to be necessary
13 for the protection of the health and safety of members of the public.

14 The *Yellow Cab* Court instructed district courts to consider whether the statutory and administrative
15 requirements outlined in NRS 706.473 have been satisfied to determine whether an independent
16 contractor relationship exists between a taxicab driver and taxicab company. 127 Nev. at 592, 262
17 P.3d at 704-05.

18 The Court will grant the Motion because the Plaintiffs are independent contractors as a
19 matter of law. Contrary to the Plaintiffs' argument, compliance with NRS 706.473 and NAC
20 706.3753 creates an independent contractor relationship as a matter of law. The *Yellow Cab* Court
21 made this abundantly clear when it opined that "[t]he existence of this statutorily created
22 independent contractor relationship turns not on the issue of control," but on the satisfaction of
23 statutory and administrative requirements. 127 Nev. at 592, 262 P.3d at 704. In this case, all of the
24 requirements in NRS 706.473 and NAC 706.3753 have been satisfied, thus creating an independent
25 contractor relationship between the Plaintiffs and the Defendants. Regarding NRS 706.473, it is
26 undisputed that both Washoe County and Carson City individually have populations less than
27 700,000 people. It is also undisputed each of the Defendants held the appropriate CPCN to enter
28

1 into the Leases. Neither party disputes the Leases were executed by the Plaintiffs and the
2 Defendants, and the Leases identify the Plaintiffs as independent contractors. The Motion Ex. 4;
3 Ex. 5; Ex. 6. It is further undisputed the NTA approved the Leases. Therefore, all of the statutory
4 requirements under NRS 706.472 have been satisfied.

5 The Leases contain all of the information required by NAC 706.3753. The Leases were
6 maintained by the Defendants, in writing and in a form approved by the NTA, and state the
7 Defendants will lease a specific taxicab to the Plaintiffs for a rental fee. *See* Ex. 4 ¶ 8; Ex. 5 ¶ 8;
8 Ex. 6 ¶ 8. *See also* NAC 706.3753(1)(a)-(c). The Plaintiffs signed their respective Leases, and the
9 Leases identified the Plaintiffs as independent contractors who were subject to all laws and
10 regulations established by the NTA and other regulatory agencies, the breach of which would
11 constitute a breach of the Leases. *See* Ex. 4 ¶ 10, ¶ 16; Ex. 5 ¶ 10, ¶ 16; Ex. 6 ¶ 10, ¶ 16. *See also*
12 NAC 706.3753(1)(d)-(e). The Leases state the Defendants are responsible for maintaining all
13 required insurance, files regarding driver qualifications and taxicab maintenance records. *See* Ex. 4
14 ¶ 4, ¶ 18; Ex. 5 ¶ 4, ¶ 18; Ex. 6 ¶ 4, ¶ 18. *See also* NAC 706.3753(1)(f). The Leases indicate the
15 Defendants are not relieved of any of their duties under NRS Chapter 706, and the taxicabs will be
16 painted with the name, insignia and certificate number of the Defendants and are in good
17 mechanical condition. *See* Ex. 4 ¶ 1, ¶ 3; Ex. 5 ¶ 1, ¶ 3; Ex. 6 ¶ 1, ¶ 3. *See also* NAC
18 706.3753(1)(g)-(h). The Leases prohibit the Plaintiffs from transferring, assigning or subleasing the
19 taxicab to anyone else and from operating the taxicab for more than twelve hours in a twenty-four-
20 hour period; the Plaintiffs are also required to return the taxicabs at the end of each shift. *See* Ex. 4
21 ¶ 3, ¶ 5, ¶ 6; Ex. 5 ¶ 3, ¶ 5, ¶ 6; Ex. 6 ¶ 3, ¶ 5, ¶ 6. *See also* NAC 706.3752(1)(i)-(j).

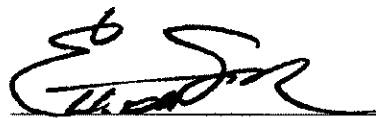
22 //

23 //

1 Because all statutory and administrative requirements have been satisfied, the Plaintiffs are
2 independent contractors as a matter of law. As such, the protections afforded to “employees” in the
3 Minimum Wage Amendment (“the MWA”) and NRS 608.040 do not apply. The MWA provides,
4 “[e]ach employer shall pay a wage to each *employee* of not less than the hourly rates set forth in this
5 section.” NEV. CONST. art. 15 ¶ 16(A) (emphasis added). The clear language of the MWA
6 demonstrates it does not apply to independent contractors. Additionally, NRS 608.040 permits
7 “employees” who have been discharged or who have resigned or quit to collect unpaid wages and
8 waiting time penalties. The clear and unambiguous language of NRS 608.040 demonstrates it is
9 applicable to employees only. The use of the term “employee” in the MWA and NRS 608.040 is
10 not mere semantics; rather, it reflects a fundamental employment distinction. As independent
11 contractors, the Plaintiffs are foreclosed from recovery under the MWA and NRS 608.040 as a
12 matter of law.
13
14

15 **IT IS ORDERED** the MOTION FOR SUMMARY JUDGMENT is hereby **GRANTED**.

16 **DATED** this 16 day of December, 2019.
17

18
19
20 
21 _____
22 ELLIOTT A. SATTLER
23 District Judge
24
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

Pursuant to NRCP 5(b), I certify that I am an employee of the Second Judicial District Court of the State of Nevada, County of Washoe; that on this ____ day of December, 2019, I deposited in the County mailing system for postage and mailing with the United States Postal Service in Reno, Nevada, a true copy of the attached document addressed to:

CERTIFICATE OF ELECTRONIC SERVICE

I hereby certify that I am an employee of the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; that on the 16 day of December, 2019, I electronically filed the foregoing with the Clerk of the Court by using the ECF system which will send a notice of electronic filing to the following:

CURTIS B. COULTER, ESQ.


LEON GREENBERG, ESQ.

DANA SNIEGOCKI, ESQ.

MARK G. SIMONS, ESQ.

JEREMY B. CLARKE, ESQ.

RICARDO N. CORDOVA, ESQ.


Sheila Mansfield
Judicial Assistant

CASE NO. CV15-01359 **JEFF MYERS ETAL VS. RENO CAB COMPANY, INC.**
CASE NO. CV15-01385 **ARTHUR SHATZ ETAL VS. ROY STREET ETAL**

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

3/14/17
HONORABLE
ELLIOTT A.
SATTLER
DEPT. 10
M. White
(Clerk)
Not reported

HEARING ON MOTION FOR SUMMARY JUDGMENT

2:09 p.m. – Court convened.

Curtis Coulter, Esq., was present on behalf of Plaintiff Jeff Myers in CV15-01359, and Plaintiffs Arthur Shatz and Richard Fratis in CV15-01385.

Mark Simons, Esq., was present on behalf of Defendant Reno Cab Company, Inc., in CV15-01359, and Defendants Roy Street and Capital Cab in CV15-01385.

COURT reviewed the procedural history of the case, noting that he has been provided with a copy of the Notice filed by counsel Coulter this morning.

Counsel Simons presented argument in support of the Motion for Summary Judgment, filed in both cases on September 30, 2016.

Counsel Coulter responded; and he further presented argument in opposition of the Motions for Summary Judgment.

Counsel Simons replied; and he further argued in support of the Motions for Summary Judgment.

COURT ORDERED: Matter taken under advisement.

3:30 p.m. – Court adjourned.

**DATE, JUDGE
OFFICERS OF
COURT PRESENT**

APPEARANCES-HEARING

5/1/19
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
J. Martin
(Clerk)
P. Hoogs
(Reporter)

STATUS HEARING

Curtis Coulter, Esq. was present on behalf of Plaintiff, Jeff Meyers in CV15-01359, and Plaintiffs Arthur Shatz and Richard Fratis in CV15-01385. Mark Simons, Esq. and Ricardo Cordova, Esq. was present on behalf Defendant Reno Cab Company, Inc., in CV15-01359, and Defendants Roy Street and Capital Cab in CV15-01385. **COURT** reviewed the procedural history of the matters and the upcoming Jury trials in each matter; Court indicated some concerns regarding communication between Court staff and Respective counsel's staff and requested Respective counsel's staff make efforts to respond to communication from the Court's staff in a timely manner. Counsel Simons discussed the economic standards evaluation and indicated counsel has spent a great amount of time deciding how to frame the matters moving forward. Counsel Simons discussed proceeding as a class action and judicial economy. Counsel Simons discussed multiple ways for the matters to proceed. Counsel Simons stated the parties have discussed requesting a stay of the underlying matters and having the parties enter in to a Stipulation and take the legal issue up on a Writ. Counsel Simons discussed the judicial economy and indicated the Stipulation would address the 5 year rule to ensure neither party would be prejudiced. Counsel Simons requested the trials be vacated to allow the parties to jointly take the issue up to the Supreme Court on a Writ. **COURT** indicated the Stipulation would have to contemplate that the Supreme Court may deny the Writ, Court appreciates the issue is one of first impression and has a broad impact on industry in the State. Counsel Simons further discussed Chapter 706, and further discussed the way in which Respective counsel has attempted to frame the matters in the most efficient way. **COURT** discussed difficult in ability to find Trial time in Department 10 on short notice. Counsel Simons indicated the parties are trying to avoid Trial by resolving this legal issue and stated if the Supreme Court denies the Writ there is a possibility that the parties could Stipulate that a representative party be tried to allow the matters to be tried in 3 – 4 days. Counsel Simons indicated the matters are not in a position to settle without a decision on the legal issue. Counsel Simons further discussed the proposal being judicially economic and cost effective to the respective clients. Counsel Coulter further discussed the proposed plan, and discussed the work that has already gone into both matters. Counsel Coulter stated Respective counsel are attempting to find language to make it appealing for the Appellate Court to take matter and make a decision. Counsel Coulter further discussed the need for a decision by the Supreme Court. **COURT** reviewed the Order entered June 12, 2017, in CV15-01359. Counsel Coulter discussed the possibility of stipulated facts and further stated the legal issue is something that the parties would like resolved.

**DATE, JUDGE
OFFICERS OF
COURT PRESENT**

APPEARANCES-HEARING

5/1/19
HONORABLE
ELLIOTT A.
SATTLER
DEPT. NO. 10
J. Martin
(Clerk)
P. Hoogs
(Reporter)

Counsel Simons discussed Chapter 608 and the entry of the Court's Order after oral arguments. Counsel Simons further discussed the two competing positions of the respective parties. Counsel Simons discussed the formulation of a plan to proceed in each matter.

Counsel Coulter indicated he will research whether there is a mechanism by which the District Court may indicate a legal issue that it would like the Supreme Court to review/rule on.

COURT ORDERED Counsel shall file a Proposal or Stipulation no later than 5:00 p.m. on Wednesday, May 8, 2019, which clearly articulates the parties plans to move forward in the matters; Court further directed the filing to address the upcoming Trial set for June 24, 2019, (CV15-01385) and July 22, 2019, (CV15-01359), Nevada Rules of Civil Procedure, discovery issues and the 5 year rule; should a Proposal or Stipulation not be entered the parties shall be prepared to proceed to Trial in each matter.

CASE NO. CV15-01359 **JEFF MYERS ETAL VS. RENO CAB COMPANY, INC.**
CASE NO. CV15-01385 **ARTHUR SHATZ ETAL VS. ROY STREET ETAL**

DATE, JUDGE
OFFICERS OF
COURT PRESENT

APPEARANCES-HEARING

10/16/19

HEARING ON MOTIONS FOR SUMMARY JUDGMENT

HONORABLE
ELLIOTT A.

2:00 p.m. – Respective counsel met with the Court in chambers to discuss the lack of stipulated facts.

SATTLER

2:32 p.m. – Court convened.

DEPT. 10

Curtis Coulter, Esq., was present on behalf of Plaintiff Jeff Myers in CV15-01359, and Plaintiffs Arthur Shatz and Richard Fratis in CV15-01385.

M. Merkouris
(Clerk)

Mark Simons, Esq., and Jeremy Clarke, Esq., were present on behalf of Defendant Reno Cab Company, Inc., in CV15-01359, and Defendants Roy Street and Capital Cab in CV15-01385.

L. Urmston
(Reporter)

COURT reviewed the procedural history of the cases.

Counsel Coulter advised the Court that he and counsel Simons discussed the stipulated facts prior to the Court taking the bench.

Counsel Simons listed the stipulated facts for the Court; counsel Coulter concurred with the facts as recited by counsel Simons.

Counsel Simons and counsel Coulter advised the Court that they have no additional oral argument to present on the Motions for Summary Judgment.

Discussion ensued between the Court and respective counsel regarding the Order Denying Motion, filed June 12, 2017, in each case.

COURT ORDERED: Matter taken under advisement.

2:47 p.m. – Court adjourned.

Code 1350

IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF WASHOE

JEFF MYERS, individually and on behalf of
others similarly situated,

Case No. CV15-01359

Plaintiff,

Dept. No. 10

vs.

RENO CAB COMPANY, INC.,

Defendant.

ARTHUR SHATZ and RICHARD FRATIS,
individually and on behalf of others similarly
situated,

Case No. CV15-01385

Plaintiffs,

Dept. No. 10

vs.

ROY L. STREET, individually and d/b/a
CAPITAL CAB,

Defendants.

CERTIFICATE OF CLERK AND TRANSMITTAL – NOTICE OF APPEAL

I certify that I am an employee of the Second Judicial District Court of the State of Nevada,
County of Washoe; that on the 16th day of January, 2020, I electronically filed the Notice of Appeal in
the above entitled matter to the Nevada Supreme Court.

I further certify that the transmitted record is a true and correct copy of the original pleadings on
file with the Second Judicial District Court.

Dated this 16th day of January, 2020

Jacqueline Bryant
Clerk of the Court
By /s/ YViloria
YViloria
Deputy Clerk

LEON GREENBERG, PROFESSIONAL CORP.

ATTORNEY OPERATING ACCOUNT

2965 SOUTH JONES BLVD. #E-3

LAS VEGAS, NV 89146

702-383-6085

8287

Date Jun 14, 2020 94-7074/3212

Pay to the
order of

Nevada Supreme Court
James H. Hinkle Jr. Esq.

\$ 250.00

Dollars



Security Features
Included
Details on Back.

WELLS FARGO BANK, N.A.

NEVADA

WELLSFARGO.COM

For

Appeal Shatz Street CV-01385

[Signature]

⑈008287⑈ 12321270742⑈8164306667⑈

MP