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

20 Plaintiffs,

21 vs.

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

24 Defendant.

Supreme Court No. 80449

Case No.: CV 15-01385

Dept.: 10

CASE APPEAL STATEMENT

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

26 Plaintiffs: Arthur Shatz and Richard Frantis.

27 2. Identify the judge issuing the decision, judgment, or order appealed from:
28 Honorable Elliott A. Sattler, Division D10

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

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

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

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

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

All are admitted to practice law in Nevada.

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

Appellants were represented by retained counsel.

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

Appellants are represented by retained counsel.

8. Indicate whether appellant was granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

Not applicable.

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

1 *Shatz and Fratis v. Street* was commenced on January 16, 2015 in the District
2 Court for the First Judicial District. It was transferred to the District Court for the
3 Second Judicial District and via an Order entered by that Court on January 3, 2017 and
4 consolidated with *Myers vs. Reno Cab*, Case No.: CV 15-01359, for all further
5 proceedings except for trial.

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

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

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

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

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

28 The complaint does not involve child custody or visitation.

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

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

6
7 **AFFIRMATION:** The undersigned does hereby affirm that the preceding
8 document, Notice of Appeal, does not contain the personal information of any person.

9 Dated: January 22, 2020

10 Submitted by

11 Leon Greenberg Professional Corporation

12 */s/ Leon Greenberg*

13 _____
14 Leon Greenberg, Esq.
15 LEON GREENBERG PROFESSIONAL
16 CORPORATION
17 Attorney for the Plaintiffs
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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
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Reno, NV 89509

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

Dated: January 22, 2020

/s/ Sydney Saucier

Sydney Saucier