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Elizabeth A. Brown  
Clerk of Supreme Court

NOAS

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Nevada Bar No. 9184

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Attorneys for

A Cab Series, LLC, Administration Company

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY, a Nevada corporation,

Plaintiff,

v.

MICHAEL MURRAY, an Individual, as a class  
representative, MICHAEL RENO, an  
Individual, as a class representative, WELLS  
FARGO BANK NA, a National Banking  
Association; DOES 1-100, and ROE BUSINESS  
ENTITIES I through C, inclusive,

Defendants.

Case No. : A-19-792961-C

Dept. No.: XIV

**A CAB SERIES, LLC, ADMINISTRATION COMPANY'S NOTICE OF APPEAL**

Please take notice that Plaintiff A Cab Series, LLC, Administration Company, by and through their attorney of record, Jay A. Shafer, Esq., and the law firm of CORY READE DOWS AND SHAFER and hereby appeals to the Nevada Supreme Court from the following orders:

- 1) Order Granting Defendants Murray And Reno's Motion For Judgment On The Pleadings Pursuant To NRCP 12(C) And Denying Defendants Murray And Reno's Motion For Sanctions Pursuant To NRCP 11(C) entered on January 4, 2021.<sup>1</sup>

<sup>1</sup> See Notice of Entry of Order Granting Defendants Murray And Reno's Motion For Judgment On The Pleadings Pursuant To NRCP 12(C) And Denying Defendants Murray And Reno's Motion For Sanctions Pursuant To NRCP 11(C) entered on January 4, 2021, attached as Exhibit "I". This was not a final judgment.



**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28<sup>th</sup> day of March, 2022, I served a copy of the foregoing CASE APPEAL STATEMENT in the following manner upon the parties so indicated therein as having received service in accordance herewith:

- **NEFCR System upon the following Parties in accordance with NEFCR 9 and 13:**

Leon Greenberg, Esq. Leon Greenberg Professional Corporation 2965 S. Jones Blvd., Suite E3 Las Vegas, Nevada 89146 <a href="mailto:leongreenberg@overtimelaw.com">leongreenberg@overtimelaw.com</a> Attorneys for Defendants MURRAY and RENO	Kelly H. Dove, Esq. Snell & Wilmer L.L.P. 3883 Howard Hughes Pkwy. Suite 110 Las Vegas, Nevada 89169 <a href="mailto:kdove@swlaw.com">kdove@swlaw.com</a> Attorneys for Defendant Wells Fargo NA
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**First-Class United States mail, postage fully prepaid upon the following Parties who are not registered users in accordance with NEFCR 9(d) a sealed envelope, postage prepaid to the following counsel and/or parties to this matter:**

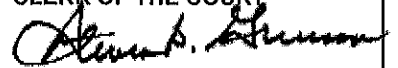
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- ☐ **Personal Service upon the following users or their Counsel:**
- ☐ **By direct email upon the following Parties, for whom I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.**
- ☐ **By fax or other electronic transmission in accordance with NRCP 5(D) upon the following Parties, for which proof of successful transmission is attached hereto:**

\_\_\_\_\_  
An employee of CORY READE DOWS &  
SHAFFER

# **EXHIBIT 1**

# **EXHIBIT 1**



1 NEO

2 LEON GREENBERG, ESQ., SBN 8094  
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10 Attorneys for Defendants  
11 MURRAY and RENO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 A CAB SERIES, LLC,  
13 ADMINISTRATION COMPANY,

14 Plaintiffs,

15 vs.

16 MICHAEL MURRAY, MICHAEL  
17 RENO, WELLS FARGO BANK NA,  
18 DOES 1-100 and ROE BUSINESS  
19 ENTITIES I through C,

20 Defendants.

Case No.: A-19-792961-C

Dept.: 14

**NOTICE OF ENTRY OF  
ORDER**

21 PLEASE TAKE NOTICE that the annexed Order of the Court is served this date  
22 with notice of its entry.

23 Dated: January 20, 2021

24 LEON GREENBERG PROFESSIONAL CORP.

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

CERTIFICATE OF SERVICE

The undersigned certifies that on January 20, 2021, he served the within:  
ORDER WITH NOTICE OF ENTRY

by court electronic service to:

JAY A. SHAFER, ESQ.  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128

/s/ Leon Greenberg  
Leon Greenberg

1 **ORDR**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 A CAB SERIES, LLC, Administration  
6 Company,

7 Plaintiff(s),

8 vs.

9 MICHAEL MURRAY; MICHAEL RENO;  
10 WELLS FARGO BANK, NA; DOES 1-100;  
and ROE BUSINESS ENTITIES I through C,

11 Defendant(s).

CASE NO.: A-19-792961-C  
DEPT. NO.: XIV (14)

12  
13 **ORDER GRANTING DEFENDANTS MURRAY AND RENO'S MOTION FOR**  
14 **JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) AND DENYING**  
15 **DEFENDANTS MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT**  
16 **TO NRCP 11(C)**

17 Defendants Michael Murray and Michael Reno's Motion for Judgment on the  
18 Pleadings Pursuant to NRCP 12(c) and Motion for Sanctions Pursuant to NRCP 11(c)  
19 The motions of defendants Michael Murray and Michael Reno to dismiss the  
20 Plaintiff's complaint pursuant to NRCP Rule 12 and for sanctions pursuant to NRCP  
21 Rule 11 came on for Chambers Calendar before Department 14 of the Eighth Judicial  
22 District Court, the Honorable Adriana Escobar presiding, on September 2, 2020. This  
23 Court hereby finds and Orders as follows:

24 **Motion for Judgment**

25 "After the pleadings are closed—but early enough not to delay trial—a party  
26 may move for judgment on the pleadings." NRCP 12(c). A district court may grant a

1 motion for judgment on the pleadings when the material facts of the case are not in  
2 dispute and the movant is entitled to judgment as a matter of law. *Perry v. Terrible*  
3 *Herbst, Inc.*, 132 Nev. 767, 769 (2016); see also *Duff v. Lewis*, 114 Nev. 564, 568  
4 (1998) ("a motion under NRCP 12(c) is designed to provide a means of disposing of  
5 cases when material facts are not in dispute and a judgment on the merits can be  
6 achieved by focusing on the content of the pleadings.") (quotations omitted). "[A]  
7 defendant will not succeed on a motion under Rule 12(c) if there are allegations in the  
8 plaintiff's pleadings that, if proved, would permit recovery." *Duff*, 114 Nev. 564, 568.  
9 An NRCP 12(c) motion for judgment on the pleadings "has utility only when all  
10 material allegations of fact are admitted in the pleadings and only questions of law  
11 remain." *Id.*

12 Because a motion for judgment on the pleadings is functionally identical to a  
13 motion to dismiss for failure to state a claim, the same standard of review applies to  
14 motions brought under either rule. *Curb Mobility, LLC v. Kaptyn, Inc.*, 434 F. Supp.  
15 3d 854, 857 (D. Nev. 2020).

### 16 ***Issue Preclusion***

17 Issue preclusion bars the successive litigation of an issue of fact or law  
18 actually litigated and resolved in a valid court determination essential to the prior  
19 judgment, even if the issue recurs in the context of a different claim. *Paulos v.*  
20 *FCH1, LLC*, 136 Nev. 18, 23 (2020). Thus, issue preclusion will apply to prevent the  
21 relitigation of matters that parties have had a full and fair opportunity to litigate. *Id.*  
22 Issue preclusion is proper where the following four elements are met:

- 23 1) Same issue the issue decided in the prior litigation  
24 must be identical to the issue presented in the current  
25 action;
- 26 2) Final adjudication the merits the initial ruling must have  
27 been on the merits and have become final;



- 1           3) Same parties or their privies the party against whom  
2           the judgment is asserted must have been a party or in  
3           privity with a party to the prior litigation  
4           4) Actually and necessarily litigated the issue was  
5           actually and necessarily litigated.

6           *Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 258 (2014).

7           Availability of issue preclusion is a mixed question of law and fact, in which  
8           legal issues predominate and, once it is determined to be available, the actual  
9           decision to apply it is left to the discretion of the tribunal in which it is invoked.  
10          *Redrock Valley Ranch, LLC v. Washoe Cty.*, 127 Nev. 451, 460 (2011).

11          On August 12, 2018, in a separate class action lawsuit, *Murray v. A Cab Taxi*  
12          *Service, LLC et al*, A-12-669926-C, Judge Cory entered a judgment against A Cab,  
13          LLC for \$1,000,000 in unpaid premium wages in favor of 890 class members that  
14          were taxi driver employees [hereinafter, the "Murray Action"]. Plaintiff brings causes  
15          of action for declaratory relief, injunction, and breach of contract against Wells Fargo.  
16          Primarily, Plaintiff seeks a judgment that funds taken by Defendants, as class  
17          representatives, was Plaintiff s property, and that Plaintiff is a separate entity from the  
18          judgment debtor and not subject to execution.

19          ***The same issues***

20          For issue preclusion to attach, the issue decided in the prior proceeding must  
21          be identical to the issue presented in the current proceeding. *Alcantara*, 130 Nev.  
22          252, 259. In the prior Murray Action, the Defendant(s) there moved to quash a writ of  
23          execution on Wells Fargo. In its Order Denying the Motion to Quash Writ of  
24          Execution, the ultimate issue presented was whether Wells Fargo was subject to the  
25          writ. Order Denying Defendants Motion to Quash Writ of Execution, *Murray*, No. A-  
26          12-669926-C (Dec. 18, 2018), Exhibit B (Murray and Reno's Motion). The Murray  
27          Court Plaintiffs' writ of execution resulted in Wells Fargo placing a hold on

1 \$233,619.56 maintained in six different bank accounts, each having a different name  
2 that began with A Cab Series LLC. *Id.* All six of those accounts were identified by  
3 Wells Fargo under the same IRS Employer Identification Number (EIN). *Id.*  
4 Defendant brought the motion to quash on the ground that those accounts were the  
5 property of six legally separate entities, each such entity being a separate series LLC  
6 issued by the judgment debtor, A Cab LLC, as per NRS 86.296. *Id.* Notably, Plaintiff  
7 in the instant case was alleged to be one of the six legally separate entities. *Id.* at  
8 n.1.

9 In its Order Denying Defendant(s) Motion to Quash Writ of Execution, the  
10 Murray Court made multiple, but separate findings, and made clear that each finding  
11 would provide a basis for its denial of the Motion to Quash. Specifically, each finding  
12 was "intended, either on their own or in conjunction, to provide a proper basis for the  
13 Court's decision." *Id.* The Murray Court denied the Motion to Quash finding that  
14 Defendant A Cab LLC lacked standing and the other Series LLCs had not made an  
15 appearance. Relevant here, the Murray Court made a specific finding that the Wells  
16 Fargo funds are properly levied upon by the judgment, explaining that an allegedly  
17 legally independent series LLC entity paying its own employees separate from A Cab  
18 LLC's funds "would have to secure its own unique, EIN number, and process its  
19 payroll with the IRS under such number and not under A Cab LLC's EIN number." *Id.*

20 The Murray Court additionally found that there was no evidence that the  
21 independent series LLCs exist, or if they exist, they have not complied with the asset  
22 shielding provisions of NRS 68.696(3). *Id.* The Murray court explained under  
23 Nevada law, none of the alleged series LLCs had been created, and if they were,  
24 there was no evidence supporting that their obligations were limited with respect to A  
25 Cab LLC. "Specifically, [t]he Court finds that even if the six alleged series LLCs have  
26 been created, they have not complied with NRS 86.296(3) and have never adopted

1 the liability limitations available to series LLCs under that statute.” *Id.* And  
2 importantly, the Murray Court found that the “six Series LLCs in the Murray Action  
3 failed to show any basis in the Motion to Quash to conclude they have, in respect to  
4 the Wells Fargo accounts and any other assets they are alleged to possess,  
5 accounted for such assets separately from the other assets of the judgment debtor A  
6 Cab LLC as required by NRS 86.296(3) to invoke the statute’s liability limitations.” *Id.*

7 The issues in the Murray Action and instant action are the same—whether  
8 funds subject to the writ of execution on Wells Fargo was the separate property of the  
9 alleged series LLCs, including Plaintiff. “Issue preclusion cannot be avoided by  
10 attempting to raise a new legal or factual argument that involves the same ultimate  
11 issue previously decided in the prior case.” *Alcantara*, 130 Nev. 252, 259. The  
12 Murray Court specifically analyzed and made findings that Plaintiff was not created,  
13 that even if Plaintiff exists, Plaintiff is not subject to limiting its liability from that of the  
14 judgment debtor, and that the funds in the account are that of judgment debtor. This  
15 Court rejects the argument by Plaintiff that the Murray Court must have conducted an  
16 evidentiary hearing on these issues for issue preclusion to apply. Those issues are  
17 the same issues that Plaintiff now asks this Court to address.

18 ***The same parties or their privies***

19 Issue preclusion can only be used against a party whose due process rights  
20 have been met by virtue of that party having been a party or in privity with a party in  
21 the prior litigation. *Alcantara*, 130 Nev. 252, 260. The Nevada Supreme Court has  
22 recognized that “privity does not lend itself to a neat definition, thus determining  
23 privity for preclusion purposes requires a close examination of the facts and  
24 circumstances of each case.” *Mendenhall v. Tassinari*, 133 Nev. 614, 619 (2017).

25 Here, Plaintiff’s argument that it was a not party to the Murray Action, and thus  
26 issue preclusion does not apply, lacks merit. Plaintiff is in privity with defendants

1 from the Murray Action. "[T]he record demonstrates a substantial identity between  
2 the parties." *Mendenhall*, 133 Nev. 614, 619. Plaintiff does not point to anything in  
3 the pleadings supporting that Plaintiff is not in privity with the judgment debtor.

4 ***Final Adjudication on the Merits***

5 The Murray Court's Order Denying Defendants Motion to Quash Writ of  
6 Execution, which was adjudicated on the merits, addressed the same issues Plaintiff  
7 makes in the instant motion, with the Murray Court finding the funds in the six Wells  
8 Fargo accounts were not immune to execution as they were assets of the judgment  
9 debtor.

10 ***Actually and Necessarily Litigated***

11 When an issue is properly raised and is submitted for determination, the  
12 issue is "actually litigated" for purposes of applying issue preclusion. *Alcantara*, 130  
13 Nev. 252, 263. Whether the issue was necessarily litigated turns on whether the  
14 common issue was necessary to the judgment in the earlier suit. *Id.*

15 Here, the issues of Plaintiff's existence as a separate legal entity from  
16 judgment debtor and whether the funds in the Wells Fargo account belonged to  
17 series LLCs, and thus, separate from the judgment debtor were a common issue  
18 necessary to the Order Denying Defendants Motion to Quash Writ of Execution in the  
19 Murray Action. Based on the foregoing, issue preclusion applies and Plaintiff cannot  
20 bring the instant action. Even if the allegations contained in Plaintiff complaint are  
21 true, recovery would not be permitted. Thus, Plaintiff fails to state any claims for  
22 relief.

23 ***Subject Matter Jurisdiction***

24 Defendants also contend that this Court does not have subject matter  
25 jurisdiction over the instant complaint because Plaintiff seeks to have funds returned  
26 that are subject to the exclusive jurisdiction of the Murray Action. Plaintiff contends

1 that this Court has jurisdiction because Plaintiff also seeks a determination that it is a  
2 separate entity from the Murray Court Judgment Debtor, created under NRS 86.296,  
3 and is a sole and separate entity from A Cab Series LLC. Plaintiff further asserts that  
4 its claim for injunctive relief is defensive in nature and does not seek an active  
5 distribution of the funds, but rather a preservation of the funds until the declaratory  
6 relief can be addressed.

7 Based on the above analysis regarding issue preclusion, any argument  
8 Plaintiff makes that asks this Court to make a determination (1) as to Plaintiff's status  
9 as a separate entity or (2) the ownership of the funds in the Wells Fargo accounts, is  
10 precluded. Moreover, these arguments were directly addressed by the Murray Court.  
11 Plaintiff cannot seek to bypass the rulings of the Murray Court by a filing a complaint  
12 in a separate case.

13 Moreover, the Murray Court specifically ordered that class counsel only  
14 release such monies as specified by a further Order of this Court in that case. Order  
15 Granting Summary Judgment, Severing Claims, and Directing Entry of Final  
16 Judgment, Murray v. A Cab Taxi Service LLC, No. A-12-669926-C (Dec. 18, 2018),  
17 Exhibit A (Murray and Reno's Motion). Any decision regarding the outcome of the  
18 money obtained from the Wells Fargo accounts, including any challenge regarding  
19 the Murray Court's determination that the accounts are not the property of Plaintiff,  
20 must come from the Murray Court.

21 Based on the foregoing, the Court **GRANTS** Murray and Reno's Motion and  
22 dismisses Plaintiff's complaint as to Defendants Murray and Reno with prejudice.

23 **Defendants' Motion for Sanctions**

24 NRCP 11(b) provides:

25 By presenting to the court a pleading, written motion, or other  
26 paper--whether by signing, filing, submitting, or later  
advocating it--an attorney or unrepresented party certifies that

1 to the best of the person's knowledge, information, and belief,  
formed after an inquiry reasonable under the circumstances:

2 (1) it is not being presented for any improper purpose, such  
3 as to harass, cause unnecessary delay, or needlessly  
increase the cost of litigation;

4 (2) the claims, defenses, and other legal contentions are  
5 warranted by existing law or by a nonfrivolous argument for  
6 extending, modifying, or reversing existing law or for  
establishing new law;

7 (3) the factual contentions have evidentiary support or, if  
8 specifically so identified, will likely have evidentiary support  
after a reasonable opportunity for further investigation or  
discovery; and

9 (4) the denials of factual contentions are warranted on the  
10 evidence or, if specifically so identified, are reasonably based  
on belief or a lack of information.

11 If the Court determines that Rule 11(b) has been violated, the Court has the  
12 discretion to impose an appropriate sanction. NRCP 11(c)(1).

13 Plaintiff's complaint was not warranted as the issues raised are precluded  
14 under the doctrine of collateral estoppel. See *Elyousef v. O Reilly & Ferrario, LLC*,  
15 126 Nev. 441, 445 (2010) (providing that under the doctrine of collateral estoppel, if  
16 an issue of fact or law has been actually litigated and determined by a valid and final  
17 ruling, the determination is conclusive in a subsequent action between the parties).  
18 Plaintiff's complaint violates NRCP 11(b)(2) as the Murray Court had already  
19 determined that Plaintiff was not a separate entity as a matter of law, though, the  
20 Court does not find that Plaintiff's instant action was brought for an improper purpose  
21 in violation of NRCP 11(b)(1). The only sanction the Court finds appropriate is  
22 granting Defendants' attorney fees and costs for defending this action. However,  
23 because NRCP 11(b)(5) precludes monetary sanctions for an NRCP 11(b)(2)  
24 violation, and this Court does not find nonmonetary directives proper, this Court  
25 **DENIES** Defendants' Sanction Motion.

26 Accordingly,

**IT IS ORDERED THAT** Defendants' Motion for Judgment on the Pleadings is **GRANTED** and Plaintiff's complaint as to Defendants Murray and Reno is dismissed with prejudice.

**IT IS FURTHER ORDERED THAT Defendants' Motion for Sanctions is DENIED.**

**IT IS SO ORDERED.**

**Dated this 4th day of January, 2021**

G. Emswiler

JUDGE ADRIANA ESCOBAR  
DISTRICT COURT JUDGE

C8B AC7 C9F2 7408  
Adriana Escobar  
District Court Judge

1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 A Cab Series, LLC, Plaintiff(s) | CASE NO: A-19-792961-C  
7 vs. | DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 1/4/2021

15 Jeanne Forrest	jforrest@swlaw.com
16 Sonja Dugan	sdugan@swlaw.com
17 Jay Shafer	JShafer@premierlegalgroup.com
18 Docket Docket	docket_las@swlaw.com
19 Maricris Williams	mawilliams@swlaw.com
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22 Leon Greenberg	leongreenberg@overtimelaw.com
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24 Kelly Dove	kdove@swlaw.com
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26  
27  
28



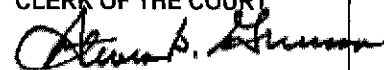
1 If indicated below, a copy of the above mentioned filings were also served by mail  
2 via United States Postal Service, postage prepaid, to the parties listed below at their last  
3 known addresses on 1/5/2021

4 Leon Greenberg

Leon Greenberg PC  
c/o: Leon Greenberg  
2965 S. Jones Blvd. Suite E4  
Las Vegas, NV, 89144

# **EXHIBIT 2**

# **EXHIBIT 2**



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Hayley J. Cummings, Esq.  
Nevada Bar No. 14858  
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hcummings@swlaw.com  
*Attorneys for Defendant Wells Fargo Bank, N.A.*

DISTRICT COURT  
CLARK COUNTY, NEVADA

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY,

Plaintiff,

vs.

MICHAEL MURRAY, an Individual, as a  
class representative, MICHAEL RENO, an  
Individual, as a class representative, WELLS  
FARGO BANK NA, a National Banking  
Association; DOES 1-100, and ROE  
BUSINESS ENTITIES I through C, inclusive,

Defendants.

Case No. A-19-792961-C

Dept. No. XIV

**NOTICE OF ENTRY OF FINDINGS OF  
FACT, CONCLUSIONS OF LAW, AND  
ORDER GRANTING MOTION FOR  
JUDGMENT ON THE PLEADINGS**

///

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///

1 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Order Granting  
2 Motion for Judgment on the Pleadings were entered in the above-captioned matter on February  
3 24, 2022, a copy of which are attached hereto.

4  
5 Dated: February 25, 2022

SNELL & WILMER L.L.P.

6 By: /s/ Kelly H. Dove

7 Kelly H. Dove, Esq.  
8 Nevada Bar No. 10569  
9 Hayley J. Cummings, Esq.  
10 Nevada Bar No. 14858  
11 3883 Howard Hughes Parkway  
12 Suite 1100  
13 Las Vegas, NV 89169  
14 *Attorneys for Defendant Wells Fargo*  
15 *Bank, N.A*

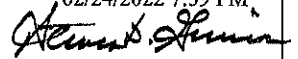
**CERTIFICATE OF SERVICE**

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING MOTION FOR JUDGMENT ON THE PLEADINGS** by method indicated below:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by, a messenger service with which this firm maintains an account, of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.
- ☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

DATED this 25th day of February, 2022.

/s/ Maricris Williams  
An employee of SNELL & WILMER L.L.P.

  
CLERK OF THE COURT

1 Kelly H. Dove, Esq.  
2 Nevada Bar No. 10569  
3 Hayley J. Cummings, Esq.  
4 Nevada Bar No. 14858  
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11 [hcummings@swlaw.com](mailto:hcummings@swlaw.com)

12 *Attorneys for Defendant Wells Fargo Bank, N.A.*

13 **DISTRICT COURT**  
14 **CLARK COUNTY, NEVADA**

15 A CAB SERIES, LLC, ADMINISTRATION  
16 COMPANY,

17 Plaintiff,

18 vs.

19 MICHAEL MURRAY, an Individual, as a  
20 class representative, MICHAEL RENO, an  
21 Individual, as a class representative, WELLS  
22 FARGO BANK NA, a National Banking  
23 Association; DOES 1-100, and ROE  
24 BUSINESS ENTITIES I through C, inclusive,  
25 Defendants.

Case No. A-19-792961-C

Dept. No. XIV

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER GRANTING  
MOTION FOR JUDGMENT ON THE  
PLEADINGS**

**Date of Hearing: September 2, 2020**

**Hearing Time: In Chambers**

26 Defendant Wells Fargo Bank, N.A. ("Wells Fargo") filed its Motion for Judgment on the  
27 Pleadings ("Motion") on December 2, 2019. A Cab Series, LLC, Administration Company  
28 ("Plaintiff") filed its Opposition on January 13, 2020. Wells Fargo replied in support of its Motion  
on February 26, 2020. Wells Fargo's Motion came on for hearing in the Court's Chambers on  
September 2, 2020 before the Honorable Judge Adriana Escobar in Department 14 of the above-  
entitled court. Having reviewed the filings, including all arguments, authorities, and exhibits

1 provided therein, and good cause appearing, the Court issued a Minute Order on October 26, 2020,  
2 setting forth the following Findings of Fact, Conclusions of Law, and Order.

3 **FINDINGS OF FACT**

4 1. This matter stems from an active proceeding also pending in the Eighth Judicial  
5 District Court: *Murray v. A Cab Taxi Service, A Cab LLC, and Creighton J. Nady*, No. A-12-  
6 669926-C (Nev. Dist. Ct., Clark Cty., Oct. 8, 2012) (the "*Murray Action*").

7 2. On August 21, 2018, the Honorable Judge Kenneth Cory entered a judgment for  
8 \$1,033,027.81 against the *Murray Action* defendants, A Cab Taxi Service and A Cab LLC.

9 3. To collect on the judgment, the *Murray Action* plaintiffs served a writ of execution  
10 on Wells Fargo for the assets of "A CAB LLC and A CAB TAXI SERVICE LLC". All accounts  
11 subjected to the writ of execution in the *Murray Action* each contained the name with "A Cab  
12 Series LLC" and all six accounts were identified under the same IRS Employer Identification  
13 Number ("EIN").

14 4. The *Murray Action* defendant A Cab LLC moved to quash the writ of execution,  
15 arguing that the Wells Fargo accounts did not belong to the judgment debtor, but, rather, were the  
16 property of six legally separate entities. The court in the *Murray Action* denied the motion to  
17 quash. Wells Fargo delivered the funds taken from the accounts belonging to the Series LLCs  
18 with the Court.

19 5. Plaintiff filed the instant action on April 15, 2019, bringing claims for declaratory  
20 relief, injunction, and breach of contract against Wells Fargo. Plaintiff primarily sought a judgment  
21 that the funds subject to the writ of execution in the *Murray Action* was Plaintiff's property, that  
22 Plaintiff is a separate entity from the judgment debtor in the *Murray Action* and not subject to  
23 execution, and that Wells Fargo had erred in assigning the same EIN to the accounts of the separate  
24 entities.

25 6. The court in the *Murray action* specifically analyzed and made findings that Plaintiff  
26 could not limit its liability from that of the judgment debtor, and that the funds in the accounts  
27 levied upon belonged to the judgment debtor. Ultimately, with the instant action, Plaintiff asks this  
28 Court to address those same issues.

## CONCLUSIONS OF LAW

### **A. Standard for Motion for Judgment on the Pleadings.**

8. Rule 12(c) of the Nevada Rules of Civil Procedure permits a party to move for judgment on the pleadings at any time “[a]fter the pleadings are closed by within such time as not to delay the trial. . . .” NRCP 12(c). “A Rule 12(c) motion is designed to provide a means of disposing of cases when material facts are not in dispute and a judgment on the merits can be achieved by focusing on the content of the pleadings.” *Bernard v. Rockhill Development Co.*, 103 Nev. 132, 135, 734 P.2d 1238, 1241 (1987); *see also Duff v. Lewis*, 114 Nev. 564, 568, 958 P.2d 82, 85 (1998).

9. “Judgment on the pleadings is proper when, as determined from the pleadings, the material facts are not in dispute and the moving party is entitled to judgment as a matter of law.” *Lawrence v. Clark Cty.*, 127 Nev. 390, 393, 254 P.3d 606, 608 (2011) (*Bonicamp v. Vazquez*, 120 Nev. 377, 379, 91 P.3d 584, 585 (2004)).

10. Further, a Rule 12(c) motion for “judgment on the pleadings is reviewed in the same manner as a dismissal under NRCP 12(b)(5).” *Peck v. Zipf*, 133 Nev. 890, 892, 407 P.3d 775, 778 (2017) (citing *Sadler v. PacifiCare of Nev.*, 130 Nev. 990, 993, 340 P.3d 1264, 1266 (2014)).

11. Accordingly, a defendant is entitled to dismissal when a plaintiff fails “to state a claim upon which relief can be granted.” NRCP 12(b)(5). Dismissal for failure to state a claim is therefore appropriate when the plaintiff cannot prove any set of facts that would entitle him to relief. *See Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 227–28 (2008).

12. In considering a motion for judgment on the pleadings, the Court must accept the non-moving party’s factual allegations as true and construe them in its favor. *Sadler*, 130 Nev. at 993, 340 P.3d at 1266 (citing *Buzz Stew*, 124 Nev. at 227, 181 P.3d at 672). The Court is not, however, bound to accept as true a legal conclusion couched as a factual allegation. *See Papasan v. Allain*, 478 U.S. 265, 286 (1986); *see also Bailey v. Gates*, 52 Nev. 432, 437 (1930) (“Good pleading requires that . . . the facts relating to the matter be averred, leaving the court to draw the legal conclusion. . . .”).



**B. The Court May Take Judicial Notice of Orders, Hearing Transcripts, and the Docket in the *Murray* Action.**

13. As with a motion to dismiss, on a motion for judgment on the pleadings “the court is not limited to the four corners of the complaint.” *Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015) (citation omitted). The Court may take judicial notice of documents that are incorporated by reference into a complaint, even if not attached to the same, if: (1) the complaint refers to the document, (2) the document is central to the plaintiff’s claims, and (3) the authenticity of the document is undisputed. *Id.* Under Nevada law, a court may consider any matter that is properly the subject of judicial notice without converting a motion to dismiss into a motion for summary judgment. *See Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981).

14. Pursuant to Nev. Rev. Stat. 47.130, courts may take judicial notice of facts that are “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute.” *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009). Records in another and different case merit judicial notice when a valid reason presents itself based on the closeness of the relationship between the two cases. *See id.* (citing *Occhiuto*, 97 Nev. at 145, 625 P.2d at 569).

15. Based on the foregoing, the Court takes judicial notice of the orders, hearing transcripts, and the docket in the *Murray* Action.

**C. Plaintiff’s Third Cause of Action for Breach of Contract Is Dismissed.**

16. To establish a viable breach of contract action, “Nevada law requires the plaintiff to show (1) the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach.” *Saini v. Int’l Game Tech.*, 434 F. Supp. 2d 913, 919–20 (D. Nev. 2006) (citing *Richardson v. Jones*, 1 Nev. 405, 405 (1865)).

17. Plaintiff fails to allege the existence of valid contract between itself and Wells Fargo.

18. Moreover, Plaintiff’s breach of contract claim is a negligence claim in substance. Indeed, Plaintiff asserts that: (1) Wells Fargo owed a duty of care to Plaintiff to safeguard its property, and not to compromise its rights to the assets it entrusted to Wells Fargo, (2) Wells Fargo

1 breached its duty by acting in an intentional or negligent manner that compromised Plaintiff's rights,  
2 including its right to confidentiality, privacy and its rights in the assets Plaintiff entrusted to Wells  
3 Fargo, and (3) due to Wells Fargo's inexcusable conduct, Plaintiff has been harmed in the amount  
4 of the funds taken, plus interest and loss of use the property.

5 19. In rejecting motion to quash in the *Murray* Action, the court found that the funds  
6 were properly levied upon and Wells Fargo complied with its obligations under the law by  
7 surrendering the levied funds to the Court

8 20. Wells Fargo did not have a duty to safeguard Plaintiff's accounts from a lawful  
9 judgment and writ of execution issued in the *Murray* case.

10 21. Plaintiff fails to state a claim for which relief can be granted and, therefore,  
11 Plaintiff's third cause of action for breach of contract is dismissed with prejudice.

12 **D. Plaintiff's Claims Against Wells Fargo Are Barred by the Doctrine of Collateral**  
13 **Estoppel.**

14 22. Under the doctrine of collateral estoppel, if an issue of fact or law has been actually  
15 litigated and determined by a valid and final ruling, the determination is conclusive in a subsequent  
16 action between the parties. *See Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 445, 245 P.3d  
17 547, 549 (2010); *see also Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 114 Nev. 823, 835, 963 P.2d  
18 465, 473 (1998).

19 23. The doctrine provides that a party is estopped from relitigating in a subsequent case  
20 any issue that was actually and necessarily litigated in a prior case. *See Elyousef*, 126 Nev. at 445,  
21 245 P.3d at 549–50. Collateral estoppel bars relitigation of an issue when the following factors are  
22 satisfied: "(1) the issue decided in the prior litigation must be identical to the issue presented in the  
23 current action; (2) the initial ruling must have been on the merits and have become final; . . . (3) the  
24 party against whom the judgment is asserted must have been a party or in privity with a party to the  
25 prior litigation; and (4) the issue was actually and necessarily litigated." *Id.* (quoting *Five Star*  
26 *Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008).

27 24. The factors supporting collateral estoppel are present: (1) the issue presented in the  
28 *Murray* Action is identical to the issue presented in this action; (2) the order denying the motion to

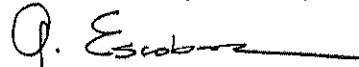
quash the writ of execution in the *Murray* Action was a final ruling on the merits; (3) Plaintiff, as well as those in privity with Plaintiff, was a party to the *Murray* Action; and, (4) the *Murray* lawsuit was actually and necessarily litigated.

25. Therefore, pursuant to the doctrine of collateral estoppel, Plaintiff is barred from asserting the claims made in this matter against Wells Fargo.

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Wells Fargo's Motion for Judgment on the Pleadings is **GRANTED**. The Complaint and all causes of action alleged therein against Wells Fargo is dismissed with prejudice.

Dated this 24th day of February, 2022



A-19-792961-C

8E8 643 A25E 934F  
Adriana Escobar  
District Court Judge

*Respectfully submitted by:*

**SNELL & WILMER L.L.P.**

By: /s/ Kelly H. Dove  
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*Approved as to Form and Content by:*

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*Attorneys for Plaintiff A Cab Series, LLC,  
Administration Company*

## Williams, Maricris

---

**From:** Jay Shafer <jshafer@crdslaw.com>  
**Sent:** Wednesday, February 16, 2022 12:43 PM  
**To:** Dove, Kelly  
**Cc:** Williams, Maricris; Kathrine von Arx  
**Subject:** RE: A-Cab

[EXTERNAL] [jshafer@crdslaw.com](mailto:jshafer@crdslaw.com)

---

Yes, you may submit.



CORY READE DOWS & SHAFER  
ATTORNEYS AT LAW

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**From:** Dove, Kelly <kdove@swlaw.com>  
**Sent:** Wednesday, February 16, 2022 11:17 AM  
**To:** Jay Shafer <jshafer@crdslaw.com>  
**Cc:** Williams, Maricris <mawilliams@swlaw.com>  
**Subject:** A-Cab  
**Importance:** High

Hi Jay –

We accepted your remaining changes. Please confirm that we can send this to the Court with your e-signature.

Thank you,  
Kelly

**Kelly H. Dove**  
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**Snell & Wilmer**

Pronouns: she/her/hers

1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 A Cab Series, LLC, Plaintiff(s) | CASE NO: A-19-792961-C  
7 vs. | DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
14 case as listed below:

15 Service Date: 2/24/2022

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# **EXHIBIT 3**

# **EXHIBIT 3**



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9 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
10 Attorneys for Defendants  
11 MURRAY and RENO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 A CAB SERIES, LLC,  
13 ADMINISTRATION COMPANY,  
14  
15 Plaintiffs,

16 vs.

17 MICHAEL MURRAY, MICHAEL  
18 RENO, WELLS FARGO BANK NA,  
19 DOES 1-100 and ROE BUSINESS  
20 ENTITIES I through C,  
21  
22 Defendants.

Case No.: A-19-792961-C

Dept.: 14

**NOTICE OF ENTRY OF  
ORDER**

23 PLEASE TAKE NOTICE that the annexed Order of the Court is served this date  
24 with notice of its entry.

25 Dated: April 21, 2021

26 LEON GREENBERG PROFESSIONAL CORP.

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



CERTIFICATE OF SERVICE

The undersigned certifies that on April 21, 2021, he served the within:

ORDER WITH NOTICE OF ENTRY

by court electronic service to:

JAY A. SHAFER, ESQ.  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128

/s/ Leon Greenberg  
Leon Greenberg

1 LEON GREENBERG, ESQ.  
Nevada Bar No.: 8094  
2 Leon Greenberg Professional Corporation  
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(702) 385-1827(fax)  
4 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
Attorneys for Plaintiffs

5  
6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

9 A CAB TAXI SERVICE LLC,  
ADMINISTRATION COMPANY,

10 Plaintiff,

11 vs.

12 MICHAEL MURRAY, MICHAEL  
13 RENO and WELLS FARGO BANK  
NA,

14 Defendants.

Case No.: A-19-792961-C

DEPT.: 14

**ORDER GRANTING THE MOTION OF  
DEFENDANTS MURRAY AND RENO  
FOR AN AWARD OF ATTORNEY'S  
FEES AND COSTS AND DENYING  
THE MOTION OF THE PLAINTIFF TO  
RETAX COSTS AND STRIKE  
MEMORANADUM OF COSTS AND  
DISBURSEMENTS**

17 The motion of defendants Michael Murray and Michael Reno for an Award of Attorney's  
18 Fees and Costs (Fees and Costs Motion) pursuant to NRS 7.085, NRS 18.010(2)(b) and the Nevada  
19 Constitution, Article 15, Section 16, the Minimum Wage Amendment (the "MWA") and the motion  
20 of plaintiff to Retax Costs and Strike Memorandum of Costs and Disbursements (Retax Motion) was  
21 set for a hearing on March 2, 2021, with the Court resolving both motions upon its thorough review  
22 of the written submissions and without oral argument from counsel, the Court finds as follows:

1 **Fees and Costs Motion**

2 NRS 7.085 provides:

3 1. If a court finds that an attorney has:

4 (a) Filed, maintained or defended a civil action or proceeding in  
5 any court in this State and such action or defense is not well-  
6 grounded in fact or is not warranted by existing law or by an  
argument for changing the existing law that is made in good faith;

7 or  
8 (b) Unreasonably and vexatiously extended a civil action or  
proceeding before any court in this State, the court shall require the  
attorney personally to pay the additional costs, expenses and  
attorney's fees reasonably incurred because of such conduct.

9 2. The court shall liberally construe the provisions of this section in favor  
10 of awarding costs, expenses and attorney's fees in all appropriate  
situations. It is the intent of the Legislature that the court award costs,  
11 expenses and attorney's fees pursuant to this section and impose sanctions  
pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all  
12 appropriate situations to punish for and deter frivolous or vexatious claims  
and defenses because such claims and defenses overburden limited  
13 judicial resources, hinder the timely resolution of meritorious claims and  
increase the costs of engaging in business and providing professional  
services to the public.

14 If claims, defenses, and other legal contentions are not warranted by existing law or by a  
15 nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new  
16 law, the Court may, after notice and a reasonable opportunity to respond, impose an appropriate  
17 sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.  
18 NRCP 11(c)(1).

19 "In addition to the cases where an allowance is authorized by specific statute, the court may  
20 make an allowance of attorney's fees to a prevailing party... Without regard to the recovery sought,  
21 when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of  
22 the opposing party was brought or maintained without reasonable ground or to harass the prevailing  
23 party." NRS 18.010(2)(b).

1 Defendants Murray and Reno request a fee award of \$18,720, or in the alternative, \$30,240,  
2 claiming this amount to be a “more proper award.” In its January 4, 2021, Order, this Court granted the  
3 motion of Defendants Murray and Reno for judgment on the pleadings pursuant to NRCP 12(c) on the  
4 ground that Plaintiff’s complaint violated NRCP 11(b)(2). As found by the Court in that Order, Plaintiff  
5 brought this action without reasonable ground—in fact as the issues raised in Plaintiff’s complaint  
6 were not warranted as these issues were precluded under the doctrine of collateral estoppel. This  
7 Court found in that Order that a sanction awarding Defendants Murray and Reno attorney fees and  
8 costs for defending this action was appropriate.

9 Given this Court’s January 4, 2021, ruling, this Court awards Defendants Murray and Reno  
10 attorney fees in the amount of \$18,720 pursuant to NRS 7.085 and NRS 18.010(2)(b) against  
11 Plaintiff and its counsel, attorney Jay Shafer. Defendants’ request for \$30,240 in attorney fees is  
12 denied. The Court finds in this case that attorney fees are not to be granted under the Minimum  
13 Wage Act (MWA). Although Defendants Murray and Reno prevailed on MWA claims in Case No.  
14 A-12-669926-C, they cannot use the MWA to seek attorney fees in this action. The proper avenue to  
15 seek attorney fees under the MWA in Case No. A-12-669926-C was to seek such fees in that case.

16 Defendants Murray and Reno request a costs award in the amount of \$302.59. Defendants  
17 seek \$253.00 for the filing fee incurred in filing their answer to Plaintiff’s complaint, \$7.59 for an  
18 electronic payment (credit card) fee charged by the Wiznet system to file that answer, and \$52.50 in  
19 Wiznet filing charges.

20 Defendants have supported their request for costs in the amount of \$253.00. *See Cadle Co. v.*  
21 *Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015). Thus, this Court awards Defendants Murray and  
22 Reno \$253.00 in costs.

23 The Court does not grant Defendants Murray and Reno’s request that the fee and costs award that  
24 is granted be entered as a judgment with their counsel, Leon Greenberg, as the judgment creditor. The

1 Court finds this request is not properly before this Court and their counsel has provided no legal authority  
2 or analysis in connection with the same.

3 Based on the foregoing findings, Defendants Reno and Murray's Motion (the Fees and Costs  
4 Motion) is **GRANTED IN PART AND DENIED IN PART.** Defendants Reno and Murray are  
5 awarded \$18,720 in attorney's fees and \$253.00 in costs, for a total award of \$18,973.

6 **Retax Motion**

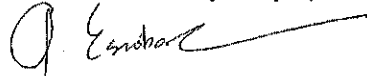
7 To retax and settle costs upon motion of the parties pursuant to NRS 18.110, a district court must  
8 have before it evidence that the costs were reasonable, necessary, and actually incurred. *Cadle Co. v.*  
9 *Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015).

10 Plaintiff seeks to strike and retax Defendants Murray and Reno's cost memorandum on the  
11 ground they have failed to support their costs request. The Court has found Defendants Murray and  
12 Reno have supported their request for costs in the amount of \$253.00.

13 Accordingly, Plaintiff's Retax Motion is **DENIED.**

14 **IT IS SO ORDERED.**

Dated this 20th day of April, 2021



Honorable Adriana Escobar  
DISTRICT COURT JUDGE

C0A 644 BC38 2BA7  
Adriana Escobar  
District Court Judge

18 Submitted by:

19 /s/ Leon Greenberg

20 Leon Greenberg, Esq. NSB 8094  
21 Leon Greenberg Professional Corporation  
22 2965 S. Jones Boulevard - Ste. E-3  
23 Las Vegas, NV 89146  
24 Tel (702) 383-6085  
25 Attorney for the Defendants Murray and Reno

23 Approved as to Form:

24 /s/ Jay Shafer

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2 Cory Reade Dows and Shafer  
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5 Tel (702) 794-4441  
6 Attorney for the Plaintiff  
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1 **CSERV**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5  
6 **A Cab Series, LLC, Plaintiff(s)** | **CASE NO: A-19-792961-C**  
7 **vs.** | **DEPT. NO. Department 14**  
8 **Michael Murray, Defendant(s)**  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 **Service Date: 4/20/2021**

15 Jeanne Forrest jforrest@swlaw.com  
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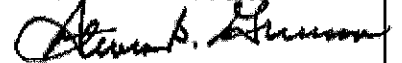
Leon Greenberg

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# **EXHIBIT 4**

# **EXHIBIT 4**



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9 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
10 Attorneys for Defendants  
11 MURRAY and RENO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 A CAB SERIES, LLC,  
13 ADMINISTRATION COMPANY,

14 Plaintiffs,

15 vs.

16 MICHAEL MURRAY, MICHAEL  
17 RENO, WELLS FARGO BANK NA,  
18 DOES 1-100 and ROE BUSINESS  
19 ENTITIES I through C,

20 Defendants.

Case No.: A-19-792961-C

Dept.: 14

**NOTICE OF ENTRY OF  
ORDER**

21 PLEASE TAKE NOTICE that the annexed Order of the Court is served this date  
22 with notice of its entry.

23 Dated: July 21, 2021

24 LEON GREENBERG PROFESSIONAL CORP.

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

CERTIFICATE OF SERVICE

The undersigned certifies that on July 21, 2021, he served the within:

ORDER WITH NOTICE OF ENTRY

by court electronic service to:

JAY A. SHAFER, ESQ.  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128  
Attorney for Plaintiffs

and all other recipients registered in this case on the Court's electronic service system.

/s/ Leon Greenberg  
Leon Greenberg

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2 LEON GREENBERG, ESQ.  
3 Nevada Bar No.: 8094  
4 Leon Greenberg Professional Corporation  
5 2965 South Jones Boulevard - Suite E3  
6 Las Vegas, Nevada 89146  
7 (702) 383-6085  
8 (702) 385-1827(fax)  
9 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
10 Attorneys for Plaintiffs

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

A CAB TAXI SERVICE LLC,  
ADMINISTRATION COMPANY,

Plaintiff,

vs.

MICHAEL MURRAY, MICHAEL  
RENO and WELLS FARGO BANK  
NA,

Defendants.

**Case No.: A-19-792961-C**

**DEPT.: 14**

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION  
AND GRANTING COUNTER-MOTION  
OF DEFENDANTS MURRAY AND  
RENO FOR AN AWARD OF  
ATTORNEY'S FEES**

The Motion to Reconsider of plaintiff A Cab Taxi Service LLC, Administration Company seeking reconsideration of the Court's April 21, 2021, Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney's Fees and Costs, along with the Counter-Motion of defendants Michael Murray and Michael Reno for an Award of Attorney's Fees pursuant to NRS 7.085, were heard by the Court on June 8, 2021, with argument by counsel for the parties in support and in opposition to such motion and countermotion being presented to the Court, and upon due consideration of such oral

1 argument, and all of the other submissions of the parties and the prior proceedings taken in  
2 this case, the Court hereby makes the following findings:

3 Leave for reconsideration of motions is within this Court's discretion under EDCR 2.24.  
4 A district court may reconsider a previously decided issue if substantially different evidence is  
5 subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors v. Jolley,*  
6 *Urga & Wirth*, 113 Nev. 737, 741 (1997). These principles guide the Court in resolving plaintiffs'  
7 motion for reconsideration.

8 Defendants' counter motion seeks an award of attorney's fees pursuant NRS 7.085, which  
9 provides:

10 NRS 7.085 Payment of additional costs, expenses and attorney s fees by attorney  
11 who files, maintains or defends certain civil actions or extends civil actions in  
certain circumstances.

12 1. If a court finds that an attorney has:

13 (a) Filed, maintained or defended a civil action or proceeding in any court in this  
14 State and such action or defense is not well-grounded in fact or is not warranted by  
existing law or by an argument for changing the existing law that is made in good  
faith; or

15 (b) Unreasonably and vexatiously extended a civil action or proceeding before any  
16 court in this State, the court shall require the attorney personally to pay the  
additional costs, expenses and attorney's fees reasonably incurred because of such  
conduct.

17 2. The court shall liberally construe the provisions of this section in favor of  
awarding costs, expenses and attorney's fees in all appropriate situations. It is the  
18 intent of the legislature that the court award costs, expenses and attorney s fees  
pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada  
19 Rules of Civil Procedure in all appropriate situations to punish for and deter  
frivolous or vexatious claims and defenses because such claims and defenses  
20 overburden limited judicial resources, hinder the timely resolution of meritorious  
claims and increase the costs of engaging in business and providing professional  
21 services to the public.

22 In seeking reconsideration plaintiff contends that the underlying basis for this Court's April  
23 21, 2021, Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney s  
24 Fees and Costs was flawed and erroneous in that such Order sought a reconsideration precluded by

1 EDCR 7.12. It also contends the underlying dismissal giving rise to that motion was improper as  
2 both plaintiff and defendant agree that the Court in Case No A-12-669926-C did not determine that  
3 the plaintiff in this action and the defendant in the *Murray* action were the same as a matter of law.  
4 The Court finds that plaintiff contends that the issue of its ownership of the Wells Fargo Accounts in  
5 the *Murray* case has not been determined and it is entitled to a declaration of its rights and that it is a  
6 sole and separate entity from A Cab Series LLC, the judgment debtor in the *Murray* action, and that  
7 defendants have no rights to the funds in the Wells Fargo Account.

8 Defendants Murray and Reno in opposing plaintiff's motion and in such defendants'  
9 countermotion for sanctions request that plaintiff and its counsel be subject to some form of  
10 additional sanctions paid to the court or another suitable beneficiary and award of attorneys fees for  
11 their continued improper conduct. They contend that plaintiff presents no new facts, law or  
12 arguments warranting reconsideration of the Court's prior Order and assert that this Court correctly  
13 recognized this litigation was not commenced upon reasonable grounds as ownership of the *res* at  
14 issue has been determined in the *Murray* lawsuit. In respect to their countermotion, they assert  
15 plaintiff's motion for reconsideration presents not even a scintilla of reasoning, arguments, or  
16 evidence that such reconsideration is warranted and the filing of that motion for reconsideration  
17 would be the proper subject of yet again, another Rule 11 motion against plaintiffs by such  
18 defendants. They request under NRS 7.085 that the Court grant a further award of attorney's fees to  
19 defendants' counsel of at least \$2,000.

20 Having considered the arguments of the parties, the Court DENIES the plaintiff's motion for  
21 reconsideration and GRANTS the defendants' countermotion for attorney's fees. It does so for the  
22 reasons set forth and detailed in the opposition and countermotion of defendants as follows:

23 (1) The Court's prior Order found ownership of the *res* at issue, the Wells Fargo Funds, was  
24 determined in the *Murray* lawsuit, meaning there was no good faith basis for plaintiff to bring this

1 action seeking a determination of such ownership and any such request had to be brought in the  
2 *Murray* lawsuit or an appeal in *Murray* where jurisdiction over that *res* had been assumed;

3 (2) The alleged claim of plaintiff for a declaration on its "independent status" as a separate  
4 entity from the judgment debtor in the *Murray* lawsuit provided no good faith basis to commence  
5 this lawsuit against the defendants Murray and Reno; such defendants had no alleged arguable  
6 interest in that issue separate and apart from their interest in the Wells Fargo funds and their interest  
7 in those funds was adjudicated in the *Murray* lawsuit;

8 (3) The motion for reconsideration set forth no evidence whatsoever, or any other good faith  
9 argument, or that the findings in the prior order were or are factually erroneous or are based upon a  
10 misunderstanding by the Court of controlling law.

11 In granting the counter-motion and calculating an award of attorney's fees to defendants'  
12 counsel the Court is guided by the factors discussed in *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev.  
13 345, 349, 455 P.2d 31, 33 (1969) and *Cadle Co. v. Woods & Erickson, Ltd. Liab. P'ship*, 131 Nev.  
14 114, 345 P.3d 1049 (2015) (the four "*Brunzell*" factors). As set forth in Ex. "B" to the  
15 countermotion in the declaration of attorney Leon Greenberg, the Court finds those factors fully  
16 justify an award of \$2,000 in attorney's fees to defendant Murray and Reno's counsel for plaintiff's  
17 counsel's violation of NRS 7.085 by presenting the motion for reconsideration. The first *Brunzell*  
18 factor is satisfied. The quality of the advocate's work and expertise is substantial, as Leon  
19 Greenberg has nearly 30 years of litigation experience involving the class action wage and hour  
20 claims at the heart of the parties' dispute. The second *Brunzell* factor is satisfied, as the intricacy,  
21 importance and difficulty of the work at issue is congruent with the amount of attorney time, at least  
22 five hours, that was consumed in opposing the motion, pursuing the counter-motion, arguing the  
23 issues, and drafting this Order. The third *Brunzell* factor is satisfied, as the Court finds the advocacy  
24 of such counsel was skillful and evidenced an appropriate expenditure of attention and time (five

1 hours for fee calculation purposes) by such counsel and that the declaration of counsel is sufficient to  
2 establish this expenditure. The fourth *Brunzell* factor is also satisfied, as such counsel was fully  
3 successful and secured the full possible measure of benefit for their clients. Further, as discussed in  
4 Ex. "B" to the countermotion in the declaration of attorney Leon Greenberg, applying a \$400 an hour  
5 rate for fee calculation purposes for a fee award, requested at \$2,000 for at least a five-hour  
6 expenditure of time, is supported by the prior history of such counsel receiving attorney fee awards  
7 at the substantially higher hourly rate of \$720 an hour.

8 Accordingly, the Court DENIES the plaintiff's motion for reconsideration and  
9 GRANTS the defendants' countermotion to the extent of awarding attorney's fees under NRS  
10 7.085 in the amount of \$2,000 to be paid by plaintiff's counsel to counsel for defendants  
11 Murray and Reno.

12 **IT IS SO ORDERED.**

13 Dated this 9 day of July

2021 this 21st day of July, 2021

14 [Signature]

15 Honorable Adriana Escobar  
DISTRICT COURT JUDGE

16 E5B 8B9 0C8F 29F2  
17 Adriana Escobar  
District Court Judge

18 Submitted by:

Approved as to Form and Content:

19 /S/ Leon Greenberg

NOT APPROVED

20 Leon Greenberg, Esq. NSB 8094  
21 Leon Greenberg Professional Corporation  
22 2965 S. Jones Boulevard - Ste. E-3  
23 Las Vegas, NV 89146  
24 Tel (702) 383-6085  
25 Attorney for the Defendants Murray and Reno

Jay Shafer, Esq. NSB 9184  
Cory Reade Dows and Shafer  
1333 North Buffalo Dr. - Suite 210  
Las Vegas, Nevada, 89128  
Tel (702) 794-4441  
Attorney for the Plaintiff



1 CSERV

2 DISTRICT COURT  
3 CLARK COUNTY, NEVADA  
4

5  
6 A Cab Series, LLC, Plaintiff(s)

CASE NO: A-19-792961-C

7 vs.

DEPT. NO. Department 14

8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/21/2021

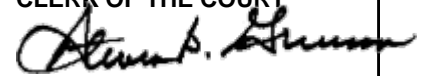
15 Jeanne Forrest	jforrest@swlaw.com
16 Sonja Dugan	sdugan@swlaw.com
17 Jay Shafer	JShafer@premierlegalgroup.com
18 Docket Docket	docket_las@swlaw.com
19 Maricris Williams	mawilliams@swlaw.com
20 Hayley Cummings	hcummings@swlaw.com
21 Dana Sniegocki	dana_s@overtimelaw.com
22 Leon Greenberg	leongreenberg@overtimelaw.com
23 Kelly Dove	kdove@swlaw.com
24 Heather Bock	hbock@crdslaw.com
25 Joey Adamiak	joey@overtimelaw.com

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Leon Greenberg

wagelaw@hotmail.com



ASTA  
JAY A. SHAFER, ESQ.  
Nevada Bar No. 9184  
CORY READE DOWS & SHAFER  
1333 North Buffalo Drive, Suite 210  
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Telephone: (702) 794-4411  
Facsimile: (702) 794-4421  
JShafer@crdslaw.com  
Attorneys for  
A Cab Series, LLC, Administration Company

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

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY, a Nevada corporation,

Plaintiff,

v.

MICHAEL MURRAY, an Individual, as a class  
representative, MICHAEL RENO, an  
Individual, as a class representative, WELLS  
FARGO BANK NA, a National Banking  
Association; DOES 1-100, and ROE BUSINESS  
ENTITIES I through C, inclusive,

Defendants.

Case No. : A-19-792961-C  
Dept. No.: XIV

**CASE APPEAL STATEMENT**

1. Name of appellants filing this case appeal statement:

A CAB SERIES, LLC, ADMINISTRATION COMPANY

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

The Honorable Adriana Escobar

///

///

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

2                   Jay A. Shafer, Esq.  
3                   CORY READE DOWS & SHAFER  
4                   1333 North Buffalo Drive, Suite 210  
5                   Las Vegas, Nevada 89128  
6                   (702) 794-4411  
7                   jshafer@crdslaw.com

8           4. Identify each respondent and the name and address of appellate counsel, if known, for  
9           each respondent (if the name of a respondent's appellate counsel is unknown, indicate as much  
10           and provide the name and address of that respondent's trial counsel):

11                   Appellate Counsel Not Known, Trial Counsel is:  
12                   Leon Greenberg, Esq.  
13                   LEON GREENBERG PROFESSIONAL GROUP  
14                   2965 South Jones Blvd., Ste. E-3  
15                   Las Vegas, Nevada 89146  
16                   Attorneys for Defendants Murray and Reno Counsel for PHH Mortgage Corporation

17                   Appellate Counsel Not Known, Trial Counsel is:  
18                   Kelly H. Dove, Esq.  
19                   SNELL & WILMER L.L.P.  
20                   3883 Howard Hughes Pkwy.  
21                   Suite 110  
22                   Las Vegas, Nevada 89169  
23                   kdove@swlaw.com  
24                   Attorneys for Defendant Wells Fargo NA

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

                  Not Applicable.

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

                  Retained.

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

                  Retained

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

1 Not Applicable.

2 9. Indicate the date the proceedings commenced in the district court (e.g., date complaint,  
3 indictment, information, or petition was filed):

4 April 15, 2019

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

8 The underlying action is a suit for declaratory relief and for breach of contract. Plaintiff  
9 is a separate series created pursuant to NRS 86.296. Plaintiff brought the action asking the  
10 District Court to make a determination that Plaintiff is not the same legal entity as another series,  
11 and for breach of contract against Defendant Wells Fargo NA.

12 This case follows execution of a judgment issued in *Michael Murray et al v. A Cab Taxi*  
13 *Service LLC*, Case No. A-12-669926-C, Nevada Supreme Court Docket No. 82539. In that case  
14 the district court made a decision regarding a motion to quash. Based upon that decision, Judge  
15 Escobar granted a motion for judgment on the pleadings on the basis of issue and claim  
16 preclusion. The order on the motion to quash was subsequently overturned by the Nevada  
17 Supreme Court (Document No. 21-37158) and a Remittitur issued (Document No. 22-03639).

18 Judge Escobar issued an order for dismissal of Defendants Murray and Reno on January  
19 4, 2021, but as this did not resolve all of the issues and parties it was not appealable as a final  
20 order. An Order of Dismissal was to Wells Fargo Bank NA was filed on February 25, 2022.

21 Additionally, Judge Escobar issued an order granting sanctions on the basis that the  
22 action was improper as Judge Cory had already decided the issues in *Michael Murray et al v.*  
23 *A Cab Taxi Service LLC*, Case No. A-12-669926-C, Nevada Supreme Court Docket No. 82539.  
24 Further sanctions were awarded for filing a motion to retax and reconsider the sanctions.  
25

26 ///

1 Petitioner seeks review of the two orders granting dismissing on the pleadings both as to  
2 Defendants Murray and Reno as well as Defendant Wells Fargo Bank NA and the two awards of  
3 sanctions.

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

7 This case has not previously been the subject of an appeal or writ proceeding. Although  
8 a related case is Michael Murray et al v. A Cab Taxi Service LLC, Case No. A-12-669926-C,  
9 Nevada Supreme Court Docket Nos. 72691, 73326, 77050, 82539.

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

11 Not Applicable.

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

13 Petitioner is open to a settlement to resolve all issues, including those of declaratory relief  
14 and breach of contract.

15 Dated this 28<sup>th</sup> day of March, 2022.

16 CORY READE DOWS & SHAFER

17 By: 

18 JAY A. SHAFER

19 Nevada Bar No. 009184

20 1333 North Buffalo Drive, Suite 210

21 Las Vegas, Nevada 89128

(702) 794-4411

22 Fax: (702) 794-4421

[Jshafer@crdslaw.com](mailto:Jshafer@crdslaw.com)

23 Attorneys for

24 A Cab Series LLC Administration Company  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 28<sup>th</sup> day of March, 2022, I served a copy of the foregoing CASE APPEAL STATEMENT in the following manner upon the parties so indicated therein as having received service in accordance herewith:

- **NEFCR System upon the following Parties in accordance with NEFCR 9 and 13:**

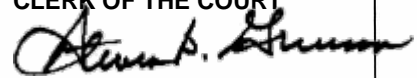
Leon Greenberg, Esq. Leon Greenberg Professional Corporation 2965 S. Jones Blvd., Suite E3 Las Vegas, Nevada 89146 <a href="mailto:leongreenberg@overtimelaw.com">leongreenberg@overtimelaw.com</a> Attorneys for Defendants MURRAY and RENO	Kelly H. Dove, Esq. Snell & Wilmer L.L.P. 3883 Howard Hughes Pkwy. Suite 110 Las Vegas, Nevada 89169 <a href="mailto:kdove@swlaw.com">kdove@swlaw.com</a> Attorneys for Defendant Wells Fargo NA
---	---

First-Class United States mail, postage fully prepaid upon the following Parties who are not registered users in accordance with NEFCR 9(d) a sealed envelope, postage prepaid to the following counsel and/or parties to this matter:

--	--

- ☐ **Personal Service upon the following users or their Counsel:**
- ☐ **By direct email upon the following Parties, for whom I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.**
- ☐ **By fax or other electronic transmission in accordance with NRCP 5(D) upon the following Parties, for which proof of successful transmission is attached hereto:**

\_\_\_\_\_  
/s/ Kathrine von Arx  
An employee of CORY READE DOWS & SHAFER



**NPNR**

JAY A. SHAFER, ESQ.  
Nevada Bar No. 9184  
CORY READE DOWS & SHAFER  
1333 North Buffalo Drive, Suite 210  
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Telephone: (702) 794-4411  
Facsimile: (702) 794-4421  
JShafer@crdslaw.com  
Attorneys for  
A Cab Series, LLC, Administration Company

**DISTRICT COURT**

**CLARK COUNTY, NEVADA**

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY, a Nevada corporation,

Plaintiff,

v.

MICHAEL MURRAY, an Individual, as a class  
representative, MICHAEL RENO, an  
Individual, as a class representative, WELLS  
FARGO BANK NA, a National Banking  
Association; DOES 1-100, and ROE BUSINESS  
ENTITIES I through C, inclusive,

Defendants.

Case No. : A-19-792961-C

Dept. No.: XIV

COST ON APPEAL BOND

**NOTICE OF POSTING COST BOND**

Plaintiff posted the appeal cost bond of \$500 pursuant to NRAP 7 on March 29, 2022.

The receipt is attached hereto.

/s/ Jay Shafer

JAY A. SHAFER  
Nevada Bar No. 009184



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**CERTIFICATE OF ELECTRONIC SERVICE**

This NOTICE OF POSTING COST BOND, with attachment, was served through the Odyssey file and serve system to opposing counsel at filing. Electronic service is in place of mailing

CORY READE DOWS & SHAFER

By: /s/ Jay Shafer  
JAY A. SHAFER  
Nevada Bar No. 009184  
1333 North Buffalo Drive, Suite 210  
Las Vegas, Nevada 89128  
(702) 794-4411  
Fax: (702) 794-4421  
Jshafer@crdslaw.com  
Attorneys for  
A Cab Series LLC Administration Company

# OFFICIAL RECEIPT

District Court Clerk of the Court 200 Lewis Ave, 3rd Floor Las Vegas, NV 89101

Payor  
Cory Reade Dows and Shafer

Receipt No.  
**2022-18755-CCCLK**

Transaction Date  
03/29/2022

Description	Amount Paid
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On Behalf Of A Cab Series, LLC  
A-19-792961-C  
A Cab Series, LLC, Plaintiff(s) vs. Michael Murray, Defendant(s)  
Appeal Bond

Appeal Bond  
**SUBTOTAL**

500.00  
**500.00**

**PAYMENT TOTAL** **500.00**

Check (Ref #17976) Tendered 500.00  
Total Tendered **500.00**  
Change 0.00

3-28-2022 A Cab Series, LLC Administration Company's Notice of Appeal

03/29/2022  
09:43 AM

Cashier  
Station RJCC1

Audit  
38102258

**OFFICIAL RECEIPT**

**CASE SUMMARY****CASE NO. A-19-792961-C**

**A Cab Series, LLC, Plaintiff(s)**  
**vs.**  
**Michael Murray, Defendant(s)**

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Location: **Department 14**  
 Judicial Officer: **Escobar, Adriana**  
 Filed on: **04/15/2019**  
 Case Number History:  
 Cross-Reference Case Number: **A792961**

**CASE INFORMATION****Statistical Closures**

02/24/2022 Other Manner of Disposition  
 04/20/2021 Other Manner of Disposition  
 01/04/2021 Motion to Dismiss by the Defendant(s)

Case Type: **Other Civil Matters**

Case  
 Status: **02/24/2022 Closed**


**DATE****CASE ASSIGNMENT****Current Case Assignment**


Case Number A-19-792961-C  
 Court Department 14  
 Date Assigned 06/27/2019  
 Judicial Officer Escobar, Adriana


**PARTY INFORMATION**


		<i>Lead Attorneys</i>
<b>Plaintiff</b>	<b>A Cab Series, LLC</b>	<b>Shafer, Jay A.</b> <i>Retained</i> 702-794-4411(W)
<b>Defendant</b>	<b>Murray, Michael</b>	<b>Greenberg, Leon</b> <i>Retained</i> 7023836085(W)
	<b>Reno, Michael</b> Removed: 01/04/2021 Dismissed	<b>Greenberg, Leon</b> <i>Retained</i> 7023836085(W)
	<b>Wells Fargo Bank, NA</b> Removed: 02/24/2022 Dismissed	

**DATE****EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

04/15/2019  Initial Appearance Fee Disclosure  
 Filed By: Plaintiff A Cab Series, LLC  
*[1] Initial Appearance Fee Disclosure*

04/15/2019  Complaint  
 Filed By: Plaintiff A Cab Series, LLC  
*[2] Complaint*

05/14/2019  Summons Electronically Issued - Service Pending  
 Party: Plaintiff A Cab Series, LLC  
*[3] Summons Electronically Issued*

05/14/2019  Summons Electronically Issued - Service Pending  
 Party: Plaintiff A Cab Series, LLC

# CASE SUMMARY

CASE NO. A-19-792961-C

*[4] Summons Electronically Issued*

05/14/2019



Summons Electronically Issued - Service Pending

Party: Plaintiff A Cab Series, LLC

*[5] Summons Electronically Issued*

05/20/2019



Affidavit of Service

Filed By: Plaintiff A Cab Series, LLC

*[6] Affidavit of Service*

06/25/2019



Affidavit of Service

Filed By: Plaintiff A Cab Series, LLC

*[7] Affidavit of Service*

06/25/2019



Affidavit of Service

Filed By: Plaintiff A Cab Series, LLC

*[8] Affidavit of Service*

06/26/2019



Peremptory Challenge

Filed by: Defendant Murray, Michael

*[9] Peremptory Challenge of Judge*

06/27/2019



Notice of Department Reassignment

*[10] Notice of Department Reassignment*

06/28/2019



Answer

Filed By: Defendant Murray, Michael

*[11] Answer of Defendants Michael Murray and Michael Reno*

06/28/2019



Initial Appearance Fee Disclosure

Filed By: Defendant Murray, Michael

*[12] Initial Appearance Fee Disclosure*

06/28/2019



Demand for Jury Trial

Filed By: Defendant Murray, Michael

*[13] Defendants' Demand for Jury*

10/09/2019



Default

*[14] Default*

10/15/2019



Notice of Early Case Conference

*[15] Notice of Early Case Conference Pursuant to NRCP 16.1*

10/23/2019



Notice of Early Case Conference

*[16] Re-Notice of Early Case Conference Pursuant to NRCP 16.1*

11/01/2019



Answer to Complaint

Filed by: Defendant Wells Fargo Bank, NA

*[17] Wells Fargo Bank, N.A.'s Answer to Plaintiff's Complaint*

11/01/2019












Initial Appearance Fee Disclosure

Filed By: Defendant Wells Fargo Bank, NA

*[18] Wells Fargo Bank, N.A.'s Initial Appearance Fee Disclosure*

# CASE SUMMARY

CASE NO. A-19-792961-C

12/02/2019	 Motion for Judgment Filed By: Defendant Wells Fargo Bank, NA <i>[19] Wells Fargo Bank, NA's Motion for Judgment on the Pleadings</i>
12/03/2019	 Clerk's Notice of Hearing <i>[20] Notice of Hearing</i>
01/07/2020	 Motion for Sanctions Filed By: Defendant Murray, Michael; Defendant Reno, Michael <i>[21] Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11(c)</i>
01/07/2020	 Errata Filed By: Defendant Murray, Michael; Defendant Reno, Michael <i>[22] Errata to Defendants, Murray and Reno s Motion for Sanctions Pursuant to Nev. R. Civ. P. 11(c)</i>
01/08/2020	 Clerk's Notice of Hearing <i>[23] Notice of Hearing</i>
01/08/2020	 Motion for Judgment Filed By: Defendant Murray, Michael; Defendant Reno, Michael <i>[24] Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)</i>
01/09/2020	 Clerk's Notice of Hearing <i>[25] Notice of Hearing</i>
01/13/2020	 Notice of Non Opposition Filed By: Defendant Wells Fargo Bank, NA <i>[26] Notice of Non-Opposition to Wells Fargo Bank, N.A.'s Motion for Judgment on the Pleadings</i>
01/13/2020	 Opposition to Motion Filed By: Plaintiff A Cab Series, LLC <i>[27] Plaintiff A Cab Series, LLC, Administration Company's Opposition to Well Fargo Bank N.A.'s Motion for Judgment on the Pleadings</i>
01/16/2020	 Stipulation and Order <i>[28] Stipulation and Order to Continue Hearing on Motion for Judgment on Pleadings</i>
01/16/2020	 Notice of Entry of Stipulation and Order <i>[29] Notice of Entry of Stipulation and Order to Continue Hearing on Motion for Judgment on Pleadings</i>
02/06/2020	 Opposition to Motion Filed By: Plaintiff A Cab Series, LLC <i>[30] Plaintiff A Cab Series, LLC, Administration Company's Opposition to Defendants Murray and Reno's Motion for Sanctions Pursuant to NEV.R.CIV.P.11(c)</i>
02/26/2020	 Reply in Support Filed By: Defendant Wells Fargo Bank, NA <i>[31] Wells Fargo Bank, N.A.'s Reply in Support of its Motion for Judgment on the Pleadings</i>

# CASE SUMMARY

CASE NO. A-19-792961-C

02/26/2020	 Opposition to Motion <i>[32] Plaintiff A Cab Series, LLC, Administration Company's Opposition to Defendants Murray and Reno's Motion for Judgment on the Pleadings</i>
03/02/2020	 Notice of Withdrawal of Attorney Filed by: Defendant Murray, Michael; Defendant Reno, Michael <i>[33] Notice of Withdrawal of Attorney Dana Sniegocki</i>
03/19/2020	 Reply Filed by: Defendant Murray, Michael; Defendant Reno, Michael <i>[34] Defendants Murray and Reno S Reply to Plaintiff's Opposition to Defendants Motion to Dismiss Pursuant To NRCP Rule 12(C)</i>
03/19/2020	 Reply <i>[35] Defendants Murray and Reno S Reply To Plaintiff S Opposition to Defendants Motion for Sanctions Pursuant To Nev. R. Civ. P. 11(C)</i>
07/09/2020	 Filing Fee Remittance Filed By: Defendant Murray, Michael; Defendant Reno, Michael <i>[36] Fee For Answer Murray and Reno</i>
01/04/2021	 Order <i>[37] Order Granting Defendants Murray and Reno's Motion for Judgment on the Pleadings Pursuant to NRCP 12(C) and Denying Defendants Murray and Reno's Motion for Sanctions Pursuant to NRCP 11(C)</i>
01/20/2021	 Notice of Entry of Order Filed By: Defendant Murray, Michael <i>[38] Notice of Entry of Order</i>
01/20/2021	 Memorandum of Costs and Disbursements Filed By: Defendant Murray, Michael <i>[39] Defendants Michael Murray and Michael Reno's Memorandum of Costs and Disbursement</i>
01/21/2021	 Motion for Attorney Fees Filed By: Defendant Murray, Michael <i>[40] Defendants Murray and Reno's Motion for an Award of Attorney s Fees and Costs</i>
01/25/2021	 Clerk's Notice of Hearing <i>[41] Notice of Hearing</i>
01/25/2021	 Motion Filed By: Plaintiff A Cab Series, LLC <i>[42] Plaintiff's Motion to Retax Costs and Strike Memorandum of Costs and Disbursements</i>
01/27/2021	 Clerk's Notice of Hearing <i>[43] Notice of Hearing</i>
02/08/2021	 Opposition to Motion Filed By: Defendant Murray, Michael; Defendant Wells Fargo Bank, NA <i>[44] Defendants Murray and Reno's Opposition to Plaintiff's Motion to Retax Costs and Strike Memorandum of Costs</i>














# CASE SUMMARY

CASE NO. A-19-792961-C

02/10/2021	 Opposition to Motion Filed By: Plaintiff A Cab Series, LLC <i>[45] Plaintiff A Cab Series LLC, Administration Company's Opposition to Defendants Murray and Reno's Motion for Attorney's Fees</i>
02/23/2021	 Reply Filed by: Defendant Murray, Michael <i>[46] DEFENDANTS MURRAY AND RENO S REPLY TO PLAINTIFF S OPPOSITION TO MOTION FOR AN AWARD OF ATTORNEY S FEES AND COSTS</i>
04/20/2021	 Order <i>[47] Order (1) Granting Defendants Murray and Reno's Motion for an Award of Attorney Fees and Costs and (2) Denying Plaintiff's Motion to Retax Costs and Strike Memorandum of Costs and Disbursements</i>
04/21/2021	 Notice of Entry Filed By: Defendant Murray, Michael <i>[48] NOTICE OF ENTRY OF ORDER</i>
05/05/2021	 Motion to Reconsider Filed By: Plaintiff A Cab Series, LLC <i>[49] Plaintiff's Motion to Reconsider Award of Attorney's Fees</i>
05/06/2021	 Clerk's Notice of Hearing <i>[50] Notice of Hearing</i>
05/18/2021	 Opposition and Countermotion Filed By: Defendant Murray, Michael <i>[51] Defendants Murray And Reno S Response To Plaintiff S Motion For Reconsideration And Counter-Motion For Sanctions</i>
05/18/2021	 Errata Filed By: Defendant Murray, Michael <i>[52] ERRATA - CORRECTION OF EXHIBITS TO: DEFENDANTS MURRAY AND RENO S RESPONSE TO PLAINTIFF S MOTION FOR RECONSIDERATION AND COUNTER-MOTION FOR SANCTIONS</i>
06/02/2021	 Reply Filed by: Plaintiff A Cab Series, LLC <i>[53] Plaintiff's Reply in Support of Its Motion to Reconsider Award of Attorney's Fees Arising from Dismissal, Opposition to Countermotion</i>
07/21/2021	 Order Filed By: Plaintiff A Cab Series, LLC <i>[54] Order Denying Plaintiff's Motion for Reconsideration and Granting Counter-Motion of Defendants for an Award of Attorney's Fees</i>
07/21/2021	 Notice of Entry of Order Filed By: Defendant Murray, Michael <i>[55] NOTICE OF ENTRY OF ORDER</i>
02/24/2022	 Findings of Fact, Conclusions of Law and Order Filed By: Defendant Wells Fargo Bank, NA <i>[56] Findings of Fact Conclusions of Law and Order Granting Motion for Judgment on the Pleadings</i>

# CASE SUMMARY

CASE NO. A-19-792961-C

02/25/2022	 Notice of Entry of Findings of Fact, Conclusions of Law Filed By: Defendant Wells Fargo Bank, NA <i>[57] Notice of Entry of Findings of Fact, Conclusions of Law, and Order Granting Motion for Judgment on the Pleadings</i>
03/11/2022	 Request for Judicial Notice <i>[58] A CAB Series LLC's Administration Company's Request to Take Judicial Notice</i>
03/11/2022	 Motion for Relief Filed By: Plaintiff A Cab Series, LLC <i>[59] Plaintiff's Motion for Relief from Findings of Fact, Conclusions of Law, and Order Granting Defendant Wells Fargo Bank, N.A Motion for Judgement on the Pleadings</i>
03/11/2022	 Motion for Relief Filed By: Plaintiff A Cab Series, LLC <i>[60] Plaintiff's Motion for Relief from Order Granting Defendants Murray and Reno's Motion for Judgement on the Pleadings Pursuant to NRCP 12(C)</i>
03/14/2022	 Clerk's Notice of Hearing <i>[61] Notice of Hearing</i>
03/24/2022	 Motion to Stay Filed By: Plaintiff A Cab Series, LLC <i>[62] Plaintiff's Motion to Stay of the Execution of Sanctions Pending Reconsideration or Appeal on Order Shortening Time</i>
03/25/2022	 Clerk's Notice of Hearing <i>[63] Notice of Hearing</i>
03/25/2022	 Motion to Amend Judgment Filed By: Defendant Murray, Michael <i>[64] Defendants Murray and Reno's Motion to Amend the Judgment and for Alternative Relief</i>
03/25/2022	 Opposition to Motion Filed By: Defendant Murray, Michael <i>[65] Defendants Murray and Reno's Opposition to Plaintiff's Motion for Relief from Order Granting Judgment on the Pleadings Per NRCP Rule 12(C) Counter-Motion for NRS 7.085 Sanctions</i>
03/28/2022	 Clerk's Notice of Hearing <i>[66] Notice of Hearing</i>
03/28/2022	 Case Appeal Statement <i>[67] Case of Appeal Statement- A Cab Admin</i>
03/28/2022	 Notice of Appeal <i>[68] A Cab Series. LLC, Administration Company's Notice of Appeal</i>
03/29/2022	 Notice of Posting of Cost Bond <i>[69] Notice of Posting Cost Bond- A CAB</i>
03/29/2022	 Order Shortening Time <i>[70] Motion for Stay of the Execution of Sanctinos Pending Reconsideration or Appeal on</i>



# CASE SUMMARY

CASE NO. A-19-792961-C

## Order Shortening Time

03/29/2022



Notice of Entry

[71] Notice of Entry of Order Shortening Time- A CAB

## **DISPOSITIONS**

01/04/2021

**Judgment** (Judicial Officer: Escobar, Adriana)

Debtors: A Cab Series, LLC (Plaintiff)

Creditors: Michael Murray (Defendant), Michael Reno (Defendant)

Judgment: 01/04/2021, Docketed: 01/05/2021

01/04/2021

**Order of Dismissal With Prejudice** (Judicial Officer: Escobar, Adriana)

Debtors: Michael Murray (Defendant), Michael Reno (Defendant)

Creditors: A Cab Series, LLC (Plaintiff)

Judgment: 01/04/2021, Docketed: 01/05/2021

04/20/2021

**Order** (Judicial Officer: Escobar, Adriana)

Debtors: A Cab Series, LLC (Plaintiff)

Creditors: Michael Murray (Defendant), Michael Reno (Defendant)

Judgment: 04/20/2021, Docketed: 04/21/2021

Total Judgment: 18,973.00

07/21/2021

**Order** (Judicial Officer: Escobar, Adriana)

Debtors: A Cab Series, LLC (Plaintiff)

Creditors: Michael Murray (Defendant), Michael Reno (Defendant)

Judgment: 07/21/2021, Docketed: 07/22/2021

Total Judgment: 2,000.00

02/24/2022

**Order of Dismissal With Prejudice** (Judicial Officer: Escobar, Adriana)

Debtors: A Cab Series, LLC (Plaintiff)

Creditors: Wells Fargo Bank, NA (Defendant)

Judgment: 02/24/2022, Docketed: 02/25/2022

## **HEARINGS**

03/26/2020

**Motion for Judgment** (9:30 AM) (Judicial Officer: Escobar, Adriana)

03/26/2020, 04/16/2020, 05/21/2020, 07/21/2020, 08/06/2020, 09/02/2020

*Wells Fargo Bank, NA's Motion for Judgment on the Pleadings*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Wells Fargo Bank, NA's Motion for Judgment on the Pleadings

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Wells Fargo Bank, NA's Motion for Judgment on the Pleadings

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Wells Fargo Bank, NA's Motion for Judgment on the Pleadings

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

**CASE SUMMARY**

**CASE NO. A-19-792961-C**

03/26/2020

Vacated and Reset;  
Granted; Wells Fargo Bank, NA's Motion for Judgment on the Pleadings

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;

Vacated and Reset;  
Granted; Wells Fargo Bank, NA's Motion for Judgment on the Pleadings

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Granted; Wells Fargo Bank, NA's Motion for Judgment on the Pleadings

**Motion for Sanctions (9:30 AM) (Judicial Officer: Escobar, Adriana)**  
**03/26/2020, 04/16/2020, 05/21/2020, 07/21/2020, 08/06/2020, 09/02/2020**

*Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11(c)*

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Denied; Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11 (c)

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Denied; Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11 (c)

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Denied; Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11 (c)

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Denied; Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11 (c)

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Denied; Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11 (c)

Matter Continued;  
Matter Continued;  
Matter Continued;  
Matter Continued;  
Vacated and Reset;

Denied; Defendants, Murray and Reno's Motion for Sanctions Pursuant to Nev. R. Civ. P. 11 (c)

# CASE SUMMARY

CASE NO. A-19-792961-C

03/26/2020

**Motion for Judgment** (9:30 AM) (Judicial Officer: Escobar, Adriana)

**03/26/2020, 04/16/2020, 05/21/2020, 07/21/2020, 08/06/2020, 09/02/2020**

*Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)*

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)

Matter Continued;

Matter Continued;

Matter Continued;

Matter Continued;

Vacated and Reset;

Granted; Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to Nev. R. Civ. P. 12(c)

03/26/2020



**All Pending Motions** (9:30 AM) (Judicial Officer: Escobar, Adriana)

Matter Continued;

Journal Entry Details:

*WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANTS, MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. 11(c)...DEFENDANTS, MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. COURT ORDERED, matter CONTINUED as Telecommunication appearances are required; parties to set up accordingly. CONTINUED TO: 4/9/20 9:30 AM CLERK'S NOTE: Counsel notified via email: Jay Shafer (JShafer@crdslaw.com) Leon Greenberg (leongreenberg@overtimelaw.com) Kelly Dove (kdove@swlaw.com);*

04/16/2020



**All Pending Motions** (9:30 AM) (Judicial Officer: Escobar, Adriana)

Matter Continued;

# CASE SUMMARY

CASE NO. A-19-792961-C

Journal Entry Details:

WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANT'S MURRAY & RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. 11(C)...DEFENDANT'S MURRAY & RENO'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NEV. R. CIV. P. 12(C) COURT ORDERED, motions CONTINUED for oral argument. CONTINUED TO: 5/21/20 9:30 AM CLERK'S NOTE: Counsel notified via e-mail: Kelly Dove (kdove@swlaw.com) Jay Shafer (jshafer@crdslaw.com);

05/21/2020



**All Pending Motions (9:30 AM)** (Judicial Officer: Escobar, Adriana)

Matter Continued;

Journal Entry Details:

WELL'S FARGO BANK, NA'S MOTION FOR SUMMARY JUDGMENT ON THE PLEADINGS...DEFENDANTS' MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. 11(C)...DEFENDANTS' MURRAY AND RENO'S MOTION FOR SUMMARY JUDGMENT ON THE PLEADINGS PURSUANT TO NEV. R. CIV. P. 12(3) The Court requires appearances and oral arguments by the parties on the instant motions. COURT ORDERED, motions CONTINUED. FURTHER, parties are to contact the Department five business days prior to confirm appearance instructions. CONTINUED TO: 7/21/20 9:30 AM CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. //DH 5/21/20;

07/21/2020



**All Pending Motions (9:30 AM)** (Judicial Officer: Escobar, Adriana)

Matter Continued;

Journal Entry Details:

WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANTS', MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. 4. CIV. P. 11(c)...DEFENDANTS' MURRAY AND RENO'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NEV. 4. CIV. P. 12(c) Ms. Dove stated that this matter should have been continued pursuant to communication with Ms. Powell. COURT ORDERED, matter CONTINUED. CONTINUED TO: 8/6/20 9:30 AM;

08/06/2020



**All Pending Motions (9:30 AM)** (Judicial Officer: Escobar, Adriana)

Matter Heard;

Journal Entry Details:

WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANT'S, MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NRCP 11(C)...DEFEDANT'S MURRAY AND RENO'S MOTION FO JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) COURT ORDERED, matters VACATED and RESET to September 2, 2020 on Chambers calendar. 09/02/2020 03:00 AM (CHAMBERS) ;

10/26/2020



**Minute Order (3:00 AM)** (Judicial Officer: Escobar, Adriana)

Minute Order - No Hearing Held;

Journal Entry Details:

Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to NRCP 12 (c) (Murray and Reno s Motion), Defendants Murray and Reno s Motion for Sanctions Pursuant to NRCP 11(c) (Sanctions Motion), and Defendant Wells Fargo Bank N.A. s Motion for Judgment on the Pleadings (Wells Fargo;s Motion), was set for Chambers Calendar before Department 14 of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on September 2, 2020. Based on the pleadings, the Court issues the following order: Murray and Reno s Motion After the pleadings are closed but early enough not to delay trial a party may move for judgment on the pleading. NRCP 12(c). A district court may grant a motion for judgment on the pleadings when the material facts of the case are not in dispute and the movant is entitled to judgment as a matter of law. Perry v. Terrible Herbst, Inc., 132 Nev. 767, 769 (2016); see also Duff v. Lewis, 114 Nev. 564, 568 (1998) ( a motion under NRCP 12 (c) is designed to provide a means of disposing of cases when material facts are not in dispute and a judgment on the merits can be achieved by focusing on the content of the pleadings. ) (quotations omitted). [A] defendant will not succeed on a motion under Rule 12(c) if there are allegations in the plaintiff's pleadings that, if proved, would permit recovery. Duff, 114 Nev. 564, 568. An NRCP 12(c) motion for judgment on the pleadings has utility only when all material allegations of fact are admitted in the pleadings and only questions of law remain. Id.

## CASE SUMMARY

CASE NO. A-19-792961-C

Because a motion for judgment on the pleadings is functionally identical to a motion to dismiss for failure to state a claim, the same standard of review applies to motions brought under either rule. *Curb Mobility, LLC v. Kapryn, Inc.*, 434 F. Supp. 3d 854, 857 (D. Nev. 2020). *Issue Preclusion* Issue preclusion bars the successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment, even if the issue recurs in the context of a different claim. *Paulos v. FCH1, LLC*, 136 Nev. 18, 23 (2020) (quotations omitted). Thus, issue preclusion will apply to prevent the relitigation of matters that parties have had a full and fair opportunity to litigate. *Id.* (quotations omitted). Issue preclusion is proper where the following four elements are met: 1) Same issue the issue decided in the prior litigation must be identical to the issue presented in the current action; 2) Final adjudication the merits the initial ruling must have been on the merits and have become final; 3) Same parties or their privies the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation 4) Actually and necessarily litigated. *Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 258 (2014). Availability of issue preclusion is a mixed question of law and fact, in which legal issues predominate and, once it is determined to be available, the actual decision to apply it is left to the discretion of the tribunal in which it is invoked. *Redrock Valley Ranch, LLC v. Washoe Cty.*, 127 Nev. 451, 460 (2011). On August 12, 2018, in a separate class action lawsuit, *Murray v. A Cab Taxi Service, LLC et al*, A-12-669926-C, Judge Cory entered a judgment against A Cab, LLC for \$1,000,000 in unpaid premium wages in favor of 890 class members that were taxi driver employees [hereinafter, the *Murray Action*). Plaintiff brings causes of action for declaratory relief, injunction, and breach of contract against Wells Fargo. Primarily, Plaintiff seeks a judgment that funds taken by Defendants, as class representatives, was Plaintiff's property, and that Plaintiff is a separate entity from the judgment debtor and not subject to execution. The same issues For issue preclusion to attach, the issue decided in the prior proceeding must be identical to the issue presented in the current proceeding. *Alcantara*, 130 Nev. 252, 259. In the prior *Murray Action*, the defendants there moved to quash a writ of execution on Wells Fargo. In its Order Denying Defendants Motion to Quash Writ of Execution, the ultimate issue presented was whether Wells Fargo was subject to the writ. Order Denying Defendants Motion to Quash Writ of Execution, *Murray*, No. A-12-669926-C (Dec. 18, 2018), Exhibit B (*Murray and Reno's Motion*). Plaintiffs writ of execution resulted in Wells Fargo placing a hold on \$233,619.56 maintained in six different bank accounts, each having a different name that began with A Cab Series LLC. *Id.* All six of those accounts were identified under the same IRS Employer Identification Number (EIN). *Id.* Defendants brought the motion to quash on the ground that those accounts were the property of six legally separate entities, each such entity being a separate series LLC issued by the judgment debtor, A Cab LLC, as per NRS 86.296. *Id.* Notably, Plaintiff in the instant case was alleged to be one of the six legally separate entities. *Id.* at n.1. In its Order Denying Defendants Motion to Quash Writ of Execution, the Murray Court made multiple, but separate findings, and made clear that each finding would provide a basis for its denial of the Motion to Quash. Specifically, each finding was intended, either on their own or in conjunction, to provide a proper basis for the Court's decision. *Id.* Relevant here, the Murray Court made a specific finding that the Wells Fargo funds are properly levied upon by the judgment, explaining that an allegedly legally independent series LLC entity paying its own employees separate from A Cab LLC's funds would have to secure its own unique, EIN number, and process its payroll with the IRS under such number and not under A Cab LLC's EIN number. *Id.* The Murray Court additionally found that there was no evidence that the allegedly independent series LLCs exist, or if they exist, they have not complied with the asset shielding provisions of NRS 68.696(3). *Id.* The Murray court explained under Nevada law, none of the alleged series LLCs had been created, and if they were, there was no evidence supporting that their obligations were limited with respect to A Cab LLC: Specifically, [T]he Court finds that even if the six alleged series LLCs have been created, they have not complied with NRS 86.296 (3) and have never adopted the liability limitations available to series LLCs under that statute. *Id.* And importantly, the Murray Court found that the six alleged Series LLCs have failed to show any basis to conclude they have, in respect to the Wells Fargo accounts and any other assets they are alleged to possess, accounted for such assets separately from the other assets of the judgment debtor A Cab LLC as required by NRS 86.296(3) to invoke the statute's liability limitations. *Id.* The issues in the Murray Action and instant action are the same whether funds subject to the writ of execution on Wells Fargo was the separate property of the alleged series LLCs, including Plaintiff. Issue preclusion cannot be avoided by attempting to raise a new legal or factual argument that involves the same ultimate issue previously decided in the prior case. *Alcantara*, 130 Nev. 252, 259. The Murray Court specifically analyzed and made findings that Plaintiff was not created, that even if Plaintiff exists, Plaintiff is not subject to limiting its liability from that of the judgment debtor, and that the funds in the account are that of judgment debtor. Ultimately, those issues are the same issues that Plaintiff now asks this Court to address. The same parties or their privies Issue preclusion can only be used against a party whose due process rights have been met by virtue of that party having been a party or in privity

## CASE SUMMARY

CASE NO. A-19-792961-C

with a party in the prior litigation. *Alcantara*, 130 Nev. 252, 260. The Nevada Supreme Court has recognized that privity does not lend itself to a neat definition, thus determining privity for preclusion purposes requires a close examination of the facts and circumstances of each case. *Mendenhall v. Tassinari*, 133 Nev. 614, 619 (2017). Here, Plaintiff's argument that it was a not party to the Murray Action, and thus issue preclusion does not apply, lacks merit. Plaintiff is in privity with defendants from the Murray Action. [T]he record demonstrates a substantial identity between the parties. *Mendenhall*, 133 Nev. 614, 619. Plaintiff does not point to anything in the pleadings supporting that Plaintiff is not in privity with the judgment debtor. Final Adjudication on the Merits The Murray Court's Order Denying Defendants Motion to Quash Writ of Execution, which was adjudicated on the merits, addressed the same issues Plaintiff makes in the instant motion, finding that the funds in the six Wells Fargo accounts belong to the judgment debtor. Actually and Necessarily Litigated When an issue is properly raised and is submitted for determination, the issue is actually litigated for purposes of applying issue preclusion. *Alcantara*, 130 Nev. 252, 263. Whether the issue was necessarily litigated turns on whether the common issue was necessary to the judgment in the earlier suit. *Id.* Here, the issues of Plaintiff's existence as a separate legal entity from judgment debtor and whether the funds in the Wells Fargo account belonged to series LLCs, and thus, separate from the judgment debtor were a common issue necessary to the Order Denying Defendants Motion to Quash Writ of Execution in the Murray Action. Based on the foregoing, issue preclusion applies and Plaintiff cannot bring the instant action. Even if the allegations contained in Plaintiff complaint are true, recovery would not be permitted. Thus, Plaintiff fails to state any claims for relief. Subject Matter Jurisdiction Defendants also contend that this Court does not have subject matter jurisdiction over the instant complaint because Plaintiff seeks to have funds returned that are subject to the exclusive jurisdiction of the Murray Action. Plaintiff contends that this Court has jurisdiction because Plaintiff seeks a determination that it is a separate entity from the judgment debtor and it is not subject to execution. Plaintiff further asserts that its claim for injunctive relief is defensive in nature and does not seek an active distribution of the funds, but rather a preservation of the funds until the declaratory relief can be addressed. Based on the above analysis regarding issue preclusion, any argument Plaintiff makes that asks this Court to make a determination (1) as to Plaintiff's status as a separate entity or (2) the ownership of the funds in the Wells Fargo accounts, is precluded. Moreover, these arguments were directly addressed by the Murray Court. Plaintiff cannot seek to bypass the rulings of the Murray Court by a filing a complaint in a separate case. Moreover, the Murray Court specifically ordered that class counsel only release such monies as specified by a further Order of this Court in this case. Order Granting Summary Judgment, Severing Claims, and Directing Entry of Final Judgment, *Murray v. A Cab Taxi Service LLC*, No. A-12-669926-C (Dec. 18, 2018), Exhibit A (*Murray and Reno's Motion*). Any decision regarding the outcome of the money obtained from the Wells Fargo accounts, including any challenge regarding the Murray Court's determination that the accounts are not the property of Plaintiff, must come from the Murray Court. Based on the foregoing, the Court GRANTS *Murray and Reno's Motion* and dismisses Plaintiff's claims for declaratory relief and an injunction with prejudice. Sanctions Motion NRCP 11(b) provides: By presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information. If the Court determines that Rule 11(b) has been violated, the Court has the discretion to impose an appropriate sanction. NRCP 11(c)(1). Plaintiff's complaint was not warranted as the issues raised are precluded under the doctrine of collateral estoppel. See *Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 445 (2010) (providing that under the doctrine of collateral estoppel, if an issue of fact or law has been actually litigated and determined by a valid and final ruling, the determination is conclusive in a subsequent action between the parties). Plaintiff's complaint violates NRCP 11(b)(2). Though, the Court does not find that Plaintiff's instant action was brought for an improper purpose in violation of NRCP 11(b)(1). The only sanction the Court finds appropriate is granting Defendants attorney fees and costs for defending this action. However, because NRCP 11(b)(5) precludes monetary sanctions for an NRCP 11(b)(2) violation, and Court does not find nonmonetary directives proper, the Court DENIES Defendants Sanction Motion. Defendants *Murray and Reno* are directed to prepare a proposed order that incorporates the substance of this Minute Order, the pleadings, and any factual and procedural history from A-12-669926-C that is relevant to *Murray and Reno's Motion* and Sanctions Motion. Defendants are further directed to provide

## CASE SUMMARY

CASE NO. A-19-792961-C

the proposed order to Plaintiff for approval as to form and content. Wells Fargo's Motion To establish a viable breach of contract action, Nevada law requires the plaintiff to show (1) the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach. *Saini v. Int'l Game Tech.*, 434 F.Supp.2d 913, 919-20 (D. Nev. 2006). Defendant asserts that Plaintiff's breach of contract complaint against it should be dismissed for failure to state a claim. The Court agrees. Plaintiff fails to allege that it had a contract with Defendant. Moreover, Plaintiff's breach of contract claim is a negligence claim in substance. Plaintiff asserts that: (1) Defendant owed a duty of care to Plaintiff to safeguard its property, and not to compromise its rights to the assets it entrusted to [Defendant], (2) Defendant breached its duty by acting in an intentional or negligent manner that compromised Plaintiff's rights, including its right to confidentiality, privacy and its rights in the assets Plaintiff entrusted to [Defendant], and (3) due to Defendant's inexcusable conduct, Plaintiff has been harmed in the amount of the funds taken, plus interest and loss of use of the property. Here, Plaintiff, under either a breach of contract theory or negligence theory, fails to state a claim for which relief can be granted. The Murray Court denied the judgment debtor's motion to quash the writ of execution on Wells Fargo. Moreover, the Murray Court specifically rejected the argument that the funds executed on belong to a series LLC, including Plaintiff. Thus, Wells Fargo had no duty to protect any property alleged to be Plaintiff's. Moreover, the Court further finds that Plaintiff's complaint is barred by the Doctrine of Collateral Estoppel. See *Elyousef*, 126 Nev. 441, 445 (2010). Defendant Wells Fargo is directed to prepare a proposed order that incorporates the substance of this Minute Order, the pleadings, and any factual and procedural history from A-12-669926-C that is relevant to Defendant's instant Motion. Defendant is further directed to provide the proposed order to Plaintiff for approval as to form and content. All parties must submit their orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption. CLERK'S NOTE: Counsel are to ensure a copy of the foregoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (10-26-20 np).;

03/02/2021

**Minute Order (3:00 AM)** (Judicial Officer: Escobar, Adriana)

Minute Order - No Hearing Held;

Journal Entry Details:

Defendants Murray and Reno's Motion for an Award of Attorney's and Fees and Costs (Fees and Costs Motion) and Plaintiff's Motion to Retax Costs and Strike Memorandum of Costs and Disbursements (Retax Motion), was set for hearing before Department 14 of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on March 2, 2021. Upon thorough review of the pleadings, this Court issues the following order: Fees and Costs Motion NRS 7.085 provides: 1. If a court finds that an attorney has: (a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or (b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State, the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct. 2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public. If claims, defenses, and other legal contentions are not warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law, the Court may, after notice and a reasonable opportunity to respond, impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. NRCP 11(c)(1). In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. NRS 18.010(2)(b). Defendants request a fee award of \$18,720, or in the alternative, \$30,240, claiming this amount to be a more proper award. In its January 4, 2021, Order, this Court granted Defendants motion for judgment on the pleadings pursuant to NRCP 12(c) on the ground that Plaintiff's complaint violated NRCP 11(b)(2). Plaintiff brought this

# CASE SUMMARY

CASE NO. A-19-792961-C

action without reasonable ground in fact, the issues raised in Plaintiff's complaint was not warranted as these issues were precluded under the doctrine of collateral estoppel. This Court found that a sanction awarding Defendants attorney fees and costs for defending this action is appropriate. Given this Court's January 4, 2021, ruling, this Court awards Defendants attorney fees in the amount of \$18,720 pursuant to NRS 7.085 and NRS 18.010(2)(b). Defendants request for \$30,240 in attorney fees is denied. Attorney fees are not granted under the Minimum Wage Act (MWA). Although Defendants prevailed on MWA claims in Case No. A-12-669926-C, Defendants cannot use the MWA to seek attorney fees in this instant action. The proper avenue to seek attorney fees under the MWA in Case No. A-12-669926-C was to seek such in that case. Defendants request a costs award in the amount of \$302.59. Defendants seek \$253.00 for the filing fee incurred in filing Defendants answer to Plaintiff's complaint, \$7.59 for an electronic payment (credit card) fee charged by the Wiznet system to file that answer, \$52.50 in Wiznet filing charges. Here, Defendants have supported their request for \$253.00. See *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015). Thus, this Court awards Defendants \$253.00 in costs. Finally, this Court does not grant Defendants request that this fees and costs award is entered as a judgment with Defendant counsel, Leon Greenburg, as the judgment creditor. This request is not properly before this Court. Moreover, Defendants counsel has provided no legal authority or analysis supporting this request. Based on the foregoing, Defendants Motion is **GRANTED IN PART AND DENIED IN PART**. Defendant is awarded \$18,720 in attorney fees and \$253.00 in costs. Retax Motion In order to retax and settle costs upon motion of the parties pursuant to NRS 18.110, a district court must have before it evidence that the costs were reasonable, necessary, and actually incurred. *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015). Plaintiff seeks to strike and retax Defendant's cost memorandum on the ground that Defendant's failed to support their costs request. Defendants have supported their requests for costs in the amount of \$253.00. Accordingly, Plaintiff's Retax Motion is **DENIED**. Counsel for Defendants is directed to prepare a proposed order that incorporates the substance of this minute order and the pleadings. Plaintiff must approve as to form and content. All parties must submit their orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing [DC14Inbox@clarkcountycourts.us](mailto:DC14Inbox@clarkcountycourts.us). All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption. **CLERKS NOTE: This Minute Order was electronically served by Courtroom Clerk, Grecia Snow, to all registered parties for Odyssey File & Serve. 3/2/21 gs ;**

03/02/2021 **CANCELED Motion for Attorney Fees and Costs (10:00 AM)** (Judicial Officer: Escobar, Adriana)

*Vacated*

*Defendants Murray and Reno's Motion for an Award of Attorney's Fees and Costs*

03/02/2021 **CANCELED Motion to Retax (10:00 AM)** (Judicial Officer: Escobar, Adriana)

*Vacated*

*Plaintiff's Motion to Retax Costs and Strike Memorandum of Costs and Disbursements*

06/08/2021 **Motion to Reconsider (10:00 AM)** (Judicial Officer: Escobar, Adriana)


*Plaintiff's Motion to Reconsider Award of Attorney's Fees*

*Denied;*

06/08/2021 **Response and Countermotion (10:00 AM)** (Judicial Officer: Escobar, Adriana)

*Defendants Murray And Reno's Response To Plaintiff's Motion For Reconsideration And Counter-Motion For Sanctions*

*Granted;*

06/08/2021  **All Pending Motions (10:00 AM)** (Judicial Officer: Escobar, Adriana)

*Matter Heard;*

*Journal Entry Details:*


*All parties present via the BlueJeans Videoconferencing software. Arguments by counsel regarding the merits of and opposition to the motion. Court stated it would like to review the pleadings and ORDERED, Plaintiff's Motion to Reconsider Award of Attorney's Fees and Defendants Murray And Reno's Response To Plaintiff's Motion For Reconsideration And Counter-Motion For Sanctions TAKEN UNDER ADVISEMENT. Court stated it would issue a minute order with it's ruling.;*



## CASE SUMMARY

CASE NO. A-19-792961-C

07/06/2021

 **Minute Order** (3:10 AM) (Judicial Officer: Escobar, Adriana)

Minute Order - No Hearing Held;

Journal Entry Details:

*Plaintiff A Cab Series' Motion to Reconsider (Motion), which Defendant Murray' opposed, was heard before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on June 8, 2021. Upon thorough review of the pleadings, this Court issues the following order: Leave for reconsideration of motions is within this Court's discretion under EDCR 2.24. "A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." Masonry & Tile Contractors v. Jolley, Urga & Wirth, 113 Nev. 737, 741 (1997). NRS 7.085 Payment of additional costs, expenses and attorney's fees by attorney who files, maintains or defends certain civil actions or extends civil actions in certain circumstances. 1. If a court finds that an attorney has: (a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or (b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State, the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct. 2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public. Plaintiff seeks reconsideration of this Court's April 21, 2021, Amended Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney's Fees and Costs. Plaintiff contends that the basis for this is that the underlying basis was flawed and erroneous in that it was a reconsideration precluded by EDCR 7.12 and second, the underlying dismissal was improper as both Plaintiff and Defendant agree that the Court in Case No A-12-669926-C did not determine that the Plaintiff in this action and the Defendant in the Murray action were the same as a matter of law. Plaintiff contends that the issue of the ownership of the Wells Fargo Account in the underlying case has not been determined and Plaintiff is entitled to a declaration of rights that Plaintiff is a sole and separate entity from a Cab Series LLC and that Defendants have no rights in the funds in the Wells Fargo Account. Defendants Murray and Reno filed an opposition and countermotion for sanctions wherein Defendants request that Plaintiff and its counsel be subject to come form of additional sanctions paid to the court or another suitable beneficiary and award of attorney's fees for their continued improper conduct. Defendants contend that Plaintiff presents no new facts, law or arguments warranting reconsideration of the Court's prior Order and asserts that this Court correctly recognized this litigation was not commenced upon reasonable grounds as ownership of the res at issue has been determined in the Murray lawsuit. In the countermotion, Defendants state the Plaintiff's motion for reconsideration presents not even a scintilla of reasoning, arguments, or evidence that such reconsideration is warranted and its filing would be the proper subject of yet again, another Rule 11 motion by Defendants. Under NRS 7.085, the Court is asked to grant a further award of attorney's fees to Defendants' counsel of at least \$2,000 of attorney's fees. Based on the foregoing, this Court DENIES Plaintiff's motion for reconsideration and GRANTS Defendants' countermotion for attorney's fees. Counsel for Defendants is ORDERED to include in the order a detailed analysis of all Brunzell and Cadle factors for attorney's fees and costs. Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349, 455 P.2d 31, 33 (1969); Cadle Co. v. Woods & Erickson, Ltd. Liab. P'ship, 131 Nev. 114, 345 P.3d 1049 (2015). Counsel for Defendants is directed to prepare a detailed proposed order that incorporates the substance of this minute order and the pleadings. Plaintiff must approve as to form and content. Counsel must submit the proposed order within 14 days of the entry of this minute order. EDCR 1.90(a)(4). All parties must submit their orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption. CLERK'S NOTE: This Minute Order has been electronically served to all registered parties for Odyssey File & Serve. ;*

04/14/2022

**Motion for Relief** (10:00 AM) (Judicial Officer: Escobar, Adriana)

*Plaintiff's Motion for Relief from Findings of Fact, Conclusions of Law, and Order Granting Defendant Wells Fargo Bank, N.A Motion for Judgement on the Pleadings*

EIGHTH JUDICIAL DISTRICT COURT

**CASE SUMMARY**

**CASE NO. A-19-792961-C**

04/14/2022	<b>Motion for Relief</b> (10:00 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiff's Motion for Relief from Order Granting Defendants Murray and Reno's Motion for Judgement on the Pleadings Pursuant to NRCP 12(C)</i>
04/26/2022	<b>Motion to Stay</b> (10:00 AM) (Judicial Officer: Escobar, Adriana) <i>Plaintiff's Motion to Stay of the Execution of Sanctions Pending Reconsideration or Appeal on Order Shortening Time</i>
04/28/2022	<b>Motion to Amend Judgment</b> (10:00 AM) (Judicial Officer: Escobar, Adriana) <i>Defendants Murray and Reno's Motion to Amend the Judgment and for Alternative Relief</i>

DATE	FINANCIAL INFORMATION
------	-----------------------

<b>Defendant</b> Wells Fargo Bank, NA	
Total Charges	223.00
Total Payments and Credits	223.00
<b>Balance Due as of 3/30/2022</b>	<b>0.00</b>
<b>Defendant</b> Murray, Michael	
Total Charges	703.00
Total Payments and Credits	703.00
<b>Balance Due as of 3/30/2022</b>	<b>0.00</b>
<b>Plaintiff</b> A Cab Series, LLC	
Total Charges	294.00
Total Payments and Credits	294.00
<b>Balance Due as of 3/30/2022</b>	<b>0.00</b>
<b>Plaintiff</b> A Cab Series, LLC	
Appeal Bond Balance as of 3/30/2022	<b>500.00</b>

# DISTRICT COURT CIVIL COVER SHEET

Clark

County, Nevada

Case No. \_\_\_\_\_

(Assigned by Clerk's Office)

## I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Defendant(s) (name/address/phone):

A Cab Series, LLC, Administration Company

Michael Murray, Michael Reno, Wells Fargo Bank NA

C/O Cory Reade Dows & Shafer

**Department 2**

1333 Northy Buffalo Drive, Ste. 210, Las Vegas, NV 89128

Attorney (name/address/phone):

Attorney (name/address/phone):

Jay A. Shafer, Esq. Bar No. 009184

1333 N. Buffalo Dr., Ste. 210

Las Vegas, NV 89128 702-794-4411

## II. Nature of Controversy (please select the one most applicable filing type below)

### Civil Case Filing Types

<p style="text-align: center;"><b>Real Property</b></p> <p><b>Landlord/Tenant</b></p> <p><input type="checkbox"/> Unlawful Detainer</p> <p><input type="checkbox"/> Other Landlord/Tenant</p> <p><b>Title to Property</b></p> <p><input type="checkbox"/> Judicial Foreclosure</p> <p><input type="checkbox"/> Other Title to Property</p> <p><b>Other Real Property</b></p> <p><input type="checkbox"/> Condemnation/Eminent Domain</p> <p><input type="checkbox"/> Other Real Property</p>	<p style="text-align: center;"><b>Torts</b></p> <p><b>Other Torts</b></p> <p><input type="checkbox"/> Product Liability</p> <p><input type="checkbox"/> Intentional Misconduct</p> <p><input type="checkbox"/> Employment Tort</p> <p><input type="checkbox"/> Insurance Tort</p> <p><input type="checkbox"/> Other Tort</p>	<p style="text-align: center;"><b>Probate</b></p> <p><b>Probate (select case type and estate value)</b></p> <p><input type="checkbox"/> Summary Administration</p> <p><input type="checkbox"/> General Administration</p> <p><input type="checkbox"/> Special Administration</p> <p><input type="checkbox"/> Set Aside <input type="checkbox"/> Surviving Spouse</p> <p><input type="checkbox"/> Trust/Conservatorship</p> <p><input type="checkbox"/> Other Probate</p> <p><b>Estate Value</b></p> <p><input type="checkbox"/> Greater than \$300,000</p> <p><input type="checkbox"/> \$200,000-\$300,000</p> <p><input type="checkbox"/> \$100,001-\$199,999</p> <p><input type="checkbox"/> \$25,001-\$100,000</p> <p><input type="checkbox"/> \$20,001-\$25,000</p> <p><input type="checkbox"/> \$2,501-20,000</p> <p><input type="checkbox"/> \$2,500 or less</p>
<p style="text-align: center;"><b>Construction Defect &amp; Contract</b></p> <p><b>Construction Defect</b></p> <p><input type="checkbox"/> Chapter 40</p> <p><input type="checkbox"/> Other Construction Defect</p> <p><b>Contract Case</b></p> <p><input type="checkbox"/> Uniform Commercial Code</p> <p><input type="checkbox"/> Building and Construction</p> <p><input type="checkbox"/> Insurance Carrier</p> <p><input type="checkbox"/> Commercial Instrument</p> <p><input type="checkbox"/> Collection of Accounts</p> <p><input type="checkbox"/> Employment Contract</p> <p><input type="checkbox"/> Other Contract</p>	<p style="text-align: center;"><b>Judicial Review/Appeal</b></p> <p><b>Judicial Review</b></p> <p><input type="checkbox"/> Foreclosure Mediation Case</p> <p><input type="checkbox"/> Petition to Seal Records</p> <p><input type="checkbox"/> Mental Competency</p> <p><b>Nevada State Agency Appeal</b></p> <p><input type="checkbox"/> Department of Motor Vehicle</p> <p><input type="checkbox"/> Worker's Compensation</p> <p><input type="checkbox"/> Other Nevada State Agency</p> <p><b>Appeal Other</b></p> <p><input type="checkbox"/> Appeal from Lower Court</p> <p><input type="checkbox"/> Other Judicial Review/Appeal</p>	
<p style="text-align: center;"><b>Civil Writ</b></p> <p><b>Civil Writ</b></p> <p><input type="checkbox"/> Writ of Habeas Corpus</p> <p><input type="checkbox"/> Writ of Mandamus</p> <p><input type="checkbox"/> Writ of Quo Warrant</p>	<p style="text-align: center;"><b>Other Civil Filing</b></p> <p><b>Other Civil Filing</b></p> <p><input type="checkbox"/> Compromise of Minor's Claim</p> <p><input type="checkbox"/> Foreign Judgment</p> <p><input checked="" type="checkbox"/> Other Civil Matters</p>	

*Business Court filings should be filed using the Business Court civil coversheet.*

**April 12, 2019**

Date

Signature of initiating party or representative

*See other side for family-related case filings.*

1 **ORDR**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 A CAB SERIES, LLC, Administration  
6 Company,

7 Plaintiff(s),

8 vs.

9 MICHAEL MURRAY; MICHAEL RENO;  
10 WELLS FARGO BANK, NA; DOES 1-100;  
and ROE BUSINESS ENTITIES I through C,

11 Defendant(s).

CASE NO.: A-19-792961-C  
DEPT. NO.: XIV (14)

12  
13 **ORDER GRANTING DEFENDANTS MURRAY AND RENO'S MOTION FOR**  
14 **JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) AND DENYING**  
15 **DEFENDANTS MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT**  
16 **TO NRCP 11(C)**

17 Defendants Michael Murray and Michael Reno's Motion for Judgment on the  
18 Pleadings Pursuant to NRCP 12(c) and Motion for Sanctions Pursuant to NRCP 11(c)  
19 The motions of defendants Michael Murray and Michael Reno to dismiss the  
20 Plaintiff's complaint pursuant to NRCP Rule 12 and for sanctions pursuant to NRCP  
21 Rule 11 came on for Chambers Calendar before Department 14 of the Eighth Judicial  
22 District Court, the Honorable Adriana Escobar presiding, on September 2, 2020. This  
23 Court hereby finds and Orders as follows:

24 **Motion for Judgment**

25 "After the pleadings are closed—but early enough not to delay trial—a party  
26 may move for judgment on the pleadings." NRCP 12(c). A district court may grant a

1 motion for judgment on the pleadings when the material facts of the case are not in  
2 dispute and the movant is entitled to judgment as a matter of law. *Perry v. Terrible*  
3 *Herbst, Inc.*, 132 Nev. 767, 769 (2016); see also *Duff v. Lewis*, 114 Nev. 564, 568  
4 (1998) (“a motion under NRCP 12(c) is designed to provide a means of disposing of  
5 cases when material facts are not in dispute and a judgment on the merits can be  
6 achieved by focusing on the content of the pleadings.”) (quotations omitted). “[A]  
7 defendant will not succeed on a motion under Rule 12(c) if there are allegations in the  
8 plaintiff’s pleadings that, if proved, would permit recovery.” *Duff*, 114 Nev. 564, 568.  
9 An NRCP 12(c) motion for judgment on the pleadings “has utility only when all  
10 material allegations of fact are admitted in the pleadings and only questions of law  
11 remain.” *Id.*

12 Because a motion for judgment on the pleadings is functionally identical to a  
13 motion to dismiss for failure to state a claim, the same standard of review applies to  
14 motions brought under either rule. *Curb Mobility, LLC v. Kaptyn, Inc.*, 434 F. Supp.  
15 3d 854, 857 (D. Nev. 2020).

### 16 ***Issue Preclusion***

17 Issue preclusion bars the successive litigation of an issue of fact or law  
18 actually litigated and resolved in a valid court determination essential to the prior  
19 judgment, even if the issue recurs in the context of a different claim. *Paulos v.*  
20 *FCH1, LLC*, 136 Nev. 18, 23 (2020). Thus, issue preclusion will apply to prevent the  
21 relitigation of matters that parties have had a full and fair opportunity to litigate. *Id.*  
22 Issue preclusion is proper where the following four elements are met:

- 23 1) Same issue the issue decided in the prior litigation  
24 must be identical to the issue presented in the current  
25 action;
- 26 2) Final adjudication the merits the initial ruling must have  
27 been on the merits and have become final;

- 1 3) Same parties or their privies the party against whom  
2 the judgment is asserted must have been a party or in  
3 privity with a party to the prior litigation  
4 4) Actually and necessarily litigated the issue was  
5 actually and necessarily litigated.

6 *Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 258 (2014).

7 Availability of issue preclusion is a mixed question of law and fact, in which  
8 legal issues predominate and, once it is determined to be available, the actual  
9 decision to apply it is left to the discretion of the tribunal in which it is invoked.  
10 *Redrock Valley Ranch, LLC v. Washoe Cty.*, 127 Nev. 451, 460 (2011).

11 On August 12, 2018, in a separate class action lawsuit, *Murray v. A Cab Taxi*  
12 *Service, LLC et al*, A-12-669926-C, Judge Cory entered a judgment against A Cab,  
13 LLC for \$1,000,000 in unpaid premium wages in favor of 890 class members that  
14 were taxi driver employees [hereinafter, the "Murray Action"]. Plaintiff brings causes  
15 of action for declaratory relief, injunction, and breach of contract against Wells Fargo.  
16 Primarily, Plaintiff seeks a judgment that funds taken by Defendants, as class  
17 representatives, was Plaintiff s property, and that Plaintiff is a separate entity from the  
18 judgment debtor and not subject to execution.

### 19 ***The same issues***

20 For issue preclusion to attach, the issue decided in the prior proceeding must  
21 be identical to the issue presented in the current proceeding. *Alcantara*, 130 Nev.  
22 252, 259. In the prior Murray Action, the Defendant(s) there moved to quash a writ of  
23 execution on Wells Fargo. In its Order Denying the Motion to Quash Writ of  
24 Execution, the ultimate issue presented was whether Wells Fargo was subject to the  
25 writ. Order Denying Defendants Motion to Quash Writ of Execution, *Murray*, No. A-  
26 12-669926-C (Dec. 18, 2018), Exhibit B (Murray and Reno's Motion). The Murray  
27 Court Plaintiffs' writ of execution resulted in Wells Fargo placing a hold on

1 \$233,619.56 maintained in six different bank accounts, each having a different name  
2 that began with A Cab Series LLC. *Id.* All six of those accounts were identified by  
3 Wells Fargo under the same IRS Employer Identification Number (EIN). *Id.*  
4 Defendant brought the motion to quash on the ground that those accounts were the  
5 property of six legally separate entities, each such entity being a separate series LLC  
6 issued by the judgment debtor, A Cab LLC, as per NRS 86.296. *Id.* Notably, Plaintiff  
7 in the instant case was alleged to be one of the six legally separate entities. *Id.* at  
8 n.1.

9 In its Order Denying Defendant(s) Motion to Quash Writ of Execution, the  
10 Murray Court made multiple, but separate findings, and made clear that each finding  
11 would provide a basis for its denial of the Motion to Quash. Specifically, each finding  
12 was “intended, either on their own or in conjunction, to provide a proper basis for the  
13 Court's decision.” *Id.* The Murray Court denied the Motion to Quash finding that  
14 Defendant A Cab LLC lacked standing and the other Series LLCs had not made an  
15 appearance. Relevant here, the Murray Court made a specific finding that the Wells  
16 Fargo funds are properly levied upon by the judgment, explaining that an allegedly  
17 legally independent series LLC entity paying its own employees separate from A Cab  
18 LLC’s funds “would have to secure its own unique, EIN number, and process its  
19 payroll with the IRS under such number and not under A Cab LLC’s EIN number.” *Id.*

20 The Murray Court additionally found that there was no evidence that the  
21 independent series LLCs exist, or if they exist, they have not complied with the asset  
22 shielding provisions of NRS 68.696(3). *Id.* The Murray court explained under  
23 Nevada law, none of the alleged series LLCs had been created, and if they were,  
24 there was no evidence supporting that their obligations were limited with respect to A  
25 Cab LLC. “Specifically, [t]he Court finds that even if the six alleged series LLCs have  
26 been created, they have not complied with NRS 86.296(3) and have never adopted

1 the liability limitations available to series LLCs under that statute.” *Id.* And  
2 importantly, the Murray Court found that the “six Series LLCs in the Murray Action  
3 failed to show any basis in the Motion to Quash to conclude they have, in respect to  
4 the Wells Fargo accounts and any other assets they are alleged to possess,  
5 accounted for such assets separately from the other assets of the judgment debtor A  
6 Cab LLC as required by NRS 86.296(3) to invoke the statute’s liability limitations.” *Id.*

7 The issues in the Murray Action and instant action are the same—whether  
8 funds subject to the writ of execution on Wells Fargo was the separate property of the  
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15 Court rejects the argument by Plaintiff that the Murray Court must have conducted an  
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17 the same issues that Plaintiff now asks this Court to address.

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25 Here, Plaintiff's argument that it was a not party to the Murray Action, and thus  
26 issue preclusion does not apply, lacks merit. Plaintiff is in privity with defendants



1 from the Murray Action. “[T]he record demonstrates a substantial identity between  
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3 the pleadings supporting that Plaintiff is not in privity with the judgment debtor.

#### 4 ***Final Adjudication on the Merits***

5 The Murray Court's Order Denying Defendants Motion to Quash Writ of  
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15 Here, the issues of Plaintiff's existence as a separate legal entity from  
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17 series LLCs, and thus, separate from the judgment debtor were a common issue  
18 necessary to the Order Denying Defendants Motion to Quash Writ of Execution in the  
19 Murray Action. Based on the foregoing, issue preclusion applies and Plaintiff cannot  
20 bring the instant action. Even if the allegations contained in Plaintiff complaint are  
21 true, recovery would not be permitted. Thus, Plaintiff fails to state any claims for  
22 relief.

#### 23 ***Subject Matter Jurisdiction***

24 Defendants also contend that this Court does not have subject matter  
25 jurisdiction over the instant complaint because Plaintiff seeks to have funds returned  
26 that are subject to the exclusive jurisdiction of the Murray Action. Plaintiff contends  
27

1 that this Court has jurisdiction because Plaintiff also seeks a determination that it is a  
2 separate entity from the Murray Court Judgment Debtor, created under NRS 86.296,  
3 and is a sole and separate entity from A Cab Series LLC. Plaintiff further asserts that  
4 its claim for injunctive relief is defensive in nature and does not seek an active  
5 distribution of the funds, but rather a preservation of the funds until the declaratory  
6 relief can be addressed.

7 Based on the above analysis regarding issue preclusion, any argument  
8 Plaintiff makes that asks this Court to make a determination (1) as to Plaintiff's status  
9 as a separate entity or (2) the ownership of the funds in the Wells Fargo accounts, is  
10 precluded. Moreover, these arguments were directly addressed by the Murray Court.  
11 Plaintiff cannot seek to bypass the rulings of the Murray Court by a filing a complaint  
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13 Moreover, the Murray Court specifically ordered that class counsel only  
14 release such monies as specified by a further Order of this Court in that case. Order  
15 Granting Summary Judgment, Severing Claims, and Directing Entry of Final  
16 Judgment, Murray v. A Cab Taxi Service LLC, No. A-12-669926-C (Dec. 18, 2018),  
17 Exhibit A (Murray and Reno's Motion). Any decision regarding the outcome of the  
18 money obtained from the Wells Fargo accounts, including any challenge regarding  
19 the Murray Court's determination that the accounts are not the property of Plaintiff,  
20 must come from the Murray Court.

21 Based on the foregoing, the Court **GRANTS** Murray and Reno's Motion and  
22 dismisses Plaintiff's complaint as to Defendants Murray and Reno with prejudice.

23 **Defendants' Motion for Sanctions**

24 NRCP 11(b) provides:

25 By presenting to the court a pleading, written motion, or other  
26 paper--whether by signing, filing, submitting, or later  
advocating it--an attorney or unrepresented party certifies that

1 to the best of the person's knowledge, information, and belief,  
2 formed after an inquiry reasonable under the circumstances:

3 (1) it is not being presented for any improper purpose, such  
4 as to harass, cause unnecessary delay, or needlessly  
5 increase the cost of litigation;

6 (2) the claims, defenses, and other legal contentions are  
7 warranted by existing law or by a nonfrivolous argument for  
8 extending, modifying, or reversing existing law or for  
9 establishing new law;

10 (3) the factual contentions have evidentiary support or, if  
11 specifically so identified, will likely have evidentiary support  
12 after a reasonable opportunity for further investigation or  
13 discovery; and

14 (4) the denials of factual contentions are warranted on the  
15 evidence or, if specifically so identified, are reasonably based  
16 on belief or a lack of information.

17 If the Court determines that Rule 11(b) has been violated, the Court has the  
18 discretion to impose an appropriate sanction. NRCP 11(c)(1).

19 Plaintiff's complaint was not warranted as the issues raised are precluded  
20 under the doctrine of collateral estoppel. *See Elyousef v. O Reilly & Ferrario, LLC*,  
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24 Plaintiff's complaint violates NRCP 11(b)(2) as the Murray Court had already  
25 determined that Plaintiff was not a separate entity as a matter of law, though, the  
26 Court does not find that Plaintiff's instant action was brought for an improper purpose  
27 in violation of NRCP 11(b)(1). The only sanction the Court finds appropriate is  
granting Defendants' attorney fees and costs for defending this action. However,  
because NRCP 11(b)(5) precludes monetary sanctions for an NRCP 11(b)(2)  
violation, and this Court does not find nonmonetary directives proper, this Court  
**DENIES** Defendants' Sanction Motion.

Accordingly,

**IT IS ORDERED THAT** Defendants' Motion for Judgment on the Pleadings is **GRANTED** and Plaintiff's complaint as to Defendants Murray and Reno is dismissed with prejudice.

**IT IS FURTHER ORDERED THAT Defendants' Motion for Sanctions is DENIED.**

**IT IS SO ORDERED.**

**Dated this 4th day of January, 2021**

G. Emsbach

JUDGE ADRIANA ESCOBAR  
DISTRICT COURT JUDGE

**C8B AC7 C9F2 7408**  
**Adriana Escobar**  
**District Court Judge**

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 A Cab Series, LLC, Plaintiff(s) CASE NO: A-19-792961-C  
7 vs. DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 1/4/2021

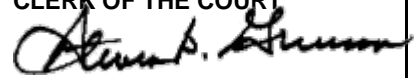
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24 Kelly Dove	kdove@swlaw.com
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28

1           If indicated below, a copy of the above mentioned filings were also served by mail  
2 via United States Postal Service, postage prepaid, to the parties listed below at their last  
3 known addresses on 1/5/2021

4       Leon Greenberg

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          c/o: Leon Greenberg  
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8 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
9 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
10 Attorneys for Defendants  
11 MURRAY and RENO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 A CAB SERIES, LLC,  
13 ADMINISTRATION COMPANY,

14 Plaintiffs,

15 vs.

16 MICHAEL MURRAY, MICHAEL  
17 RENO, WELLS FARGO BANK NA,  
18 DOES 1-100 and ROE BUSINESS  
19 ENTITIES I through C,

20 Defendants.

Case No.: A-19-792961-C

Dept.: 14

**NOTICE OF ENTRY OF  
ORDER**

21 PLEASE TAKE NOTICE that the annexed Order of the Court is served this date  
22 with notice of its entry.

23 Dated: January 20, 2021

24 LEON GREENBERG PROFESSIONAL CORP.

25 /s/Leon Greenberg

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

CERTIFICATE OF SERVICE

The undersigned certifies that on January 20, 2021, he served the within:

ORDER WITH NOTICE OF ENTRY

by court electronic service to:

JAY A. SHAFER, ESQ.  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128

/s/ Leon Greenberg  
Leon Greenberg



1 **ORDR**

2  
3 **DISTRICT COURT**  
4 **CLARK COUNTY, NEVADA**

5 A CAB SERIES, LLC, Administration  
6 Company,

7 Plaintiff(s),

8 vs.

9 MICHAEL MURRAY; MICHAEL RENO;  
10 WELLS FARGO BANK, NA; DOES 1-100;  
and ROE BUSINESS ENTITIES I through C,

11 Defendant(s).

CASE NO.: A-19-792961-C  
DEPT. NO.: XIV (14)

12  
13 **ORDER GRANTING DEFENDANTS MURRAY AND RENO'S MOTION FOR**  
14 **JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) AND DENYING**  
15 **DEFENDANTS MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT**  
16 **TO NRCP 11(C)**

17 Defendants Michael Murray and Michael Reno's Motion for Judgment on the  
18 Pleadings Pursuant to NRCP 12(c) and Motion for Sanctions Pursuant to NRCP 11(c)  
19 The motions of defendants Michael Murray and Michael Reno to dismiss the  
20 Plaintiff's complaint pursuant to NRCP Rule 12 and for sanctions pursuant to NRCP  
21 Rule 11 came on for Chambers Calendar before Department 14 of the Eighth Judicial  
22 District Court, the Honorable Adriana Escobar presiding, on September 2, 2020. This  
23 Court hereby finds and Orders as follows:

24 **Motion for Judgment**

25 "After the pleadings are closed—but early enough not to delay trial—a party  
26 may move for judgment on the pleadings." NRCP 12(c). A district court may grant a

1 motion for judgment on the pleadings when the material facts of the case are not in  
2 dispute and the movant is entitled to judgment as a matter of law. *Perry v. Terrible*  
3 *Herbst, Inc.*, 132 Nev. 767, 769 (2016); see also *Duff v. Lewis*, 114 Nev. 564, 568  
4 (1998) (“a motion under NRCP 12(c) is designed to provide a means of disposing of  
5 cases when material facts are not in dispute and a judgment on the merits can be  
6 achieved by focusing on the content of the pleadings.”) (quotations omitted). “[A]  
7 defendant will not succeed on a motion under Rule 12(c) if there are allegations in the  
8 plaintiff’s pleadings that, if proved, would permit recovery.” *Duff*, 114 Nev. 564, 568.  
9 An NRCP 12(c) motion for judgment on the pleadings “has utility only when all  
10 material allegations of fact are admitted in the pleadings and only questions of law  
11 remain.” *Id.*

12 Because a motion for judgment on the pleadings is functionally identical to a  
13 motion to dismiss for failure to state a claim, the same standard of review applies to  
14 motions brought under either rule. *Curb Mobility, LLC v. Kaptyn, Inc.*, 434 F. Supp.  
15 3d 854, 857 (D. Nev. 2020).

### 16 ***Issue Preclusion***

17 Issue preclusion bars the successive litigation of an issue of fact or law  
18 actually litigated and resolved in a valid court determination essential to the prior  
19 judgment, even if the issue recurs in the context of a different claim. *Paulos v.*  
20 *FCH1, LLC*, 136 Nev. 18, 23 (2020). Thus, issue preclusion will apply to prevent the  
21 relitigation of matters that parties have had a full and fair opportunity to litigate. *Id.*  
22 Issue preclusion is proper where the following four elements are met:

- 23 1) Same issue the issue decided in the prior litigation  
24 must be identical to the issue presented in the current  
25 action;
- 26 2) Final adjudication the merits the initial ruling must have  
27 been on the merits and have become final;

- 1 3) Same parties or their privies the party against whom  
2 the judgment is asserted must have been a party or in  
3 privity with a party to the prior litigation  
4 4) Actually and necessarily litigated the issue was  
5 actually and necessarily litigated.

6 *Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc.*, 130 Nev. 252, 258 (2014).

7 Availability of issue preclusion is a mixed question of law and fact, in which  
8 legal issues predominate and, once it is determined to be available, the actual  
9 decision to apply it is left to the discretion of the tribunal in which it is invoked.  
10 *Redrock Valley Ranch, LLC v. Washoe Cty.*, 127 Nev. 451, 460 (2011).

11 On August 12, 2018, in a separate class action lawsuit, *Murray v. A Cab Taxi*  
12 *Service, LLC et al*, A-12-669926-C, Judge Cory entered a judgment against A Cab,  
13 LLC for \$1,000,000 in unpaid premium wages in favor of 890 class members that  
14 were taxi driver employees [hereinafter, the "Murray Action"]. Plaintiff brings causes  
15 of action for declaratory relief, injunction, and breach of contract against Wells Fargo.  
16 Primarily, Plaintiff seeks a judgment that funds taken by Defendants, as class  
17 representatives, was Plaintiff s property, and that Plaintiff is a separate entity from the  
18 judgment debtor and not subject to execution.

### 19 ***The same issues***

20 For issue preclusion to attach, the issue decided in the prior proceeding must  
21 be identical to the issue presented in the current proceeding. *Alcantara*, 130 Nev.  
22 252, 259. In the prior Murray Action, the Defendant(s) there moved to quash a writ of  
23 execution on Wells Fargo. In its Order Denying the Motion to Quash Writ of  
24 Execution, the ultimate issue presented was whether Wells Fargo was subject to the  
25 writ. Order Denying Defendants Motion to Quash Writ of Execution, *Murray*, No. A-  
26 12-669926-C (Dec. 18, 2018), Exhibit B (Murray and Reno's Motion). The Murray  
27 Court Plaintiffs' writ of execution resulted in Wells Fargo placing a hold on

1 \$233,619.56 maintained in six different bank accounts, each having a different name  
2 that began with A Cab Series LLC. *Id.* All six of those accounts were identified by  
3 Wells Fargo under the same IRS Employer Identification Number (EIN). *Id.*  
4 Defendant brought the motion to quash on the ground that those accounts were the  
5 property of six legally separate entities, each such entity being a separate series LLC  
6 issued by the judgment debtor, A Cab LLC, as per NRS 86.296. *Id.* Notably, Plaintiff  
7 in the instant case was alleged to be one of the six legally separate entities. *Id.* at  
8 n.1.

9 In its Order Denying Defendant(s) Motion to Quash Writ of Execution, the  
10 Murray Court made multiple, but separate findings, and made clear that each finding  
11 would provide a basis for its denial of the Motion to Quash. Specifically, each finding  
12 was “intended, either on their own or in conjunction, to provide a proper basis for the  
13 Court's decision.” *Id.* The Murray Court denied the Motion to Quash finding that  
14 Defendant A Cab LLC lacked standing and the other Series LLCs had not made an  
15 appearance. Relevant here, the Murray Court made a specific finding that the Wells  
16 Fargo funds are properly levied upon by the judgment, explaining that an allegedly  
17 legally independent series LLC entity paying its own employees separate from A Cab  
18 LLC’s funds “would have to secure its own unique, EIN number, and process its  
19 payroll with the IRS under such number and not under A Cab LLC’s EIN number.” *Id.*

20 The Murray Court additionally found that there was no evidence that the  
21 independent series LLCs exist, or if they exist, they have not complied with the asset  
22 shielding provisions of NRS 68.696(3). *Id.* The Murray court explained under  
23 Nevada law, none of the alleged series LLCs had been created, and if they were,  
24 there was no evidence supporting that their obligations were limited with respect to A  
25 Cab LLC. “Specifically, [t]he Court finds that even if the six alleged series LLCs have  
26 been created, they have not complied with NRS 86.296(3) and have never adopted

1 the liability limitations available to series LLCs under that statute.” *Id.* And  
2 importantly, the Murray Court found that the “six Series LLCs in the Murray Action  
3 failed to show any basis in the Motion to Quash to conclude they have, in respect to  
4 the Wells Fargo accounts and any other assets they are alleged to possess,  
5 accounted for such assets separately from the other assets of the judgment debtor A  
6 Cab LLC as required by NRS 86.296(3) to invoke the statute’s liability limitations.” *Id.*

7 The issues in the Murray Action and instant action are the same—whether  
8 funds subject to the writ of execution on Wells Fargo was the separate property of the  
9 alleged series LLCs, including Plaintiff. “Issue preclusion cannot be avoided by  
10 attempting to raise a new legal or factual argument that involves the same ultimate  
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19 the Murray Court's determination that the accounts are not the property of Plaintiff,  
20 must come from the Murray Court.

21 Based on the foregoing, the Court **GRANTS** Murray and Reno's Motion and  
22 dismisses Plaintiff's complaint as to Defendants Murray and Reno with prejudice.

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because NRCP 11(b)(5) precludes monetary sanctions for an NRCP 11(b)(2)  
violation, and this Court does not find nonmonetary directives proper, this Court  
**DENIES** Defendants' Sanction Motion.

Accordingly,



**IT IS ORDERED THAT** Defendants' Motion for Judgment on the Pleadings is **GRANTED** and Plaintiff's complaint as to Defendants Murray and Reno is dismissed with prejudice.

**IT IS FURTHER ORDERED THAT** Defendants' Motion for Sanctions is **DENIED.**

**IT IS SO ORDERED.**

**Dated this 4th day of January, 2021**

G. Enobar

JUDGE ADRIANA ESCOBAR  
DISTRICT COURT JUDGE

C8B AC7 C9F2 7408

Adriana Escobar  
District Court Judge

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 A Cab Series, LLC, Plaintiff(s) CASE NO: A-19-792961-C  
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8 Michael Murray, Defendant(s)  
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14 Service Date: 1/4/2021

15 Jeanne Forrest	jforrest@swlaw.com
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22 Leon Greenberg	leongreenberg@overtimelaw.com
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*Attorneys for Defendant Wells Fargo Bank, N.A.*

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

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY,

Plaintiff,

vs.

MICHAEL MURRAY, an Individual, as a  
class representative, MICHAEL RENO, an  
Individual, as a class representative, WELLS  
FARGO BANK NA, a National Banking  
Association; DOES 1-100, and ROE  
BUSINESS ENTITIES I through C, inclusive,  
Defendants.

Case No. A-19-792961-C

Dept. No. XIV

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER GRANTING  
MOTION FOR JUDGMENT ON THE  
PLEADINGS**

**Date of Hearing: September 2, 2020**

**Hearing Time: In Chambers**

Defendant Wells Fargo Bank, N.A. (“Wells Fargo”) filed its Motion for Judgment on the Pleadings (“Motion”) on December 2, 2019. A Cab Series, LLC, Administration Company (“Plaintiff”) filed its Opposition on January 13, 2020. Wells Fargo replied in support of its Motion on February 26, 2020. Wells Fargo’s Motion came on for hearing in the Court’s Chambers on September 2, 2020 before the Honorable Judge Adriana Escobar in Department 14 of the above-entitled court. Having reviewed the filings, including all arguments, authorities, and exhibits

1 provided therein, and good cause appearing, the Court issued a Minute Order on October 26, 2020,  
2 setting forth the following Findings of Fact, Conclusions of Law, and Order.

3 **FINDINGS OF FACT**

4 1. This matter stems from an active proceeding also pending in the Eighth Judicial  
5 District Court: *Murray v. A Cab Taxi Service, A Cab LLC, and Creighton J. Nady*, No. A-12-  
6 669926-C (Nev. Dist. Ct., Clark Cty., Oct. 8, 2012) (the “*Murray Action*”).

7 2. On August 21, 2018, the Honorable Judge Kenneth Cory entered a judgment for  
8 \$1,033,027.81 against the *Murray Action* defendants, A Cab Taxi Service and A Cab LLC.

9 3. To collect on the judgment, the *Murray Action* plaintiffs served a writ of execution  
10 on Wells Fargo for the assets of “A CAB LLC and A CAB TAXI SERVICE LLC”. All accounts  
11 subjected to the writ of execution in the *Murray Action* each contained the name with “A Cab  
12 Series LLC” and all six accounts were identified under the same IRS Employer Identification  
13 Number (“EIN”).

14 4. The *Murray Action* defendant A Cab LLC moved to quash the writ of execution,  
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16 property of six legally separate entities. The court in the *Murray Action* denied the motion to  
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19 5. Plaintiff filed the instant action on April 15, 2019, bringing claims for declaratory  
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22 Plaintiff is a separate entity from the judgment debtor in the *Murray Action* and not subject to  
23 execution, and that Wells Fargo had erred in assigning the same EIN to the accounts of the separate  
24 entities.

25 6. The court in the *Murray action* specifically analyzed and made findings that Plaintiff  
26 could not limit its liability from that of the judgment debtor, and that the funds in the accounts  
27 levied upon belonged to the judgment debtor. Ultimately, with the instant action, Plaintiff asks this  
28 Court to address those same issues.

## CONCLUSIONS OF LAW

### **A. Standard for Motion for Judgment on the Pleadings.**

8. Rule 12(c) of the Nevada Rules of Civil Procedure permits a party to move for judgment on the pleadings at any time “[a]fter the pleadings are closed by within such time as not to delay the trial. . . .” NRCP 12(c). “A Rule 12(c) motion is designed to provide a means of disposing of cases when material facts are not in dispute and a judgment on the merits can be achieved by focusing on the content of the pleadings.” *Bernard v. Rockhill Development Co.*, 103 Nev. 132, 135, 734 P.2d 1238, 1241 (1987); *see also Duff v. Lewis*, 114 Nev. 564, 568, 958 P.2d 82, 85 (1998).

9. “Judgment on the pleadings is proper when, as determined from the pleadings, the material facts are not in dispute and the moving party is entitled to judgment as a matter of law.” *Lawrence v. Clark Cty.*, 127 Nev. 390, 393, 254 P.3d 606, 608 (2011) (*Bonicamp v. Vazquez*, 120 Nev. 377, 379, 91 P.3d 584, 585 (2004)).

10. Further, a Rule 12(c) motion for “judgment on the pleadings is reviewed in the same manner as a dismissal under NRCP 12(b)(5).” *Peck v. Zipf*, 133 Nev. 890, 892, 407 P.3d 775, 778 (2017) (citing *Sadler v. PacifiCare of Nev.*, 130 Nev. 990, 993, 340 P.3d 1264, 1266 (2014)).

11. Accordingly, a defendant is entitled to dismissal when a plaintiff fails “to state a claim upon which relief can be granted.” NRCP 12(b)(5). Dismissal for failure to state a claim is therefore appropriate when the plaintiff cannot prove any set of facts that would entitle him to relief. *See Buzz Stew, LLC v. City of North Las Vegas*, 124 Nev. 224, 227–28 (2008).

12. In considering a motion for judgment on the pleadings, the Court must accept the non-moving party’s factual allegations as true and construe them in its favor. *Sadler*, 130 Nev. at 993, 340 P.3d at 1266 (citing *Buzz Stew*, 124 Nev. at 227, 181 P.3d at 672). The Court is not, however, bound to accept as true a legal conclusion couched as a factual allegation. *See Papasan v. Allain*, 478 U.S. 265, 286 (1986); *see also Bailey v. Gates*, 52 Nev. 432, 437 (1930) (“Good pleading requires that . . . the facts relating to the matter be averred, leaving the court to draw the legal conclusion. . . .”).

**B. The Court May Take Judicial Notice of Orders, Hearing Transcripts, and the Docket in the *Murray* Action.**

13. As with a motion to dismiss, on a motion for judgment on the pleadings “the court is not limited to the four corners of the complaint.” *Baxter v. Dignity Health*, 131 Nev. 759, 764, 357 P.3d 927, 930 (2015) (citation omitted). The Court may take judicial notice of documents that are incorporated by reference into a complaint, even if not attached to the same, if: (1) the complaint refers to the document, (2) the document is central to the plaintiff’s claims, and (3) the authenticity of the document is undisputed. *Id.* Under Nevada law, a court may consider any matter that is properly the subject of judicial notice without converting a motion to dismiss into a motion for summary judgment. *See Occhiuto v. Occhiuto*, 97 Nev. 143, 145, 625 P.2d 568, 569 (1981).

14. Pursuant to Nev. Rev. Stat. 47.130, courts may take judicial notice of facts that are “[c]apable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned, so that the fact is not subject to reasonable dispute.” *Mack v. Estate of Mack*, 125 Nev. 80, 91, 206 P.3d 98, 106 (2009). Records in another and different case merit judicial notice when a valid reason presents itself based on the closeness of the relationship between the two cases. *See id.* (citing *Occhiuto*, 97 Nev. at 145, 625 P.2d at 569).

15. Based on the foregoing, the Court takes judicial notice of the orders, hearing transcripts, and the docket in the *Murray* Action.

**C. Plaintiff’s Third Cause of Action for Breach of Contract Is Dismissed.**

16. To establish a viable breach of contract action, “Nevada law requires the plaintiff to show (1) the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach.” *Saini v. Int’l Game Tech.*, 434 F. Supp. 2d 913, 919–20 (D. Nev. 2006) (citing *Richardson v. Jones*, 1 Nev. 405, 405 (1865)).

17. Plaintiff fails to allege the existence of valid contract between itself and Wells Fargo.

18. Moreover, Plaintiff’s breach of contract claim is a negligence claim in substance. Indeed, Plaintiff asserts that: (1) Wells Fargo owed a duty of care to Plaintiff to safeguard its property, and not to compromise its rights to the assets it entrusted to Wells Fargo, (2) Wells Fargo

1 breached its duty by acting in an intentional or negligent manner that compromised Plaintiff's rights,  
2 including its right to confidentiality, privacy and its rights in the assets Plaintiff entrusted to Wells  
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5 19. In rejecting motion to quash in the *Murray* Action, the court found that the funds  
6 were properly levied upon and Wells Fargo complied with its obligations under the law by  
7 surrendering the levied funds to the Court

8 20. Wells Fargo did not have a duty to safeguard Plaintiff's accounts from a lawful  
9 judgment and writ of execution issued in the *Murray* case.

10 21. Plaintiff fails to state a claim for which relief can be granted and, therefore,  
11 Plaintiff's third cause of action for breach of contract is dismissed with prejudice.

12 **D. Plaintiff's Claims Against Wells Fargo Are Barred by the Doctrine of Collateral**  
13 **Estoppel.**

14 22. Under the doctrine of collateral estoppel, if an issue of fact or law has been actually  
15 litigated and determined by a valid and final ruling, the determination is conclusive in a subsequent  
16 action between the parties. *See Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 445, 245 P.3d  
17 547, 549 (2010); *see also Exec. Mgmt., Ltd. v. Ticor Title Ins. Co.*, 114 Nev. 823, 835, 963 P.2d  
18 465, 473 (1998).

19 23. The doctrine provides that a party is estopped from relitigating in a subsequent case  
20 any issue that was actually and necessarily litigated in a prior case. *See Elyousef*, 126 Nev. at 445,  
21 245 P.3d at 549–50. Collateral estoppel bars relitigation of an issue when the following factors are  
22 satisfied: “(1) the issue decided in the prior litigation must be identical to the issue presented in the  
23 current action; (2) the initial ruling must have been on the merits and have become final; . . . (3) the  
24 party against whom the judgment is asserted must have been a party or in privity with a party to the  
25 prior litigation; and (4) the issue was actually and necessarily litigated.” *Id.* (quoting *Five Star*  
26 *Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008).

27 24. The factors supporting collateral estoppel are present: (1) the issue presented in the  
28 *Murray* Action is identical to the issue presented in this action; (2) the order denying the motion to



quash the writ of execution in the *Murray* Action was a final ruling on the merits; (3) Plaintiff, as well as those in privity with Plaintiff, was a party to the *Murray* Action; and, (4) the *Murray* lawsuit was actually and necessarily litigated.

25. Therefore, pursuant to the doctrine of collateral estoppel, Plaintiff is barred from asserting the claims made in this matter against Wells Fargo.

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Wells Fargo's Motion for Judgment on the Pleadings is **GRANTED**. The Complaint and all causes of action alleged therein against Wells Fargo is dismissed with prejudice.

Dated this 24th day of February, 2022



A-19-792961-C

**8E8 643 A25E 934F**  
**Adriana Escobar**  
**District Court Judge**

*Respectfully submitted by:*

**SNELL & WILMER L.L.P.**

By: /s/ Kelly H. Dove  
Kelly H. Dove, Esq.  
Nevada Bar No. 10569  
Hayley J. Cummings, Esq.  
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*Attorneys for Defendant Wells Fargo, N.A.*

*Approved as to Form and Content by:*

**CORY READE DOWS & SHAFER**

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*Attorneys for Plaintiff A Cab Series, LLC,  
Administration Company*

## Williams, Maricris

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**From:** Jay Shafer <jshafer@crdslaw.com>  
**Sent:** Wednesday, February 16, 2022 12:43 PM  
**To:** Dove, Kelly  
**Cc:** Williams, Maricris; Kathrine von Arx  
**Subject:** RE: A-Cab

[EXTERNAL] [jshafer@crdslaw.com](mailto:jshafer@crdslaw.com)

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Yes, you may submit.



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Las Vegas, Nevada 89128  
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**From:** Dove, Kelly <kdove@swlaw.com>  
**Sent:** Wednesday, February 16, 2022 11:17 AM  
**To:** Jay Shafer <jshafer@crdslaw.com>  
**Cc:** Williams, Maricris <mawilliams@swlaw.com>  
**Subject:** A-Cab  
**Importance:** High

Hi Jay –

We accepted your remaining changes. Please confirm that we can send this to the Court with your e-signature.

Thank you,  
Kelly

**Kelly H. Dove**  
Snell & Wilmer L.L.P.  
3883 Howard Hughes Pkwy, Suite 1100  
Las Vegas, Nevada 89169  
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**Snell & Wilmer**

Pronouns: she/her/hers

1 **CSERV**

2  
3 DISTRICT COURT  
4 CLARK COUNTY, NEVADA

5  
6 A Cab Series, LLC, Plaintiff(s) | CASE NO: A-19-792961-C  
7 vs. | DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
14 case as listed below:

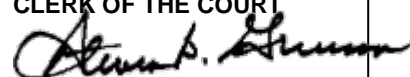
15 Service Date: 2/24/2022

16 Filings Email	info@rodriguezlaw.com
17 Jeanne Forrest	jforrest@swlaw.com
18 Sonja Dugan	sdugan@swlaw.com
19 Jay Shafer	JShafer@premierlegalgroup.com
20 Docket Docket	docket_las@swlaw.com
21 Maricris Williams	mawilliams@swlaw.com
22 Hayley Cummings	hcummings@swlaw.com
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24 Leon Greenberg	leongreenberg@overtimelaw.com
25 Kelly Dove	kdove@swlaw.com
26 Kathrine von Arx	kvonarx@crdslaw.com

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Joey Adamiak	joey@overtimelaw.com
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Ranni Gonzalez	ranni@overtimelaw.com



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hcummings@swlaw.com  
*Attorneys for Defendant Wells Fargo Bank, N.A.*

DISTRICT COURT  
CLARK COUNTY, NEVADA

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY,

Plaintiff,

vs.

MICHAEL MURRAY, an Individual, as a  
class representative, MICHAEL RENO, an  
Individual, as a class representative, WELLS  
FARGO BANK NA, a National Banking  
Association; DOES 1-100, and ROE  
BUSINESS ENTITIES I through C, inclusive,

Defendants.

Case No. A-19-792961-C

Dept. No. XIV

**NOTICE OF ENTRY OF FINDINGS OF  
FACT, CONCLUSIONS OF LAW, AND  
ORDER GRANTING MOTION FOR  
JUDGMENT ON THE PLEADINGS**

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1 PLEASE TAKE NOTICE that Findings of Fact, Conclusions of Law, and Order Granting  
2 Motion for Judgment on the Pleadings were entered in the above-captioned matter on February  
3 24, 2022, a copy of which are attached hereto.

4  
5 Dated: February 25, 2022

SNELL & WILMER L.L.P.

6 By: /s/ Kelly H. Dove

7 Kelly H. Dove, Esq.  
8 Nevada Bar No. 10569  
9 Hayley J. Cummings, Esq.  
10 Nevada Bar No. 14858  
11 3883 Howard Hughes Parkway  
12 Suite 1100  
13 Las Vegas, NV 89169  
14 *Attorneys for Defendant Wells Fargo*  
15 *Bank, N.A*

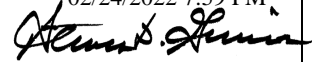
## CERTIFICATE OF SERVICE

I, the undersigned, declare under penalty of perjury, that I am over the age of eighteen (18) years, and I am not a party to, nor interested in, this action. On this date, I caused to be served a true and correct copy of the foregoing **NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING MOTION FOR JUDGMENT ON THE PLEADINGS** by method indicated below:

- ☐ **BY FAX:** by transmitting via facsimile the document(s) listed above to the fax number(s) set forth below on this date before 5:00 p.m. pursuant to EDCR Rule 7.26(a). A printed transmission record is attached to the file copy of this document(s).
- ☐ **BY U.S. MAIL:** by placing the document(s) listed above in a sealed envelope with postage thereon fully prepaid, in the United States mail at Las Vegas, Nevada addressed as set forth below.
- ☐ **BY OVERNIGHT MAIL:** by causing document(s) to be picked up by an overnight delivery service company for delivery to the addressee(s) on the next business day.
- ☐ **BY PERSONAL DELIVERY:** by causing personal delivery by, a messenger service with which this firm maintains an account, of the document(s) listed above to the person(s) at the address(es) set forth below.
- ☒ **BY ELECTRONIC SUBMISSION:** submitted to the above-entitled Court for electronic filing and service upon the Court's Service List for the above-referenced case.
- ☐ **BY EMAIL:** by emailing a PDF of the document listed above to the email addresses of the individual(s) listed below.

DATED this 25th day of February, 2022.

/s/ Maricris Williams  
An employee of SNELL & WILMER L.L.P.

  
CLERK OF THE COURT

Kelly H. Dove, Esq.  
Nevada Bar No. 10569  
Hayley J. Cummings, Esq.  
Nevada Bar No. 14858  
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*Attorneys for Defendant Wells Fargo Bank, N.A.*

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Case No. A-19-792961-C

Dept. No. XIV

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW, AND ORDER GRANTING  
MOTION FOR JUDGMENT ON THE  
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18 465, 473 (1998).

19 23. The doctrine provides that a party is estopped from relitigating in a subsequent case  
20 any issue that was actually and necessarily litigated in a prior case. *See Elyousef*, 126 Nev. at 445,  
21 245 P.3d at 549–50. Collateral estoppel bars relitigation of an issue when the following factors are  
22 satisfied: “(1) the issue decided in the prior litigation must be identical to the issue presented in the  
23 current action; (2) the initial ruling must have been on the merits and have become final; . . . (3) the  
24 party against whom the judgment is asserted must have been a party or in privity with a party to the  
25 prior litigation; and (4) the issue was actually and necessarily litigated.” *Id.* (quoting *Five Star*  
26 *Capital Corp. v. Ruby*, 124 Nev. 1048, 1055, 194 P.3d 709, 713 (2008).

27 24. The factors supporting collateral estoppel are present: (1) the issue presented in the  
28 *Murray* Action is identical to the issue presented in this action; (2) the order denying the motion to

quash the writ of execution in the *Murray* Action was a final ruling on the merits; (3) Plaintiff, as well as those in privity with Plaintiff, was a party to the *Murray* Action; and, (4) the *Murray* lawsuit was actually and necessarily litigated.

25. Therefore, pursuant to the doctrine of collateral estoppel, Plaintiff is barred from asserting the claims made in this matter against Wells Fargo.

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED AND DECREED** that Wells Fargo's Motion for Judgment on the Pleadings is **GRANTED**. The Complaint and all causes of action alleged therein against Wells Fargo is dismissed with prejudice.

Dated this 24th day of February, 2022



A-19-792961-C

**8E8 643 A25E 934F**  
**Adriana Escobar**  
**District Court Judge**

*Respectfully submitted by:*

**SNELL & WILMER L.L.P.**

By: /s/ Kelly H. Dove  
Kelly H. Dove, Esq.  
Nevada Bar No. 10569  
Hayley J. Cummings, Esq.  
Nevada Bar No. 14858  
3883 Howard Hughes Parkway, Suite 1100  
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Tel: (702) 784-5202  
kdove@swlaw.com  
hcummings@swlaw.com

*Attorneys for Defendant Wells Fargo, N.A.*

*Approved as to Form and Content by:*

**CORY READE DOWS & SHAFER**

By: /s/ Jay A. Shafer  
Jay A. Shafer, Esq.  
Nevada Bar No. 09184  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128  
Tel: (702) 794-4411  
jshafer@crdslaw.com

*Attorneys for Plaintiff A Cab Series, LLC,  
Administration Company*

## Williams, Maricris

---

**From:** Jay Shafer <jshafer@crdslaw.com>  
**Sent:** Wednesday, February 16, 2022 12:43 PM  
**To:** Dove, Kelly  
**Cc:** Williams, Maricris; Kathrine von Arx  
**Subject:** RE: A-Cab

[EXTERNAL] [jshafer@crdslaw.com](mailto:jshafer@crdslaw.com)

---

Yes, you may submit.



Jay A. Shafer, Esq.  
CORY READE DOWS & SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, Nevada 89128  
(702) 794-4411  
[jshafer@crdslaw.com](mailto:jshafer@crdslaw.com)

---

**From:** Dove, Kelly <kdove@swlaw.com>  
**Sent:** Wednesday, February 16, 2022 11:17 AM  
**To:** Jay Shafer <jshafer@crdslaw.com>  
**Cc:** Williams, Maricris <mawilliams@swlaw.com>  
**Subject:** A-Cab  
**Importance:** High

Hi Jay –

We accepted your remaining changes. Please confirm that we can send this to the Court with your e-signature.

Thank you,  
Kelly

**Kelly H. Dove**  
Snell & Wilmer L.L.P.  
3883 Howard Hughes Pkwy, Suite 1100  
Las Vegas, Nevada 89169  
Direct: 702.784.5286  
Main: 702.784.5200  
[kdove@swlaw.com](mailto:kdove@swlaw.com) [www.swlaw.com](http://www.swlaw.com)

**Snell & Wilmer**

Pronouns: she/her/hers

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4		
5		
6	A Cab Series, LLC, Plaintiff(s)	CASE NO: A-19-792961-C
7	vs.	DEPT. NO. Department 14
8	Michael Murray, Defendant(s)	
9		

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Findings of Fact, Conclusions of Law and Order was served via the  
13 court's electronic eFile system to all recipients registered for e-Service on the above entitled  
case as listed below:

14 Service Date: 2/24/2022

15	Filings Email	info@rodriguezlaw.com
16	Jeanne Forrest	jforrest@swlaw.com
17	Sonja Dugan	sdugan@swlaw.com
18	Jay Shafer	JShafer@premierlegalgroup.com
19	Docket Docket	docket_las@swlaw.com
20	Maricris Williams	mawilliams@swlaw.com
21	Hayley Cummings	hcummings@swlaw.com
22	Dana Sniegocki	dana_s@overtimelaw.com
23	Leon Greenberg	leongreenberg@overtimelaw.com
24	Kelly Dove	kdove@swlaw.com
25	Kathrine von Arx	kvonarx@crdslaw.com
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Leon Greenberg	wagelaw@hotmail.com
Ranni Gonzalez	ranni@overtimelaw.com



1 LEON GREENBERG, ESQ.  
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4 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
Attorneys for Plaintiffs

5  
6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

9 A CAB TAXI SERVICE LLC,  
ADMINISTRATION COMPANY,

10 Plaintiff,

11 vs.

12 MICHAEL MURRAY, MICHAEL  
13 RENO and WELLS FARGO BANK  
NA,

14 Defendants.  
15  
16

**Case No.: A-19-792961-C**

**DEPT.: 14**

**ORDER GRANTING THE MOTION OF  
DEFENDANTS MURRAY AND RENO  
FOR AN AWARD OF ATTORNEY'S  
FEES AND COSTS AND DENYING  
THE MOTION OF THE PLAINTIFF TO  
RETAX COSTS AND STRIKE  
MEMORANADUM OF COSTS AND  
DISBURSEMENTS**

17 The motion of defendants Michael Murray and Michael Reno for an Award of Attorney's  
18 Fees and Costs (Fees and Costs Motion) pursuant to NRS 7.085, NRS 18.010(2)(b) and the Nevada  
19 Constitution, Article 15, Section 16, the Minimum Wage Amendment (the "MWA") and the motion  
20 of plaintiff to Retax Costs and Strike Memorandum of Costs and Disbursements (Retax Motion) was  
21 set for a hearing on March 2, 2021, with the Court resolving both motions upon its thorough review  
22 of the written submissions and without oral argument from counsel, the Court finds as follows:  
23  
24  
25  
26

1 **Fees and Costs Motion**

2 NRS 7.085 provides:

3 1. If a court finds that an attorney has:

4 (a) Filed, maintained or defended a civil action or proceeding in  
5 any court in this State and such action or defense is not well-  
6 grounded in fact or is not warranted by existing law or by an  
argument for changing the existing law that is made in good faith;  
or

7 (b) Unreasonably and vexatiously extended a civil action or  
8 proceeding before any court in this State, the court shall require the  
attorney personally to pay the additional costs, expenses and  
attorney's fees reasonably incurred because of such conduct.

9 2. The court shall liberally construe the provisions of this section in favor  
of awarding costs, expenses and attorney's fees in all appropriate  
10 situations. It is the intent of the Legislature that the court award costs,  
expenses and attorney's fees pursuant to this section and impose sanctions  
11 pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all  
appropriate situations to punish for and deter frivolous or vexatious claims  
12 and defenses because such claims and defenses overburden limited  
judicial resources, hinder the timely resolution of meritorious claims and  
13 increase the costs of engaging in business and providing professional  
services to the public.

14 If claims, defenses, and other legal contentions are not warranted by existing law or by a  
15 nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new  
16 law, the Court may, after notice and a reasonable opportunity to respond, impose an appropriate  
17 sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.  
18 NRCP 11(c)(1).

19 “In addition to the cases where an allowance is authorized by specific statute, the court may  
20 make an allowance of attorney's fees to a prevailing party... Without regard to the recovery sought,  
21 when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of  
22 the opposing party was brought or maintained without reasonable ground or to harass the prevailing  
23 party.” NRS 18.010(2)(b).

1 Defendants Murray and Reno request a fee award of \$18,720, or in the alternative, \$30,240,  
2 claiming this amount to be a “more proper award.” In its January 4, 2021, Order, this Court granted the  
3 motion of Defendants Murray and Reno for judgment on the pleadings pursuant to NRCP 12(c) on the  
4 ground that Plaintiff’s complaint violated NRCP 11(b)(2). As found by the Court in that Order, Plaintiff  
5 brought this action without reasonable ground—in fact as the issues raised in Plaintiff’s complaint  
6 were not warranted as these issues were precluded under the doctrine of collateral estoppel. This  
7 Court found in that Order that a sanction awarding Defendants Murray and Reno attorney fees and  
8 costs for defending this action was appropriate.

9 Given this Court’s January 4, 2021, ruling, this Court awards Defendants Murray and Reno  
10 attorney fees in the amount of \$18,720 pursuant to NRS 7.085 and NRS 18.010(2)(b) against  
11 Plaintiff and its counsel, attorney Jay Shafer. Defendants’ request for \$30,240 in attorney fees is  
12 denied. The Court finds in this case that attorney fees are not to be granted under the Minimum  
13 Wage Act (MWA). Although Defendants Murray and Reno prevailed on MWA claims in Case No.  
14 A-12-669926-C, they cannot use the MWA to seek attorney fees in this action. The proper avenue to  
15 seek attorney fees under the MWA in Case No. A-12-669926-C was to seek such fees in that case.

16 Defendants Murray and Reno request a costs award in the amount of \$302.59. Defendants  
17 seek \$253.00 for the filing fee incurred in filing their answer to Plaintiff’s complaint, \$7.59 for an  
18 electronic payment (credit card) fee charged by the Wiznet system to file that answer, and \$52.50 in  
19 Wiznet filing charges.

20 Defendants have supported their request for costs in the amount of \$253.00. *See Cadle Co. v.*  
21 *Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015). Thus, this Court awards Defendants Murray and  
22 Reno \$253.00 in costs.

23 The Court does not grant Defendants Murray and Reno’s request that the fee and costs award that  
24 is granted be entered as a judgment with their counsel, Leon Greenberg, as the judgment creditor. The

1 Court finds this request is not properly before this Court and their counsel has provided no legal authority  
2 or analysis in connection with the same.

3 Based on the foregoing findings, Defendants Reno and Murray's Motion (the Fees and Costs  
4 Motion) is **GRANTED IN PART AND DENIED IN PART.** Defendants Reno and Murray are  
5 awarded \$18,720 in attorney's fees and \$253.00 in costs, for a total award of \$18,973.

6 **Retax Motion**

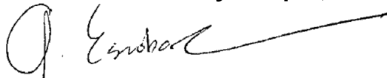
7 To retax and settle costs upon motion of the parties pursuant to NRS 18.110, a district court must  
8 have before it evidence that the costs were reasonable, necessary, and actually incurred. *Cadle Co. v.*  
9 *Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015).

10 Plaintiff seeks to strike and retax Defendants Murray and Reno's cost memorandum on the  
11 ground they have failed to support their costs request. The Court has found Defendants Murray and  
12 Reno have supported their request for costs in the amount of \$253.00.

13 Accordingly, Plaintiff's Retax Motion is **DENIED.**

14 **IT IS SO ORDERED.**

Dated this 20th day of April, 2021

15 

16 Honorable Adriana Escobar  
DISTRICT COURT JUDGE

17 **C0A 644 BC38 2BA7**  
**Adriana Escobar**  
**District Court Judge**

18 Submitted by:

19 /s/ Leon Greenberg

20 Leon Greenberg, Esq. NSB 8094  
21 Leon Greenberg Professional Corporation  
22 2965 S. Jones Boulevard - Ste. E-3  
23 Las Vegas, NV 89146  
24 Tel (702) 383-6085  
25 Attorney for the Defendants Murray and Reno

26 Approved as to Form:

/s/ Jay Shafer

Jay Shafer, Esq. NSB 9184  
Cory Reade Dows and Shafer  
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Las Vegas, Nevada, 89128  
Tel (702) 794-4441  
Attorney for the Plaintiff

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 A Cab Series, LLC, Plaintiff(s) CASE NO: A-19-792961-C  
7 vs. DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

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12 Court. The foregoing Order was served via the court's electronic eFile system to all  
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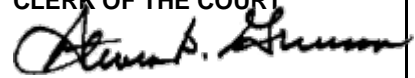
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Leon Greenberg

wagelaw@hotmail.com



1 **NEO**

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8 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
9 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
10 Attorneys for Defendants  
11 MURRAY and RENO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 A CAB SERIES, LLC,  
13 ADMINISTRATION COMPANY,

14 Plaintiffs,

15 vs.

16 MICHAEL MURRAY, MICHAEL  
17 RENO, WELLS FARGO BANK NA,  
18 DOES 1-100 and ROE BUSINESS  
19 ENTITIES I through C,

20 Defendants.

Case No.: A-19-792961-C

Dept.: 14

**NOTICE OF ENTRY OF  
ORDER**

21 PLEASE TAKE NOTICE that the annexed Order of the Court is served this date  
22 with notice of its entry.

23 Dated: April 21, 2021

24 LEON GREENBERG PROFESSIONAL CORP.

25 /s/Leon Greenberg

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



CERTIFICATE OF SERVICE

The undersigned certifies that on April 21, 2021, he served the within:

ORDER WITH NOTICE OF ENTRY

by court electronic service to:

JAY A. SHAFER, ESQ.  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128

/s/ Leon Greenberg  
Leon Greenberg

1 LEON GREENBERG, ESQ.  
Nevada Bar No.: 8094  
2 Leon Greenberg Professional Corporation  
2965 South Jones Boulevard - Suite E3  
3 Las Vegas, Nevada 89146  
(702) 383-6085  
(702) 385-1827(fax)  
4 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
Attorneys for Plaintiffs

5  
6 **DISTRICT COURT**  
7  
8 **CLARK COUNTY, NEVADA**

9 A CAB TAXI SERVICE LLC,  
ADMINISTRATION COMPANY,

10 Plaintiff,

11 vs.

12 MICHAEL MURRAY, MICHAEL  
13 RENO and WELLS FARGO BANK  
NA,

14 Defendants.  
15  
16

**Case No.: A-19-792961-C**

**DEPT.: 14**

**ORDER GRANTING THE MOTION OF  
DEFENDANTS MURRAY AND RENO  
FOR AN AWARD OF ATTORNEY'S  
FEES AND COSTS AND DENYING  
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1 **Fees and Costs Motion**

2 NRS 7.085 provides:

3 1. If a court finds that an attorney has:

4 (a) Filed, maintained or defended a civil action or proceeding in  
5 any court in this State and such action or defense is not well-  
6 grounded in fact or is not warranted by existing law or by an  
argument for changing the existing law that is made in good faith;  
or

7 (b) Unreasonably and vexatiously extended a civil action or  
8 proceeding before any court in this State, the court shall require the  
attorney personally to pay the additional costs, expenses and  
attorney's fees reasonably incurred because of such conduct.

9 2. The court shall liberally construe the provisions of this section in favor  
of awarding costs, expenses and attorney's fees in all appropriate  
10 situations. It is the intent of the Legislature that the court award costs,  
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17 sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation.  
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19 “In addition to the cases where an allowance is authorized by specific statute, the court may  
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22 the opposing party was brought or maintained without reasonable ground or to harass the prevailing  
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3 motion of Defendants Murray and Reno for judgment on the pleadings pursuant to NRCP 12(c) on the  
4 ground that Plaintiff’s complaint violated NRCP 11(b)(2). As found by the Court in that Order, Plaintiff  
5 brought this action without reasonable ground—in fact as the issues raised in Plaintiff’s complaint  
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9 Given this Court’s January 4, 2021, ruling, this Court awards Defendants Murray and Reno  
10 attorney fees in the amount of \$18,720 pursuant to NRS 7.085 and NRS 18.010(2)(b) against  
11 Plaintiff and its counsel, attorney Jay Shafer. Defendants’ request for \$30,240 in attorney fees is  
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22 Reno \$253.00 in costs.

23 The Court does not grant Defendants Murray and Reno’s request that the fee and costs award that  
24 is granted be entered as a judgment with their counsel, Leon Greenberg, as the judgment creditor. The

1 Court finds this request is not properly before this Court and their counsel has provided no legal authority  
2 or analysis in connection with the same.

3 Based on the foregoing findings, Defendants Reno and Murray's Motion (the Fees and Costs  
4 Motion) is **GRANTED IN PART AND DENIED IN PART.** Defendants Reno and Murray are  
5 awarded \$18,720 in attorney's fees and \$253.00 in costs, for a total award of \$18,973.

6 **Retax Motion**

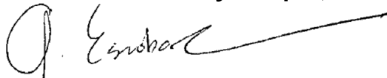
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10 Plaintiff seeks to strike and retax Defendants Murray and Reno's cost memorandum on the  
11 ground they have failed to support their costs request. The Court has found Defendants Murray and  
12 Reno have supported their request for costs in the amount of \$253.00.

13 Accordingly, Plaintiff's Retax Motion is **DENIED.**

14 **IT IS SO ORDERED.**

Dated this 20th day of April, 2021

15 

16 Honorable Adriana Escobar  
DISTRICT COURT JUDGE

17 **C0A 644 BC38 2BA7**  
**Adriana Escobar**  
**District Court Judge**

18 Submitted by:

19 /s/ Leon Greenberg

20 Leon Greenberg, Esq. NSB 8094  
21 Leon Greenberg Professional Corporation  
22 2965 S. Jones Boulevard - Ste. E-3  
23 Las Vegas, NV 89146  
24 Tel (702) 383-6085  
25 Attorney for the Defendants Murray and Reno

26 Approved as to Form:

/s/ Jay Shafer

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Cory Reade Dows and Shafer  
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Las Vegas, Nevada, 89128  
Tel (702) 794-4441  
Attorney for the Plaintiff

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

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6 A Cab Series, LLC, Plaintiff(s) CASE NO: A-19-792961-C  
7 vs. DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
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24 Heather Bock	hbock@crdslaw.com
25 Joey Adamiak	joey@overtimelaw.com

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Leon Greenberg

wagelaw@hotmail.com



1 ORDR  
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3 Nevada Bar No.: 8094  
4 Leon Greenberg Professional Corporation  
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9 leongreenberg@overtimelaw.com  
10 Attorneys for Plaintiffs

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

A CAB TAXI SERVICE LLC,  
ADMINISTRATION COMPANY,

Plaintiff,

vs.

MICHAEL MURRAY, MICHAEL  
RENO and WELLS FARGO BANK  
NA,

Defendants.

**Case No.: A-19-792961-C**

**DEPT.: 14**

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION  
AND GRANTING COUNTER-MOTION  
OF DEFENDANTS MURRAY AND  
RENO FOR AN AWARD OF  
ATTORNEY'S FEES**

The Motion to Reconsider of plaintiff A Cab Taxi Service LLC, Administration Company seeking reconsideration of the Court's April 21, 2021, Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney's Fees and Costs, along with the Counter-Motion of defendants Michael Murray and Michael Reno for an Award of Attorney's Fees pursuant to NRS 7.085, were heard by the Court on June 8, 2021, with argument by counsel for the parties in support and in opposition to such motion and countermotion being presented to the Court, and upon due consideration of such oral

argument, and all of the other submissions of the parties and the prior proceedings taken in this case, the Court hereby makes the following findings:

Leave for reconsideration of motions is within this Court's discretion under EDCR 2.24. A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997). These principles guide the Court in resolving plaintiffs' motion for reconsideration.

Defendants' counter motion seeks an award of attorney's fees pursuant NRS 7.085, which provides:

NRS 7.085 Payment of additional costs, expenses and attorney s fees by attorney who files, maintains or defends certain civil actions or extends civil actions in certain circumstances.

1. If a court finds that an attorney has:

(a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or

(b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State, the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.

2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the legislature that the court award costs, expenses and attorney s fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

In seeking reconsideration plaintiff contends that the underlying basis for this Court's April 21, 2021, Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney s Fees and Costs was flawed and erroneous in that such Order sought a reconsideration precluded by

1 EDCR 7.12. It also contends the underlying dismissal giving rise to that motion was improper as  
2 both plaintiff and defendant agree that the Court in Case No A-12-669926-C did not determine that  
3 the plaintiff in this action and the defendant in the *Murray* action were the same as a matter of law.  
4 The Court finds that plaintiff contends that the issue of its ownership of the Wells Fargo Accounts in  
5 the *Murray* case has not been determined and it is entitled to a declaration of its rights and that it is a  
6 sole and separate entity from A Cab Series LLC, the judgment debtor in the *Murray* action, and that  
7 defendants have no rights to the funds in the Wells Fargo Account.

8 Defendants Murray and Reno in opposing plaintiff's motion and in such defendants'  
9 countermotion for sanctions request that plaintiff and its counsel be subject to some form of  
10 additional sanctions paid to the court or another suitable beneficiary and award of attorneys fees for  
11 their continued improper conduct. They contend that plaintiff presents no new facts, law or  
12 arguments warranting reconsideration of the Court's prior Order and assert that this Court correctly  
13 recognized this litigation was not commenced upon reasonable grounds as ownership of the *res* at  
14 issue has been determined in the *Murray* lawsuit. In respect to their countermotion, they assert  
15 plaintiff's motion for reconsideration presents not even a scintilla of reasoning, arguments, or  
16 evidence that such reconsideration is warranted and the filing of that motion for reconsideration  
17 would be the proper subject of yet again, another Rule 11 motion against plaintiffs by such  
18 defendants. They request under NRS 7.085 that the Court grant a further award of attorney's fees to  
19 defendants' counsel of at least \$2,000.

20 Having considered the arguments of the parties, the Court DENIES the plaintiff's motion for  
21 reconsideration and GRANTS the defendants' countermotion for attorney's fees. It does so for the  
22 reasons set forth and detailed in the opposition and countermotion of defendants as follows:

23 (1) The Court's prior Order found ownership of the *res* at issue, the Wells Fargo Funds, was  
24 determined in the *Murray* lawsuit, meaning there was no good faith basis for plaintiff to bring this

1 action seeking a determination of such ownership and any such request had to be brought in the  
2 *Murray* lawsuit or an appeal in *Murray* where jurisdiction over that *res* had been assumed;

3 (2) The alleged claim of plaintiff for a declaration on its "independent status" as a separate  
4 entity from the judgment debtor in the *Murray* lawsuit provided no good faith basis to commence  
5 this lawsuit against the defendants Murray and Reno; such defendants had no alleged arguable  
6 interest in that issue separate and apart from their interest in the Wells Fargo funds and their interest  
7 in those funds was adjudicated in the *Murray* lawsuit;

8 (3) The motion for reconsideration set forth no evidence whatsoever, or any other good faith  
9 argument, or that the findings in the prior order were or are factually erroneous or are based upon a  
10 misunderstanding by the Court of controlling law.

11 In granting the counter-motion and calculating an award of attorney's fees to defendants'  
12 counsel the Court is guided by the factors discussed in *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev.  
13 345, 349, 455 P.2d 31, 33 (1969) and *Cadle Co. v. Woods & Erickson, Ltd. Liab. P'ship*, 131 Nev.  
14 114, 345 P.3d 1049 (2015) (the four "*Brunzell*" factors). As set forth in Ex. "B" to the  
15 counter-motion in the declaration of attorney Leon Greenberg, the Court finds those factors fully  
16 justify an award of \$2,000 in attorney's fees to defendant Murray and Reno's counsel for plaintiff's  
17 counsel's violation of NRS 7.085 by presenting the motion for reconsideration. The first *Brunzell*  
18 factor is satisfied. The quality of the advocate's work and expertise is substantial, as Leon  
19 Greenberg has nearly 30 years of litigation experience involving the class action wage and hour  
20 claims at the heart of the parties' dispute. The second *Brunzell* factor is satisfied, as the intricacy,  
21 importance and difficulty of the work at issue is congruent with the amount of attorney time, at least  
22 five hours, that was consumed in opposing the motion, pursuing the counter-motion, arguing the  
23 issues, and drafting this Order. The third *Brunzell* factor is satisfied, as the Court finds the advocacy  
24 of such counsel was skillful and evidenced an appropriate expenditure of attention and time (five

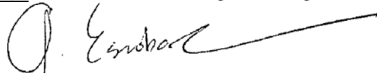
hours for fee calculation purposes) by such counsel and that the declaration of counsel is sufficient to establish this expenditure. The fourth *Brunzell* factor is also satisfied, as such counsel was fully successful and secured the full possible measure of benefit for their clients. Further, as discussed in Ex. "B" to the countermotion in the declaration of attorney Leon Greenberg, applying a \$400 an hour rate for fee calculation purposes for a fee award, requested at \$2,000 for at least a five-hour expenditure of time, is supported by the prior history of such counsel receiving attorney fee awards at the substantially higher hourly rate of \$720 an hour.

Accordingly, the Court DENIES the plaintiff's motion for reconsideration and GRANTS the defendants' countermotion to the extent of awarding attorney's fees under NRS 7.085 in the amount of \$2,000 to be paid by plaintiff's counsel to counsel for defendants Murray and Reno.

**IT IS SO ORDERED.**

Dated this 9 day of July

~~Dated this 20th day of July, 2021~~  
Date **2021** this **21st** day of **July, 2021**

  
Honorable Adriana Escobar  
DISTRICT COURT JUDGE

**E5B 8B9 0C8F 29F2**  
**Adriana Escobar**  
**District Court Judge**

Submitted by:

Approved as to Form and Content:

/S/ Leon Greenberg

NOT APPROVED

Leon Greenberg, Esq. NSB 8094  
Leon Greenberg Professional Corporation  
2965 S. Jones Boulevard - Ste. E-3  
Las Vegas, NV 89146  
Tel (702) 383-6085  
Attorney for the Defendants Murray and Reno

Jay Shafer, Esq. NSB 9184  
Cory Reade Dows and Shafer  
1333 North Buffalo Dr. - Suite 210  
Las Vegas, Nevada, 89128  
Tel (702) 794-4441  
Attorney for the Plaintiff

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 A Cab Series, LLC, Plaintiff(s) CASE NO: A-19-792961-C  
7 vs. DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/21/2021

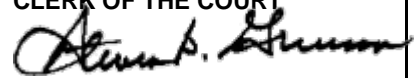
15 Jeanne Forrest	jforrest@swlaw.com
16 Sonja Dugan	sdugan@swlaw.com
17 Jay Shafer	JShafer@premierlegalgroup.com
18 Docket Docket	docket_las@swlaw.com
19 Maricris Williams	mawilliams@swlaw.com
20 Hayley Cummings	hcummings@swlaw.com
21 Dana Sniegocki	dana_s@overtimelaw.com
22 Leon Greenberg	leongreenberg@overtimelaw.com
23 Kelly Dove	kdove@swlaw.com
24 Heather Bock	hbock@crdslaw.com
25 Joey Adamiak	joey@overtimelaw.com

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Leon Greenberg

wagelaw@hotmail.com



1 **NEO**

2 LEON GREENBERG, ESQ., SBN 8094  
3 Leon Greenberg Professional Corporation  
4 2965 South Jones Blvd- Suite E3  
5 Las Vegas, Nevada 89146  
6 (702) 383-6085  
7 (702) 385-1827(fax)  
8 [leongreenberg@overtimelaw.com](mailto:leongreenberg@overtimelaw.com)  
9 [dana@overtimelaw.com](mailto:dana@overtimelaw.com)  
10 Attorneys for Defendants  
11 MURRAY and RENO

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

12 A CAB SERIES, LLC,  
13 ADMINISTRATION COMPANY,

14 Plaintiffs,

15 vs.

16 MICHAEL MURRAY, MICHAEL  
17 RENO, WELLS FARGO BANK NA,  
18 DOES 1-100 and ROE BUSINESS  
19 ENTITIES I through C,

20 Defendants.

Case No.: A-19-792961-C

Dept.: 14

**NOTICE OF ENTRY OF  
ORDER**

21 PLEASE TAKE NOTICE that the annexed Order of the Court is served this date  
22 with notice of its entry.

23 Dated: July 21, 2021

24 LEON GREENBERG PROFESSIONAL CORP.

25 /s/Leon Greenberg

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



CERTIFICATE OF SERVICE

The undersigned certifies that on July 21, 2021, he served the within:

ORDER WITH NOTICE OF ENTRY

by court electronic service to:

JAY A. SHAFER, ESQ.  
CORY READE DOWS AND SHAFER  
1333 North Buffalo Drive, Suite 210  
Las Vegas, NV 89128  
Attorney for Plaintiffs

and all other recipients registered in this case on the Court's electronic service system.

/s/ Leon Greenberg  
Leon Greenberg

1 ORDR  
2 LEON GREENBERG, ESQ.  
3 Nevada Bar No.: 8094  
4 Leon Greenberg Professional Corporation  
5 2965 South Jones Boulevard - Suite E3  
6 Las Vegas, Nevada 89146  
7 (702) 383-6085  
8 (702) 385-1827(fax)  
9 leongreenberg@overtimelaw.com  
10 Attorneys for Plaintiffs

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

A CAB TAXI SERVICE LLC,  
ADMINISTRATION COMPANY,

Plaintiff,

vs.

MICHAEL MURRAY, MICHAEL  
RENO and WELLS FARGO BANK  
NA,

Defendants.

**Case No.: A-19-792961-C**

**DEPT.: 14**

**ORDER DENYING PLAINTIFF'S  
MOTION FOR RECONSIDERATION  
AND GRANTING COUNTER-MOTION  
OF DEFENDANTS MURRAY AND  
RENO FOR AN AWARD OF  
ATTORNEY'S FEES**

The Motion to Reconsider of plaintiff A Cab Taxi Service LLC, Administration Company seeking reconsideration of the Court's April 21, 2021, Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney's Fees and Costs, along with the Counter-Motion of defendants Michael Murray and Michael Reno for an Award of Attorney's Fees pursuant to NRS 7.085, were heard by the Court on June 8, 2021, with argument by counsel for the parties in support and in opposition to such motion and countermotion being presented to the Court, and upon due consideration of such oral

argument, and all of the other submissions of the parties and the prior proceedings taken in this case, the Court hereby makes the following findings:

Leave for reconsideration of motions is within this Court's discretion under EDCR 2.24. A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous. *Masonry & Tile Contractors v. Jolley, Urga & Wirth*, 113 Nev. 737, 741 (1997). These principles guide the Court in resolving plaintiffs' motion for reconsideration.

Defendants' counter motion seeks an award of attorney's fees pursuant NRS 7.085, which provides:

NRS 7.085 Payment of additional costs, expenses and attorney s fees by attorney who files, maintains or defends certain civil actions or extends civil actions in certain circumstances.

1. If a court finds that an attorney has:

(a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or

(b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State, the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.

2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the legislature that the court award costs, expenses and attorney s fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

In seeking reconsideration plaintiff contends that the underlying basis for this Court's April 21, 2021, Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney s Fees and Costs was flawed and erroneous in that such Order sought a reconsideration precluded by

1 EDCR 7.12. It also contends the underlying dismissal giving rise to that motion was improper as  
2 both plaintiff and defendant agree that the Court in Case No A-12-669926-C did not determine that  
3 the plaintiff in this action and the defendant in the *Murray* action were the same as a matter of law.  
4 The Court finds that plaintiff contends that the issue of its ownership of the Wells Fargo Accounts in  
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6 sole and separate entity from A Cab Series LLC, the judgment debtor in the *Murray* action, and that  
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8 Defendants Murray and Reno in opposing plaintiff's motion and in such defendants'  
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10 additional sanctions paid to the court or another suitable beneficiary and award of attorneys fees for  
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14 issue has been determined in the *Murray* lawsuit. In respect to their countermotion, they assert  
15 plaintiff's motion for reconsideration presents not even a scintilla of reasoning, arguments, or  
16 evidence that such reconsideration is warranted and the filing of that motion for reconsideration  
17 would be the proper subject of yet again, another Rule 11 motion against plaintiffs by such  
18 defendants. They request under NRS 7.085 that the Court grant a further award of attorney's fees to  
19 defendants' counsel of at least \$2,000.

20 Having considered the arguments of the parties, the Court DENIES the plaintiff's motion for  
21 reconsideration and GRANTS the defendants' countermotion for attorney's fees. It does so for the  
22 reasons set forth and detailed in the opposition and countermotion of defendants as follows:

23 (1) The Court's prior Order found ownership of the *res* at issue, the Wells Fargo Funds, was  
24 determined in the *Murray* lawsuit, meaning there was no good faith basis for plaintiff to bring this

1 action seeking a determination of such ownership and any such request had to be brought in the  
2 *Murray* lawsuit or an appeal in *Murray* where jurisdiction over that *res* had been assumed;

3 (2) The alleged claim of plaintiff for a declaration on its "independent status" as a separate  
4 entity from the judgment debtor in the *Murray* lawsuit provided no good faith basis to commence  
5 this lawsuit against the defendants Murray and Reno; such defendants had no alleged arguable  
6 interest in that issue separate and apart from their interest in the Wells Fargo funds and their interest  
7 in those funds was adjudicated in the *Murray* lawsuit;

8 (3) The motion for reconsideration set forth no evidence whatsoever, or any other good faith  
9 argument, or that the findings in the prior order were or are factually erroneous or are based upon a  
10 misunderstanding by the Court of controlling law.

11 In granting the counter-motion and calculating an award of attorney's fees to defendants'  
12 counsel the Court is guided by the factors discussed in *Brunzell v. Golden Gate Nat'l Bank*, 85 Nev.  
13 345, 349, 455 P.2d 31, 33 (1969) and *Cadle Co. v. Woods & Erickson, Ltd. Liab. P'ship*, 131 Nev.  
14 114, 345 P.3d 1049 (2015) (the four "*Brunzell*" factors). As set forth in Ex. "B" to the  
15 counter-motion in the declaration of attorney Leon Greenberg, the Court finds those factors fully  
16 justify an award of \$2,000 in attorney's fees to defendant Murray and Reno's counsel for plaintiff's  
17 counsel's violation of NRS 7.085 by presenting the motion for reconsideration. The first *Brunzell*  
18 factor is satisfied. The quality of the advocate's work and expertise is substantial, as Leon  
19 Greenberg has nearly 30 years of litigation experience involving the class action wage and hour  
20 claims at the heart of the parties' dispute. The second *Brunzell* factor is satisfied, as the intricacy,  
21 importance and difficulty of the work at issue is congruent with the amount of attorney time, at least  
22 five hours, that was consumed in opposing the motion, pursuing the counter-motion, arguing the  
23 issues, and drafting this Order. The third *Brunzell* factor is satisfied, as the Court finds the advocacy  
24 of such counsel was skillful and evidenced an appropriate expenditure of attention and time (five

hours for fee calculation purposes) by such counsel and that the declaration of counsel is sufficient to establish this expenditure. The fourth *Brunzell* factor is also satisfied, as such counsel was fully successful and secured the full possible measure of benefit for their clients. Further, as discussed in Ex. "B" to the counter motion in the declaration of attorney Leon Greenberg, applying a \$400 an hour rate for fee calculation purposes for a fee award, requested at \$2,000 for at least a five-hour expenditure of time, is supported by the prior history of such counsel receiving attorney fee awards at the substantially higher hourly rate of \$720 an hour.

Accordingly, the Court DENIES the plaintiff's motion for reconsideration and GRANTS the defendants' counter motion to the extent of awarding attorney's fees under NRS 7.085 in the amount of \$2,000 to be paid by plaintiff's counsel to counsel for defendants Murray and Reno.

**IT IS SO ORDERED.**

Dated this 9 day of July

~~Dated this 21st day of July, 2021~~



Honorable Adriana Escobar  
DISTRICT COURT JUDGE

**E5B 8B9 0C8F 29F2**  
**Adriana Escobar**  
**District Court Judge**

Approved as to Form and Content:

Submitted by:

NOT APPROVED

/S/ Leon Greenberg

Leon Greenberg, Esq. NSB 8094  
Leon Greenberg Professional Corporation  
2965 S. Jones Boulevard - Ste. E-3  
Las Vegas, NV 89146  
Tel (702) 383-6085  
Attorney for the Defendants Murray and Reno

Jay Shafer, Esq. NSB 9184  
Cory Reade Dows and Shafer  
1333 North Buffalo Dr. - Suite 210  
Las Vegas, Nevada, 89128  
Tel (702) 794-4441  
Attorney for the Plaintiff

1 **CSERV**

2  
3 DISTRICT COURT  
CLARK COUNTY, NEVADA

4  
5  
6 A Cab Series, LLC, Plaintiff(s) CASE NO: A-19-792961-C  
7 vs. DEPT. NO. Department 14  
8 Michael Murray, Defendant(s)  
9

10 **AUTOMATED CERTIFICATE OF SERVICE**

11 This automated certificate of service was generated by the Eighth Judicial District  
12 Court. The foregoing Order was served via the court's electronic eFile system to all  
13 recipients registered for e-Service on the above entitled case as listed below:

14 Service Date: 7/21/2021

15 Jeanne Forrest	jforrest@swlaw.com
16 Sonja Dugan	sdugan@swlaw.com
17 Jay Shafer	JShafer@premierlegalgroup.com
18 Docket Docket	docket_las@swlaw.com
19 Maricris Williams	mawilliams@swlaw.com
20 Hayley Cummings	hcummings@swlaw.com
21 Dana Sniegocki	dana_s@overtimelaw.com
22 Leon Greenberg	leongreenberg@overtimelaw.com
23 Kelly Dove	kdove@swlaw.com
24 Heather Bock	hbock@crdslaw.com
25 Joey Adamiak	joey@overtimelaw.com

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Leon Greenberg

wagelaw@hotmail.com



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**March 26, 2020**

---

A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

---

**March 26, 2020      9:30 AM      All Pending Motions**

**HEARD BY:** Escobar, Adriana      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Denise Husted

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANTS, MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. 11(c)...DEFENDANTS, MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P.

COURT ORDERED, matter CONTINUED as Telecommunication appearances are required; parties to set up accordingly.

CONTINUED TO: 4/9/20 9:30 AM

CLERK'S NOTE: Counsel notified via email:

Jay Shafer (JShafer@crdslaw.com)  
Leon Greenberg (leongreenberg@overtimelaw.com)  
Kelly Dove (kdove@swlaw.com)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**April 16, 2020**

---

A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

---

**April 16, 2020      9:30 AM      All Pending Motions**

**HEARD BY:** Escobar, Adriana      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Denise Husted

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANT'S MURRAY & RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. 11(C)...DEFENDANT'S MURRAY & RENO'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NEV. R. CIV. P. 12(C)

COURT ORDERED, motions CONTINUED for oral argument.

CONTINUED TO: 5/21/20 9:30 AM

CLERK'S NOTE: Counsel notified via e-mail:

Kelly Dove (kdove@swlaw.com)  
Jay Shafer (jshafer@crdslaw.com)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**May 21, 2020**

---

A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

---

**May 21, 2020**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Escobar, Adriana

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Denise Husted

**RECORDER:**

**REPORTER:**

**PARTIES**

**PRESENT:**

**JOURNAL ENTRIES**

- WELL'S FARGO BANK, NA'S MOTION FOR SUMMARY JUDGMENT ON THE PLEADINGS...DEFENDANTS' MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. R. CIV. P. 11(C)...DEFENDANTS' MURRAY AND RENO'S MOTION FOR SUMMARY JUDGMENT ON THE PLEADINGS PURSUANT TO NEV. R. CIV. P. 12(3)

The Court requires appearances and oral arguments by the parties on the instant motions. COURT ORDERED, motions CONTINUED. FURTHER, parties are to contact the Department five business days prior to confirm appearance instructions.

CONTINUED TO: 7/21/20 9:30 AM

CLERK'S NOTE: This Minute Order was electronically served to all registered parties for Odyssey File & Serve. //DH  
5/21/20

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**July 21, 2020**

---

A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

---

**July 21, 2020**

**9:30 AM**

**All Pending Motions**

**HEARD BY:** Escobar, Adriana

**COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Denise Husted

**RECORDER:** Sandra Anderson

**REPORTER:**

**PARTIES**

**PRESENT:** Dove, Kelly H.

Attorney

**JOURNAL ENTRIES**

- WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANTS', MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NEV. 4. CIV. P. 11(c)...DEFENDANTS' MURRAY AND RENO'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NEV. 4. CIV. P. 12(c)

Ms. Dove stated that this matter should have been continued pursuant to communication with Ms. Powell. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 8/6/20 9:30 AM

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**August 06, 2020**

---

A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

---

**August 06, 2020      9:30 AM      All Pending Motions**

**HEARD BY:** Escobar, Adriana      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Ro'Shell Hurtado  
Carina Bracamontez-Munguia  
Michelle Jones

**RECORDER:** Sandra Anderson

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- WELLS FARGO BANK, NA'S MOTION FOR JUDGMENT ON THE PLEADINGS...DEFENDANT'S, MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NRCP 11(C)...DEFEDANT'S MURRAY AND RENO'S MOTION FO JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C)

COURT ORDERED, matters VACATED and RESET to September 2, 2020 on Chambers calendar.

09/02/2020 03:00 AM (CHAMBERS)

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**October 26, 2020**

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A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

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**October 26, 2020      3:00 AM      Minute Order**

**HEARD BY:** Escobar, Adriana

**COURTROOM:** Chambers

**COURT CLERK:** Nylasia Packer

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Defendants Murray and Reno s Motion for Judgment on the Pleadings Pursuant to NRCP 12(c) (Murray and Reno s Motion), Defendants Murray and Reno s Motion for Sanctions Pursuant to NRCP 11(c) (Sanctions Motion), and Defendant Wells Fargo Bank N.A. s Motion for Judgment on the Pleadings (Wells Fargo;s Motion), was set for Chambers Calendar before Department 14 of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on September 2, 2020. Based on the pleadings, the Court issues the following order:

Murray and Reno s Motion

After the pleadings are closed but early enough not to delay trial a party may move for judgment on the pleading. NRCP 12(c).

A district court may grant a motion for judgment on the pleadings when the material facts of the case are not in dispute and the movant is entitled to judgment as a matter of law. Perry v. Terrible Herbst, Inc., 132 Nev. 767, 769 (2016); see also Duff v. Lewis, 114 Nev. 564, 568 (1998) ( a motion under NRCP 12(c) is designed to provide a means of disposing of cases when material facts are not in dispute and a judgment on the merits can be achieved by focusing on the content of the pleadings. ) (quotations omitted).

[A] defendant will not succeed on a motion under Rule 12(c) if there are allegations in the plaintiff's pleadings that, if proved, would permit recovery. Duff, 114 Nev. 564, 568. An NRCP 12(c) motion for judgment on the pleadings has utility only when all material allegations of fact are admitted in the pleadings and only questions of law remain. Id.

Because a motion for judgment on the pleadings is functionally identical to a motion to dismiss for failure to state a claim, the same standard of review applies to motions brought under either rule. Curb Mobility, LLC v. Kaptyn, Inc., 434 F. Supp. 3d 854, 857 (D. Nev. 2020).

#### Issue Preclusion

Issue preclusion bars the successive litigation of an issue of fact or law actually litigated and resolved in a valid court determination essential to the prior judgment, even if the issue recurs in the context of a different claim. Paulos v. FCH1, LLC, 136 Nev. 18, 23 (2020) (quotations omitted). Thus, issue preclusion will apply to prevent the relitigation of matters that parties have had a full and fair opportunity to litigate. Id. (quotations omitted). Issue preclusion is proper where the following four elements are met:

- 1) Same issue the issue decided in the prior litigation must be identical to the issue presented in the current action;
- 2) Final adjudication the merits the initial ruling must have been on the merits and have become final;
- 3) Same parties or their privies the party against whom the judgment is asserted must have been a party or in privity with a party to the prior litigation
- 4) Actually and necessarily litigated the issue was actually and necessarily litigated.

Alcantara ex rel. Alcantara v. Wal-Mart Stores, Inc., 130 Nev. 252, 258 (2014).

Availability of issue preclusion is a mixed question of law and fact, in which legal issues predominate and, once it is determined to be available, the actual decision to apply it is left to the discretion of the tribunal in which it is invoked. Redrock Valley Ranch, LLC v. Washoe Cty., 127 Nev. 451, 460 (2011).

On August 12, 2018, in a separate class action lawsuit, Murray v. A Cab Taxi Service, LLC et al, A-12-669926-C, Judge Cory entered a judgment against A Cab, LLC for \$1,000,000 in unpaid premium wages in favor of 890 class members that were taxi driver employees [hereinafter, the Murray Action). Plaintiff brings causes of action for declaratory relief, injunction, and breach of contract against Wells Fargo. Primarily, Plaintiff seeks a judgment that funds taken by Defendants, as class representatives, was Plaintiff's property, and that Plaintiff is a separate entity from the judgment debtor and not subject to execution.

#### The same issues

For issue preclusion to attach, the issue decided in the prior proceeding must be identical to the issue presented in the current proceeding. Alcantara, 130 Nev. 252, 259.

In the prior Murray Action, the defendants there moved to quash a writ of execution on Wells Fargo. In its Order Denying Defendants Motion to Quash Writ of Execution, the ultimate issue presented was whether Wells Fargo was subject to the writ. Order Denying Defendants Motion to Quash Writ of Execution, Murray, No. A-12-669926-C (Dec. 18, 2018), Exhibit B (Murray and Reno s Motion). Plaintiffs writ of execution resulted in Wells Fargo placing a hold on \$233,619.56 maintained in six different bank accounts, each having a different name that began with A Cab Series LLC. Id. All six of those accounts were identified under the same IRS Employer Identification Number (EIN). Id. Defendants brought the motion to quash on the ground that those accounts were the property of six legally separate entities, each such entity being a separate series LLC issued by the judgment debtor, A Cab LLC, as per NRS 86.296. Id. Notably, Plaintiff in the instant case was alleged to be one of the six legally separate entities. Id. at n.1.

In its Order Denying Defendants Motion to Quash Writ of Execution, the Murray Court made multiple, but separate findings, and made clear that each finding would provide a basis for its denial of the Motion to Quash. Specifically, each finding was intended, either on their own or in conjunction, to provide a proper basis for the Court s decision. Id. Relevant here, the Murray Court made a specific finding that the Wells Fargo funds are properly levied upon by the judgment, explaining that an allegedly legally independent series LLC entity paying its own employees separate from A Cab LLC s funds would have to secure its own unique, EIN number, and process its payroll with the IRS under such number and not under A Cab LLC s EIN number. Id.

The Murray Court additionally found that there was no evidence that the allegedly independent series LLCs exist, or if they exist, they have not complied with the asset shielding provisions of NRS 68.696(3). Id. The Murray court explained under Nevada law, none of the alleged series LLCs had been created, and if they were, there was no evidence supporting that their obligations were limited with respect to A Cab LLC: Specifically, [T]he Court finds that even if the six alleged series LLCs have been created, they have not complied with NRS 86.296(3) and have never adopted the liability limitations available to series LLCs under that statute. Id. And importantly, the Murray Court found that the six alleged Series LLCs have failed to show any basis to conclude they have, in respect to the Wells Fargo accounts and any other assets they are alleged to possess, accounted for such assets separately from the other assets of the judgment debtor A Cab LLC as required by NRS 86.296(3) to invoke the statute s liability limitations. Id.

The issues in the Murray Action and instant action are the same whether funds subject to the writ of execution on Wells Fargo was the separate property of the alleged series LLCs, including Plaintiff. Issue preclusion cannot be avoided by attempting to raise a new legal or factual argument that involves the same ultimate issue previously decided in the prior case. Alcantara, 130 Nev. 252, 259. The Murray Court specifically analyzed and made findings that Plaintiff was not created, that even if Plaintiff exists, Plaintiff is not subject to limiting its liability from that of the judgment debtor, and that the funds in the account are that of judgment debtor. Ultimately, those issues are the same issues that Plaintiff now asks this Court to address.

The same parties or their privies



Issue preclusion can only be used against a party whose due process rights have been met by virtue of that party having been a party or in privity with a party in the prior litigation. *Alcantara*, 130 Nev. 252, 260. The Nevada Supreme Court has recognized that privity does not lend itself to a neat definition, thus determining privity for preclusion purposes requires a close examination of the facts and circumstances of each case. *Mendenhall v. Tassinari*, 133 Nev. 614, 619 (2017).

Here, Plaintiff's argument that it was a not party to the Murray Action, and thus issue preclusion does not apply, lacks merit. Plaintiff is in privity with defendants from the Murray Action. [T]he record demonstrates a substantial identity between the parties. *Mendenhall*, 133 Nev. 614, 619. Plaintiff does not point to anything in the pleadings supporting that Plaintiff is not in privity with the judgment debtor.

#### Final Adjudication on the Merits

The Murray Court's Order Denying Defendants' Motion to Quash Writ of Execution, which was adjudicated on the merits, addressed the same issues Plaintiff makes in the instant motion, finding that the funds in the six Wells Fargo accounts belong to the judgment debtor.

#### Actually and Necessarily Litigated

When an issue is properly raised and is submitted for determination, the issue is actually litigated for purposes of applying issue preclusion. *Alcantara*, 130 Nev. 252, 263. Whether the issue was necessarily litigated turns on whether the common issue was necessary to the judgment in the earlier suit. *Id.*

Here, the issues of Plaintiff's existence as a separate legal entity from judgment debtor and whether the funds in the Wells Fargo account belonged to series LLCs, and thus, separate from the judgment debtor were a common issue necessary to the Order Denying Defendants' Motion to Quash Writ of Execution in the Murray Action.

Based on the foregoing, issue preclusion applies and Plaintiff cannot bring the instant action. Even if the allegations contained in Plaintiff's complaint are true, recovery would not be permitted. Thus, Plaintiff fails to state any claims for relief.

#### Subject Matter Jurisdiction

Defendants also contend that this Court does not have subject matter jurisdiction over the instant complaint because Plaintiff seeks to have funds returned that are subject to the exclusive jurisdiction of the Murray Action. Plaintiff contends that this Court has jurisdiction because Plaintiff seeks a determination that it is a separate entity from the judgment debtor and it is not subject to execution. Plaintiff further asserts that its claim for injunctive relief is defensive in nature and does not seek an active distribution of the funds, but rather a preservation of the funds until the declaratory relief can be addressed.

Based on the above analysis regarding issue preclusion, any argument Plaintiff makes that asks this Court to make a determination (1) as to Plaintiff's status as a separate entity or (2) the ownership of

the funds in the Wells Fargo accounts, is precluded. Moreover, these arguments were directly addressed by the Murray Court. Plaintiff cannot seek to bypass the rulings of the Murray Court by a filing a complaint in a separate case.

Moreover, the Murray Court specifically ordered that class counsel only release such monies as specified by a further Order of this Court in this case. Order Granting Summary Judgment, Severing Claims, and Directing Entry of Final Judgment, Murray v. A Cab Taxi Service LLC, No. A-12-669926-C (Dec. 18, 2018), Exhibit A (Murray and Reno's Motion). Any decision regarding the outcome of the money obtained from the Wells Fargo accounts, including any challenge regarding the Murray Court's determination that the accounts are not the property of Plaintiff, must come from the Murray Court.

Based on the foregoing, the Court GRANTS Murray and Reno's Motion and dismisses Plaintiff's claims for declaratory relief and an injunction with prejudice.

Sanctions Motion  
NRCP 11(b) provides:

By presenting to the court a pleading, written motion, or other paper--whether by signing, filing, submitting, or later advocating it--an attorney or unrepresented party certifies that to the best of the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances:

- (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;
- (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law;
- (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and
- (4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on belief or a lack of information.

If the Court determines that Rule 11(b) has been violated, the Court has the discretion to impose an appropriate sanction. NRCP 11(c)(1).

Plaintiff's complaint was not warranted as the issues raised are precluded under the doctrine of collateral estoppel. See *Elyousef v. O'Reilly & Ferrario, LLC*, 126 Nev. 441, 445 (2010) (providing that under the doctrine of collateral estoppel, if an issue of fact or law has been actually litigated and determined by a valid and final ruling, the determination is conclusive in a subsequent action between the parties). Plaintiff's complaint violates NRCP 11(b)(2). Though, the Court does not find

that Plaintiff's instant action was brought for an improper purpose in violation of NRCP 11(b)(1). The only sanction the Court finds appropriate is granting Defendants' attorney fees and costs for defending this action. However, because NRCP 11(b)(5) precludes monetary sanctions for an NRCP 11(b)(2) violation, and Court does not find nonmonetary directives proper, the Court DENIES Defendants' Sanction Motion.

Defendants Murray and Reno are directed to prepare a proposed order that incorporates the substance of this Minute Order, the pleadings, and any factual and procedural history from A-12-669926-C that is relevant to Murray and Reno's Motion and Sanctions Motion. Defendants are further directed to provide the proposed order to Plaintiff for approval as to form and content.

#### Wells Fargo's Motion

To establish a viable breach of contract action, Nevada law requires the plaintiff to show (1) the existence of a valid contract, (2) a breach by the defendant, and (3) damage as a result of the breach. *Saini v. Int'l Game Tech.*, 434 F.Supp.2d 913, 919-20 (D. Nev. 2006).

Defendant asserts that Plaintiff's breach of contract complaint against it should be dismissed for failure to state a claim. The Court agrees. Plaintiff fails to allege that it had a contract with Defendant. Moreover, Plaintiff's breach of contract claim is a negligence claim in substance. Plaintiff asserts that: (1) Defendant owed a duty of care to Plaintiff to safeguard its property, and not to compromise its rights to the assets it entrusted to [Defendant], (2) Defendant breached its duty by acting in an intentional or negligent manner that compromised Plaintiff's rights, including its right to confidentiality, privacy and its rights in the assets Plaintiff entrusted to [Defendant], and (3) due to Defendant's inexcusable conduct, Plaintiff has been harmed in the amount of the funds taken, plus interest and loss of use the property.

Here, Plaintiff, under either a breach of contract theory or negligence theory, fails to state a claim for which relief can be granted. The Murray Court denied the judgment debtor's motion to quash the writ of execution on Wells Fargo. Moreover, the Murray Court specifically rejected the argument that the funds executed on belong to a series LLC, including Plaintiff. Thus, Wells Fargo had no duty to protect any property alleged to be Plaintiffs.

Moreover, the Court further finds that Plaintiff's complaint is barred by the Doctrine of Collateral Estopped. See *Elyousef*, 126 Nev. 441, 445 (2010).

Defendant Wells Fargo is directed to prepare a proposed order that incorporates the substance of this Minute Order, the pleadings, and any factual and procedural history from A-12-669926-C that is relevant to Defendant's instant Motion. Defendant is further directed provide the proposed order to Plaintiff for approval as to form and content.

All parties must submit their orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order

confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption.

CLERK S NOTE: Counsel are to ensure a copy of the forgoing minute order is distributed to all interested parties; additionally, a copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (10-26-20 np).

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**March 02, 2021**

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A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

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**March 02, 2021      3:00 AM      Minute Order**

**HEARD BY:** Escobar, Adriana

**COURTROOM:** Chambers

**COURT CLERK:** Grecia Snow

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Defendants Murray and Reno s Motion for an Award of Attorney s and Fees and Costs (Fees and Costs Motion) and Plaintiff s Motion to Retax Costs and Strike Memorandum of Costs and Disbursements (Retax Motion), was set for hearing before Department 14 of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on March 2, 2021. Upon thorough review of the pleadings, this Court issues the following order:

Fees and Costs Motion  
NRS 7.085 provides:

1. If a court finds that an attorney has:

- (a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or
- (b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this State, the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.

2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

If claims, defenses, and other legal contentions are not warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law, the Court may, after notice and a reasonable opportunity to respond, impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. NRCP 11(c)(1).

In addition to the cases where an allowance is authorized by specific statute, the court may make an allowance of attorney's fees to a prevailing party. Without regard to the recovery sought, when the court finds that the claim, counterclaim, cross-claim or third-party complaint or defense of the opposing party was brought or maintained without reasonable ground or to harass the prevailing party. NRS 18.010(2)(b).

Defendants request a fee award of \$18,720, or in the alternative, \$30,240, claiming this amount to be a more proper award. In its January 4, 2021, Order, this Court granted Defendants' motion for judgment on the pleadings pursuant to NRCP 12(c) on the ground that Plaintiff's complaint violated NRCP 11(b)(2). Plaintiff brought this action without reasonable ground in fact, the issues raised in Plaintiff's complaint was not warranted as these issues were precluded under the doctrine of collateral estoppel. This Court found that a sanction awarding Defendants' attorney fees and costs for defending this action is appropriate.

Given this Court's January 4, 2021, ruling, this Court awards Defendants' attorney fees in the amount of \$18,720 pursuant to NRS 7.085 and NRS 18.010(2)(b). Defendants' request for \$30,240 in attorney fees is denied. Attorney fees are not granted under the Minimum Wage Act (MWA). Although Defendants prevailed on MWA claims in Case No. A-12-669926-C, Defendants cannot use the MWA to seek attorney fees in this instant action. The proper avenue to seek attorney fees under the MWA in Case No. A-12-669926-C was to seek such in that case.

Defendants' request a costs award in the amount of \$302.59. Defendants' seek \$253.00 for the filing fee incurred in filing Defendants' answer to Plaintiff's complaint, \$7.59 for an electronic payment (credit card) fee charged by the Wiznet system to file that answer, \$52.50 in Wiznet filing charges.

Here, Defendants have supported their request for \$253.00. See *Cadle Co. v. Woods & Erickson, LLP*, 131 Nev. 114, 121 (2015). Thus, this Court awards Defendants' \$253.00 in costs.

Finally, this Court does not grant Defendants' request that this fees and costs award is entered as a judgment with Defendant's counsel, Leon Greenburg, as the judgment creditor. This request is not

properly before this Court. Moreover, Defendants counsel has provided no legal authority or analysis supporting this request.

Based on the foregoing, Defendants Motion is GRANTED IN PART AND DENIED IN PART. Defendant is awarded \$18,720 in attorney fees and \$253.00 in costs.

**Retax Motion**

In order to retax and settle costs upon motion of the parties pursuant to NRS 18.110, a district court must have before it evidence that the costs were reasonable, necessary, and actually incurred. Cadle Co. v. Woods & Erickson, LLP, 131 Nev. 114, 121 (2015).

Plaintiff seeks to strike and retax Defendant s cost memorandum on the ground that Defendant s failed to support their costs request. Defendants have supported their requests for costs in the amount of \$253.00.

Accordingly, Plaintiff s Retax Motion is DENIED.

Counsel for Defendants is directed to prepare a proposed order that incorporates the substance of this minute order and the pleadings. Plaintiff must approve as to form and content.

All parties must submit their orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption.

CLERKS NOTE: This Minute Order was electronically served by Courtroom Clerk, Grecia Snow, to all registered parties for Odyssey File & Serve. 3/2/21 gs

**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**June 08, 2021**

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A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

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**June 08, 2021      10:00 AM      All Pending Motions**

**HEARD BY:** Escobar, Adriana      **COURTROOM:** RJC Courtroom 14C

**COURT CLERK:** Nicole McDevitt

**RECORDER:** Stacey Ray

**REPORTER:**

**PARTIES**

**PRESENT:**      Greenberg, Leon      Attorney  
                         Shafer, Jay A.      Attorney

**JOURNAL ENTRIES**

- All parties present via the BlueJeans Videoconferencing software.

Arguments by counsel regarding the merits of and opposition to the motion. Court stated it would like to review the pleadings and ORDERED, Plaintiff's Motion to Reconsider Award of Attorney's Fees and Defendants Murray And Reno's Response To Plaintiff's Motion For Reconsideration And Counter-Motion For Sanctions TAKEN UNDER ADVISEMENT. Court stated it would issue a minute order with it's ruling.



**DISTRICT COURT  
CLARK COUNTY, NEVADA**

**Other Civil Matters**

**COURT MINUTES**

**July 06, 2021**

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A-19-792961-C      A Cab Series, LLC, Plaintiff(s)  
vs.  
Michael Murray, Defendant(s)

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**July 06, 2021      3:10 AM      Minute Order**

**HEARD BY:** Escobar, Adriana

**COURTROOM:** No Location

**COURT CLERK:** Louisa Garcia

**RECORDER:**

**REPORTER:**

**PARTIES  
PRESENT:**

**JOURNAL ENTRIES**

- Plaintiff A Cab Series' Motion to Reconsider (Motion), which Defendant Murray' opposed, was heard before Department XIV of the Eighth Judicial District Court, the Honorable Adriana Escobar presiding, on June 8, 2021. Upon thorough review of the pleadings, this Court issues the following order:

Leave for reconsideration of motions is within this Court's discretion under EDCR 2.24.

"A district court may reconsider a previously decided issue if substantially different evidence is subsequently introduced or the decision is clearly erroneous." Masonry & Tile Contractors v. Jolley, Urga & Wirth, 113 Nev. 737, 741 (1997).

NRS 7.085 Payment of additional costs, expenses and attorney's fees by attorney who files, maintains or defends certain civil actions or extends civil actions in certain circumstances.

1. If a court finds that an attorney has:

(a) Filed, maintained or defended a civil action or proceeding in any court in this State and such action or defense is not well-grounded in fact or is not warranted by existing law or by an argument for changing the existing law that is made in good faith; or

(b) Unreasonably and vexatiously extended a civil action or proceeding before any court in this

State,

the court shall require the attorney personally to pay the additional costs, expenses and attorney's fees reasonably incurred because of such conduct.

2. The court shall liberally construe the provisions of this section in favor of awarding costs, expenses and attorney's fees in all appropriate situations. It is the intent of the Legislature that the court award costs, expenses and attorney's fees pursuant to this section and impose sanctions pursuant to Rule 11 of the Nevada Rules of Civil Procedure in all appropriate situations to punish for and deter frivolous or vexatious claims and defenses because such claims and defenses overburden limited judicial resources, hinder the timely resolution of meritorious claims and increase the costs of engaging in business and providing professional services to the public.

Plaintiff seeks reconsideration of this Court's April 21, 2021, Amended Order Granting the Motion of Defendants Murray and Reno for an Award of Attorney's Fees and Costs.

Plaintiff contends that the basis for this is that the underlying basis was flawed and erroneous in that it was a reconsideration precluded by EDCR 7.12 and second, the underlying dismissal was improper as both Plaintiff and Defendant agree that the Court in Case No A-12-669926-C did not determine that the Plaintiff in this action and the Defendant in the Murray action were the same as a matter of law. Plaintiff contends that the issue of the ownership of the Wells Fargo Account in the underlying case has not been determined and Plaintiff is entitled to a declaration of rights that Plaintiff is a sole and separate entity from a Cab Series LLC and that Defendants have no rights in the funds in the Wells Fargo Account.

Defendants Murray and Reno filed an opposition and countermotion for sanctions wherein Defendants request that Plaintiff and its counsel be subject to some form of additional sanctions paid to the court or another suitable beneficiary and award of attorney's fees for their continued improper conduct. Defendants contend that Plaintiff presents no new facts, law or arguments warranting reconsideration of the Court's prior Order and asserts that this Court correctly recognized this litigation was not commenced upon reasonable grounds as ownership of the res at issue has been determined in the Murray lawsuit.

In the countermotion, Defendants state the Plaintiff's motion for reconsideration presents not even a scintilla of reasoning, arguments, or evidence that such reconsideration is warranted and its filing would be the proper subject of yet again, another Rule 11 motion by Defendants.

Under NRS 7.085, the Court is asked to grant a further award of attorney's fees to Defendants' counsel of at least \$2,000 of attorney's fees.

Based on the foregoing, this Court DENIES Plaintiff's motion for reconsideration and GRANTS Defendants' countermotion for attorney's fees.

Counsel for Defendants is ORDERED to include in the order a detailed analysis of all Brunzell and Cadle factors for attorney's fees and costs. Brunzell v. Golden Gate Nat'l Bank, 85 Nev. 345, 349, 455

P.2d 31, 33 (1969); Cadle Co. v. Woods & Erickson, Ltd. Liab. P'ship, 131 Nev. 114, 345 P.3d 1049 (2015).

Counsel for Defendants is directed to prepare a detailed proposed order that incorporates the substance of this minute order and the pleadings. Plaintiff must approve as to form and content.

Counsel must submit the proposed order within 14 days of the entry of this minute order. EDCR 1.90(a)(4).

All parties must submit their orders electronically, in both PDF version and Word version, until further notice. You may do so by emailing DC14Inbox@clarkcountycourts.us. All orders must have either original signatures from all parties or an email appended as the last page of the proposed order confirming that all parties approved use of their electronic signatures. The subject line of the e-mail should identify the full case number, filing code and case caption.

CLERK'S NOTE: This Minute Order has been electronically served to all registered parties for Odyssey File & Serve.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE  
**NOTICE OF DEFICIENCY**  
ON APPEAL TO NEVADA SUPREME COURT

JAY A. SHAFER, ESQ.  
1333 N. BUFFALO DR., SUITE 210  
LAS VEGAS, NV 89128

DATE: March 30, 2022  
CASE: A-19-792961-C

**RE CASE:** A CAB SERIES, LLC, ADMINISTRATION COMPANY vs. MICHAEL MURRAY; MICHAEL RENO;  
WELLS FARGO BANK NA

NOTICE OF APPEAL FILED: March 28, 2022

**YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.**

PLEASE NOTE: DOCUMENTS **NOT** TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)\*\*
  - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)\*\*
- ☐ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)\*\*
  - NRAP 7: Bond For Costs On Appeal in Civil Cases
  - *Previously paid Bonds are not transferable between appeals without an order of the District Court.*
- ☐ Case Appeal Statement
  - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

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**NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:**

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (g) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

***Please refer to Rule 3 for an explanation of any possible deficiencies.***

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***\*\*Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.***

# Certification of Copy

State of Nevada }  
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

A CAB SERIES, LLC, ADMINISTRATION COMPANY'S NOTICE OF APPEAL; CASE APPEAL STATEMENT; NOTICE OF POSTING COST BOND; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING DEFENDANTS MURRAY AND RENO'S MOTION FOR JUDGMENT ON THE PLEADINGS PURSUANT TO NRCP 12(C) AND DENYING DEFENDANTS MURRAY AND RENO'S MOTION FOR SANCTIONS PURSUANT TO NRCP 11(C); NOTICE OF ENTRY OF ORDER; FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING MOTION FOR JUDGMENT ON THE PLEADINGS; NOTICE OF ENTRY OF FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER GRANTING MOTION FOR JUDGMENT ON THE PLEADINGS; ORDER GRANTING THE MOTION OF DEFENDANTS MURRAY AND RENO FOR AN AWARD OF ATTORNEY'S FEES AND COSTS AND DENYING THE MOTION OF THE PLAINTIFF TO RETAX COSTS AND STRIKE MEMORANADUM OF COSTS AND DISBURSEMENTS; NOTICE OF ENTRY OF ORDER; ORDER DENYING PLAINTIFF'S MOTION FOR RECONSIDERATION AND GRANTING COUNTER-MOTION OF DEFENDANTS MURRAY AND RENO FOR AN AWARD OF ATTORNEY'S FEES; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

A CAB SERIES, LLC, ADMINISTRATION  
COMPANY,

Plaintiff(s),

vs.

MICHAEL MURRAY; MICHAEL RENO;  
WELLS FARGO BANK NA,

Defendant(s),

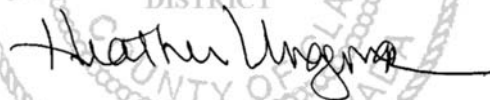
Case No: A-19-792961-C

Dept No: XIV

now on file and of record in this office.

**IN WITNESS THEREOF**, I have hereunto  
Set my hand and Affixed the seal of the  
Court at my office, Las Vegas, Nevada  
This 30 day of March 2022.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk