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**IN THE SUPREME COURT OF  
THE STATE OF NEVADA**

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

Appellant,

vs.

RENO CAB COMPANY, INC.,

Respondent.

No. 80448  
District Ct. # CV15-01359

Electronically Filed  
Jun 22 2020 11:07 a.m.  
Elizabeth A. Brown  
Clerk of Supreme Court

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

Appellants,

vs.

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

Respondent.

No. 80449  
District Ct. # CV15-01385

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**JOINT APPENDIX  
VOLUME I OF III**

LEON GREENBERG PROF CORP.  
Leon Greenberg, Esq.  
2965 South Jones Blvd., #E3  
Las Vegas, NV 89146  
LeonGreenberg@Overtimelaw.com  
*Attorneys for Appellants*

SIMONS HALL JOHNSON  
Mark G. Simons, Esq.  
6490 S. McCarran Blvd., Ste F-46  
Reno, Nevada 89509  
MSimons@SHJNevada.com  
*Attorneys for Respondents*

JOINT APPENDIX INDEX  
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20	Reply in Support of Counter-Motion of Arthur Shatz and Richard Fratis filed October 31, 2016, <i>Shatz v. Roy L. Street dba Capital Cab</i>	December 1, 2016	II, 391-397
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23	Response in Opposition of plaintiffs Arthur Shatz and Richard Fratis to Motion for Summary Judgment of Roy L. Street filed September 30, 2016 and Counter-Motion for Discovery Pursuant to NRCPP Rule 56(F) in <i>Shatz v. Roy L. Street dba Capital Cab</i> with Exhibits	November 1, 2016	II, JA 272-355

24	Response in Opposition of Jeff Myers, Arthur Shatz and Richard Fratis to Motion for Summary Judgment filed May 30, 2019 of Reno Cab Company, <i>Meyers v. Reno Cab Company</i> , and Roy L. Street, <i>Shatz v. Street dba Capital Cab</i> (consolidated cases) with Exhibits	July 8, 2019	III, 537-570

CURTIS B. COULTER, ESQ., NSB 3034  
Law Offices of Curtis B. Coulter, P.C.  
403 Hill Street  
Reno, Nevada 89501  
Tel (775) 324-3380  
Fax (775) 324-3381  
[ccoulter@coulterlaw.net](mailto:ccoulter@coulterlaw.net)

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BY V. Alegria  
DEPUTY

LEON GREENBERG, ESQ., NSB 8094  
DANA SNIEGOCKI, ESQ., NSB 11715  
Leon Greenberg Professional Corporation  
2965 South Jones Blvd - Suite E3  
Las Vegas, Nevada 89146  
Tel (702) 383-6085  
Fax (702) 385-1827  
[leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
[dana@overtimelaw.com](mailto:dana@overtimelaw.com)

Attorneys for Plaintiffs

IN THE FIRST JUDICIAL DISTRICT COURT OF  
THE STATE OF NEVADA IN AND FOR CARSON CITY

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

Plaintiffs,

vs.

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

Defendant.

Case No.: 150C000081B

Dept.: II

COMPLAINT

ARBITRATION EXEMPTION  
CLAIMED BECAUSE THIS IS  
A CLASS ACTION CASE

ARTHUR SHATZ and RICHARD FRATIS, individually and on behalf of others  
similarly situated, by and through their attorney, Leon Greenberg Professional Corporation,  
as and for a Complaint against the defendant, state and alleges, as follows:

**JURISDICTION, PARTIES AND PRELIMINARY STATEMENT**

1. The plaintiff, ARTHUR SHATZ, (the "plaintiff" or the "named plaintiff") is a resident  
of Carson City, Nevada and is a former employee of the defendant. The plaintiff, RICHARD

1 FRATIS, (the "plaintiff" or the "named plaintiff") is a resident of Carson City, Nevada and is a  
2 former employee of the defendant (hereinafter, both ARTHUR SHATZ and RICHARD  
3 FRATIS are referred to collectively as "the plaintiffs").

4 2. The defendant, ROY L. STREET, (hereinafter referred to as defendant") is a  
5 resident of the State of Nevada and does business under the name CAPITAL CAB in the  
6 State of Nevada and conducts the business activities at issue in this case to some  
7 substantial extent within Carson City, Nevada.

8 3. The transactions between the plaintiffs and defendant giving rise to this claim,  
9 which involved the furnishing of labor by the plaintiffs to the defendant such labor not being  
10 fully compensated for as required by law as alleged herein, took place, to some substantial  
11 extent, within Carson City, Nevada.

#### 12 13 **CLASS ACTION ALLEGATIONS**

14 4. The plaintiffs bring this action as a class action pursuant to Nev. R. Civ. P. §23  
15 on behalf of themselves and a class of all similarly situated persons employed by the  
16 defendant in the State of Nevada.

17 5. The class of similarly situated persons consists of all persons employed by  
18 defendant in the State of Nevada during the applicable statute of limitations periods prior to  
19 the filing of this Complaint continuing until date of judgment, such persons being employed  
20 as taxi cab, livery or limousine drivers (hereinafter referred to as "cab drivers" or "drivers")  
21 such employment involving the driving of taxi cabs or other vehicles for the defendant in the  
22 State of Nevada.

23 6. The common circumstance of the drivers giving rise to this suit is that while  
24 they were employed by defendant they were not paid the minimum wage required by  
25 Nevada's Constitution, Article 15, Section 16 for many or most of the days that they worked  
26 in that their hourly compensation, when calculated pursuant to the requirements of said  
27 Nevada Constitutional Provision, did not equal at least the minimum hourly wage provided  
28 for therein.

1           7.     The named plaintiffs are informed and believe, and based thereon allege that  
2 there are at least 50 putative class action members. The actual number of class members  
3 is readily ascertainable by a review of the defendant's records through appropriate  
4 discovery.

5           8.     There is a well-defined community of interest in the questions of law and fact  
6 affecting the class as a whole.

7           9.     Proof of a common or single set of facts will establish the right of each  
8 member of the class to recover. These common questions of law and fact predominate  
9 over questions that affect only individual class members. The individual plaintiffs' claims are  
10 typical of those of the class.

11          10.    A class action is superior to other available methods for the fair and efficient  
12 adjudication of the controversy. Due to the typicality of the class members' claims, the  
13 interests of judicial economy will be best served by adjudication of this lawsuit as a class  
14 action. This type of case is uniquely well-suited for class treatment since the employer's  
15 practices were uniform and the burden is on the employer to establish that its method for  
16 compensating the class members complies with the requirements of Nevada law.

17          11.    The individual plaintiffs will fairly and adequately represent the interests of the  
18 class and have no interests that conflict with or are antagonistic to the interests of the class  
19 and have retained to represent them competent counsel experienced in the prosecution of  
20 class action cases and will thus be able to appropriately prosecute this case on behalf of the  
21 class.

22          12.    The individual plaintiffs and their counsel are aware of their fiduciary  
23 responsibilities to the members of the proposed class and are determined to diligently  
24 discharge those duties by vigorously seeking the maximum possible recovery for all  
25 members of the proposed class.

26          13.    There is no plain, speedy, or adequate remedy other than by maintenance of  
27 this class action. The prosecution of individual remedies by members of the class will tend  
28 to establish inconsistent standards of conduct for the defendant and result in the impairment



1 of class members' rights and the disposition of their interests through actions to which they  
2 were not parties. In addition, the class members' individual claims are small in amount and  
3 they have no substantial ability to vindicate their rights, and secure the assistance of  
4 competent counsel to do so, except by the prosecution of a class action case.

5  
6 **FACTUAL ALLEGATIONS UNDERLYING THE PARTIES' EMPLOYER/EMPLOYEE**  
7 **RELATIONSHIP**

8 14. The plaintiffs, ARTHUR SHATZ and RICHARD FRATIS, at some point after  
9 July 1, 2007, pursuant to an agreement with the defendant, drove a "vehicle for hire" such  
10 as a taxi cab, limousine or livery vehicle, meaning a vehicle duly licensed by the State of  
11 Nevada and/or one or more other empowered governmental authorities to have its driver  
12 transport paying passengers and their cargo to various destinations, such vehicle being  
13 owned by the defendant and/or operated by the defendant in the defendant's "vehicle for  
14 hire" business.

15 15. Although both plaintiffs were treated as "independent contractors" by the  
16 defendant, the plaintiffs were, as a matter of law, employees of the defendant and the  
17 defendant was, as a matter of law, the employer of the plaintiffs in respect to their activities  
18 conducted as part of defendant's "vehicle for hire" business under the "economic realities" of  
19 the circumstances, as that term has been defined by the Nevada Supreme Court in *Terry v.*  
20 *Sapphire Gentlemen's Club*, 336 P.3d 951 (2014).

21 16. As part of their employment arrangement with the defendant, plaintiffs were  
22 required to pay a daily fee to defendant to "lease" the taxicab they used to perform their  
23 work. Such "lease" fee was a nominal \$5.00 per day. After paying the nominal \$5.00 per  
24 day "lease" fee to defendant, plaintiffs were required to work a twelve (12) hour shift each  
25 day they worked for defendant. Such shift was pre-arranged by defendant and plaintiffs  
26 could not choose to work fewer hours than twelve (12) in a single shift. Defendant also  
27 directed which days per week plaintiffs were required to work, and the number of such days  
28 per week. Plaintiffs' wages paid by defendant were in the form of a "commission split"

1 arrangement, under which plaintiffs would receive 50% of the taxicab fares they collected  
2 from paying customers during their shift, and defendant would receive 50% of the taxicab  
3 fares plaintiffs collected from such customers during their shift.

4         17. As described in paragraph 16, the plaintiffs did not, in reality, operate as the  
5 "independent contractors" that defendant claimed they were, as the plaintiffs were unable to  
6 set their hours of work or exercise any independent control over the number of hours they  
7 chose to work in a given shift. The plaintiffs further had no actual investment in any truly  
8 independent business in respect to the work they performed for the defendant, in that the  
9 "lease" fee required by defendant from each of its vehicle for hire drivers was \$5.00 or a  
10 similar nominal amount per day. Moreover, defendant was as a practical matter not  
11 "leasing" any vehicle to the plaintiffs or his other vehicle for hire drivers for \$5.00 or a similar  
12 nominal amount per day and his business was dependent upon the fares collected by the  
13 plaintiffs and his other vehicle for hire drivers during their shift as defendant had a 50%  
14 stake in the total fares so collected, and the success of defendant's business was directly  
15 dependent upon the defendant's share of the fares collected by his vehicle for hire drivers  
16 and not upon the money defendant collected from the plaintiffs and other vehicle for hire  
17 drivers in the form of a nominal "lease" fee. In the event the plaintiffs and defendant's other  
18 vehicle for hire operators, who also worked for the defendant under similar arrangements,  
19 failed to collect significant passenger fares, defendant would not allow them to continue to  
20 "lease" vehicles for \$5.00 or the similar nominal "lease fee" per day that they were charged.  
21 Thus, plaintiffs and the defendant's other vehicle for hire drivers were not acting as truly  
22 independent business operators but were *de facto* commission compensated employees of  
23 the defendant as a matter of economic reality.

24         18. The economic realities of the relationship between the plaintiffs and  
25 defendant's other vehicle for hire drivers and the defendant was one of employment, in that  
26 the defendant mandated the hours and days of work of his vehicle for hire drivers and also  
27 substantially controlled the amount of money they would earn by, among other things,  
28 referring fare paying customers to them via "radio calls." Plaintiffs and defendant's other

1 vehicle for hire drivers could not decline to accept such radio call assignments and had to  
2 follow all of defendant's rules of operation and defendant could refuse to continue to allow  
3 the them to drive the defendant's vehicles for hire at anytime, without notice, and without  
4 cause. Plaintiffs and defendants other vehicle for hire drivers were treated, in all respects,  
5 exactly like employees of the defendant by the defendant.

6  
7 **AS AND FOR A FIRST CLAIM FOR RELIEF ON BEHALF OF THE NAMED PLAINTIFFS**  
8 **AND ALL PERSONS SIMILARLY SITUATED PURSUANT TO NEVADA'S**  
9 **CONSTITUTION**

10 19. The named plaintiffs repeat all of the allegations previously made and brings  
11 this First Claim for Relief pursuant to Article 15, Section 16, of the Nevada Constitution.

12 20. Pursuant to Article 15, Section 16, of the Nevada Constitution the named  
13 plaintiff and the class members were entitled to an hourly minimum wage for every hour that  
14 they worked for defendant and the named plaintiff and the class members were often not  
15 paid such required minimum wages.

16 21. The defendant's violation of Article 15, Section 16, of the Nevada Constitution  
17 involved malicious and/or fraudulent and/or oppressive conduct by the defendant sufficient  
18 to warrant an award of punitive damages for the following, amongst other reasons:

19 (a) Defendant despite having, and being aware of, an express obligation under  
20 Article 15, Section 16, of the Nevada Constitution, such obligation  
21 commencing no later than July 1, 2007, to advise the plaintiff and the class  
22 members, in writing, of their entitlement to the minimum hourly wage specified  
23 in such constitutional provision, failed to provide such written advisement;

24 (b) Defendant was aware that the highest law enforcement officer of the State  
25 of Nevada, the Nevada Attorney General, had issued a public opinion in 2005  
26 that Article 15, Section 16, of the Nevada Constitution, upon its effective date,  
27 would require defendant and other employers of vehicle for hire drivers to  
28 compensate such employees with the minimum hourly wage specified in such

1 constitutional provision. Defendant consciously elected to ignore that opinion  
2 and not pay the minimum wage required by Article 15, Section 16, of the  
3 Nevada Constitution to its vehicle for hire employees in the hope that it would  
4 be successful, if legal action was brought against it, in avoiding paying some  
5 or all of such minimum wages;

6  
7 (c) Defendant, to the extent it believed it had a colorable basis to legitimately  
8 contest the applicability of Article 15, Section 16, of the Nevada Constitution to  
9 its taxi driver employees, made no effort to seek any judicial declaration of its  
10 obligation, or lack of obligation, under such constitutional provision and to pay  
11 into an escrow fund any amounts it disputed were so owed under that  
12 constitutional provision until such a final judicial determination was made.  
13

14 22. Defendant engaged in the acts and/or omissions detailed in paragraph 21 in  
15 an intentional scheme to maliciously, oppressively and fraudulently deprive its vehicle for  
16 hire driver employees of the hourly minimum wages that were guaranteed to those  
17 employees by Article 15, Section 16, of the Nevada Constitution. Defendant so acted in the  
18 hope that by the passage of time whatever rights such vehicle for hire employees had to  
19 such minimum hourly wages owed to them by the defendant would expire, in whole or in  
20 part, by operation of law. Defendant so acted consciously, willfully, and intentionally to  
21 deprive such vehicle for hire employees of any knowledge that they might be entitled to  
22 such minimum hourly wages, despite the defendant's obligation under Article 15, Section  
23 16, of the Nevada Constitution to advise such vehicle for hire employees of their right to  
24 those minimum hourly wages. Defendant's malicious, oppressive and fraudulent conduct is  
25 also demonstrated by its failure to make any allowance to pay such minimum hourly wages  
26 if they were found to be due, such as through an escrow account, while seeking any judicial  
27 determination of its obligation to make those payments.

28 23. The named plaintiffs seek all relief available to them and the alleged class

1 under Nevada's Constitution, Article 15, Section 16 including appropriate injunctive and  
2 equitable relief to make the defendant cease its violations of Nevada's Constitution and a  
3 suitable award of punitive damages.

4 24. The named plaintiffs on behalf of themselves and the proposed plaintiff class  
5 members, seek, on this First Claim for Relief, a judgment against the defendant for  
6 minimum wages owed since November 28, 2006 and continuing into the future, such sums  
7 to be determined based upon an accounting of the hours worked by, and wages actually  
8 paid to, the plaintiffs and the class members, a suitable injunction and other equitable relief  
9 barring the defendant from continuing to violate Nevada's Constitution, a suitable award of  
10 punitive damages, and an award of attorneys' fees, interest and costs, as provided for by  
11 Nevada's Constitution and other applicable laws.

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

14 25. Plaintiffs repeat and reiterate each and every allegation previously made herein.

15 26. The named plaintiffs brings this Second Claim for Relief against the defendant  
16 pursuant to Nevada Revised Statutes § 608.040 on behalf of themselves and the alleged  
17 class of all similarly situated employees of the defendant.

18 27. The named plaintiffs have been separated from their employment with the  
19 defendant and at the time of such separation were owed unpaid wages by the defendant.

20 28. The defendant has failed and refused to pay the named plaintiffs and numerous  
21 members of the putative plaintiff class who are the defendant's former employees their  
22 earned but unpaid wages, such conduct by such defendant constituting a violation of  
23 Nevada Revised Statutes § 608.020, or § 608.030 and giving such named plaintiffs and  
24 similarly situated members of the putative class of plaintiffs a claim against the defendant  
25 for a continuation after the termination of their employment with the defendant of the normal  
26 daily wages defendant would pay them, until such earned but unpaid wages are actually  
27 paid or for 30 days, whichever is less, pursuant to Nevada Revised Statutes § 608.040.

28 29. As a result of the foregoing, the named plaintiffs seek on behalf of themselves

1 and the similarly situated putative plaintiff class members a judgment against the defendant  
2 for the wages owed to him and such class members as prescribed by Nevada Revised  
3 Statutes § 608.040, to wit, for a sum equal to up to thirty days wages, along with interest,  
4 costs and attorneys' fees.

5 WHEREFORE, plaintiffs demand the relief on each cause of action as alleged  
6 aforesaid.

7 Plaintiffs demand a trial by jury on all issues so triable.

8  
9 AFFIRMATION

10 Pursuant to NRS 239B.030

11 The undersigned does hereby affirm that the preceding document, Complaint, does  
12 not contain the social security number of any person.

13  
14 Dated this 12th day of January, 2015.

15  
16 Leon Greenberg Professional Corporation

17  
18 By: 

19 LEON GREENBERG, Esq.  
20 Nevada Bar No.: 8094  
21 2965 South Jones Blvd- Suite E-3  
22 Las Vegas, Nevada 89146  
23 Tel (702) 383-6085  
24 Fax (702) 385-1827

25 Attorney for Plaintiff  
26  
27  
28

1 CURTIS B. COULTER, ESQ., NSB 3034  
2 Law Offices of Curtis B. Coulter, P.C.  
3 403 Hill Street  
4 Reno, Nevada 89501  
5 Tel (775) 324-3380  
6 Fax (775) 324-3381  
7 ccoulter@coulterlaw.net

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8 LEON GREENBERG, ESQ., NSB 8094  
9 DANA SNIEGOCKI, ESQ., NSB 11715  
10 Leon Greenberg Professional Corporation  
11 2965 South Jones Blvd - Suite E3  
12 Las Vegas, Nevada 89146  
13 Tel (702) 383-6085  
14 Fax (702) 385-1827  
15 leongreenberg@overtimelaw.com  
16 dana@overtimelaw.com

17 Attorneys for Plaintiff

18 **IN THE FIRST JUDICIAL DISTRICT COURT OF**  
19 **THE STATE OF NEVADA IN AND FOR CARSON CITY**

20 JEFF MYERS, Individually and on behalf of  
21 others similarly situated,

22 Plaintiff,

23 vs.

24 RENO CAB COMPANY, INC.,

25 Defendant.

Case No.: 15JC0000915

Dept.: 47

**COMPLAINT**

**ARBITRATION EXEMPTION  
CLAIMED BECAUSE THIS IS  
A CLASS ACTION CASE**

26 JEFF MYERS, individually and on behalf of others similarly situated, by and through  
27 his attorney, Leon Greenberg Professional Corporation, as and for a Complaint against the  
28 defendant, state and alleges, as follows:

**JURISDICTION, PARTIES AND PRELIMINARY STATEMENT**

1. The plaintiff, JEFF MYERS, (the "plaintiff" or the "named plaintiff") is a resident of Washoe County, Nevada and is a former employee of the defendant.

2. The defendant, RENO CAB COMPANY, INC., (hereinafter referred to as defendant") is a corporation existing and established pursuant to the laws of the State of Nevada and at all times mentioned herein was actively conducting business in Nevada.

3. The transactions between the plaintiff class alleged herein and defendant giving rise to this claim, which involved the furnishing of labor by the plaintiff class members to the defendant such labor not being fully compensated for as required by law as alleged herein, took place, to some substantial extent, within Carson City, Nevada.

## CLASS ACTION ALLEGATIONS

4. The plaintiff brings this action as a class action pursuant to Nev. R. Civ. P. §23 on behalf of himself and a class of all similarly situated persons employed by the defendant in the State of Nevada.

5. The class of similarly situated persons consists of all persons employed by defendant in the State of Nevada during the applicable statute of limitations periods prior to the filing of this Complaint continuing until date of judgment, such persons being employed as taxi cab, livery or limousine drivers (hereinafter referred to as "cab drivers" or "drivers") such employment involving the driving of taxi cabs or other vehicles for hire for the defendant in the State of Nevada.

6. The common circumstance of the drivers giving rise to this suit is that while they were employed by defendant they were not paid the minimum wage required by Nevada's Constitution, Article 15, Section 16 for many or most of the days that they worked in that their hourly compensation, when calculated pursuant to the requirements of said Nevada Constitutional Provision, did not equal at least the minimum hourly wage provided for therein.

7. The named plaintiff is informed and believes, and based thereon alleges that there are at least 50 putative class action members. The actual number of class members is readily ascertainable by a review of the defendant's records through appropriate discovery.



1           8.     There is a well-defined community of interest in the questions of law and fact  
2 affecting the class as a whole.

3           9.     Proof of a common or single set of facts will establish the right of each  
4 member of the class to recover. These common questions of law and fact predominate  
5 over questions that affect only individual class members. The individual plaintiff's claims are  
6 typical of those of the class.

7           10.    A class action is superior to other available methods for the fair and efficient  
8 adjudication of the controversy. Due to the typicality of the class members' claims, the  
9 interests of judicial economy will be best served by adjudication of this lawsuit as a class  
10 action. This type of case is uniquely well-suited for class treatment since the employer's  
11 practices were uniform and the burden is on the employer to establish that its method for  
12 compensating the class members complies with the requirements of Nevada law.

13          11.    The individual plaintiff will fairly and adequately represent the interests of the  
14 class and has no interests that conflict with or are antagonistic to the interests of the class  
15 and has retained to represent him competent counsel experienced in the prosecution of  
16 class action cases and will thus be able to appropriately prosecute this case on behalf of the  
17 class.

18          12.    The individual plaintiff and his counsel are aware of their fiduciary  
19 responsibilities to the members of the proposed class and are determined to diligently  
20 discharge those duties by vigorously seeking the maximum possible recovery for all  
21 members of the proposed class.

22          13.    There is no plain, speedy, or adequate remedy other than by maintenance of  
23 this class action. The prosecution of individual remedies by members of the class will tend  
24 to establish inconsistent standards of conduct for the defendant and result in the impairment  
25 of class members' rights and the disposition of their interests through actions to which they  
26 were not parties. In addition, the class members' individual claims are small in amount and  
27 they have no substantial ability to vindicate their rights, and secure the assistance of  
28 competent counsel to do so, except by the prosecution of a class action case.

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1 work in a given shift. The plaintiff further had no actual investment in any truly independent  
2 business in respect to the work he performed for the defendant, in that the "lease" fee  
3 required by defendant from each of its vehicle for hire drivers was \$5.00 or a similar nominal  
4 amount per day. Moreover, defendant was as a practical matter not "leasing" any vehicle to  
5 the plaintiff or its other vehicle for hire drivers for \$5.00 or a similar nominal amount per day  
6 and its business was dependent upon the fares collected by the plaintiff and its other vehicle  
7 for hire drivers during their shift as defendant had a 50% stake in the total fares so  
8 collected, and the success of defendant's business was directly dependent upon the  
9 defendant's share of the fares collected by its vehicle for hire drivers and not upon the  
10 money defendant collected from the plaintiff and other vehicle for hire drivers in the form of  
11 a nominal "lease" fee. In the event the plaintiff and defendant's other vehicle for hire  
12 operators, who also worked for the defendant under similar arrangements, failed to collect  
13 significant passenger fares, defendant would not allow them to continue to "lease" vehicles  
14 for \$5.00 or the similar nominal "lease fee" per day that they were charged. Thus, plaintiff  
15 and the defendant's other vehicle for hire drivers were not acting as truly independent  
16 business operators but were *de facto* commission compensated employees of the  
17 defendant as a matter of economic reality.

18 18. The economic realities of the relationship between the plaintiff and defendant's  
19 other vehicle for hire drivers and the defendant was one of employment, in that the  
20 defendant mandated the hours and days of work of its vehicle for hire drivers and also  
21 substantially controlled the amount of money they would earn by, among other things,  
22 referring fare paying customers to them via "radio calls." Plaintiff and defendant's other  
23 vehicle for hire drivers could not decline to accept such radio call assignments and had to  
24 follow all of defendant's rules of operation and defendant could refuse to continue to allow  
25 the them to drive the defendant's vehicles for hire at anytime, without notice, and without  
26 cause. Plaintiff and defendant's other vehicle for hire drivers were treated, in all respects,  
27 exactly like employees of the defendant by the defendant.

28

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

4     19.     The named plaintiff repeats all of the allegations previously made and brings  
5     this First Claim for Relief pursuant to Article 15, Section 16, of the Nevada Constitution.

6     20.     Pursuant to Article 15, Section 16, of the Nevada Constitution the named  
7     plaintiff and the class members were entitled to an hourly minimum wage for every hour that  
8     they worked for defendant and the named plaintiff and the class members were often not  
9     paid such required minimum wages.

10    21.     The defendant's violation of Article 15, Section 16, of the Nevada Constitution  
11    involved malicious and/or fraudulent and/or oppressive conduct by the defendant sufficient  
12    to warrant an award of punitive damages for the following, amongst other reasons:

13           (a) Defendant despite having, and being aware of, an express obligation under  
14           Article 15, Section 16, of the Nevada Constitution, such obligation  
15           commencing no later than July 1, 2007, to advise the plaintiff and the class  
16           members, in writing, of their entitlement to the minimum hourly wage specified  
17           in such constitutional provision, failed to provide such written advisement;

18           (b) Defendant was aware that the highest law enforcement officer of the State  
19           of Nevada, the Nevada Attorney General, had issued a public opinion in 2005  
20           that Article 15, Section 16, of the Nevada Constitution, upon its effective date,  
21           would require defendant and other employers of vehicle for hire drivers to  
22           compensate such employees with the minimum hourly wage specified in such  
23           constitutional provision. Defendant consciously elected to ignore that opinion  
24           and not pay the minimum wage required by Article 15, Section 16, of the  
25           Nevada Constitution to its vehicle for hire employees in the hope that it would  
26           be successful, if legal action was brought against it, in avoiding paying some  
27           or all of such minimum wages;

1 (c) Defendant, to the extent it believed it had a colorable basis to legitimately  
2 contest the applicability of Article 15, Section 16, of the Nevada Constitution to  
3 its taxi driver employees, made no effort to seek any judicial declaration of its  
4 obligation, or lack of obligation, under such constitutional provision and to pay  
5 into an escrow fund any amounts it disputed were so owed under that  
6 constitutional provision until such a final judicial determination was made.  
7

8 22. Defendant engaged in the acts and/or omissions detailed in paragraph 21 in  
9 an intentional scheme to maliciously, oppressively and fraudulently deprive its vehicle for  
10 hire driver employees of the hourly minimum wages that were guaranteed to those  
11 employees by Article 15, Section 16, of the Nevada Constitution. Defendant so acted in the  
12 hope that by the passage of time whatever rights such vehicle for hire employees had to  
13 such minimum hourly wages owed to them by the defendant would expire, in whole or in  
14 part, by operation of law. Defendant so acted consciously, willfully, and intentionally to  
15 deprive such vehicle for hire employees of any knowledge that they might be entitled to  
16 such minimum hourly wages, despite the defendant's obligation under Article 15, Section  
17 16, of the Nevada Constitution to advise such vehicle for hire employees of their right to  
18 those minimum hourly wages. Defendant's malicious, oppressive and fraudulent conduct is  
19 also demonstrated by its failure to make any allowance to pay such minimum hourly wages  
20 if they were found to be due, such as through an escrow account, while seeking any judicial  
21 determination of its obligation to make those payments.

22 23. The named plaintiff seek all relief available to him and the alleged class under  
23 Nevada's Constitution, Article 15, Section 16 including appropriate injunctive and equitable  
24 relief to make the defendant cease its violations of Nevada's Constitution and a suitable  
25 award of punitive damages.

26 24. The named plaintiff on behalf of himself and the proposed plaintiff class  
27 members, seeks, on this First Claim for Relief, a judgment against the defendant for  
28 minimum wages owed since November 28, 2006 and continuing into the future, such sums

1 to be determined based upon an accounting of the hours worked by, and wages actually  
2 paid to, the plaintiff and the class members, a suitable injunction and other equitable relief  
3 barring the defendant from continuing to violate Nevada's Constitution, a suitable award of  
4 punitive damages, and an award of attorneys' fees, interest and costs, as provided for by  
5 Nevada's Constitution and other applicable laws.

6 **AS AND FOR A SECOND CLAIM FOR RELIEF PURSUANT TO NEVADA REVISED**  
7 **STATUTES § 608.040 ON BEHALF OF THE NAMED PLAINTIFF**  
8 **AND THE PUTATIVE CLASS**

9 25. Plaintiff repeats and reiterates each and every allegation previously made  
10 herein.

11 26. The named plaintiff brings this Second Claim for Relief against the defendant  
12 pursuant to Nevada Revised Statutes § 608.040 on behalf of himself and the alleged class  
13 of all similarly situated employees of the defendant.

14 27. The named plaintiff has been separated from his employment with the  
15 defendant and at the time of such separation was owed unpaid wages by the defendant.

16 28. The defendant has failed and refused to pay the named plaintiff and numerous  
17 members of the putative plaintiff class who are the defendant's former employees their  
18 earned but unpaid wages, such conduct by such defendant constituting a violation of  
19 Nevada Revised Statutes § 608.020, or § 608.030 and giving such named plaintiff and  
20 similarly situated members of the putative class of plaintiff a claim against the defendant for  
21 a continuation after the termination of their employment with the defendant of the normal  
22 daily wages defendant would pay them, until such earned but unpaid wages are actually  
23 paid or for 30 days, whichever is less, pursuant to Nevada Revised Statutes § 608.040.

24 29. As a result of the foregoing, the named plaintiff seeks on behalf of himself and  
25 the similarly situated putative plaintiff class members a judgment against the defendant for  
26 the wages owed to him and such class members as prescribed by Nevada Revised Statutes  
27 § 608.040, to wit, for a sum equal to up to thirty days wages, along with interest, costs and  
28 attorneys' fees.

WHEREFORE, plaintiff demand the relief on each cause of action as alleged

1 aforesaid.

2 Plaintiff demand a trial by jury on all issues so triable.

3  
4 AFFIRMATION

5 Pursuant to NRS 239B.030

6 The undersigned does hereby affirm that the preceding document, Complaint, does  
7 not contain the social security number of any person.

8  
9 Dated this 15th day of January, 2015.

10  
11 Leon Greenberg Professional Corporation

12  
13 By: 

14 LEON GREENBERG, Esq.  
15 Nevada Bar No.: 8094  
16 2965 South Jones Blvd- Suite E-3  
17 Las Vegas, Nevada 89146  
18 Tel (702) 383-6085  
19 Fax (702) 385-1827

20 Attorney for Plaintiff  
21  
22  
23  
24  
25  
26  
27  
28

IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY, STATE OF NEVADA

ARTHUR SHATZ, ET AL

Plaintiff,

Case No:150C000081B

vs.

ROY L. STREET, INDIVIDUALLY  
AND DOING BUSINESS AS  
CAPITAL CAB

Defendant

Declaration of Service

STATE OF NEVADA  
COUNTY OF WASHOE ss.:



**MIKE JONES**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States over 18 years of age, not a party to nor interested in the proceedings in which this affidavit is made.

That affiant received copy(ies) of the SUMMONS; COMPLAINT, on 01/28/2015 and served the same on 02/11/2015 at 1:09 PM by delivering and leaving a copy with:

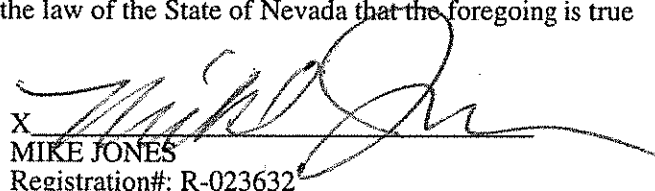
**ROY L. STREET, INDIVIDUALLY AND DOING BUSINESS AS CAPITAL CAB at POE:  
RENO SPARKS CAB CO, 475 GENTRY WAY , RENO, NV 89502**

A description of the Recipient, or other person served on behalf of the Recipient is as follows:

Sex	Color of skin/race	Color of hair	Age	Height	Weight
Male	Caucasian	Black/Gray	56	5ft 10in	161-170lbs
Other Features:					

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

Executed on: 02/11/2015  
by MIKE JONES

X   
MIKE JONES  
Registration#: R-023632  
Reno/Carson Messenger Service, Inc. (Lic# 322)  
185 Martin Street  
Reno, NV 89509  
775.322.2424  
Atty File#: CAPITAL CAB #1039

No Notary is Required per NRS 53.045



\*59182\*



IN THE FIRST JUDICIAL DISTRICT COURT  
IN AND FOR THE COUNTY OF CARSON CITY, STATE OF NEVADA

JEFF MYERS

Plaintiff,

Case No:15 OC 000091B

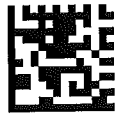
vs.

RENO CAB COMPANY, INC.

Defendant

Affidavit of Service

STATE OF NEVADA  
COUNTY OF NEVADA ss.:



**MATTHEW BAKER**, being duly sworn says: That at all times herein affiant was and is a citizen of the United States over 18 years of age, not a party to nor interested in the proceedings in which this affidavit is made.

The affiant received copy(ies) of the **ALIAS SUMMONS; COMPLAINT** on **02/13/2015** and served the same on **02/13/2015** at **10:20 AM** by delivering and leaving a copy with:

**J. ROBERT PARKE, RESIDENT AGENT**, pursuant to NRS 14.020 as a person of suitable age and discretion, of the office of **LAW OFFICE OF J. ROBERT PARKE, LLC**, registered agent for **RENO CAB COMPANY, INC.**, at the registered address of:

**Service address: 6490 S.MCCARRAN BLVD. BUILDING B, SUITE 15, Reno, NV 89509**

A description of **J. ROBERT PARKE** is as follows:

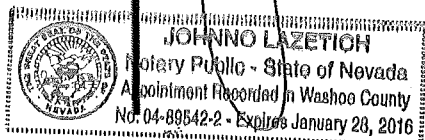
Sex	Color of skin/race	Color of hair	Age	Height	Weight
Male	Caucasian	Blonde	60	5'6"	150
Other Features:					

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

Sworn to and subscribed before me on  
02/13/2015  
by **MATTHEW BAKER**

X   
**MATTHEW BAKER**  
Registration#: R-016102  
Reno/Carson Messenger Service, Inc. (Lic# 322)  
185 Martin Street  
Reno, NV 89509  
775.322.2424  
Atty File#: JEFF MYERS

Notary Public



\*59723\*

CV15-01359  
JEFF MYERS ETAL VS. RENO CAB 7 Pages  
District Court 07/16/2015 08:35 AM  
Washoe County 1130  
nnc  
PROMTPE7

1 MICHAEL A. PINTAR, ESQ.  
2 Nevada Bar No. 003789  
3 ANDREW C. JOY, ESQ.  
4 Nevada Bar No. 13162  
5 GLOGOVAC & PINTAR  
6 427 West Plumb Lane  
7 Reno, Nevada 89509  
8 Telephone: (775) 333-0400  
9 Facsimile: (775) 333-0412

10 Attorneys for Defendant  
11 Reno Cab Company, Inc.

REC'D & FILED  
FILED  
MAY 15 PM 4:45

JUL 16 2015

JACQUELINE BRYANT, CLERK

SUSAN MERRIWETHER  
CLERK

DEPUTY

12 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
13  
14 IN AND FOR CARSON CITY

15 JEFF MYER, Individually and on behalf of  
16 other similarly situated,

17 Plaintiff,

18 vs.

19 RENO CAB COMPANY, INC.,

20 Defendant.

Case No.: 15-OC-00009 1B

Dept. No.: II

CV15 01359

D:8

21 ANSWER

22 Defendant Reno Cab Company, Inc., ("Defendant"), by and through its  
23 attorneys, Glogovac & Pintar, and in response to the Complaint filed in the above-  
captioned matter by Plaintiff, Jeff Myer ("Plaintiff"), admits, denies and avers as  
follows:

24 JURISDICTION, PARTIES AND PRELIMINARY STATEMENT

25 1. In response to the allegations contained in Paragraph 1, Defendant  
26 denies that Plaintiff was an employee of Defendant. Defendant is without knowledge or  
27 information sufficient to form a belief as to the truth of the remaining allegations  
28 contained in Paragraph 1.

1           2.     In response to the allegations contained in Paragraph 2, Defendant  
2 admits that Reno Cab Company, Inc., is a Nevada corporation with its principle office  
3 being in Reno, Nevada.

4           3.     Defendant avers that the allegations contained in Paragraph 3 are vague  
5 and non-specific, and thus, Defendant is without knowledge or information sufficient to  
6 form a belief as to the truth of the same.

7                               **CLASS ACTION ALLEGATIONS**

8           4.     Defendant is without knowledge or information sufficient to form a belief  
9 as to the truth of the allegations of Paragraph 4. To the extent that a response is  
10 required, Defendant denies the allegations therein.

11          5.     In response to the allegations contained in Paragraph 5, Defendant  
12 asserts that the allegations contain legal conclusions to which no response is required.  
13 To the extent that the allegations contained in Paragraph 5 assert facts, Defendant  
14 denies the allegations therein.

15          6.     In response to the allegations contained in Paragraph 6, Defendant  
16 asserts that the allegations contain legal conclusions to which no response is required.  
17 To the extent that the allegations contained in Paragraph 6 assert facts, Defendant  
18 denies that Plaintiff was ever employed by Defendant. Defendant is without is without  
19 knowledge or information sufficient to form a belief as to the truth of the remaining  
20 allegations contained in Paragraph 6.

21          7.     Defendant is without knowledge or information sufficient to form a belief  
22 as to the truth of the allegations contained in Paragraph 7. To the extent that a  
23 response is required, Defendant denies the allegations therein.

24          8.     Defendant denies the allegations contained in Paragraph 8.

25          9.     Defendant denies the allegations contained in Paragraph 9.

26          10.    Defendant denies the allegations contained in Paragraph 10.

27          11.    Defendant denies the allegations contained in Paragraph 11.

28          12.    In response to the allegations contained in Paragraph 12, Defendant

1 asserts that the allegations contain legal conclusions to which no response is required.  
2 To the extent that the allegations contained in Paragraph 12 assert facts, Defendant  
3 denies the allegations therein.

4 13. Defendant denies the allegations contained in Paragraph 13.

5 **FACTUAL ALLEGATIONS**

6 14. In response to the allegations contained in Paragraph 14, Defendant  
7 avers that Plaintiff was an independent contractor who leased a taxicab from  
8 Defendant pursuant to a lease agreement. Defendant further avers that Defendant is  
9 regulated by the Nevada Transportation Authority ("NTA") and that Defendant's lease  
10 agreement with Plaintiff was specifically ratified and approved by the NTA. Defendant  
11 denies the remaining allegations contained in Paragraph 14 not admitted.

12 15. Defendant denies the allegations contained in Paragraph 15.

13 16. In response to the allegations contained in Paragraph 16, Defendant  
14 admits that it has standardized policies and procedures governing the operation and  
15 lease of its taxicabs. Said policies and procedures being regulated by the NTA.  
16 Defendant denies the remaining allegations contained in Paragraph 16 not admitted.

17 17. In response to the allegations contained in Paragraph 17, Defendant  
18 asserts that the allegations contain legal conclusions to which no response is required.  
19 To the extent that the allegations contained in Paragraph 17 assert facts, Defendant  
20 denies the allegations therein.

21 18. In response to the allegations contained in Paragraph 18, Defendant  
22 asserts that the allegations contain legal conclusions to which no response is required.  
23 To the extent that the allegations contained in Paragraph 18 assert facts, Defendant  
24 denies the allegations therein.

25 **FIRST CLAIM FOR RELIEF**

26 19. In response to the allegations contained in Paragraph 19, Defendant  
27 incorporates by reference and restates its prior admissions, denials and/or averments  
28 to Paragraphs 1 through 18 as if fully set forth herein.

- 1           20. Defendant denies the allegations contained in Paragraph 20.  
2           21. Defendant denies the allegations contained in Paragraph 21.  
3           22. Defendant denies the allegations contained in Paragraph 22.  
4           23. Defendant denies the allegations contained in Paragraph 23.  
5           24. Defendant denies the allegations contained in Paragraph 24.

6                                   **SECOND CAUSE OF ACTION**

7           25. In response to the allegations contained in Paragraph 25, Defendant  
8 incorporates by reference and restates its prior admissions, denials and/or averments  
9 to Paragraphs 1 through 24 as if fully set forth herein.

10          26. In reference to the allegations contained in Paragraph 26, Defendant is  
11 without knowledge or information sufficient to form a belief as to the truth of the same.  
12 To the extent that a response is required, Defendant denies the allegations therein.

13          27. The allegations contained in Paragraph 27, Defendant denies the  
14 allegations therein.

15          28. Defendant denies the allegations contained in Paragraph 28, Defendant.

16          29. Defendant denies the allegations contained in Paragraph 29.

17                                   **AFFIRMATIVE DEFENSES**

18          1. Plaintiff's Complaint against this Answering Defendant fails to state a  
19 claim upon which relief can be granted.

20          2. Plaintiff lacks standing to bring this claim.

21          3. Plaintiff has failed to exhaust his administrative, statutory, arbitration  
22 and/or contractual remedies.

23          4. Assuming *arguendo* there is a minimum wage violation, Defendant at  
24 all times had a good faith and reasonable belief that it had compensated Plaintiff in  
25 accordance with the law.

26          5. Any alleged violation of the law by Defendant was not willful and was  
27 based on existing law.

28          6. Plaintiff is exempt from compensation for minimum wage and/or

1 overtime under 29 U.S.C. § 201 *et seq.*, including but not limited to, the administrative,  
2 professional, executive, and creative professional exemptions.

3 7. Pursuant to NRS 706.473, Plaintiff was an independent contractor.

4 8. That the lease agreement entered into with Plaintiff complied with all  
5 regulations authorized by NRS 706.475, and therefore, Plaintiff was an independent  
6 contractor as a matter of law.

7 9. There exists a bona fide dispute as to whether any further  
8 compensation is actually due to Plaintiff and, if so, the amount thereof.

9 10. Plaintiff was never entitled to the monies to which he asserts a right in  
10 the Complaint.

11 11. Assuming Plaintiff is entitled to any back pay, Defendant is entitled to  
12 a credit for or set off against amounts overpaid to Plaintiff in the course of his  
13 employment. This credit or set off includes, but is not limited to, amounts erroneously  
14 overpaid to Plaintiff.

15 12. The damages Plaintiff requests must be reduced by virtue of  
16 Plaintiff's failure to mitigate those damages.

17 13. To the extent that Plaintiff claims to appear in a representative  
18 capacity, Plaintiff was not similarly situated to any other employee that he seeks to  
19 represent. No community of interest exists between Plaintiff and any allegedly similar  
20 situated individual, and representative treatment is neither a superior nor a suitable  
21 means of adjudicating claims alleged in the Complaint.

22 14. Plaintiffs' claims are precluded by the applicable statute of limitations  
23 and/or laches.

24 15. Plaintiff has failed to state his claim for special damages with the  
25 requisite specificity.

26 16. Defendant alleges that Plaintiff's claims are barred by the doctrine of  
27 laches.

28 17. Defendant alleges that Plaintiff's claims are barred by discharge in

1 bankruptcy.

2 18. The imposition of statutory minimum wages in this matter would  
3 violate Defendant's Eighth Amendment protection against excessive fines.

4 19. Punitive damages sought by Plaintiffs, if any, are barred by the  
5 Constitution of the United States and by equivalent protections provided by the  
6 Constitutions of Nevada and other states.

7 20. Punitive damages sought by Plaintiffs, if any, are not recoverable  
8 under applicable Nevada state law.

9 21. Because the Complaint is couched in conclusory and vague terms,  
10 Defendant cannot fully anticipate all affirmative defenses that may be applicable to this  
11 case. Accordingly, Defendant hereby reserves the right to assert additional affirmative  
12 defenses.

13 **PRAYER FOR RELIEF**

14 Based upon the foregoing, Defendant respectfully requests the following relief:

15 1. That Plaintiff's Complaint be dismissed with prejudice and that Plaintiff  
16 take nothing thereby as against Defendant.

17 2. For costs of suit and attorney's fees to the extent allowed by law; and

18 3. For such other and further relief as the Court deems just and proper.

19 **AFFIRMATION**

20 **Pursuant to NRS 239B.030**

21 The undersigned does hereby affirm that the preceding document does not  
22 contain the social security number of any person.

23 DATED this 15<sup>th</sup> day of May, 2015.

24 GLOGOVAC & PINTAR

25 By: 

26 MICHAEL A. PINTAR, ESQ.  
27 Nevada Bar No. 003789  
28 Attorneys for Defendant

1  
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of  
4 Glogovac & Pintar, 427 West Plumb Lane, Reno, NV 89509, and that on the 15<sup>th</sup> day  
5 of May, 2015, I served the foregoing document(s) described as follows:

6 **ANSWER**

7 On the party(s) set forth below by:

8   X   Placing an original or true copy thereof in a sealed envelope placed for  
9 collection and mailing in the United States Mail, at Reno, Nevada,  
postage prepaid, following ordinary business practices.

10        Personal delivery.

11        Facsimile (FAX).

12        Federal Express or other overnight delivery.

13 addressed as follows:

14  
15 Curtis B. Coulter, Esq.  
Law Offices of Curtis B. Coulter, P.C.  
16 403 Hill Street  
Reno, NV 89501

17  
18 Leon Greenburg, Esq.  
Leon Greenburg Professional Corporation  
2965 South Jones Blvd., Suite E3  
19 Las Vegas, NV 89146

20 Dated this 15<sup>th</sup> day of May, 2015.

21  
22  
23   
24 Zabett Buzzzone  
25  
26  
27  
28



COPY

MICHAEL A. PINTAR, ESQ.  
Nevada Bar No. 003789  
ANDREW C. JOY, ESQ.  
Nevada Bar No. 13162  
GLOGOVAC & PINTAR  
427 West Plumb Lane  
Reno, Nevada 89509  
Telephone: (775) 333-0400  
Facsimile: (775) 333-0412

Attorneys for Defendant  
Roy Street

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR CARSON CITY

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

Case No.: 15-OC-00008 1B  
Dept. No.: II

Plaintiffs,

vs.

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

Defendant.

**ANSWER**

Defendant Roy L. Street, individually and doing business as Capital Cab  
("Defendant"), by and through its attorneys, Glogovac & Pintar, and in response to the  
Complaint filed in the above-captioned matter by Plaintiffs, Arthur Shatz and Richard  
Fratiss, admits, denies and avers as follows:

**JURISDICTION, PARTIES AND PRELIMINARY STATEMENT**

1. In response to the allegations contained in Paragraph 1, Defendant  
denies that either plaintiff was an employee of Defendant. Defendant is without  
knowledge or information sufficient to form a belief as to the truth of the remaining

1 allegations contained in Paragraph 1.

2         2. In response to the allegations contained in Paragraph 2, Defendant  
3 admits that Roy L. Street is a resident of Washoe County, Nevada. Defendant avers  
4 that the remaining allegations contained in Paragraph 2 are vague and non-specific,  
5 and thus, Defendant is without knowledge or information sufficient to form a belief as  
6 to the truth of the allegations not admitted.

7         3. Defendant avers that the allegations contained in Paragraph 3 are vague  
8 and non-specific, and thus, Defendant is without knowledge or information sufficient to  
9 form a belief as to the truth of the same.

10                                 **CLASS ACTION ALLEGATIONS**

11         4. Defendant is without knowledge or information sufficient to form a belief  
12 as to the truth of the allegations of Paragraph 4. To the extent that a response is  
13 required, Defendant denies the allegations therein.

14         5. In response to the allegations contained in Paragraph 5, Defendant  
15 asserts that the allegations contain legal conclusions to which no response is required.  
16 To the extent that the allegations contained in Paragraph 5 assert facts, Defendant  
17 denies the allegations therein.

18         6. In response to the allegations contained in Paragraph 6, Defendant  
19 asserts that the allegations contain legal conclusions to which no response is required.  
20 To the extent that the allegations contained in Paragraph 6 assert facts, Defendant  
21 denies that Plaintiffs were ever employed by Defendant. Defendant is without is  
22 without knowledge or information sufficient to form a belief as to the truth of the  
23 remaining allegations contained in Paragraph 6.

24         7. Defendant is without knowledge or information sufficient to form a belief  
25 as to the truth of the allegations contained in Paragraph 7. To the extent that a  
26 response is required, Defendant denies the allegations therein.

27         8. Defendant denies the allegations contained in Paragraph 8.

28         9. Defendant denies the allegations contained in Paragraph 9.

1           10. Defendant denies the allegations contained in Paragraph 10.

2           11. Defendant denies the allegations contained in Paragraph 11.

3           12. In response to the allegations contained in Paragraph 12, Defendant  
4 asserts that the allegations contain legal conclusions to which no response is required.  
5 To the extent that the allegations contained in Paragraph 12 assert facts, Defendant  
6 denies the allegations therein.

7           13. Defendant denies the allegations contained in Paragraph 13.

8                                   **FACTUAL ALLEGATIONS**

9           14. In response to the allegations contained in Paragraph 14, Defendant  
10 avers that Plaintiffs were independent contractors who leased taxicabs from Defendant  
11 pursuant to lease agreements. Defendant further avers that Defendant is regulated by  
12 the Nevada Transportation Authority ("NTA") and that Defendant's lease agreements  
13 with Plaintiffs were specifically ratified and approved by the NTA. Defendant denies  
14 the remaining allegations contained in Paragraph 14 not admitted.

15           15. Defendant denies the allegations contained in Paragraph 15.

16           16. In response to the allegations contained in Paragraph 16, Defendant  
17 admits that it has standardized policies and procedures governing the operation and  
18 lease of its taxicabs. Said policies and procedures being regulated by the NTA.  
19 Defendant denies the remaining allegations contained in Paragraph 16 not admitted.

20           17. In response to the allegations contained in Paragraph 17, Defendant  
21 asserts that the allegations contain legal conclusions to which no response is required.  
22 To the extent that the allegations contained in Paragraph 17 assert facts, Defendant  
23 denies the allegations therein.

24           18. In response to the allegations contained in Paragraph 18, Defendant  
25 asserts that the allegations contain legal conclusions to which no response is required.  
26 To the extent that the allegations contained in Paragraph 18 assert facts, Defendant  
27 denies the allegations therein.

28

1                                   **FIRST CLAIM FOR RELIEF**

2           19.    In response to the allegations contained in Paragraph 19, Defendant  
3 incorporates by reference and restates its prior admissions, denials and/or averments  
4 to Paragraphs 1 through 18 as if fully set forth herein.

5           20.    Defendant denies the allegations contained in Paragraph 20.

6           21.    Defendant denies the allegations contained in Paragraph 21.

7           22.    Defendant denies the allegations contained in Paragraph 22.

8           23.    Defendant denies the allegations contained in Paragraph 23.

9           24.    Defendant denies the allegations contained in Paragraph 24.

10                               **SECOND CAUSE OF ACTION**

11          25.    In response to the allegations contained in Paragraph 25, Defendant  
12 incorporates by reference and restates its prior admissions, denials and/or averments  
13 to Paragraphs 1 through 24 as if fully set forth herein.

14          26.    In response to the allegations contained in Paragraph 26, Defendant is  
15 without knowledge or information sufficient to form a belief as to the truth of the same.  
16 To the extent that a response is required, Defendant denies the allegations therein.

17          27.    Defendant denies the allegations contained in Paragraph 27.

18          28.    Defendant denies the allegations contained in Paragraph 28.

19          29.    Defendant denies the allegations contained in Paragraph 29.

20                               **AFFIRMATIVE DEFENSES**

21          1.       Plaintiffs' Complaint against this Answering Defendant fails to state a  
22 claim upon which relief can be granted.

23          2.       Plaintiffs lack standing to bring this claim.

24          3.       Plaintiffs have failed to exhaust their administrative, statutory,  
25 arbitration and/or contractual remedies.

26          4.       Assuming *arguendo* there is a minimum wage violation, Defendant at  
27 all times had a good faith and reasonable belief that it had compensated Plaintiffs in  
28 accordance with the law.

1           5.           Any alleged violation of the law by Defendant was not willful and was  
2 based on existing law.

3           6.           Plaintiffs are exempt from compensation for minimum wage and/or  
4 overtime under 29 U.S.C. § 201 *et seq.*, including but not limited to, the administrative,  
5 professional, executive, and creative professional exemptions.

6           7.           Pursuant to NRS 706.473, Plaintiffs' were independent contractors.

7           8.           That the lease agreement entered into with Plaintiffs complied with all  
8 regulations authorized by NRS 706.475, and therefore, Plaintiffs were independent  
9 contractors as a matter of law.

10          9.           There exists a *bona fide* dispute as to whether any further  
11 compensation is actually due to Plaintiffs and, if so, the amount thereof.

12          10.          Plaintiffs were never entitled to the monies to which they assert a  
13 right in the Complaint.

14          11.          Assuming Plaintiffs are entitled to any back pay, Defendant is entitled  
15 to a credit for or set off against amounts overpaid to Plaintiffs in the course of their  
16 employment. This credit or set off includes, but is not limited to, amounts erroneously  
17 overpaid to Plaintiffs.

18          12.          The damages Plaintiffs request must be reduced by virtue of  
19 Plaintiffs' failure to mitigate their damages.

20          13.          To the extent that Plaintiffs claims to appear in a representative  
21 capacity, Plaintiffs were not similarly situated to any other employees that they seek to  
22 represent. No community of interest exists between Plaintiffs and any allegedly similar  
23 situated individuals, and representative treatment is neither a superior nor a suitable  
24 means of adjudicating claims alleged in the Complaint.

25          14.          Plaintiffs' claims are precluded by the applicable law statute of  
26 limitations and/or laches.

27          15.          Plaintiffs have failed to state their claim for special damages with the  
28 requisite specificity.

16. Defendant alleges that Plaintiffs' claims are barred by the doctrine of laches.

17. Defendant alleges that Plaintiffs' claims are barred by discharge in bankruptcy.

18. The imposition of statutory minimum wages in this matter would violate Defendant's Eighth Amendment protections against excessive fines.

19. Punitive damages sought by Plaintiffs, if any, are barred by the Constitution of the United States and by equivalent protections provided by the Constitutions of Nevada and other states.

20. Punitive damages sought by Plaintiffs, if any, are not recoverable under applicable Nevada state law.

21. Because the Complaint is couched in conclusory and vague terms, Defendant cannot fully anticipate all affirmative defenses that may be applicable to this case. Accordingly, Defendant hereby reserves the right to assert additional affirmative defenses.

PRAYER FOR RELIEF

Based upon the foregoing, Defendant respectfully requests the following relief:

1. That Plaintiffs' Complaint be dismissed with prejudice and that Plaintiffs take nothing thereby as against Defendant.

2. For costs of suit and attorney's fees to the extent allowed by law; and

3. For such other and further relief as the Court deems just and proper.

## AFFIRMATION


**Pursuant to NRS 239B.030**

The undersigned does hereby affirm that the preceding document does not contain the social security number of any person.

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DATED this 15<sup>th</sup> day of May, 2015.

GLOGOVAC & PINTAR

By:   
MICHAEL A. PINTAR, ESQ.  
Nevada Bar No. 003789  
Attorneys for Defendant

1  
2 **CERTIFICATE OF SERVICE**

3 Pursuant to NRCP 5(b), I certify that I am an employee of the law offices of  
4 Glogovac & Pintar, 427 West Plumb Lane, Reno, NV 89509, and that on the 15<sup>th</sup> day  
5 of May, 2015, I served the foregoing document(s) described as follows:

6 **ANSWER**

7 On the party(s) set forth below by:

8   X   Placing an original or true copy thereof in a sealed envelope placed for  
9 collection and mailing in the United States Mail, at Reno, Nevada,  
postage prepaid, following ordinary business practices.

10        Personal delivery.

11        Facsimile (FAX).

12        Federal Express or other overnight delivery.

13 addressed as follows:

14  
15 Curtis B. Coulter, Esq.  
16 Law Offices of Curtis B. Coulter, P.C.  
403 Hill Street  
Reno, NV 89501

17  
18 Leon Greenburg, Esq.  
19 Leon Greenburg Professional Corporation  
2965 South Jones Blvd., Suite E3  
Las Vegas, NV 89146

20 Dated this 15<sup>th</sup> day of May, 2015.

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23 Zabet Buzzzone  
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DC-0990008272-042  
CV15-01359  
VS. RENO CAB 3 Pages  
JEFF MYERS ETAL  
District Court  
Washoe County  
07/16/2015 08:30 AM  
\$1380  
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nnc

1 MICHAEL A. PINTAR, ESQ.  
Nevada Bar No. 003789  
2 ANDREW C. JOY, ESQ.  
Nevada Bar No. 13162  
3 GLOGOVAC & PINTAR  
4 427 West Plumb Lane  
Reno, Nevada 89509  
5 Telephone: (775) 333-0400  
6 Facsimile: (775) 333-0412

7 Attorneys for Defendant  
Reno Cab Company, Inc.

JACQUELINE BRYANT, CLERK  
By: *[Signature]*  
DEPUTY CLERK

**FILED**

JUL 16 2015

REC'D & FILED

2015 JUL -1 PM 3:58

SUSAN MERRIWETHER  
CLERK

BY: *[Signature]*  
DEPUTY

10 IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
11 IN AND FOR CARSON CITY

12 JEFF MYERS, Individually and on behalf of  
13 others similarly situated,

14 Plaintiff,

15 vs.

16 RENO CAB COMPANY, INC.,

17 Defendant.

Case No.: 15-OC-00009 1B

Dept. No.: 2

CV15 01359

D:8

18  
19 **STIPULATION AND ORDER TO CHANGE VENUE**

20 The parties to this action, by and through their undersigned counsel, hereby  
21 stipulate and agree to change the venue of the above-entitled action from the First  
22 Judicial District Court of the State of Nevada, in and for Carson City, to the Second  
23 Judicial District Court, in and for the County of Washoe.

24 ///

25 ///

26 ///

27 ///

28 ///

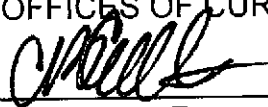
**AFFIRMATION**  
**Pursuant to NRS 239B.030**

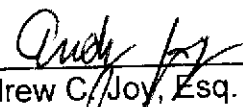
The undersigned does hereby affirm that the preceding document,  
STIPULATION TO CHANGE VENUE, filed in case number 15-OC-00009 1B does not  
contain the social security number of any person.

DATED this 16<sup>th</sup> day of June, 2015.

DATED this 26 day of June, 2015

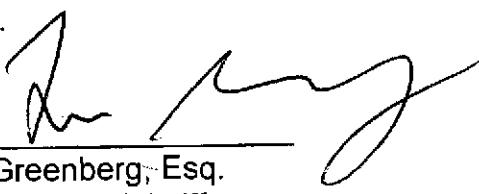
LAW OFFICES OF CURTIS B. COULTER GLOGOVAC & PINTAR

By:   
Curtis B Coulter, Esq.  
Attorneys for Plaintiff

By:   
Andrew C. Joy, Esq.  
Attorneys for Defendant

DATED this 22<sup>nd</sup> day of June, 2015.

LEON GREENBERG PROFESSIONAL  
CORP.

By:   
Leon Greenberg, Esq.  
Attorneys for Plaintiff

**ORDER CHANGING VENUE**

It is hereby Ordered that the above entitled action be transferred from the First  
Judicial District Court of the State of Nevada, in and for Carson City, to the Second  
Judicial District Court, in and for the County of Washoe.

DATED this 1 day of July, 2015.

  
DISTRICT JUDGE

**CERTIFIED COPY**

The document to which this certificate is attached is a full, true and correct copy of the original on file and of record in my office.

Date July 2, 2015

Susan Meriwether, City Clerk and Clerk of the First Judicial District  
Court of the State of Nevada, in and for Carson City.

By [Signature] Deputy

Per NRS 239 Sec. 6 the SSN may be redacted, but in no way affects the legality of the document.

1 CODE 3696  
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6 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
7 IN AND FOR THE COUNTY OF WASHOE  
8

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

11 Plaintiff,

Case No. CV15-01359

Dept. No. 8

12 vs.

13 RENO CAB COMPANY, INC.,

14 Defendant.  
15 \_\_\_\_\_/

16 **PRETRIAL ORDER**

17 The procedures described in this pretrial order are designed to secure a just,  
18 speedy, and inexpensive determination of this case. If any party believes a procedure  
19 required by this order will not achieve these ends, that party should seek an immediate  
20 conference among all parties and this Court so an alternative order may be discussed.  
21 **Otherwise, failure to comply with the provisions in this order may result in the**  
22 **imposition of sanctions, which may include, but are not limited to, dismissal of the**  
23 **action or entry of a default.** All references to "counsel" include self-represented litigants.

24 **I. TRIAL SETTING**

25 Unless the parties have already done so, counsel for the parties shall set trial no  
26 later than 10 days after entry of this order. Please contact the Department Eight Judicial  
27 Assistant, Christine Kuhl, at (775) 328-3166 to schedule a setting appointment. Plaintiff's  
28 counsel shall prepare the Application for Setting form. The sections regarding juries only  
apply if a jury trial is requested.

## II. PRETRIAL CONFERENCES

A. **Early Pretrial and Scheduling Conference.** No later than 10 days after entry of this Order and simultaneously with the trial setting appointment if the trial has not already been set, counsel for the parties shall set a pretrial scheduling conference, to be held within 60 days.

1. Purpose. The pretrial scheduling conference provides the parties with an opportunity to meet directly with the Court in an effort to facilitate the purposes identified at NRCP 16(a), present suggestions regarding the matters identified at NRCP 16(c), and address disputes or problems arising out of the early case conference.

2. Required Attendance. Lead trial counsel for all parties, as well as all unrepresented parties, must attend the pretrial scheduling conference.

3. Stipulation to Vacate Conference. **The parties may stipulate to vacate the pretrial scheduling conference and the Court will order the same** if the Court is provided with a written stipulation stating the agreement of all parties that an early pretrial scheduling conference is not warranted, and including a stipulated scheduling order for entry in this case. The stipulated scheduling order must specify deadlines, using calendar dates, that comply with the provisions of NRCP 16.1(a) and (c) for:

- (a) filing motions to amend the pleadings or to add parties;
- (b) making initial expert disclosures;
- (c) making rebuttal expert disclosures;
- (d) completing discovery proceedings; and
- (e) filing dispositive motions.

The stipulated scheduling order also must specify a calendar date by which all pretrial motions, including dispositive motions and motions limiting an expert's testimony, must be submitted for decision, which must be no later than 30 calendar days before trial.

1           B.     **Interim Pretrial Conferences.** This Court is available to meet with the  
2 parties whenever the parties agree a meeting would be beneficial. This Court may also  
3 order one or more pretrial conferences sua sponte or upon motion by any party.

4           C.     **Final Pretrial Conference.** At the same time trial is scheduled, the parties  
5 must also schedule the date for a final pretrial conference, to be held no later than 30 days<sup>1</sup>  
6 prior to trial.

7                   1.     Purpose. The conference is intended to develop a plan for trial,  
8 including a protocol for facilitating the admission of evidence and to address any trial-  
9 related disputes, needs, or requests.

10                  2.     Required Attendance. This conference must be attended by:

- 11                           (a)     the attorneys who will try the case;  
12                           (b)     the parties, which includes an authorized  
13                                       representative of any party that is an entity; and  
14                           (c)     any unrepresented parties.

15                  3.     Use of Equipment at Trial. At the final pretrial conference, counsel  
16 must advise the Court fully with respect to the following matters:

- 17                           (a)     the equipment to be used during trial;  
18                           (b)     the presentation software to be used during trial,  
19                                       and whether each party is able to receive and use  
20                                       digital files of presentation materials prepared by  
21                                       another;  
22                           (c)     any expected use of videoconferencing; and  
23                           (d)     the reliability and positioning for any equipment  
24                                       to be brought to the courtroom.

25           D.     **Personal Appearance Required at all conferences.** Counsel's personal  
26 appearance is required at all conferences, except upon prior approval of the Court.

27  
28  

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<sup>1</sup> See WDCR 6

### III. DISCOVERY

A. **Consultation Before Discovery Motion Practice.** Prior to filing any discovery motion, the attorney for the moving party must consult with opposing counsel about the disputed issues. Counsel for each side must present to each other the merits of their respective positions with the same candor, specificity, and supporting material as would be used in connection with a discovery motion. The Parties are reminded that the Discovery Commissioner is available to address some disputes telephonically.

B. **Discovery Hearings.** Discovery motions typically are resolved without the need for oral argument. However, if both sides desire a dispute resolution conference pursuant to NRCP 16.1(d), counsel must contact the Discovery Commissioner's office at (775) 328-3293 to obtain a convenient date and time for the conference. If the parties cannot agree upon the need for a conference, the party seeking the conference must file and submit a motion in that regard.

C. **Effect of Trial Continuance.** A continuance of trial does not extend the deadline for completing discovery. A request for an extension of the discovery deadline, if needed, must be made separately or included as part of any motion for continuance of trial. The parties may include an agreement to extend discovery in a stipulation to continue trial presented for court order.

D. **Computer Animations.** If any party intends to offer a computer-generated animation either as an evidentiary exhibit or an illustrative aid, that party must disclose that intention when expert disclosures are made pursuant to NRCP 16.1(a)(2). A copy of the animation must be furnished to all other parties no later than thirty days prior to trial. Disclosure of the animation includes copies of the underlying digital files as well as of the completed animation.

### IV. SETTLEMENT AND ALTERNATIVE DISPUTE RESOLUTION

A. **Notice of Settlement.** In the event that this case is settled prior to trial, the parties must promptly notify the department Judicial Assistant.

1           B.     **Settlement Conference or Alternative Dispute Resolution.** This Court may  
2 order, upon a party's request or sua sponte, that the parties and their attorneys 1) meet in  
3 person with a judge other than the presiding judge in this case and attempt to settle the  
4 case, or 2) participate in mediation or some other appropriate form of alternative dispute  
5 resolution in an effort to resolve this case prior to trial.

6                                   **V. TRIAL-RELATED PROCEDURES**

7           A.     **Motions in Limine.** All motions in limine, except motions in limine to  
8 exclude an expert's testimony, must be submitted for decision no later than 15 calendar  
9 days before trial.

10          B.     **Exhibits.** Trial counsel for the parties shall contact the Department Eight  
11 Courtroom Clerk, Sandra Garcia, at (775) 328-3145, no later than 10 judicial days before  
12 trial, to arrange a date and time to mark trial exhibits. In no event shall the marking of  
13 exhibits take place later than the Monday before trial, without leave of the Court.

14               1.     Marking and Objections. All exhibits shall be marked in one  
15 numbered series (Exhibit 1, 2, 3, etc.) and placed in one or more binders provided by  
16 counsel, unless the Court permits a different procedure. When marking the exhibits with  
17 the clerk, counsel shall advise the clerk of all exhibits which may be admitted without  
18 objection, and those that may be admissible subject to objections. Any exhibits not timely  
19 submitted to opposing counsel and the clerk -may not be offered or referenced during the  
20 trial, without leave of the Court.

21               2.     Copies. Counsel must cooperate to insure that three identical sets of  
22 exhibits – one for the Court, one for the clerk to be used for trial, and one for the testifying  
23 witnesses – are provided to the Court.

24               3.     Custody of Exhibits. After trial, Exhibits marked by the clerk, will  
25 remain in the custody of the clerk.

26               4.     Demonstrative Exhibits. Demonstrative Exhibits must be disclosed to  
27 counsel within a reasonable period before their use to permit appropriate objections, if  
28 any.



1           C.     **Trial Statements.** Trial Statements must conform to WDCR 5. Trial  
2 Statements must be filed and served no later than 5:00 p.m. five calendar days before trial.  
3 They must be served upon other parties by e-filing, personal delivery, fax, or email.

4           D.     **Jury Instructions and Verdict Forms.** All proposed jury instructions and  
5 verdict forms must be submitted to the Court no later than 5:00 p.m. on the Wednesday  
6 before trial.<sup>2</sup>

7                   1.     Format. All original jury instructions must be accompanied by a  
8 separate copy of each instruction containing a citation to the form instruction or to the  
9 authority supporting that instruction. All modifications made to instructions taken from  
10 statutory authority must be separately underscored on the citation page.

11                   2.     Exchange. The parties must exchange all proposed jury instructions  
12 and verdict forms no later than seven calendar days before trial.

13                   3.     Agreement and Submission. The parties must confer regarding the  
14 proposed jury instructions and verdict forms before they are submitted to the Court and  
15 shall use their best efforts to stipulate to uncontested instructions. All undisputed  
16 instructions and verdict forms must be submitted jointly to the Court; the parties must  
17 separately submit any disputed instructions and verdict forms.

18                   4.     Disputes and Additional Instructions. After commencement of the  
19 trial, the Court will meet with counsel to determine the jury instructions and verdict forms  
20 that will be used. At that time, the Court will resolve all disputes over instructions and  
21 verdict forms, and consider the need for any additional instructions which were not  
22 foreseen prior to trial.

23           E.     **Juror Notes and Questions.** Jurors will be permitted to take notes during  
24 trial. Jurors will be permitted to submit questions in writing during trial; however, juror  
25 questions will be asked only after the questions are reviewed by counsel and approved by  
26 the Court.

27 \_\_\_\_\_  
28 <sup>2</sup> See WDCR 7(8).

1 F. **Use of Electronically Recorded Depositions.** No depositions recorded by  
2 other than stenographic means may be edited until the Court rules on objections. If such a  
3 recording is to be used at trial, it must be edited to eliminate cumulative testimony and to  
4 present only matters that are relevant and material.

5 G. **Evidentiary Rulings.** Every witness that counsel intends to call at trial must  
6 be informed about any rulings that restrict or limit testimony or evidence (e.g., rulings on  
7 motions in limine) to inform them that they may not offer or mention any evidence that is  
8 subject to that ruling.

9 H. **Examination Limits.** Absent extraordinary circumstances, counsel will be  
10 given the opportunity for one re-direct and one re-cross examination.

## 11 VI. MISCELLANEOUS

12 A. **Civility.** The use of language which characterizes the conduct, arguments or  
13 ethics of another is to be avoided unless relevant to a motion or proceeding before the  
14 Court. In the appropriate case, the Court will upon motion or sua sponte, consider  
15 sanctions, including monetary penalties and/or striking the pleading or document in  
16 which such improprieties appear, and may order any other suitable measure the Court  
17 deems to be justified. This section of this Order includes, but is not limited to, written  
18 material exchanged between counsel, briefs or other written materials submitted to the  
19 Court, and conduct at depositions, hearings, trial or meetings with the Court.

20 B. **Communication with Department.** In addition to communication by  
21 telephone, letter, or fax, counsel may communicate with Department Eight by e-mailing  
22 the Judicial Assistant, Christine Kuhl (Christine.Kuhl@washoecourts.us) or the Court  
23 Clerk, Sandra Garcia (Sandra.Garcia@washoecourts.us) All written communications must  
24 be copied to all opposing counsel and unrepresented litigants.

25 C. **Page Limits.** Legal memoranda submitted in support of any motion may not  
26 exceed 20 pages in length; opposition memoranda may not exceed 20 pages in length; and  
27 reply memoranda may not exceed 10 pages in length. These limitations are exclusive of  
28 exhibits. A party may file a memorandum that exceeds these limits by five pages, so long

1 as it is filed with a certification of counsel that good cause existed to exceed the standard  
2 page limits and the reasons therefore. Briefs in excess of five pages over these limits may  
3 only be filed with prior leave of the Court, upon a showing of good cause.

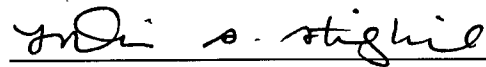
4 D. **Request for Accommodation or Interpreter.** Counsel must notify the Court  
5 as early as possible of any reasonable accommodation needed because of a disability or the  
6 need for an interpreter.

7 E. **Etiquette and Decorum.** Counsel must at all times adhere to professional  
8 standards of courtroom etiquette and decorum, including but not limited to the following:

- 9 • Counsel may not use speaking objections
- 10 • Counsel must stand when speaking
- 11 • Counsel may not address each other during their respective arguments
- 12 • Counsel must be punctual
- 13 • Counsel must be prepared

14 **IT IS SO ORDERED.**

15 Dated: This 19<sup>th</sup> day of August 2015.

17 

18 LIDIA S. STIGLICH

19 District Judge

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Leon Greenberg, Esq.  
Curtis Coulter, Esq.  
Andrew Joy, Esq.  
Michael Pinter, Esq.

DATED this 19<sup>th</sup> day of August 2015.

9

**\$2200**

Mark G. Simons, Esq., NSB No. 5132  
Therese M. Shanks, Esq., NSB No. 12890  
ROBISON, BELAUSTEGUI, SHARP & LOW  
71 Washington Street  
Reno, Nevada 89503  
Telephone: (775) 329-3151  
Facsimile: (775) 329-7169  
Email: [msimons@rbsllaw.com](mailto:msimons@rbsllaw.com) and  
[tshanks@rbsllaw.com](mailto:tshanks@rbsllaw.com)

*Attorneys for Reno Cab Company, Inc.*

**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,

vs.

RENO CAB COMPANY, INC.,

Defendant.

**CASE NO.: CV15-01359**

**CASE NO.: CV15-01385**

**DEPT. NO.: 8**

AND RELATED MATTERS.

**MOTION FOR SUMMARY JUDGMENT**

Reno Cab Company, Inc. ("Reno Cab"), by and through its attorneys of Robison, Belaustegui, Sharp & Low, hereby moves this Court for summary judgment. This motion is made pursuant to NRCP 56(c), and is based upon the attached memorandum of points and authorities, exhibits and affidavits, and the pleadings and papers on file herein.

DATED this 26<sup>th</sup> day of September, 2016.

ROBISON, BELAUSTEGUI, SHARP & LOW  
71 Washington Street  
Reno, Nevada 89503

By: 

Mark G. Simons, Esq., NSB No. 5132  
Therese M. Shanks, Esq., NSB No. 12890  
*Attorneys for Defendant*

## MEMORANDUM OF POINTS AND AUTHORITIES

### **I. BACKGROUND OF CASE.**

This case is about an independent contractor wanting to claim that he was an employee so that he can receive more money. While the plaintiff's motivation is not unusual, this case does involve a unique statutory enactment that is separately carved out for taxicab drivers, such as Myers, to be deemed an independent contractor. See NRS 706.473. In addition, this case involves the application of NRS 608.0155 which creates a **conclusive presumption** that Myers is an independent contractor. As will be discussed herein, Myers has asserted claims based upon Nevada law and his claims are barred by the parole evidence rule, as well as NRS 706.473's and NRS 608.0155's provisions.

### **II. THE APPLICATION OF NEVADA LAW.**

This case involves the application the Nevada's Supreme Court's decision in Kaldi v. Farmers Ins. Exch., 117 Nev. 273, 21 P.3d 16 (2001). In addition, NRS 706.473 codifies the independent contractor relationship with a taxi cab company. As a follow-up analysis, NRS 608.0155 implements an aggressive independent contractor determination by instructing the Court to look at a number of easily identifiable factors. If the basic factors are present, such as in this case, the Court is to apply the conclusive presumption that the worker is an independent contractor.

### **III. STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MOTION.**

1. Myers leased a taxi cab from Reno Cab pursuant to a Taxicab Lease Agreement (the "Lease"). A copy of the Lease is attached hereto as **Exhibit 1**.<sup>1</sup> See

---

<sup>1</sup> See **Exhibit 2**, Affidavit of Robin Street ("Street Aff.") at ¶4.

1 also **Exhibit 3**, Plaintiff's Resp. to Req. for Ad., (hereinafter "Admission"), No. 1.<sup>2</sup>

2 2. Myers read, initialed each page and signed the Lease. Exh. 1; Exh. 3  
3 Admission, Nos. 2-4.

4 3. Myers admits that the Lease clearly identifies his relationship with Reno  
5 Cab as an independent contractor relationship.<sup>3</sup> Exh. 3, Admission, No. 11.

6 4. Myers admits that he was an independent contractor under his contract  
7 with Reno Cab. Comp., ¶15 ("the plaintiff was treated as an 'independent contractor' by  
8 the defendant . . .").

9 5. Myers also confirmed that the Lease defined the parties' relationship and  
10 he "expected the terms of his compensation . . . to be controlled by the [Lease]." Exh. 3,  
11 Admission, No. 5.

12 6. Myers obtained his own driver's license, social security number, chauffeur's  
13 license, police card and medical review report in order to satisfy his obligations under the  
14 Lease as an independent contractor. Exh. 3, Admission No. 15. These licenses and  
15 permits are all imposed upon an independent contractor who desires to be a taxi cab  
16 driver pursuant to Nevada law. See NAC 706.3751(1)(a) & (c).

17 7. Copies of Myers licenses and permits are attached hereto as **Exhibit 4**.<sup>4</sup>

18 8. When Myers entered into his Lease with Reno Cab, Myers was fully aware  
19 that other individuals were also leasing taxicabs from Reno Cab as independent  
20 contractors. Exh. 3, Admission, No. 24.

21 9. Myers admits that the Lease clearly and unambiguously states that Reno

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<sup>2</sup> Exh. 2, Street Aff., at ¶5.

<sup>3</sup> Yee v. Weiss, 110 Nev. 657, 662, 877 P.2d 510, 513 (Nev. 1994) ("Courts have consistently held that one is bound by any document one signs . . .").

<sup>4</sup> Exh. 2, Street Aff., at ¶6.

1 Cab did not interfere with or control any aspect of his work performance. Exh. 1, Lease,  
2 ¶10.

3 10. In addition to Myers' admission, the evidence is undisputed that Reno Cab  
4 did not control any aspect of the following work performed by Myers such as the  
5 following.  
6

- 7 a. when Myers wanted to lease a cab,
- 8 b. how long Myers wanted to lease a cab (other than restricting the  
9 lease to 12 hours pursuant to statute)<sup>5</sup>;
- 10 c. what fares Myers could pick up or decline;
- 11 d. where to drive and/or stay while not transporting a fare;
- 12 e. what routes Myers could select to transport or locate fares;
- 13 f. what customers and/or locations to target for obtaining fares;
- 14 g. what to wear;
- 15 h. what to say or how to act to enhance "tip" potential.  
16

17 Exh. 2, Street Aff., at ¶7.

18 11. Myers also had the ability to hire someone to assist him to perform his  
19 independent contractor duties. Exh. 1, Lease, ¶19, Exh. 2, ¶8.

20 12. Myers was also not required to work solely for Reno Cab. Exh. 2, Street  
21 Aff., at ¶9. In fact, Myers admits that he earned income from other sources during the  
22 period he was an independent contractor. See **Exhibit 5**, Myers' Response to Reno  
23 Cab's First Set of Interrogatories ("Int. Ans."), No. 18 (Myers affirmatively states that he  
24 will not produce information relating to his other sources of income derived from working  
25  
26  
27

28 <sup>5</sup> See NAC 706.3761 (taxi cab drivers cannot work a shift longer than 12 hours as  
a matter of law).



1 during the time period he was an independent contractor with Reno Cab.).<sup>6</sup>

2 13. Myers' income was based upon the effort Myers expended in performing  
3 his work and had no relationship to any activity and or inactivity of Reno Cab. Exh. 2,  
4 Street Aff., at ¶11.

5 14. Myers had to pay for any liabilities caused by his own operation of the taxi  
6 cab, such as payment for traffic tickets, parking tickets, and/or repairs or damages  
7 caused to the taxi cab. Exh. 1, Lease, ¶9.

8  
9 **IV. ARGUMENT.**

10 **A. NRCP 56 STANDARD.**

11 In Wood v. Safeway, Inc., 121 Nev. 724, 729-32, 121 P.3d 1026, 1029-31 (2005),  
12 the Nevada Supreme Court clarified its summary judgment jurisprudence by adopting the  
13 standards set forth in the United States Supreme Court's trilogy of cases styled  
14 Matsushita Electric Industrial Co. v. Zenith Radio, 475 U.S. 574 (1986), Anderson v.  
15 Liberty Lobby, Inc., 477 U.S. 242 (1986), and Celotex Corp. v. Catrett, 477 U.S. 317  
16 (1986). Those cases teach that "Rule 56 should not be regarded as a 'disfavored  
17 procedural shortcut' but instead 'as an integral part of the [rules of civil procedure] as a  
18 whole, which are designated to secure the just, speedy and inexpensive determination of  
19 every action.'" Wood, 121 Nev. at 730.

20  
21  
22 Summary judgment is proper whenever "the pleadings, depositions, answers to  
23 interrogatories, and admissions on file together with the affidavits, if any, show that there  
24 is no genuine issues as to any material fact and that the moving party is entitled to a  
25 judgment as a matter of law." NRCP 56. "To successfully oppose a motion for summary  
26 judgment, the non-moving party must show specific facts, rather than general allegations  
27 and conclusions, presenting a genuine issue of material fact for trial." LaMantia v.

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<sup>6</sup> Street Aff., at ¶10.

1 Redisi, 118 Nev. 27, 29, 38 P.2d 877, 879 (2002).

2 Of note, “[t]he substantive law controls which factual disputes are *material*,” not  
3 the party opposing summary judgment. Wood, 121 Nev. at 731, 121 P.3d at 1031  
4 (emphasis added). Finally, the non-moving party, the opposing party may not build its  
5 case on the “gossamer threads of whimsy, speculation and conjecture.” Id. at 731, 121  
6 P.3d at 1030 (footnote and citations omitted).

7  
8 **B. AS A MATTER OF LAW MYERS WAS AN INDEPENDENT**  
9 **CONTRACTOR.**

10 When the terms of a written contract are unambiguous, the Court is charged with  
11 enforcing the contract as written. Davis v. Beling, 128 Nev. Adv. Op. 28, 278 P.3d 501,  
12 515 (2012) (“the initial focus is on whether the language of the contract is clear and  
13 unambiguous; if it is, the contract will be enforced as written.”). In addition, when the  
14 terms of a written contract are unambiguous, the interpretation and enforcement of the  
15 contract is an issue of law. Galardi v. Naples Polaris, LLC, 129 Nev. Adv. Op. 33, 301  
16 P.3d 364, 366 (2013) (“contract interpretation presents a question of law that the district  
17 court may decide on summary judgment . . .”). Here, the Court must enforce the terms  
18 of the Lease and grant summary judgment as requested.

19  
20 The Lease clearly states that Myers is an independent contractor. The clear and  
21 unambiguous language of the Lease states: “**LESSEE is an independent contractor.**”  
22 Exh. 1, Lease, ¶10 emphasis added. The Lease further states that nothing contained in  
23 the Lease creates an employer-employee relationship as follows:

24  
25 [Reno Cab] and [Myers] acknowledge and agree that there does not exist  
26 between them the relationship of employer and employee . . . either  
27 express or implied, but that the relationship of the parties is strictly that  
of lessor and lessee . . . .

28 Exh. 1, Lease, ¶10 (emphasis added). Because the foregoing language is clear and  
unambiguous that Myers was an independent contractor and not an employee, Myers’

1 complaint fails and summary judgment must be granted as requested.

2 In an almost identical factual scenario, in Kaldi v. Farmers Ins. Exch., 117 Nev.  
3 273, 278–79, 21 P.3d 16, 19–20 (2001), a plaintiff brought suit contending that he was  
4 an employee even though he had a written contract stating he was **not** an employee. In  
5 granting summary judgment for the defendant, the Court held as follows:  
6

7 Kaldi contends that his exclusive agency arrangement with Farmers  
8 created \*\*20 an employer-employee relationship between himself and the  
9 companies. **The plain language of the Agreement does not support Kaldi's**  
10 **assertion.** “It has long been the policy in Nevada that absent some  
11 countervailing reason, contracts will be construed from the written language and  
12 enforced as written.” . . . . **Here, provision “I” of the agreement specifically**  
13 **states that Kaldi is not an employee of Farmers and that nothing in the**  
14 **Agreement is intended to create an employee/employer relationship. . . . As**  
15 **the Agreement unambiguously provides that Kaldi was an independent**  
16 **contractor, not an employee, we reject his argument that it created an**  
17 **employment relationship.**

18 Id. (emphasis added) (citations omitted). The Kaldi Court then affirmed the trial court’s  
19 dismissal of the plaintiff’s complaint. Id. at 23.

20 As in Kaldi, the parties’ contract states that Myers is an independent contractor  
21 and not an employee. Therefore, based upon the clear language of the Lease and  
22 based upon the controlling precedence established in Kaldi, this Court must grant  
23 summary judgment as requested.

24 **C. THE PAROLE EVIDENCE RULE BARS ANY ATTEMPT BY MYERS TO**  
25 **CONTRADICT THE EXPRESS TERMS OF THE LEASE.**

26 In addition to the foregoing, Nevada’s parole evidence rule bars any attempt by  
27 Myers to contradict the clear and unambiguous term in the Lease that he was an  
28 independent contractor. For more than a century, the Nevada Supreme Court has held  
that parole evidence is inadmissible “[w]hen parties reduce a contract to writing, all prior  
oral negotiations and agreements are merged in the writing, and the instrument must be  
treated as containing the whole contract, and parol [evidence] is not admissible to alter

1 its terms.” Gage v. Phillips, 21 Nev. 150, 26 P. 60, 61 (1891). Thus, where a written  
2 contract is clear and unambiguous on its face, the terms of the agreement must be  
3 construed from the language within the contract. Southern Trust Mortg. Co. v. K&B Door  
4 Co., Inc., 104 Nev. 564, 568, 763 P.2d 353, 355 (1988). Courts are also not at liberty to  
5 insert or disregard words in a contract. Royal Indem. Co. v. Special Serv. Supply Co., 82  
6 Nev. 148, 413 P.2d 500, 502 (1966) (“Every word must be given effect . . .”). Finally,  
7 “[t]he parole evidence rule forbids the reception of evidence which would vary or  
8 contradict the contract . . . .” Kaldi v. Farmers Ins. Exch., 117 Nev. 273, 281, 21 P.3d 16,  
9 21 (2001) (citation omitted); Lowden Inv. Co. v. Gen. Elec. Credit Co., 103 Nev. 374,  
10 379, 741 P.2d 806, 809 (1987) (“[p]arol evidence is not admissible to vary or contradict  
11 the terms of a written agreement.”).

12  
13  
14 Because the Lease clearly and unambiguously states Myers was an independent  
15 contractor, Myers is barred from attempting to contradict the terms of the Lease because  
16 the parol evidence rule bars any such attempt. See also Sandy Valley Assocs. v. Sky  
17 Ranch Estates Owners Assoc., 35 P.3d 964, 967-968 (Nev. 2001) (“Parol evidence is  
18 not admissible to vary or contradict the clear and unambiguous terms of a written  
19 agreement.” (receded from on other ground in Horgan v. Felton, 123 Nev. 577, 170 P.3d  
20 982 (2007))).

21  
22 **D. NRS 706.473 ESTABLISHES INDEPENDENT CONTRACTOR**  
23 **RELATIONSHIP FOR TAXICAB DRIVERS.**

24 In addition to the foregoing grounds for granting summary judgment, taxicab  
25 companies are governed by NRS Chapter 706. NRS 706.473(1) permits a taxicab  
26 operator to “lease a taxicab to an independent contractor.” Specifically, NRS 706.473  
27 states in relevant part as follows:

- 28  
1. . . . a person who holds a certificate of public  
convenience and necessity which was issued for the operation of  
a taxicab business may, upon approval from the authority, lease

1 a taxicab **to an independent contractor** who does not hold a  
2 certificate of public convenience and necessity. . . .

3 2. A person who enters into a lease agreement with an  
4 independent contractor pursuant to this section shall submit  
a copy of the agreement to the authority for its approval. . . .

5 In the present case, Reno Cab holds a certificate of public convenience and necessity  
6 that was issued for the operations of a taxi cab business. Exh. 1, Lease, First Whereas  
7 Clause (“[Reno Cab] is an intrastate common motor carrier operating under a Certificate  
8 of Public Convenience and Necessity CPCN 1025 issued by the Nevada Transportation  
9 Authority . . . .”).

10  
11 Reno Cab submitted its independent contractor lease agreement to the Nevada  
12 Transportation Authority (“NTA”) for approval pursuant to the provisions of NRS  
13 706.472(1). Exh. 2, Street Aff., at ¶12. The NTA approved Reno Cab’s independent  
14 contractor lease agreement. *Id.* at ¶13. Accordingly, Reno Cab has complied with the  
15 provisions of NRS 706.473 and obtained the NTA’s approval and validation of the  
16 independent contractor contract by and between it and Myers.

17  
18 This statutorily based independent contractor status was discussed by the  
19 Nevada Supreme Court in Yellow Cab of Reno, Inc. v. Second Judicial Dist. Court of  
20 State ex rel. Cty. of Washoe, 127 Nev. 583, 592, 262 P.3d 699, 704 (2011). The Nevada  
21 Supreme Court specifically recognized that NRS 706.473’s provisions applied to  
22 independent contractors who comply with the requirements of NRS 706.475’s provisions.  
23 In rendering its decision, the Yellow Cab Court stated that the appropriate analysis for  
24 determining the independent contractor relationship under this statutory scheme was not  
25 the control exercised by the alleged employer but **whether the statutory criteria for the**  
26 **independent contractor relationship was established.** Specifically, the Nevada  
27 Supreme Court held:  
28

1 As Yellow Cab points out . . . NRS 706.473 specifically authorizes  
2 the licensing of a taxicab to an independent contractor if the requirements  
3 of that statute and any administrative regulations promulgated in  
4 accordance with NRS 706.475 are met. **Thus, under the statutory  
5 scheme, the existence of this statutorily created independent  
6 contractor relationship turns not on the issue of control, but on  
7 whether all of the statutory and administrative requirements for  
8 creating such an independent contractor relationship have been  
9 satisfied.**

10 Id. (emphasis added). In the present case, the undisputed facts establish that the  
11 requirements have been met and summary judgment must be granted.

12 NRS 706.473 requires Reno Cab to obtain the approval of its independent  
13 contractor agreement from the NTA. Reno Cab did so and the NTA approved its  
14 independent contractor agreement. Thereafter, NRS 706.475(2)(a) states that the NTA  
15 shall adopt regulations that establish “[t]he minimum qualifications for an independent  
16 contractor” who seeks to lease a taxi cab. In conformance with this statute, NAC  
17 706.3751 details the minimum requirements an independent contractor must have in  
18 order to lease a taxi cab under the NTA approved independent contractor agreement.  
19 Those requirements include a valid driver’s license, a valid driver’s permit, a medical  
20 report attesting to the physical abilities to operate a taxi cab and a copy of the  
21 independent contractor’s driving record. See NAC 706.3751(1)(a), (b) and (c). Myers  
22 obtained each of these items and provided them to Reno Cab in order to enter into his  
23 independent contractor relationship with Reno Cab. Exh. 1, Lease ¶¶17 (detailing Myers’  
24 obligations to provide the foregoing documents required by NAC 706.3751); see also  
25 SOF, ¶¶6-7.

26 Based upon the foregoing, there is no need for the Court or the parties to inquire  
27 further into the control or lack thereof by Reno Cab over Myers’ work. This is because  
28 the Nevada Supreme Court has held all that is required is an analysis of whether the  
statutory provisions have been complied with to establish “the existence of this statutorily

1 created independent contractor relationship . . . .” As shown, the relevant facts are  
2 undisputed and NRS 706.473’s statutory provisions are fully satisfied, and therefore,  
3 summary judgment must again be granted in Reno Cab’s favor as requested because  
4 Myers is an independent contractor as a matter of statutory law.

5  
6 **E. NRS 608.0155 CONCLUSIVELY ESTABLISHES INDEPENDENT  
CONTRACTOR RELATIONSHIP.**

7  
8 Even if this Court ignored the language of the Lease, ignored the Nevada  
9 Supreme Court’s decision in Haldi, did not apply NRS 706’s provisions and ignored the  
10 Nevada Supreme Court’s analysis in Yellow Cab, Myers complaint still fails because of  
11 NRS 608.0155’s provisions. NRS 608.0155 creates a conclusive presumption of  
12 independent contractor status when a number of easily identifiable criteria are met.  
13 Specifically, NRS 608.0155 states in this regard as follows:

14 1. . . . [A] person is conclusively presumed to be an independent  
15 contractor if:

16 (a) . . . . the person possesses or has applied for a[]  
17 . . . social security number . . . .;

18 (b) the person is required by the contract with the principal  
19 to hold any necessary state business registration or  
20 local business license and to maintain any necessary  
occupational license . . . ; and

21 (c) The person satisfies three or more of the following  
22 criteria:

23 (1) Notwithstanding the exercise of any control  
24 necessary to comply with any statutory, regulatory or  
25 contractual obligations, the person has control and  
26 discretion over the means and manner of the  
27 performance of any work and the result of the work,  
rather than the means or manner by which the work is  
performed, is the primary element bargained for by the  
principal in the contract.

28 (2) Except for an agreement with the principal relating  
to the completion schedule, range of work hours or, if  
the work contracted for is entertainment, the time such

entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal . . .

(4) The person is free to hire employees to assist with the work.

. . .

An analysis of the foregoing criteria demonstrates that, again as a matter of law, Myers is conclusively deemed an independent contractor.

To place NRS 608.0155's provisions in context, this statute was enacted in 2015 in response to the Nevada Supreme Court's 2014 decision on Terry v. Sapphire Gentlemen's Club, 336 P.3d 951 (Nev. 2014), wherein the Court implemented the "economic realities" test to determine if a worker was an employee or an independent contractor under Nevada law. This foregoing test was based upon considerations of federal law.

After the Court's 2014 ruling in Sapphire Club, Nevada's 78<sup>th</sup> Legislative Session enacted SB 224 which superseded the economic realities test for claims arising upon Nevada law. SB 224 was codified at NRS 608.0155.<sup>7</sup> NRS 608.0155's provisions reaffirm Nevada's commitment to honoring the independent contractor relationship. In addition, NRS 608.0155's provisions send a clear signal to the Courts that, as a matter of law, certain workers are conclusively deemed independent contractors when certain factors are established. Again, as will be discussed below, NRS 608.0155's aggressive approach instructs the Court to look at a number of easily identifiable factors.

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<sup>7</sup> In addition, SB 224 amended NR 608.255 to include that an independent contractor relationship does not constitute an employment relationship and, as such, is exempt from Article 15, Section 16's provisions. See NRS 608.255(3). Further, NRS 608.255(7) was clarified to state that the provisions of 608.0155 apply immediately to any pending or future action in which a final decision has not been rendered.



1 As part of the enactment of NRS 608.0155's provisions, the Nevada Legislature  
2 also amended NRS 608.255(3) to state that as a matter of law, the "relationship  
3 between a principal and an independent contractor" does not give rise to an  
4 employment relationship and such relationship is not subject to any "statutory or  
5 constitutional provision governing the minimum wage paid to an employee . . . ."  
6 (Emphasis added). Therefore, because Myers is an independent contractor, he has no  
7 statutory or constitutional right to receive payment as an employee from Reno Cab.  
8

9 **1. NRS 608.0155(1)(a): Social Security Number.**

10 NRS 608.0155(1)(a) states that if the worker has their own social security number  
11 then this factor is conclusively satisfied. Myers obtained his own social security number.  
12 See SOF ¶6, and Exh. 3, Admission No. 15. Accordingly, this factor conclusively  
13 establishes the independent contractor presumption.  
14

15 **2. NRS 608.0155(1)(b): LICENSES & PERMITS.**

16 NRS 608.0155(1)(b) states that if the worker has obtained their own licenses and  
17 permits to perform the work, then this factor is conclusively satisfied. Myers obtained his  
18 own driver's license, chauffeur's license, police card and medical report to conduct the  
19 work. See SOF ¶6, and Exh. 3, Admission No. 15. Accordingly, this factor conclusively  
20 establishes the independent contractor presumption.  
21

22 **3. NRS 608.0155(1)(c)(1): MEANS, MANNER AND RESULT.**

23 This provision requires the Court to evaluate whether "the person has control or  
24 discretion over the means and manner of the performance of any work and the result of  
25 the work." Initially, this factor is conclusively established because Myers has admitted  
26 that he was "free from interference and control" in the operations of his work by Reno  
27 Cab. Exh. 1, Lease, ¶10 ("[Myers] acknowledge[s] and agree[s] that . . . [Myers is] free  
28 from interference or control on the part of [Reno Cab], except as otherwise provided in

1 chapter 706 of the NRS and/or NAC . . . .” Because Myers has already admitted that  
2 Reno Cab did not interfere with and/or control any aspect of his work Myers is bound by  
3 his own admission. Yee v. Weiss, 110 Nev. 657, 662, 877 P.2d 510, 513 (Nev. 1994)  
4 (“Courts have consistently held that one is bound by any document one signs . . . .”).  
5

6 In addition to Myers’ own admission, when considering Myers’ activities, it is clear  
7 that he had had complete autonomy over the means and manner of “the performance” of  
8 his work as well as the result of the work he performed. Even though Myers leased a  
9 vehicle in 12-hour shifts, Myers could drive as long or short as he wanted to during that  
10 period. SOF, ¶10. In many instances, Myers only worked 6 hours or less during the 12-  
11 hour periods he leased a taxicab. Exh. 2, Street Aff., at ¶14. Myers’ income was based  
12 solely and exclusively upon Myers’ own work ethic. It is further suggested that because  
13 Myers’ work ethic was tied directly to his own effort, this situation is the hallmark of an  
14 independent contractor relationship since Myers retained the exclusive right to work as  
15 long or short as he desired without consequence.  
16

17 In addition, Myers had the autonomy to pick up whatever fare he desired and/or to  
18 decline any fare. Myers selected when and where he would drive to seek out fares  
19 and/or could station himself at any location he desired in anticipation of fares arriving.  
20 Myers selected whatever driving route he desired to deliver a fare. Myers selected what  
21 he wanted to wear while driving, what he wanted to say to his fares and had complete  
22 control on satisfying any fare in order to obtain a tip. All tips received by Myers were his  
23 and his alone. Myers only paid a flat rate of 50% of all fares received for his rental fee,  
24 along with a \$5 dollar administrative fee. Exh. 1, Lease, Exhibit A. As shown, Myers’  
25 admission and the foregoing facts demonstrate that Myers controlled the means and  
26 manner of his own performance and the result of his own work ethic.  
27  
28

While it is anticipated Myers will argue that he was limited to working a 12 hour

1 shift established by Reno Cab as evidence of Reno Cab's control, this factor is irrelevant  
2 and has no bearing on the analysis. This factor is irrelevant because as shown, the taxi  
3 cab industry is regulated by the NTA.<sup>8</sup> The NTA has extensive requirements for a taxi  
4 cab company relating to how the taxi cab company can operate its business.<sup>9</sup> Of  
5 relevant point, NAC 706.3761 precludes any driver from driving more than 12-hours in a  
6 given shift. This 12-hour regulatory time limitation was also specifically included in the  
7 terms of the Lease (see Exh. 1, Lease, ¶¶3, 5). In addition, the Lease clearly calls out  
8 that the Lease as well as Reno Cab's and Myers' activities are regulated to and subject  
9 to the jurisdiction and rules of the NTA.<sup>10</sup> Given the NTA's oversight and regulation,  
10 NRS 608.0155(c)(1)'s provisions make it clear that the Court may not consider this 12-  
11 hour time limitation as a "control" exercised by Reno Cab. NRS 608.0155(c)(1)  
12 ("Notwithstanding the exercise of any control necessary to comply with any statutory,  
13 regulatory or contractual obligations . . ."). Accordingly, this time period limitation on  
14 how long Myers could work is not evidence of an employment relationship as a matter of  
15 law and this factor again conclusively establishes the independent contractor  
16  
17  
18

19  
20 <sup>8</sup>NRS 706.475 states as follows: "The [NTA] authority shall adopt such  
21 regulations as are necessary to: (a) Carry out the provisions of NRS 706.473; and (b)  
22 Ensure that the taxicab business remains safe, adequate and reliable."). Accordingly,  
23 the NTA exercises regulatory oversight of the taxi cab industry to ensure that it remains  
24 safe and reliable for the citizens in our community. The NTA's regulatory oversight, and  
25 the conditions it places on Reno Cab are not factors the Court can evaluate to determine  
26 there is an employee relationship.

27  
28 <sup>9</sup>For instance, there are numerous Nevada Administrative Code ("NAC")  
provisions, enacted pursuant to the provisions of NRS 706.475, that address such things  
as: the territory the cabs can service (NAC 706.368); registration and operation of the  
taxicab (NAC 706.371); the color scheme of the taxicab (NAC 706.3742); dispatch  
operations (NAC 706.3743); security deposit under a lease (NAC 706.3752); and a 12-  
hour limitation on driver's hours (NAC 706.3761).

<sup>10</sup> Lease, ¶16 ("This Lease does not relieve [Reno Cab] from its duties and  
responsibilities under NRS Chapter 706 or NAC Chapter 706. [Myers] and/or [Reno  
Cab] are subject to the jurisdiction of the Nevada Transportation Authority ("NTA").").

1 presumption.

2                   **4.     NRS 608.0155(1)(c)(2): TIME WORK PERFORMED.**

3                   NRS 608.0155(1)(c)(2) requires the Court to evaluate the extent that “the person  
4 has control over the time the work is performed.” Again, as stated above, evidence of  
5 “control” exercised by the would-be employer as to the time by which performance must  
6 be completed or the acceptable range of work hours does not defeat this presumption of  
7 independent contractor status. Here, Myers had complete control over when and if he  
8 performed any work based upon his own admission. Further, Myers could work anytime  
9 he wanted during the Lease period. Accordingly, this factor conclusively establishes the  
10 independent contractor presumption because Myers fully controlled the time in which the  
11 work was performed by him.  
12

13                   **5.     NRS 608.0155(1)(c)(3): NO EXCLUSIVE WORK.**

14                   NRS 608.0155(1)(c)(3) provides that if the worker is free to work for others, then  
15 this factor establishes an independent contractor relationship. In the present case,  
16 Myers was free to enter into other work relationships with other persons or entities. In  
17 fact, Myers has admitted that while working as an independent contractor with Reno  
18 Cab, he did in fact work for other persons and/or entities. SOF, ¶12. In addition, there is  
19 nothing in the Lease that prevented Myers from working for any other person or entity.  
20 Accordingly, this factor conclusively establishes the independent contractor presumption.  
21

22                   **6.     NRS 608.0155(1)(c)(4): FREE TO HIRE OTHERS.**

23                   NRS 608.0155(1)(c)(4) provides that if the worker is able to hire others to assist  
24 him in his work then this factor establishes an independent contractor relationship. In the  
25 present case, Myers was also freely able to hire other persons to assist him in his  
26 endeavors. Exh. 1, Lease ¶19. All that was required was for Myers to obtain written  
27 approval from Reno Cab because, under the applicable NTA regulations, Reno Cab  
28

1 must obtain and maintain a file for any driver who would drive a leased vehicle. See  
2 NAC 706.3751 (detailing the obligations imposed upon Reno Cab before authorizing any  
3 driver to drive a taxi cab). Accordingly, Myers had the contractual right to hire anyone he  
4 wanted to assist him with the work he performed and, again, this factor conclusively  
5 establishes the independent contractor presumption.  
6

7 **7. The Court Must Impose The Conclusive Presumption**  
8 **That Myers Is An Independent Contractor.**

9 When the evidence is undisputed and the application of law is clear, then  
10 summary judgment must be granted. While Myers may argue that he was an employee,  
11 Myers also cannot overcome the clear and unambiguous language contained in the  
12 Lease wherein Myers repeatedly affirms that he is an independent contractor. Further,  
13 Myers cannot overcome the clear and unambiguous language in the Lease that Reno  
14 Cab did not exercise any interference or control over his work. Finally, Myers cannot  
15 overcome the undisputed evidence that establishes that he is conclusively presumed to  
16 be an independent contractor pursuant to the provisions of NRS 608.0155. Accordingly,  
17 summary judgment must be granted as requested.  
18

19 **V. MYERS' COMPLAINT PREMISED ON OLD "ECONOMIC REALITIES"**  
20 **ANALYSIS.**

21 As an entirely separate ground for dismissal, Myers' Complaint is based upon the  
22 premise of the old "economic realities" test employed in Terry v. Sapphire Gentlemen's  
23 Club, 336 P.3d 951 (Nev. 2014). Comp., ¶15. Because Myers' Complaint fails to  
24 acknowledge the application of NRS 706.473's controlling provisions, summary judgment  
25 must be granted because Myers' Complaint fails to state a valid claim for relief.  
26

27 When the Nevada Legislature enacted NRS 608.0155's provisions, the legislature  
28 stated that the provisions applied to any pending or future cases in which a final decision

1 had not been rendered. See **Exhibit 6**, Senate Bill 224, Section 7.<sup>11</sup> Accordingly, the  
2 legal basis for Myers' Complaint has been superseded by Nevada law and judgment in  
3 Reno Cab's favor is again required.


4 **VI. CONCLUSION.**

5  
6 Myers has already admitted he entered into the Lease with Reno Cab and that the  
7 Lease defines him as an independent contractor. Myers further acknowledged that Reno  
8 Cab did not control and/or interfere with any aspect of his work he performed. Based  
9 upon the foregoing, Myers is bound by the terms of the Lease and summary judgment in  
10 Reno Cab's favor must be granted. Yee v. Weiss, 110 Nev. 657, 662, 877 P.2d 510, 513  
11 (Nev. 1994) ("Courts have consistently held that one is bound by any document one  
12 signs . . . ."). In addition, as detailed herein, Myers claims are barred by NRS 706.473's  
13 provisions, NRS 609.0155's provisions and the parole evidence rule.  
14

15 **AFFIRMATION:** The undersigned does hereby affirm that this document does  
16 not contain the Social Security Number of any person.

17 DATED this 30<sup>th</sup> day of September, 2016.

18  
19 ROBISON, BELAUSTEGUI, SHARP & LOW  
20 71 Washington Street  
21 Reno, Nevada 89503

22 By:   
23 Mark G. Simons, Esq., NSB No. 5132  
24 Therese M. Shanks, Esq., NSB No. 12890  
25 Attorneys for Defendant  
26  
27  
28

<sup>11</sup> The Court can take judicial notice of SB 224's provisions. See NRS 47.140(2).

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, BELAUSTEGUI, SHARP & LOW, and that on this date I caused to be served a true copy of the **MOTION FOR SUMMARY JUDGMENT** on all parties to this action by the method(s) indicated below:

X 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:

Leon Greenberg, Esq.  
Dana Sniegocki, Esq.  
2965 South Jones Blvd., Ste. E3  
Las Vegas, NV 89146

X by using the Court's CM/ECF Electronic Notification System addressed to:

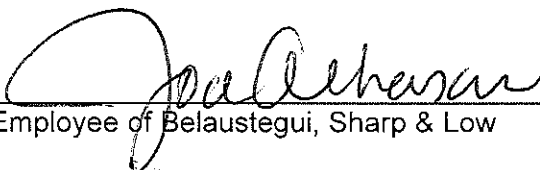
Curtis Coulter, Esq.  
Michael Pintar, Esq.

\_\_\_\_\_ by personal delivery/hand delivery addressed to:

\_\_\_\_\_ by facsimile (fax) addressed to:

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

DATED this 30<sup>th</sup> day of September, 2016.

  
Employee of Belaustegui, Sharp & Low

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## EXHIBIT LIST

NO.	DESCRIPTION	PAGES
1	Lease	14
2	Street Affidavit	2
3	Response to RFA	11
4	Permits & Licenses	5
5	Response to Ints	16
5	Senate Bill 224	3



# EXHIBIT 1

# EXHIBIT 1

RENO CAB COMPANY, INC. dba  
RENO - SPARKS CAB COMPANY

TAXICAB LEASE AGREEMENT

THIS TAXICAB LEASE AGREEMENT ("Lease") made this 27 day of DECEMBER, 2013  
between RENO CAB COMPANY, INC., a Nevada corporation, with its principal place of business at 475 Gentry  
Way, Reno, Nevada (hereinafter referred to as "LEASING COMPANY"), and JEFF MYERS an  
independent contractor with his/her principal residence located at 95 GENTRY WY. RENO, hereinafter  
referred to as "LESSEE").

WHEREAS, LEASING COMPANY is an intrastate common motor carrier operating under a Certificate of  
Public Convenience and Necessity CPCN 1025 issued by the Nevada Transportation Authority ("NTA");

WHEREAS, LEASING COMPANY is the owner of taxicabs and other vehicles;

WHEREAS, LESSEE desires to lease from LEASING COMPANY a vehicle and other services under the  
term and conditions herein set forth;

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained and other  
good and valuable consideration, the parties agree as follows:

1. LEASE. LESSEE agrees to lease from LEASING COMPANY a taxicab with the name, insignia,  
certificate number, and painted in the approved color scheme of LEASING COMPANY (the "Leased  
Taxicab"). At the commencement of this lease, LEASING COMPANY shall deliver the Leased  
Taxicab in good working order, properly licensed, and with a full tank of fuel. LEASING  
COMPANY shall equip the Leased Taxicab with a radio, dispatching system, taximeter, identifying  
decals, seals and other equipment required by applicable federal, state, and local laws and ordinances  
(collectively the "Regulatory Authorities").

LESSEE agrees that LESSEE will operate the Leased Taxicab for a minimum of three (3)  
days per seven day week, unless LEASING COMPANY authorizes LESSEE to deviate from the  
three (3) day minimum.

2. TAXICAB FEES, LICENSING. LEASING COMPANY shall maintain and pay for all operating

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licenses, taxes, and fees on the Leased Taxicab. At times other than Lease Periods (as defined below); LEASING COMPANY may either use the Leased Taxicab itself or lease the Leased Taxicab to other lessees.

3. OWNERSHIP, MAINTENANCE, AND REPAIR. LEASING COMPANY is the owner of the Leased Taxicab, which is in a good mechanical condition and meets the requirements for operating taxicabs in the location where the taxicab will be operated. Regularly scheduled maintenance shall be LEASING COMPANY'S responsibility; provided, however, in order to keep the Leased Taxicab in good mechanical condition, LESSEE shall inspect the Leased Taxicab at the beginning of each 12 hour period and report any condition requiring repair or maintenance to LEASING COMPANY. LESSEE shall return the taxicab to LEASING COMPANY at the end of each 12 hour period to enable LEASING COMPANY to comply with the provisions of NAC § 706.380. All repairs will be done in a timely fashion and a file will be maintained by LEASING COMPANY for records concerning the maintenance of the taxicab. At no time is LESSEE authorized or allowed to make any alterations or changes of any kind to the Taxicab.
4. INSURANCE. Liability insurance or self-insurance will be provided by LEASING COMPANY in an amount sufficient to meet legal requirements.
5. LEASE PERIOD. Each period LESSEE uses the Leased Taxicab shall be deemed a separate Lease Period ("Lease Period"). Each Lease Period will be determined by LESSEE and LEASING COMPANY and will be indicated on Exhibit "A". LESSEE shall not, however, operate the taxicab for more than 12 hours in any 24-hour period. This Lease shall serve as a master lease agreement, which will govern each and every Lease Period.
6. ASSIGNMENT AND SUBLEASING. LESSEE shall not transfer, assign, sublease, or otherwise enter into an agreement to lease the taxicab to another person, nor shall LESSEE'S rights be subject to encumbrance or subject to the claims of his or her creditors.
7. OPERATING AUTHORITY. LEASING COMPANY is a certified carrier and services provided by LESSEE are regulated by appropriate regulatory authorities. LESSEE'S use of the Leased Taxicab

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shall be in a manner authorized by LEASING COMPANY'S certificate to operate and the LEASING COMPANY'S Tariff.

8. RENTAL FEE. In consideration of the use of the Leased Taxicab, LESSEE agrees to pay a Rental Fee to LEASING COMPANY in the amount set forth on Exhibit "A" attached hereto and incorporated herein by reference. LESSEE shall pay the rental fees set forth in Exhibit "A" for each 12 hour lease period, as well as the late fees, set forth in Exhibit "A". Any Late Fees, as listed on Exhibit "A", shall be paid to LEASING COMPANY by LESSEE at the end of the current or prior to the beginning of the next 12 hour Lease Period after incurring such Late Fee. If, for any reason, LESSEE cannot or does not complete the 12 hour Lease Period, LESSEE shall not be entitled to any reduction of the Rental Fee.

9. SECURITY DEPOSIT. In addition to the rental payment, LESSEE will pay to LEASING COMPANY, at or before commencement of the first 12 hour Lease Period, a security deposit in the amount set forth in Exhibit "A" attached hereto and executed herewith paid in full or by other payment arrangement as determined by LEASING COMPANY. The security deposit shall be maintained while this lease is in effect. Said security deposit must be maintained by the LEASING COMPANY in an account separate from the carrier's operating account. Said security deposit, less proper deductions, shall be returned to LESSEE not later than thirty (30) days after LESSEE provides a written request for return of said deposit after termination of this Lease and / or any Employment with LEASING COMPANY. However, LEASING COMPANY may maintain the security deposit longer than thirty (30) days after any written request for return of the security deposit when money due to the LEASING COMPANY under any provision of this lease is known to be owed, but the value of the amount owed is not yet ascertained. LEASING COMPANY shall return the security deposit within thirty days (30) of ascertaining the amount owed to LEASING COMPANY. Pursuant to NAC 706.3752, any deductions must be itemized and in writing, and supported by receipts that evidences the repairs to the taxicab or other deductions in an amount equal to the amount deducted, and provided to the LESSEE upon return of the remaining security deposit.

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LEASING COMPANY may also deduct from said security deposit any amount due to LEASING COMPANY, including, but not limited to, delinquent rental charges, unauthorized repairs and/or maintenance, administrative fees, failed mandatory and / or random drug tests, unpaid traffic fines, unauthorized charges caused by LESSEE and / or incurred by LEASING COMPANY or other damages caused by LESSEE and / or sustained by LEASING COMPANY.

LESSEE may not obtain an advance or loan against the security deposit for any reason at any time. Said security deposit is to be replenished in the event any deductions are made.

In the event that the LEASE is entered into pursuant to option "1" set forth in Exhibit "A", the five dollar administrative fee and one thousand dollar security deposit, then LEASING COMPANY reserves the right to seek reimbursement from Lessee for damages in excess of said security deposit for damages resulting from an auto accident.

In the event that the LEASE is entered into pursuant to option "2" set forth in Exhibit "A", the ten dollar administrative fee and two hundred dollar security deposit then LEASING COMPANY will apply said deposit for damages as a result of any auto accident, but not seek reimbursement from Lessee for damages in excess of the \$200.00 security deposit from an auto accident.

10. RELATIONSHIP. Neither Party is the partner, joint venturer, agent, or representatives of the other Party. LESSEE is an independent contractor. LEASING COMPANY and LESSEE acknowledge and agree that there does not exist between them the relationship of employer and employee, principal and agent, or master and servant, either expressed or implied, but that the relationship of the parties is strictly that of lessor and lessee, the LESSEE being free from interference or control on the part of LEASING COMPANY, except as otherwise provided in chapter 706 of the NRS and / or NAC, in the operation of the Leased Taxicab. LESSEE acknowledges that:

1. He or she is not eligible for federal or state unemployment benefits or workman's compensation benefits.
2. LEASING COMPANY is not responsible for withholding federal or state income taxes, or any other taxes, but LESSEE will be liable for payment of those taxes.

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3. LEASING COMPANY is not responsible for withholding or paying, in any way, contribution for taxes under the Federal Insurance Act, and LESSEE will be liable for those and all other taxes.
4. LEASING COMPANY agrees to furnish only liability insurance on the Leased Taxicab, in a sum not less than required by applicable law and LEASING COMPANY shall not be responsible nor liable in any way for any injury to LESSEE resulting from the use or operation of such taxicab.
5. LEASING COMPANY is a certified carrier and services provided by LESSEE are regulated by appropriate authorities. LESSEE'S use of the Leased Taxicab shall be in a manner authorized by LEASING COMPANY'S certificate to operate the Leased Taxicab and LEASING COMPANY'S Tariff.
11. TRIP SHEET. At the beginning of each 12 hour lease period, LESSEE must date and time stamp the trip sheet provided by LEASING COMPANY. At the end of each 12 hour lease period, LESSEE must provide the LEASING COMPANY with the completed date and time stamped trip sheets for that 12 hour lease period.
12. DAILY VEHICLE INSPECTION. In order to keep the Leased Taxicab in good mechanical condition, LESSEE shall inspect the Leased Taxicab at the beginning and end of each 12 hour lease period and document on a daily inspection sheet to be submitted daily and report any condition requiring repair or maintenance to LEASING COMPANY.

In the event that LESSEE inspects a vehicle and believes that a repair affecting the safety of the public is at issue the LESSEE shall immediately inform the LEASING COMPANY of the condition or repair needed and must not utilize the vehicle on the roadways until the vehicle has been inspected by LEASING COMPANY and is deemed to no longer be a hazard to the public in accordance with NRS 706.246. Further, to ensure the safety of the travelling public LESSEE will be liable for any damages caused as a result of LESSEE's failure to drive the vehicle prior to the LEASING COMPANY's inspection of said vehicle.

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13. NO PERSONAL USE. The Leased Taxicab is for commercial use only and may not be utilized for the personal use of the LESSEE. Personal use includes, but is not limited to, using the leased taxi for personal travel, errands, and / or parking said taxi for an extended period of time at any location so that the driver may sleep.

LEASING COMPANY maintains insurance for commercial use of the Taxicab in accordance with Chapter 706 of the NRS and NAC. If LESSEE utilizes the Taxicab for personal use in violation of the Lease, LESSEE will be solely responsible for any damage caused to and / or by LESSEE in operation of the Taxicab.

14. ADVERTISING. In accordance with applicable law, only LEASING COMPANY is authorized to hold itself out and to advertise that it is a motor carrier authorized to provide taxicab services within the area authorized by its certificate of public convenience and necessity, CPCN 1025, including but not limited to, the use of the internet, telephone, television, radio, business cards, any form of print media, or any other form of advertising, because the taxicabs are owned by leasing company all top sign as well as any other advertising placed on or in the Taxicab is at the direction and control of the LEASING COMPANY. At its option, LEASING COMPANY may provide business cards for Lessee's use.

LESSEE shall not engage in any advertising or promotion whether by the internet, telephone, television, radio, business cards, any form of print media, or any other form of advertising which either reflects or gives the impression, whether intended or not, that LESSEE is holding himself/herself out as a motor carrier authorized to provide taxicab services. In the event LESSEE engages in such advertising LESSEE will be solely responsible for any fines or other fees imposed by the Nevada Transportation Authority.

15. REPLACEMENT VEHICLE. In the event that any repair or maintenance takes more than twelve (12) hours in any week, LEASING COMPANY shall attempt to provide a replacement Leased Taxicab, if available. If a replacement Leased Taxicab is not available, then LESSEE shall be entitled to a pro-rata refund of the paid Rental Fee, if applicable. However, no LESSEE shall be

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LESSEE [Signature]

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entitled to a pro-rata refund of the Rental Fee when the damage requiring repair was caused by any LESSEE of the Taxicab listed on Exhibit "B". Repairs and maintenance on Leased Taxicabs must be performed at LEASING COMPANY'S facilities, unless prior written authorization is obtained from LEASING COMPANY to have the repairs and maintenance done elsewhere. LESSEE shall be responsible for the cost of unauthorized repairs and/or maintenance, and for all damages caused thereby.

16. REGULATORY AUTHORITIES. This Lease does not relieve LEASING COMPANY from its duties and responsibilities under NRS Chapter 706 or NAC Chapter 706. LESSEE and/ or LEASING COMPANY are subject to the jurisdiction of the Nevada Transportation Authority ("NTA") and shall comply with all federal rules, regulations, ordinances, administrative codes, health and safety provisions and statutes in the operation of the Leased Taxicab. In the event of a violation of such laws, rules, regulations, ordinances, administrative codes, health and safety provisions and statutes, the NTA may take enforcement action against LESSEE and LEASING COMPANY. Both the LESSEE and LEASING COMPANY are subject to all laws and regulations relating to the operation of a taxicab which have been established by the NTA (as set forth in Nevada Revised Statutes and Nevada Administrative Code Chapters 706) and other regulatory agencies and LESSEE understands that a violation of those laws and regulations will breach the agreement.

17. MEDICAL AND DRIVING HISTORY: To ensure compliance with the provisions of NAC 706.3751, before this LEASE AGREEMENT can be deemed approved, the LESSEE must provide to the LEASING COMPANY:

- (a) A certificate from a licensed physician which is dated not more than 90 days before the date on which LESSEE begins to lease a taxicab from the LEASING COMPANY pursuant to NRS 706.473, which demonstrates that LESSEE is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43, which certificate the LESSEE must also maintain in his/her possession when operating the taxicab; and
- (b) A copy of the driving record of the LESSEE obtained from the Department of Motor Vehicles

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which demonstrates that the LESSEE has not, within the past three (3) years:

- i. Been convicted of driving under the influence of an intoxicating liquor/controlled substance;
- ii. Been convicted of careless or reckless driving;
- iii. Been convicted of failing to stop and remain at the scene of an accident; or
- iv. Failed to keep a written promise to appear in Court of any offense.

(c) Obtain work cards as required by all federal, state and local governments.

18. MAINTENANCE OF RECORDS. LEASING COMPANY must maintain driver qualification files (for the LESSEE), trip sheets (for the LESSEE), and vehicle maintenance files (for the Leased Taxicab) as required pursuant to the provisions of NRS and NAC Chapters 706.

19. WARRANTY. LESSEE warrants that he/she possesses, and at all times during the term of this Lease, and any renewals or extensions hereof, shall possess, the proper driver's license to lawfully operate a taxicab as required by the regulatory authorities. LESSEE agrees to comply with all local, state, and federal laws and ordinances of Regulatory Authorities relating to the operation of motor vehicles and taxicabs. LESSEE is responsible for the payment of all parking and traffic violations, fines and penalties, including any towing, booting, or impound fees or charges, as a result of LESSEE'S use of the Leased Taxicab and any fees or fines imposed by the NTA against LESSEE. LESSEE agrees to promptly pay or contest, and to indemnify and hold harmless LEASING COMPANY from such fines, penalties, towing, booting or impound fees or charges and fees or fines imposed by the NTA against LESSEE.

LESSEE warrants that only he or she shall drive the Leased Taxicab during the Leased Period, unless LEASING COMPANY authorizes, in writing, another person to drive the Leased Taxicab.

20. REPORT OF ACCIDENTS/CRIMES. LESSEE must give LEASING COMPANY, through LEASING COMPANY'S authorized agents and/or employees, immediate notice by any means, including, but not limited to, radio and telephone, of a violent crime (in which the LESSEE is the victim) or any accident, loss or claim in which LESSEE is involved, or as soon thereafter as is

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reasonably possible.

In the event, that LESSEE is involved in an accident caused by another, where the other driver flees the scene of the accident. LESSEE is responsible to obtain a reasonable description of the other vehicle involved in the accident, including, but not limited to, the make, model, color, license plate of the vehicle. LESSEE shall also immediately notify LEASING COMPANY of any accident involving a vehicle that has fled the scene and LESSEE shall remain at the accident scene to allow LEASING COMPANY to investigate until advised by LEASING COMPANY to leave the accident scene. In accordance with NAC 706.3752, LESSEE shall remain liable for any and all damages to the Leased Taxicab.

21. HOURS OF OPERATION. The LESSEE shall not operate the taxicab for more than 12 hours in any 24-hour period.
22. LEASED TAXICAB RETURN. At the end of each 12 hour Lease Period, LESSEE agrees to return the Leased Taxicab at the agreed time to LEASING COMPANY'S premises in the same condition in which it was received by LESSEE, except for normal wear and tear. LESSEE agrees to pay an additional charge for late return, as outlined in Exhibit "A", and to compensate LEASING COMPANY for any damages to the Leased Taxicab, and/or LEASING COMPANY as a result of LESSEE's operation of said vehicle. Failure to return with a full tank of gas will result in a charge to LESSEE in the amount of the cost of fuel to fill the tank and a related administrative fee.
23. TERMINATION. LEASING COMPANY shall have the right, but not the obligation, to immediately terminate this Lease at any time in the event that LESSEE:
  - a. Fails to pay the Rental Fee or any towing, booting, or impounded fees or charges, any other fines, fees or penalties as required herein;
  - b. Fails to maintain a proper drivers license;
  - c. Fails to timely report any accident, including but not limited to those referenced in subsection 20 of the Lease Agreement;
  - d. Encumbers, assigns, subleases, or otherwise enters into an agreement to lease the Leased Taxicab to another person;

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- e. Fails to return the Leased Taxicab in good condition with a full tank of gas;
- f. Violates any rule or regulation of the Nevada Transportation Authority;
- g. Violates any rule or regulation of the Airport Authority of Washoe County;
- h. Drives the Leased Taxicab under the influence of drugs and/or alcohol;
- i. Fails to submit to a breath or urine test that is requested pursuant to; random testing, mandatory testing requirements under Chapter 706 of NRS and / or NAC, or upon objective facts, that LESSEE is under the influence of drugs and/or alcohol;
- j. Fails to sign the ACKNOWLEDGMENT contained on the Daily Tripsheet at the beginning of each Lease Period;
- k. Is convicted of any felony or misdemeanor for driving under the influence of drugs and/or alcohol;
- l. Is deemed by LEASING COMPANY to be unsafe or unfit to meet the safety requirements of chapter 706 of NRS and/or NAC;
- m. Gives notice of intention not to enter into an additional Lease Period; or
- n. Allows any unauthorized person to drive the Leased Taxicab during any Lease Period.

In addition to the above causes for termination, LEASING COMPANY also shall have the right to terminate this Lease, for no cause, upon giving notice to LESSEE of LEASING COMPANY'S intention to terminate the Lease. Termination hereunder shall be effective immediately after giving said notice.

A failure by LEASING COMPANY to terminate the Lease for LESSEE'S violation of one or more of the above grounds for termination of this Lease shall not constitute a waiver of LEASING COMPANY'S right to terminate this Lease for any subsequent violations on the same or other grounds by LESSEE.

24. NEVADA TRANSPORTATION AUTHORITY APPROVAL. A LEASING COMPANY'S lease agreement is not deemed effective until approved by the NTA. This Lease shall be deemed to be modified, as necessary, to conform to said statutes and regulations and changes thereto.
25. RETENTION OF LEASE AGREEMENT. The LEASING COMPANY must retain copies of each lease agreement for a minimum of three years.

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26. ATTORNEY'S FEES. In the event of any dispute between the LESSEE and LEASING COMPANY relating to this Lease, the prevailing party shall be entitled to recover from the other party all reasonable attorney's fees and other reasonable costs incurred by the prevailing party in connection therewith and in pursuing and collecting remedies, relief and damages.
27. GOVERNING LAW. This agreement shall be interpreted in accordance with and through application of the laws of the State of Nevada.
28. DISPATCH SERVICE. LEASING COMPANY shall make available to LESSEE a dispatching service as a means of referring prospective passengers. LESSEE has the option to use the dispatching service. If LESSEE accepts use of the dispatching service by logging into the digital dispatch system, then LESSEE must pick up passengers through such dispatch system. However, LESSEE has no obligation to respond to dispatched calls if LESSEE chooses not to utilize the dispatch service. LESSEE is not obligated to report his location to LEASING COMPANY or to remain in any specific place at any fixed hours.
29. ARBITRATION. Any dispute or controversy arising between the parties involving the interpretation, enforcement or application of any provision in this Lease Agreement, or pertaining to the performance or any breach of this Lease Agreement, or in any way arising out of or related to this Lease Agreement, shall be determined by the Nevada Court Annex Arbitration Program as set forth in the Nevada Arbitration Rules, with either party retaining its right to seek a trial de novo.
30. MISCELLANEOUS. It is understood between LEASING COMPANY and LESSEE that it is in each party's best interest to maintain the reputation and goodwill of LEASING COMPANY and LESSEE. In this regard, cleanliness of Leased Taxicab, courtesy, personal grooming, dress, appearance, safety, and observance of traffic laws are to each party's mutual benefit. It is also understood between LEASING COMPANY and LESSEE that a file will be maintained by LEASING COMPANY which contains LESSEE'S qualifications to drive the taxicab.
31. RELEASE AND INDEMNITY OF ALL CLAIMS. The LEASING COMPANY and the LESSEE does for itself, its heirs, executors, administrators, successors and assigns, hereby release, remise, and

LEASING COMPANY \_\_\_\_\_

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forever discharge the State of Nevada, the Nevada Transportation Authority, the Nevada Attorney General, and each of their members, agents, and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known or unknown, in law or equity, which LEASING COMPANY and the LESSEE ever had, now has, may have, or claim to have against any or all of said entities or individuals arising out of or by reason of the processing or investigation of or other action relating to this agreement.

Furthermore, LEASING COMPANY and the LESSEE hereby agrees to indemnify, hold harmless and defend, not excluding the State's right to participate, the State of Nevada, the Nevada Transportation Authority, the Nevada Attorney General, and each of their, members, agents, and employees in their individual and representative capacities from any and all claims, suits, and actions, brought by anyone associated with this application, or by any third party, against the agencies or persons named in this paragraph, arising out of the submission, investigation, and deliberation concerning this agreement, and against any and all liabilities, expenses, damages, charges and costs, including court costs and attorneys' fees, which may be sustained by the persons and agencies named in this paragraph as a result of said claims, suits and actions.

32. COMPLETE AGREEMENT. This Lease constitutes the entire lease, agreement, and understanding between the parties as to the subject matter hereto, and merges all prior discussions between them. None of the parties shall be bound by any conditions, definitions, warranties, understandings or representations other than as expressly provided herein.

Executed in duplicate this 27 day of DECEMBER, 2013

LEASING COMPANY:

RENO CAB COMPANY, INC. dba RENO-SPARKS CAB COMPANY

By: \_\_\_\_\_

LEASING COMPANY \_\_\_\_\_

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LESSEE



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LESSEE:

Its: Reno Sparks Cab  
x JH Myn  
\_\_\_\_\_  
\_\_\_\_\_

LEASING COMPANY ML

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EXHIBIT "A" RENTAL FEE, SECURITY DEPOSIT AND

LATE FEES

RENTAL FEES/Security Deposit

- | <u>12-HOUR PERIOD</u>   | <u>24-HOUR PERIOD</u> | <u>ONE WEEK PERIOD</u>  |
|---|-----------------------|---|
| 1. _____ Five (5) dollars, plus<br>50% of Total Book of<br>retains (100%) of<br>the shift, plus gas and a<br>security deposit of one<br>thousand dollars (\$1,000.00)                           | NOT AVAILABLE         | _____ \$ _____ dollars,<br>plus Gas. Lessee<br>of the Total Book. |
| 2. <input checked="" type="checkbox"/> Ten (10) dollars, plus<br>50% of Total Book of retains<br>(100%) of the shift, plus gas and<br>a security deposit of four hundred<br>dollars (\$200.00). |                       |   |

LATE FEES

12-HOUR PERIOD

\$ \_\_\_\_\_

24-HOUR PERIOD

\$ \_\_\_\_\_

ONE WEEK PERIOD

\$ \_\_\_\_\_

Late fees are \$ \_\_\_\_\_ per hour or fraction thereof.

MILEAGE LIMITS

12-HOUR PERIOD

24-HOUR PERIOD

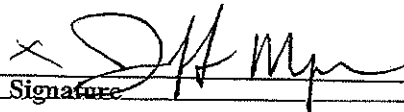
ONE WEEK PERIOD

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

An additional fee of \$ \_\_\_\_\_ will be charged for all miles traveled in  
excess of such limits

☒ Signature 

☒ Date 12/27/13

LEASING COMPANY MM

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LESSEE 

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# EXHIBIT 2

# EXHIBIT 2





1 8. Myers also had the ability to hire someone to assist him to perform his  
2 independent contractor duties.

3 9. Myers was also not required to work solely for Reno Cab.

4 10. Exhibit 5 to the Motion is a true and correct copy of Plaintiff's Response to  
5 Defendant's First Set of Interrogatories to Plaintiff.

6 11. Myers' income was based upon the effort Myers expended in performing  
7 his work and had no relationship to any activity and or inactivity of Reno Cab.

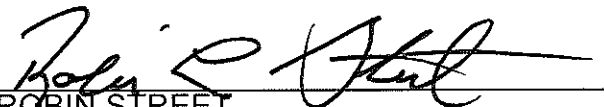
8 12. Reno Cab submitted its independent contractor lease agreement to the  
9 Nevada Transportation Authority ("NTA") for approval pursuant to the provisions of NRS  
10 706.472(1)'s provisions.

11 13. The NTA approved Reno Cab's independent contractor lease agreement.

12 14. In many instances, Myers only worked 6 hours or less during the 12-hour  
13 periods he leased a taxicab.

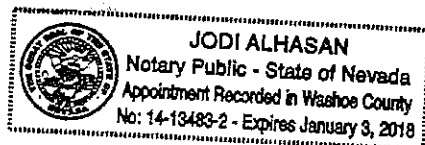
14 FURTHER AFFIANT SAYETH NAUGHT.

15 DATED this 29 day of September, 2016

16  
17   
18 ROBIN STREET

19 Subscribed and sworn to before me  
20 by Robin Street this 29 day of  
21 September 2016, at Reno, Nevada.

22   
23 NOTARY PUBLIC



j:\wpdata\imgs\30568.001 (reno cab)\p-aff street iso msj.doc

# EXHIBIT 3

# EXHIBIT 3

1  
2  
3 DISC  
4 CURTIS B. COULTER, ESQ.  
5 NSB #3034  
6 Law Offices of Curtis B. Coulter, P.C.  
7 403 Hill Street  
8 Reno, Nevada 89501  
9 P: 775 324 3380  
10 F: 775 324 3381  
11 [ccoulter@coulterlaw.net](mailto:ccoulter@coulterlaw.net)

12 LEON GREENBERG, ESQ.  
13 NSB #8094  
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15 NSB #11715  
16 Leon Greenberg Professional Corporation  
17 2965 South Jones Blvd.  
18 Suite E3  
19 Las Vegas, Nevada 89146  
20 P: 702.383.6085  
21 F: 702.385.1827  
22 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
23 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)

24 *Attorneys for Plaintiff*

25  
26 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

27 IN AND FOR THE COUNTY OF WASHOE

28 JEFF MYERS, Individually and on behalf of Case No.: CV15-01359  
29 others similarly situated

Dept. No.: 8

30 Plaintiff,

31 v.

32 RENO CAB COMPANY, INC.,

33 Defendant.  
34 \_\_\_\_\_/

35 PLAINTIFF'S RESPONSE TO DEFENDANT'S

36 FIRST SET OF REQUESTS FOR ADMISSIONS TO PLAINTIFF

37 Plaintiff, Jeff Myers, Individually and on behalf of others similarly situated, by and

1  
2 through his undersigned counsel, and hereby responds to Defendant, Reno Cab Company,  
3 Inc.'s Requests for Admissions.  
4

5 **REQUEST NO. 1:**

6 Admit that RCC\_000015-28, attached hereto as Exhibit 1, is a true and correct copy of  
7 the Taxicab Lease Agreement entered into by and between RCC and you (hereinafter the  
8 "Agreement").

9 **RESPONSE TO REQUEST NO. 1:**

10 Admit.

11 **REQUEST NO. 2:**

12 Admit that you read the Agreement before signing.

13 **RESPONSE TO REQUEST NO. 2:**

14 Deny.

15 **REQUEST NO. 3:**

16 Admit that you initialed each page of the Agreement.

17 **RESPONSE TO REQUEST NO. 3:**

18 Admit.

19 **REQUEST NO. 4:**

20 Admit that you signed the Agreement.

21 **RESPONSE TO REQUEST NO. 4:**

22 Admit.

23 **REQUEST NO. 5:**

24 Admit that when you executed the Agreement, you intended to perform under the terms  
25 of the Agreement as an independent contractor.

1  
2  
3 **OBJECTION:**

4 Request assumes facts not in evidence. Request also calls for speculation. Request  
5 calls for a legal conclusion.

6 **RESPONSE TO REQUEST NO. 5:**

7 Pursuant to the foregoing objections, plaintiff admits he intended to honestly perform  
8 work for defendant and understood the defendant expected the terms of his compensation for  
9 that work to be controlled by the Agreement. Plaintiff denies that he intended to give up any  
10 right he had to a minimum hourly wage as defendant's employee for that work.

11 **REQUEST NO. 6:**

12 Admit that at the time you executed the Agreement, you knew that RCC was an  
13 intrastate common motor carrier operating under a Certificate of Public Convenience and  
14 Necessity CPCN 1025 issued by the Nevada Transportation Authority (the "Certificate").

15 **OBJECTION:**

16 Request assumes facts not in evidence. Request also calls for speculation. Request  
17 calls for a legal conclusion.

18 **RESPONSE TO REQUEST NO. 6:**

19 Pursuant to the foregoing objections, plaintiff denies knowledge of such status or the  
20 meaning of such terms.

21 **REQUEST NO. 7:**

22 Admit that you operated your taxi cabs from RCC in compliance with the Certificate.

23 **OBJECTION:**

24 Request assumes facts not in evidence. Request also calls for speculation. Request  
25 calls for a legal conclusion.

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3 **RESPONSE TO REQUEST NO. 7:**

4 Pursuant to the foregoing objections, plaintiff denies knowledge of such status or the  
5 meaning of such terms.

6 **REQUEST NO. 8:**

7 Admit that you operated your taxi cabs from RCC in compliance with the terms of the  
8 Agreement.

9 **OBJECTION:**

10 Request assumes facts not in evidence. Request also calls for speculation. Request is  
11 also vague and ambiguous and requires plaintiff to guess at the meaning of "operated taxi cabs  
12 from RCC in compliance with the terms of the Agreement," as plaintiff's operation of any  
13 vehicle is in compliance with local, state, and federal traffic laws.

14 **RESPONSE TO REQUEST NO. 8:**

15 Pursuant to the foregoing objections, plaintiff denies knowledge of whether his  
16 operation of the taxi cabs was always in compliance with all of the terms of such Agreement as  
17 the plaintiff had never studied or fully understood all of the terms of such Agreement while  
18 employed by the defendant.

19 **REQUEST NO. 9:**

20 Admit that you complied with all the terms of the Agreement.

21 **OBJECTION:**

22 Request also calls for speculation. Request is also overly broad, vague, and ambiguous  
23 and requires plaintiff to guess at the meaning of "the terms of the Agreement" as some "terms"  
24 of the Agreement do not require compliance and/or require action only on the part of the  
25 defendant and not on the part of plaintiff.

1  
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3 **RESPONSE TO REQUEST NO. 9:**

4 Pursuant to the foregoing objections, plaintiff denies knowledge of whether he always  
5 complied with all of the terms of such Agreement as the plaintiff had never studied or fully  
6 understood all of the terms of such Agreement while employed by the defendant.

7 **REQUEST NO. 10:**

8 Admit that RCC complied with all the terms of the Agreement.

9 **OBJECTION:**

10 Request also calls for speculation. Request is also overly broad, vague, and ambiguous  
11 and requires plaintiff to guess at the meaning of "the terms of the Agreement" as some "terms"  
12 of the Agreement do not require compliance and/or require action only on the part of the  
13 plaintiff and not on the part of defendant.

14 **RESPONSE TO REQUEST NO. 10:**

15 Pursuant to the foregoing objections, plaintiff denies knowledge of whether defendant  
16 always complied with all of the terms of such Agreement as the plaintiff had never studied or  
17 fully understood all of the terms of such Agreement while employed by the defendant.

18 **REQUEST NO. 11:**

19 Admit that the Agreement specifically states that you are "an independent contractor."

20 **OBJECTION:**

21 Request is unduly burdensome, harassing, and made to annoy the plaintiff as defendant  
22 drafted the Agreement itself, is intimately familiar with its terms, and the Agreement speaks for  
23 itself.

24 **RESPONSE TO REQUEST NO. 11:**

25 Pursuant to the foregoing objections, plaintiff admits that the agreement characterizes  
26 him as an "independent contractor" but denies he was ever anything other than an employee of  
27



1  
2 defendant while working for the defendant.  
3

4 **REQUEST NO. 12:**

5 Admit that you paid money to RCC for use of the taxi cabs.

6 **RESPONSE TO REQUEST NO. 12:**

7 Plaintiff denies that he "paid money" to defendant for the "use" of taxi cabs as the  
8 plaintiff contends that he was always an employee of the defendant while driving taxi cabs for  
9 the defendant and the defendant paid him a commission, in the form of a portion of the  
10 passenger fares collected, for his work driving those taxi cabs.

11 **REQUEST NO. 13:**

12 Admit that you filed tax returns identifying your independent contractor status.

13 **RESPONSE TO REQUEST NO. 13:**

14 Plaintiff denies he has filed no tax returns with the IRS indicating he received any  
15 income from defendant in any form as an independent contractor.

16 **REQUEST NO. 14:**

17 Admit that you were provided with a copy of the Agreement by RCC at the time of  
18 execution of the Agreement.

19 **OBJECTION:**

20 Request is vague and ambiguous with respect to its use of the term "provided" as  
21 plaintiff cannot tell if the request seeks plaintiff to admit he was provided with an additional  
22 copy of such document to keep or whether he was provided with a physical copy to execute.

23 **RESPONSE TO REQUEST NO. 14:**

24 Pursuant to the foregoing objections, plaintiff denies.

25 **REQUEST NO. 15:**

26 Admit that you provided the documents identified as RCC\_000010-14 to RCC.  
27

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3 **RESPONSE TO REQUEST NO. 15:**

4 Admit.

5 **REQUEST NO. 16:**

6 Admit that you completed the application identified as RCC\_000008-9.

7 **RESPONSE TO REQUEST NO. 16:**

8 Admit.

9 **REQUEST NO. 17:**

10 Admit that under the Agreement you agreed to be liable for any payment of any federal  
11 income taxes.

12 **OBJECTION:**

13 Request is unduly burdensome, harassing, and made to annoy the plaintiff as defendant  
14 drafted the Agreement itself, is intimately familiar with its terms, and the Agreement speaks for  
15 itself. Request also calls for a legal conclusion.

16 **RESPONSE TO REQUEST NO. 17:**

17 Pursuant to the foregoing objections, plaintiff admits that the Agreement states he will  
18 be so responsible but denies he was anything other than an employee of defendant while  
19 working for the defendant and asserts that his legal responsibility, if any, in that respect was  
20 that of an employee of defendant.

21 **REQUEST NO. 18:**

22 Admit that under the Agreement you agreed to be liable for any other taxes arising out  
23 of services performed by you under the Agreement.

24 **OBJECTION:**

25 Request is unduly burdensome, harassing, and made to annoy the plaintiff as defendant  
26 drafted the Agreement itself, is intimately familiar with its terms, and the Agreement speaks for  
27

1  
2 itself. Request also calls for a legal conclusion.

3 **RESPONSE TO REQUEST NO. 18:**

4  
5 Pursuant to the foregoing objections, plaintiff admits that the Agreement states he will  
6 be so responsible but denies he was anything other than an employee of defendant while  
7 working for the defendant and asserts that his legal responsibility, if any, in that respect was  
8 that of an employee of defendant.

9 **REQUEST NO. 19:**

10 Admit that under the Agreement you agreed to be liable for paying for any insurance  
11 that you wanted.

12 **OBJECTION:**

13 Request is unduly burdensome, harassing, and made to annoy the plaintiff as defendant  
14 drafted the Agreement itself, is intimately familiar with its terms, and the Agreement speaks for  
15 itself. Request also calls for a legal conclusion.

16 **RESPONSE TO REQUEST NO. 19:**

17 Pursuant to the foregoing objections, plaintiff denies.

18 **REQUEST NO. 20:**

19 Admit that your operation of any vehicle under the Agreement was subject to the  
20 jurisdiction of the Nevada Transportation Authority ("NTA").

21 **OBJECTION:**

22 Request is unduly burdensome, harassing, and made to annoy the plaintiff as defendant  
23 drafted the Agreement itself, is intimately familiar with its terms, and the Agreement speaks for  
24 itself. Request also calls for a legal conclusion.

25 **RESPONSE TO REQUEST NO. 20:**

26 Pursuant to the foregoing objections, plaintiff denies.

1  
2  
3 **REQUEST NO. 21:**

4 Admit that you used a time clock to document the time periods you leased a vehicle  
5 under the Agreement.

6 **OBJECTION:**

7 Request calls for a legal conclusion with respect to use of the term "leased." Request  
8 also calls for speculation as it seeks plaintiff to guess at what defendant's time clock did.

9 **RESPONSE TO REQUEST NO. 21:**

10 Pursuant to the foregoing objections, plaintiff denies.

11 **REQUEST NO. 22:**

12 Admit that RCC\_000002-3 accurately reflects the dates and times you leased vehicles  
13 from RCC.

14 **OBJECTION:**

15 Request calls for a legal conclusion with respect to use of the term "leased." Request  
16 also calls for speculation as it seeks plaintiff to guess at what defendant's time clock did.

17 **RESPONSE TO REQUEST NO. 22:**

18 Pursuant to the foregoing objections, plaintiff denies.

19 **REQUEST NO. 23:**

20 Admit that RCC\_000002-3 accurately reflects the amounts you received (Book),  
21 retained (Net) and paid to RCC (Due) from your operation of taxi cabs.

22 **OBJECTION:**

23 Request is unduly burdensome and harassing as it seeks plaintiff to identify the  
24 accuracy of defendant's own records. Request also calls for speculation.

25 **RESPONSE TO REQUEST NO. 23:**

26 Pursuant to the foregoing objections, plaintiff denies.  
27  
28

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3 REQUEST NO. 24:

4 Admit that at the time you were performing under the terms of the Agreement, you  
5 knew other persons were leasing taxi cabs as independent contractors from RCC.

6 OBJECTION:


7 Request calls for a legal conclusion with respect to use of the term "leasing." Request  
8 also calls for a legal conclusion in that it seeks plaintiff to define other persons by a legal term.

9 RESPONSE TO REQUEST NO. 24:

10 Pursuant to the foregoing objections, plaintiff denies that he ever "knew" that the  
11 alleged "independent contractor" status of other persons who drove taxis for defendant was  
12 legal but admits he was aware other persons drove taxicabs for defendant pursuant to the same  
13 sort of Agreement that plaintiff had signed with defendant.

14 The under-signed hereby affirm that the above document does not contain the Social Security Number of any person,  
15 pursuant to NRS 239B.030.

16 Date: 8-1-16

17  
18   
19 \_\_\_\_\_  
20 Curtis B. Coulter, Esq.  
21 NSB #3034  
22 Law Offices of Curtis B. Coulter, P.C.  
23 403 Hill Street  
24 Reno, Nevada 89501

25 Leon Greenberg, Esq.  
26 NSB #8094  
27 Dana Sniegocki, Esq.  
28 NSB#11715  
29 2965 South Jones Blvd.  
30 Suite E3  
Las Vegas, Nevada 89146

*Attorneys for Plaintiff*

25 Law Offices of  
26 Curtis B. Coulter  
27 403 Hill Street  
28 Reno, NV 89501  
29 (775) 324-3380  
30 FAX (775) 324-3381

CERTIFICATE OF SERVICE

Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Law Offices of Curtis B. Coulter, P.C., and that I served a true and correct copy of the Plaintiff's Response To Defendant's First Set Of Requests For Admissions To Plaintiff by:

  X   Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope with first-class postage affixed thereto, deposited in the United States Mail, at Reno, Nevada.

       Personal delivery by causing a true copy thereof to be hand-delivered to the address or addresses set forth below.

       Facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address or addresses noted below.

       Federal Express or other overnight delivery.

       Hand-delivery by Reno/Carson Messenger Service.

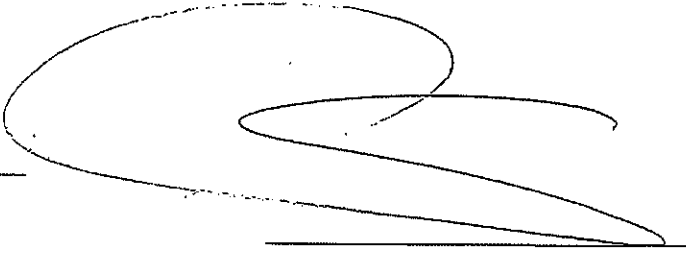
Addressed as follows:

Michael A. Pinter, Esq.  
Glogovac & Pinter  
427 West Plumb Lane  
Reno, Nevada 89509

Mark G. Simons, Esq.  
Therese M. Shanks, Esq.  
Robison, Belaustegui, Sharp & Low  
71 Washington Street  
Reno, NV 89503

*Attorneys for Defendant  
Reno Cab Company, Inc.*

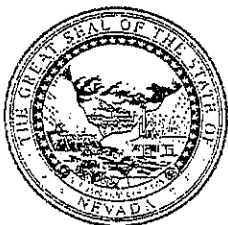
DATED: 8.1.2016

  
An employee of Curtis B. Coulter, P.C.

Law Offices of  
Curtis B. Coulter  
403 Hill Street  
Reno, NV 89501  
(775) 324-3380  
FAX (775) 324-3381

# EXHIBIT 4

# EXHIBIT 4



STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4368  
Record Request  
3/28/2013

DLN/ID: [REDACTED]

State of Record: NV

Name: MYERS, JEFFERSON WARD

DOB: [REDACTED]

Sex: MALE Height: 6 feet 00 inches Weight: 170 lbs.

Hair: BROWN Eye: HAZEL

Medical Certificate Expiry Date: N/A

Certificate Status: N/A

Self Certification: NONE

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Report Type: 03 Years

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Endorsements
ID Card		SURRENDERED	NEVADA ID CARD	06-09-1998		
NCOL	C	VALID	NORMAL	05-22-2012	10-18-2015	

Restriction Details: A - Corrective lenses

Conviction Listing:

Demerit Points: 00

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
1 06-03-2011	06-07-2011	NV	247	407	M82	N	N	R44282532047

3.28.13

Your transaction confirmation number is: 0076568340

DLN/ID: 2000234638

Page 1

RCC\_000010

JA 099





STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4368  
Record Request  
3/27/2012

Name: MYERS, JEFFERSON WARD

State of Record: NV

DLN/ID: [REDACTED]

DOB: 10-18-1967 Physical Exp Date:

Sex: MALE

Height: 6 feet 00 inches

Weight: 175 lbs.

Hair: BROWN Eye: HAZEL

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Report Type: 03 Years

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Restrictions
ID Card		SURRENDERED	NEVADA ID CARD	06-09-1998		
NCDL	C	VALID	NORMAL	08-01-2011	10-18-2015	A

Endorsements

Conviction Listing:

Demerit Points: 04

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
1 06-03-2011	06-07-2011	NV	247	407	M82	N	N	R44282532047

2-22-13  
[Signature]

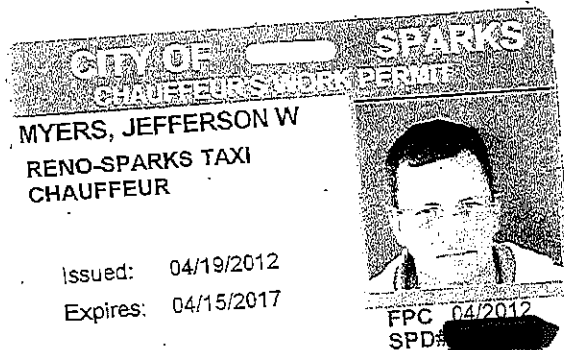
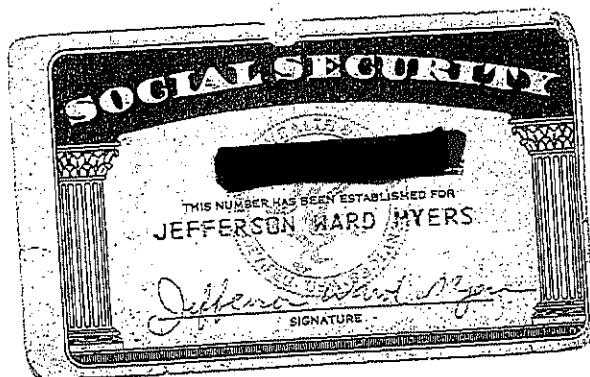
Your transaction confirmation number is: 0068800812

DLN/ID:2000234638

Page 1

RCC\_000011

JA 100



530  
086-4190

RCC\_000012

# MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Jeff W. Myers in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with the Department of Transportation's (DOT) medical standards for commercial drivers. I find this person is qualified to drive a commercial motor vehicle.

☒ wearing corrective lenses ☐ wearing hearing aid ☐ accompanied by a ☐ telemedicine ☐ telemedicine by a DOT Performance Evaluation Certificate (PEC) ☐ telemedicine by a DOT Performance Evaluation Certificate (PEC) ☐ telemedicine by a DOT Performance Evaluation Certificate (PEC)

The telemedicine I have provided regarding this physical examination is true and complete. A complete examination form with my attachment includes my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER		TELEPHONE	
<u>James C. Simpson</u>		<u>(715) 833-9959</u>	
MEDICAL EXAMINER'S NAME (PRINT)		DATE	
<u>James C. Simpson</u>		<u>04/13/2014</u>	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NOTISSING STATE		STATE	
<u>783 NW</u>		<u>WI</u>	
SIGNATURE OF DRIVER		DATE	
<u>Jeff Myers</u>		<u>04/13/2014</u>	
ADDRESS OF DRIVER		DATE	
<u>501 LAKE ST.</u>		<u>04/13/2014</u>	
AL. CERTIFICATE EXPIRATION DATE		DATE	
<u>04/13/2014</u>		<u>04/13/2014</u>	

DISTRIBUTION: 1 COPY TO THE DRIVER, 1 COPY TO THE MOTOR CARRIER

# Medical Examination Report FOR COMMERCIAL DRIVER FITNESS DETERMINATION

Driver completes this section.

<b>DRIVER'S INFORMATION</b>		Driver completes this section.		Social Security No. [REDACTED]		Birthdate [REDACTED]		Age 44		Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F		<input checked="" type="checkbox"/> New Certification <input type="checkbox"/> Recertification		Date of Exam 4/13/12	
Driver's Name (Last, First, Middle) <b>MYERS, JEFF W.</b>		City, State, Zip Code <b>RENO, NV 89509</b>		Work Tel: ( ) 333-3333		Home Tel: ( ) 686-4146		Driver License No. [REDACTED]		License Class <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> Other		State of Issue <b>NV</b>			
Address <b>501 LAKE ST.</b>		Driver completes this section, but medical examiner is encouraged to discuss with driver.													

## 2. HEALTH HISTORY

Yes No <input checked="" type="checkbox"/> Any illness or injury in the last 5 years? <input checked="" type="checkbox"/> Head/Brain injuries, disorders or illnesses <input checked="" type="checkbox"/> Seizures, epilepsy <input type="checkbox"/> medication _____ <input checked="" type="checkbox"/> Eye disorders or impaired vision (except corrective lenses) <input checked="" type="checkbox"/> Ear disorders, loss of hearing or balance <input checked="" type="checkbox"/> Heart disease or heart attack; other cardiovascular condition <input type="checkbox"/> medication _____ <input checked="" type="checkbox"/> Heart surgery (valve replacement, bypass, angioplasty, pacemaker) <input checked="" type="checkbox"/> High blood pressure <input type="checkbox"/> medication _____ <input checked="" type="checkbox"/> Muscular disease <input checked="" type="checkbox"/> Shortness of breath		Yes No <input checked="" type="checkbox"/> Lung disease, emphysema, asthma, chronic bronchitis <input checked="" type="checkbox"/> Kidney disease, dialysis <input checked="" type="checkbox"/> Liver disease <input checked="" type="checkbox"/> Digestive problems <input checked="" type="checkbox"/> Diabetes or elevated blood sugar controlled by: <input type="checkbox"/> diet <input type="checkbox"/> pills <input type="checkbox"/> insulin <input checked="" type="checkbox"/> Nervous or psychiatric disorders, e.g., severe depression <input type="checkbox"/> medication _____ <input checked="" type="checkbox"/> Loss of, or altered consciousness		Yes No <input type="checkbox"/> Fainting, dizziness <input checked="" type="checkbox"/> Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring <input type="checkbox"/> Stroke or paralysis <input checked="" type="checkbox"/> Missing or impaired hand, arm, foot, leg, finger, toe <input checked="" type="checkbox"/> Spinal injury or disease <input checked="" type="checkbox"/> Chronic low back pain <input checked="" type="checkbox"/> Regular, frequent alcohol use <input checked="" type="checkbox"/> Narcotic or habit forming drug use	
---	--	---	--	--	--

For any YES answer, indicate onset date, diagnosis, treating physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.

**BROKEN TAW 10/10 Dr. Bruce, NO LIMITATIONS**

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

Driver's Signature

*Jeff Myers*

Medical Examiner's Comments on Health History (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards of medications, including over-the-counter medications, while driving. This discussion must be documented below.)

*No problems found. Discussion of medical history.*

Date 4/13/12

RCC\_000014

# EXHIBIT 5

# EXHIBIT 5

1  
2  
3 DISC  
4 CURTIS B. COULTER, ESQ.  
5 NSB #3034  
6 Law Offices of Curtis B. Coulter, P.C.  
7 403 Hill Street  
8 Reno, Nevada 89501  
9 P: 775 324 3380  
10 F: 775 324 3381  
11 [ccoulter@coulterlaw.net](mailto:ccoulter@coulterlaw.net)

12 LEON GREENBERG, ESQ.  
13 NSB #8094  
14 DANA SNIEGOCKI, ESQ.  
15 NSB #11715  
16 Leon Greenberg Professional Corporation  
17 2965 South Jones Blvd.  
18 Suite E3  
19 Las Vegas, Nevada 89146  
20 P: 702.383.6085  
21 F: 702.385.1827  
22 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
23 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)

24 *Attorneys for Plaintiff*

25  
26 IN THE SECOND JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
27  
28 IN AND FOR THE COUNTY OF WASHOE

29 JEFF MYERS, Individually and on behalf of Case No.: CV15-01359  
30 others similarly situated  
31  
32 Dept. No.: 8  
33  
34 Plaintiff,

35 v.

36 RENO CAB COMPANY, INC.,  
37  
38 Defendant.

39  
40  
41 **PLAINTIFF'S RESPONSE TO DEFENDANT'S FIRST SET**  
42 **OF INTERROGATORIES TO PLAINTIFF**

43 Plaintiff, Jeff Myers, Individually and on behalf of others similarly situated, by and  
44 through his undersigned counsel, and hereby responds to Defendant, Reno Cab Company,  
45 Inc.'s Interrogatories.

46 Law Offices of  
47 Curtis B. Coulter  
48 403 Hill Street  
49 Reno, NV 89501  
50 (775) 324-3380  
51 FAX (775) 324-3381

1  
2  
3 **INTERROGATORY NO. 1:**

4 If you contend that you are not contractually bound under the terms of the Taxicab  
5 Lease Agreement entered into by and between the RCC and you (hereinafter the "Agreement"),  
6 identify all facts supporting your contention.

7 **OBJECTION:**

8 Request assumes facts not in evidence. Request also calls for a legal conclusion as it is  
9 an issue of law as to whether plaintiff is contractually bound to any contractual agreement he  
10 signs. Request is also overbroad, patently irrelevant, and made for no other reason than to  
11 harass and burden the plaintiff.

12 **RESPONSE TO INTERROGATORY NO. 1:**

13 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
14 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
15 provisions of this section may not be waived by agreement between an individual employee  
16 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
17 defendant and was not paid for his work in compliance with the requirements of the MWA and  
18 the terms or compliance or non-compliance with any other agreement or contract have no  
19 bearing on that claim.

20 **INTERROGATORY NO. 2:**

21 If you contend that the Agreement is not enforceable, identify all facts supporting your  
22 contention.

23 **OBJECTION:**

24 Request assumes facts not in evidence. Request also calls for a legal conclusion as it is  
25 an issue of law as to whether an agreement is or is not enforceable. Request is also overbroad.

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3 **RESPONSE INTERROGATORY NO. 2:**

4 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
5 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
6 provisions of this section may not be waived by agreement between an individual employee  
7 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
8 defendant and was not paid for his work in compliance with the requirements of the MWA and  
9 the terms or compliance or non-compliance with any other agreement or contract have no  
10 bearing on that claim.

11 **INTERROGATORY NO. 3:**

12 If you contend that the Certificate of Public Convenience and Necessity CPCN 1025  
13 issued by the Nevada Transportation Authority to RCC (the "Certificate") was not valid for any  
14 reason, identify all facts supporting your contention.

15 **OBJECTION:**

16 Request assumes facts not in evidence. Request also calls for a legal conclusion as it is  
17 an issue of law as to whether a certificate issued by the Nevada Transportation Authority is or  
18 is not valid. Request is also overbroad.

19 **RESPONSE TO INTERROGATORY NO. 3:**

20 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
21 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
22 provisions of this section may not be waived by agreement between an individual employee  
23 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
24 defendant and was not paid for his work in compliance with the requirements of the MWA and  
25 the terms or compliance or non-compliance with any other agreement or contract, or the  
26 validity or invalidity of the Certificate mentioned, have no bearing on that claim. Accordingly,  
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2 he declines to further answer this request or obtain knowledge sufficient to answer it.

3 **INTERROGATORY NO. 4:**

4  
5 If you contend that the vehicles leased to you by RCC were not operated by you in  
6 compliance with the Certificate, identify all facts supporting your contention.

7 **OBJECTION:**

8 Request assumes facts not in evidence. Request also calls for a legal conclusion as it is  
9 an issue of law as to whether plaintiff operated vehicles in compliance with the Certificate.  
10 Request.

11 **RESPONSE TO INTERROGATORY NO. 4:**

12 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
13 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
14 provisions of this section may not be waived by agreement between an individual employee  
15 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
16 defendant and was not paid for his work in compliance with the requirements of the MWA and  
17 the terms or compliance or non-compliance with any other agreement or contract, or the  
18 validity or invalidity of the Certificate mentioned, have no bearing on that claim. Accordingly,  
19 he declines to further answer this request or obtain knowledge sufficient to answer it.

20 **INTERROGATORY NO. 5:**

21 If you contend that the vehicles leased to you by RCC did not comply with any  
22 applicable Nevada Revised Statute, identify all facts supporting your contention.

23 **OBJECTION:**

24 Request assumes facts not in evidence. Request is vague and ambiguous as defendant  
25 does not identify the "applicable Nevada Revised Statute" to which it refers. Request also calls  
26 for a legal conclusion as it is an issue of law as to whether any of defendant's vehicles did or  
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2 did not comply with "applicable Nevada Revised Statute." Request is also overbroad.

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4 **RESPONSE TO INTERROGATORY NO. 5:**

5 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
6 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
7 provisions of this section may not be waived by agreement between an individual employee  
8 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
9 defendant and was not paid for his work in compliance with the requirements of the MWA and  
10 the terms or compliance or non-compliance with any other agreement or contract, or any  
11 compliance or non-compliance with any Nevada Revised Statute as requested have no bearing  
12 on that claim. Accordingly, he declines to further answer this request or obtain knowledge  
13 sufficient to answer it.

14 **INTERROGATORY NO. 6:**

15 If you contend that the vehicles leased to you by RCC did not comply with any  
16 applicable Nevada Administration Code regulation, identify all facts supporting your  
17 contention.

18 **OBJECTION:**

19 Request assumes facts not in evidence. Request is vague and ambiguous as defendant  
20 does not identify the "applicable Nevada Code regulation" to which it refers. Request also calls  
21 for a legal conclusion as it is an issue of law as to whether any of defendant's vehicles did or  
22 did not comply with "applicable Nevada Code regulation." Request is also overbroad.

23 **RESPONSE TO INTERROGATORY NO. 6:**

24 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
25 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
26 provisions of this section may not be waived by agreement between an individual employee

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2 and an employer.” It is the plaintiff’s contention in this case that he was an employee of the  
3 defendant and was not paid for his work in compliance with the requirements of the MWA and  
4 the terms or compliance or non-compliance with any other agreement or contract, or any  
5 compliance or non-compliance with any Nevada Administrative Code as requested have no  
6 bearing on that claim. Accordingly, he declines to further answer this request or obtain  
7 knowledge sufficient to answer it  
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9 **INTERROGATORY NO. 7:**

10 Identify and describe all instances in which you did not comply with terms of the  
11 Agreement.

12 **OBJECTION:**

13 Request assumes facts not in evidence. Request is vague, ambiguous, and overbroad as  
14 defendant does not identify the “terms of the Agreement” to which it refers. Request also calls  
15 for a legal conclusion as it is an issue of law as to whether plaintiff complied with any terms of  
16 a legal document.

17 **RESPONSE TO INTERROGATORY NO. 7:**

18 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
19 16 of the Nevada Constitution (the Minimum Wage Amendment or “MWA”) provides that “the  
20 provisions of this section may not be waived by agreement between an individual employee  
21 and an employer.” It is the plaintiff’s contention in this case that he was an employee of the  
22 defendant and was not paid for his work in compliance with the requirements of the MWA and  
23 the terms or compliance or non-compliance with any other agreement or contract have no  
24 bearing on that claim. Accordingly, he declines to further answer this request or obtain  
25 knowledge sufficient to answer it.

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3 **INTERROGATORY NO. 8:**

4 Identify and describe all instances in which you contend RCC did not comply with the  
5 terms of the Agreement.

6 **OBJECTION:**

7 Request assumes facts not in evidence. Request is vague, ambiguous, and overbroad as  
8 defendant does not identify the "terms of the Agreement" to which it refers. Request also calls  
9 for a legal conclusion as it is an issue of law as to whether RCC complied with any terms of a  
10 legal document.

11 **RESPONSE TO INTERROGATORY NO. 8:**

12 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
13 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
14 provisions of this section may not be waived by agreement between an individual employee  
15 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
16 defendant and was not paid for his work in compliance with the requirements of the MWA and  
17 the terms or compliance or non-compliance with any other agreement or contract have no  
18 bearing on that claim. Accordingly, he declines to further answer this request or obtain  
19 knowledge sufficient to answer it.

20 **INTERROGATORY NO. 9:**

21 Identify and describe the reason you entered into the Agreement.

22 **OBJECTION:**

23 Request is vague and ambiguous with respect to its use of the phrase "entered into the  
24 Agreement" as such term is undefined. Request also calls for a legal conclusion to the extent  
25 the term "entered into the Agreement" is understood to legally bind the plaintiff.

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3 **RESPONSE TO INTERROGATORY NO. 9:**

4 Without waiving the foregoing objections, plaintiff responds that signing the Agreement  
5 was a condition of his employment with RCC.

6 **INTERROGATORY NO. 10:**

7 Identify the reason(s) the Agreement was terminated.

8 **OBJECTION:**

9 Request calls for a legal conclusion as the termination of an agreement is a matter of  
10 law for the Court to decide. Request also assumes facts not in evidence.

11 **RESPONSE TO INTERROGATORY NO. 10:**

12 The Agreement was terminated because the plaintiff ceased being an employee of the  
13 defendant and ceased working for the defendant.

14 **INTERROGATORY NO. 11:**

15 Identify and describe the reason you agreed in the Agreement that you were an  
16 independent contractor and now you have filed the present action contending you were an  
17 employee.

18 **OBJECTION:**

19 Request is compound containing multiple subparts such that if each subpart were set  
20 forth in a separate request, defendant would exceed the number of interrogatories permissible  
21 under the rules of civil procedure. Request also assumes facts not in evidence. Request also  
22 calls for a legal conclusion in that it presupposes that signing an agreement determines the  
23 employment status of the plaintiff, or that signing the Agreement waives any right of plaintiff  
24 to challenge any such employment status.

25 **RESPONSE TO INTERROGATORY NO. 11:**

26 Without waiving the foregoing objections, plaintiff states that signing the Agreement  
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3 was a condition of his employment such that he could not work for defendant unless he signed  
4 such agreement. Plaintiff further states that he believes it is for the Court to determine his  
5 employment status regardless of any language contained in the Agreement he signed.

6 **INTERROGATORY NO. 12:**

7 Identify and describe any inducements or compensation you received and/or were  
8 promised by anyone to initiate or pursue this litigation against RCC.

9 **OBJECTION:**

10 Request is vague and ambiguous with respect to its use of the term "inducements" as  
11 such term is undefined. Request also calls for information protected by the attorney client  
12 privilege and/or attorney work product doctrine.

13 **RESPONSE TO INTERROGATORY NO. 12:**

14 Without waiving the foregoing objections, plaintiff states he was promised nothing to  
15 initiate or pursue this litigation against RCC.

16 **INTERROGATORY NO. 13:**

17 Identify and describe why you agreed in the Agreement that RCC was not obligated to  
18 provide you with any unemployment benefits or workman's compensation benefits.

19 **OBJECTION:**

20 Request assumes facts not in evidence. Request also calls for a legal conclusion in that  
21 it presupposes that signing the Agreement is a waiver of any right plaintiff has under law or any  
22 obligation RCC has under law.

23 **RESPONSE TO INTERROGATORY NO. 13:**

24 Without waiving the foregoing objections, plaintiff states he signed the Agreement as a  
25 condition of his employment with RCC. By signing such Agreement, plaintiff was not agreeing  
26 that RCC was relieved of any legal obligations it had.

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3 **INTERROGATORY NO. 14:**

4 Identify and describe why you agreed in the Agreement that RCC was not obligated to  
5 withhold any federal or state income taxes and that you would be liable for payment of those  
6 taxes.

7 **OBJECTION:**

8 Request assumes facts not in evidence. Request also calls for a legal conclusion in that  
9 it presupposes that signing the Agreement is a waiver of any right plaintiff has under law or any  
10 obligation RCC has under law.

11 **RESPONSE TO INTERROGATORY NO. 14:**

12 Without waiving the foregoing objections, plaintiff states he signed the Agreement as a  
13 condition of his employment with RCC. By signing such Agreement, plaintiff was not  
14 agreeing that RCC was relieved of any legal obligations it had.

15 **INTERROGATORY NO. 15:**

16 Identify and describe all licenses, permits or work-cards you obtained in order to  
17 comply with your obligations under the Agreement.

18 **OBJECTION:**

19 Request assumes facts not in evidence. Request also calls for a legal conclusion in that  
20 it seeks plaintiff to determine his legal requirements, if any, to comply with his obligations, if  
21 any, under the Agreement. Request is also overly burdensome and harassing in that it seeks the  
22 disclosure of information already in the possession of defendant.

23 **RESPONSE TO INTERROGATORY NO. 15:**

24 Without waiving the foregoing objections, plaintiff states defendant already possesses  
25 copies of plaintiff's license and any other work permits that were required to become employed  
26 with RCC.  
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3 **INTERROGATORY NO. 16:**

4 Identify and describe all actions taken by you to comply with any Nevada  
5 Transportation Authority regulation in order to comply with your obligations under the  
6 Agreement.

7 **OBJECTION:**

8 Request is vague and ambiguous. Request also calls for a legal conclusion in that it  
9 seeks plaintiff to make a determination as to his compliance with legal obligations and  
10 regulations which is a matter to be decided by the Court. Request also seeks the disclosure of  
11 information that is irrelevant to the claims and defenses in this case and is not reasonably  
12 calculated to lead to the discovery of admissible evidence.

13 **RESPONSE TO INTERROGATORY NO. 16:**

14 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
15 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
16 provisions of this section may not be waived by agreement between an individual employee  
17 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
18 defendant and was not paid for his work in compliance with the requirements of the MWA and  
19 the terms or compliance or non-compliance with any other agreement or contract or regulation  
20 have no bearing on that claim. Accordingly, he declines to further answer this request or obtain  
21 knowledge sufficient to answer it.

22 **INTERROGATORY NO. 17:**

23 Identify and describe all actions taken by you to comply with any Transportation  
24 Security Administration regulation and/or requirements in order to comply with your  
25 obligations under the Agreement.



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3 **OBJECTION:**

4 Request is vague and ambiguous. Request also calls for a legal conclusion in that it  
5 seeks plaintiff to make a determination as to his compliance with legal obligations and  
6 regulations which is a matter to be decided by the Court. Request also seeks the disclosure of  
7 information that is irrelevant to the claims and defenses in this case and is not reasonably  
8 calculated to lead to the discovery of admissible evidence. Request is also duplicative of  
9 Interrogatory No. 16.

10 **RESPONSE TO INTERROGATORY NO. 17:**

11 Without waiving the foregoing objections, plaintiff states only that Article 15, Section  
12 16 of the Nevada Constitution (the Minimum Wage Amendment or "MWA") provides that "the  
13 provisions of this section may not be waived by agreement between an individual employee  
14 and an employer." It is the plaintiff's contention in this case that he was an employee of the  
15 defendant and was not paid for his work in compliance with the requirements of the MWA and  
16 the terms or compliance or non-compliance with any other agreement or contract or regulation  
17 or requirement have no bearing on that claim. Accordingly, he declines to further answer this  
18 request or obtain knowledge sufficient to answer it.

19 **INTERROGATORY NO. 18:**

20 Identify all your sources of income during the period August 13, 2013 through January  
21 16, 2014.

22 **OBJECTION:**

23 Plaintiff's "sources of income" besides what he was paid by the defendant as an  
24 employee for his work for defendant is irrelevant and privileged and will not be provided

25 **RESPONSE TO INTERROGATORY NO. 18:**

26 As limited by his foregoing objection, plaintiff states that if he worked for defendant  
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3 during the aforesaid time period he did receive some compensation from the defendant for that  
4 work.

5 **INTERROGATORY NO. 19:**

6 Identify and describe in detail each fact you contend supports your claim that you were  
7 an employee and not an independent contractor.

8 **OBJECTION:**

9 Request calls for a legal conclusion in that it seeks plaintiff to determine an issue of  
10 law, namely his employment status.

11 **RESPONSE TO INTERROGATORY NO. 19:**

12 Without waiving the foregoing objections, plaintiff refers defendant to the allegations in  
13 the Complaint. Specifically, plaintiff's activities for the defendant and use of the taxi cab he  
14 drove were so rigidly controlled by the defendant, his opportunity for profit or loss from those  
15 activities was so greatly controlled and restricted by the defendant, his investment in that  
16 business activity was so minimal, and the nature of that activity and defendant's business was  
17 otherwise such that under the "economic realities" present he was properly an employee of the  
18 defendant when engaged in those activities. In particular, because the "lease" of the taxi  
19 vehicle that the plaintiff drove for the defendant was for a 12 hour time period, and paid almost  
20 entirely through a percentage of the "book" or fares received during that period subject to a  
21 specific formula, that "lease" was a sham without any true economic independence or  
22 existence, the plaintiff actually being a commission compensated employee for the work he  
23 performed for defendant during each such "lease shift."

24 **INTERROGATORY NO. 20:**

25 Identify and describe all damages you contend you are seeking in this litigation.

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3 RESPONSE TO INTERROGATORY NO. 20:

4 Plaintiff is seeking the difference between the amount of commissions he was paid  
5 during his employment and the minimum wage required to be paid to him under law, including  
6 overtime. Plaintiff is also seeking up to 30 days of continuing wages for defendant's failure to  
7 pay him all wages due under law at the time of his separation from employment. Plaintiff also  
8 seeks punitive damages. These damages are sought on behalf of the plaintiff, individually, and  
9 the putative plaintiff class as described in the Complaint.

10 The under-signed hereby affirm that the above document does not contain the Social Security Number of any person,  
pursuant to NRS 239B.030.

11 Date: 8-1-16



12  
13 Curtis B. Coulter, Esq.  
14 NSB #3034  
15 Law Offices of Curtis B. Coulter, P.C.  
403 Hill Street  
Reno, Nevada 89501

16 Leon Greenberg, Esq.  
17 NSB #8094  
18 Dana Sniegocki, Esq.  
19 NSB#11715  
2965 South Jones Blvd.  
Suite E3  
Las Vegas, Nevada 89146

20 *Attorneys for Plaintiff*

21  
22  
23  
24  
25 Law Offices of  
Curtis B. Coulter  
403 Hill Street  
26 Reno, NV 89501  
(775) 324-3380  
27 FAX (775) 324-3381  
28

CERTIFICATE OF SERVICE

Pursuant to NRCP 5 (b), I hereby certify that I am an employee of Law Offices of Curtis B. Coulter, P.C., and that I served a true and correct copy of the Plaintiff's Response To Defendant's First Set Of Interrogatories To Plaintiff by:

X Mail on all parties in said action, by placing a true copy thereof enclosed in a sealed envelope with first-class postage affixed thereto, deposited in the United States Mail, at Reno, Nevada.

Personal delivery by causing a true copy thereof to be hand-delivered to the address or addresses set forth below.

Facsimile on the parties in said action by causing a true copy thereof to be telecopied to the number indicated after the address or addresses noted below.

Federal Express or other overnight delivery.

Hand-delivery by Reno/Carson Messenger Service.

Addressed as follows:

Michael A. Pinter, Esq.  
Glogovac & Pinter  
427 West Plumb Lane  
Reno, Nevada 89509

Mark G. Simons, Esq.  
Therese M. Shanks, Esq.  
Robison, Belaustegui, Sharp & Low  
71 Washington Street  
Reno, NV 89503

*Attorneys for Defendant  
Reno Cab Company, Inc.*

DATED: 8.1.200

  
An employee of Curtis B. Coulter, P.C.

Law Offices of  
Curtis B. Coulter  
403 Hill Street  
Reno, NV 89501  
(775) 324-3380  
FAX (775) 324-3381

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VERIFICATION

JEFF MYERS, being first duly sworn, deposes and says:

That he is a Plaintiff in the above-entitled matter, that he has read the foregoing Plaintiff's Response to Defendant's First Set of Interrogatories to Plaintiff, and knows the contents thereof, that the same is true to the best of his knowledge, except as to those matters therein stated upon information and belief, and as to those matters, he believes the same to be true.

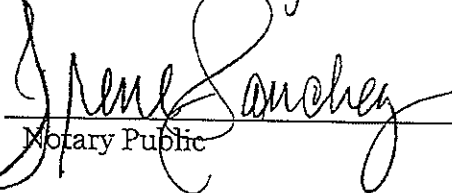
DATED: This 1 day of AUGUST, 2016

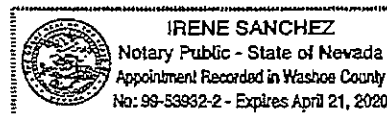
  
\_\_\_\_\_  
Plaintiff, JEFF MYERS

STATE OF NEVADA                     )  
  ) ss.  
COUNTY OF WASHOE                )

Subscribed and sworn to before me this 1<sup>st</sup> day of August, 2016.

By Jeff Myers

  
\_\_\_\_\_  
Notary Public



# EXHIBIT 6

# EXHIBIT 6

Senate Bill No. 224—Committee on  
Commerce, Labor and Energy

CHAPTER.....

AN ACT relating to employment; establishing a conclusive presumption that a person is an independent contractor if certain conditions are met; excluding the relationship between a principal and an independent contractor from certain provisions governing the payment of minimum wage to an employee; and providing other matters properly relating thereto.

**Legislative Counsel's Digest:**

Section 16 of Article 15 of the Nevada Constitution defines the term "employee" and requires each employer to pay a certain minimum wage to each employee. Existing law imposes certain additional requirements relating to compensation, wages and hours of employees. (Chapter 608 of NRS) **Section 1** of this bill establishes a conclusive presumption that a person is an independent contractor, rather than an employee, if certain conditions are met. **Section 5** of this bill excludes the relationship between a principal and an independent contractor from those relationships that constitute employment relationships for the purpose of requiring the payment of a minimum wage. **Section 7** of this bill applies the provisions of this bill to any action or proceeding to recover unpaid wages pursuant to a requirement to pay a minimum wage in which a final decision has not been rendered as of the effective date of this bill.

EXPLANATION — Matter in *bolded italics* is new; matter between brackets ~~for omitted material~~ is material to be omitted.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

**Section 1.** Chapter 608 of NRS is hereby amended by adding thereto a new section to read as follows:

*1. For the purposes of this chapter, a person is conclusively presumed to be an independent contractor if:*

*(a) Unless the person is a foreign national who is legally present in the United States, the person possesses or has applied for an employer identification number or social security number or has filed an income tax return for a business or earnings from self-employment with the Internal Revenue Service in the previous year;*

*(b) The person is required by the contract with the principal to hold any necessary state or local business license and to maintain any necessary occupational license, insurance or bonding; and*

*(c) The person satisfies three or more of the following criteria:*



(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or contractual obligations, the person has control and discretion over the means and manner of the performance of any work and the result of the work, rather than the means or manner by which the work is performed, is the primary element bargained for by the principal in the contract.

(2) Except for an agreement with the principal relating to the completion schedule, range of work hours or, if the work contracted for is entertainment, the time such entertainment is to be presented, the person has control over the time the work is performed.

(3) The person is not required to work exclusively for one principal unless:

(I) A law, regulation or ordinance prohibits the person from providing services to more than one principal; or

(II) The person has entered into a written contract to provide services to only one principal for a limited period.

(4) The person is free to hire employees to assist with the work.

(5) The person contributes a substantial investment of capital in the business of the person, including, without limitation, the:

(I) Purchase or lease of ordinary tools, material and equipment regardless of source;

(II) Obtaining of a license or other permission from the principal to access any work space of the principal to perform the work for which the person was engaged; and

(III) Lease of any work space from the principal required to perform the work for which the person was engaged.

↪ The determination of whether an investment of capital is substantial for the purpose of this subparagraph must be made on the basis of the amount of income the person receives, the equipment commonly used and the expenses commonly incurred in the trade or profession in which the person engages.

2. The fact that a person is not conclusively presumed to be an independent contractor for failure to satisfy three or more of the criteria set forth in paragraph (c) of subsection 1 does not automatically create a presumption that the person is an employee.

3. As used in this section, "foreign national" has the meaning ascribed to it in NRS 294A.325.

Secs. 2-4. (Deleted by amendment.)





Sec. 5. NRS 608.255 is hereby amended to read as follows:

608.255 For the purposes of this chapter and any other statutory or constitutional provision governing the minimum wage paid to an employee, the following relationships do not constitute employment relationships and are therefore not subject to those provisions:

1. The relationship between a rehabilitation facility or workshop established by the Department of Employment, Training and Rehabilitation pursuant to chapter 615 of NRS and an individual with a disability who is participating in a training or rehabilitative program of such a facility or workshop.

2. The relationship between a provider of jobs and day training services which is recognized as exempt pursuant to the provisions of 26 U.S.C. § 501(c)(3) and which has been issued a certificate by the Division of Public and Behavioral Health of the Department of Health and Human Services pursuant to NRS 435.130 to 435.310, inclusive, and a person with an intellectual disability or a person with a related condition participating in a jobs and day training services program.

3. *The relationship between a principal and an independent contractor.*

Sec. 6. (Deleted by amendment.)

Sec. 7. The amendatory provisions of this act apply to an action or proceeding to recover unpaid wages pursuant to Section 16 of Article 15 of the Nevada Constitution or NRS 608.250 to 608.290, inclusive, in which a final decision has not been rendered before, on or after the effective date of this act.

Sec. 8. This act becomes effective upon passage and approval.



1 **\$2200**

2 Mark G. Simons, Esq., NSB No. 5132  
3 Therese M. Shanks, Esq., NSB No. 12890  
4 ROBISON, BELAUSTEGUI, SHARP & LOW  
5 71 Washington Street  
6 Reno, Nevada 89503  
7 Telephone: (775) 329-3151  
8 Facsimile: (775) 329-7169  
9 Email: [msimons@rbsllaw.com](mailto:msimons@rbsllaw.com) and  
10 [tshanks@rbsllaw.com](mailto:tshanks@rbsllaw.com)

11 *Attorneys for Defendant*

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

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

14 ARTHUR SHATZ and RICHARD FRATIS,

15 Plaintiffs,

16 vs.

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

19 Defendants.

CASE NO.: CV15-01385

CASE NO.: CV15-01359

DEPT. NO.: 8

20 CONSOLIDATED

21 **MOTION FOR SUMMARY JUDGMENT**

22 Roy L. Street dba Capital Cab ("Capital Cab"), by and through Mark G. Simons of  
23 Robison, Belaustegui, Sharp & Low, hereby moves this Court for summary judgment.  
24 This motion is made pursuant to NRCP 56(c), and is based upon the attached  
25 memorandum of points and authorities, exhibits and affidavits, and the pleadings and  
26 papers on file herein.

27 DATED this 30<sup>th</sup> day of September, 2016.

28 ROBISON, BELAUSTEGUI, SHARP & LOW  
71 Washington Street  
Reno, Nevada 89503

By: 

Mark G. Simons, Esq., NSB No. 5132  
Therese M. Shanks, Esq., NSB No. 12890  
*Attorneys for Defendants*

## **MEMORANDUM OF POINTS AND AUTHORITIES**

### **I. BACKGROUND OF CASE.**

This case is about independent contractors wanting to claim that they were employees so that they can receive more money. While the plaintiffs' motivation is not unusual, this case does involve a unique statutory enactment that is separately carved out for taxicab drivers, such as Arthur Shatz ("Shatz") and Richard Fratis ("Fratis"), to be deemed independent contractors. See NRS 706.473. In addition, this case involves the application of NRS 608.0155 which creates a **conclusive presumption** that Shatz and Fratis are independent contractors. As will be discussed herein, Shatz and Fratis have asserted claims based upon Nevada law and their claims are barred by the parole evidence rule, as well as NRS 706.473's and NRS 608.0155's provisions.

### **II. THE APPLICATION OF NEVADA LAW.**

This case involves the application the Nevada's Supreme Court's decision in Kaldi v. Farmers Ins. Exch., 117 Nev. 273, 21 P.3d 16 (2001). In addition, NRS 706.473 codifies the independent contractor relationship with a taxi cab company. As a follow-up analysis, NRS 608.0155 implements an aggressive independent contractor determination by instructing the Court to look at a number of easily identifiable factors. If the basic factors are present, the Court is to apply the conclusive presumption that the worker is an independent contractor.

### **III. STATEMENT OF UNDISPUTED FACTS IN SUPPORT OF MOTION.**

#### **A. SHATZ.**

1. Shatz leased a taxi cab from Capitol Cab pursuant to a Taxicab Lease Agreement (the "Shatz Lease"). A copy of the Shatz Lease is attached hereto as

1 **Exhibit 1.**<sup>1</sup>

2 2. Shatz read, initialed each page and signed the Lease. Exh. 1.

3 3. Shatz admits that he was an independent contractor under his contract with  
4 Capitol Cab. Comp., ¶15 ("plaintiffs were treated as 'independent contractors' by the  
5 defendant . . .").

6  
7 4. Shatz obtained his own licenses in order to satisfy his obligations under the  
8 Lease as an independent contractor. Exh. 1, ¶17. These licenses and permits are all  
9 imposed upon an independent contractor who desires to be a taxi cab driver pursuant to  
10 Nevada law. See NAC 706.3751(1)(a) & (c).

11 5. Copies of Shatz' licenses and related work permits are attached hereto as

12 **Exhibit 3.**<sup>2</sup>

13  
14 6. Shatz had his own social security number. Exh. 2, Street Aff., ¶6.

15 7. The Lease clearly and unambiguously states that Capitol Cab did not  
16 interfere with or control any aspect of his work performance. Exh. 1, Shatz Lease, ¶10.

17 8. In addition to Shatz' admission, the evidence is undisputed that Capitol  
18 Cab did not control any aspect of the following work performed by Shatz such as the  
19 following.  
20

- 21 a. when Shatz wanted to lease a cab,  
22 b. how long Shatz wanted to lease a cab (other than restricting the  
23 lease to 12 hours pursuant to statute)<sup>3</sup>;  
24 c. what fares Shatz could pick up or decline;

25  
26 <sup>1</sup> See **Exhibit 2**, Affidavit of Robin Street ("Street Aff.") at ¶4.

27 <sup>2</sup> Street Aff., at ¶5.

28 <sup>3</sup> See NAC 706.3761 (taxi cab drivers cannot work a shift longer than 12 hours as  
a matter of law).

- d. where to drive and/or stay while not transporting a fare;
- e. what routes Shatz could select to transport or locate fares;
- f. what customers and/or locations to target for obtaining fares;
- g. what to wear; and
- h. what to say or how to act to enhance "tip" potential.

Exh. 2, Street Aff., at ¶7.

9. Shatz also had the ability to hire someone to assist him to perform his independent contractor duties. Exh. 1, Shatz Lease, ¶19, Exh. 2, ¶8.

10. Shatz was also not required to work solely for Capitol Cab. Exh. 2, Street Aff., at ¶9.

11. Shatz' income was based upon the effort Shatz expended in performing his work and had no relationship to any activity and/or inactivity of Capitol Cab. Exh. 2, Street Aff., at ¶11.

12. Shatz had to pay for any liabilities caused by his own operation of the taxi cab, such as payment for traffic tickets, parking tickets, and/or repairs or damages caused to the taxi cab. Exh. 1, Shatz Lease, ¶9.

#### B. FRATIS.

13. Fratis also leased a taxi cab from Capitol Cab pursuant to a Taxicab Lease Agreement (the "Fratis Lease"). A copy of the Fratis Lease is attached hereto as **Exhibit 4.**<sup>4</sup>

14. Fratis read, initialed each page and signed the Lease. Exh. 4.

15. Fratis admits that he was an independent contractor under his contract with Capitol Cab. Comp., ¶15 ("plaintiffs were treated as 'independent contractors' by the defendant . . .").

---

<sup>4</sup> Exh. 2, Street Aff., at ¶11.

1           16. Fratis obtained his own licenses in order to satisfy his obligations under the  
2 Lease as an independent contractor. Exh. 4, Lease, ¶17. These licenses and permits  
3 are all imposed upon an independent contractor who desires to be a taxi cab driver  
4 pursuant to Nevada law. See NAC 706.3751(1)(a) & (c).  
5

6           17. Copies of Fratis licenses and permits are attached hereto as **Exhibit 5**.<sup>5</sup>

7           18. Fratis had his own social security number. Exh. 2, Street Aff., ¶13.

8           19. The Lease clearly and unambiguously states that Capitol Cab did not  
9 interfere with or control any aspect of his work performance. Exh. 4, Fratis Lease, ¶10.  
10

11           20. In addition to Fratis' admission, the evidence is undisputed that Capitol Cab  
12 did not control any aspect of the following work performed by Fratis such as the  
13 following.

- 14           a. when Fratis wanted to lease a cab,
- 15           b. how long Fratis wanted to lease a cab (other than restricting the  
16 lease to 12 hours pursuant to statute)<sup>6</sup>;
- 17           c. what fares Fratis could pick up or decline;
- 18           d. where to drive and/or stay while not transporting a fare;
- 19           e. what routes Fratis could select to transport or locate fares;
- 20           f. what customers and/or locations to target for obtaining fares;
- 21           g. what to wear; and
- 22           h. what to say or how to act to enhance "tip" potential.

23  
24 Exh. 2, Street Aff., at ¶14.

25           21. Fratis also had the ability to hire someone to assist him to perform his  
26

---

27           <sup>5</sup> Street Aff., at ¶12.

28           <sup>6</sup> See NAC 706.3761 (taxi cab drivers cannot work a shift longer than 12 hours as  
a matter of law).

1 independent contractor duties. Exh. 4, Fratis Lease, ¶19, Exh. 2, ¶15.

2 22. Fratis was also not required to work solely for Capitol Cab. Exh. 2, Street  
3 Aff., at ¶16.

4 23. Fratis' income was based upon the effort Fratis expended in performing his  
5 work and had no relationship to any activity and or inactivity of Capitol Cab. Exh. 2,  
6 Street Aff., at ¶17.

7 24. Fratis had to pay for any liabilities caused by his own operation of the taxi  
8 cab, such as payment for traffic tickets, parking tickets, and/or repairs or damages  
9 caused to the taxi cab. Exh. 4, Fratis, ¶9.

#### 10 IV. ARGUMENT.

##### 11 A. NRCP 56 STANDARD.

12 In Wood v. Safeway, Inc., 121 Nev. 724, 729-32, 121 P.3d 1026, 1029-31 (2005),  
13 the Nevada Supreme Court clarified its summary judgment jurisprudence by adopting the  
14 standards set forth in the United States Supreme Court's trilogy of cases styled  
15 Matsushita Electric Industrial Co. v. Zenith Radio, 475 U.S. 574 (1986), Anderson v.  
16 Liberty Lobby, Inc., 477 U.S. 242 (1986), and Celotex Corp. v. Catrett, 477 U.S. 317  
17 (1986). Those cases teach that "Rule 56 should not be regarded as a 'disfavored  
18 procedural shortcut' but instead 'as an integral part of the [rules of civil procedure] as a  
19 whole, which are designated to secure the just, speedy and inexpensive determination of  
20 every action.'" Wood, 121 Nev. at 730.

21 Summary judgment is proper whenever "the pleadings, depositions, answers to  
22 interrogatories, and admissions on file together with the affidavits, if any, show that there  
23 is no genuine issues as to any material fact and that the moving party is entitled to a  
24 judgment as a matter of law." NRCP 56. "To successfully oppose a motion for summary  
25 judgment, the non-moving party must show specific facts, rather than general allegations  
26  
27  
28

1 and conclusions, presenting a genuine issue of material fact for trial.” LaMantia v.  
2 Redisi, 118 Nev. 27, 29, 38 P.2d 877, 879 (2002).

3 Of note, “[t]he substantive law controls which factual disputes are *material*,” not  
4 the party opposing summary judgment. Wood, 121 Nev. at 731, 121 P.3d at 1031  
5 (emphasis added). Finally, the non-moving party, the opposing party may not build its  
6 case on the “gossamer threads of whimsy, speculation and conjecture.” Id. at 731, 121  
7 P.3d at 1030 (footnote and citations omitted).

8  
9 **B. AS A MATTER OF LAW SHATZ AND FRATIS WERE INDEPENDENT**  
10 **CONTRACTORS.**

11 When the terms of a written contract are unambiguous, the Court is charged with  
12 enforcing the contract as written. Davis v. Beling, 128 Nev. Adv. Op. 28, 278 P.3d 501,  
13 515 (2012) (“the initial focus is on whether the language of the contract is clear and  
14 unambiguous; if it is, the contract will be enforced as written.”). In addition, when the  
15 terms of a written contract are unambiguous, the interpretation and enforcement of the  
16 contract is an issue of law. Galardi v. Naples Polaris, LLC, 129 Nev. Adv. Op. 33, 301  
17 P.3d 364, 366 (2013) (“contract interpretation presents a question of law that the district  
18 court may decide on summary judgment . . . .”). Here, the Court must enforce the terms  
19 of the Leases and grant summary judgment as requested.

20  
21 The Leases clearly state that Shatz and Fratis are independent contractors. The  
22 clear and unambiguous language of the Leases state: “**LESSEE is an independent**  
23 **contractor.**” Exhs. 1 and 4, ¶10 (emphasis added). The Lease further states that  
24 nothing contained in the Lease creates an employer-employee relationship as follows:

25  
26 [Capitol Cab] and [Shatz and Fratis] acknowledge and agree **that there**  
27 **does not exist between them the relationship of employer and**  
28 **employee . . . either express or implied, but that the relationship of the**  
**parties is strictly that of lessor and lessee . . . .**

Exhs. 1 and 4, Lease, ¶10 (emphasis added). Because the foregoing language is clear



1 and unambiguous, the complaint fails and summary judgment must be granted as  
2 requested.

3 In an almost identical factual scenario, in Kaldi v. Farmers Ins. Exch., 117 Nev.  
4 273, 278–79, 21 P.3d 16, 19–20 (2001), a plaintiff brought suit contending that he was  
5 an employee even though he had a written contract stating he was **not** an employee. In  
6 granting summary judgment for the defendant, the Court held as follows:

8 Kaldi contends that his exclusive agency arrangement with Farmers  
9 created \*\*20 an employer-employee relationship between himself and the  
10 companies. **The plain language of the Agreement does not support Kaldi's**  
11 **assertion.** "It has long been the policy in Nevada that absent some  
12 countervailing reason, contracts will be construed from the written language and  
13 enforced as written." . . . . **Here, provision "I" of the agreement specifically**  
14 **states that Kaldi is not an employee of Farmers and that nothing in the**  
**Agreement is intended to create an employee/employer relationship. . . . As**  
**the Agreement unambiguously provides that Kaldi was an independent**  
**contractor, not an employee, we reject his argument that it created an**  
**employment relationship.**

15 Id. (emphasis added) (citations omitted). The Kaldi Court then affirmed the trial court's  
16 dismissal of the plaintiff's complaint. Id. at 23.

17 As in Kaldi, the Leases clearly state that Shatz and Fratis are **independent**  
18 **contractors**, not employees. Further, the Lease language not only affirms the  
19 independent contractor relationship, the Leases affirmative state that there are no  
20 employee/employer relationships. Accordingly, the plain language of the Leases confirm  
21 that Shats and Fratis were independent contractors. Therefore, based upon the clear  
22 language of the Leases and based upon the controlling precedence established in Kaldi,  
23 this Court must grant summary judgment as requested.  
24

25  
26 **C. THE PAROLE EVIDENCE RULE BARS ANY ATTEMPT BY SHATZ AND**  
**FRATIS TO CONTRADICT THE EXPRESS TERMS OF THE LEASES.**

27 In addition to the foregoing, Nevada's parole evidence rule bars any attempt by  
28 Shatz and Fratis to contradict the clear and unambiguous terms in the Leases which

1 expressly state that these individuals were independent contractors. For more than a  
2 century, the Nevada Supreme Court has held that parole evidence is inadmissible  
3 “[w]hen parties reduce a contract to writing, all prior oral negotiations and agreements  
4 are merged in the writing, and the instrument must be treated as containing the whole  
5 contract, and parol [evidence] is not admissible to alter its terms.” Gage v. Phillips, 21  
6 Nev. 150, 26 P. 60, 61 (1891). Thus, where a written contract is clear and unambiguous  
7 on its face, the terms of the agreement must be construed from the language within the  
8 contract. Southern Trust Mortg. Co. v. K&B Door Co., Inc., 104 Nev. 564, 568, 763 P.2d  
9 353, 355 (1988). Courts are also not at liberty to insert or disregard words in a contract.  
10 Royal Indem. Co. v. Special Serv. Supply Co., 82 Nev. 148, 413 P.2d 500, 502 (1966)  
11 (“Every word must be given effect . . .”). Finally, “[t]he parole evidence rule forbids the  
12 reception of evidence which would vary or contradict the contract . . .” Kaldi v. Farmers  
13 Ins. Exch., 117 Nev. 273, 281, 21 P.3d 16, 21 (2001) (citation omitted); Lowden Inv. Co.  
14 v. Gen. Elec. Credit Co., 103 Nev. 374, 379, 741 P.2d 806, 809 (1987) (“[p]arol evidence  
15 is not admissible to vary or contradict the terms of a written agreement.”).

16  
17 Because the Leases clearly and unambiguously state Shatz and Fratis were  
18 independent contractors, Shatz and Fratis are barred from attempting to contradict the  
19 terms of the Leases because the parol evidence rule bars any such attempt. See also  
20 Sandy Valley Assocs. v. Sky Ranch Estates Owners Assoc., 35 P.3d 964, 967-968 (Nev.  
21 2001) (“Parol evidence is not admissible to vary or contradict the clear and unambiguous  
22 terms of a written agreement.” (receded from on other ground in Horgan v. Felton, 123  
23 Nev. 577, 170 P.3d 982 (2007)).

24  
25  
26  
27 **D. NRS 706.473 ESTABLISHES INDEPENDENT CONTRACTOR  
RELATIONSHIP FOR TAXICAB DRIVERS.**

28 In addition to the foregoing grounds for granting summary judgment, taxicab

1 companies are governed by NRS Chapter 706. NRS 706.473(1) permits a taxicab  
2 operator to "lease a taxicab to an independent contractor." Specifically, NRS 706.473  
3 states in relevant part as follows:  
4

5 1. . . . a person who holds a certificate of public  
6 convenience and necessity which was issued for the operation of  
7 a taxicab business may, upon approval from the authority, lease  
8 a taxicab to an independent contractor who does not hold a  
9 certificate of public convenience and necessity. . . .

10 2. A person who enters into a lease agreement with an  
11 independent contractor pursuant to this section shall submit  
12 a copy of the agreement to the authority for its approval. . . .

13 In the present case, Capitol Cab holds a certificate of public convenience and necessity  
14 that was issued for the operations of a taxi cab business. Exhs. 1 and 4, Leases, First  
15 Whereas Clause ("[Capitol Cab] is an intrastate common motor carrier operating under a  
16 Certificate of Public Convenience and Necessity CPCN 1025 issued by the Nevada  
17 Transportation Authority . . . .").

18 Capitol Cab submitted its independent contractor lease agreements to the Nevada  
19 Transportation Authority ("NTA") for approval pursuant to the provisions of NRS  
20 706.472(1)'s provisions. Exh. 2, Street Aff., at ¶18. The NTA approved Capitol Cab's  
21 independent contractor lease agreements. Id. at ¶19. Accordingly, Capitol Cab has  
22 complied with the provisions of NRS 706.473 and obtained the NTA's approval and  
23 validation of the independent contractor relationship by and between Capitol Cab and  
24 Shatz and Fratis.

25 This statutorily based independent contractor status was discussed by the  
26 Nevada Supreme Court in Yellow Cab of Reno, Inc. v. Second Judicial Dist. Court of  
27 State ex rel. Cty. of Washoe, 127 Nev. 583, 592, 262 P.3d 699, 704 (2011). The Nevada  
28 Supreme Court specifically recognized that NRS 706.473's provisions applied to  
independent contractors who comply with the requirements of NRS 706.475's provisions.

1 In rendering its decision, the Yellow Cab Court stated that the appropriate analysis for  
2 determining the independent contractor relationship under this statutory scheme was not  
3 the control exercised by the alleged employer but **whether the statutory criteria for the**  
4 **independent contractor relationship was established.** Specifically, the Nevada  
5 Supreme Court held:  
6

7 As Yellow Cab points out . . . NRS 706.473 specifically authorizes  
8 the licensing of a taxicab to an independent contractor if the requirements  
9 of that statute and any administrative regulations promulgated in  
10 accordance with NRS 706.475 are met. **Thus, under the statutory**  
11 **scheme, the existence of this statutorily created independent**  
12 **contractor relationship turns not on the issue of control, but on**  
13 **whether all of the statutory and administrative requirements for**  
14 **creating such an independent contractor relationship have been**  
15 **satisfied.**

16 Id. (emphasis added). In the present case, the undisputed facts establish that the  
17 requirements have been met and summary judgment must be granted.

18 NRS 706.473 requires Capitol Cab to obtain the approval of its independent  
19 contractor agreement from the NTA. Capitol Cab did so and the NTA approved its  
20 independent contractor agreements. Thereafter, NRS 706.475(2)(a) states that the NTA  
21 shall adopt regulations that establish “[t]he minimum qualifications for an independent  
22 contractor” who seeks to lease a taxi cab. In conformance with this statute, NAC  
23 706.3751 details the minimum requirements an independent contractor must have in  
24 order to lease a taxi cab under the NTA approved independent contractor agreement.  
25 Those requirements include a valid driver’s license, a valid driver’s permit, a medical  
26 report attesting to the physical abilities to operate a taxi cab and a copy of the  
27 independent contractor’s driving record. See NAC 706.3751(1)(a), (b) and (c). Shatz  
28 and Fratis obtained each of these items and provided them to Capitol Cab in order to  
enter into their independent contractor relationships with Capitol Cab. Exhs. 1 and 4,  
Lease ¶17 (detailing Shatz’ and Fratis’ obligations to provide the foregoing documents

required by NAC 706.3751); see also SOF, ¶¶4-6, 16-18.

Based upon the foregoing, there is no need for the Court or the parties to inquire further into the control or lack thereof by Capitol Cab over Shatz' and Fratis' work. This is because the Nevada Supreme Court held in Yellow Cab that all that is required is an analysis of whether the statutory provisions have been complied with to establish "the existence of this statutorily created independent contractor relationship . . . ." As shown, the relevant facts are undisputed and NRS 706.473's statutory provisions are fully satisfied, and therefore, summary judgment must again be granted in Capitol Cab's favor as requested.

**E. NRS 608.0155 CONCLUSIVELY ESTABLISHES INDEPENDENT CONTRACTOR RELATIONSHIP.**

Even if this Court ignored the language of the Lease, ignored the Nevada Supreme Court's decision in Haldi, did not apply NRS 706's provisions and ignored the Nevada Supreme Court's analysis in Yellow Cab, Shatz' and Fratis' complaint again fails because of NRS 608.0155's provisions. NRS 608.0155 creates a conclusive presumption of independent contractor status when a number of easily identifiable criteria are met. Specifically, NRS 608.0155 states in this regard as follows:

1. . . . [A] person is conclusively presumed to be an independent contractor if:

(a) . . . . the person possesses or has applied for a[]  
. . . social security number . . . .;

(b) the person is required by the contract with the principal to hold any necessary state business registration or local business license and to maintain any necessary occupational license . . . ; and

(c) The person satisfies three or more of the following criteria:

(1) Notwithstanding the exercise of any control necessary to comply with any statutory, regulatory or

1 contractual obligations, the person has control and  
2 discretion over the means and manner of the  
3 performance of any work and the result of the work,  
4 rather than the means or manner by which the work is  
performed, is the primary element bargained for by the  
principal in the contract.

5 (2) Except for an agreement with the principal relating  
6 to the completion schedule, range of work hours or, if  
7 the work contracted for is entertainment, the time such  
8 entertainment is to be presented, the person has control  
over the time the work is performed.

9 (3) The person is not required to work exclusively for  
one principal . . .

10 (4) The person is free to hire employees to assist with  
11 the work.

12 . . .

13 An analysis of the foregoing criteria demonstrates that as a matter of law, Shatz and  
14 Fratis are conclusively deemed independent contractors under Nevada law.

15  
16 To place NRS 608.0155's provisions in context, this statute was enacted in 2015  
17 in response to the Nevada Supreme Court's 2014 decision on Terry v. Sapphire  
18 Gentlemen's Club, 336 P.3d 951 (Nev. 2014), wherein the Court implemented the  
19 "economic realities" test to determine if a worker was an employee or an independent  
20 contractor under Nevada law. The foregoing test was based upon considerations of  
21 federal law.

22  
23 After the Court's 2014 ruling in Sapphire Club, Nevada's 78<sup>th</sup> Legislative Session  
24 enacted SB 224 which superseded the economic realities test for claims based upon  
25 Nevada law. SB 224 was codified at NRS 608.0155.<sup>7</sup> NRS 608.0155's provisions

26  
27 <sup>7</sup> In addition, SB 224 amended NR 608.255 to include that an independent  
28 contractor relationship does not constitute an employment relationship and, as such, is  
exempt from Article 15, Section 16's provisions. See NRS 608.255(3). Further, NRS  
608.255(7) was clarified to state that the provisions of 608.0155 apply immediately to  
any pending or future action in which a final decision has not been rendered.

1 reaffirm Nevada's commitment to honoring the independent contractor relationship. In  
2 addition, NRS 608.0155's provisions send a clear signal to the Courts that, as a matter of  
3 law, certain workers are conclusively deemed independent contractors when certain  
4 factors are established. Again, as will be discussed below, NRS 608.0155's aggressive  
5 approach instructs the Court to look at a number of easily identifiable factors.  
6

7 In addition to the enactment of NRS 608.0155's provisions, the Nevada  
8 Legislature amended NRS 608.255(3) to state that as a matter of law, the "**relationship**  
9 **between a principal and an independent contractor**" does not give rise to an  
10 employment relationship and Capitol Cab is not subject to any "**statutory or**  
11 **constitutional provision governing the minimum wage paid to an employee . . . .**"  
12 (Emphasis added). Therefore, because Shatz and Fratis are independent contractors,  
13 they have no statutory or constitutional rights to receive payment as employees from  
14 Capitol Cab.  
15

16 **1. NRS 608.0155(1)(a): Social Security Number.**

17 NRS 608.0155(1)(a) states that if the worker has their own social security number  
18 then this factor is conclusively satisfied. Shatz and Fratis obtained their own social  
19 security numbers. See SOF ¶¶6, 18. Accordingly, this factor conclusively establishes  
20 the independent contractor presumption.  
21

22 **2. NRS 608.0155(1)(b): LICENSES & PERMITS.**

23 NRS 608.0155(1)(b) states that if the worker has obtained their own licenses and  
24 permits to perform the work, then this factor is conclusively satisfied. Shatz and Fratis  
25 obtained their own driver's licenses, chauffeur's licenses, police cards and medical  
26 reports to conduct the work. See SOF ¶¶4-6, 16-18. Accordingly, this factor  
27 conclusively establishes the independent contractor presumption.  
28

///

1                                   3.     **NRS 608.0155(1)(c)(1): MEANS, MANNER AND RESULT.**

2             This provision requires the Court to evaluate whether “the person has control or  
3 discretion over the means and manner of the performance of any work and the result of  
4 the work.” Initially, this factor is conclusively established because Shatz and Fratis have  
5 admitted that they were “free from interference and control” in the operations of their  
6 work by Capitol Cab. Exh. 1 and 4, Leases, ¶10 (“[Shatz/Fratis] acknowledge[s] and  
7 agree[s] that . . . [Shatz/Fratis is] free from interference or control on the part of [Capitol  
8 Cab], except as otherwise provided in chapter 706 of the NRS and/or NAC . . . .”  
9 Because Shatz and Fratis have already admitted that Capitol Cab did not interfere with  
10 and/or control any aspect of their work, Shatz and Fratis are bound by their own  
11 admission. Yee v. Weiss, 110 Nev. 657, 662, 877 P.2d 510, 513 (Nev. 1994) (“Courts  
12 have consistently held that one is bound by any document one signs . . . .”).  
13  
14

15             In addition to Shatz’ and Fratis’ own admissions, when considering Shatz’ and  
16 Fratis’ activities, it is clear that they had had complete autonomy over the means and  
17 manner of “the performance” of their work as well as the result of the work they each  
18 performed. The undisputed facts are as follows. Even though Shatz and Fratis leased a  
19 vehicle in 12-hour shifts, Shatz and Fratis could drive as long or short as they wanted to  
20 during that period. Shatz’ and Fratis’ income was based solely and exclusively upon  
21 their own work ethic. It is further suggested that because their income was tied directly  
22 to their own effort, this situation is the hallmark of an independent contractor relationship  
23 since Shatz and Fratis retained the exclusive right to work as long or short as they  
24 desired without consequence.  
25  
26

27             In addition, Shatz and Fratis had the autonomy to pick up whatever fare they  
28 desired and/or to decline any fare. Shatz and Fratis selected when and where they  
would drive to seek out fares and/or could station themselves at any location they



1 desired in anticipation of fares arriving. Shatz and Fratis selected whatever driving route  
2 they desired to deliver a fare. Shatz and Fratis selected what they wanted to wear while  
3 driving, what they wanted to say to their fares and had complete control on satisfying any  
4 fare in order to obtain a tip. All tips received by Shatz and Fratis were theirs and theirs  
5 alone. Shatz and Fratis only paid a flat rate of 50% of all fares received for their rental  
6 fee, along with a \$5 dollar administrative fee. Exhs. 1 and 4, Leases, Exhibit A. As  
7 shown, Shatz' and Fratis' admission and the foregoing facts demonstrate that they  
8 controlled the means and manner of their own performance and the result of their own  
9 work ethic.  
10

11 While it is anticipated Shatz and Fratis will argue that they were limited to working  
12 a 12 hour shift established by Capitol Cab as evidence of Capitol Cab's control, this  
13 factor is irrelevant and has no bearing on the analysis. This factor is irrelevant because  
14 as shown, the taxi cab industry is regulated by the NTA.<sup>8</sup> The NTA has extensive  
15 requirements for a taxi cab company relating to how the taxi cab company can operate  
16 its business.<sup>9</sup> Of relevant point, NAC 706.3761 precludes any driver from driving more  
17 than 12-hours in a given shift. This 12-hour regulatory time limitation was also  
18 specifically included in the terms of the Leases (see Exhs. 1 and 4, Lease, ¶¶3, 5). In  
19  
20

21 <sup>8</sup>NRS 706.475 states as follows: "The [NTA] authority shall adopt such  
22 regulations as are necessary to: (a) Carry out the provisions of NRS 706.473; and (b)  
23 Ensure that the taxicab business remains safe, adequate and reliable."). Accordingly,  
24 the NTA exercises regulatory oversight of the taxi cab industry to ensure that it remains  
25 safe and reliable for the citizens in our community. The NTA's regulatory oversight, and  
the conditions it places on Capitol Cab are not factors the Court can evaluate to  
determine there is an employee relationship.

26 <sup>9</sup>For instance, there are numerous Nevada Administrative Code ("NAC")  
27 provisions, enacted pursuant to the provisions of NRS 706.475, that address such things  
28 as: the territory the cabs can service (NAC 706.368); registration and operation of the  
taxicab (NAC 706.371); the color scheme of the taxicab (NAC 706.3742); dispatch  
operations (NAC 706.3743); security deposit under a lease (NAC 706.3752); and a 12-  
hour limitation on driver's hours (NAC 706.3761).

1 addition, the Leases clearly call out that the Leases as well as Capitol Cab's and Shatz'  
2 and Fratis' activities are regulated to and subject to the jurisdiction and rules of the  
3 NTA.<sup>10</sup> Given the NTA's oversight and regulation, NRS 608.0155(c)(1)'s provisions  
4 make it clear that the Court may not consider this 12-hour time limitation as a "control"  
5 exercised by Capitol Cab. NRS 608.0155(c)(1) ("Notwithstanding the exercise of any  
6 control necessary to comply with any statutory, regulatory or contractual obligations . . .  
7 ."). Accordingly, this time period limitation on how long Shatz and Fratis could work is  
8 not evidence of an employment relationship as a matter of law and this factor again  
9 conclusively establishes the independent contractor presumption.  
10

11 **4. NRS 608.0155(1)(c)(2): TIME WORK PERFORMED.**

12  
13 NRS 608.0155(1)(c)(2) requires the Court to evaluate the extent that "the person  
14 has control over the time the work is performed." Again, as stated above, evidence of  
15 "control" exercised by the would-be employer as to the time by which performance must  
16 be completed or the acceptable range of work hours does not defeat this presumption of  
17 independent contractor status. Here, Shatz and Fratis had complete control over when  
18 and if they performed any work based upon their own admissions. Further, Shatz and  
19 Fratis could work anytime they wanted during the Lease period. Accordingly, this factor  
20 conclusively establishes the independent contractor presumption because Shatz and  
21 Fratis fully controlled the time in which the work was performed by them.  
22

23 **5. NRS 608.0155(1)(c)(3): NO EXCLUSIVE WORK.**

24  
25 NRS 608.0155(1)(c)(3) provides that if the worker is free to work for others, then  
26 this factor establishes an independent contractor relationship. In the present case, Shatz  
27

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<sup>10</sup> Exh. 1 and 4, Leases, ¶16 ("This Lease does not relieve [Capitol Cab] from its  
duties and responsibilities under NRS Chapter 706 or NAC Chapter 706. [Shatz/Fratis]  
and/or [Capitol Cab] are subject to the jurisdiction of the Nevada Transportation Authority  
("NTA").").

1 and Fratis were free to enter into other work relationships with other persons or entities.  
2 Exh. 2, Street Aff., ¶¶9, 16. In addition, there is nothing in the Lease that prevented  
3 Shatz or Fratis from working for any other person or entity. Accordingly, this factor  
4 conclusively establishes the independent contractor presumption.  
5

6 **6. NRS 608.0155(1)(c)(4): FREE TO HIRE OTHERS.**

7 NRS 608.0155(1)(c)(4) provides that if the worker is able to hire others to assist  
8 him in his work then this factor establishes an independent contractor relationship. In the  
9 present case, Shatz and Fratis were freely able to hire other persons to assist them in  
10 their endeavors. Exhs. 1 and 4, Leases ¶¶19. All that was required was for Shatz and  
11 Fratis to obtain written approval from Capitol Cab because, under the applicable NTA  
12 regulations, Capitol Cab must obtain and maintain a file for any driver who would drive a  
13 leased vehicle. See NAC 706.3751 (detailing the obligations imposed upon Capitol Cab  
14 before authorizing any driver to drive a taxi cab). Accordingly, Shatz and Fratis had the  
15 contractual right to hire anyone they wanted to assist them with the work they performed  
16 and, again, this factor conclusively establishes the independent contractor presumption.  
17

18 **7. The Court Must Impose The Conclusive Presumption**  
19 **That Shatz and Fratis Are Independent Contractors.**

20 When the evidence is undisputed and the application of law is clear, then  
21 summary judgment must be granted. While Shatz and Fratis may argue that they were  
22 employees, Shatz and Fratis also cannot overcome the clear and unambiguous  
23 language contained in the Leases wherein Shatz and Fratis repeatedly affirm that they  
24 are independent contractors. Further, Shatz and Fratis cannot overcome the clear and  
25 unambiguous language in the Leases that Capitol Cab did not exercise any interference  
26 or control over their work. Finally, Shatz and Fratis cannot overcome the undisputed  
27 evidence that establishes that they are conclusively presumed to be independent  
28

1 contractors pursuant to the provisions of NRS 608.0155. Accordingly, summary  
2 judgment must be granted as requested.

3 **V. SHATZ' AND FRATIS' COMPLAINT PREMISED ON OLD "ECONOMIC**  
4 **REALITIES" ANALYSIS.**

5 As an entirely separate ground for dismissal, Shatz' and Fratis' Complaint is  
6 based upon the premise of the old "economic realities" test employed in Terry v.  
7 Sapphire Gentlemen's Club, 336 P.3d 951 (Nev. 2014). Comp., ¶15. Because Shatz'  
8 and Fratis' Complaint fails to acknowledge the application of NRS 706.473's controlling  
9 provisions, summary judgment must be granted because Shatz' and Fratis' Complaint  
10 fails to state a valid claim for relief.

12 When the Nevada Legislature enacted NRS 608.0155's provisions, the legislature  
13 stated that the provisions applied to any pending or future cases in which a final decision  
14 had not been rendered. See **Exhibit 6**, Senate Bill 224, Section 7.<sup>11</sup> Accordingly, the  
15 legal basis for Shatz' and Fratis' Complaint has been superseded by Nevada law and  
16 judgment in Capitol Cab's favor is again required.

18 **VI. CONCLUSION.**

19 Shatz and Fratis have already admitted they entered into the Leases with Capitol  
20 Cab and that the Leases define them as independent contractors. Shatz and Fratis  
21 further acknowledged that Capitol Cab did not control and/or interfere with any aspect of  
22 the work they performed. Based upon the foregoing, Shatz and Fratis are bound by the  
23 terms of the Lease and summary judgment in Capitol Cab's favor must be granted. Yee  
24 v. Weiss, 110 Nev. 657, 662, 877 P.2d 510, 513 (Nev. 1994) ("Courts have consistently  
25 held that one is bound by any document one signs . . ."). In addition, as detailed herein,  
26 Shatz' and Fratis' claims are barred by NRS 706.473's and NRS 609.0155's provisions.  
27  
28

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<sup>11</sup> The Court can take judicial notice of SB 224's provisions. See NRS 47.140(2).

**AFFIRMATION:** The undersigned does hereby affirm that this document does not contain the Social Security Number of any person.

DATED this 30 day of September, 2016.

ROBISON, BELAUSTEGUI, SHARP & LOW  
71 Washington Street  
Reno, Nevada 89503/

By:

Mark G. Simons, Esq., NSB No. 5132  
Therese M. Shanks, Esq., NSB No. 12890  
*Attorneys for Defendants*

j:\wpdata\mgs\30559.001 (capitol cab-shatz-fratis)\p-msi.docx

**CERTIFICATE OF SERVICE**

Pursuant to NRCP 5(b), I certify that I am an employee of ROBISON, BELAUSTEGUI, SHARP & LOW, and that on this date I caused to be served a true copy of the **MOTION FOR SUMMARY JUDGMENT** 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:

☒ by using the Court's CM/ECF Electronic Notification System addressed to:

Curtis Coulter, Esq.  
Michael Pintar, Esq.

\_\_\_\_\_ by personal delivery/hand delivery addressed to:

\_\_\_\_\_ by facsimile (fax) addressed to:

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

DATED this 30<sup>th</sup> day of September, 2016.

  
\_\_\_\_\_  
Employee of Belaustegui, Sharp & Low

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**EXHIBIT LIST**

<b>NO.</b>	<b>DESCRIPTION</b>	<b>PAGES</b>
1	Shatz Lease	13
2	Street Affidavit	3
3	Shatz Permits & Licenses	
4	Fratis Lease	14
5	Fratis Permits & Licenses	
5	Senate Bill 224	3

# EXHIBIT 1

# EXHIBIT 1



**CAPITOL CAB COMPANY  
TAXICAB LEASE AGREEMENT**

THIS TAXICAB LEASE AGREEMENT ("Lease") made this 23 day of March, 2011, between ROY L. STREET dba CAPITOL CAB COMPANY., a Nevada entity, with its principal place of business at 3835 Sheep Drive, Carson City, Nevada (hereinafter referred to as "LEASING COMPANY"), and BUD SHUTT an independent contractor with his/her principal residence located at 1577 PINE CT, hereinafter referred to as "LESSEE").

WHEREAS, LEASING COMPANY is an intrastate for hire common motor carrier operating under a Certificate of Public Convenience and Necessity CPCN 2445 issued by the Nevada Transportation Authority ("NTA");

WHEREAS, LEASING COMPANY is the owner of taxicabs and other vehicles;

WHEREAS, LESSEE desires to lease from LEASING COMPANY a vehicle and other services under the term and conditions herein set forth; and

WHEREAS, the parties desire to confirm their understanding in writing.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the parties agree as follows:

1. LEASE. LESSEE agrees to lease from LEASING COMPANY a taxicab with the name, insignia, certificate number, and painted in the approved color scheme of LEASING COMPANY (the "Leased Taxicab"). At the commencement of this lease, LEASING COMPANY shall deliver the Leased Taxicab in good working order, properly licensed, and with a full tank of fuel. LEASING COMPANY shall equip the Leased Taxicab with a radio, taximeter, identifying decals, seals and other equipment required by applicable federal, state, and local laws and ordinances (collectively the "Regulatory Authorities").
2. TAXICAB FEES, LICENSING. LEASING COMPANY shall maintain and pay for all operating licenses, taxes, and fees on the Leased Taxicab. At times other than Lease Periods

LEASING COMPANY BZ

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(as defined below), LEASING COMPANY may either use the Leased Taxicab itself or lease the Leased Taxicab to other lessees.

3. OWNERSHIP, MAINTENANCE, AND REPAIR. LEASING COMPANY is the owner of the Leased Taxicab, which is in a good mechanical condition and meets the requirements for operating taxicabs in the location where the taxicab will be operated. Regularly scheduled maintenance shall be LEASING COMPANY'S responsibility; provided, however, in order to keep the Leased Taxicab in good mechanical condition, LESSEE shall inspect the Leased Taxicab at the beginning of each 12 hour period and report any condition requiring repair or maintenance to LEASING COMPANY. LESSEE shall return the taxicab to LEASING COMPANY at the end of each 12 hour period to enable LEASING COMPANY to comply with the provisions of NAC § 706.380. All repairs will be done in a timely fashion and a file will be maintained by LEASING COMPANY for records concerning the maintenance of the taxicab. At no time is LESSEE authorized or allowed to make any alterations or changes of any kind to the Taxicab.
4. INSURANCE. Insurance or self insurance will be provided by LEASING COMPANY in an amount sufficient to meet regulatory requirements.
5. LEASE PERIOD. Each period LESSEE uses the Leased Taxicab shall be deemed a separate Lease Period ("Lease Period"). Each Lease Period will be determined by LESSEE and LEASING COMPANY and will be indicated on Exhibit "A". LESSEE shall not, however, operate the taxicab for more than 12 hours in any 24-hour period. This Lease shall serve as a master lease agreement, which will govern each and every Lease Period.
6. ASSIGNMENT AND SUBLEASING. LESSEE shall not transfer, assign, sublease, or otherwise enter into an agreement to lease the taxicab to another person, nor shall LESSEE'S rights be subject to encumbrance or subject to the claims of his or her creditors.
7. OPERATING AUTHORITY. LEASING COMPANY is a certified carrier and services provided by LESSEE are regulated by appropriate regulatory authorities. LESSEE'S use of

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the Leased Taxicab shall be in a manner authorized by LEASING COMPANY'S certificate to operate and the LEASING COMPANY'S Tariff.

8. RENTAL FEE. In consideration of the use of the Leased Taxicab, LESSEE agrees to pay a Rental Fee to LEASING COMPANY in the amount set forth on Exhibit "A" attached hereto and incorporated herein by reference. LESSEE shall pay the rental fees set forth in Exhibit "A" for each 12 hour lease period, as well as the late fees, set forth in Exhibit "A". Any Late Fees, as listed on Exhibit "A", shall be paid to LEASING COMPANY by LESSEE at the end of the current or prior to the beginning of the next 12 hour Lease Period after incurring such Late Fee. If, for any reason, LESSEE cannot or does not complete the 12 hour Lease Period, LESSEE shall not be entitled to any reduction of the Rental Fee.
9. SECURITY DEPOSIT. In addition to the rental payment, LESSEE will pay to LEASING COMPANY, at or before commencement of the first 12 hour Lease Period, a security deposit in the amount of One Thousand Dollars (\$1,000.00), paid in full or by other payment arrangement as determined by LEASING COMPANY. The security deposit shall be maintained at One Thousand Dollars (\$1,000.00) while this lease is in effect. Said security deposit must be maintained by the LEASING COMPANY in an account separate from the carrier's operating account. Said security deposit, less proper deductions, shall be returned to LESSEE not later than thirty (30) days after the termination of this Lease. Pursuant to NAC 706.3752, any deductions must be itemized and in writing, and supported by receipts that evidences the repairs to the taxicab in an amount equal to the amount deducted, and provided to the LESSEE upon return of the remaining security deposit.

LEASING COMPANY may also deduct from said security deposit any amount due to LEASING COMPANY, including, but not limited to, delinquent rental charges, unauthorized repairs and/or maintenance, unpaid traffic fines, unauthorized charges incurred by LEASING COMPANY or other damages sustained by LEASING COMPANY.

10. RELATIONSHIP. Neither Party is the partner, joint venturer, agent, or representatives of the

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other Party. LESSEE is an independent contractor. LEASING COMPANY and LESSEE acknowledge and agree that there does not exist between them the relationship of employer and employee, principal and agent, or master and servant, either expressed or implied, but that the relationship of the parties is strictly that of lessor and lessee, the LESSEE being free from interference or control on the part of LEASING COMPANY in the operation of the Leased Taxicab. LESSEE acknowledges that:

- a. He or she is not eligible for federal or state unemployment benefits or workman's compensation benefits.
  - b. LEASING COMPANY is not responsible for withholding federal or state income taxes, or any other taxes, but LESSEE will be liable for payment of those taxes.
  - c. LEASING COMPANY is not responsible for withholding or paying, in any way, contribution for taxes under the Federal Insurance Act, and LESSEE will be liable for those and all other taxes.
  - d. LEASING COMPANY agrees to furnish only liability insurance on the Leased Taxicab, in a sum not less than required by applicable law, and LEASING COMPANY shall not be responsible nor liable in any way for any injury to LESSEE resulting from the use or operation of such taxicab.
  - e. LEASING COMPANY is a certified carrier and services provided by LESSEE are regulated by appropriate authorities. LESSEE'S use of the Leased Taxicab shall be in a manner authorized by LEASING COMPANY'S certificate to operate the Leased Taxicab and LEASING COMPANY'S Tariff.
11. TRIP SHEET. At the beginning of each 12 hour lease period, LESSEE must date and time stamp the trip sheet provided by LEASING COMPANY. At the end of each 12 hour lease period, LESSEE must provide the LEASING COMPANY with the completed date and time stamped trip sheets for that 12 hour lease period.
12. DAILY VEHICLE INSPECTION. In order to keep the Leased Taxicab in good mechanical

LEASING COMPANY B2

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condition, LESSEE shall inspect the Leased Taxicab at the beginning and end of each 12 hour lease period and document on a daily inspection sheet to be submitted daily and report any condition requiring repair or maintenance to LEASING COMPANY.

13. NO PERSONAL USE. The Leased Taxicab is for commercial use only and may not be utilized for the personal use of the LESSEE.
14. ADVERTISING. In accordance with applicable law, only LEASING COMPANY is authorized to hold itself out and to advertise that it is a motor carrier authorized to provide taxicab services within the area authorized by its certificate of public convenience and necessity, CPCN 2445, including but not limited to, the use of the internet, telephone, television, radio, business cards, any form of print media, or any other form of advertising, because the taxicabs are owned by leasing company all top sign as well as any other advertising placed on or in the Taxicab is at the direction and control of the LEASING COMPANY. At its option, LEASING COMPANY may provide business cards for LESEE's use.

LESSEE shall not engage in any advertising or promotion whether by the internet, telephone, television, radio, business cards, any form of print media, or any other form of advertising which either reflects or gives the impression, whether intended or not, that LESEE is holding himself/herself out as a motor carrier authorized to provide taxicab services. In the event LESEE engages in such advertising LESEE will be solely responsible for any fines or other fees imposed by the NTA.

15. REPLACEMENT VEHICLE. In the event that any repair or maintenance takes more than eight (8) hours in any week, LEASING COMPANY shall attempt to provide a replacement Leased Taxicab, if available. If a replacement Leased Taxicab is not available, then LESSEE shall be entitled to a pro-rata refund of the Rental Fee, if applicable. Repairs and maintenance on Leased Taxicabs must be performed at LEASING COMPANY'S facilities, unless prior written authorization is obtained from LEASING COMPANY to have the

LEASING COMPANY BL

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repairs and maintenance done elsewhere. LESSEE shall be responsible for the cost of unauthorized repairs and/or maintenance, and for all damages caused thereby.

16. REGULATORY AUTHORITIES. This Lease does not relieve LEASING COMPANY from its duties and responsibilities under NRS Chapter 706 or NAC Chapter 706. LESSEE and/or LEASING COMPANY are subject to the jurisdiction of the Nevada Transportation Authority ("NTA") and shall comply with all federal rules, regulations, ordinances, administrative codes, health and safety provisions and statutes in the operation of the Leased Taxicab. In the event of a violation of such laws, rules, regulations, ordinances, administrative codes, health and safety provisions and statutes, the NTA may take enforcement action against LESSEE and LEASING COMPANY. Both the LESSEE and LEASING COMPANY are subject to all laws and regulations relating to the operation of a taxicab which have been established by the NTA (as set forth in Nevada Revised Statutes and Nevada Administrative Code Chapters 706) and other regulatory agencies and LESSEE understands that a violation of those laws and regulations will breach the agreement.

17. MEDICAL AND DRIVING HISTORY. To ensure compliance with the provisions of NAC 706.3751, before this LEASE AGREEMENT can be deemed approved, the LESSEE must provide to the LEASING COMPANY:

- (a) A certificate from a licensed physician which is dated not more than 90 days before the date on which LESSEE begins to lease a taxicab from the LEASING COMPANY pursuant to NRS 706.473, which demonstrates that LESSEE is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43, which certificate the LESSEE must also maintain in his/her possession when operating the taxicab; and
- (b) A copy of the driving record of the LESSEE obtained from the Department of Motor Vehicles which demonstrates that the LESSEE has not, within the past three (3) years:

LEASING COMPANY BL

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- i. Been convicted of driving under the influence of an intoxicating liquor or a controlled substance;
  - ii. Been convicted of careless or reckless driving;
  - iii. Been convicted of failing to stop and remain at the scene of an accident; or
  - iv. Failed to keep a written promise to appear in Court of any offense.
18. MAINTENANCE OF RECORDS. LEASING COMPANY must maintain driver qualification files (for the LESSEE), trip sheets (for the LESSEE), and vehicle maintenance files (for the Leased Taxicab) as required pursuant to the provisions of NRS and NAC Chapters 706.
19. WARRANTY. LESSEE warrants that he/she possesses, and at all times during the term of this Lease, and any renewals or extensions hereof, shall possess, the proper driver's license to lawfully operate a taxicab as required by the regulatory authorities. LESSEE agrees to comply with all local, state, and federal laws and ordinances of Regulatory Authorities relating to the operation of motor vehicles and taxicabs. LESSEE is responsible for the payment of all parking and traffic violations, fines and penalties, including any towing, booting, or impound fees or charges, as a result of LESSEE'S use of the Leased Taxicab and any fees or fines imposed by the NTA against LESSEE. LESSEE agrees to promptly pay or contest, and to indemnify and hold harmless LEASING COMPANY from such fines, penalties, towing, booting or impound fees or charges and fees or fines imposed by the NTA against LESSEE.

LESSEE warrants that only he or she shall drive the Leased Taxicab during the Leased Period, unless LEASING COMPANY authorizes, in writing, another person to drive the Leased Taxicab.

20. REPORT OF ACCIDENTS/CRIMES. LESSEE must give LEASING COMPANY, through LEASING COMPANY'S authorized agents and/or employees, immediate radio notice of a violent crime (in which the LESSEE is the victim) or any accident, loss or claim in which

LEASING COMPANY BT

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LESSEE is involved, or as soon thereafter as is reasonably possible.

21. HOURS OF OPERATION. The LESSEE shall not operate the taxicab for more than 12 hours in any 24-hour period.
22. LEASED TAXICAB RETURN. At the end of each 12 hour Lease Period, LESSEE agrees to return the Leased Taxicab at the agreed time to LEASING COMPANY'S premises in the same condition in which it was received by LESSEE, except for normal wear and tear. LESSEE agrees to pay an additional charge for late return, as outlined in Exhibit "A", and to compensate LEASING COMPANY for any damages to the Leased Taxicab as set forth herein. Failure to return with a full tank of gas will result in a charge to LESSEE to fill the tank.
23. TERMINATION. LEASING COMPANY shall have the right, but not the obligation, to immediately terminate this Lease at any time in the event that LESSEE:
  - a. Fails to pay the Rental Fee or any towing, booting, or impounded fees or charges, any other fines, fees or penalties as required herein;
  - b. Fails to maintain a proper drivers license;
  - c. Fails to timely report any accident;
  - d. Encumbers, assigns, subleases, or otherwise enters into an agreement to lease the Leased Taxicab to another person;
  - e. Fails to return the Leased Taxicab in good condition with a full tank of gas;
  - f. Violates any rule or regulation of the Nevada Transportation Authority of the State of Nevada;
  - g. Violates any rule or regulation of the Airport Authority of Washoe County;
  - h. Drives the Leased Taxicab under the influence of drugs and/or alcohol;
  - i. Fails to submit to a breath or urine test, upon objective facts, that LESSEE is under the influence of drugs and/or alcohol;

LEASING COMPANY BJ

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- j. Fails to sign the ACKNOWLEDGMENT contained on the Daily Tripsheet at the beginning of each Lease Period;
- k. Is convicted of any felony or misdemeanor for driving under the influence of drugs and/or alcohol;
- l. Gives one (1) day's notice of intention not to enter into an additional Lease Period; or
- m. Allows any unauthorized person to drive the Leased Taxicab during any Lease Period.

Notwithstanding any of the above causes for termination, LEASING COMPANY shall have the right to terminate, at will, this Lease upon giving one (1) day's written notice to LESSEE of LEASING COMPANY'S intention to terminate the Lease. Termination hereunder shall be effective one (1) day after giving said written notice.

A failure by LEASING COMPANY to terminate the Lease for LESSEE'S violation of one or more of the above grounds for termination of this Lease shall not constitute a waiver of LEASING COMPANY'S right to terminate this Lease for any subsequent violations on the same or other grounds by LESSEE.

- 24. NEVADA TRANSPORTATION AUTHORITY APPROVAL. A LEASING COMPANY'S lease agreement is not deemed effective until approved by the NTA. This Lease shall be deemed to be modified, as necessary, to conform to said statutes and regulations and changes thereto.
- 25. RETENTION OF LEASE AGREEMENT. The LEASING COMPANY must retain copies of each lease agreement for a minimum of three years.
- 26. ATTORNEY'S FEES. In the event of any dispute between the LESSEE and LEASING COMPANY relating to this Lease, the prevailing party shall be entitled to recover from the other party all reasonable attorney's fees and other reasonable costs incurred by the prevailing party in connection therewith and in pursuing and collecting remedies, relief and damages.

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27. GOVERNING LAW. This agreement shall be interpreted in accordance with and through application of the laws of the State of Nevada.
28. RADIO SERVICE. LEASING COMPANY shall make available to LESSEE radio dispatching services as a means of referring prospective passengers LESSEE has the option to use radio dispatch. If LESSEE accepts the dispatch call, then LESSEE must pick up passengers through such radio dispatch. However, LESSEE has no obligation to respond to radio calls if LESSEE chooses not to utilize dispatch service. LESSEE is not obligated to report his location to LEASING COMPANY or to remain in any specific place at any fixed hours.
29. ARBITRATION. Any dispute or controversy arising between the parties involving the interpretation, enforcement or application of any provision in this Lease Agreement, or pertaining to the performance or any breach of this Lease Agreement, or in any way arising out of or related to this Lease Agreement, shall be determined by the Nevada Court Annex Arbitration Program as set forth in the Nevada Arbitration Rules, with either party retaining its right to seek a trial de novo.
30. MISCELLANEOUS. It is understood between LEASING COMPANY and LESSEE that it is in each party's best interest to maintain the reputation and goodwill of LEASING COMPANY and LESSEE. In this regard, cleanliness of Leased Taxicab, courtesy, personal grooming, dress, appearance, safety, and observance of traffic laws are to each party's mutual benefit. It is also understood between LEASING COMPANY and LESSEE that a file will be maintained by LEASING COMPANY which contains LESSEE'S qualifications to drive the taxicab.
31. RELEASE AND INDEMNITY OF ALL CLAIMS. The LEASING COMPANY and the LESSEE does for itself, its heirs, executors, administrators, successors and assigns, hereby release, remise, and forever discharge the State of Nevada, the NTA, the Nevada Attorney General, and each of their members, agents, and employees in their individual and

LEASING COMPANY BJ

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representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known or unknown, in law or equity, which LEASING COMPANY and the LESSEE ever had, now has, may have, or claim to have against any or all of said entities or individuals arising out of or by reason of the processing or investigation of or other action relating to this agreement.

Furthermore, LEASING COMPANY and the LESSEE hereby agrees to indemnify, hold harmless and defend, not excluding the State's right to participate, the State of Nevada, the NTA, the Nevada Attorney General, and each of their, members, agents, and employees in their individual and representative capacities from any and all claims, suits, and actions, brought by anyone associated with this application , or by any third party, against the agencies or persons named in this paragraph, arising out of the submission, investigation, and deliberation concerning this agreement, and against any and all liabilities, expenses, damages, charges and costs, including court costs and attorneys' fees, which may be sustained by the persons and agencies named in this paragraph as a result of said claims, suits and actions.

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LEASING COMPANY

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32. COMPLETE AGREEMENT. This Lease constitutes the entire lease, agreement, and understanding between the parties as to the subject matter hereto, and merges all prior discussions between them. None of the parties shall be bound by any conditions, definitions, warranties, understandings or representations other than as expressly provided herein.

Executed in duplicate this 23 day of March, 2011.

LEASING COMPANY:

Roy L. Street dba CAPITOL CAB COMPANY

By:

Barry Laules

Its:

Manager

LESSEE:

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_

LEASING COMPANY BL

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EXHIBIT "A"  
RENTAL FEE AND LATE FEES

RENTAL FEES

12-HOUR PERIOD

Five (5) dollars, plus  
50% of Total Book of  
the shift, plus Gas

24-HOUR PERIOD

NOT AVAILABLE

ONE WEEK PERIOD

\$ \_\_\_\_\_ dollars,  
plus Gas. Lessee retains 100%  
of the Total Book.

LATE FEES

12-HOUR PERIOD

\$ \_\_\_\_\_

24-HOUR PERIOD

\$ \_\_\_\_\_

ONE WEEK PERIOD

\$ \_\_\_\_\_

Late fees are \$ \_\_\_\_\_ per hour or fraction thereof.

MILEAGE LIMITS

12-HOUR PERIOD

\_\_\_\_\_

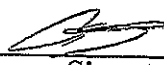
24-HOUR PERIOD

\_\_\_\_\_

ONE WEEK PERIOD

\_\_\_\_\_

An additional fee of \$ \_\_\_\_\_ will be charged for all miles traveled in  
excess of such limits

  
\_\_\_\_\_  
Signature

  
\_\_\_\_\_  
Date

LEASING COMPANY 

LESSEE \_\_\_\_\_

# EXHIBIT 2

# EXHIBIT 2

COUNTY OF WASHOE )  
STATE OF NEVADA )ss.  
)

1. I am the named Defendant in this matter doing business as Capitol Cab.

3. I submit this affidavit in support of Capitol Cab's Motion for Summary Judgment ("Motion"), to which this affidavit is attached as Exhibit 2.

5. Exhibit 3 to the Motion are true and correct copy of the licenses and is submitted by Shatz.

7. Capitol Cab did not control any aspect of the following work performed by such as the following.

- a. when Shatz wanted to lease a cab,
- b. how long Shatz wanted to lease a cab (other than restricting the lease to 12 hours pursuant to statute);
- c. what fares Shatz could pick up or decline;
- d. where to drive and/or stay while not transporting a fare;
- e. what routes Shatz could select to transport or locate fares;
- f. what customers and/or locations to target for obtaining fares;
- g. what to wear;
- h. what to say or how to act to enhance "tip" potential;

8. Shatz also had the ability to hire someone to assist him to perform his independent contractor duties.

- 1           9.     Shatz was also not required to work solely for Capitol Cab.
- 2           10.    Shatz' income was based upon the effort Shatz expended in performing
- 3 his work and had no relationship to any activity and or inactivity of Capitol Cab.
- 4           11.    Exhibit 4 to the Motion is a true and correct copy of the Taxicab Lease
- 5 Agreement with Richard Fratis.
- 6           12.    Exhibit 5 to the Motion are true and correct copy of the licenses and
- 7 permits submitted by Fratis.
- 8           13.    Fratis had his own social security number.
- 9           14.    Capitol Cab did not control any aspect of the following work performed by
- 10 Fratis such as the following.
- 11               a.     when Fratis wanted to lease a cab,
- 12               b.     how long Fratis wanted to lease a cab (other than restricting the
- 13 lease to 12 hours pursuant to statute);
- 14               c.     what fares Fratis could pick up or decline;
- 15               d.     where to drive and/or stay while not transporting a fare;
- 16               e.     what routes Fratis could select to transport or locate fares;
- 17               f.     what customers and/or locations to target for obtaining fares;
- 18               g.     what to wear;
- 19               h.     what to say or how to act to enhance "tip" potential;
- 20           15.    Fratis also had the ability to hire someone to assist him to perform his
- 21 independent contractor duties.
- 22           16.    Fratis was also not required to work solely for Capitol Cab.
- 23           17.    Fratis' income was based upon the effort Fratis expended in performing
- 24 his work and had no relationship to any activity and or inactivity of Capitol Cab.
- 25           18.    Capitol Cab submitted its independent contractor lease agreements to the
- 26 Nevada Transportation Authority ("NTA") for approval pursuant to the provisions of NRS
- 27 706.472(1)'s provisions.
- 28





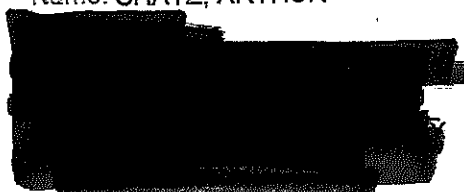
# EXHIBIT 3

# EXHIBIT 3

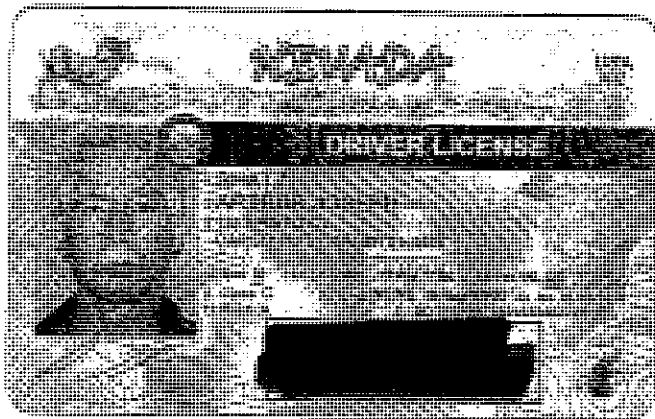
## Work Permit

Carson City Sheriff's Office, Carson City, Nevada  
Ken Furlong, Sheriff

Name: SHATZ, ARTHUR



Date issued: 09-30-2013 Expires: 09-30-2016



### Work Permit

Carson City Sheriff's Office, Carson City, Nevada  
Ken Furlong, Sheriff

Name: SHATZ, ARTHUR JOSEPH



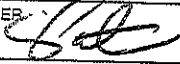
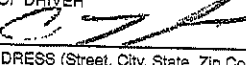
Date Issued: 10-06-2010    Expires: 10-06-2013

CONCENTRA Medical Centers  
MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined \_\_\_\_\_ in accordance with FMCSR  
49 CFR 391.41-391.49 and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☒ Wearing Corrective Lenses  
☐ Wearing Hearing Aid  
☐ Accompanied by a \_\_\_\_\_ waiver/exemption
- ☐ Driving within an exempt intracity zone (49 CFR 391.62)  
☐ Accompanied by a Skill Performance Evaluation Certificate  
☐ Qualified by operation of 49 CFR 391.64

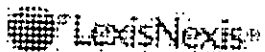
The information I have provided regarding this physical examination is true and complete. A complete exam form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER 	TELEPHONE NO. 775 887 5030	DATE 10/11/10
MEDICAL EXAMINER'S NAME (print) Chris Patin	<input checked="" type="checkbox"/> MD <input type="checkbox"/> Chiropractor <input type="checkbox"/> Physician's Assistant	<input type="checkbox"/> DO <input type="checkbox"/> Advanced Practice Nurse
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE 9873 / NV		
SIGNATURE OF DRIVER 	DRIVER'S LICENSE NO. [REDACTED]	STATE NV
DRIVER'S ADDRESS (Street, City, State, Zip Code) [REDACTED]	MED. CERT. EXPIRATION DATE 10/11/2012	

NOTE: Driver MUST carry a copy of this certificate when operating a commercial motor vehicle in accordance with 49 CFR 391.41 (a)

CMCDOTCARD

10/12/2010



**LexisNexis® Medical Review Services**

480 Quadrangle Drive Suite D

Bolingbrook, IL 60440

Tel: 800-939-4782 Fax: 630-679-5635

**Controlled Substance Test Report**

**Attn:** Barry Lawless

5385 Sheep Dr.

Carlson City, NV 89706

**Phone:** 775-885-0300

**Client Name:** Capital Cab Company

**Account Number:** 181781-00000

**Donor Name:** Arthur Shatz

**Donor ID:** [REDACTED]

**Employee Id 1:**

**Employee Id 2:**

**Emp. Category:** UNKNOWN

**Test Result:** Negative

**Result Description :** Negative

**Substances Found :**

**MRO Verified Comment :**

**Specimen ID:** [REDACTED]

**Specimen Collection Date:** 10/11/2010 10:55 AM

**Lab Name:** Advanced Toxicology Network

**Testing Panel:** ATN 5 Panel Nida-Like

**CCF Received:** 10/11/2010

**Verification Date:** 10/12/2010

**Reported Date:** 10/12/2010 03:18 PM

**CollectionSite:** Concentra Medical Center

**Test Reason:** Pre-Employment

**Test Type:** NON-DOT

**Lab Account #:** [REDACTED]

**Test Account #:** [REDACTED]

**Test Client Name:** Capital Cab Company

**Location ID:**

**Cost Center:**

**Certified Medical Review Officer:**

S. B. Hoffman, M.D. FACP

**MRO Phone:**

888-794-6574

(Signature On File)

Positive tests confirmed using gas chromatography/mass spectrometry.

DRUDET

Page 1 of 1

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STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4590  
Record Request  
10/5/2010

Name: SHATZ, ARTHUR JOSEPH

DLN/ID: [REDACTED]

State of Record:

Sex: MALE

Height: 6 feet 00 inches

Weight: 180 lbs.

DOB: [REDACTED]

Physical Exp Date:

Hair: BROWN Eye: BLUE

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Report Type: 03 Years  
Endorsements

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Restrictions
NCDL	C	VALID	NORMAL	01-08-2010	11-10-2013	A

Conviction Listing:

Demerit Points: 00

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
-----------	-----------	-------	-------	-----------	--------	---------	---------	-----------------

1

10/5/10  
Barry Lawless

Your transaction confirmation number is: 0058420146

DLN/ID: 0203725713



STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4590  
Record Request  
2/11/2011

Name: SHATZ, ARTHUR JOSEPH

DLN/ID: [REDACTED]

State of Record:

DOB: 11-10-1950 Physical Exp Date:

Sex: MALE

Height: 6 feet 00 inches

Weight: 180 lbs.

Hair: BROWN

Eye: BLUE

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Licn Class Status  
Type

Permit

Issue  
Date

Exp  
Date

Restrictions

Report Type: 03 Years  
Endorsements

NCDL C VALID

NORMAL

01-08-2010 11-10-2013 A

Conviction Listing:

Cite  
Date

Conv  
Date

State

Court

Viol  
Code

Off Ty

CMV  
Off

Haz  
Mat

Citation  
Number

Demerit Points: 00

2/11/11  
Barry Lawless

Your transaction confirmation number is: 0060661191

DLN/ID: 0203725713

Page 1

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STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4590  
Record Request  
8/30/2011

Name: SHATZ, ARTHUR JOSEPH

DLN/ID: [REDACTED]

State of Record:

Sex: MALE

Height: 6 feet 00 inches

Weight: 180 lbs.

DOB: 11-10-1950 Physical Exp Date:

Hair: BROWN Eye: BLUE

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Restrictions
NCDL	C	VALID	NORMAL	01-08-2010	11-10-2013	A

Report Type: 03 Years  
Endorsements:

Conviction Listing:

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
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Demerit Points: 00

8/30/11  
Barry Landless

Your transaction confirmation number is: 0064617629

DLN/ID: 0203725713



STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4368  
Record Request  
11/16/2012

Name: SHATZ, ARTHUR JOSEPH

DLN/ID: [REDACTED]

Sex: MALE

Height: 6 feet 00 inches

Weight: 180 lbs.

Hair: BROWN

Eye: BLUE

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

State of Record:

DOB: 11-10-1950 Physical Exp Date:

License Listing:

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Restrictions
NCDL	C	VALID	NORMAL	01-08-2010	11-10-2013	A

Report Type: 03 Years  
Endorsements

Conviction Listing:

Demerit Points: 00

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
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STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4368  
Record Request  
4/4/2013

DLN/ID: [REDACTED]

State of Record:

Name: SHATZ, ARTHUR JOSEPH

DOB: 11-10-1950

Sex: MALE Height: 6 feet 00 inches

Weight: 180 lbs.

Hair: BROWN

Eye: BLUE

Medical Certificate Expiry Date: N/A

Certificate Status: N/A

Self Certification: NONE

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Report Type: 03 Years

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Endorsements
NCDL	C	VALID	NORMAL	01-08-2010	11-10-2013	

Restriction Details: A - Corrective lenses

Conviction Listing:

Demerit Points: 00

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
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4/4/13

*Benny Lawler*

Your transaction confirmation number is: 0076743039

DLN/ID: 0203725713

Page 1

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# EXHIBIT 4

# EXHIBIT 4

**CAPITOL CAB COMPANY  
TAXICAB LEASE AGREEMENT**

THIS TAXICAB LEASE AGREEMENT ("Lease") made this 25 day of March, 2011, between ROY L. STREET dba CAPITOL CAB COMPANY., a Nevada entity, with its principal place of business at 5835 Sheep Drive, Carson City, Nevada (hereinafter referred to as "LEASING COMPANY"), and Bill Fratis an independent contractor with his/her principal residence located at 1174 Mountain Park Dr. CC NV, hereinafter referred to as "LESSEE").

WHEREAS, LEASING COMPANY is an intrastate for hire common motor carrier operating under a Certificate of Public Convenience and Necessity CPCN 2445 issued by the Nevada Transportation Authority ("NTA");

WHEREAS, LEASING COMPANY is the owner of taxicabs and other vehicles;

WHEREAS, LESSEE desires to lease from LEASING COMPANY a vehicle and other services under the term and conditions herein set forth; and

WHEREAS, the parties desire to confirm their understanding in writing.

NOW THEREFORE, in consideration of the mutual promises and covenants herein contained and other good and valuable consideration, the parties agree as follows:

1. LEASE. LESSEE agrees to lease from LEASING COMPANY a taxicab with the name, insignia, certificate number, and painted in the approved color scheme of LEASING COMPANY (the "Leased Taxicab"). At the commencement of this lease, LEASING COMPANY shall deliver the Leased Taxicab in good working order, properly licensed, and with a full tank of fuel. LEASING COMPANY shall equip the Leased Taxicab with a radio, dispatching system, taximeter, identifying decals, seals and other equipment required by applicable federal, state, and local laws and ordinances (collectively the "Regulatory Authorities").

LESSEE agrees that LESSEE will operate the Leased Taxicab for a minimum of

LEASING COMPANY

BL

LESSEE

[Signature]

three (3) days per seven day week, unless LEASING COMPANY authorizes LESSEE to deviate from the three (3) day minimum.

2. TAXICAB FEES, LICENSING. LEASING COMPANY shall maintain and pay for all operating licenses, taxes, and fees on the Leased Taxicab. At times other than Lease Periods (as defined below), LEASING COMPANY may either use the Leased Taxicab itself or lease the Leased Taxicab to other lessees.
3. OWNERSHIP, MAINTENANCE, AND REPAIR. LEASING COMPANY is the owner of the Leased Taxicab, which is in a good mechanical condition and meets the requirements for operating taxicabs in the location where the taxicab will be operated. Regularly scheduled maintenance shall be LEASING COMPANY'S responsibility; provided, however, in order to keep the Leased Taxicab in good mechanical condition, LESSEE shall inspect the Leased Taxicab at the beginning of each 12 hour period and report any condition requiring repair or maintenance to LEASING COMPANY. LESSEE shall return the taxicab to LEASING COMPANY at the end of each 12 hour period to enable LEASING COMPANY to comply with the provisions of NAC § 706.380. All repairs will be done in a timely fashion and a file will be maintained by LEASING COMPANY for records concerning the maintenance of the taxicab. At no time is LESSEE authorized or allowed to make any alterations or changes of any kind to the Taxicab.
4. INSURANCE. Insurance or self insurance will be provided by LEASING COMPANY in an amount sufficient to meet regulatory requirements.
5. LEASE PERIOD. Each period LESSEE uses the Leased Taxicab shall be deemed a separate Lease Period ("Lease Period"). Each Lease Period will be determined by LESSEE and LEASING COMPANY and will be indicated on Exhibit "A". LESSEE shall not, however, operate the taxicab for more than 12 hours in any 24-hour period. This Lease shall serve as a master lease agreement, which will govern each and every Lease Period.
6. ASSIGNMENT AND SUBLEASING. LESSEE shall not transfer, assign, sublease, or

LEASING COMPANY BL

LESSEE [Signature]

otherwise enter into an agreement to lease the taxicab to another person, nor shall LESSEE'S rights be subject to encumbrance or subject to the claims of his or her creditors.

7. OPERATING AUTHORITY. LEASING COMPANY is a certified carrier and services provided by LESSEE are regulated by appropriate regulatory authorities. LESSEE'S use of the Leased Taxicab shall be in a manner authorized by LEASING COMPANY'S certificate to operate and the LEASING COMPANY'S Tariff.
8. RENTAL FEE. In consideration of the use of the Leased Taxicab, LESSEE agrees to pay a Rental Fee to LEASING COMPANY in the amount set forth on Exhibit "A" attached hereto and incorporated herein by reference. LESSEE shall pay the rental fees set forth in Exhibit "A" for each 12 hour lease period, as well as the late fees, set forth in Exhibit "A". Any Late Fees, as listed on Exhibit "A", shall be paid to LEASING COMPANY by LESSEE at the end of the current or prior to the beginning of the next 12 hour Lease Period after incurring such Late Fee. If, for any reason, LESSEE cannot or does not complete the 12 hour Lease Period, LESSEE shall not be entitled to any reduction of the Rental Fee.
9. SECURITY DEPOSIT. In addition to the rental payment, LESSEE will pay to LEASING COMPANY, at or before commencement of the first 12 hour Lease Period, a security deposit in the amount of One Thousand Dollars (\$1,000.00), paid in full or by other payment arrangement as determined by LEASING COMPANY. The security deposit shall be maintained at One Thousand Dollars (\$1,000.00) while this lease is in effect. Said security deposit must be maintained by the LEASING COMPANY in an account separate from the carrier's operating account. Said security deposit, less proper deductions, shall be returned to LESSEE not later than thirty (30) days after LESSEE provides a written request for return of said deposit after termination of this Lease and / or any Employment with LEASING COMPANY. However, LEASING COMPANY may maintain the security deposit longer than thirty (30) days after any written request for return of the security deposit when money due to the LEASING COMPANY under any provision of this lease is known to be owed, but

LEASING COMPANY BZ

LESSEE [Signature]

the value of the amount owed is not yet ascertained. LEASING COMPANY shall return the security deposit within thirty days (30) of ascertaining the amount owed to LEASING COMPANY. Pursuant to NAC 706.3752, any deductions must be itemized and in writing, and supported by receipts that evidences the repairs to the taxicab in an amount equal to the amount deducted, and provided to the LESSEE upon return of the remaining security deposit.

LEASING COMPANY may also deduct from said security deposit any amount due to LEASING COMPANY, including, but not limited to, delinquent rental charges, unauthorized repairs and/or maintenance, administrative fees, failed mandatory and / or random drug tests, unpaid traffic fines, unauthorized charges caused by LESSEE and / or incurred by LEASING COMPANY or other damages caused by LESSEE and / or sustained by LEASING COMPANY.

LESSEE may not obtain an advance or loan against the security deposit for any reason at anytime.

10. RELATIONSHIP. Neither Party is the partner, joint venturer, agent, or representatives of the other Party. LESSEE is an independent contractor. LEASING COMPANY and LESSEE acknowledge and agree that there does not exist between them the relationship of employer and employee, principal and agent, or master and servant, either expressed or implied, but that the relationship of the parties is strictly that of lessor and lessee, the LESSEE being free from interference or control on the part of LEASING COMPANY, except as otherwise provided in chapter 706 of the NRS and/ or NAC, in the operation of the Leased Taxicab. LESSEE acknowledges that:

- a. He or she is not eligible for federal or state unemployment benefits or workman's compensation benefits.
- b. LEASING COMPANY is not responsible for withholding federal or state income taxes, or any other taxes, but LESSEE will be liable for payment of those taxes.

LEASING COMPANY

BA

LESSEE

AG



- c. LEASING COMPANY is not responsible for withholding or paying, in any way, contribution for taxes under the Federal Insurance Act, and LESSEE will be liable for those and all other taxes.
  - d. LEASING COMPANY agrees to furnish only liability insurance on the Leased Taxicab, in a sum not less than required by applicable law, and LEASING COMPANY shall not be responsible nor liable in any way for any injury to LESSEE resulting from the use or operation of such taxicab.
  - e. LEASING COMPANY is a certified carrier and services provided by LESSEE are regulated by appropriate authorities. LESSEE'S use of the Leased Taxicab shall be in a manner authorized by LEASING COMPANY'S certificate to operate the Leased Taxicab and LEASING COMPANY'S Tariff.
11. TRIP SHEET. At the beginning of each 12 hour lease period, LESSEE must date and time stamp the trip sheet provided by LEASING COMPANY. At the end of each 12 hour lease period, LESSEE must provide the LEASING COMPANY with the completed date and time stamped trip sheets for that 12 hour lease period.
12. DAILY VEHICLE INSPECTION. In order to keep the Leased Taxicab in good mechanical condition, LESSEE shall inspect the Leased Taxicab at the beginning and end of each 12 hour lease period and document on a daily inspection sheet to be submitted daily and report any condition requiring repair or maintenance to LEASING COMPANY.
13. NO PERSONAL USE. The Leased Taxicab is for commercial use only and may not be utilized for the personal use of the LESSEE. Personal use includes, but is not limited to, using the leased taxi for personal travel, errands, and / or parking said taxi for an extended period of time at any location so that the driver may sleep.

LEASING COMPANY maintains insurance for commercial use of the Taxicab in accordance with Chapter 706 of the NRS and NAC. If LESSEE, utilizes the Taxicab for personal use in violation of the Lease, LESSEE will be solely responsible for any damage

LEASING COMPANY BL

LESSEE [Signature]

caused to and / or by LESSEE in operation of the Taxicab.

14. ADVERTISING. In accordance with applicable law, only LEASING COMPANY is authorized to hold itself out and to advertise that it is a motor carrier authorized to provide taxicab services within the area authorized by its certificate of public convenience and necessity, CPCN 2445, including but not limited to, the use of the internet, telephone, television, radio, business cards, any form of print media, or any other form of advertising, because the taxicabs are owned by leasing company all top sign as well as any other advertising placed on or in the Taxicab is at the direction and control of the LEASING COMPANY. At its option, LEASING COMPANY may provide business cards for LESEE's use.

LESSEE shall not engage in any advertising or promotion whether by the internet, telephone, television, radio, business cards, any form of print media, or any other form of advertising which either reflects or gives the impression, whether intended or not, that LESEE is holding himself/herself out as a motor carrier authorized to provide taxicab services. In the event LESEE engages in such advertising LESEE will be solely responsible for any fines or other fees imposed by the Nevada Transportation Authority.

15. REPLACEMENT VEHICLE. In the event that any repair or maintenance takes more than twelve (12) hours in any week, LEASING COMPANY shall attempt to provide a replacement Leased Taxicab, if available. If a replacement Leased Taxicab is not available, then LESSEE shall be entitled to a pro-rata refund of the paid Rental Fee, if applicable. However, no LESSEE shall be entitled to a pro-rata refund of the Rental Fee when the damage requiring repair was caused by any LESSEE of the Taxicab listed on Exhibit "B". Repairs and maintenance on Leased Taxicabs must be performed at LEASING COMPANY'S facilities, unless prior written authorization is obtained from LEASING COMPANY to have the repairs and maintenance done elsewhere. LESSEE shall be responsible for the cost of unauthorized repairs and/or maintenance, and for all damages

LEASING COMPANY BJ

LESSEE AP

caused thereby.

16. REGULATORY AUTHORITIES. This Lease does not relieve LEASING COMPANY from its duties and responsibilities under NRS Chapter 706 or NAC Chapter 706. LESSEE and/or LEASING COMPANY are subject to the jurisdiction of the Nevada Transportation Authority ("NTA") and shall comply with all federal rules, regulations, ordinances, administrative codes, health and safety provisions and statutes in the operation of the Leased Taxicab. In the event of a violation of such laws, rules, regulations, ordinances, administrative codes, health and safety provisions and statutes, the NTA may take enforcement action against LESSEE and LEASING COMPANY. Both the LESSEE and LEASING COMPANY are subject to all laws and regulations relating to the operation of a taxicab which have been established by the NTA (as set forth in Nevada Revised Statutes and Nevada Administrative Code Chapters 706) and other regulatory agencies and LESSEE understands that a violation of those laws and regulations will breach the agreement.
17. MEDICAL AND DRIVING HISTORY. To ensure compliance with the provisions of NAC 706.3751, before this LEASE AGREEMENT can be deemed approved, the LESSEE must provide to the LEASING COMPANY:
- (a) A certificate from a licensed physician which is dated not more than 90 days before the date on which LESSEE begins to lease a taxicab from the LEASING COMPANY pursuant to NRS 706.473, which demonstrates that LESSEE is physically qualified to operate a commercial motor vehicle in accordance with 49 C.F.R. § 391.43, which certificate the LESSEE must also maintain in his/her possession when operating the taxicab; and
  - (b) A copy of the driving record of the LESSEE obtained from the Department of Motor Vehicles which demonstrates that the LESSEE has not, within the past three (3) years:
    - i. Been convicted of driving under the influence of an intoxicating liquor or a

LEASING COMPANY BJ

LESSEE [Signature]

controlled substance;

- ii. Been convicted of careless or reckless driving;
- iii. Been convicted of failing to stop and remain at the scene of an accident; or
- iv. Failed to keep a written promise to appear in Court of any offense.

18. MAINTENANCE OF RECORDS. LEASING COMPANY must maintain driver qualification files (for the LESSEE), trip sheets (for the LESSEE), and vehicle maintenance files (for the Leased Taxicab) as required pursuant to the provisions of NRS and NAC Chapters 706.
19. WARRANTY. LESSEE warrants that he/she possesses, and at all times during the term of this Lease, and any renewals or extensions hereof, shall possess, the proper driver's license to lawfully operate a taxicab as required by the regulatory authorities. LESSEE agrees to comply with all local, state, and federal laws and ordinances of Regulatory Authorities relating to the operation of motor vehicles and taxicabs. LESSEE is responsible for the payment of all parking and traffic violations, fines and penalties, including any towing, booting, or impound fees or charges, as a result of LESSEE'S use of the Leased Taxicab and any fees or fines imposed by the NTA against LESSEE. LESSEE agrees to promptly pay or contest, and to indemnify and hold harmless LEASING COMPANY from such fines, penalties, towing, booting or impound fees or charges and fees or fines imposed by the NTA against LESSEE.

LESSEE warrants that only he or she shall drive the Leased Taxicab during the Leased Period, unless LEASING COMPANY authorizes, in writing, another person to drive the Leased Taxicab.

20. REPORT OF ACCIDENTS/CRIMES. LESSEE must give LEASING COMPANY, through LEASING COMPANY'S authorized agents and/or employees, immediate notice by any means, including, but not limited to, radio and telephone, of a violent crime (in which the LESSEE is the victim) or any accident, loss or claim in which LESSEE is involved, or as

LEASING COMPANY

LESSEE

soon thereafter as is reasonably possible.

In the event, that LESSEE is involved in an accident caused by another, where the other driver flees the scene of the accident. LESSEE is responsible to obtain a reasonable description of the other vehicle involved in the accident, including, but not limited to, the make, model, color, license plate of the vehicle. LESSEE shall also immediately notify LEASING COMPANY of any accident involving a vehicle that has fled the scene and LESSEE shall remain at the accident scene to allow LEASING COMPANY to investigate until advised by LEASING COMPANY to leave the accident scene. In accordance with NAC 706.3752, LESSEE shall remain liable for any and all damages to the Leased Taxicab.

21. HOURS OF OPERATION. The LESSEE shall not operate the taxicab for more than 12 hours in any 24-hour period.
22. LEASED TAXICAB RETURN. At the end of each 12 hour Lease Period, LESSEE agrees to return the Leased Taxicab at the agreed time to LEASING COMPANY'S premises in the same condition in which it was received by LESSEE, except for normal wear and tear. LESSEE agrees to pay an additional charge for late return, as outlined in Exhibit "A", and to compensate LEASING COMPANY for any damages to the Leased Taxicab as set forth herein. Failure to return with a full tank of gas will result in a charge to LESSEE in the amount of the cost of fuel to fill the tank and an administrative fee related to the same.
23. TERMINATION. LEASING COMPANY shall have the right, but not the obligation, to immediately terminate this Lease at any time in the event that LESSEE:
  - a. Fails to pay the Rental Fee or any towing, booting, or impounded fees or charges, any other fines, fees or penalties as required herein;
  - b. Fails to maintain a proper drivers license;
  - c. Fails to timely report any accident, including but not limited to those referenced in subsection 20 of the Lease Agreement;
  - d. Encumbers, assigns, subleases, or otherwise enters into an agreement to lease the

LEASING COMPANY BZ

LESSEE [Signature]

Leased Taxicab to another person;

- e. Fails to return the Leased Taxicab in good condition with a full tank of gas;
- f. Violates any rule or regulation of the Nevada Transportation Authority of the State of Nevada;
- g. Violates any rule or regulation of the Airport Authority of Washoe County;
- h. Drives the Leased Taxicab under the influence of drugs and/or alcohol;
- i. Fails to submit to a breath or urine test that is requested pursuant to; random testing, mandatory testing requirements under Chapter 706 of NRS and / or NAC, or upon objective facts , that LESSEE is under the influence of drugs and/or alcohol;
- j. Fails to sign the ACKNOWLEDGMENT contained on the Daily Tripsheet at the beginning of each Lease Period;
- k. Is convicted of any felony or misdemeanor for driving under the influence of drugs and/or alcohol;
- l. Is deemed by LEASING COMPANY to be unsafe or unfit to meet the safety requirements of chapter 706 of NRS and / or NAC;
- m. Gives notice of intention not to enter into an additional Lease Period; or
- n. Allows any unauthorized person to drive the Leased Taxicab during any Lease Period.

In addition to the above causes for termination, LEASING COMPANY also shall have the right to terminate, for no cause, this Lease upon giving notice to LESSEE of LEASING COMPANY'S intention to terminate the Lease. Termination hereunder shall be effective immediately after giving said notice.

A failure by LEASING COMPANY to terminate the Lease for LESSEE'S violation of one or more of the above grounds for termination of this Lease shall not constitute a waiver of LEASING COMPANY'S right to terminate this Lease for any subsequent violations on the same or other grounds by LESSEE.

LEASING COMPANY BA

LESSEE AR

24. NEVADA TRANSPORTATION AUTHORITY APPROVAL. A LEASING COMPANY'S lease agreement is not deemed effective until approved by the NTA. This Lease shall be deemed to be modified, as necessary, to conform to said statutes and regulations and changes thereto.
25. RETENTION OF LEASE AGREEMENT. The LEASING COMPANY must retain copies of each lease agreement for a minimum of three years.
26. ATTORNEY'S FEES. In the event of any dispute between the LESSEE and LEASING COMPANY relating to this Lease, the prevailing party shall be entitled to recover from the other party all reasonable attorney's fees and other reasonable costs incurred by the prevailing party in connection therewith and in pursuing and collecting remedies, relief and damages.
27. GOVERNING LAW. This agreement shall be interpreted in accordance with and through application of the laws of the State of Nevada.
28. DISPATCH SERVICE. LEASING COMPANY shall make available to LESSEE a dispatching service as a means of referring prospective passengers. LESSEE has the option to use the dispatching service. If LESSEE accepts use of the dispatching service by logging into the digital dispatch system, then LESSEE must pick up passengers through such dispatch system. However, LESSEE has no obligation to respond to dispatched calls if LESSEE chooses not to utilize the dispatch service. LESSEE is not obligated to report his location to LEASING COMPANY or to remain in any specific place at any fixed hours.
29. ARBITRATION. Any dispute or controversy arising between the parties involving the interpretation, enforcement or application of any provision in this Lease Agreement, or pertaining to the performance or any breach of this Lease Agreement, or in any way arising out of or related to this Lease Agreement, shall be determined by the Nevada Court Annex Arbitration Program as set forth in the Nevada Arbitration Rules, with either party retaining its right to seek a trial de novo.

LEASING COMPANY B.T.

LESSEE [Signature]

30. MISCELLANEOUS. It is understood between LEASING COMPANY and LESSEE that it is in each party's best interest to maintain the reputation and goodwill of LEASING COMPANY and LESSEE. In this regard, cleanliness of Leased Taxicab, courtesy, personal grooming, dress, appearance, safety, and observance of traffic laws are to each party's mutual benefit. It is also understood between LEASING COMPANY and LESSEE that a file will be maintained by LEASING COMPANY which contains LESSEE'S qualifications to drive the taxicab.
31. RELEASE AND INDEMNITY OF ALL CLAIMS. The LEASING COMPANY and the LESSEE does for itself, its heirs, executors, administrators, successors and assigns, hereby release, remise, and forever discharge the State of Nevada, the Nevada Transportation Authority, the Nevada Attorney General, and each of their members, agents, and employees in their individual and representative capacities, from any and all manner of actions, causes of action, suits, debts, judgments, executions, claims and demands whatsoever, known or unknown, in law or equity, which LEASING COMPANY and the LESSEE ever had, now has, may have, or claim to have against any or all of said entities or individuals arising out of or by reason of the processing or investigation of or other action relating to this agreement.

Furthermore, LEASING COMPANY and the LESSEE hereby agrees to indemnify, hold harmless and defend, not excluding the State's right to participate, the State of Nevada, the Nevada Transportation Authority, the Nevada Attorney General, and each of their, members, agents, and employees in their individual and representative capacities from any and all claims, suits, and actions, brought by anyone associated with this application, or by any third party, against the agencies or persons named in this paragraph, arising out of the submission, investigation, and deliberation concerning this agreement, and against any and all liabilities, expenses, damages, charges and costs, including court costs and attorneys' fees, which may be sustained by the persons and agencies named in this paragraph as a result of said claims, suits and actions.

LEASING COMPANY Bf

LESSEE A.G.



32. COMPLETE AGREEMENT. This Lease constitutes the entire lease, agreement, and understanding between the parties as to the subject matter hereto, and merges all prior discussions between them. None of the parties shall be bound by any conditions, definitions, warranties, understandings or representations other than as expressly provided herein.

Executed in duplicate this 25 day of march, 2011.

LEASING COMPANY:

Roy L. Street dba CAPITOL CAB COMPANY

By: Barry Lawless

Its: Manager

LESSEE:

[Signature]  
R. Francis  
DVR

LEASING COMPANY BL

LESSEE [Signature]

EXHIBIT "A"

RENTAL FEE AND LATE FEES

RENTAL FEES

12-HOUR PERIOD

✓ Five (5) dollars, plus 50% of Total Book of the shift, plus Gas and administrative fees, if applicable.

24-HOUR PERIOD

NOT AVAILABLE

ONE WEEK PERIOD

\$ 0 dollars, plus Gas and administrative fees, if applicable. Lessee retains 100% of the Total Book.

LATE FEES

12-HOUR PERIOD

\$ 0

24-HOUR PERIOD

\$ 0

ONE WEEK PERIOD

\$ 0

Late fees are \$ \_\_\_\_\_ per hour or fraction thereof.

MILEAGE LIMITS

12-HOUR PERIOD

0

24-HOUR PERIOD

0

ONE WEEK PERIOD

0

An additional fee of \$ 0 will be charged for all miles traveled in excess of such limits

  
Signature

Mar 23 611  
Date

LEASING COMPANY BL

LESSEE \_\_\_\_\_

# EXHIBIT 5

# EXHIBIT 5

# MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined RICK FRATIS in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☐ wearing corrective lenses ☐ driving within an exempt intracity zone (49 CFR 391.62)  
☐ wearing hearing aid ☐ accompanied by a Skill Performance Evaluation Certificate (SPE)  
☐ accompanied by a 3 MONTHS waiver/exemption ☐ qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER <u>[Signature]</u>	TELEPHONE 775 887 5100	DATE 8/7/09
MEDICAL EXAMINER'S NAME (PRINT) CESAR P. UOANI	<input type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input type="checkbox"/> Physician Assistant <input type="checkbox"/> Advanced Practice Nurse	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE NV 11189		
SIGNATURE OF DRIVER <u>[Signature]</u>	DRIVER'S LICENSE NO. [REDACTED]	STATE NV
ADDRESS OF DRIVER [REDACTED] Carson City		
MEDICAL CERTIFICATE EXPIRATION DATE 3 months from 1/15/10 1/17/10		

DISTRIBUTION: 1 COPY TO THE DRIVER, 1 COPY TO THE MOTOR CARRIER

ORGAN DONOR		BIRTH DATE		SEX	HEIGHT	WEIGHT	EYES	HAIR
[REDACTED]		[REDACTED]		M	5'9"	300	BRO	BRO
[REDACTED]		[REDACTED]		A	PT	P	RESTRICTIONS	
[REDACTED]		[REDACTED]		EXPIRES 10-07-2012				
[REDACTED]		[REDACTED]		COMMERCIAL DRIVER LICENSE				
[REDACTED]		[REDACTED]		NEVADA				
[REDACTED]		[REDACTED]		FRATIS, RICHARD DOUGLAS				

## EMPLOYEE REGISTRATION WORK CERTIFICATE CARSON CITY SHERIFF'S DEPARTMENT Carson City, Nevada

Name: Fratis, Richard D Number: [REDACTED]  
 Date of Birth: [REDACTED] Height: 5'9"  
 Weight: 300 Hair: Bro Eyes: Bro  
 Date of Issue: 01/17/07 Expiration Date: 01/17/10  
 Place of Employment: Capitol Cab  
 Position: Driver

MEDICAL CERTIFICATE EXPIRATION DATE

DRIVER'S NAME

*Richard Travis*

MEDICAL EXAMINER'S CERTIFICATE

DISCLAIMER: IT IS THE SOLE RESPONSIBILITY OF THE PERSON(S) COMPLETING THIS CERTIFICATE TO COMPLY WITH ALL REQUIREMENTS CONTAINED IN THE DEPARTMENT OF TRANSPORTATION FEDERAL MOTOR CARRIERS SAFETY ADMINISTRATION REGULATIONS 49 CFR PART 381 QUALIFICATIONS OF DRIVERS.

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(800) 827-8868 • Printed in the United States

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined *Rick Travis* in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☐ wearing corrective lenses ☐ driving within an exempt intracity zone (49 CFR 391.62)  
☐ wearing hearing aid ☐ accompanied by a Skill Performance Evaluation Certificate (SPE)  
☐ accompanied by a \_\_\_\_\_ waiver/exemption ☐ qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. I complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER <i>M. Stuller</i>	TELEPHONE <i>MS 867-5410</i>	DATE <i>04/11/07</i>
MEDICAL EXAMINER'S NAME (PRINT) <i>M Stuller</i>	<input type="checkbox"/> MD <input checked="" type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input checked="" type="checkbox"/> Physician Assistant <input type="checkbox"/> Advanced Practice Nurse	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE <i>PA 770 NV</i>		
SIGNATURE OF DRIVER <i>R. Travis</i>	DRIVER'S LICENSE NO. [REDACTED]	STATE <i>NV</i>
ADDRESS OF DRIVER [REDACTED]		

DISTRIBUTION: 1 COPY TO THE DRIVER, 1 COPY TO THE MOTOR CARRIER

# MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined RICK FRATIS in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

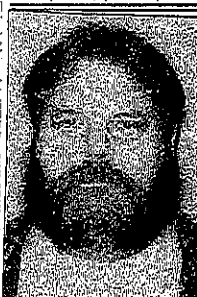
- ☐ wearing corrective lenses
- ☐ wearing hearing aid
- ☐ accompanied by a waiver/exemption
- ☐ driving within an exempt intracity zone (49 CFR 391.62)
- ☐ accompanied by a Skill Performance Evaluation Certificate (SPE)
- ☐ qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.


SIGNATURE OF MEDICAL EXAMINER <u>Cesar P. Udani</u>	TELEPHONE [REDACTED]	DATE <u>10/10/09</u>
MEDICAL EXAMINER'S NAME (PRINT) <u>CESAR P. UDANI</u>	<input type="checkbox"/> Physician Assistant	<input type="checkbox"/> Advanced Practice Nurse
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE <u>NV 11188</u>		
SIGNATURE OF DRIVER <u>R. Fratris</u>	DRIVER'S LICENSE NO. [REDACTED]	STATE <u>NV</u>
ADDRESS OF DRIVER [REDACTED]		
MEDICAL CERTIFICATE EXPIRATION DATE <u>3 months from issue 11/17/09</u>		

DISTRIBUTION: 1 COPY TO THE DRIVER, 1 COPY TO THE MOTOR CARRIER

NEVADA	
COMMERCIAL DRIVER LICENSE	
LIC. [REDACTED]	EXPIRES 10-07-2012
CLASS A	ENDORSE PT
BIRTHDATE [REDACTED]	SEX M
HEIGHT 509"	WEIGHT 300
EYES BRO	HAIR BRO
RESTRICTIONS P	
ORGAN DONOR	
FRATIS, RICHARD DOUGLAS	

	This is to certify that the undersigned, an employee as defined by City Municipal Code 8.28, has registered with this Department in compliance with city ordinance enacted. Any change of place of employment must be reported to the Sheriff's Department.
	<u>Richard Fratris</u> Applicant's Signature
	<u>EP9483</u> Certifying Official

WORK PERMIT	
Carson City Sheriff's Department, Carson City, Nevada	
KEN FORLONG, SHERIFF	
Name	FRATIS, RICHARD DOUGLAS
ID No.	[REDACTED] D.O.B. 10-07-57
SEX	M HT: 5'9" WT: 300
HAIR	BROWN EYES BROWN
Place Employed	CAPITOL CAS
Position	DRIVER
Date Issued	02-18-04 Ex. Date 01-12-07
A work Permit issued to a gaming employ or independent agent is valid for gaming purposes only.	



# CONCENTRA Medical Centers MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Richard Fratis in accordance with FMCSR 49 CFR 391.41-391.49 and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☒ Wearing Corrective Lenses
- ☒ Wearing Hearing Aid
- ☐ Accompanied by a waiver/exemption
- ☐ Driving within an exempt Intracity zone (49 CFR 391.62)
- ☐ Accompanied by a Skill Performance Evaluation Certificate
- ☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete exam form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER <u>[Signature]</u>	TELEPHONE NO. [REDACTED]	DATE 11/19/09
MEDICAL EXAMINER'S NAME (print) MARK BASTIE		
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE 6893 NV		
SIGNATURE OF DRIVER <u>[Signature]</u>	DRIVER'S LICENSE NO. [REDACTED]	STATE NV
DRIVER'S ADDRESS (Street, City, State, Zip Code) [REDACTED]	DRIVER'S EXPIRATION DATE 11/19/2010	

NOTE: Driver MUST carry a copy of this certificate when operating a commercial motor vehicle in accordance with 49 CFR 391.41 (a)

## Work Permit

Carson City Sheriff's Office, Carson City, Nevada  
Ken Furlong, Sheriff

Name: FRATIS, RICHARD D

MINI: [REDACTED]

D.O.B. [REDACTED] Hgt: 5-09 Wgt: 300

Hair Color: BRO Eye Color: BRO

Employer: CAPITOL CAB

DRIVER



Date Issued: 01-20-2010 Expires: 01-20-2013



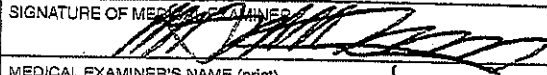
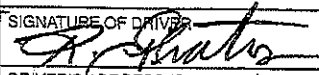


**CONCENTRA Medical Centers**  
**MEDICAL EXAMINER'S CERTIFICATE**

I certify that I have examined Richard Fratis in accordance with FMCSR 49 CFR 391.41-391.49 and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Wearing Corrective Lenses    | <input type="checkbox"/> Driving within an exempt intracity zone (49 CFR 391.62)   |
| <input type="checkbox"/> Wearing Hearing Aid                     | <input type="checkbox"/> Accompanied by a Skill Performance Evaluation Certificate |
| <input type="checkbox"/> Accompanied by a _____ waiver/exemption | <input type="checkbox"/> Qualified by operation of 49 CFR 391.64                   |

The information I have provided regarding this physical examination is true and complete. A complete exam form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER 		TELEPHONE NO. [REDACTED]	DATE 11, 19, 09
MEDICAL EXAMINER'S NAME (print) MARK HAGLER		<input checked="" type="checkbox"/> MD <input type="checkbox"/> DO <input type="checkbox"/> Chiropractor <input type="checkbox"/> Advanced Practice Nurse <input type="checkbox"/> Physician's Assistant	
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE 6893 / NV			
SIGNATURE OF DRIVER 		DRIVER'S LICENSE NO. [REDACTED]	STATE NV
DRIVER'S ADDRESS (Street, City, State, Zip Code) [REDACTED]		MED. CERT. EXPIRATION DATE 11, 19, 2010	

NOTE: Driver MUST carry a copy of this certificate when operating a commercial motor vehicle in accordance with 49 CFR 391.41 (a)

CMC0070ARD



STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4590  
Record Request  
1/11/2010

Name: FRATIS, RICHARD DOUGLAS

DLN/ID: [REDACTED]

State of Record: NV

Sex: MALE

Height: 5 feet 09 inches

DOB: [REDACTED]

Physical Exp Date: 04-11-2009

Weight: 300 lbs.

Hair: BROWN

Eye: BROWN

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Licn Type	Class	Status
-----------	-------	--------

Normal

Issue Date
------------

Exp Date
----------

Restrictions
--------------

Report Type: 03 Years  
Endorsements

NCDL	C	SURRENDER
------	---	-----------

NORMAL

05-07-1998	10-07-2002
------------	------------

CDL	A	VALID
-----	---	-------

NORMAL

09-30-2008	10-07-2012 P
------------	--------------

PT

Conviction Listing:

Cite Date
-----------

Conv Date
-----------

State
-------

Court
-------

Viol Code
-----------

Off Ty
--------

CMV Off
---------

Demerit Points: 00

Haz Mat
---------

Citation Number
-----------------

*Barry Lawless*  
1/29/10

Your transaction confirmation number is: 0052940532

DLN/ID:0800183676

Page 1

JA 197

Received  
Monday Oct 18<sup>th</sup>  
2010

MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Richard D. Frattin In accordance with the Federal Motor Car-  
rier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☒ wearing corrective lenses ☐ driving within an exempt intracity zone (49 CFR 391.62)  
☐ wearing hearing aid ☐ accompanied by a Skill Performance Evaluation Certificate (SPE)  
☐ accompanied by a waiver exemption ☒ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER

B. Pugphrey, APRN

MEDICAL EXAMINER'S NAME (PRINT)

Brenda Pugphrey, APRN

MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO./ISSUING STATE

NV

SIGNATURE OF DRIVER

[Signature]

ADDRESS OF DRIVER

[Redacted Address] NV 89706

MEDICAL CERTIFICATE EXPIRATION DATE

10/18/11

TELEPHONE

[Redacted Phone]

DATE

10/18/10

☐ Chiropractor

☐ DO

☐ MD

☐ Physician Assistant

☒ Advanced Practice Nurse

DRIVER'S LICENSE NO.

[Redacted License No.]

STATE

NV

Aspen Family Medicine  
2874 N. Carson St., Ste.  
Carson City, NV 89701

# Medical Examination Report FOR COMMERCIAL DRIVER FITNESS DETERMINATION

649-F (6045)

<b>1. DRIVER'S INFORMATION</b> Driver completes this section		Social Security No. [REDACTED]		Birthdate 10-7-57 M/D/Y	Age 53	Sex <input checked="" type="checkbox"/> M <input type="checkbox"/> F	New Certification <input type="checkbox"/> Recertification <input checked="" type="checkbox"/> Follow-up <input type="checkbox"/>	Date of Exam 10/18/10			
Driver's Name (Last, First, Middle) FRANKS Richard D		City, State, Zip Code CARSON		Work Tel: ( ) [REDACTED]		Driver License No. [REDACTED]		State of Issue NV			
<b>2. HEALTH HISTORY</b> Driver completes this section, but medical examiner is encouraged to discuss with driver.		<table border="0"> <tr> <td> <input type="checkbox"/> Any illness or injury in the last 5 years?  <input checked="" type="checkbox"/> Head/Brain injuries, disorders or illnesses  <input checked="" type="checkbox"/> Seizures, epilepsy  <input type="checkbox"/> medication </td> <td> <input type="checkbox"/> Lung disease, emphysema, asthma, chronic bronchitis  <input checked="" type="checkbox"/> Kidney disease, dialysis  <input checked="" type="checkbox"/> Liver disease  <input checked="" type="checkbox"/> Digestive problems  <input checked="" type="checkbox"/> Diabetes or elevated blood sugar controlled by:  <input checked="" type="checkbox"/> diet  <input type="checkbox"/> pills  <input type="checkbox"/> insulin  <input type="checkbox"/> medication </td> <td> <input type="checkbox"/> Fainting, dizziness  <input checked="" type="checkbox"/> Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring  <input type="checkbox"/> Stroke or paralysis  <input checked="" type="checkbox"/> Missing or impaired hand, arm, foot, leg, finger, toe  <input type="checkbox"/> Spinal injury or disease  <input checked="" type="checkbox"/> Chronic low back pain  <input type="checkbox"/> Regular, frequent alcohol use  <input checked="" type="checkbox"/> Narcotic or habit forming drug use </td> </tr> </table>							<input type="checkbox"/> Any illness or injury in the last 5 years? <input checked="" type="checkbox"/> Head/Brain injuries, disorders or illnesses <input checked="" type="checkbox"/> Seizures, epilepsy <input type="checkbox"/> medication	<input type="checkbox"/> Lung disease, emphysema, asthma, chronic bronchitis <input checked="" type="checkbox"/> Kidney disease, dialysis <input checked="" type="checkbox"/> Liver disease <input checked="" type="checkbox"/> Digestive problems <input checked="" type="checkbox"/> Diabetes or elevated blood sugar controlled by: <input checked="" type="checkbox"/> diet <input type="checkbox"/> pills <input type="checkbox"/> insulin <input type="checkbox"/> medication	<input type="checkbox"/> Fainting, dizziness <input checked="" type="checkbox"/> Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring <input type="checkbox"/> Stroke or paralysis <input checked="" type="checkbox"/> Missing or impaired hand, arm, foot, leg, finger, toe <input type="checkbox"/> Spinal injury or disease <input checked="" type="checkbox"/> Chronic low back pain <input type="checkbox"/> Regular, frequent alcohol use <input checked="" type="checkbox"/> Narcotic or habit forming drug use
<input type="checkbox"/> Any illness or injury in the last 5 years? <input checked="" type="checkbox"/> Head/Brain injuries, disorders or illnesses <input checked="" type="checkbox"/> Seizures, epilepsy <input type="checkbox"/> medication	<input type="checkbox"/> Lung disease, emphysema, asthma, chronic bronchitis <input checked="" type="checkbox"/> Kidney disease, dialysis <input checked="" type="checkbox"/> Liver disease <input checked="" type="checkbox"/> Digestive problems <input checked="" type="checkbox"/> Diabetes or elevated blood sugar controlled by: <input checked="" type="checkbox"/> diet <input type="checkbox"/> pills <input type="checkbox"/> insulin <input type="checkbox"/> medication	<input type="checkbox"/> Fainting, dizziness <input checked="" type="checkbox"/> Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring <input type="checkbox"/> Stroke or paralysis <input checked="" type="checkbox"/> Missing or impaired hand, arm, foot, leg, finger, toe <input type="checkbox"/> Spinal injury or disease <input checked="" type="checkbox"/> Chronic low back pain <input type="checkbox"/> Regular, frequent alcohol use <input checked="" type="checkbox"/> Narcotic or habit forming drug use									

For any YES answer, indicate onset date, diagnosis, treating physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.

*See: Rile, Lasigrope HCT 20/25 mg 1 qd, Amitriptyline 10 mg 7 qd, Amitriptyline 10 mg 7 qd, glipizide 10 mg 7 qd*

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate.

Driver's Signature *R. Franks* Date *10-18-10*

Medical Examiner's Comments on Health History (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards medications, including over-the-counter medications, while driving. This discussion must be documented below.)

# TESTING (Medical Examiner completes Section 3 through 7) Name: Last, Frattis First, Richard Middle, D

## 3. **VISION**

Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70 degrees peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

INSTRUCTIONS: When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the driver habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. *Monocular drivers are not qualified.*

Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION
Right Eye	20/	20/20	Right Eye 70°
Left Eye	20/	20/20	Left Eye 70°
Both Eyes	20/	20/15	

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? ☒ Yes ☐ No

Applicant meets visual acuity requirement only when wearing: ☒ Corrective Lenses

Monocular Vision: ☐ Yes ☒ No

## 4. **HEARING** Name of Ophthalmologist or Optometrist (print) \_\_\_\_\_ Tel. No. \_\_\_\_\_ License No./ State of Issue \_\_\_\_\_ Signature \_\_\_\_\_

INSTRUCTIONS: **Standard: a) Must first perceive forced whispered voice ≥ 5 ft., with or without hearing aid, or b) average hearing loss in better ear ≤ 40 dB frequencies tested and divide by 3.** ☐ Check if hearing aid used for tests. ☐ Check if hearing aid required to meet standard.

Numerical readings must be recorded.

a) Record distance from individual at which forced whispered voice can first be heard. b) If audiometer is used, record hearing loss in decibels. (acc. to ANSI Z24.5-1961)

Right ear	10 Feet	Left Ear	10 Feet
-----------	---------	----------	---------

Right Ear	500 Hz	1000 Hz	2000 Hz	500 Hz	1000 Hz	2000 Hz
Average:				Average:		

## 5. **BLOOD PRESSURE/PULSE RATE**

Blood Pressure	Systolic 138	Diastolic 76
----------------	--------------	--------------

Driver qualified if ≤140/90.

Pulse Rate: ☒ Regular ☐ Irregular

Record Pulse Rate: 84

Numerical readings must be recorded. Medical Examiner should take at least two readings to confirm BP.

Reading	Category	Expiration Date	Recertification
140-159/90-99	Stage 1	1 year	1 year if ≤140/90. One-time certificate for 3 months if 141-159/91-99.
160-179/100-109	Stage 2	One-time certificate for 3 months	1 year from date of exam if ≤140/90
≥180/110	Stage 3	6 months from date of exam if ≤140/90	6 months if ≤140/90

## LABORATORY AND OTHER TEST FINDINGS

Analysis is required. Protein, blood or sugar in the urine may be an indication for further testing to any underlying medical problem.

URINE SPECIMEN	SP. GR.	PROTEIN	BLOOD	SUGAR
	1.020	trace	neg	neg

Microalbumin normal at 5.3



STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4590

RECORD REQUEST  
2/14/2011

DLN/ID: [REDACTED] State of Record: NV  
Name: FRATIS, RICHARD DOUGLAS DOB: [REDACTED]  
Sex: MALE Height: 5 feet 9 inches Weight: 300 lbs. Hair: BROWN Eye: BROWN  
Physical Exp Date: 10-18-2011

Mailing Address: [REDACTED]

Physical Address: [REDACTED]

License Listing:

Report Type: 3 Years.

Licn Type	Class	Status	Permit	Issue Date	Exp Date	Restrictions	Endorsements
NCDL	C	SURRENDER	NORMAL	05-07-1998	10-07-2002		
CDL	A	VALID	NORMAL	01-20-2010	10-07-2012	P	PT

Conviction Listing:

Demerit Points: 0

Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
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1

Please print your Driver History report for your records.  
Your transaction confirmation number is 0060691654.

[How To Read Your Driver History](#)

[DMV Home Page - www.dmvnv.com](#)

[Suggestions / Concerns / Comments](#)

[Close Window](#)

# CONCENTRA Medical Centers

## MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Richard D. Fortis in accordance with FMCSR 49 CFR 391.41-391.49 and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

☐ Wearing Corrective Lenses

☐ Wearing Hearing Aid

☐ Accompanied by a \_\_\_\_\_ waiver/exemption

☐ Driving within an exempt intracity zone (49 CFR 391.62)

☐ Accompanied by a Skill Performance Evaluation Certificate

☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete exam form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER

TELEPHONE NO.

DATE

10/18/11

MEDICAL EXAMINER'S NAME (print)

Kandice Schultz ARNP-BC  
Occupational Health Provider

☐ MD

☐ DO

☐ Chiropractor

☒ Advanced  
Practice Nurse

☐ Physician's Assistant

MEDICAL EXAMINER'S LICENSE  
OR CERTIFICATE NO. / ISSUING STATE

APND01245 + NV

DRIVER'S LICENSE NO.

STATE

SIGNATURE OF DRIVER

ADDRESS (Street, City, State, Zip Code)

MED. CERT. EXPIRATION DATE

10/18/12

vehicle in accordance with 49 CFR 391.41 (a)

CMC DOT CARD

# CONCENTRA MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Richard D. Fratis in accordance with FMVSS 49 CFR 391.41-391.49 and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

☐ Wearing Corrective Lenses

☐ Wearing Hearing Aid

☐ Accompanied by a \_\_\_\_\_ waiver/exemption

☐ Driving within an exempt intracity zone (49 CFR 391.62)

☐ Accompanied by a Skill Performance Evaluation Certificate

☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete exam form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER

TELEPHONE NO.

DATE

MEDICAL EXAMINER'S NAME (print)

Kandice Schultz ARNP-BC  
Occupational Health Provider

☐ MD

☐ DO

☐ Chiropractor

☒ Advanced Practice Nurse

☐ Physician's Assistant

MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE

AP10012454-NJ

DRIVER'S LICENSE NO.

STATE

SIGNATURE OF DRIVER

MED. CERT. EXPIRATION DATE

DRIVER'S ADDRESS (Street, City, State, Zip Code)

87006 10/18/12

DRIVER MUST carry a copy of this certificate when operating a commercial motor vehicle in accordance with 49 CFR 391.41 (a)

CARD GUARD



3488 Goni Road CARSON CITY, NV 89706  
Phone: (775) 887-5030 Fax: (775) 887-5040

SSN: 565-11-4004

<b>1. DRIVER'S INFORMATION</b>		Driver completes this section					
Driver's Name (Last, First, Middle) Fratris, Richard D.		Social Security No. [REDACTED]	Birth Date [REDACTED]	Age [REDACTED]	Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input type="checkbox"/> New Certification <input type="checkbox"/> Recertification <input type="checkbox"/> Follow Up	Date of Exam 10/18/2011
Address: [REDACTED]	City, State, ZIP Code CARSON CITY, NV 89705	Work Tel: [REDACTED]	Driver's License No. [REDACTED]		License Class <input type="checkbox"/> A <input type="checkbox"/> C <input type="checkbox"/> B <input type="checkbox"/> D <input type="checkbox"/> Other	State of Issue	
<b>2. HEALTH HISTORY</b>		Driver completes this section, but medical examiner is encouraged to discuss with driver.					
<p><b>Yes No</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Any illness or injury in last 5 years?</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Head/Brain Injuries, disorders or illnesses</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Seizures, epilepsy - If Yes, list medications: _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Eye disorders or impaired vision (except corrective lenses)</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Ear disorders, loss of hearing or balance</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Heart disease or heart attack; other cardiovascular condition If Yes, list medications: _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Heart surgery (valve replacement/bypass, angioplasty, pacemaker)</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> High blood pressure - If Yes, list medications: _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Muscular disease</p>		<p><b>Yes No</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Shortness of breath</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Lung disease, amphysema, asthma, chronic bronchitis</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Kidney disease, dialysis</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Liver disease</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Digestive problems</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Diabetes or elevated blood sugar controlled by: <input type="checkbox"/> diet <input checked="" type="checkbox"/> pills <input type="checkbox"/> insulin</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Nervous or psychiatric disorders, e.g., severe depression If Yes, list medications: _____</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Loss of, or altered consciousness</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Surgery</p>		<p><b>Yes No</b></p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Fainting, dizziness</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Sleep disorders, pauses in breathing while asleep, daytime sleepiness, loud snoring</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Stroke or paralysis</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Missing or impaired hand, arm, foot, leg, finger, toe</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Spinal injury or disease</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Chronic low back pain</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Regular, frequent alcohol use</p> <p><input type="checkbox"/> <input checked="" type="checkbox"/> Narcotic or habit forming drug use</p>			
<p>For any YES answer, indicate onset date, diagnosis, treating physician's name and address, and any current limitation. List all medications (including over-the-counter medications) used regularly or recently.</p> <p style="font-size: 1.2em; font-family: cursive;">Diabetes/Neuropathy/Peripheral in Feet / Dr. Lyons Carson City</p>							

I certify that the above information is complete and true. I understand that inaccurate, false or missing information may invalidate the examination and my Medical Examiner's Certificate. I authorize Concentra Health Services Inc., its subsidiaries, divisions and related entities (collectively "Concentra") to provide all or any of my medical records to my employer and release Concentra, its employees, physicians, nurses, technicians and any other employee from any and all liabilities, claims, or causes of action that may result from this authorization.

**Medical Examiner's Comments on Health History** (The medical examiner must review and discuss with the driver any "yes" answers and potential hazards of medications, including over-the-counter medications, while driving. This discussion must be documented below.)

**3. VISION** Standard: At least 20/40 acuity (Snellen) in each eye with or without correction. At least 70° peripheral in horizontal meridian measured in each eye. The use of corrective lenses should be noted on the Medical Examiner's Certificate.

**INSTRUCTIONS:** When other than the Snellen chart is used, give test results in Snellen-comparable values. In recording distance vision, use 20 feet as normal. Report visual acuity as a ratio with 20 as numerator and the smallest type read at 20 feet as denominator. If the applicant wears corrective lenses, these should be worn while visual acuity is being tested. If the driver habitually wears contact lenses, or intends to do so while driving, sufficient evidence of good tolerance and adaptation to their use must be obvious. **Monocular drivers are not qualified.** Numerical readings must be provided.

ACUITY	UNCORRECTED	CORRECTED	HORIZONTAL FIELD OF VISION
Right Eye	20/ 20	20/	Right Eye 90
Left Eye	20/ 20	20/	Left Eye 90
Both Eyes	20/ 20	20/	

Applicant can recognize and distinguish among traffic control signals and devices showing standard red, green, and amber colors? ☐ Yes ☒ No

Applicant meets visual acuity requirement only when wearing: ☒ Corrective Lenses

Monocular Vision: ☐ Yes ☐ No

Complete next line only if vision testing is done by an ophthalmologist or optometrist

Date of Examination	Name of Ophthalmologist or Optometrist (Print)	Tel No.	License No/State of Issue	Signature
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4. **HEARING** Standard: a) Must first perceive forced whispered voice  $\geq 5$  ft., with or without hearing aid, or b) average hearing loss in better ear  $\leq 40$  dB  
☐ Check if hearing aid used for tests ☐ Check if hearing aid required to meet standard.

**INSTRUCTIONS:** To convert audiometric test results from ISO to ANSI, -14 dB from ISO for 500Hz, -10 dB for 1,000Hz, -8.5 dB for 2,000Hz.  
To average, add the readings for 3 frequencies tested and divide by 3.

Numerical reading must be recorded.

a) Record distance from individual at which forced whispered voice can first be heard.

a) Record distance from individual at which forced whispered voice can first be heard.	Right Ear 5 Feet	Left Ear 5 Feet
--	---------------------	--------------------

b) If audiometer is used, record hearing loss in decibels.  
(acc. to ANSI Z24.5-1951)

Right Ear			Left Ear		
500 Hz	1000 Hz	2000 Hz	500 Hz	1000 Hz	2000 Hz
Average:			Average:		

**5. BLOOD PRESSURE / PULSE RATE** Numerical readings must be recorded. *Medical examiner should take at least 2 readings to confirm blood pressure.*

Blood Pressure	Systolic 138	Diastolic 78
Driver qualified if <= 140/90.		
Pulse Rate:	<input checked="" type="checkbox"/> Regular	<input type="checkbox"/> Irregular
Record Pulse Rate:	160	
Is post exercise required?		
<input type="checkbox"/> Yes <input type="checkbox"/> No		
Pulse Rate after 2 mins exercise _____ bpm		
Exercise Type _____		

<u>Reading</u>	<u>Category</u>	<u>Expiration Date</u>	<u>Recertification</u>
140-159/90-99	Stage 1	1 year	1 year if <= 140/90 One-time certificate for 3 months if 141-159/91-99
160-179/100-109	Stage 2	One-time certificate for 3 months	1 year from date of exam if <= 140/90
>= 180/110	Stage 3	Disqualified 6 months from date of exam if <= 140/90	6 months if <= 140/90

# Concentra Medical Centers

3488 Goni Road CARSON CITY, NV 89706  
Phone: (775) 887-5030 Fax: (775) 887-5040

Service Date: 10/18/2011  
Patient Name: Fratis, Richard D.  
SSN: 565-11-4004

## Medical Examination Report FOR COMMERCIAL DRIVER FITNESS DETERMINATION

### 6. LABORATORY AND OTHER TEST FINDINGS

Numerical reading must be recorded.

Urinalysis is required. Protein, blood or sugar in the urine may be an indication for further testing to rule out any underlying medical problem.

Other Testing (Describe and record)

URINE SPECIMEN	SP. GR	PROTEIN	BLOOD	SUGAR
	1030	neg	neg	neg

long stick 238

### 7. PHYSICAL EXAMINATION

Height 67 (in.) Weight 310 (lbs) BMI 48

The presence of a certain condition may not necessarily disqualify a driver, particularly if the condition is controlled adequately, is not likely to worsen or is readily amenable to treatment. Even if a condition does not disqualify a driver, the medical examiner may consider deferring the driver temporarily. Also, the driver should be advised to take the necessary steps to correct the condition as soon as possible particularly if the condition, if neglected, could result in more serious illness that might affect driving.

Check YES if there are any abnormalities. Check NO if the body system is normal. Discuss any YES answers in detail in the space below, and indicate whether it would affect the driver's ability to operate a commercial motor vehicle safely. Enter applicable item number below each comment. If organic disease is present, note that it has been compensated for.

See Instructions To The Medical Examiner for guidance.

BODY SYSTEM	CHECK FOR:	YES	NO	BODY SYSTEM	CHECK FOR:	YES	NO
1. General Appearance	Marked overweight, tremor, signs of alcoholism, problem drinking, or drug abuse.		<input checked="" type="checkbox"/>	7. Abdomen and Viscera	Enlarged liver, enlarged spleen, masses, bruits, hernia, significant abdominal wall muscle weakness.		<input checked="" type="checkbox"/>
2. Eyes	Pupillary equality, reaction to light, accommodation, ocular motility, ocular muscle imbalance, extraocular movement, nystagmus, exophthalmos. Ask about retinopathy, cataracts, aphakia, glaucoma, macular degeneration and refer to a specialist if appropriate.		<input checked="" type="checkbox"/>	8. Vascular	Abnormal pulse and amplitude, carotid or arterial bruits, varicose veins.		<input checked="" type="checkbox"/>
3. Ears	Scarring of tympanic membrane, occlusion of external canal, perforated eardrums.		<input checked="" type="checkbox"/>	9. Genito-urinary	Hernias.		<input checked="" type="checkbox"/>
4. Mouth and Throat	Irreparable deformities likely to interfere with breathing or swallowing		<input checked="" type="checkbox"/>	10. Extremities - Limb	Loss or impairment of leg, foot, toe, arm, hand, finger. Perceptible limp, deformities, atrophy, weakness, paralysis, clubbing, edema, hypotonia. Insufficient grasp and prehension in upper limb to maintain steering wheel grip. Insufficient mobility and strength in lower limb to operate pedals properly.		<input checked="" type="checkbox"/>
5. Heart	Murmurs, extra sounds, enlarged heart, pacemaker, implantable defibrillator.		<input checked="" type="checkbox"/>	11. Spine, other musculoskeletal	Previous surgery, deformities, limitation of motion, tenderness.		<input checked="" type="checkbox"/>
6. Lungs and chest, not including breast examination	Abnormal chest wall expansion, abnormal respiratory rate, abnormal breath sounds including wheezes or alveolar rales, impaired respiratory function, dyspnea, cyanosis. Abnormal findings on physical exam may require further testing such as pulmonary tests and/or x-ray of chest.		<input checked="" type="checkbox"/>	12. Neurological	Impaired equilibrium, coordination or speech pattern; paresthesia, asymmetric deep tendon reflexes, sensory or positional abnormalities, abnormal patellar and Babinski's reflexes, ataxia.		<input checked="" type="checkbox"/>

\* COMMENTS: (explain all YES answers): 710 w/ Primary Regarded elevated B.S. may need to refrain from medication.

Note certification status here. See Instructions to the Medical Examiner for guidance.

- ☐ Meets standards in 49 CFR 391.41; qualifies for 2 year certificate  
☐ Does not meet standards  
☐ Meets standards, but periodic evaluation required.

Due to DM & Sleep driver qualified only for:

- ☐ 3 months ☐ 6 months ☒ 1 year  
☐ Other

☐ Temporarily disqualified due to (condition or medication):

Return to medical examiner's office for follow up on

- ☐ Wearing corrective lenses  
☐ Wearing hearing aid  
☐ Accompanied by a \_\_\_\_\_ waiver/exemption. Driver must present exemption at time of certification.  
☐ Skill Performance Evaluation (SPE) Certificate  
☐ Driving within an exempt intracity zone. (See 49 CFR 391.62)  
☐ Qualified by operation of 49 CFR 391.64

Medical Examiner's Signature \_\_\_\_\_

Medical Examiner's Name (print) \_\_\_\_\_

Address 3488 Goni Road CARSON CITY, NV 89706

Telephone Number (775)887-5030

If meets standards, complete a Medical Examiner's Certificate according to 49 CFR 391.43(h). (Driver must carry certificate when operating a commercial vehicle.)

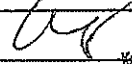
### MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Fratis, Richard D. in accordance with the Federal Motor Carrier

Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☐ wearing corrective lenses ☐ driving within an exempt intracity zone (49 CFR 391.62)  
☐ wearing hearing aid ☐ accompanied by a Skill Performance Evaluation Certificate (SPE)  
☐ accompanied by a \_\_\_\_\_ waiver/exemption ☐ Qualified by operation of 49 CFR 391.64

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER	TELEPHONE	DATE
	(775)887-5030	10/18/2011
MEDICAL EXAMINER'S NAME (PRINT)	<input type="checkbox"/> MD <input type="checkbox"/> DO	<input type="checkbox"/> Chiropractor
Kandice Schultz ARNP-BC Occupational Health Provider	<input type="checkbox"/> Physician Assistant	<input checked="" type="checkbox"/> Advance Practice Nurse
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO.	ISSUING STATE	
AN001245	NV	
SIGNATURE OF DRIVER	DRIVER'S LICENSE NO.	STATE

ADDRESS OF DRIVER

1174 Mountain Park Dr CARSON CITY, NV 89706

MEDICAL CERTIFICATE EXPIRATION DATE

10/18/2012





STATE OF NEVADA  
DEPARTMENT OF MOTOR VEHICLES  
MOTOR VEHICLE BRANCH  
555 WRIGHT WAY  
CARSON CITY, NEVADA 89711-0400  
(775) 684-4368

RECORD REQUEST  
04-02-2013

DLN/ID [REDACTED]

State Of Record: NV

Name: FRATIS, RICHARD DOUGLAS

DOB: [REDACTED]

Sex: MALE

Height: 5 feet 09 inches

Weight: 300 lbs.

Hair: BROWN

Eye: BROWN

Medical Certificate Expiry Date: N/A

Certificate Status: N/A

Self Certification: NONE

Mailing Address:

[REDACTED]

Physical Address:

[REDACTED]

License Listing:

Report Type: 3 Years

	Licn Type	Class	Status	Permit	Issue Date	Exp Date	Endorsements
1	CDL	A	VALID	NORMAL	10-03-2012	10-07-2016	PT
Restriction Details: P - Phys exam every 2 yrs							
2	NCDL	C	SURRENDER	NORMAL	05-07-1998	10-07-2002	
Restriction Details: N/A							

Conviction Listing:

Demerit Points:

	Cite Date	Conv Date	State	Court	Viol Code	Off Ty	CMV Off	Haz Mat	Citation Number
1	NO CONVICTIONS ON FILE								

4/2/13

*Barry Lowless*

### Work Permit

Carson City Sheriff's Office, Carson City, Nevada  
Ken Furlong, Sheriff

Name: FRATIS, RICHARD D

MNI: [REDACTED]

D.O.B: [REDACTED] Hgt: 5-09 Wgt: 300

Hair Color: BRO Eye Color: BRO

Employer:



**WORK PERMIT RENEWAL**

Date Issued: 01-28-2013 Expires: 01-28-2016

ALL WRITTEN OR PRINTED INFORMATION MUST BE LEGIBLE  
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(800) 927-6868 • www.jjkeller.com • Printed in the United States

651-FS-L2

### MEDICAL EXAMINER'S CERTIFICATE

I certify that I have examined Richard Fratis in accordance with the Federal Motor Carrier Safety Regulations (49 CFR 391.41-391.49) and with knowledge of the driving duties, I find this person is qualified; and, if applicable, only when:

- ☒ wearing corrective lenses  
☐ wearing hearing aid  
☐ accompanied by a \_\_\_\_\_ waiver/exemption
- ☐ driving within an exempt intracity zone (49 CFR 391.62)  
☐ accompanied by a Skill Performance Evaluation Certificate (SPE)  
☐ qualified by operation of 49 CFR 391.54

The information I have provided regarding this physical examination is true and complete. A complete examination form with any attachment embodies my findings completely and correctly, and is on file in my office.

SIGNATURE OF MEDICAL EXAMINER		TELEPHONE	DATE
<u>[Signature]</u>		<u>[Redacted]</u>	<u>1-30-13</u>
MEDICAL EXAMINER'S NAME (PRINT)			
<u>Laurel, Capurro</u>			
MEDICAL EXAMINER'S LICENSE OR CERTIFICATE NO. / ISSUING STATE			
<u>APN 081315 NV</u>			
SIGNATURE OF DRIVER		DRIVER'S LICENSE NO.	STATE
<u>Richard Fratis</u>		<u>[Redacted]</u>	<u>NV</u>
ADDRESS OF DRIVER			
<u>[Redacted]</u>			
<u>1-30-15</u>			

DISTRIBUTION: 1 COPY TO THE DRIVER, 1 COPY TO THE MOTOR CARRIER

CERTIFICATE OF SERVICE

I certify that on June 19, 2020 I served a copy of the foregoing JOINT APPENDIX VOLUME 1 OF III upon all counsel of record by ECF system which served all parties electronically.

Dated this 19th Day of June, 2020

*/s/ LEON GREENBERG*

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Leon Greenberg