

Case No. 85850

In the Supreme Court of Nevada

A CAB SERIES LLC, f/k/a A CAB, LLC,

Appellant,

vs.

MICHAEL MURRAY; and MICHAEL
RENO, individually and on behalf of
others similarly situated,

Respondents.

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Elizabeth A. Brown
Clerk of Supreme Court

APPEAL

from the Eighth Judicial District Court, Clark County
The Honorable MARIA GALL, District Judge
District Court Case No. A-12-669926-C

APPELLANT'S APPENDIX

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113	Amended Notice of Appeal	01/15/19	11	2511–2513
203	Appellant’s Case Appeal Statement	12/14/22	23	5512–5516
129	Case Appeal Statement	08/12/20	11	2685–2688
134	Case Appeal Statement	02/23/21	11	2711–2716
163	Case Appeal Statement	06/14/22	17	4196–4201
95	Claim of Exemption from Execution – A Cab Series, LLC, Administration Company	10/04/18	8	1993–1998
94	Claim of Exemption from Execution – A Cab Series, LLC, CCards Company	10/04/18	8	1987–1992
97	Claim of Exemption from Execution – A Cab Series, LLC, Employee Leasing Company Two	10/04/18	9	2005–2010
93	Claim of Exemption from Execution – A Cab Series, LLC, Maintenance Company	10/04/18	8	1981–1986
98	Claim of Exemption from Execution – A Cab Series, LLC, Medallion Company	10/04/18	9	2011–2016
96	Claim of Exemption from Execution – A Cab Series, LLC, Taxi Leasing Company	10/04/18	8 9	1999–2000 2001–2004
79	Clerk’s Certificate Judgment	05/07/18	6	1381–1386
131	Clerk’s Certificate Judgment	12/15/20	11	2694–2702
1	Complaint	10/08/12	1	1–8
5	Defendant A Cab, LLC’s Answer to Complaint	04/22/13	1	48–52
7	Defendant A Cab, LLC’s Answer to First Amended Complaint	05/23/13	1	57–61

17	Defendant A Cab, LLC's Answer to Second Amended Complaint	09/14/15	1	163–169
18	Defendant Creighton J. Nady's Answer to Second Amended Complaint	10/06/15	1	170–176
89	Defendant's Ex-Parte Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening	09/21/18	7 8	1745–1750 1751–1769
120	Defendant's Second Amended Case Appeal Statement	03/06/19	11	2554–2558
114	Defendants' Amended Case Appeal Statement	01/15/19	11	2514–2518
51	Defendants' Case Appeal Statement	03/20/17	4	858–862
88	Defendants' Case Appeal Statement	09/21/18	7	1740–1744
135	Defendants' Motion for Costs	01/13/22	11 12	2717–2750 2751–2810
185	Defendants' Motion for Costs	10/24/22	22	5310–5326
140	Defendants' Motion for Declaratory Order	02/11/22	12 13	2854–3000 3001–3064
148	Defendants' Motion to Stay on Order Shortening Time	02/28/22	14 15	3385–3500 3501–3512
182	Defendants' Omnibus Brief Pursuant to Court Order	09/30/22	20 21	4990–5000 5001–5199
139	Defendants' Supplement to Response and Opposition to Plaintiffs' Rogue Supplement	02/10/22	12	2851–2853
146	Errata to Plaintiffs' Motion for Entry of Modified Award of Pre-Judgment Attorney's Fees as Provided for by Remittitur	02/23/22	14	3333–3336
183	Exhibits 6-14 to Defendants' Omnibus Brief Pursuant to Court Order	09/30/22	21 22	5200–5250 5251–5300

3	First Amended Complaint	01/30/13	1	32–38
8	Joint Case Conference Report	05/28/13	1	62–69
21	Joint Case Conference Report	11/25/15	2	378–386
84	Motion to Amend Judgment	08/22/18	7	1647–1655
50	Notice of Appeal	03/20/17	4	856–857
87	Notice of Appeal	09/21/18	7	1738–1739
128	Notice of Appeal	08/12/20	11	2683–2684
133	Notice of Appeal	02/23/21	11	2709–2710
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202	Notice of Appeal	12/14/22	22 23	5430–5500 5501–5511
4	Notice of Entry of Decision and Order	02/13/13	1	39–47
56	Notice of Entry of Decision and Order	06/07/17	5	1033–1050
53	Notice of Entry of Discovery Commissioner’s Report & Recommendations	05/18/17	4	872–880
65	Notice of Entry of Discovery Commissioner’s Report & Recommendations	10/24/17	5	1124–1131
36	Notice of Entry of Discovery Commissioner’s Report and Recommendations	07/13/16	3	547–553
6	Notice of Entry of Order	05/06/13	1	53–56
66	Notice of Entry of Order	12/12/17	5	1132–1135
67	Notice of Entry of Order	12/12/17	5	1136–1139
72	Notice of Entry of Order	01/22/18	6	1270–1275
100	Notice of Entry of Order	10/22/18	9	2042–2045
194	Notice of Entry of Order Continuing Decision on Plaintiffs’ Motion for an Award of Attorney’s Fees on Appeal of	11/17/22	22	5383–5386

	Order Denying Receiver, Opposing Mooted Motion for Attorney's Fees, and for Costs of Appeal			
25	Notice of Entry of Order Denying Defendant's Motion to Dismiss and for Summary Judgment Against Michael Murray	02/18/16	2	431–434
26	Notice of Entry of Order Denying Defendant's Motion to Dismiss and for Summary Judgment Against Michael Reno	02/18/16	2	435–438
196	Notice of Entry of Order Denying Defendants' Motion for Costs	11/17/22	22	5392–5395
34	Notice of Entry of Order Denying Defendants' Motion for Reconsideration of Two Orders Entered March 4, 2016, Pertaining to Discovery Commissioner's Reports & Recommendations	05/27/16	3	525–528
125	Notice of Entry of Order Denying Defendants' Motion for Reconsideration of Judgment and Order Granting Resolution Economics Application for Order of Payment of Special Master's Fees and Order of Contempt	08/08/19	11	2618–2623
110	Notice of Entry of Order Denying Defendants' Motion to Quash Writ of Execution	12/18/18	10	2476–2498
195	Notice of Entry of Order Denying Defendants' Motions for Sanctions	11/17/22	22	5387–5391
117	Notice of Entry of Order Denying in Part and Continuing in Part Plaintiffs' Motion on OST to Lift Stay, Hold Defendants in Contempt, Strike Their Answer, Grant	03/05/19	11	2540–2543

	Partial Summary Judgment, Direct A Prove Up Hearing, and Coordinate Cases			
201	Notice of Entry of Order Denying Plaintiffs Motion to Reconsider Award of Costs and Striking June 3, 2022 Order	11/23/22	22	5422–5429
9	Notice of Entry of Order Denying Plaintiffs’ Counter-Motion for Default Judgment or Sanctions Pursuant to EDCR 7.602(b)	05/29/13	1	70–73
62	Notice of Entry of Order Denying Plaintiffs’ Counter-Motion for Sanctions and Attorneys’ Fees and Order Denying Plaintiffs’ Anti-SLAPP Motion	07/31/17	5	1089–1092
75	Notice of Entry of Order Denying Plaintiffs’ Motion for Bifurcation and/or to Limit Issues for Trial per NRCP 42(B)	02/02/18	6	1333–1337
59	Notice of Entry of Order Denying Plaintiffs’ Motion for Partial Summary Judgment	07/17/17	5	1079–1084
169	Notice of Entry of Order Denying Plaintiffs’ Motion for Turnover of Property Pursuant to NRS 21.230 or Alternative Relief Without Prejudice	07/08/22	19	4671–4676
127	Notice of Entry of Order Denying Plaintiffs’ Motion to Allow Judgment Enforcement; Plaintiffs’ Motion to Distribute Funds Held by Class Counsel; and Plaintiffs’ Motion Requiring the Turnover of Certain Property of the Judgment Debtor Pursuant to NRS 21.320; and Order Granting Defendants’ Countermotion for Stay of Collection Activities	07/17/20	11	2676–2682

30	Notice of Entry of Order Denying Plaintiffs' Motion to Impose Sanctions Against Defendants	04/07/16	2	477–480
45	Notice of Entry of Order Granting Certain Relief on Motion to Enjoin Defendants from Seeking Settlement of Any Unpaid Wage Claims Involving Any Class Members Except as Part of this Lawsuit and for Other Relief	02/16/17	4	827–830
157	Notice of Entry of Order Granting Defendants' Motion for Costs	05/17/22	16	3922–3927
160	Notice of Entry of Order Granting Defendants' Motion for Costs	06/03/22	17	4090–4093
158	Notice of Entry of Order Granting Defendants' Motion for Release of Cost Bonds	05/20/22	16	3928–3933
31	Notice of Entry of Order Granting Defendants' Motion for Stay Pending Court's Reconsideration of Prior Order	04/07/16	2	481–484
156	Notice of Entry of Order Granting Defendants' Motion to Stay	05/03/22	16	3917–3921
22	Notice of Entry of Order Granting in Part and Denying in Part Defendant's Motion for Declaratory Order Regarding Statute of Limitations	12/22/15	2	387–391
40	Notice of Entry of Order Granting in Part and Denying in Part Plaintiffs' Motion to Continue Trial Date and Extend Discovery Schedule and for Other Relief	11/23/16	3	672–677
46	Notice of Entry of Order Granting in Part and Denying in Part Plaintiffs' Motion to Have Case Reassigned to Department I per EDCR Rule 1.60 and	02/21/17	4	831–834

	Designated as Complex Litigation per NRCP 16.1(f)			
111	Notice of Entry of Order Granting in Part and Denying in Part Plaintiffs' Objections to Defendants' Claims of Exemption from Execution	12/18/18	10 11	2499–2500 2501–2502
15	Notice of Entry of Order Granting Motion to Serve and File a Second Amended and Supplemental Complaint	08/17/15	1	141–144
189	Notice of Entry of Order Granting Plaintiff's Motion for Entry of a Modified Judgment as Provided for by Remittitur	11/14/22	22	5338–5344
190	Notice of Entry of Order Granting Plaintiff's Motion for Entry of a Modified Award of Pre-Judgment Attorney's Fees as Provided for by Remittitur	11/14/22	22	5345–5350
112	Notice of Entry of Order Granting Plaintiffs' Counter Motion for Judgment Enforcement Relief	01/02/19	11	2503–2510
116	Notice of Entry of Order Granting Plaintiffs' Motion for an Award of Attorneys' Fees and Costs Pursuant to NRCP 54 and the Nevada Constitution	02/07/19	11	2529–2539
193	Notice of Entry of Order Granting Plaintiffs' Motion for Award of Attorney's Fees on Appeal	11/17/22	22	5377–5382
76	Notice of Entry of Order Granting Plaintiffs' Motion to Appoint a Special Master	02/08/18	6	1338–1345
24	Notice of Entry of Order Granting Plaintiffs' Motion to Certify Class Action Pursuant to NRCP Rule 23 (b)(2) and NRCP Rule 23(b)(3) and Denying Without Prejudice Plaintiffs' Motion to	02/10/16	2	413–430

	Appoint a Special Master Under NRCP Rule 53			
35	Notice of Entry of Order Granting Plaintiffs' Motion to Certify Class Action Pursuant to NRCP Rule 23(b)(2) and NRCP Rule 23(b)(3) and Denying Without Prejudice Plaintiffs' Motion to Appoint a Special Master Under NRCP Rule 53 and Amended by this Court in Response to Defendant's Motion for Reconsideration Heard in Chambers on March 28,2016	06/07/16	3	529–546
83	Notice of Entry of Order Granting Summary Judgment, Severing Claims, and Directing Entry of Final Judgment	08/22/18	7	1581–1646
78	Notice of Entry of Order Modifying Court's Previous Order of February 7, 2018 Appointing a Special Master	02/16/18	6	1377–1380
192	Notice of Entry of Order Modifying Final Judgment Entered on August 21, 2018	11/17/22	22	5356–5376
199	Notice of Entry of Order Modifying Order on February 6, 2019 Granting Plaintiffs an Award of Attorney's Fees and Costs	11/18/22	22	5404–5409
70	Notice of Entry of Order of Appointment of Co-Class Counsel Christian Gabroy	01/04/18	6	1262–1265
27	Notice of Entry of Order of Discovery Commissioner's Report and Recommendation	03/04/16	2	439–446
28	Notice of Entry of Order of Discovery Commissioner's Report and Recommendation	03/04/16	2	447–460
52	Notice of Entry of Order of Discovery Commissioner's Report and Recommendations	03/31/17	4	863–871

48	Notice of Entry of Order of Discovery Commissioners Report and Recommendations	03/13/17	4	839–847
49	Notice of Entry of Order of Discovery Commissioners Report and Recommendations	03/13/17	4	848–855
47	Notice of Entry of Order of Stipulation and Order	03/09/17	4	835–838
33	Notice of Entry of Order on Defendants’ Motion for Reconsideration	04/28/16	3	521–524
118	Notice of Entry of Order on Defendants’ Motion for Reconsideration	03/05/19	11	2544–2549
115	Notice of Entry of Order on Judgment and Order Granting Resolution Economics’ Application for Order of Payment of Special Master’s Fees and Order of Contempt	02/05/19	11	2519–2528
197	Notice of Entry of Order on Motion for Costs	11/17/22	22	5396–5398
200	Notice of Entry of Order on Motion to Distribute Funds Held by Class Counsel on and Order Shortening Time	11/21/22	22	5410–5421
132	Notice of Entry of Order on Plaintiff’s Motion for Appointment of Receiver to Aid Judgment Enforcement of Alternative Relief	02/22/21	11	2703–2708
121	Notice of Entry of Order on Special Master Resolution Economics’ Ex Parte Motion for Order Shortening Time on the Motion to Strike Defendants’ Motion for Reconsideration of Judgment and Order Granting Resolution Economics Application for Order of Payment of	03/15/19	11	2559–2563

	Special Masters Fees and Oder of Contempt			
71	Notice of Entry of Order Stipulation and Order	01/16/18	6	1266–1269
10	Notice of Entry of Stipulation and Order Staying All Proceedings for a Period of Ninety (90) days	01/29/14	1	74–78
11	Notice of Entry of Stipulation and Order Staying All Proceedings for a Period of Ninety (90) days (Second Request)	04/23/14	1	79–83
12	Notice of Entry of Stipulation and Order Staying All Proceedings for a Period of Sixty (60) days (Third Request)	07/28/14	1	84–87
186	Notice of Non-Opposition to Defendants’ Motion for Costs	11/01/22	22	5327–5329
204	Notice of Removal	12/14/22	23	5517–5526
151	Opposition to Plaintiffs’ Motion for an Award of Attorney’s Fees on Appeal	03/03/22	16	3797–3817
153	Opposition to Plaintiffs’ Motion for an Award of Attorney’s Fees on Appeal of Order Denying Receiver, Opposing Mooted Motion for Attorney’s Fees, and for Costs on Appeal	03/08/22	16	3860–3886
103	Opposition to Plaintiffs’ Motion for an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution	11/01/18	9 10	2156–2250 2251–2294
149	Opposition to Plaintiffs’ Motion for Entry of a Modified Judgment as Provided for by Remittitur	02/28/22	15 16	3513–3750 3751–3786
150	Opposition to Plaintiffs’ Motion for Entry of Modified Award of Pre-Judgment	03/02/22	16	3787–3796

	Attorney's Fees and as Provided for by Remittitur			
85	Opposition to Plaintiffs' Motion to Amend Judgment	09/10/18	7	1656–1680
105	Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution	11/16/18	10	2304–2316
166	Opposition to Plaintiffs' Motion to Reconsider Award of Costs and Countermotion to Strike Duplicative Order	06/30/22	18	4380–4487
161	Opposition to Plaintiffs' Motion to Stay, Offset, or Apportion Award of Costs and/or Reconsider Award of Costs and Countermotion for Attorney's Fees	06/14/22	17	4094–4193
60	Order	07/17/17	5	1085–1086
61	Order	07/17/17	5	1087–1088
191	Order Amending the Class	11/17/22	22	5351–5355
168	Order Denying Motion Without Prejudice and with Leave to Renew	07/08/22	19	4667–4670
181	Order Granting Motion to Lift Stay and Regarding Additional Briefing and Motion Practice	09/19/22	20	4984–4989
198	Order Granting Motion to Stay, Offset, or Apportion Award of Cost	11/17/22	22	5399–5403
144	Plaintiffs' Motion for an Award of Attorney's Fees on Appeal	02/17/22	14	3302–3316
145	Plaintiffs' Motion for an Award of Attorney's Fees on Appeal of Order Denying Receiver, Opposing Mooted Motion for Attorney's Fees, and for Costs on Appeal	02/22/22	14	3317–3332

99	Plaintiffs' Motion for an Award of Attorneys Fees and Costs as per NRCF Rule 54 and the Nevada Constitution	10/12/18	9	2017–2041
141	Plaintiffs' Motion for Entry of a Modified Judgment as Provided for by Remittitur	02/14/22	13	3065–3221
142	Plaintiffs' Motion for Entry of Modified Award of Pre-Judgment Attorney's Fees as Provided for by Remittitur	02/16/22	13 14	3222–3250 3251–3272
102	Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs Per NRCF Rule 54 and the Nevada Constitution	10/29/18	9	2143–2155
176	Plaintiffs' Motion to Lift Stay and Have Pending Motions Decided	08/12/22	20	4868–4882
164	Plaintiffs' Motion to Reconsider Award of Costs	06/16/22	17 18	4202–4250 4251–4356
159	Plaintiffs' Motion to Stay, Offset, or Apportion Award of Costs and/or Reconsider Award of Costs	05/31/22	16 17	3934–4000 4001–4089
184	Plaintiffs' Omnibus Brief Pursuant to the Court's Order of September 19, 2022	09/30/22	22	5301–5309
187	Plaintiffs' Opposition to Defendants' Motion for Costs	11/04/22	22	5330–5333
180	Plaintiffs' Reply to Defendant's Opposition to Plaintiffs' Motion to Lift Stay and Have Pending Motions Decided	09/13/22	20	4967–4983
86	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Amend Judgment	09/20/18	7	1681–1737
104	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs as	11/08/18	10	2295–2303

	Per NRCP Rule 54 and the Nevada Constitution			
106	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs Per NRCP Rule 54 and the Nevada Constitution	11/28/18	10	2317–2323
167	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Stay, Offset, or Apportion Award of Costs and/or Reconsider Award of Costs	07/01/22	18 19	4488–4500 4501–4666
170	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to Reconsider Award of Costs and Response to Defendants' Counter-Motion	07/21/22	19	4677–4716
172	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Entry of Modified Judgment as Provided for by Remittitur	08/12/22	20	4767–4835
173	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for Entry of Modified Award of Pre-Judgment Attorney's Fees and Provided for by Remittitur	08/12/22	20	4836–4840
174	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for an Award of Attorney's Fees on Appeal	08/12/22	20	4841–4845
175	Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion for an Award of Attorneys' Fees on Appeal of Order Denying Receiver, Opposing Mooted Motion for Attorney's Fees, and for Costs on Appeal	08/12/22	20	4846–4867

90	Plaintiffs' Response and Counter-motion to Defendants Motion on OST to Quash	09/24/18	8	1770–1845
136	Plaintiffs' Response to Defendants' Motion for Costs & Counter Motion to Offset Costs Against Judgment	02/03/22	12	2811–2825
147	Plaintiffs' Response to Defendants' Motion for Declaratory Order & Counter-Motion for Award of Attorney's Fees	02/25/22	14	3337–3384
152	Plaintiffs' Response to Defendants' Motion for Stay on Order Shortening Time and Counter-Motion for Award of Attorney's Fees	03/04/22	16	3818–3859
107	Recorder's Transcript of Hearing on All Pending Motions	12/04/18	10	2324–2405
205	Recorder's Transcript of Hearing on Argument re Post Judgment Receiver Motion to Distribute Funds Held by Class Counsel on an Order Shortening Time	12/15/22	23	5527–5530
124	Recorder's Transcript of Hearing re All Pending Motions	05/21/19	11	2570–2617
126	Recorder's Transcript of Hearing re All Pending Motions	12/03/19	11	2624–2675
143	Recorder's Transcript of Hearing re All Pending Motions	02/16/22	14	3273–3301
155	Recorder's Transcript of Hearing re Defendant's Motion to Stay on OST	03/09/22	16	3902–3916
63	Recorder's Transcript of Proceeding re Discovery Conference	08/08/17	5	1093–1110
64	Recorder's Transcript of Proceeding re Discovery Conference – Referred by Judge	10/04/17	5	1111–1123

20	Recorder's Transcript of Proceedings for All Pending Motions	11/18/15	2	346–377
23	Recorder's Transcript of Proceedings for Discovery Production/Deferred Ruling – Defendant's Rule 37 Sanctions	01/13/16	2	392–412
32	Recorder's Transcript of Proceedings for Further Proceedings on Discovery Production/Deferred Ruling	04/08/16	2 3	485–500 501–520
13	Recorder's Transcript of Proceedings Notice of Plaintiffs' Motion to Compel the Production of Documents	03/18/15	1	88–107
42	Recorder's Transcript of Proceedings re Plaintiffs' Motion to Compel the Production of Documents	01/25/17	3 4	742–750 751–787
43	Recorder's Transcript of Proceedings re Plaintiffs' Motion to Compel Compliance with Subpoena	02/08/17	4	788–806
39	Recorder's Transcript of Proceedings re Status Check Compliance	11/18/16	3	647–671
188	Reply in Support of Defendants' Motion for Costs	11/07/22	22	5334–5337
137	Reply in Support of Defendants' Motion for Costs and Opposition to Countermotion	02/09/22	12	2826–2846
154	Reply in Support of Defendants' Motion to Stay on Order Shortening Time	03/08/22	16	3887–3901
177	Response to Plaintiffs' Motion to Lift Stay and Have Pending Motions Decided	08/26/22	20	4883–4936
16	Second Amended Complaint and Supplemental Complaint	08/19/15	1	145–162
119	Second Amended Notice of Appeal	03/06/19	11	2550–2553

179	Second Supplement to Defendants' Response to Plaintiffs' Motion to Lift Stay and Have Pending Motions Decided	09/09/22	20	4962–4966
58	Stipulation and Order	07/11/17	5	1073–1078
122	Stipulation and Order to Continue Hearings	05/17/19	11	2564–2566
123	Stipulation and Order to Continue Hearings	05/20/19	11	2567–2569
178	Supplement to Defendants' Response to Plaintiffs' Motion to Lift Stay and Have Pending Motions Decided	08/29/22	20	4937–4961
138	Supplement to Plaintiffs' Response to Defendants' Motion for Costs	02/10/22	12	2847–2850
19	Transcript of Proceedings of All Pending Motions	11/03/15	1 2	177–250 251–345
171	Transcript of Proceedings re Case Management Conference	07/25/22	19 20	4717–4750 4751–4766
41	Transcript of Proceedings re Motion to Compel Interrogatory Responses on Status Check Compliance - Report and Recommendation	12/09/16	3	678–741
38	Transcript of Proceedings re Motions Status Check, Compliance Status Check, and Production Status Check	10/12/16	3	597–646
37	Transcript of Proceedings re Plaintiff's Motion to Compel the Production of Documents and Interrogatory Responses - Status Check on Status of Case	09/07/16	3	554–596
165	Transcript of Proceedings re Plaintiffs' Motion for Turnover of Property Pursuant to NRS 21.320 or Alternative Relief	06/29/22	18	4357–4379

54	Transcript re All Pending Motions	05/18/17	4 5	881–1000 1001–1011
101	Transcript Re All Pending Motions	10/22/18	9	2046–2142
77	Transcript re Appointment of Special Master	02/15/18	6	1346–1376
91	Transcript re Defendant’s Ex-Parte Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening	09/26/18	8	1846–1913
92	Transcript re Defendant’s Ex-Parte Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening, and Plaintiffs’ Response to Defendant’s Ex-Parte Motion to Quash Writ of Execution on OST and Countermotion for Appropriate Judgment Enforcement Relief	09/28/18	8	1914–1980
69	Transcript re Defendant’s Motion for Summary Judgment	01/02/18	5 6	1199–1250 1251–1261
2	Transcript re Defendant’s Motion to Dismiss Complaint	01/17/13	1	9–31
82	Transcript re Plaintiff’s Motion for Partial Summary Judgment	06/05/18	7	1509–1580
57	Transcript re Plaintiff’s Motion on Order Shortening Time and Extend Damages Class Certification and for Other Relief	06/13/17	5	1051–1072
55	Transcript re Plaintiff’s Re-Notice of Motion for Partial Summary Judgment	05/25/17	5	1012–1032
109	Transcript re Plaintiffs Ex Parte Motion for a Temporary Restraining Order and Motion on an Order Requiring the Turnover of Certain Property of the	12/13/18	10	2424–2475

	Judgment Debtor Pursuant to NRS 21.320			
80	Transcript re Plaintiffs' Motion for Miscellaneous Relief	05/23/18	6	1387–1463
44	Transcript re Plaintiffs' Motion on OST to Expedite Issuance of Order Granting Motion Filed on 10/14/16 to Enjoin Defendants from Seeking Settlement of any Unpaid Wage Claims Involving any Class Members Except as Part of this Lawsuit and for Other Relief and for Sanctions	02/14/17	4	807–826
14	Transcript re Plaintiffs' Motion to Certify This Case as a Class Action Pursuant to NCRP Rule 23 and Appoint a Special Master Pursuant to NRCP Rule 53	08/11/15	1	108–140
81	Transcript re Plaintiffs' Motion to Hold Defendants in Contempt; Strike Their Answer	06/01/18	6 7	1464–1500 1501–1508
73	Transcript re Plaintiffs' Omnibus Motion in Limine 1-25, Defendants' Motion in Limine to Exclude the Testimony of Plaintiffs' Experts	01/25/18	6	1276–1311
108	Transcript Re Resolution Economics' Application for Order of Payment of Special Master's Fees and Motion for Contempt	12/11/18	10	2406–2423
74	Transcript re Status Check on Appointment of Special Master	02/02/18	6	1312–1332
68	Transcript Re: Plaintiff's Motion for Partial Summary Judgment and Motion to Place Evidentiary Burden on Defendants to Establish Lower Tier	12/14/17	5	1140–1198

	Minimum Wage and Declare NAC 608.102(2)(b) Invalid			
29	Transcript Re: Plaintiffs' Motion to Impose Sanctions Against Defendants for Violating this Court's Order of February 10, 2016 and Compelling Compliance with that Order on OST; and Defendant's Opposition to Motion to Impose Sanctions on Order Shortening Time and Countermotion for Sanctions Against Plaintiffs	03/16/16	2	461–476

CERTIFICATE OF SERVICE

I certify that on the 26th day of January, 2024, I submitted the foregoing “Appellant’s Appendix” for e- filing and service via the Court’s eFlex electronic filing system. Electronic service of the forgoing documents shall be made upon all parties listed on the Master Service List.

LEON GREENBERG
RUTHANN DEVEREAUX-GONZALEZ
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Attorneys for Respondents

/s/ Jessie M. Helm
An Employee of Lewis Roca Rothgerber Christie LLP

writ has held funds of \$233,619.54 from the following accounts:

Wells Fargo Account ending #0133 – A Cab Series, LLC, Maintenance Company

Wells Fargo Account ending #0158 – A Cab Series, LLC, Administration Company

Wells Fargo Account ending #0158 – A Cab Series, LLC, Administration Company

Wells Fargo Account ending #5755 – A Cab Series, LLC, Taxi Leasing Company

Wells Fargo Account ending #4896 – A Cab Series, LLC, Employee Leasing Company

Two

Wells Fargo Account ending #0635 – A Cab Series, LLC, Medallion Company

Wells Fargo Account ending #0510 – A Cab Series, LLC, CCards

These accounts are not those of A Cab LLC, and should not be withheld, levied or garnished.

Rather the funds should be accessible to their owners so they can be used to facilitate operations, pay employees and conduct business.

Further, while a claim of exemption would result in these funds being returned to the proper parties, the fact that there is a withholding of these funds causes real and substantial harm to these third parties. For example in Account Ending 4896, for A Cab Series, LLC, Employee Leasing Company Two, there are employee payroll checks which will not clear if the funds are not released. Moreover, \$22,441.58 of the funds withheld are payroll taxes due the IRS which are held in escrow, including both the employer and employee portion of Social Security and Medicare taxes.

Additionally, a substantial liability exists if these entities are presented from remitting taxes which belong to the state. Of the funds taken \$47,088.60 belongs to the State of Nevada for the 3% Passenger Tax collected on behalf of the State. Another \$30,822.00 belongs to Clark County Department of Aviation. A portion of these funds are due to the State and County by September 30, 2018.

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1 of service of a writ of execution of judgment. In pertinent part, it states that “[t]he service must
2 be mailed by the next business day after the day the writ of execution was served.” NEV. REV.
3 STAT. § 21.076

4 Here, the Sherriff served the writ at the latest on September 17, 2018. As of the date of
5 this motion, Defendant has not received the Notice of Writ of Execution or the other statutorily
6 required items, and proof of service has not been made. Correspondingly, the writ must be
7 quashed for failure to comply with NRS 21.075 and 21.076.
8

9 **II. PLAINTIFFS ARE NOT ENTITLED TO EXECUTE AGAINST**
10 **INDEPENDENT ENTITIES IN VIOLATION OF NRS 86.296.**

11 In 2005 the Nevada Legislature revised the limited liability statute (Nevada Revised
12 Statutes (“NRS”) Chapter 86) in to allow for the creation of Series LLCs. A Series LLC creates
13 multiple “cells” or “series,” each of which operates as its own LLC. Accordingly, each series has
14 different assets, liabilities, members, managers and rights. The commonality is that for purposes
15 of filing fees there is only one LLC. The statute explicitly provides that the “debts, liabilities,
16 obligations and expenses” of one series “are enforceable against the assets of that series only,
17 and not against the assets of the company generally or any other series”. NRS 86.296(2)(b). Thus
18 the assets of “A Cab Series, LLC, Maintenance Company” or any other entity cannot be
19 executed to satisfy the liabilities of “A Cab LLC”. This rule of separation, well known and
20 understood when distinguishing between two ordinary Limited Liability corporations, is the
21 same for two series Limited Liability corporations. Here, the funds belonging to all entities other
22 than A Cab LLC should be returned. As the most expeditious way to do this is to quash the writ,
23 Defendant asks that the Court do so immediately.
24

25
26 / / /

27 / / /

CONCLUSION

For the foregoing reasons, Defendants request that this Court to quash the Writ of Execution attached to this motion as Exhibit A. Alternatively Defendants request that this Court stay execution without the requirement of a bond.

DATED this 19th day of September, 2018.

PREMIER LEGAL GROUP

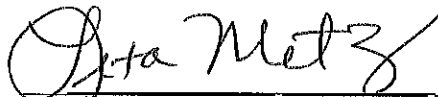
By: /s/ Jay A. Shafer
JAY A. SHAFER, ESQ.
Nevada Bar No. 9184
1333 North Buffalo Drive, Suite 210
Las Vegas, Nevada 89128
Telephone: (702) 794-4411
Fax: (702) 794-4421
jshafer@premierelegalgroup.com
Counsel for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 21st day of September, 2018, I electronically filed the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic service to the following:

Leon Greenberg, Esq.
Leon Greenberg Professional Corporation
2965 South Jones Boulevard, Suite E4
Las Vegas, Nevada 89146
Co-Counsel for Plaintiffs

Christian Gabroy, Esq.
Gabroy Law Offices
170 South Green Valley Parkway # 280
Henderson, Nevada 89012
Co-Counsel for Plaintiffs



A Representative of PREMIER LEGAL GROUP

EXHIBIT A

001756

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EXHIBIT A

Legal Order Processing Confirmation Email Cover Sheet**To: Levy/Writ Processing****Email to: WRIT_LEVY@wellsfargo.com**

From: Georges Bourtrisian (ad-ent\u535847)

Phone: (702) 464-3138

Fax:

AU: 0001947

State: NV

Email: Georges.Bourtrisian@wellsfargo.com

The information was successfully submitted on 9/17/2018 at 1:26 PM. Your reference number is 71819.

Customer / Served Name: A Cab Taxi Service LLC, A Cab LLC

Type of Order: Levy/Writ/Garnishment

Batch:

Number of Documents:

Please write the following on the upper right hand corner of the legal order before sending:

Reference number: 71819

Date and time the legal order was served

AU the legal order was served upon

How the legal order was served - either by mail or in person

Your signature

Your printed name

Fee amount received at time of service if applicable

NAME Georges Bourtrisian
TITLE personal banker
AU# 01947
DATE 9/17/18
TIME 11:02 AM
HOW SERVED in person 2 of 2 @ \$5 each

Use the scan-to-email function on your multi-function printer (MFP) to email the order with this cover page to WRIT_LEVY@wellsfargo.com

001757

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COPY

WRIT

Leon Greenberg, Esq.

Attorney for Michael Murray and Michael Reno
(Name)2965 South Jones Blvd., Ste. E3
(Address)Las Vegas, NV 89146
(City, State, Zip Code)702.383.6085
(Telephone Number)leongreenberg@overtimealaw.com
(E-mail Address)

Plaintiff

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY and MICHAEL RENO, individually and
on behalf of all others similarly situated

Plaintiff(s),

vs.

A CAB TAXI SERVICE LLC, A CAB LLC, and CREIGHTON

J. NADY,,
Defendant(s).

Case No.: A-12-669926-C

Dept. No.:
I

WRIT OF GARNISHMENT

THE STATE OF NEVADA TO:

WELL FARGO Bank 1121 Las Vegas Boulevard South, Las Vegas, NV 89104, Garnishee.

You are hereby notified that you are attached as garnishee in the above-entitled action, and you are commanded not to pay any debt from yourself to A CAB LLC or A CAB TAXI SERVICE LLC, Defendant(s), and that you must retain possession and control of all personal property, money, credits, debts, effects, and choses in action of said Defendant(s) that do not exceed \$960,000 in order that the same may be dealt with according to law; where such property consists of wages, salaries, commissions or bonuses, the amount you shall retain shall be in accordance with 15 U.S. Code 1673 and Nevada Revised Statutes 31.295.

Plaintiff believes that you have property, money, credits, debts, effects, and choses in action in

WRIT

LEON GREENBERG PROFESSIONAL CORPORATION
Leon Greenberg, Esq. Bar No. 8094

(Name and Bar Number (if any))

2965 South Jones Blvd, Suite E3

(Address)

Las Vegas, Nevada 89146

(City, State, Zip Code)

702-383-6085 (Tel)

702-385-1827 (Fax)

(Telephone and Facsimile Number)

leongreenberg@overtimelaw.com

(E-mail Address)

Attorney for Michael Murray and Michael Reno

Plaintiffs

EIGHTH JUDICIAL DISTRICT COURT
CLARK COUNTY, NEVADA

MICHAEL MURRAY and MICHAEL RENO, individually and
on behalf of all others similarly situated

Plaintiff(s),

vs.

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

Defendant(s).

Case No.: A-12-669926-C

Dept. No.: I

WRIT OF EXECUTION ON BANK
ACCOUNT

THE PEOPLE OF THE STATE OF NEVADA:

To the Sheriff of Clark County or the Constable for the Township of _____

Greetings: To Well Fargo Bank, 1121 Las Vegas Boulevard South, Las Vegas, NV 89104

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

On August 21, 2018, a judgment was entered by the above-entitled court in the
above-entitled action in favor of Michael Murray, as Judgment
creditor and against A CAB LLC and A CAB TAXI SERVICE LLC, as Judgment Debtors,
for:

\$ 900,317.34 Principal,

\$ 132,710.47 Pre-Judgment Interest,

\$ Attorney's Fees, and

\$ Costs, making a total amount of

\$ 1,033,027.81 The judgment as entered, and

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

\$ 0.00 Accrued Interest, and
 \$ 0.00 Accrued Costs, together with
 \$ 10.00 Fee, for the issuance of this writ, making a total of
 \$ 10.00 As accrued costs, accrued interest and fees.

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

\$ zero

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

\$ 1,033,027.81

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

\$ 900,317.34

bears interest at 7.00 percent per annum, in the amount of \$ 172.55 per day, from the date of judgment to the date of levy, to which must be added the commissions and costs of the officer executing this writ.

NOW, THEREFORE, SHERIFF or CONSTABLE, you are hereby commanded to satisfy this judgment with interest and costs as provided by law, out of the following personal property of the judgment debtor, except that for any workweek, 75 percent of the disposable earnings of the debtor during that week or 50 times the minimum hourly wage prescribed by section 6(a)(1) of the federal Fair Labor Standards Act of 1938, 29 U.S.C. § 206(a)(1), and in effect at the time the earnings are payable, whichever is greater, is exempt from any levy of execution pursuant to this writ, and if sufficient personal property cannot be found, then out of the real property belonging to the debtor in the aforesaid county.

Any bank account or funds on deposit with Well Fargo Bank belonging to judgment debtor A Cab LLC or A Cab Taxi Service LLC but only to the extent of \$960,000 you are not to levy or collect any funds in excess of \$960,000.

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

STEVEN D. GRIFFINSON OF
CLERK OF COURT

By: *Steven D. Griffinson*

Deputy Clerk of Court of the Eighth Judicial District
Date 09/11/2018

Issued at the direction of:

(Signature) *Leon Greenberg*

Attorney for Michael Murray and Michael Reno
Plaintiffs

Name: Leon Greenberg, Esq.
Address: 2965 South Jones Blvd., Ste. E3
City, State, Zip: Las Vegas, Nevada 89146
Phone: 702.383.6085
E-mail: leongreenberg@overtime.law.com

INFORMATION

SHERIFF OR CONSTABLE

AMOUNTS TO BE COLLECTED BY LEVY:

RETURN:

NET BALANCE: 1,033,027.81

Not satisfied	\$
Satisfied in sum of	\$
Costs retained	\$
Commission retained	\$
Costs incurred	\$
Commission incurred	\$
Costs received	\$

Garnishment Fee: 5.00

Mileage: 2.00

Levy Fee: 30.00

Sub-Total: 1,033,064.81

Commission: 5,217.83

TOTAL LEVY: 1,038,282.64

REMITTED TO JUDGMENT CREDITOR:

\$

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

SHERIFF OF CLARK COUNTY or
CONSTABLE FOR THE TOWNSHIP OF

By: _____

Title

Date

your hands and under your custody and control belonging to said Defendant(s), more particularly described as:

Bank Accounts or monies on deposit with Wells Fargo Bank that are owned by judgment debtor's A Cab LLC or A Cab Taxi Service LLC

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

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

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

IF YOUR ANSWERS TO the interrogatories indicate that you are the employer of the Defendant(s), this Writ of Garnishment shall be deemed to **CONTINUE FOR 120 DAYS** or until the amount demanded in the attached Writ of Execution is satisfied, whichever occurs earlier.

YOU ARE FURTHER DIRECTED to forward all funds due to the Defendant(s) each payday in the future, **UP TO 120 DAYS**, less any amount which is exempt and less \$3.00 per pay period (not to exceed \$12.00 per month) which you may retain as a fee for compliance. The \$3.00 fee does not apply to the first pay period covered by this Writ of Garnishment.

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

Issued at direction of (sign and check one):

SHERIFF/CONSTABLE - CLARK COUNTY
S. ROBB P#9580

Leon Greenberg, Attorney for Plaintiff
Michael Murray c/o Leon Greenberg, Esq.,
2965 S. Jones Blvd. Suite E3 Las Vegas, NV 89146
Name and address of Plaintiff

Title

Date

A Cab LLC and A Cab Taxi Service LLC
c/o Esther Rodriguez, Attorney at Law
10161 Park Run Drive, Suite 150, Las Vegas, Nevada 89145
Name and address of Defendant(s)

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

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

8 _____ at _____
 9 _____, City of _____, County of
 10 _____, State of Nevada.

11 By: _____
 12 Title _____

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

15 1. Are you in any manner indebted to the Defendant(s) A CAB LLC or A CAB TAXI SERVICE LLC

16 _____, either in property or money, and is the
 17 debt now due? If not due, when is the debt to become due? State fully all particulars.

18 Answer: _____
 19 _____
 20 _____

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

25 Answer: _____
 26 _____
 27 _____

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

12 Answer: _____
13 _____
14 _____
15 _____

- 16 4. Are you a financial institution that previously maintained an account held by A CAB LLC or A CAB
17 TAXI SERVICE LLC that was active on or after January 1, 2013 but is now closed? If so, state the
18 account number of all such closed accounts and whether, when such account was closed, the
19 remaining funds in that account were transferred to any different account, either at your financial
20 institution or another institution, and all particulars known to you about such account the funds were
21 transferred to, including the account number, institution name and address, and the name of the
22 account holder.

23 Answer: _____
24 _____
25 _____
26 _____
27 _____
28 _____

1 5. State your correct name and address, or the name and address of your attorney upon whom written
2 notice of further proceedings in this action may be served.

3 Answer: _____
4 _____
5 _____
6 _____

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

9 Executed on the _____ day of the month of _____ of the year 20____.

10 _____
11 (Signature of Garnishee)

12 Print name: _____

13 Title: _____
14 _____

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

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

22 (2) In addition, the court may order the employer to pay the Plaintiff punitive damages in an amount not to
23 exceed \$1,000 for each pay period in which the employer has, without legal justification, refused to withhold
24 the Defendant's earnings or has misrepresented the earnings.
25
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EXHIBIT B

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EXHIBIT B

DECLARATION OF STEVE BECK IN SUPPORT OF
MOTION TO QUASH

STATE OF NEVADA)
)
 COUNTY OF CLARK) ss.

Steve Beck, being first duly sworn, deposes and says that Declarant is makes this affidavit of my own personal knowledge.

1. That I am an employee of A Cab Series LLC, Employee Leasing Company Two.
2. That presently I keep the books and records of A Cab Series, LLC, Maintenance Company; A Cab Series, LLC, Administration Company; and many others of the A Cab Series LLCs.
3. That I have personal knowledge of the facts contained in this Motion and am competent to testify thereto.
4. I submit this Affidavit in Support of Defendants' Ex-parte Application for TRO and Motion to Quash Writ of Execution and, in the Alternative, Motion for Partial Stay of Execution on Order Shortening Time.
5. On September 17, 2018, I received notice that Wells Fargo had received a Writ of Garnishment and had frozen funds belonging to various Series LLCs. On August 21, 2018, this Court entered judgment in favor of Plaintiffs.
6. Here, Plaintiffs' writ has caused funds of \$233,619.54 to be held from the following accounts:
 - a. Acct ending #0133 – A Cab Series, LLC, Maintenance Company
 - b. Acct ending #0158 – A Cab Series, LLC, Administration Company
 - c. Acct ending #5755 – A Cab Series, LLC, Taxi Leasing Company

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- d. Acct ending #4896 – A Cab Series, LLC, Employee Leasing Company Two
 - e. Acct ending #0635 – A Cab Series, LLC, Medallion Company
 - f. Acct ending #0510 – A Cab Series, LLC, CCards
7. These accounts are not those of A Cab LLC.
 8. In account Ending 4896, for A Cab Series, LLC, Employee Leasing Company Two, there are employee payroll checks which will not clear if the funds are not released. Moreover, \$22,441.58 of the funds withheld are payroll taxes due the IRS which are held in escrow, including both the employer and employee portion of Social Security and Medicare taxes.
 9. Of the funds taken, \$47,088.60 belongs to the State of Nevada for the 3% Passenger Tax collected on behalf of the State. Another \$30,822.00 belongs to Clark County Department of Aviation. A portion of these funds are due to the State and County by September 30, 2018.
 10. I have not received or seen any Notice of Execution accompanying the writ. The only notice I received was that received from Wells Fargo to explain the hold.
 11. Wells Fargo has refused to lift the hold or return access to the funds absent direction from the Court.
 12. Under the authority of this judgment, Plaintiffs obtained a writ of execution on September 11, 2018 seeking execution against:
“Bank Accounts or monies on deposit with Wells Fargo Bank that are owned by judgment debtors A Cab LLC or A Cab Taxi Service LLC”
 13. Plaintiff did not serve a copy of this writ upon counsel for Defendant A Cab LLC.
 14. Upon information and belief a copy of the writ was received by Wells Fargo on

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September 17, 2018, who immediately put a hold on funds at Wells Fargo for all entities affiliated with "A Cab LLC" or who bore a name which was similar to that name.

15. On September 17, 2018, Defendant A Cab LLC became aware of the hold and made inquiries to Wells Fargo.

16. The funds being held by Wells Fargo represent the operational funds of related but distinct entities, whose operation is being harmed by having these funds withheld. This includes a maintenance company employed to maintain the cabs, a management company and other separate legal entities who will be prevented from paying their employees and be forced to cease operations, such that the entire enterprise will be permanently and irreparably harmed.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE
AND CORRECT ON THIS 19th DAY OF SEPTEMBER, 2018.



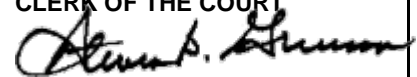
STEVE BECK

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

**DISTRICT COURT
CLARK COUNTY, NEVADA**

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

Plaintiffs,

vs.

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

Defendants.

Case No.: A-12-669926-C

Dept.: I

**PLAINTIFFS' RESPONSE TO
DEFENDANTS' EX-PARTE
MOTION TO QUASH WRIT
OF EXECUTION ON AN OST
and
COUNTER-MOTION FOR
APPROPRIATE JUDGMENT
ENFORCEMENT RELIEF**

Hearing Date: Sept. 26, 2018
Hearing Time: 9:00 A.M.

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation, hereby submit this response to defendants' ex-parte motion to quash on an OST and counter-motion for appropriate judgment enforcement relief, including a judgment debtor examination, the appointment of a receiver and an order directing the transfer of property to plaintiffs' counsel, as the Court deems appropriate.

SUMMARY OF RESPONSE

The funds seized are assets of the judgment debtor A Cab LLC.

Nevada's statutes authorizing the operation of "series" limited liability corporations do not protect assets titled to an "individual series" (cell or subsidiary) LLC from a judgment secured against its "master" (operating or parent) LLC. That the assets of the master LLC may be beyond the reach of a judgment entered against one of its series LLC (in the same fashion a parent corporation's assets cannot be attached based on a judgment against one its subsidiary corporations) is irrelevant to this case. The judgment was rendered against A Cab LLC, the master LLC, not one of

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1 its series, and is fully enforceable against its assets, which include those allegedly held
2 in the name its individual series LLCs (all of which use the same tax identification
3 number as A Cab LLC and operate as co-dependent departments of A Cab LLC, not as
4 independent businesses).

5 **Defendants proffer no evidence that the funds belong to a series LLC in the**
6 **manner required by Nevada law to place them beyond the judgment's reach.**

7 Even if defendants' interpretation of Nevada's LLC law is correct (they present
8 that interpretation to the Court as an unexplained conclusion), and assets titled to an
9 individual series LLC can be placed beyond the reach of a judgment against its master
10 LLC, they present no competent proof the funds at issue are so held. NRS 86.296(3)
11 limits a judgment's enforcement against an individual series LLC to that series'
12 individual assets only when (1) The master LLC's articles of organization or operating
13 agreement specify such a limitation exists; and (2) Appropriate "separate and distinct"
14 records for that individual series and its assets are maintained. Defendants present no
15 proof establishing either of those things. No do they even allege either of those
16 conditions are met.

17 **Defendants have no standing to seek the relief they are**
18 **requesting if they are correct on the facts and the law.**

19 This motion is brought by defendants who allege the levied funds do not belong
20 to the judgment debtor A Cab LLC but six different "entities" who are not judgment
21 debtors or parties to this litigation. Assuming, *arguendo*, defendants are correct, and
22 A Cab LLC has no interest in those funds that can be attached to satisfy the judgment,
23 they also have no standing to ask this Court to do anything with those funds and those
24 six entities must appear (presumably by way of a motion for intervention) and seek the
25 return of their property. They have not done so. Defendants are not free to insist on
26 respect for what they claim is the independent legal status of these six entities when
27 shielding their assets from the judgment but ignore that same status when seeking
28 relief from this Court.

Defendants present substantial evidence that the funds at issue actually belong to A Cab LLC even if held by separate “entities” as they claim.

Defendants confirm in their motion that certain portions of the funds at issue are being held to pay taxes owed to the State of Nevada, Clark County and the IRS to pay employee wages. Those tax liabilities are owed by A Cab LLC, not any of its series LLCs. That is because all such liabilities arise from revenue generated from, and activities made possible by and carried out under, A Cab LLC’s “Certificate of Public Convenience and Necessity” (its “CPCN”). That CPCN authorizes A Cab LLC, not any of its subordinate series LLCs, to operate a taxi business. A Cab LLC, not any of its series LLCs, as the holder and operator of that CPCN (and as an employer with a specific EIN number, unemployment insurance account, and so forth) is directly responsible for making the tax payments and wages owed. Funds possessed by any its series LLCs to pay those taxes and wages are, as admitted in defendants’ moving papers, being held for the benefit of A Cab LLC to pay its tax and wage liabilities. As a result, such property (at least in respect to beneficial and equitable interest, if not in nominal title) is that of judgment debtor A Cab LLC. Such property was properly seized to satisfy the judgment even if that property was held in nominal title by one or more of the series LLCs, as they were only acting as custodians, bailees, of such property, and had no actual interest in such property.

Equitable considerations compel a denial of the requested relief, at least at this time and upon the record before the Court.

Pursuant to this Court’s Order of August 21, 2018, the monies seized under the writ must be placed in plaintiffs’ counsel’s IOLTA account until a further Order of this Court is issued. They should proceed to be so placed in trust. As discussed, *supra* and *infra*, there is no record (only uncorroborated assertions by defendants) supporting the motion’s claim that the seized funds are not properly subject to the Court’s judgment. There also exist substantial reasons to believe these funds are properly subject to execution on the judgment. The Court can allow defendants to raise their

1 objections to the disposition of these funds, and seek their return, at some future date,
2 upon a proper record and in a manner that will allow plaintiffs an adequate opportunity
3 to marshal their counter-arguments. The Court should not proceed to allow
4 defendants to dissipate such funds, and place them beyond the reach of plaintiffs,
5 given the essentially non-existent record before the Court at this time.

6 SUMMARY OF COUNTER MOTION

7 Defendant judgment-debtor A Cab LLC has filed a notice of appeal of the
8 Court's judgment but has, so far, declined to post the necessary bond to stay
9 enforcement of the judgment. It refuses to do so because its prospects on appeal are
10 uncertain. Its principal, defendant Nady, does not want to use his assets or pledge the
11 revenue of A Cab LLC (instead of personally receiving that business's current profits)
12 to post a bond for over \$1,000,000 to will be paid to the plaintiffs if the appeal fails.

13 A Cab LLC cannot be allowed to continue to operate, and place the fruits of its
14 key (and presumably only significant) sustaining asset, its CPCN to operate a taxi
15 business, beyond the reach of the judgment. It cannot be allowed to assign the
16 revenue derived from its operation of that taxi business to its "series" LLCs and have
17 them, in turn, pay the liabilities it incurs and that are necessary to run that business all
18 while avoiding having any of that revenue dedicated to paying the judgment (and
19 passing handsome profits through the "series" LLCs to Nady personally). Nevada's
20 series LLC statutes do not authorize ongoing consolidated businesses, such as A Cab
21 LLC, to function in such a fashion and mint a limitless number of series LLCs willy
22 nilly to avoid having their assets available to satisfy their debts. This Court has
23 several tools available to it, and it is requested it use them (or a combination of them)
24 in an appropriate fashion to remedy such injustice, including as it sees fit:

- 25
26 (a) Ordering a Judgment-Debtor examination as per NRS 21.270 and
27 an examination of all the series LLCs issued by A Cab LLC
28

(including the six such series claimed to have title to the funds in dispute) as per NRS 21.300 in respect to the property they possess of A Cab LLC, their business dealings with A Cab LLC or any of its series LLCs, or the debts they owe it. Defendant Nady, who has full control of the same as the sole manager of A Cab LLC and its series LLCs, shall also produce for examination at such time all business agreements, accounting and financial records for A Cab LLC, including all agreements among or entered into by its series LLCs; all quarterly tax returns of any nature including unemployment tax returns filed by the same since the commencement of this lawsuit; and all contracts, documents and agreements identifying parties that have promised to pay A Cab LLC or any of its series LLCs money or are indebted to the same for any reason;

(b) Ordering property in the possession of the series LLCs belonging to A Cab LLC, including all funds that they have pledged to pay to satisfy A Cab LLC's liabilities (including tax liabilities), be deposited with plaintiffs' counsel to satisfy the judgment, as per NRS 21.320;

(c) Enjoining any transfer of funds from A Cab LLC and any of its series LLCs to defendant Nady or any of his family members without further order of the Court;

- (d) Issuing an Order of attachment for A Cab LLC, and all of its assets including its CPCN, and a sale of the same as per NRS Chapter 31 for the purpose of satisfying the judgment;
- (e) Appointing a receiver of A Cab LLC and all of its assets, including its CPCN, as per NRS Chapter 32, for the purpose of conducting such business as long as necessary to satisfy the judgment from the profits of that business and then returning it to control by defendant Nady or, in the alternative, for the purpose of selling the business and applying the available proceeds from such sale to the judgment.

RELEVANT FACTUAL BACKGROUND

A Cab LLC, not any of its series LLCs, holds a privileged license to conduct a taxi cab business and all revenue, profits, and liabilities of that business are ultimately attributable to it and its responsibility.

A Cab LLC is the holder of a “Certificate of Public Convenience and Necessity” (a “CPCN”)¹ to operate a taxi cab business in Clark County issued under the rigorous conditions of NRC 706.8827 *et seq.* That CPCN authorizes A Cab LLC, not any of its subordinate series LLCs, to operate a taxi business. A Cab LLC, directly, as the holder and operator of that CPCN, is responsible for making the tax payments owed arising out its operation of that CPCN and in complying with all of the other regulations of the Taxicab Authority. Similarly, it is A Cab LLC that has employed the class members as taxi drivers. This was evidenced at the start of this litigation in

¹ To the extent facts are stated herein that are not completely verified by reference to submissions to the record now being made, the Court is asked to excuse those deficiencies given the extremely short time frame available to prepare this submission. If any referenced facts are disputed or the Court seeks greater verification of the same, leave is requested to gather and submit the relevant supporting material within a reasonable time period.

1 the W-2 forms issued to taxi drivers (Ex. "A") bearing EIN number 88-0470590.² The
2 Wells Fargo accounts that were attached were all levied upon based upon them bearing
3 that EIN number.

4 **A Cab LLC is an integrated business operation and none of its**
5 **alleged "series" LLCs operate an independent business, they**
6 **are, if non-existent, merely sham departments of A Cab constructed**
7 **to defeat the collection of the judgment rendered in this case.**

8 All of the revenue derived from the operation of the series LLCs of A Cab LLC
9 exists solely by virtue of A Cab LLC's possession of a CPCN. Without A Cab's
10 LLC's possession of that CPCN none of those series LLCs could conduct a taxi
11 business in Clark County and generate any revenue. Defendant Nady, when examined
12 about the operations of A Cab LLC (deposition excerpts Ex. "F") variously states that
13 the "the business A Cab conducts" is "a single company" (p. 38, l. 24 - p. 39, l. 4); that
14 he estimates there are 237 different series (which he calls "cells") of A Cab LLC each
15 holding a single taxi medallion or vehicle, but he is not really sure of all of them,
16 though he insists separate records exist for each even though they file a "single tax
17 return" (p. 43, l. 11-25); Nady is the only owner and member of each series LLC (p.
18 44, l. 2 - 8); he is unclear about whether the "cells" he identifies actually have title to
19 the medallions or vehicles also describing the relationship as "a bailiff relationship"
20 with 100% of the income for that "cell" derived from the vehicle's operation (p. 45, l.
21 16 - p. 47, l. 23); that there is also an "employee leasing" cell that "leases" the drivers
22 to the cells that generate the revenue from the taxis' operations (p. 48, l. 1 - p. 49, l. 9);
23 while he insists the revenue generated by each "cell" is attributed to that cell, it has no
24 separate tax identification number and that revenue becomes part of a consolidated tax
25 return which is Nady's personal Form 1040 return (p. 52, l. 11 - p. 53). After much
26 obfuscation, Nady also admits that these "cells" which generate revenue from the taxi

27 ² This W-2 also bears the name of "A Cab Taxi Service LLC" that has never
28 answered in this case and for which no registration has ever existed with the Nevada
Secretary of State. It is a non-entity or just a business name used by A Cab LLC.

1 cabs' operations never transfer any funds to any outside parties, only to other "cells"
 2 of A Cab LLC or Nady personally (p. 70-74). He also admits that those "cells" cannot
 3 function as independent businesses (p. 75-78).

4 Nady also testified extensively his reason for using "cells" for A Cab LLCs
 5 operations is to prevent this litigation from resulting in any collectable judgment and
 6 that he has used at least three different such cells as A Cab LLCs "employee leasing"
 7 cell. Similarly, he insists plaintiffs have sued the wrong entity and they must
 8 presumably sue each of the hundreds of "series" LLCs he claims exist. He also admits
 9 A Cab LLC is the "employer" of all of A Cab's taxi drivers in filings with the Nevada
 10 Department of Employment Security, for unemployment tax purposes, even though he
 11 insists all of the employees are employed by "Employee Leasing Company II" (p. 65, l.
 12 1-7.)

13 ARGUMENT

14 **I. THE ASSETS AT ISSUE ARE PROPERLY SUBJECT TO THE** 15 **JUDGMENT AGAINST A CAB LLC AND DEFENDANTS DO** 16 **NOT SHOW THEY HAVE MET THE REQUIREMENTS OF** 17 **OF THEIR CONTRARY UNDERSTANDING OF NEVADA LAW**

18 **A. The judgment is against A Cab LLC, the "master" (or parent or** 19 **operating) LLC, that has changed its name to "A Cab Series LLC."**

20 The judgment rendered in this case is against A Cab LLC. That entity, years
 21 after it was sued and appeared in this case, changed its name to "A Cab Series LLC."
 22 Ex. "B" certificate of change of name, filed January 5, 2017. A fully briefed motion
 23 on this issue, requesting that the judgment be amended to include the name "A Cab
 24 Series LLC" as the current name of the judgment debtor "A Cab LLC" (to obviate any
 25 judgment enforcement obstacles created by such name change) is on the Court's
 26 Chambers' calendar for September 27, 2018.

1 **B. Nevada’s LLC statute does not authorize the creation of series LLCs**
2 **that can hold assets beyond the reach of a judgment against**
3 **against the master LLC that created them.**

4 There are no decisions by the Nevada Supreme Court or the Nevada Court of
5 Appeals interpreting NRS 86.296 which authorizes the creation of series LLCs. That
6 statute **says nothing indicating that a series LLC can place its assets beyond the**
7 **reach of a judgment secured against its creating “master” LLC.** A copy of the
8 statute is annexed, in full, at Ex. “C.” While it confers great flexibility on a series
9 LLC, in respect to what it can do, affording it the ability to conduct a completely
10 independent business as if it was a separately incorporated subsidiary of the master
11 LLC, it does **not** provide a means to insulate the assets held by a series LLC from
12 judgments against the master LLC under its asset protection provisions set forth in
13 subsection 3, which states:

14 The debts, liabilities, obligations and expenses incurred, contracted for or
15 otherwise existing with respect to a particular series are enforceable against
16 the assets of that series only, and not against the assets of the company generally
17 or any other series, if: [detailing prerequisites to be met to create such a
18 limitation of liability]

19 This language of 86.296(3) is clear: it allows a series LLC to limit its (that
20 individual series LLC’s) creditor’s rights to the assets of that series LLC only, and not
21 the assets of “the company generally or any other series.” By enacting 86.296(3)
22 Nevada afforded a series LLC the same rights of a wholly owed subsidiary of a
23 traditional corporation, to assume liabilities limited by it, the subsidiary’s assets, and
24 not the assets of its parent corporation. It did not place the assets of a series LLC
25 beyond the reach of a judgment against its parent master LLC. Rather, it created an
26 option for a series LLC to enjoy the same sort of “one way” or “no upstream” liability
27 limitation enjoyed by a subsidiary of a conventional corporation. The series LLC itself
28 remains an asset of the master LLC, to which it owes its existence, and its assets can

1 be reached by a judgment against the master LLC, just like a judgment against a parent
2 corporation can be satisfied against the assets of its wholly owed subsidiary.³

3 Although unnecessary given the clear language of NRS 86.296, the Court may
4 also care to observe that certain states, in their series limited liability corporation laws,
5 authorize a series LLC to hold assets immune from a judgment against their master
6 LLC. For example, Texas, in its series LLC law, takes the same form of statute as
7 NRS 86.296(3) but add an additional subsection expressly allowing the series LLC to
8 place its assets beyond the reach of its master LLC's creditors. Texas Business
9 Organization Code § 101.602(a)(2) (copy in full at Ex. "D") states:

10 [N]one of the debts, liabilities, obligations, and expenses incurred,
11 contracted for, or otherwise existing with respect to the limited liability
12 company generally or any other series shall be enforceable against the
13 assets of a particular series.

13 There is no basis to find that Nevada allows a series LLC to hold assets that are
14 immune from judgment execution when the judgment was rendered against the master
15 LLC of the series LLC. Nevada could have, as have other states, created such an
16 immunity. It did not do so.

17 **C. Even if Nevada's LLC law authorizes a series LLC to hold**
18 **assets that are immune from a judgment against its master**
19 **LLC, defendants fail to present the necessary evidence that the**
20 **series LLCs at issue complied with the statutory prerequisites**
21 **to invoke such immunity.**

22 Assuming, *arguendo*, that the defendants are correct, and despite the foregoing
23 discussed language of NRS 86.296, a series LLC may hold assets immune from a
24 judgment against its master LLC, such immunity does not arise automatically. It
25 requires compliance with the provisions of NRS 86.296(3)(a) and (b), which limit the
26 enforcement of judgments against the assets of a series LLC only when:

26 ³ In the conventional parent/subsidiary corporation situation there would be a
27 mechanical middle step of seizing the stock of the subsidiary corporation to access its
28 actual assets. That step is not necessary in the series LLC situation since no stock
certificates exist.

- 1 (a) Separate and distinct records are maintained for the series and the
2 assets associated with the series are held, directly or indirectly,
3 including through a nominee or otherwise, and accounted for
4 separately from the other assets of the company and any other
5 series; and
6 (b) The articles of organization or operating agreement provides that
7 the debts, liabilities, obligations and expenses incurred, contracted
8 for or otherwise existing with respect to a particular series are
9 enforceable against the assets of that series only, and not against
10 the assets of the company generally or any other series.

11 Defendants present no proof that either of these prerequisites have been met.
12 The Articles of Organization of A Cab LLC (Ex. "E") at Article 2 only state it "may"
13 issue series LLCs that in turn "may" invoke the various limitations of liability afforded
14 by the NRS. It does not "provide" that all such series LLCs shall enjoy such
15 limitations, it only authorizes A Cab LLC, at its option, to structure them in such a
16 fashion. This means the actual "operating agreement" for each series LLC must
17 "provide" for such a limitation of liability. Yet defendants produce no such operating
18 agreements. Nor do they even allege any such operating agreements, providing for
19 that limitation of liability by the six allegedly interested series LLCs, exist.

20 Defendants, have failed to present any evidence that any series LLC exists that
21 "provides" for their assets to be beyond the reach of a judgment against their master
22 LLC, A Cab LLC. Defendants' motion must be denied on that basis.

23 **D. Ample evidence exists that the funds at issue are the**
24 **property of A Cab LLC and defendants admit that *some***
25 **of those funds are monies that the alleged "series" LLCs**
26 **have promised to pay for A Cab LLC's benefit, *e.g.*, they**
27 **are debts owed to A Cab LLC by those series LLCs.**

28 Defendants' moving papers claim funds that have been attached are funds the
series LLCs have been entrusted to use for the following purposes: (1) Employee
paychecks (of an unspecified amount); (2) Payroll taxes of \$22,441.58 that are payroll
taxes owed to the IRS; (3) Passenger Tax due Nevada from taxicab operations in the
amount of \$47,088.50; and (4) Funds owed to the Clark County Department of
Aviation (these are for airport taxi operations) in the amount of \$30,822.

1 All of the foregoing obligations are those of A Cab LLC. It, not any of the
2 series LLCs, is the employer of the taxi drivers for IRS purposes and, as admitted by
3 Nady at his deposition, as registered with the State of Nevada. It is also the employer
4 of the taxi drivers under Nevada's "economic realities" test of employment for
5 minimum wage purposes from which this judgment arises, notwithstanding
6 defendants' contrary conviction. *See, Terry v. Sapphire Gentleman's Club*, 336 P.3d
7 951 (Nev. Sup. Ct. 2014). Similarly, it is A Cab LLC, as the holder of a taxi cab
8 CPCN, that is responsible for paying the taxes to Clark County and the State of
9 Nevada associated with the operations of that CPCN. Defendants' moving papers
10 admit that these funds are actually held by them as bailees for A Cab LLC's benefit, to
11 satisfy these obligations of A Cab LLC. Accordingly, those funds are properly subject
12 to execution by the judgment.

13 That the series LLCs have pledged the seized funds to pay A Cab LLC's tax
14 liabilities, or other debts, and not pay them to A Cab LLC, is irrelevant. Such funds in
15 the possession of the series LLCs are properly levied upon. *See, NRS 21.080(1)* ("All
16 goods, chattels, money and other property, real and personal, of the judgment debtor,
17 ***or any interest therein of the judgment debtor not exempt by law***, and all property
18 and rights of property seized and held under attachment in the action, are liable to
19 execution.") (Emphasis added). While defendants' motion states these funds are held
20 in "escrow" for the purposes listed, they not subject to any "escrow" protections (and
21 defendants point to none or any other "exemption by law" affording them protection
22 from judgment executions). Indeed, their presence in Well Fargo bank accounts
23 bearing the same EIN (tax identification) number confirms that they are actually funds
24 of A Cab LLC.
25
26
27
28

1 **II. DEFENDANTS' SUBMISSIONS ARE FACTUALLY**
2 **INCOMPETENT AND CONCLUSORY**

3 Setting aside the particular legal issues raised, defendants' application provides
4 no basis for finding any claimed single or group of "series" LLC exists or that they
5 actually function as legally distinct entities possessing the disputed funds. The
6 declaration of Steve Beck, the lone evidentiary submission in support of the motion,
7 simply states as paragraph 7 "These accounts are not those of A Cab LLC." He
8 further avers at paragraph 16 that the "funds being held by Wells Fargo represent the
9 operational funds of related but distinct entities." Nowhere does he explain, or even
10 allege in any form, how these alleged series LLCs actually exist as "distinct entities"
11 as he claims. Nor is any other evidence submitted confirming his conclusions in
12 paragraphs 7 and 16 of his declaration.

13 Denoting a certain bank account as belonging to a "company" of A Cab LLC,
14 when that "company" has no independent registration with the Nevada Secretary of
15 State, no separate tax identification number, no business license (either from Clark
16 County, the City of Las Vegas, or the State of Nevada), and not even a presented
17 written operation agreement, is meaningless. The Court cannot, upon this record,
18 accept the claims that these funds belong to any of the asserted "distinct entities"
19 claimed by defendants. There is no basis to so conclude except defendants' vague,
20 conclusory, undetailed, and unsupported assertions that such is the case.

21
22 **III. IF DEFENDANTS' AVERMENTS ARE TRUE**
23 **THEY HAVE NO STANDING TO SEEK RELIEF**

24 It is axiomatic that one seeking relief as to the disposition of a particular *res* or
25 piece of property must have an interest in that property. Defendants insist they have
26 no interest in the property which is solely possessed by various separate series LLC
27 "entities." If true, and they are complete strangers to the seized property without any
28 attachable interest in the property, they also have no standing to ask this Court to

1 release that property to its allegedly true owners. The current motion is improper and,
2 by establishing their foundation for relief (that these funds belong solely to someone
3 besides A Cab LLC) defendants will also, as a matter of law, establish they have no
4 basis to seek any relief in respect to such funds. The Court cannot hear the motion or
5 grant the requested relief, it has no subject matter jurisdiction to do so until the proper
6 parties, as claimed by the defendants, actually appear to seek such relief (which can be
7 by way of intervention). *See*, NRS 86.296(2)(d) (authorizing series LLCs to seek
8 judicial relief in their own name).

9 **IV. DEFENDANTS' CLAIM IT WAS DENIED DUE PROCESS**
10 **BY FAILURE OF SERVICE OF NOTICE OF LEVY IS**
11 **NOT SUBSTANTIATED NOR DISPOSITIVE OF ANYTHING**

12 Defendants, based on the Beck declaration, sworn **only two days after the**
13 **Sheriff served the execution**, avers that the execution notice, as per NRS 21.075, was
14 not properly served by the Sheriff. The Beck declaration provides no support for that
15 assertion and is also, in respect to timing, not competent. Such notice was to be served
16 by mail by the Sheriff. It may well have been timely and properly mailed, but not yet
17 received in the mail, by the date, two days later, of the Beck declaration.⁴

18 In any event, the duty to serve notice under NRS 21.075 is imposed upon the
19 Sheriff, not the plaintiffs. If the defendants have any actual injury from a failure to
20 comply with NRS 21.075 their remedy is a claim against the Sheriff, not a voiding of
21 the otherwise properly served execution. Such damages (whatever they may be) are
22 the responsibility of that official, not the plaintiffs.

23 **V. EQUITABLE CONSIDERATIONS WEIGH AGAINST**
24 **THE HASTY GRANTING OF THE RELIEF SOUGHT**

25 As discussed, the record before the Court, outside of Nady's deposition
26 testimony, is extremely sparse. There exists ample reason to doubt defendants'

27 ⁴ As of the date of this memorandum plaintiffs' counsel has not received the
28 Sheriff's affidavit or declaration of service on the execution. It can provide the same
to the Court when received.

entitlement to the release and use of the seized funds. Indeed, defendant Nady, at his deposition, has averred that he is using the series LLC form to render A Cab LLC's operations beyond the reach of any judgment rendered in this case. He will continually change the "series" LLCs it uses to operate, so even if they are joined as parties in a litigation (as he insists they must be) he will just transfer their assets and operations to a new "series" LLC. That process will go on *ad infinitum*. Nevada did not enact its series LLC statute to accommodate such an evasion of its laws, and certainly not in a case like this involving a judgment for minimum wages due under Nevada's Constitution. The alter ego claims against Nady, personally, are still pending before this Court, though currently stayed. If these funds are not reachable under the currently configured judgment, they would certainly be reachable if the Court were to render a future judgment against Nady as an alter ego. The Nevada Supreme Court has recently held that Nevada's LLC statute does *not* shield the owner of an LLC, such as Nady, from alter ego liability. *See, Gardner v. Eighth Jud. Dist. Ct.*, 405 P.3d 651 (2017).

The Court should, at a minimum, maintain the *status quo* in respect to these funds and allow them to be placed in plaintiffs' counsel's IOLTA account until a further Order is issued by this Court, as required by the Court's judgment in any event (they can also be placed in an interest bearing trust account if so directed by the Court). Their proper disposition, whether to the plaintiffs or to the alleged "non-party" series LLCs, should be determined at an appropriate future date upon a proper record and in a non-hurried manner.

IN SUPPORT OF THE COUNTER-MOTION

The Court is too familiar with this litigation. Defendant Nady is now undertaking to continue the operations of the judgment debtor A Cab LLC without posting an appeal bond. He is doing so because he hopes to keep drawing profits from its operations, for his personal enrichment, for as long as he can forestall any cessation of its business or payment of the judgment.

1 As discussed at pages 4-6 this Court has a number of very effective tools
2 available to it to render justice and see that its judgment is appropriately enforced. It
3 should avail itself of those tools. At this point it is suggested that the Court, at a
4 minimum, direct a judgment debtor examination of A Cab LLC either by the Court or
5 by a Master appointed for that purpose and paid for by that defendant. While that may
6 not be the normal course, any failure to do so, and relegate such an examination to
7 supervision only by plaintiffs' counsel, is certain to result in a non-compliance by
8 defendants and a further application to the Court.

9 Plaintiffs' counsel understands that the Court may not wish to issue any relief on
10 the counter-motion at the scheduled hearing given the short notice. It is urged, as an
11 alternative, to schedule a further hearing in the not too distant future on the same if it
12 elects to not grant any immediate relief on the counter-motion.

13 CONCLUSION

14 For all the foregoing reasons, defendants' motion should be denied and the counter-
15 motion granted.

16 Dated: September 24, 2018

LEON GREENBERG PROFESSIONAL CORP.

17
18 /s/ Leon Greenberg
19 Leon Greenberg, Esq.
20 Nevada Bar No. 8094
21 2965 S. Jones Boulevard - Ste. E-3
22 Las Vegas, NV 89146
23 Tel (702) 383-6085
24 Attorney for the Class
25
26
27
28

1
2 PROOF OF SERVICE
3

4 The undersigned certifies that on September 24, 2018, she served the
5 within:

6 **Plaintiffs' Response and Counter-motion to Defendants' Motion on OST to**
7 **Quash**

8 by court electronic service to:

9 TO:

10 Esther C. Rodriguez, Esq.
11 RODRIGUEZ LAW OFFICES, P.C.
12 10161 Park Run Drive, Suite 150
13 Las Vegas, NV 89145

14 Jay A. Shafer, Esq.
15 PREMIER LEGAL GROUP
16 1333 North Buffalo Drive, Suite 210
17 Las Vegas, NV 89128

18 /s/ Dana Sniegocki

19 _____
20 Dana Sniegocki
21
22
23
24
25
26
27
28

EXHIBIT "A"

001787

001787

a Employee's SSN [REDACTED]		Copy D For Employer. OMB No. 1545-0008	
b Employer identification number (EIN) 88-0470590		1 Wages, tips, other compensation 13440.44	
c Employer's name, address, and ZIP code A CAB TAXI SERVICE LLC A CAB, LLC 1500 SEARLES AVENUE LAS VEGAS NV 89101-1123		2 Federal income tax withheld 941.00	
d Control number		3 Social security wages 13440.44	
e Employee's name, address, and ZIP code MICHAEL A RENO 811 E. BRIDGER AVE. #363 LAS VEGAS NV 89101		4 Social security tax withheld 564.50	
Suff.		5 Medicare wages and tips 13440.44	
		6 Medicare tax withheld 194.89	
		7 Social security tips	
		8 Allocated tips	
		9	
		10 Dependent care benefits	
		11 Nonqualified plans	
		C 12a DD 2311.80	
		13 Statutory Employee Retirement Third-party Sick pay C 12b	
		14 Other C 12c	
		C 12d	
15 State Employer's state ID number		16 State wages, tips, etc.	
17 State income tax		18 Local wages, tips, etc.	
19 Local income tax		20 Locality name	

Form **W-2** Wage and Tax
Statement

FDWA0105 10/10/12

2012

Department of the Treasury — Internal Revenue Service

For Privacy Act and Paperwork Reduction
Act Notice, see separate instructions.

A Cab 0086

001788

EXHIBIT “B”



BARBARA K. CEGAVSKE
Secretary of State
202 North Carson Street
Carson City, Nevada 89701-4201
(775) 684-5708
Website: www.nvsos.gov



091203

Amendment to Articles of Organization

(PURSUANT TO NRS 86.221)

Filed in the office of <i>Barbara K. Cegavske</i>	Document Number 20170006122-61
Barbara K. Cegavske Secretary of State State of Nevada	Filing Date and Time 01/05/2017 8:54 AM
	Entity Number LLC7610-2000

USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

Certificate of Amendment to Articles of Organization For a Nevada Limited-Liability Company (Pursuant to NRS 86.221)

1. Name of limited-liability company:

A CAB, LLC

2. The company is managed by: ☒ Managers OR ☐ Members
(check only one box)

3. The articles have been amended as follows: (provide article numbers, if available)*

THE NAME IS NOW

A CAB, SERIES LLC.

4. Effective date and time of filing: (optional) Date: _____ Time: _____
(must not be later than 90 days after the certificate is filed)

5. Signature (must be signed by at least one manager or by a managing member):

X

Signature *1/5/2017*

* 1) If amending company name, it must contain the words "Limited-Liability Company," "Limited Company," or "Limited," or the abbreviations "Ltd.," "LLC," or "LC." The word "Company" may be abbreviated as "Co."

2) If adding managers, provide names and addresses.

FILING FEE: \$175.00

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.
This form must be accompanied by appropriate fees.

Nevada Secretary of State 86.221 LLC Amendment
Revised: 1-5-15

EXHIBIT "C"

Nev. Rev. Stat. Ann. § 86.296

This document is current through all 608 Chapters of the Seventy-Ninth Regular Session (2017).

Nevada Revised Statutes Annotated > Title 7. Business Associations; Securities; Commodities. (Chs. 75 — 92A) > Chapter 86. Limited-Liability Companies. (§§ 86.010 — 86.590) > Operation (§§ 86.281 — 86.351)

86.296. Classes of members or managers; series of members.

1.The articles of organization or operating agreement of a limited-liability company may create classes of members or managers, define their relative rights, powers and duties, and may authorize the creation, in the manner provided in the operating agreement, of additional classes of members or managers with the relative rights, powers and duties as may from time to time be established, including, without limitation, rights, powers and duties senior to existing classes of members or managers. The articles of organization or operating agreement may provide that any member, or class or group of members, has voting rights that differ from other classes or groups.

2.The articles of organization or operating agreement of a limited-liability company may authorize the creation of one or more series of members, or vest authority in one or more members or managers of the company or in other persons to create one or more series of members, including, without limitation, rights, powers and duties senior to existing series of members. A series may be created as a limited-liability company, without the filing of articles of organization with the Secretary of State, by the adoption of an operating agreement by the members of the series. The operating agreement of the series may provide that any member associated with the series has voting rights that differ from other members or series, or no voting rights at all. A series may:

- (a)Have separate powers, rights or duties with respect to specified property or obligations of the company or profits and losses associated with specified property or obligations;
- (b)Have a separate business purpose or investment objective;
- (c)Sue and be sued, complain and defend, in its own name;
- (d)Make contracts in its own name;

(e)Purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and otherwise deal in and with real or personal property, or an interest in it, wherever situated; and

(f)Sell, convey, mortgage, pledge, lease, exchange, transfer and otherwise dispose of all or any part of its property and assets.

3.The debts, liabilities, obligations and expenses incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series, if:

(a)Separate and distinct records are maintained for the series and the assets associated with the series are held, directly or indirectly, including through a nominee or otherwise, and accounted for separately from the other assets of the company and any other series; and

(b)The articles of organization or operating agreement provides that the debts, liabilities, obligations and expenses

incurred, contracted for or otherwise existing with respect to a particular series are enforceable against the assets of that series only, and not against the assets of the company generally or any other series.

4.Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a manager to cease to be a manager with respect to a series does not, in itself, cause the member to cease to be a manager with respect to the company or with respect to any other series. Unless otherwise provided in the articles of organization or operating agreement, any event described in this chapter or in the articles of organization or operating agreement that causes a member to cease to be associated with a series does not, in itself, cause the member to cease to be associated with any other series, terminate the continued membership of a member in the company or cause the termination of the series, regardless of whether the member was the last remaining member associated with the series.

History

[2001, ch. 296](#), § 56, p. 1385; [2001, ch. 601](#), § 59, p. 3199; [2005, ch. 459](#), § 27, p. 2193; [2017, ch. 419](#), § 9, p. 2780.

Annotations

Notes

Editor's Notes

Acts [2017, ch. 419](#), § 23 provides: “The amendatory provisions of sections 4, 5, 7, 9 and 10 of this act:

1. Apply to any transfer or conveyance of property occurring before, on or after October 1, 2017; and
2. Apply to any administrative or judicial proceedings:
 - (a) Commenced on or after October 1, 2017; or
 - (b) Commenced before October 1, 2017, if the proceedings are pending or otherwise unresolved on October 1, 2017.”

In 2017, the Legislative Counsel substituted “member” for “manager” in the last sentence of (4).

Amendment Notes

The 2017 amendment by ch. 419, effective October 1, 2017, rewrote the section.

Nevada Revised Statutes Annotated
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EXHIBIT "D"

Tex. Business Organizations Code § 101.602

This document is current through the 2017 Regular Session and 1st C.S., 85th
Legislature

*Texas Statutes & Codes Annotated by LexisNexis® > Business Organizations Code > Title 3
Limited Liability Companies (Ch. 101) > Chapter 101 Limited Liability Companies (Subchs. A —
M) > Subchapter M Series Limited Liability Company (§§ 101.601 — 101.622)*

Sec. 101.602. Enforceability of Obligations and Expenses of Series Against Assets.

(a) Notwithstanding any other provision of this chapter or any other law, but subject to Subsection (b) and any other provision of this subchapter:

- (1)** the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a particular series shall be enforceable against the assets of that series only, and shall not be enforceable against the assets of the limited liability company generally or any other series; and
- (2)** none of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to the limited liability company generally or any other series shall be enforceable against the assets of a particular series.

(b) Subsection (a) applies only if:

- (1)** the records maintained for that particular series account for the assets associated with that series separately from the other assets of the company or any other series;
- (2)** the company agreement contains a statement to the effect of the limitations provided in Subsection (a); and
- (3)** the company's certificate of formation contains a notice of the limitations provided in Subsection (a).

(c) Subsection (a) or any provision contained in a limited liability company agreement or certificate of formation pursuant to Subsection (a) does not restrict:

- (1)** a particular series or a limited liability company on behalf of a particular series from expressly agreeing in the company agreement or other written agreement that any or all of the debts, liabilities, obligations, and

expenses incurred, contracted for, or otherwise existing with respect to the company generally or any other series of the company shall be enforceable against the assets of that particular series; or

(2)a limited liability company from expressly agreeing in the company agreement or other written agreement that any or all of the debts, liabilities, obligations, and expenses incurred, contracted for, or otherwise existing with respect to a particular series shall be enforceable against the assets of the company generally.

History

Enacted by Acts 2009, 81st Leg., ch. 84 (S.B. 1442), § [45](#), effective September 1, 2009; am. [Acts 2017, 85th Leg., ch. 74 \(S.B. 1517\), § 12](#), effective September 1, 2017.

Annotations

Notes

Amendment Notes

2017 amendment, added (c).

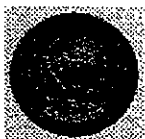
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EXHIBIT "E"

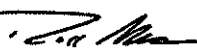


ROSS MILLER
Secretary of State
204 North Carson Street, Suite 1
Carson City, Nevada 89701-4520
(775) 684-5708
Website: www.nvsos.gov



090501

**Certificate to Accompany
Restated Articles or
Amended and Restated Articles**
(PURSUANT TO NRS)

Filed in the office of  Ross Miller Secretary of State State of Nevada	Document Number 20120111194-52 Filing Date and Time 02/16/2012 1:38 PM Entity Number LLC7610-2000
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USE BLACK INK ONLY - DO NOT HIGHLIGHT

ABOVE SPACE IS FOR OFFICE USE ONLY

This Form is to Accompany Restated Articles or Amended and Restated Articles of Incorporation

(Pursuant to NRS 78.403, 82.371, 86.221, 87A, 88.355 or 88A.250)

(This form is also to be used to accompany Restated Articles or Amended and Restated Articles for Limited-Liability Companies, Certificates of Limited Partnership, Limited-Liability Limited Partnerships and Business Trusts)

1. Name of Nevada entity as last recorded in this office:

A CAB, LLC

2. The articles are: (mark only one box) ☐ Restated ☒ Amended and Restated

Please entitle your attached articles "Restated" or "Amended and Restated," accordingly.

3. Indicate what changes have been made by checking the appropriate box:*

☐ No amendments; articles are restated only and are signed by an officer of the corporation who has been authorized to execute the certificate by resolution of the board of directors adopted on: _____

The certificate correctly sets forth the text of the articles or certificate as amended to the date of the certificate.

☐ The entity name has been amended.

☐ The registered agent has been changed. (attach Certificate of Acceptance from new registered agent)

☐ The purpose of the entity has been amended.

☐ The authorized shares have been amended.

☐ The directors, managers or general partners have been amended.

☐ IRS tax language has been added.

☒ Articles have been added.

☐ Articles have been deleted.

☐ Other. The articles or certificate have been amended as follows: (provide article numbers, if available)

4. Effective date and time of filing: (optional)

Date:

Time:

(must not be later than 90 days after the certificate is filed)

* This form is to accompany Restated Articles or Amended and Restated Articles which contain newly altered or amended articles. The Restated Articles must contain all of the requirements as set forth in the statutes for amending or altering the articles for certificates.

IMPORTANT: Failure to include any of the above information and submit with the proper fees may cause this filing to be rejected.

This form must be accompanied by appropriate fees.

Nevada Secretary of State Restated Articles
Revised: 8-31-11

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**AMENDED AND RESTATED
ARTICLES OF ORGANIZATION
OF
A CAB, LLC**

The Member of A CAB, LLC, a Nevada limited-liability company (the "Company"), hereby certifies:

That the Company's Articles of Organization were filed with the Secretary of State on August 10, 2000.

That pursuant to the execution of these Amended and Restated Articles of Organization of the Company, the Members consent to the adoption of the following amendments to and restatement of the Company's Articles of Organization, which shall now read as follows:

ARTICLE 1. NAME OF LIMITED LIABILITY COMPANY: The name of this limited liability company (the "Company") is:

A CAB, LLC

ARTICLE 2. SERIES LLC: This is a Series Limited Liability Company that may establish designated series of members, managers, company interests having separate rights, powers or duties with respect to specified property or obligations of the Company or profits and losses associated with specified property or obligations, and, to the extent provided in the Operating Agreement of the Company, any such series may have a separate business purpose or investment objective and/or limitation on liabilities of such series in accordance with the provisions of Section 86.161(e) of the Nevada Revised Statutes.

ARTICLE 3. REGISTERED AGENT FOR SERVICE OF PROCESS:

Creighton J. Nady
3730 Pama Lane
Las Vegas, Nevada 89120

ARTICLE 4. DISSOLUTION DATE: The Company shall have perpetual existence unless dissolved pursuant to the Company's Operating Agreement or applicable law.

ARTICLE 5. MANAGEMENT: The Company and each series shall be managed by the Manager designated in Article 5 until such time as said Manager fails to qualify or ceases to serve as Manager pursuant to the Operating Agreement of the Company. When the Manager fails to qualify or ceases to serve as Manager for any reason, one or more Managers shall then serve as provided in the Operating Agreement of the Company. The Operating Agreement may contain any provision for the management of the affairs of the Company not inconsistent with applicable laws or these Articles of Organization.

ARTICLE 6. MEMBERS: Except when these Articles of Organization or applicable law requires the unanimous vote of the Members, the right of any Member to vote shall be as provided in the Operating Agreement of the Company. No Member who is not also a Manager shall have the right to contract debts or incur liability on behalf of the Company except as authorized by the Managers under Article 5 above.

ARTICLE 7. AMENDMENTS: The Articles of Organization of the Company may from time to time be restated, amended or altered in the manner set forth in the Company's Operating Agreement or, if none or if such agreement fails to set forth such a provision, by the consent of a majority of the Members of the Company.

ARTICLE 8. LIABILITY: Unless otherwise provided in an agreement signed by the Member or Manager to be charged, the Members and Managers of the Company are not liable for a debt, obligation or liability of the Company. The Company may indemnify any Member, Manager, employee or agent of the Company to the fullest extent permitted by law.

ARTICLE 9. DISTRIBUTIONS: Subject to the terms of these Articles of Organization and to the fullest extent permitted by the Nevada Revised Statutes, the Company shall be expressly permitted to make distributions, with respect to its Members' interests in all circumstances other than where doing so would cause the Company to be unable to pay its debts as they become due in the usual course of business.

The foregoing Amended and Restated Articles of Organization of A CAB, LLC are hereby duly adopted and approved by the Company's Member in accordance with the applicable provisions of Chapter 86 of the Nevada Revised Statutes.

Dated this 15th day of February 2012.



By: Creighton J. Nady
Its: Manager

EXHIBIT “F”

DISTRICT COURT
CLARK COUNTY, NEVADA

MICHAEL MURRAY, and MICHAEL)	Case No.: A-12-669926-C
RENO, individually and on)	Dept. No.: I
Behalf of others similarly)	
Situated,)	
Plaintiffs,)	
vs)	
A CAB TAXI SERVICE LLC, A CAB,)	
LLC and CREIGHTON J. NADY,)	
Defendants.)	
_____)	

RECORDED DEPOSITION OF CREIGHTON J. NADY

Taken on June 16, 2017

At 1:10 p.m.

Evolve Downtown

400 South 4th Street, 3rd Floor

Las Vegas, Nevada 89101

1 Q: It`s clear on the record. Thank
2 you. What are the Series LLCs that have been issued
3 by A Cab?

4 A: There`s only one.

5 Q: Which is?

6 A: A Cab Series LLC.

7 Q: A Cab Series LLC is an entity that
8 issues Series LLCs or is it a Series LLC itself?

9 A: Mr. Greenberg, you`re asking legal
10 advice.

11 Q: No. Mr. Nady, I`m asking you what
12 you know about the business structure of A Cab. A
13 Cab is a taxi business, Mr. Nady. There is a single
14 LLC registered with the Nevada Secretary of State as
15 a Series LLC - A Cab Series LLC - that is the legally
16 registered entity. Do you understand that?

17 A: I do. I did it.

18 Q: Okay. Now, the Series LLC can in
19 turn establish other separate LLCs of the Series. Do
20 you understand that?

21 A: I don`t know. That sounds like
22 you`re giving me legal advice or at least telling me
23 what it is. I don`t agree with you.

24 Q: Okay. Well, can you tell me
25 whether the business that A Cab conducts is conducted

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1 through a single entity or is it conducted through a
2 series of LLC entities?

3 A: It's a single company, a Series
4 LLC.

5 Q: Okay. Then, what is a Series LLC?

6 A: That's definitely a legal question.

7 Q: Mr. Nady, a Series LLC is an LLC
8 that has the authority, the power, okay, to establish
9 separate LLCs of a Series which can be treated as
10 separate entities. Do you understand that?

11 A: I understand something similar to
12 that or at least I think I do similar to that but not
13 in the way you described it, but I don't want to tell
14 you what my counselor said, so I'll --

15 Q: Mr. Nady, I'm not asking you to
16 tell me what your counselor told you. I'm asking you
17 to tell me what you're understanding is.

18 A: Then I disagree with you. I
19 disagree with you, Mr. Greenberg.

20 Q: Okay. What series LLCs has A Cab
21 Series LLC established?

22 A: What?

23 Q: A Cab Series LLC is the registered
24 entity with the Nevada Secretary of State. Do you
25 understand that?

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1 A: I did it like I said earlier.

2 Q: Yes. That is the legal name of the
3 entity that has paid a filing fee, corporation
4 document... well, it`s an LLC, so it`s probably
5 called something different on file with the Nevada
6 Secretary of State. As part of its powers as an LLC,
7 it can issue Series LLCs; meaning other legal
8 entities, they would be similar in concept to a
9 subsidiary of a parent corporation, Mr. Nady. You
10 understand what a subsidiary is of a parent
11 corporation?

12 A: I understand what subsidiary is,
13 Mr. Greenberg.

14 Q: It`s a similar concept, Mr. Nady.

15 A: No, it`s not.

16 Q: Okay. Well, then tell me how it`s
17 not.

18 MS. RODRIGUEZ: Well, no. I`m going to
19 object. Hold on, hold on --

20 A: It`s not. There`s no such thing.
21 I don`t want to give you legal advice, Mr. Greenberg.

22 MS. RODRIGUEZ: Let me make my
23 objection, okay, because I think you`re just asking
24 for the same issue that we`ve asserted the attorney-
25 client privilege on. You`re just coming at it from a

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1 different angle by asking him to explain what other
2 counsel has explained to him, Mr. Greenberg, so
3 that's why we're at a stalemate here.

4 **Q: Mr. Nady's knowledge of his**
5 **business activities is at issue in this case. There**
6 **are allegations in this case, counsel, that he is**
7 **conducting the business activities of A Cab as an**
8 **alter ego that he's not properly respected the**
9 **independent corporate and legal status of the**
10 **business. So his knowledge as to how the business is**
11 **run, how it is structured --**

12 MS. RODRIGUEZ: That's fine.

13 **Q: Well, that's what we're trying to**
14 **determine. He's understanding of those is germane,**
15 **counsel. I'm not asking him to tell me anything --**

16 MS. RODRIGUEZ: Well no. Hold on, hold
17 on.

18 MR. HELLMAN: Please, one at a time.

19 **Q: I'm not --**

20 MS. RODRIGUEZ: What you're doing is
21 you are misrepresenting what a series LLC is and what
22 the statutes are. And then you're telling him,
23 ``Well, then why am I wrong?`` So you're basically
24 asking him to explain it all over again.

25 **Q: Okay. We're going to need to get**

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1 the discovery commissioner on the phone.

2 MS. RODRIGUEZ: Okay.

3 Q: It seems pretty clear, although let
4 us continue for a little while and see if we can
5 perhaps resolve our problems. I don't think it's
6 likely. Mr. Nady, --

7 A: Mr. Greenberg.

8 Q: -- has A Cab Series LLC, again, is
9 the legal entity that is registered with the Nevada
10 Secretary of State, you agreed, correct?

11 MS. RODRIGUEZ: You've asked him that
12 three times, so I'm going to object that it's been
13 asked and answered.

14 A: I agree with that, Mr. Greenberg.

15 Q: Okay. Has that entity issued any
16 other LLCs?

17 A: I don't think what you're --

18 MS. RODRIGUEZ: That's a ``yes`` or
19 ``no`` question.

20 A: Hasn't issued anything, Mr.
21 Greenberg.

22 Q: Okay. Does it register or maintain
23 records relating to any separate companies or
24 businesses that it has made part of its series?

25 A: Yes.

1 **Q: Could you tell me what those**
2 **companies or businesses are?**

3 A: There is a separate series and all
4 of the series, Mr. Greenberg, none are subordinate to
5 another. There is no such thing is subordination in
6 a series LLC. You should learn about these before
7 you try to crack it. There`s no such thing as
8 subordination and they simply file consolidated
9 returns, but there is no one head. There are just a
10 series of cells.

11 **Q: Please tell me what they are.**
12 **Identify them.**

13 A: I don`t know what they all are, Mr.
14 Greenberg. We have one for each medallion. We have
15 on for each taxi cab. We have one for the
16 maintenance company. One for the Employee Leasing
17 Company. We have one for an administration company
18 and some other that I can`t remember. We have one
19 for the car maintenance company. I think we have 135
20 cells for the medallions, and a hundred for the taxi
21 cabs or 102 for the taxi cabs and bank account for
22 every darn one of them. They keep separate records
23 and those records are produced, and they consolidate
24 it at the yearend for a single tax return, and that`s
25 a lesson for you Mr. Greenberg in series LLCs.

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1 You're welcome.

2 Q: And who are the members or owners
3 of each of those cells that you've described of a
4 Series LLC?

5 A: There's only one member for all of
6 them. It's a single-member LLC.

7 Q: And who is that?

8 A: Me.

9 Q: Why were they created?

10 A: It's a good business decision, Mr.
11 Greenberg.

12 Q: And why do you believe that's a
13 good business decision?

14 A: Counselor told me.

15 Q: And when were they created?

16 A: As they came on board.

17 Q: What do you mean by ``as they came
18 on board``?

19 A: Mr. Greenberg, it's pretty simple.
20 I wouldn't have an LLC for a car I didn't own. So as
21 when the car was put in service, it was added. I got
22 a new medallion, it was added.

23 Q: Have any of the operations that are
24 conducted by those cells been transferred since they
25 were created?

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1 A: Just explain ``transfer,`` Mr.
2 Greenberg.

3 Q: Well, you mentioned that certain of
4 the cells you identified - administration, employee
5 leasing, I think maybe you said something about
6 maintenance, - those are operations. Those are
7 individual units of property such as a car and
8 medallion. Do you understand?

9 A: No. I don't understand what you're
10 trying to say.

11 Q: Well, your prior testimony, you
12 referred to 135 cells - each of which was for a
13 medallion. A 102 cells, each of which was for a car.
14 Is that correct?

15 A: Yes, I did.

16 Q: So the cell that you described in
17 each of those instances is the owner of the medallion
18 or the car. Is that correct?

19 A: I think your choice of words is
20 incorrect.

21 Q: Well, how would you describe the
22 cells' relationship to the medallion or the car?

23 A: It's a bailiff relationship.

24 Q: It's a bailiff relationship. So it
25 is the custodian of that property?

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1 A: I think that's a better choice of
2 words, but bailiff is the term that was given to me.
3 Now, you're getting in my legal advice.

4 Q: Well, then who is actually the
5 titleholder of that property?

6 A: Each cell I think is considered its
7 own title. And as you know, Mr. Greenberg, if you've
8 read the Series LLC, that no cell will be responsible
9 for the obligations or omissions or deaths of another
10 cell.

11 Q: Well, Mr. Nady, you're telling me
12 that each cell of the 102 cells for each of the cars
13 you mentioned holds the title to the car?

14 A: Pretty much so, I think, that each
15 one is registered differently. Each car has - on the
16 registration - is called by that name.

17 Q: Besides their ownership of that
18 car, does that cell that owns the car have any other
19 assets?

20 A: Have any what?

21 Q: Any other assets.

22 A: Sure.

23 Q: What are they?

24 A: It's income. It's revenue.
25 Expenses. It has a complete balance sheet, Mr.

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1 Greenberg.

2 Q: And where does it get income from?

3 A: When the car's used by the driver.

4 Q: What is the income?

5 A: The revenue provided by the driver,
6 Mr. Greenberg.

7 Q: When you say ``the revenue,``
8 there's different kinds of revenue the car can
9 generate. Can you tell me --

10 A: I'm sorry?

11 Q: The car could generate different
12 kinds of revenue. It could generate revenue from
13 passengers. It could generate revenue from
14 advertising. Perhaps it could generate revenue from
15 something else. Can you tell me what kind of revenue
16 the car generates that goes on the balance sheet of
17 the cell that owns the car?

18 A: All of them. You just named them
19 all pretty well.

20 Q: There is no other revenue that the
21 car would generate besides advertising and passenger
22 fares?

23 A: I don't think so.

24 Q: What are the expenses of the cell
25 that owns the car?

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1 A: Mr. Greenberg, you want to get a
2 lesson here in management or I don't know if I want
3 to explain my whole record keepings you, but what
4 would you have in any business are the same, Mr.
5 Greenberg. You're a businessman. You own a company.
6 So it would have the cost of driving the car, the
7 maintenance. It would rent the medallion from the
8 medallion company. It would have the driver expense
9 and fees, and it would have its own insurance. It
10 would have its own depreciation and it has a complete
11 set of records, financial statements, every car.

12 **Q: Now, you've described to me some of**
13 **the operation of the cell that owned or the cells**
14 **that owned the cars. You also mentioned a cell that**
15 **is the employee leasing series. That's an operation**
16 **that is not confined to a single car, correct?**

17 A: I don't know if you'd call it an
18 operation or not. I wouldn't call it that.

19 **Q: Well, what does the employee**
20 **leasing cell do?**

21 A: It leases the cars.

22 **Q: It lease the cars --**

23 A: The companies, it leases the
24 employees to the cars. It provides employees for
25 those cars.

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1 Q: Okay. And what is its source of
2 income?

3 A: It would be the revenue from the
4 meter, Mr. Greenberg.

5 Q: You had mentioned that the revenue
6 from the meter was part of the passenger fares -
7 revenue from the meter - was revenue to the cell that
8 owned the car?

9 A: Yeah, I did.

10 Q: Yes, you did.

11 A: Mr. Greenberg, I don't feel like I
12 have to give you a complete lesson in how a company
13 runs. I think you should know better and one might
14 go through the other to get there, but I will not sit
15 here and tell you how a company - any company - would
16 run. It's so simple that it doesn't need an
17 explanation, Mr. Greenberg.

18 Q: Well, you mentioned that there's
19 balance sheets, and financial books, and records that
20 are maintained for each cell independently and those
21 records accurately record all revenue and expenses of
22 each cell, correct?

23 A: They do.

24 Q: Okay. The revenue from the meter
25 you had testified a little while ago was recorded as

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1 revenue to the cell that owned the car where the
2 meter was in? Is that correct?

3 A: The money from the meter goes into
4 the cell that owns the car. That car has the revenue
5 from their end and from that, we deduct the wages, we
6 deduct the mileage, a percentage of the mileage for
7 the maintenance and we deduct what the employee makes
8 from that.

9 Q: Okay. So the revenue first appears
10 on the balance sheet of the car with the meter?

11 A: No. The revenue does never go on a
12 balance sheet, Mr. Greenberg.

13 Q: It gets recorded on a ledger. It
14 gets --

15 A: It's not on a balance sheet. A
16 balance sheet has nothing to do with income, Mr.
17 Greenberg. A balance sheet is simply assets,
18 liabilities and capital. It's not on the balance
19 sheet.

20 Q: Okay. Well, yes. But a record is
21 kept of revenue --

22 A: It's not kept on the balance sheet
23 through.

24 MS. RODRIGUEZ: Hold on. Wait for the
25 question.

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001816

1 Q: Mr. Nady --

2 A: Well, he's asking me a question
3 that he doesn't know anything about accounting and it
4 just --

5 Q: Mr. Nady, --

6 A: Mr. Greenberg.

7 Q: A record is kept of revenue that
8 each cell that owns each car receives, correct?

9 A: Yes. It's not kept on the balance
10 sheet, Mr. Greenberg.

11 Q: Okay. And that record of revenue
12 includes the taxi fares from the meter that is in the
13 car, correct?

14 A: That's correct, Mr. Greenberg.

15 Q: So that revenue in the first
16 instance is property of the cell that the meter of
17 the... that owns the car the meter is in, correct?

18 A: Yes.

19 Q: And from that revenue then is
20 deducted or paid over to the Employee Leasing Company
21 for the employee who was driving the car?

22 A: A portion of it, Mr. Greenberg.

23 Q: A portion of it. So except for
24 that portion that you just described to me that is
25 paid to the employee leasing cell, does the employee

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1 leasing cell receive any other revenue?

2 A: No, Mr. Greenberg.

3 Q: Does the employee leasing cell have
4 any assets?

5 A: It keeps all the cells maintained
6 and balanced in their own checking account.

7 Q: You know how much that balance is?

8 A: Mr. Greenberg, I have about 500 of
9 my... I could tell you. Which one do you want to
10 talk about?

11 Q: Does each one operate with a
12 separate tax ID number?

13 A: You have no clue what a Series LLC
14 is, Mr. Greenberg, and I`m sorry. The answer to the
15 question is no.

16 Q: It is correct that all of the
17 series LLCs as you testified previously are reported
18 or processed for tax purposes under a single tax
19 identification number or employer identification
20 number. Is that correct?

21 A: As I said earlier twice before,
22 they file a consolidated return, Mr. Greenberg.

23 Q: When you say ``consolidated
24 return,`` are we talking about an 1120 return, a
25 corporate lever return, what kind of return?

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1 A: It`s a 1040.

2 Q: And is it correct that that 1040 is
3 Schedule C?

4 A: Exactly.

5 Q: Okay. And that is your personal
6 1040 return?

7 A: It certainly is. Do you remember
8 when I told you in the hallway that you were suing
9 the wrong entities --

10 MS. RODRIGUEZ: Jay, there is no
11 question pending.

12 A: Thank you.

13 Q: Okay. Mr. Nady, you believe that
14 having individual cells of A Cab LLC will protect
15 your business from having to pay judgment against in
16 this case?

17 A: No.

18 Q: Then why were you telling me that
19 we had sued the wrong entity in this lawsuit?

20 A: Because you have not sued any of
21 the cells directly because a Series LLC is a series
22 of cells and you haven`t sued each one of them. You
23 just threw a piece of mud up against the wall.

24 Q: So what will happen in your view if
25 this case proceeds to a judgment against A Cab LLC

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1 with none of the cells named in the case? What do
2 you think will happen?

3 A: I think you're asking me for legal
4 advice, Mr. Greenberg, and I won't answer. This, I
5 will refuse to answer because you're asking for legal
6 advice

7 Q: Mr. Nady, I'm asking you to tell me
8 what you belief. I'm not asking you to advise me
9 about anything.

10 A: I think they're the same.

11 Q: You think what are the same?

12 A: Me giving you legal advice and what
13 I think is going to happen. I can't separate the
14 two.

15 Q: Well, Mr. Nady, you can --

16 A: Mr. Greenberg.

17 Q: -- you can answer this question
18 ``yes`` or ``no:`` do you believe that if this case
19 proceeds to a judgment against A Cab, the assets that
20 are titled to the cells of A Cab will be subject to
21 that judgment?

22 MS. RODRIGUEZ: I'm going to object to
23 the form of the question. A Cab has not been named
24 as a defendant.

25 Q: A Cab's LLC is the defendant in

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1 this case.

2 MS. RODRIGUEZ: That`s not what you
3 said in your question.

4 Q: Mr. Nady, there is a corporate
5 defendant that is named a LLC defendant. A single
6 identified entity that is identified by name in this
7 case as defendant. You are aware of that?

8 MS. RODRIGUEZ: And that, I`m going to
9 object that that misstates the record.

10 Q: Are you aware of that, Mr. Nady?

11 A: I forgot the question.

12 Q: Mr. Nady, are you aware that A Cab
13 LLC is named as a defendant in this case?

14 A: I think it is.

15 Q: And if a judgment in this case is
16 rendered against A Cab LLC, do you believe that the
17 various assets that are titled to the cells you`ve
18 described such as the 102 vehicles, each of which is
19 titled to a separate cell, will be subject to that
20 judgment?

21 MS. RODRIGUEZ: Objection. Calls for a
22 legal conclusion.

23 A: It sure does.

24 Q: Mr. Nady, you need to answer my
25 question as to your belief. I`m not asking you to

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1 tell me what the law is. What do you believe will
2 happen in that situation?

3 MS. RODRIGUEZ: Same objection.

4 A: I think you've sued the wrong
5 entities, Mr. Greenberg.

6 Q: And I've sued the wrong entities
7 because?

8 A: I don't know why you did it.

9 MS. RODRIGUEZ: Object to the form of
10 the question.

11 Q: Okay.

12 A: You did it because you don't know
13 what an LLC is, that's why.

14 Q: Okay. What would be the right
15 entities to sue, Mr. Nady?

16 A: I wouldn't want to give you legal
17 advice, Mr. Greenberg.

18 Q: Well, you say you believe that the
19 wrong entities are sued. Is that because a judgment
20 against A Cab LLC in this case will not be
21 enforceable against the property of the cells you've
22 described such as the 102 cars?

23 MS. RODRIGUEZ: Objection. Calls for a
24 legal conclusion, and calls for speculation, and
25 lacks foundation.

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1 A: Should I answer it?

2 Q: You need to answer the question,
3 Mr. Nady.

4 A: Yeah, that's what I think.

5 Q: Has the cell that is the Employee
6 Leasing Company you described changed over time?

7 A: Yes.

8 Q: When?

9 A: I don't recall when, Mr. Greenberg.

10 Q: What were the names that were used
11 for the Employee Leasing Company's cell?

12 A: I think we had Employee Leasing
13 Company and then Employee Leasing Company II... I
14 think we've got three of them over the years.

15 Q: And why did the name change?

16 A: To a legal advice.

17 Q: And what was that legal advice?

18 MS. RODRIGUEZ: Objection. Calls for
19 attorney-client information.

20 A: Mr. Greenberg, I don't think that I
21 have to give you my legal advice.

22 Q: I just want to be clear on the
23 record, counsel, he --

24 A: I'm invoking my legal counsel.

25 Q: Okay. The witness is invoking an

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1 attorney-client privilege to not answer that
2 question.

3 A: Thank you.

4 Q: And please, Mr. Nady, if you're
5 going to invoke that privilege, just state so, so
6 it's clear on the record that you're invoking the
7 privilege. I'm not going to argue with you about it.

8 A: Well, thank you. That would be a
9 nice change of tone.

10 Q: Was the advice you were given...
11 no, I withdraw that question. When did those changes
12 take place?

13 A: I said I don't know about it three
14 minutes ago. I don't recall.

15 Q: Are you familiar with a cell of A
16 Cab called A Cab Taxi Service, LLC?

17 A: It's no.

18 Q: Excuse me?

19 A: I'm not.

20 Q: You're not?

21 A: No.

22 Q: Okay. Has A Cab Taxi Service, LLC
23 ever been the name of a cell of A Cab?

24 A: No, has not.

25 Q: Has that name ever been used in A

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1 Cab`s business, A Cab Taxi Service, LLC?

2 A: What was the question again? Has
3 it ever been used --

4 Q: Has that name - A Cab Taxi Service,
5 LLC - ever been used by A Cab in its business?

6 A: Not my A Cab, but some people just
7 pull it out. They think that`s the name and
8 sometimes I don`t disagree with them.

9 Q: This is plaintiff`s one. Counsel.

10 MS. RODRIGUEZ: Thank you.

11 A: Sometimes it looks like you`re
12 wearing no shoes because they`re about the same color
13 as your feet.

14 Q: Mr. Nady, if you could please take
15 a look at what`s been marked as plaintiff`s Exhibit
16 1. I draw your attention to the bottom of that page.
17 Do you see where it says ``A Cab, LLC,`` and then
18 following on that line, it says, ``A Cab Taxi
19 Service, LLC``?

20 A: I do.

21 Q: Now, can you tell me anything
22 further about A Cab`s use of the name A Cab Tax
23 Service, LLC, now that you`ve looked at this
24 document?

25 A: I didn`t put it on there. The

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1 check printing company did that or the group that did
2 this put it in there, but that's never been our name.

3 Q: Has that ever been the name of a
4 cell used by A Cab?

5 A: It's never been our name in
6 anything. I don't know how. I think the check
7 company just printed them incorrectly.

8 Q: So this is a pay stub of a check
9 that was issued on pay date 10/5/2012 it says on the
10 top. Who issued this paycheck?

11 A: A Cab, LLC.

12 Q: So it was issued by A Cab, LLC, and
13 not any cell of A Cab, correct?

14 A: That's correct.

15 Q: When this check was issued in 2012,
16 was A Cab issuing all payroll checks to the drivers
17 directly and not through any cell?

18 A: I don't know.

19 Q: Did A Cab at any point changed a
20 policy of issuing checks directly to its drivers and
21 instead issued those checks through one of the cells?

22 A: A Cab changed this entity from an
23 LLC, a single-member LLC, to a single-member Series
24 LLC sometime along the way.

25 Q: Was it sometime after October of

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1 2012?

2 A: I don't know. I think it was.

3 Q: And why did it do that?

4 A: Liability.

5 Q: What liability?

6 A: The one we're doing right now.

7 Mainly for insurance of vehicle damage and accident
8 insurance.

9 Q: When you refer to liability, you're
10 also including the liability represented by this
11 lawsuit, correct?

12 A: I sure do.

13 Q: Was it the intention when A Cab
14 changed its operation to a series LLC to make the
15 taxi drivers all employees of one of the cells?

16 A: Yes.

17 Q: And was the intention of that being
18 that if those taxi drivers were owed any money, their
19 ability to collect any money for their work that they
20 hadn't been paid, their ability to collect that money
21 would be limited to the assets of that cell?

22 A: No.

23 Q: And what was the intent of that?

24 A: We did this in the beginning to
25 avoid a lawsuit for an accident where the driver was

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1 at fault.

2 Q: How would placing all of the
3 drivers as employees of a single cell --

4 A: You're about to ask for a legal
5 advice, Mr. Greenberg.

6 Q: Mr. Nady, you told me the
7 motivation for this was because of a liability posed
8 by an accident, correct?

9 A: I did and you can extrapolate from
10 there, but you're asking me for legal advice, Mr.
11 Greenberg. I'm going to tell you no.

12 Q: Well, Mr. Nady, you took that
13 action because you believed it would be beneficial,
14 correct?

15 A: Of course.

16 Q: Why did you believe that it would
17 be beneficial in avoiding a liability?

18 MS. RODRIGUEZ: I'm going to object.
19 It calls for attorney-client privileged information.
20 I think you discontinue to asking him for the advice
21 he's received from counsel, Mr. Greenberg, on this
22 issue. So if you can restate your question in some
23 manner that's not invading the privilege, then we'll
24 be fine.

25 Q: I don't want to argue with you

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1 about his invocation of the privilege. I just want
2 it to be clear on the record. I think it might be
3 helpful if you just very briefly said, ``Mr. Nady,
4 you may wish to invoke the privilege.`` Mr. Nady can
5 say, ``I`m invoking the attorney-client privilege.``
6 It`s clear on the record and then we can take it from
7 there.

8 MS. RODRIGUEZ: I think we`re doing
9 that. We`re just speaking over each other because
10 I`m trying to get my objection on the record and he`s
11 invoking it at the same time.

12 A: Sorry.

13 Q: Mr. Nady, who made the decision to
14 change A Cab into a Series LLC?

15 A: Mr. Greenberg, I did.

16 Q: This is two. Mr. Nady, I`d like
17 you to look at Exhibit 2.

18 MS. RODRIGUEZ: Give me an extra copy,
19 Mr. Greenberg, please.

20 Q: I`m sorry.

21 MS. RODRIGUEZ: Thank you.

22 Q: At the bottom of this page, you
23 will see last printed full line. It says, ``A Cab,
24 LLC,`` and then at the end of that line, it says, ``A
25 Cab Taxi Service, LLC.``

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1 A: And at the top, you'll see where it
2 says, ``A Cab, Series LLC, Employee Leasing
3 Company.``

4 Q: That is correct. So this
5 represents a check that was issued --

6 A: 7/24/14.

7 Q: Right, in 2014 in August or July it
8 looks like. Two checks in July of 2014. Were these
9 checks issued by a cell of A Cab?

10 A: Yes, sir.

11 Q: And that cell is identified as
12 Employee Leasing Company?

13 A: Yes, sir.

14 Q: And that cell has a separate bank
15 account?

16 A: Yes, sir.

17 Q: Does it file a separate report with
18 Nevada Unemployment Division to pay unemployment
19 insurance contributions?

20 A: It probably does. I don't know for
21 sure. We only pay one. So a check comes out --

22 Q: Excuse me?

23 A: I said we only pay one
24 unemployment, but we break it down by cell
25 afterwards.

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1 Q: Well, is the account with Nevada
2 Department of Employment Security in the name of this
3 cell, Employee Leasing Company, or is it in the name
4 of A Cab, LLC?

5 A: A Cab, LLC, but we break it down
6 afterwards, Mr. Greenberg, by cell.

7 Q: Are there any employees of any of
8 the cells of A Cab or all of the employees of the
9 Employee Leasing Company`s cell?

10 A: All employees are employees of the
11 Employee Leasing Company II.

12 Q: Now, you mentioned Employee Leasing
13 Company II. You`re speaking currently?

14 A: Yes, sir.

15 Q: When was that cell established?

16 A: I told you earlier, Mr. Greenberg,
17 I don`t recall.

18 Q: Okay. And why was that cell
19 established instead of simply continuing with the
20 prior Employee Leasing Company cell?

21 MS. RODRIGUEZ: Objection. Asked and
22 answered.

23 A: Upon legal advice, Mr. Greenberg.

24 Q: Again, you need to state on the
25 record that you are refusing to answer the question

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1 because you're invoking an attorney-client privilege.

2 A: Mr. Greenberg, I'm invoking the
3 attorney-client privilege and you're trying to be
4 combative when you say I'm refusing to answer. I'm
5 just saying that the attorney has given me advice on
6 this in his office --

7 Q: That's enough, Mr. Nady.

8 A: -- and I think that I don't need to
9 tell you why. Your choice of words is argumentative,
10 not that you really care I'm sure.

11 Q: Are any of the cells of A Cab
12 holders of any licenses from any government agencies?

13 A: Interesting question. Never
14 thought about it before.

15 Q: Do you know?

16 A: I would say that the medallions
17 which are the license issued by the taxicab authority
18 are in fact the holders of those licenses, the
19 medallion cells.

20 Q: Is there a record with the taxi cab
21 authority showing that each of those medallions is
22 held as owned by a separate cell?

23 A: I think that when we went before
24 the taxicab authority and created the LLC, and other
25 companies have also now, the Series LLCs, that we

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1 identified the cells as being the owners of
2 medallions and I only say that because... never mind.
3 I'll disregard. I'll stop the conversation there.

4 Q: Besides the taxis and the
5 medallions, does A Cab or any of the A Cab cells own
6 any property?

7 A: Define ``property,`` Mr. Greenberg,
8 please.

9 Q: By ``property,`` I mean anything -
10 in terms of my question - I mean anything besides
11 money that is tangible such as equipment, we
12 mentioned cars, you mentioned medallions, real
13 estate, anything of that sort.

14 A: So would you ask the question again
15 now please?

16 Q: Besides the medallions and the
17 cars, do any of the cells that you've been discussing
18 own any property?

19 A: The medallion company will actually
20 own the physical medallions.

21 Q: Yes.

22 A: I suppose that the Employee Leasing
23 Company would have some and it has paid for some of
24 the payroll programs like QuickBooks for payroll,
25 it's also used for consolidation of all them so I

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1 can't say that for sure.

2 Q: So is your testimony then that
3 besides the medallions and the vehicles, you are not
4 aware of any property that is owned by any of the
5 cells?

6 MS. RODRIGUEZ: Objection. Misstates
7 prior testimony.

8 A: Well, that's not what I said and
9 it's not what you asked, sir. Would you call a bank
10 account property?

11 Q: Well, tell me about the bank
12 account.

13 A: Does that mean yes or no?

14 Q: Well, yes, that is property of a
15 different form than my question, but please tell me
16 what bank account property would be owned by the
17 cells?

18 A: The cells each have a checking
19 account?

20 Q: Is there a single bank where those
21 are maintained on?

22 A: Yes.

23 Q: What bank is that?

24 A: Wells Fargo.

25 Q: And each has a separate account

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1 number?

2 A: Yes, sir.

3 Q: Do they actually issue payments to
4 vendors each of the cells?

5 A: No.

6 Q: Who pays vendors?

7 A: Depends on which one. If it's for
8 maintenance, it's paid out of the maintenance
9 account. It was paid for a payroll. It goes on a
10 payroll account. If it's submitted to administration
11 or the supplies in the office, they would pay out
12 those accounts.

13 Q: So the accounts that the cells that
14 hold the medallions and the vehicles could that those
15 things, they don't actually engage in any financial
16 transactions except with the other cells of A Cab.
17 Is that true?

18 MS. RODRIGUEZ: Objection. Assumes
19 facts not in evidence, misstates prior testimony and
20 lacks foundation.

21 A: And that's exactly what I just
22 said. I didn't have...

23 Q: Well, let me rephrase the question.
24 They don't engage in any payments to any other
25 outside entities. Any monies that pass out of the

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1 cells that have title to the vehicles and to the
2 medallions pass out of the cells to one of the other
3 cells. Is that correct?

4 MS. RODRIGUEZ: Same objections.

5 A: That's not correct, Mr. Greenberg.
6 It's very complicated and I don't really want to
7 teach you a lesson on how to do this. I think I
8 stated earlier and maybe you forgotten, but I said
9 that monies are transferred from one account to the
10 other.

11 Q: Right.

12 A: And at the end of the day, all of
13 those cells go... is most of the money. The cells
14 all have money on them all the time, but most of the
15 money gets transferred out of the company into a
16 personal account of mine and then the next day, it
17 goes back into the administration company or the
18 payroll company as it's required.

19 Q: Okay.

20 A: At any particular night, there
21 would be no money in most of the accounts or a
22 minimum balance which we require just because we
23 don't want to have no money in there.

24 Q: Right. So the transfers out of the
25 cells are in the first instance to your account?

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1 A: No, sir. I didn't say that.

2 Q: Okay. No. Please, I don't want to
3 get anything wrong here, okay.

4 A: You're asking an awful lot of very
5 complicated questions.

6 Q: Let me try to make it simple, Mr.
7 Nady.

8 A: You can't.

9 Q: The transfer is out of the cells
10 that have the medallions and the cars. Are either to
11 one of the other cells or to you? Is that correct?

12 A: There's three different questions
13 there, Mr. Greenberg. Which one do you want me to
14 answer?

15 Q: If you think they're three, then
16 please answer all three.

17 MS. RODRIGUEZ: I'm going to object to
18 the form of the question.

19 A: I don't understand the question
20 here because you've made it three questions in one,
21 and you can --

22 Q: The various --

23 A: Be specific, please.

24 Q: You had mentioned --

25 A: Pick one.

1 Q: -- 135 cells that held medallions.
2 You had mentioned 102 cells that held the cars.

3 A: Pick a transaction, I'll tell you
4 how it goes.

5 Q: Okay. You had mentioned that the
6 revenue generated by the meters in the first instance
7 goes to the cells that have the cars after a certain
8 amount. It goes --

9 A: No, I didn't say that.

10 Q: Okay. Well, the revenue that comes
11 in the meter, what happens to it?

12 A: It goes into the cars.

13 Q: It goes into the cells that have
14 the cars?

15 A: Yes, sir.

16 Q: Okay.

17 A: Every day.

18 Q: Every day, okay. And is a portion
19 then directly transferred from the cells that have
20 the cars to the cell that has the employee leasing
21 corporation?

22 A: Some of it goes into there. Some
23 of it goes into maintenance based on the miles and
24 some of it goes into administration. The rest of it
25 goes into administration.

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1 Q: Does any of it go directly to you?

2 A: Not yet, no.

3 Q: Not yet, okay. Does any of it go
4 to any account that is any outside entity or person
5 that's not a cell?

6 A: After all the cells take their
7 respective amounts, that then goes into... it goes
8 out of the company into my personal account which is
9 then all put back in the next day.

10 Q: You are --

11 A: ``All`` is the operative word
12 there.

13 Q: Okay. So there is no direct
14 transaction between the cell... by ``transaction,`` I
15 mean money paid out of the cell to anything outside
16 of A Cab. It's not a cell of A Cab, except you?

17 MS. RODRIGUEZ: Objection. Asked and
18 answered.

19 A: Mr. Greenberg, that's ludicrous
20 question. And the fact that we have vendors, we have
21 employees, we have electricity and rent, and of
22 course, we paid outside there is.

23 Q: Okay. Are not those expenses paid
24 out of the administration cell?

25 A: Yeah.

1 Q: Okay.

2 A: The money goes back into the
3 administration cell in the morning.

4 Q: So what I'm trying to understand,
5 Mr. Nady, is from the cell that has the car where the
6 meter is and the money comes in from the meter --

7 A: You want to read what she's writing
8 because it's just kind of distracting.

9 Q: Mr. Nady, --

10 A: It's just kind of distracting when
11 she's trying to stuff that to you.

12 Q: Well, Mr. Nady, --

13 A: Mr. Greenberg, it is distracting.

14 Q: Well, you can listen to my
15 question.

16 A: I have a hard time when she's
17 distracting you and you're trying to talk to me.

18 Q: Well, then I suggest you don't look
19 over there.

20 A: Well, I can't help it. She's right
21 beside you.

22 Q: Mr. Nady, --

23 A: Yes, Mr. Greenberg.

24 Q: -- the funds that go out of the
25 cell that owns the car, they go to the administration

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1 cell, they go to the employee leasing cell or other
2 cells of A Cab, correct?

3 MS. RODRIGUEZ: I'm going to object.
4 It's been asked and answered several times.

5 A: Yeah.

6 Q: Okay. Do they ever go to anything
7 besides the cell of A Cab?

8 MS. RODRIGUEZ: Same objections. It's
9 been asked and answered several times.

10 A: You said ``they`` --

11 Q: Directly from

12 A: -- ``they`` What's ``they``? You
13 said do they.

14 Q: The funds that are received by the
15 cells that have the cars, the funds from the meter
16 that we were discussing, they go into the cell with
17 the car and then those funds go out of that cell. Do
18 they get transferred out of that cell as the first
19 stop to any place else besides another cell?

20 A: No.

21 Q: Okay. Thank you. Could any of the
22 cells of A Cab operate independently without their
23 relationship with the other cells to provide
24 employees, to provide administration, to provide
25 maintenance?

1 A: I think that`s a legal question,
2 Mr. Greenberg.

3 Q: No. I`m saying from a business, in
4 terms of how the business is set up. Could a cell
5 that has one vehicle as its asset conduct business
6 without assistance from the other cells?

7 A: If it only had one cell. You are
8 kind of confusing me again.

9 Q: Well, each vehicle is in a separate
10 cell, correct?

11 A: Correct.

12 Q: Okay. And each cell that has a
13 vehicle only has on vehicle on it, correct?

14 A: That`s correct.

15 Q: Okay. Now, and that vehicle has a
16 meter in it, correct?

17 A: The vehicle has a meter in it,
18 correct.

19 Q: Okay. And that vehicle could go
20 out on the road and collect passenger fares, correct?

21 A: That`s the purpose.

22 Q: Yes. Could that cell operate that
23 business of sending the taxi out to go and collect
24 passenger fares without assistance from the other
25 cells?

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1 A: That`s what it does.

2 Q: It does it without assistance from
3 the other cells?

4 A: What assistance would you need?
5 You still need an employee.

6 Q: Right.

7 A: So we have an Employee Leasing
8 Company that provides the drivers. So the answer to
9 your question, I guess, would be no.

10 Q: Thank you. When A Cab changed to a
11 Series LLC, did it transfer assets into the cells?

12 A: I don`t recall. I think it did. I
13 think it had to have.

14 Q: You had mentioned previously in
15 your testimony about how money that is received in
16 each cell each day is transferred out. It goes to
17 you and then it goes into, I think you said, the
18 administration cell. Was that correct?

19 A: Yes, sir.

20 Q: Okay. So is that transfer directly
21 from each individual cell to you and then to the
22 administration cell?

23 A: Yes.

24 Q: Okay. You mentioned that the tax
25 reporting for A Cab is in a form of a consolidated

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1 filing for various cells of the LLC that is on a
2 Schedule C of your 1040, correct? Do you recall
3 that?

4 A: I do.

5 Q: Can you tell me how much income or
6 loss was listed on that Schedule C from that
7 consolidated filing?

8 A: I gave it to you I think there, Mr.
9 Greenberg.

10 Q: When you say you gave it to me,
11 you're referring to some pages you gave me earlier?

12 A: I am. I don't know if there were
13 changes in the original one we gave you. It could
14 have been because everyone once a while, we amend the
15 return; but I don't think it might be. I don't know,
16 but that's what it was as of today. We may have made
17 some changes but nothing major.

18 Q: We can mark this as three.

19 MR. HELLMAN: Exhibit 3.

20 Q: Thank you. Okay. I'm showing you
21 plaintiff's three. Now, Mr. Nady, just looking at
22 the first page of this document, it says income
23 statement for year ending 12/21/15 A Cab, LLC. Now,
24 please correct me if I'm wrong, but the amounts that
25 appear here as income: we have net ordinary income,

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1 CERTIFICATE OF RECORDER

2 STATE OF NEVADA)

3 COUNTY OF CLARK)

4 NAME OF CASE: MICHAEL MURRAY vs A CAB TAXI SERVICE LL

5I, Peter Hellman, a duly commissioned

6 Notary Public, Clark County, State of Nevada, do hereby

7 certify: That I recorded the taking of the

8 deposition of the witness, Creighton Nday,

9 commencing on 06/16/2017.

10That prior to being examined the witness was

11 duly sworn to testify to the truth. That I thereafter

12 transcribed or supervised transcription from Recorded

13 Audio-and-Visual Record and said deposition is a complete,

14 true and accurate transcription.

15I further certify that I am not a relative or

16 employee of an attorney or counsel of any of the

17 parties, nor a relative or employee of an attorney or

18 counsel involved in said action, nor a person

19 financially interested in the action.

20IN WITNESS WHEREOF, I have hereunto set my

21 hand in my office in the County of Clark, State of

22 Nevada, this 06/16/2017.

23

24_____

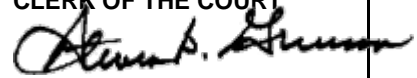
25Peter J. Hellman Notary (12-9031-1)

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TRAN

EIGHTH JUDICIAL DISTRICT COURT
CIVIL/CRIMINAL DIVISION
CLARK COUNTY, NEVADA

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

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE
WEDNESDAY, SEPTEMBER 26, 2018

TRANSCRIPT RE:
DEFENDANT'S EX-PARTE MOTION TO QUASH WRIT OF EXECUTION
AND, IN THE ALTERNATIVE, MOTION FOR PARTIAL STAY
OF EXECUTION ON ORDER SHORTENING TIME

APPEARANCES:

For the Plaintiffs:	LEON GREENBERG, ESQ. DANA SNIEGOCKI, ESQ.
For the Defendants:	ESTHER C. RODRIGUEZ, ESQ. MICHAEL K. WALL, ESQ. JAY A. SHAFER, ESQ.
For Non-party Wells Fargo Bank:	KELLY H. DOVE, ESQ.
ALSO PRESENT:	CREIGHTON J. NADY

RECORDED BY: Lisa Lizotte, Court Recorder

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1 LAS VEGAS, NEVADA, WEDNESDAY, SEPTEMBER 26, 2018, 11:11 A.M.

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3 THE CLERK: Page 10, Michael Murray versus A Cab Taxi Service. Case
4 Number A669926.

5 (Briefly off the record while the Court handles another matter)

6 THE COURT: Good morning.

7 MR. SHAFER: Good morning.

8 THE COURT: My, we have a full house today. Have counsel already
9 entered their appearances?

10 MR. GREENBERG: Leon Greenberg and Dana Sniegocki for plaintiffs,
11 Your Honor.

12 MS. SNIEGOCKI: Good morning.

13 MS. DOVE: And, Your Honor, Kelly Dove on behalf of Wells Fargo Bank.
14 We're not a party.

15 THE COURT: Good morning.

16 MS. DOVE: Good morning.

17 MR. SHAFER: Good morning. Jay Shafer for defendants.

18 MS. RODRIGUEZ: Esther Rodriguez, good morning, for the defendants.

19 MR. WALL: And Michael Wall for the defendants. Good morning, Your
20 Honor.

21 THE COURT: Good morning. There are two matters that are at issue or
22 partly at issue, only one of which is calendared and that's the defendants' motion to
23 quash the writ of execution or for a partial stay of execution. In response the plaintiff
24 has filed not only a response to that motion but a countermotion for appropriate

1 judgment enforcement relief in which any number of tools are suggested. This has
2 all happened very quickly. The defense motion is on an order shortening time. The
3 counter motion for appropriate judgment enforcement relief is even quicker. I don't
4 know exactly when that was filed. My chambers copy is not a file-stamped copy.
5 But at any rate, perhaps recognizing that, the timing here, the plaintiff has suggested
6 that we may need to have a different date for hearing on the counter motion, which
7 I agree with, and suggests -- well, much of what was said in the motion itself is just
8 taking what was said in opposition to the defense motion and taking it from a shield
9 to a sword.

10 It seems to me -- I mean, I recognize the gravity of the situation for the
11 defendant's business. I think that we must deal with the motion to quash the writ of
12 execution, and to the extent possible it seems to me that we should put the plaintiffs'
13 counter motion off, allow an opportunity to respond and then have a hearing on that.

14 Does anybody think differently?

15 MR. SHAFER: No.

16 MR. GREENBERG: Your Honor, my concern with the pending motion to
17 quash is the record before the Court being inadequate. This is discussed in my
18 brief, Your Honor. So I don't disagree with the Court's concern about the gravity of
19 the situation and the need to, of course, fairly resolve defendant's request for relief,
20 but I do believe that standing here today there clearly is an inadequate record
21 before the Court to grant the relief they're requesting. And this is discussed in my
22 response, Your Honor.

23 THE COURT: Okay.

24 MR. SHAFER: I have no qualms in continuing the counter motion. I think

1 that's appropriate. This is obviously somewhat of a confusing issue that needs to be
2 addressed according to due process. And I think that's the crux of our motion and
3 I'm happy to --

4 THE COURT: All right.

5 MR. SHAFER: -- answer your questions or go ahead if the Court is ready.

6 THE COURT: Yeah, go ahead. This is not one where I'm prepared to say,
7 well, this is the way I'm leaning and I'll just tell you what I'm thinking because this --
8 I don't -- well, at any rate, go ahead.

9 MR. SHAFER: Yeah. No, I appreciate that. And I'm glad that the Court
10 recognizes the gravity of the situation. This writ, which was executed upon separate
11 series LLCs has withheld the capital, the lifeblood of these companies. If the writ is
12 not quashed and the funds are not returned, payroll will not be met. The company
13 will fold. Because of its nature as a taxicab licensee, it cannot borrow against its
14 license. It cannot declare bankruptcy. It cannot take the appropriate remedies that
15 might otherwise be appropriate in this circumstance to try to protect against these
16 issues. If the writ --

17 THE COURT: Now you've raised something that I'm not familiar with. They
18 cannot declare bankruptcy, either?

19 MR. SHAFER: That's my understanding is that if it declared bankruptcy,
20 it forfeits its license.

21 THE COURT: Ahh. I see. Okay.

22 MR. SHAFER: So while it technically can --

23 THE COURT: Uh-huh.

24 MR. SHAFER: -- it would cease to be as an operating entity.

1 THE COURT: You know, I do not know that much about bankruptcy. I
2 always referred those questions to my brother. But it strikes me, knowing how all
3 powerful the bankruptcy judges tend to be, it strikes me as odd that they would allow
4 that in the estate before them, you know. But, whatever, that's perhaps a question
5 for a different day.

6 MR. SHAFER: Yeah. And I think that's an interesting question. Obviously
7 it's a statutory issue because it's a privilege license. But the matter is that if -- even
8 if the license were not forfeited, employees would go elsewhere, the company would
9 fold. But it's really a simple issue. Nevada has enacted a statutory regimen for the
10 issuance of Series Limited Liability Corporations. The only distinction that's set out
11 in the statute, it's NRS 86.296 and some of the corresponding records, the only
12 difference between a series LLC and a normal LLC is the lack of requirement to
13 register that LLC with the Nevada Secretary of State and pay the additional filing
14 fee. That is the only difference. The statute clearly provides that it can have one
15 or multiple members, that they can have one or no voting rights or differential voting
16 rights. They are separate LLCs. The only restriction is that it has to have the same
17 registered agent and if it conducts business it needs to register as a dba with the
18 appropriate licensing authority if it's conducting business with the public. But it is a
19 separate statute and the statute is very clear that --

20 THE COURT: Did you -- I think one of you submitted a copy of the statute
21 with it. Was that yours?

22 MR. SHAFER: Yeah. And I -- I think that was the defense -- or plaintiff's
23 counsel that submitted the statute.

24 MR. GREENBERG: Yes, I did, Your Honor. At Exhibit B, I believe, you

1 have -- or Exhibit C you have a copy of the Nevada statute for comparison and
2 Exhibit D is a copy of the Texas statute, and the difference is important to discuss.
3 But let me not interrupt.

4 MR. SHAFER: But the issue here is that the debts, liabilities of one series
5 are enforceable against that series only, just like any other LLC. They are separate
6 and distinct entities. While it is possible to pierce the corporate veil to go from one
7 entity to the other or from a member to an entity, there's due process that has to
8 be involved in that. It's not enough to say that because they share a name that
9 they are involved or that they are connected. If I have a judgment against myself,
10 Jay Shafer, they can't go to my brother, Tim Shafer, and try to collect against him
11 because we're related and share the same name. We are distinct individuals.

12 Now, there is a process for piercing the corporate veil. There is a
13 process for amending. There is a process for dealing with all these issues. We are
14 not at that step. What they have done is collared somebody, a random third party,
15 and are shaking them down for their money and saying prove to me that you don't
16 have to pay me the money. That is not the way our due process works and it's not
17 the way the statute works. NRS 86.296 says that they are a separate company
18 and it has -- the series LLC has the same rights as any other.

19 Plaintiff tends to argue that this is kind of an umbrella subsidiary
20 relationship and that because A Cab owns the series that they are entitled to get
21 the assets of the subsidiary company. First, that's incorrect. They can't execute
22 on the stock because this an LLC, which has membership interest. Second, A Cab
23 does not own the sub series LLCs. It does not have an ownership interest. It is
24 not a member in those series LLCs. It is complete and distinct from those two.

1 The remedy that might be --

2 THE COURT: Well, then let me go ahead and throw one hand grenade
3 that Mr. Greenberg lobbed, and that is then what is the standing of any of the
4 named defendants to raise objection on behalf of an entirely separate corporate
5 entity?

6 MR. SHAFER: We are here to try to protect the business relationships of
7 the series LLC and because this was the quickest way we knew how to do that,
8 because justice delayed in this situation is justice denied.

9 THE COURT: Who would be the -- for example, I guess the members,
10 who would be the managing member, for example, of any of the series LLCs?

11 MR. SHAFER: Well, I think that's been clearly developed in the record and
12 that's one of the issues of concern here. During the deposition of Mr. Creighton J.
13 Nady --

14 THE COURT: Uh-huh.

15 MR. SHAFER: -- last July, it was clearly disclosed to the Court the
16 corporate organization of this business entity and that he was the member of the
17 series LLCs. So that is -- he is the member of the different series LLCs. But a
18 co-membership interest or having the same member doesn't conflate the two LLCs.
19 You can be a member of multiple LLCs without piercing the corporate veil as long
20 as you maintain the corporate books and records and do all of the things that you're
21 supposed to do, which they have done in this instance.

22 THE COURT: Is the -- am I correct -- I don't recall, frankly, if this was
23 argued by Mr. Greenberg, but the way the series LLCs appear to be set up is it
24 takes portions or aspects of the LLC that is in this case of our defendant LLC and

1 divides the business of that LLC off into separate entities, separate series.

2 MR. SHAFER: That is incorrect in that it takes the business of the LLC and
3 divides them up, because it assumes that an enterprise or an LLC can only be one
4 business, it has to do the entire thing. It is correct, as I understand it, that the
5 series LLCs are engaged in different businesses. One business owns the cabs.
6 One business --

7 THE COURT: And these are the cabs that are used by the defendant
8 corporation or defendant LLC here?

9 MR. SHAFER: Yeah. So there is a different -- and those are all -- the
10 accounting is there. They are leased or otherwise there is a financial arrangement,
11 and I can defer to counsel about how those are set up, but there is an appropriate
12 accounting to where the financial records of those entities are set up. For example,
13 I, as an attorney, can subcontract to do contract work or do something for somebody
14 else. I don't have to take on the entire representation if I contract with another
15 firm. It doesn't make me the attorney of record if I, you know, draft a brief under
16 somebody else's license. It doesn't separate these out. We have the same
17 separation here. We have different parts, different entities that are set up to allocate
18 this. The reason for the series LLC is not provide for a limitation of liability. It's not
19 taking advantage of the plaintiff to engage with these -- you know, what the statute
20 provides, any more than it would be for them to set up 150 separate LLCs or to
21 set up a trust or to engage in the other statutory established remedies for corporate
22 organizations that are established by statute.

23 THE COURT: Was this reorganization, I believe it was in this case -- I don't
24 know, maybe reorganization is the wrong word, but the series LLCs were formed

1 and registered, is that the right word, with the Secretary of State sometime in 2012,
2 is that correct?

3 MR. SHAFER: It is my understanding that this set of series LLCs were
4 established in February of 2012; sometime early in 2012.

5 THE COURT: And was that before this lawsuit was started?

6 MR. SHAFER: I believe that's correct, Your Honor.

7 THE COURT: Okay. All right.

8 MR. SHAFER: And obviously that goes to another issue which is pending
9 before the Court regarding the amendment to the judgment's name, A Cab versus
10 A Cab Series LLC. But that's really not what we're here for.

11 THE COURT: Right.

12 MR. SHAFER: We are not here to contest the writ of execution as it goes
13 to A Cab. That is a separate issue and a bond and the issue before the Court. We
14 are asking really for the Court to quash the writ of execution as it relates to third
15 parties. It is long-established case law going back to the 1900s that when you seek
16 to obtain assets of a third party which are claimed belong to the judgment debtor,
17 that you have to initiate a separate legal action to bring those third parties into the
18 jurisdiction of the Court. I mean, we can go back to -- I think it was Hagerman v.
19 Tong Lee in 1877, Persing v. Reno Board of Trade, 30 Nev. 342, and as recently as
20 Greene v Eighth Judicial. That has been a very clear black letter law that you must
21 file a separate action against a third party in possession of property of the judgment
22 debtor.

23 So if they're claiming this money belongs to A Cab or should be A Cab's
24 or whatever their claim is, they have to initiate a separate legal action. It's not enough

1 to send a writ of execution and bamboozle the garnishee or somehow mislead them
2 in a way that causes them to hold the funds and then somehow convince the Court
3 to bypass the exemption process and other things to get them to transmit them to
4 plaintiff's trust account where they can be held. One, that isn't what the law says,
5 and two, that causes significant harm, as we've addressed with the Court.

6 There really is no basis to conflate it. I know there was some argument
7 about Tax ID's or other governmental identifications. That doesn't separate them.
8 If I have an LLC that I elect to be taxed as an individual representative, I don't have
9 a separate Tax ID for my LLC, but that doesn't mean that they aren't separate
10 entities from myself personally, as long as I provide the appropriate accounting.
11 As we know, the Federal Government does not always recognize series LLCs. That
12 doesn't change the fact that the Nevada statute --

13 THE COURT: So does that mean that there are separate tax returns for
14 each of the series LLCs?

15 MR. SHAFER: I don't know that, the answer to that, Your Honor.

16 THE COURT: I see Mr. Nady shaking his head.

17 MR. SHAFER: I'm being advised that there probably are not. And of course
18 that is one of the advantages to the series LLC, in addition to not having to file and
19 pay the couple hundred dollars per series LLC with the Nevada Secretary of State,
20 but then you also can account for or only file one separate tax filing with the IRS.
21 But there is separate accounting for each of the entities.

22 THE COURT: So the -- under the framework of these series LLCs, each
23 one has the potential to receive an income and pay out costs of doing business,
24 etcetera, etcetera?

1 MR. SHAFER: That is correct. For example, I believe that the cab rental --
2 you know, this particular cab leases or rents itself out for a certain daily rate and
3 pays for the maintenance or the costs of maintaining that cab to the maintenance
4 company or the maintenance series. That way there is an appropriate flow of
5 accounting and liabilities to the corporation. This has been very carefully entered
6 into with consultation with multiple legal counsel to try to abide by the state of the
7 law and abide by what you are supposed to do to manage this. This has been
8 a long held provision to try to establish the appropriate corporate form.

9 Really, it is very simple. They are not defendant A Cab or A Cab
10 Series and therefore the writ of garnishment should not apply to them. If there's any
11 hurry to this, that's not defendant's fault. Defendant raised the issue of the separate
12 corporate organization as long as more than -- excuse me, more than a year ago
13 in the deposition.

14 THE COURT: Oh. Uh-huh.

15 MR. SHAFER: So plaintiff's counsel has been aware of this issue for as
16 long as they can remember. In fact, the fact that it is a series LLC is public record.
17 It could be obtained by obtaining the corporate filings with the Nevada Secretary
18 of State.

19 THE COURT: Uh-huh.

20 MR. SHAFER: So this should not come as a surprise to plaintiff's counsel
21 and it's not something they couldn't have dealt with earlier. So plaintiff -- in fact,
22 the only case law they cite in their brief, the only citation to anything other than the
23 Texas statute, which is completely inapplicable, is a citation to Gardner v. Eighth
24 Judicial, which says that if you know you can bring an alter ego cause of action.

1 You have that ability to bring it. They had the ability to bring it more than a year ago
2 and chose not to.

3 THE COURT: When you say bring it, you mean bring a motion to amend
4 to include the series LLCs?

5 MR. SHAFER: I wouldn't guess or tell Mr. Greenberg what option he would
6 take, but certainly it would be one of those options that could have been dealt with.

7 THE COURT: Okay.

8 MR. SHAFER: We are now in a situation where they have contacted the
9 bank, have given them information, have sent a writ for third parties. They want to
10 kind of jump to the end of alter ego and just have the Court hold the funds because
11 they lucked into it. You can't mug somebody and then say, well, prove to me it's
12 not your money and it's my money.

13 THE COURT: Well, they don't want the Court to hold the funds. As I
14 understand it, they want it to go to Mr. Greenberg's trust account.

15 MR. SHAFER: That's correct.

16 THE COURT: Okay.

17 MR. SHAFER: Because, well, a bird in the hand, right? So we have a
18 situation here where that causes an irreparable harm to my client, an irreparable
19 harm to the business, the very people that they claim to represent are going to be
20 harmed by this, the drivers themselves.

21 THE COURT: That brings up a good point. Is the analysis that a court is
22 to perform here on a motion to quash the writ of execution the same or similar to
23 what the court would do on an injunctive relief motion?

24 MR. SHAFER: I don't believe so. I think it's --

1 THE COURT: I mean, you mentioned irreparable harm.

2 MR. SHAFER: Yeah.

3 THE COURT: That's why I'm --

4 MR. SHAFER: No, I don't think so. I think it's very clear it's a third party.
5 Absent an order of the Court subjecting the third party to liability, absent an order
6 of the Court or a separate action bringing or piercing the corporate veil or even
7 pursuing with a prejudgment writ of attachment through a separate action, absent
8 that they have no more claim on A Cab Series LLC, the maintenance LLC than they
9 do on my own personal bank account. They have -- it is black and white. Black --
10 the statute is very clear as to a separation of the LLCs.

11 THE COURT: Will you point that out to me? You started --

12 MR. SHAFER: Sure.

13 THE COURT: I think I interrupted. You were talking about NRS 86.296?

14 MR. SHAFER: Yeah. Absolutely, Your Honor. Subsection -- excuse me,
15 86.296, subsection 3, which says that "the debts, liabilities, obligations and
16 expenses incurred, contracted fo or otherwise existing with respect to a particular
17 series are enforceable against the assets of that series only and not against the
18 assets of the company generally or any other series." They are separate and
19 firewalled.

20 THE COURT: Uh-huh.

21 MR. SHAFER: And I believe that there was -- I just want to check NRS --
22 and this is a companion statute, NRS 86.311, which I can provide a copy to the
23 Court, says -- and they changed this --

24 THE COURT: 86.311. Go ahead.

1 MR. SHAFER: Subsection 2. "Real and personal property may be
2 purchased, owned and conveyed by a series separately in the name of the series
3 as an asset of the series only." So bank accounts, cars, other assets are assets
4 of the series only. They are not --

5 THE COURT: If the records comport with that. Is that the way that goes?

6 MR. SHAFER: No different than any other LLC.

7 THE COURT: Yeah.

8 MR. SHAFER: If I have LLC A and LLC B and I smoosh all the records
9 together and just keep one check register and don't account for it, then that would
10 be --

11 THE COURT: Oh. Then you have effectively co-mingled or some such
12 thing?

13 MR. SHAFER: You co-mingled it and you set yourself up.

14 THE COURT: Okay. What kind of records, then? To what extent do those
15 have to be maintained in order to maintain that protection of no liability?

16 MR. SHAFER: Well, the statute says that you have to --

17 THE COURT: Separate and distinct records.

18 MR. SHAFER: Yeah. So you have to provide -- you have to have a ledger
19 for the income and expenses for each series LLC.

20 THE COURT: And your client does maintain that?

21 MR. SHAFER: That's correct. And we submitted an affidavit or a
22 declaration by their account manager to that effect. That's a sworn statement
23 attached to our application to quash. Certainly if plaintiffs' counsel have reason to
24 believe -- that could be subject to some other motion, but in the present case it's

1 not enough to just send this writ out and hope they get something and then to hold
2 the money.

3 THE COURT: So is the cash flow -- I assume that A Cab LLC takes in all
4 the money, the income, and then turns around and pays it out to each of these
5 series LLC?

6 MR. SHAFER: No. I don't think that's entirely correct --

7 THE COURT: Oh.

8 MR. SHAFER: -- because each LLC has its own lease and its own issue,
9 you know, as far as the income. And then there is a leasing company that handles
10 -- or an employee company that handles the payroll, as I understand it.

11 THE COURT: How do they -- how do they get their money, then? Say --
12 take the maintenance LLC.

13 MR. SHAFER: Well, let me give you an example and perhaps this -- I could
14 give you the actual sums and the accounts that are at issue here. Maybe that will
15 help the Court --

16 THE COURT: Okay.

17 MR. SHAFER: -- understand the scope of what's going on. There is an
18 account held by -- I apologize, I want to get to the actual motion -- owned by
19 A Cab Series LLC, Maintenance Company, \$38,572.53 that is held to pay for the
20 maintenance expenses and the other items which are incurred to pay for other
21 things, which is a completely separate --

22 THE COURT: And how did the \$38,000 get into those accounts?

23 MR. SHAFER: The \$38,000 I'm presuming was paid in by the other cab
24 companies to pay for the tire rotations and other --

1 MR. NADY: It was paid in based on miles per day.

2 MR. SHAFER: So --

3 THE COURT: So the --

4 MR. NADY: It's a percent -- it's a --

5 THE COURT: Does that mean you get a check cut from A Cab to the
6 series, the maintenance series LLC?

7 MR. NADY: I would be glad to help you with this.

8 MR. SHAFER: Well, I don't know if it's a check, but there is a transfer of --

9 MR. NADY: No, it's a transfer within the bank itself. We have 135 separate
10 -- excuse me for not rising -- we have -- I think it's 135 separate bank accounts.

11 THE COURT: Okay.

12 MR. NADY: And as the money comes in, it's separated by cab. That
13 becomes the revenue. Based on number of miles, a certain amount of that revenue
14 is divided to the maintenance company. Another certain percentage, five dollars a
15 day is paid to the -- another cell, which is -- or series. The word series and cell by
16 law can be interchanged. But another cell gets so much for owning that medallion.
17 There's 111 vehicles right now that are owned by 111 separate series or cells.
18 Those for income and expenses and then we have a payroll company, which we
19 call Employee Leasing Company, which then takes the money from the cabber.
20 That much goes into that cab company. The expenses are paid out.

21 THE COURT: When you say that cab company, meaning an individual cab
22 with it's own medallion?

23 MR. NADY: Each cab -- each cab company as a -- each taxi is a separate
24 company.

1 THE COURT: Company.

2 MR. NADY: A separate corporation or entity.

3 THE COURT: Okay.

4 MR. NADY: Each one. It's been this way since we started. We have --
5 we produce quarterly statements for each cab company every quarter and then
6 we file a consolidated return with the State. The Taxicab Authority requires this.
7 And we file a Schedule C for the IRS. But these expenses, it's extremely difficult
8 accounting.

9 THE COURT: I'll say.

10 MR. NADY: But we have -- we have a smart meter which does almost all
11 of it. The meter takes in how much the driver makes.

12 THE COURT: Wow.

13 MR. NADY: The meter takes in how much -- how many miles it is. And it's
14 almost done automatically. We've set it up so -- pretty well through a guy that he
15 deposed, Jim Morgan's company, where the money then goes out. We actually
16 transfer every day or maybe two or three times a week every bit of money out of that
17 into the appropriate expense accounts. And the rest --

18 THE COURT: So it's not only -- I mean, so you're saying the income from
19 hauling people around goes to that one Series Cab LLC --

20 MR. NADY: That goes back -- it's deposited into the administrative account
21 for one day. By day's end --

22 THE COURT: What's the administrative account?

23 MR. NADY: That's --

24 THE COURT: Is that an A Cab account?

1 MR. NADY: That's generally the administration of the company, Employee's
2 Management Company.

3 THE COURT: That's a separate cell, then?

4 MR. NADY: It's a separate cell. Yes, sir.

5 THE COURT: Okay. So all the money goes to the administrative LLC for
6 one day?

7 MR. NADY: It does until it's transferred because the bank -- it's just for
8 logistics. We don't co-mingle the funds. We put it together until they can be
9 distributed into each one. And from those we deduct so much for each mile. It's
10 actually 24 cents per mile. We figure it's the cost of operating the vehicle. We take
11 the gas for that particular vehicle and put it in there.

12 THE COURT: Wow. And do you put it in the administrative account --

13 MR. NADY: No.

14 THE COURT: -- or do you put it directly into the maintenance and --

15 MR. NADY: No, they go back into each one of those other cells. The
16 administrative company and then the management company gets paid so much.
17 And at the end of the day all of those -- most all of those accounts, we write checks
18 out of the administrative company and the maintenance company also has its own
19 checking account. All of them have their own checking accounts, but we don't issue
20 checks in most of them. We only have four or five checking accounts --

21 THE COURT: Uh-huh.

22 MR. NADY: -- but that's because we just transfer the money within the
23 bank. But we do that every day. And we get audited by the guy who wrote or
24 helped write the series LLC law. Steve Oshins is his name and we probably should

1 have had him here, but you can ask him. He reviews my records and books every
2 year --

3 THE COURT: Uh-huh.

4 MR. NADY: -- and has never found -- he's given us some possible changes,
5 but he's never found any shortcoming that would not be applicable here in court.

6 THE COURT: Uh-huh.

7 MR. NADY: We go to great lengths to keep these records and accounts
8 separate. And we provide income statements quarterly and then we consolidate
9 those. When we first do an income statement it's pages and pages for each one
10 of them.

11 THE COURT: Because it's a separate income statement for each series
12 LLC.

13 MR. NADY: Because it's a separate income statement for each -- well, for
14 each series. And remember, we've got one for each medallion --

15 THE COURT: Each cab. Yeah.

16 MR. NADY: -- plus one for every car.

17 THE COURT: Yeah.

18 MR. NADY: And we've got one for the management company. And we've
19 got Employee Leasing Company, which actually pays the drivers.

20 THE COURT: What's your --

21 MR. NADY: I shouldn't say this, but if anybody is liable, it would be the
22 Employee Leasing Company for not doing it, but.

23 THE COURT: Okay.

24 MR. NADY: They took \$44,000 out of that account, too --

1 THE COURT: Ahh.

2 MR. NADY: -- but they weren't sued.

3 MR. SHAFER: As you can tell, this is a very --

4 THE COURT: So that must cost you an arm and a leg for the accounting.

5 MR. NADY: No. Actually -- remember, I have a degree in accounting.

6 I practiced accounting before this.

7 THE COURT: Ahh.

8 MR. NADY: I was a controller of a casino for years. I worked for the
9 Gaming Control Board for years. I was a Gaming Control Board agent. Accounting
10 is my background.

11 THE COURT: Uh-huh.

12 MR. NADY: And we were the first cab company to do this. Others have
13 since started doing this. The purpose initially was to limit liability in the case of an
14 accident --

15 THE COURT: Yeah.

16 MR. NADY: -- to that particular cell or cab.

17 THE COURT: Yeah.

18 MR. NADY: If we got into a wreck, we wouldn't lose all our cabs, we would
19 lose one.

20 THE COURT: Yeah.

21 MR. NADY: And we provide insurance for each cab, so there's a certain
22 daily insurance amount. Yes, it seems like a lot, but you can program your
23 computer now to do almost all of it --

24 THE COURT: All of that.

1 MR. NADY: -- every day when it comes in, and it downloads from the meter
2 to our computer. Pretty cool.

3 THE COURT: That's amazing.

4 MR. NADY: And which Mr. Greenberg used earlier in his case to say how
5 long they were working. But that doesn't always tell when they went it, it's just when
6 the meter went on, which is a part of our case a long time ago. But I'm pretty proud
7 of it.

8 THE COURT: So the -- all the income from each of the medallions goes
9 first to the administrative company for a day and then it's transferred just by
10 computer --

11 MR. NADY: Every day the money is completely disbursed.

12 THE COURT: To -- and so it would go to -- well, how does A Cab make
13 any money, then?

14 MR. NADY: Well, it's completely disbursed in that normally we have zero --
15 ZBAs, zero balance accounts in every account, but because we have outstanding
16 checks such as payroll, those outstanding checks were collected by Mr. Greenberg.
17 We have outstanding checks in the maintenance company that go to the State.
18 We pay -- taxicab companies pay two dollars every time they go to the airport.

19 THE COURT: So which of these cells pays that?

20 MR. NADY: The administrative company pays those.

21 THE COURT: Okay.

22 MR. NADY: And we have a management company which does the hiring
23 and training.

24 THE COURT: How do you get your profit out of that?

1 MR. NADY: Well, at the end of the day it all goes out of that account into
2 my personal account and then the next day it goes back in. I don't have any money
3 in my account.

4 THE COURT: You mean the individual cells pay into your personal --

5 MR. NADY: Yes, sir. At the end of the --

6 THE COURT: Wow.

7 MR. NADY: Remember, the money goes into the administrative and then
8 we take out the expenses.

9 Do you want me to shut up?

10 MR. SHAFER: No, that's fine. I think the Court is getting the idea.

11 THE COURT: Yeah.

12 MR. NADY: It's extremely calculated and we've had five years of perfecting
13 it. And the computer industry has made it so instead of having three people do it,
14 I have a half of a person doing it, half of a full-time employee who's been with me
15 forever.

16 MR. SHAFER: So this is --

17 THE COURT: You know, we need to change the law. I mean, make it
18 easier somehow because --

19 MR. NADY: The law says specifically separate accounts and records --

20 THE COURT: Yeah.

21 MR. NADY: -- so that's what we've strived to do. And Steve Oshins, the
22 other attorney that helped me create this, says it's the best he's ever seen.

23 MR. SHAFER: So there is -- obviously you can see there's a detailed
24 nature of how this is all set up.

1 THE COURT: Yeah.

2 MR. SHAFER: They keep appropriate accounting records. When we look
3 at it -- obviously the money is not transmitted. For example, one of the big concerns
4 is that money that is held by -- for payroll taxes or for the franchise fee to the State
5 is being held in the account, which if it's not paid could subject my client to sanctions
6 or fines by the State for not submitting the funds appropriately.

7 THE COURT: Is that in the administrative account, then?

8 MR. SHAFER: Yes.

9 MR. NADY: No, that is -- yes, that's correct.

10 MR. SHAFER: Yeah. Well, some if it is in the administrative account,
11 some of it's in the Employee Leasing Company, some of the payroll and some of
12 the other items.

13 THE COURT: Employee Leasing, does that -- does that include all the
14 taxi drivers?

15 MR. NADY: Yes.

16 MR. SHAFER: Well, I believe so. But there's --

17 THE COURT: So the Employee Leasing Company gets some cash flow
18 from individual meters with the medallions and that's peeled off because that's what
19 it costs to pay the drivers.

20 MR. SHAFER: Right.

21 THE COURT: And then it goes -- does the -- sorry. Does the Employee
22 Leasing Company cut the check to the drivers?

23 MR. SHAFER: I don't know the answer to that specifically.

24 MR. NADY: Yes.

1 MR. SHAFER: They do.

2 THE COURT: Huh. Wow.

3 MR. SHAFER: So it is a process that's involved and that's why Mr. Nady
4 was very clear in his deposition that there was an entity that was set up to do it
5 that way. You know, there is -- this has been tested in litigation. You know, the
6 concern we have is, as you heard, there's 100 plus accounts. With this garnishment
7 in place, any time money gets put into one of these accounts it's subject to
8 garnishment, which would require that individual series LLC to come in and file its
9 own interpleader action, and all of a sudden we've got hundreds of actions.

10 THE COURT: Yeah.

11 MR. SHAFER: So not only for the sake of expedience but also practicality,
12 we're here today. But it's really -- that way is kind of, respectfully, a backwards
13 approach to how to do it because they're only entitled to execute upon the judgment
14 debtor --

15 THE COURT: Uh-huh.

16 MR. SHAFER: -- which is A Cab LLC and A Cab Taxi Service LLC. If they
17 believe that that judgment should be amended to somebody else, there's a process
18 for doing that.

19 THE COURT: Uh-huh.

20 MR. SHAFER: But the process is not just telling the garnishee, telling the
21 people who were served the writ of execution that, well, you could name anybody
22 else that has a similar name, has A Cab in their name.

23 THE COURT: Well, that -- is that what was done here?

24 MR. SHAFER: That is.

1 THE COURT: Because I don't believe the actual writ of execution did that,
2 did it?

3 MR. SHAFER: No. The writ said A Cab LLC and A Cab Taxi Service LLC.

4 THE COURT: Maybe I could ask -- does anybody object if I ask the bank?
5 Are you a bank manager, ma'am?

6 MS. DOVE: No. No, Your Honor. I'm counsel for Wells Fargo.

7 THE COURT: Oh, okay.

8 MS. DOVE: So we are just here to --

9 THE COURT: Yeah.

10 MS. DOVE: You know, obviously we don't really have a dog in this fight,
11 so to speak, about who gets the money, but --

12 THE COURT: Do you know any of the operative facts as far as how this
13 garnishment happened and how this money was taken from these various series
14 LLCs?

15 MS. DOVE: I know Wells Fargo was served with a write of garnishment
16 and had quite a few accounts with the A Cab name --

17 THE COURT: Uh-huh.

18 MS. DOVE: -- titled A Cab Series, LLC (comma) and then different
19 descriptors. My understanding, and again, not sort of testifying or giving evidence --

20 THE COURT: Yeah. No.

21 MS. DOVE: -- but my understanding is that of the many accounts that exist
22 under the A Cab moniker they all share the same Tax ID number --

23 THE COURT: Uh-huh.

24 MS. DOVE: -- which is what Wells Fargo predominantly used to unify those.

1 And at the time of the writ, six accounts had money in them.

2 THE COURT: Uh-huh.

3 MS. DOVE: And that's what was attached at the time of the writ. They
4 were A Cab Series LLC, Administration Company, Employee Leasing, Maintenance,
5 Ccards, Medallion and Taxi Leasing, with far and away the most money being in the
6 A Cab Series LLC, Administration Company account. And they went by the Tax ID
7 number.

8 THE COURT: Uh-huh.

9 MS. DOVE: Wells Fargo is here to represent we'll of course comply with
10 any order the Court issues with respect to the writ. It will provide further information
11 as the Court might wish to know on as expedited a basis as possible. And just also
12 seeks a release of any liability, whether we have to file a motion for interpleader or
13 simply comply with the Court's order. We're just here to do what the Court finds at
14 the end of the day.

15 THE COURT: Okay. Thank you.

16 MS. DOVE: Thank you.

17 THE COURT: Appreciate it.

18 Go ahead, Mr. Shafer.

19 MR. SHAFER: Yeah. So I think she's confirmed those are the correct
20 ones. There were, you know, A Cab Series LLC, Maintenance Company; A Cab
21 Series LLC, Administration Company; A Cab Series LLC, Taxi Leasing Company;
22 A Cab Series LLC, Employee Leasing Company II; A Cab Series LLC, Medallion
23 Company and A Cab Series LLC, Ccards. Those are on page 7 of our motion.
24 The writ was served on September 17th. We submitted a copy of that as an exhibit,

1 I believe, to our motion. If not, I have a copy for the Court.

2 THE COURT: Uh-huh. The writ is attached, I believe, writ of execution.

3 MR. SHAFER: Yeah. And you can see it is directed to A Cab LLC or A Cab
4 Taxi Service, which are distinct from the entities, from the account holders, which is
5 A Cab Series LLC.

6 THE COURT: Is there an A Cab Taxi Service, LLC?

7 MR. SHAFER: There is not such an entity.

8 THE COURT: Okay.

9 MR. SHAFER: So that is -- and that is, I believe, pending another motion
10 with the Court which has been briefed, which we are not here today. But that is
11 essentially where the issue is, is that they have a partial name match and that's
12 not enough to execute a writ of garnishment on a third party, especially given the
13 extensive nature of the books and records that they have engaged in to keep them
14 separate and distinct legally under the law.

15 THE COURT: Did those series LLCs also comply with the -- this is in
16 86.296 sub 3, sub (b): "The articles of organization or operating agreement provides
17 that the debts, liabilities, obligations and expenses incurred, contracted for or
18 otherwise existing with respect to a particular series are enforceable against the
19 assets of that series only"?

20 MR. SHAFER: Yes.

21 THE COURT: It does do that?

22 MR. SHAFER: Yes.

23 THE COURT: And did you give me an example of such a -- is it articles of
24 organization or what kind of document is that contained in?

1 MR. SHAFER: I don't believe that we provided a copy of the articles or
2 the operating agreement to that.

3 THE COURT: Okay.

4 MR. SHAFER: I know it had been provided -- well, I don't know if it had
5 been provided in another action.

6 THE COURT: Okay.

7 MR. SHAFER: But essentially if plaintiffs are correct, which I don't believe
8 they are, there can be no asset protection, no separate corporate liability for any
9 corporate entity if it's tied in with somebody else. That's clearly not what the intent
10 of the statute was to set up -- establish LLCs. We can argue that maybe series
11 LLCs are not a good thing, they're not a preferable thing, but that's not what the
12 Legislature in their wisdom has enacted. They have enacted a provision that allows
13 for --

14 (Mr. Shafer confers with Ms. Rodriguez)

15 MR. SHAFER: So we've provided -- I think that the operating agreement
16 for the A Cab has been provided in opposition to the motion to amend, but not the
17 series.

18 THE COURT: I'm sorry, say that again, will you?

19 MR. SHAFER: The operating agreement for the series LLCs --

20 THE COURT: Oh.

21 MR. SHAFER: -- have not been provided, but the operating agreement for
22 A Cab LLC has been provided to the Court as an exhibit to the opposition to the
23 motion, plaintiff's motion to amend --

24 THE COURT: Okay.

1 MR. SHAFER: -- which was filed on September 10th. It's Exhibit 1 to that
2 motion.

3 THE COURT: Okay.

4 MR. GREENBERG: Your Honor, the document being referred to is actually
5 in plaintiff's response. The Certificate of Articles of Operation, Organization is at
6 Exhibit E of my response on this motion, Your Honor.

7 THE COURT: Is that -- is that Exhibit B?

8 MR. GREENBERG: Exhibit E, Your Honor. E as in Edward.

9 THE COURT: Oh, E. Okay. All right.

10 MR. GREENBERG: The particular article is Article 2 of that document that
11 discusses the issue.

12 THE COURT: Okay.

13 MR. SHAFER: I mean, it is clear. We have the statute to go by. And
14 absent any evidence on their -- their filing of the writ doesn't require a third party
15 to have a burden of proof because of established case law that they have to be
16 brought in as a party or otherwise subjected to legal process. They haven't been,
17 so there's no basis to do it. It is simply enough for us to say this is a separate entity.
18 This is a different company and the Court should order that the funds that belong to
19 that company be released. If the plaintiff disagrees with that or has other concerns
20 about that, then they can bring the appropriate legal method to do so. But it's not
21 enough to circumvent that, to jump to the end and violate my client -- the due
22 process rights of A Cab Series LLC and punish them for doing what they're
23 supposed to do --

24 THE COURT: Uh-huh.

1 MR. SHAFER: -- and providing for this accounting that they're supposed to
2 do and keeping the corporate books and records. The statute is clear a series LLC
3 is no different as far as separation of liabilities than an ordinary LLC. And it's not
4 enough to just say, well, maybe sometime there's some basis that we could maybe
5 assert and let's hold the funds until then. No. The appropriate remedy is for this
6 Court to order those funds that are being held by Wells Fargo to be released back to
7 the account holders. A failure to do so is both against the intent of the statute and
8 will cause an irreparable harm, a substantial harm to my client and their employees.

9 Unless the Court has any further questions, I'll let Mr. Greenberg
10 argue.

11 THE COURT: Not at this time, no.

12 Mr. Greenberg.

13 MR. GREENBERG: Your Honor, there are two fundamental questions
14 presented by the application. Besides the standing issue, I don't believe there's
15 any application properly before the Court, as Your Honor was mentioning, because
16 these supposedly independent entities who actually have the interest in the property
17 aren't even here. And defendants have talked about expediency to the process.
18 Well, Your Honor, they can't have it both ways. They can't say we have no interest
19 in this property, it's not ours, and then at the same time come to the Court and say
20 we have a sufficient interest, so that the Court should act in terms of disposition of
21 the property.

22 So that's a starting point, Your Honor. I don't see that there's any
23 subject matter jurisdiction over the request, if defendants are actually making a valid
24 request. By establishing the validity of the request, they're actually establishing that

1 there's no jurisdiction as this application is configured for the Court to give them
2 the relief they want. But I'm skipping over that --

3 THE COURT: You're saying that in order to do that they would have to
4 come in with separate -- not necessarily separate representation, but separate --
5 as separate entities for each one -- well, at lease of the six that had funds taken?

6 MR. GREENBERG: Well, they say they're separate entities.

7 THE COURT: Yeah. Yeah.

8 MR. GREENBERG: They claim to have separate legal standing. I mean,
9 the statute that they refer to does give a series, a subordinate LLC of a master LLC
10 the right to appear in court and to prosecute and defend actions. And if they're
11 claiming that these are really independent entities, they need to appear. It's their
12 property. They need to come claim it. Defendants can't -- as I said, they can't
13 have it both ways. Our position is it's not their property, at least in respect to this
14 judgment, Your Honor.

15 THE COURT: I'll ask you to address that when I come back to you, Mr.
16 Shafer.

17 MR. GREENBERG: But to address the issue of the enforcement of the
18 judgment, setting aside this question of standing or even jurisdiction over the
19 application, there are two questions that are presented. The first is whether
20 Nevada's statute actually operates to place assets that are in a subordinate LLC
21 from reach by a judgment against its master LLC. There is in fact nothing in the
22 language of the statute that commands that or even allows it, Your Honor.

23 THE COURT: Why else would they do that?

24 MR. GREENBERG: Well, the traditional view or the real reason why you

1 would have a series LLC set up is in real estate investment or real estate
2 operations. Each property is a separate series, a separate sub LLC of the real
3 estate company. You've got four houses, four LLCs. And it makes sense there,
4 Your Honor, because you have individual assets which are generating individual
5 revenue, individual expenses, individual obligations, individual mortgages against
6 each particular parcel of real estate. And what the statute --

7 THE COURT: What would be the difference between that situation of
8 real estate and -- I mean, what if this were a real estate series LLC and it was 111
9 or 102 instead of cabs, 102 properties?

10 MR. GREENBERG: Well, to answer your question, Your Honor, you can't
11 do that, okay, because you need a certificate of public convenience and necessity
12 to license, to operate a taxi business. It's a restricted license, as defendants were
13 explaining. You need to meet the requirements by statute, which are quite rigorous --

14 THE COURT: Yeah.

15 MR. GREENBERG: -- to be approved and you as the licensee are the one
16 who are handed those medallions in the first place by the Taxi Commission. And
17 Mr. Nady at his deposition was deposed about whether each of these 100 or 230
18 individual cells that he claims operate the taxi cabs could operate as independent
19 businesses. He conceded they couldn't. And they couldn't for that reason, Your
20 Honor, because they don't actually have access to the medallions directly. They
21 don't own them. They have to go through the licensee, which is the master LLC
22 here, A Cab, the judgment debtor. And in addition, it's not like the real estate
23 situation because you don't have an independent property, you know, with its own
24 liabilities, its own property taxes, its own independent source of revenue from rents,

1 etcetera, etcetera. This is an integrated business, Your Honor. They have to have
2 drivers, they have to have maintenance. I mean, it works together and in particular
3 it only can operate derivative of that license holder's power, Your Honor.

4 THE COURT: Uh-huh.

5 MR. GREENBERG: And the license holder here is A Cab, LLC, which is
6 the judgment debtor, the master of the series. And in addition, Your Honor, these
7 series LLCs, the subordinate LLCs that are issued under the law, they owe their
8 existence to the master LLC. If the master LLC disappears or is dissolved, there
9 is no provision in the law for the continuance of the existence of the series LLCs.
10 They may exist as separate legal entities, but there is no registration with the
11 department of State. In this case they don't have a separate tax registration. They
12 could have but they don't because they are operating, as I was explaining, as part
13 of an integrated business.

14 And to take a look at the language of the statute which was being
15 discussed by Your Honor with counsel and that counsel has recited, counsel has
16 skipped over the issue, which is that in 3(b), okay, as Your Honor was asking about
17 the operating agreement, okay, there are two issues raised here by the limitation on
18 liability as the statute is written. First of all, it doesn't even shield the series, the sub
19 series from a judgment against the master. And it doesn't actually say that. It says
20 the articles of organization, etcetera, can provide that the assets -- with respect to a
21 particular series only, the judgment or liabilities of that series -- of that series, of that
22 sub of the master are enforceable only against that series, that sub, okay. So that
23 sub can be structured so that if I get a judgment against the sub, the sub series of
24 the master, I can only go after that sub series' assets. I can't go after its sister sub

1 series and I can't up the chain against the master because that clearly bars it. It
2 doesn't say anything about a judgment against the master. It's completely silent
3 on that issue, okay.

4 Now, in this case we have in the record here an admission that the
5 interest held by all of these LLCs, assuming they are really independent entities,
6 is the same person. They're all held by Mr. Nady. Mr. Nady is the holder. So they
7 say, well, there's no stock certificates issued. Well, that's true in the LLC structure
8 we don't have stock certificates as in a normal corporation, but the interests are the
9 same. And the reason why I point this out -- I have in Exhibit D a copy of the Texas
10 statute concerning LLCs. And in Texas, if you look at Section A-2 of the first page
11 there that I gave you, it expressly extends the shield of assets that we were just
12 discussing in possession of the sub to judgments, the liabilities of the company
13 generally. This language is not present in Nevada's statute. So this assumption
14 that these assets are beyond reach of a judgment against the company generally
15 when the membership identical, the ownership interest is identical, is not supported
16 by the statutory language.

17 So that is the first problem here and this is an issue of law that I think
18 Your Honor needs to consider, particularly in light of what we were discussing
19 regarding the fact that this is an integrated business operation, as defendants have
20 testified about. Your Honor heard some testimony from Mr. Nady. I do object to
21 that to the extent that he may have testified as to details different than in his
22 deposition. In his deposition he did confirm much of what he was saying today.
23 I'm not sure if was necessarily identical.

24 And this goes to what I was initially addressing to the Court when we

1 started that I think we need more of a record here before the Court can resolve this
2 issue because essentially, and this gets to the second point I was trying to raise, all
3 you have before the Court are defendants' assertions that these are independent
4 entities, an assertion which is contradicted by defendants coming in here
5 simultaneously and speaking on behalf of them rather than having them file their
6 own appearances. As I said, that can't be reconciled. But there are no books or
7 records. Your Honor was asking about the operating agreement, and this is the
8 other crucial portion of subsection 3 that Your Honor was looking at. And if you
9 look at Exhibit E of the response, which is the only document we have -- excuse
10 me, that's Exhibit B. Oh, no, that's not B, that's E. I'm sorry. E as in Edward,
11 Your Honor.

12 THE COURT: Okay.

13 MR. GREENBERG: If you look at E, Article 2, this is all we have in the
14 record here regarding the potential invocation of that subpart 3 of the Nevada
15 statute. It simply says that A Cab LLC is a Series Limited Liability Company that
16 may -- that may establish sub series, which in turn may benefit from the protections
17 afforded in the statute.

18 THE COURT: Where are you -- where are you reading?

19 MR. GREENBERG: This is on the second page of Exhibit E. The first page
20 of Exhibit E is the certificate accompanying articles of organization.

21 THE COURT: Oh. Oh, okay. Yeah.

22 MR. GREENBERG: The second page we have the actual articles of
23 organization and Article 2 contains the series LLC authorization for A Cab LLC.

24 THE COURT: Uh-huh.

1 MR. GREENBERG: And you can read the language yourself Your Honor,
2 but it is permissive language.

3 THE COURT: So it would -- you would in turn have to look at the operating
4 agreement?

5 MR. GREENBERG: Absolutely, Your Honor. This doesn't say as a matter
6 of fundamental organization in that document that every series LLC in fact enjoys
7 the limitations of liability in respect to its assets. It doesn't say that. It simply says
8 the master LLC here is authorized to establish them in that order. And pursuant to
9 86.296 3(b), as Your Honor was asking defense counsel, in order for them to benefit
10 from that limitation on liability, assuming it even extends in this situation, when we
11 were previously discussing that there is nothing in the statute extending that shield
12 to judgments against the master LLC.

13 But let's assume that the purpose of the statute does in fact provide
14 that shield. They still need to come in here and establish two things. One is that
15 the operating agreement in fact confers that immunity upon them. And we don't
16 have any of these operating agreements. There's nothing in the record, Your
17 Honor. The second thing they have to establish is in 3(a), that in fact there are
18 separate and distinct records maintained for these businesses. And again, all we
19 have are defendants' assertions. We have nothing in the record. What we do know
20 about that issue, whether there are separate and distinct records, is that they all
21 share the same EIN number. We have testimony from Mr. Nady in his deposition
22 that there is a common unemployment insurance account filed with the State of
23 Nevada for A Cab LLC. We know that that license to operate the taxi business as
24 the carrier is authorized to A Cab LLC, the master. It's not issued to any of these

1 102 medallion holders that A Cab LLC has designated the medallions to. I mean,
2 the certificate, the license to operate is possessed by the master.

3 So we don't have any record. And there's in fact no public record
4 regarding the existence of any of these sub series LLCs. There's no tax ID, there's
5 no filing with the Secretary of State, there are no business licenses, there's no dba
6 filings. There's nothing, Your Honor, except their assertion that they are in fact
7 separate entities. Now, I'm sure the attorney from Wells Fargo can confirm this,
8 but if I'm an incorporated business -- I am an incorporated business, actually Your
9 Honor -- I can go to a bank and I can establish an account for my administration
10 department, I can establish an account for my employee department, I can establish
11 an account for my maintenance department. Those are all part of my corporation.
12 I mean, here they title them Maintenance Company. There's no reason this Court
13 should view that as being any different than being the maintenance department of
14 the same entity, which is the judgment debtor here, A Cab LLC.

15 We just don't have a record here establishing any reason to conclude
16 that the assertions made by the defendants, assuming the Court even would
17 entertain them given the fact that these supposed independent entities aren't here,
18 are in fact true, Your Honor. I mean, there's good reason to doubt it.

19 And this gets to the other issue which I was asking the Court to take
20 note of, is that the record as presented by the defendants themselves shows that
21 there are good, equitable reasons to not grant the relief because they admit that
22 some of these monies that they're seeking to release are actually being held for the
23 benefit of the master LLC. A Cab LLC as the CPCN holder, they're the ones who
24 are responsible for remitting those taxes to the State for the operation of the taxicab

1 business. They're the carrier. They're the ones who would have to pay the
2 unemployment insurance tax, for example. The State is going to go after them if
3 those taxes aren't paid. If they're holding money in accounts at Wells Fargo, you
4 know, as a separate entity --

5 THE COURT: Are you saying that they don't pay those fees -- each
6 individual series company doesn't pay those fees to the State?

7 MR. GREENBERG: It's not their responsibility to pay them. Those are
8 liabilities of A Cab LLC, Your Honor. They're the liabilities of the master. The
9 master is the one who holds the certificate to operate the taxicab company. The
10 master, according to Mr. Nady's deposition, is the one who has the unemployment
11 insurance account with the State of Nevada. And again Your Honor, I am getting
12 into assertions of fact here, which I'm making to the Court in a very hasty fashion
13 because we don't actually have the time to get the evidentiary records before the
14 Court, but I am very certain of what I am telling the Court. But this goes to my point
15 that the Court needs to have more of a record here because there is very good
16 reason to believe it's otherwise than what the defendants are representing to the
17 Court.

18 Even assuming these were independent entities and they were the
19 ones who have title to the money in these accounts, they very likely are holding that
20 money or a substantial portion of that money, by their own admission, by their own
21 limited record before this Court, as nothing but bailees for A Cab LLC, the judgment
22 debtor here. If they're holding money to pay to Nevada to satisfy the tax liabilities of
23 the master, which is what they say they are doing here, then that's attachable, Your
24 Honor. That's not shielded from our execution. The State of Nevada may give the

1 master LLC a lot of grief when it doesn't get those monies, but that's not the concern
2 of this Court. I mean, if they're holding -- again, if they're holding those monies for
3 that purpose then they're attachable, Your Honor. And it's a lot more complicated,
4 okay, than defendants are representing to this Court. They're basically just coming
5 to the Court and saying, look, this money doesn't belong to the judgment debtor,
6 it belongs to these other people. We're telling you that and therefore release the
7 funds. And, Your Honor, the funds don't have to be put in my trust account. They
8 can be deposited with the court if that was a more reasonable way to proceed.

9 There was a comment initially made about how the taxi company could
10 not go to the bankruptcy court. I don't believe that's correct, Your Honor. The
11 bankruptcy court clearly has the power as federal supremacy to take control of the
12 company and also to prevent the Taxi Commission from doing anything in respect
13 to the licensee, okay. Whether that in fact will result in the company going out of
14 business is another story, but it's not a question that the bankruptcy court action
15 is not available to them. It's probably not desirable to them because this whole
16 argument that they're trying to make, this whole shielding of their assets that they're
17 trying to engage in here clearly will not be recognized by the bankruptcy court
18 because in bankruptcy court you have a very evolved jurisdiction of entity business
19 operations or ongoing business operations which will not allow them to make these
20 sort of arguments to the bankruptcy court. They are aware of that. That's why they
21 don't want to go before the bankruptcy court.

22 THE COURT: What I understood Mr. Shafer to be saying, and maybe I
23 didn't get this correctly, but if they did go file in bankruptcy court then the State
24 would move in and take away their license, I guess, so they would be effectively

1 out of business.

2 MR. GREENBERG: Well, Your Honor, there's a stay in bankruptcy court,
3 okay. Just like, you know, you can't foreclose on the property once the homeowner
4 files for bankruptcy, you've got to get the stay lifted. I mean, conceivably they could
5 if they went to the bankruptcy court, but it's not like they can act without going before
6 the bankruptcy court. The bankruptcy court clearly has superior jurisdiction. What
7 would happen is all hypothetical in that situation. I just want the Court to understand
8 this claim that this is not an avenue that's available to them as a matter of law
9 clearly is in error.

10 But there's one other issue that is not discussed in my briefs that I
11 think is extremely important. I didn't have time to raise this, but I want the Court to
12 understand this. Under the Taxi Commission's regulations, and I can actually give
13 Your Honor the exact cite if you want.

14 THE COURT: Uh-huh.

15 MR. GREENBERG: It's NAC 706.149, okay. The Taxi Commission
16 requires that operators who are issued these licenses, because it's for the public
17 interest, must meet certain financial particulars, okay. One of them is that there
18 must be at least a 20 percent equity interest in the business. The business can't be
19 insolvent. It has to have a certain measure of financial health. And they have to file
20 financial reports with the Taxi Commission every year. I believe it's in May, is my
21 understanding. There's a uniform system that they use for this. Those reports are
22 not public record. I cannot access -- well, if Your Honor issued a subpoena, which
23 you might want to -- I can't access them otherwise, though.

24 My point, Your Honor, is that A Cab LLC, the holder of this license, is

1 reporting to the Taxi Commission all of these medallions, all of these vehicles that
2 are possessed by the series LLC, by supposedly independent, subordinate LLCs
3 as its assets, they should be estopped from taking the position that is before this
4 Court that they're not its assets, okay. And this again goes to the point that we
5 need more of a record developed here.

6 And what's really going on, I think Your Honor understands, is that
7 in light of the Court's judgment defendants have appealed. They have every right
8 to appeal and have their appeal heard, but they don't have the right to stop the
9 judicial process here in this court. They're not posting a bond. Clearly they have
10 the resources, they could post a bond, but if they posted a bond and the appeal is
11 unsuccessful, they're going to have to pay the plaintiffs. What's going on here is
12 they're trying to keep the business running so they have their options open. If the
13 appeal is unsuccessful, they could just close down the business and in the interim
14 make whatever profits they can from the business, which is significant. The
15 financials we have do show the business generally has been earning a significant
16 income over the past five years, certainly more than the judgment that is at issue.

17 THE COURT: Let me ask you to clarify. You made reference to NAC
18 706.149. Equity capital: Minimum requirement; proof; failure to comply. This is
19 regulation of motor carriers generally. What part am I looking at?

20 MR. GREENBERG: Well, they are a motor carrier. They are required --
21 they're one of the motor carriers that are regulated under the State statute and
22 under the Taxi Commission. They have to show that they're financially solvent to --

23 THE COURT: "Shall maintain an investment of not less than 20 percent
24 equity capital in his or her operations and include proof that the fully regulated

1 carrier meets this requirement in his or her annual report filed with the Authority.”

2 That’s the part you’re talking about?

3 MR. GREENBERG: Well, right, Your Honor. I mean, this is a requirement
4 that they have to meet. I mean, the NRS sections that relate to that are NRS
5 706.167, which specifies an annual report must be filed by May 15th. That’s the
6 statutory reference.

7 I think Your Honor understands my concern here, okay. I’m trying to
8 do the right thing. I understand the Court is trying to do the right thing. And just
9 to return to my initial statement because I know I’m repeating myself -- unless the
10 Court has other questions, I don’t really want to take up more of the Court’s time.

11 THE COURT: No.

12 MR. GREENBERG: You’ve been extremely patient with us. It’s just that --

13 THE COURT: I can only do that because I have a crack staff, you see.

14 MR. GREENBERG: Well, I thank them, then, as well as Your Honor.

15 THE COURT: Who will stay at their posts to the bitter end.

16 MR. GREENBERG: We need more of a record here, Your Honor.

17 THE COURT: Okay.

18 MR. GREENBERG: These funds, they don’t have to be turned over to me.
19 They should be put in escrow somewhere and held. If the defendants want to go
20 seek bankruptcy relief in response to that, the funds are going to wind up going to
21 a trustee and they’re not going to -- you know, they’re going to be taken out of my
22 jurisdiction or the jurisdiction of the Court.

23 THE COURT: If I agreed with you, why not just ask the banker or the bank
24 to maintain the funds --

1 MR. GREENBERG: That's fine with me, Your Honor.

2 THE COURT: -- pending further order of the Court?

3 MR. GREENBERG: Yeah, I would ask that --

4 THE COURT: Would that be a problem for your bank?

5 MS. DOVE: No, Your Honor. Wells Fargo is happy to comply with whatever
6 Your Honor orders.

7 THE COURT: All right.

8 MS. DOVE: We just want to make sure we're not -- we're between a rock
9 and a hard place as things stand now.

10 THE COURT: Understood.

11 MS. DOVE: If we release the funds we can be liable to one side. If we
12 keep them we can be liable to the other. So we are simply happy to follow this
13 Court's order regarding whatever Your Honor wishes us to do.

14 THE COURT: All right. Thank you.

15 MR. GREENBERG: And perhaps Your Honor could give us some
16 suggested schedule for further hearings, some production of the actual materials
17 that they claim support their position regarding release of this writ. Maybe Your
18 Honor wants to give them leave to have these supposed entities intervene -- apply
19 to intervene and appear, as they claim they should. Let's see these operating
20 agreements that supposedly provide the foundation for this limitation of assets.
21 I'd like to have an inspection of the actual records and documents that they claim
22 show that they've complied with the statute regarding the maintenance of these
23 corporations. I asked the Court to order a judgment debtor examination. That was
24 part of the cross-motion. That would be part of this process. Your Honor may want

1 to consider all this rather than make any decision right now, besides just to maintain
2 the status quo, but there's an avenue we need to go forward with here in some
3 fashion. So I'm asking Your Honor just to perhaps think about that and possibly
4 address those issues.

5 THE COURT: All right. Mr. Shafer, what -- it's your motion, what do you
6 say in response to what's raised? Well, let me put it this way. The things that do
7 concern me from what Mr. Greenberg just said, one is still the standing. I find it
8 difficult to see how far the statute goes in allowing entities to band together and
9 protect from liability, but only if certain things are done. And then the parties that
10 I have before me are not those parties. If they're really separate, then how is there
11 standing? Second is -- that concerns me is the point that he made about only the
12 master company LLC holds the license. So, I mean, that has a lot of ramifications
13 for how or whether there's compliance with the intent of the statute, I think.

14 MR. SHAFER: Let me -- I'm sorry, go ahead.

15 THE COURT: And then finally the lack of record, which I also am troubled
16 by. I'm being asked to jump onto a boat that I don't know much about and there
17 isn't much of a record here to support these various points that have been raised.

18 MR. SHAFER: Well, if it's okay, I'll take the last point --

19 THE COURT: Yeah.

20 MR. SHAFER: -- because I think it's the easiest to deal with. The fact
21 of the matter is that Mr. Greenberg has put the cart before the horse. It is clear,
22 unequivocal black letter law that if you want the assets of a third party you have to
23 sue them. You have to bring them into a legal proceeding. He has said, well, we
24 happened upon these assets. I found this wallet on the table, I get to take it unless

1 the person comes in and proves that it's mine. That's not where we're at. They
2 have to sue the individual series LLC. They have to subject them to --

3 THE COURT: I thought the issue was whether or not we really have third
4 parties or do we really only have one party, at least as far as the LLCs are
5 concerned?

6 MR. SHAFER: Yeah. Well, I mean, the clear -- this is what I'm coming to,
7 is that he has turned the evidentiary standard on its head and tried to say that,
8 well, we have a duty to prove that we exist or we have a duty to prove that we are
9 not subject to this liability, rather than him try to prove that it is a piercing of the
10 corporate veil. So let's say that there was a legal action and it brought these people
11 in, he would have to show a prima facie case as to why these entities -- why there
12 should be a piercing of the corporate veil. We've established that we have these
13 entities, that the accounts are there, that they're separate accounting. We have
14 a declaration and sworn testimony these are separate series LLCs. We have
15 established as a prima facie case that they are separate and distinct.

16 The burden then shifts to Mr. Greenberg to prove that they are not.
17 And that's skipping over the service issue and that they are subject to jurisdiction
18 here. It's very simple. They haven't been sued, they haven't been brought in, and
19 therefore the burden is not to -- he's flipped it on its head and asking us to prove
20 the negative, to prove that we didn't commit a crime, to prove that we weren't
21 at certain place at a certain time. That is -- the presumption of innocence, a
22 presumption of lack of liability has not flipped here because he has a judgment
23 against one party. He still has the burden to prove that. He has the obligation.

24 He also has the corporate structure law. It is not a master/subordinate

1 relation between the master and the series LLC. There's provisions in the statute
2 that talk about how removal of a member of the master doesn't mean removal from
3 the series. There is a provision that sets these up. They are separate and distinct
4 entities that do not have a master/subordinate relationship. They are separate
5 LLCs just like -- and so to that effect, the Court really just needs to consider them
6 as separate LLCs and apply the appropriate standard when you're dealing with
7 two complete and distinct series or normal LLCs.

8 What we have here was when the garnishment was written he
9 executed a garnishment to everything that shared that EIN. An EIN is not
10 determinative. There's nothing in the statute that says that you have to have a
11 separate EIN or a separate Tax ID to be a separate LLC. In fact, that's one of the
12 benefits when you look at the advantages, it allows you to have a centralized
13 recording of the income.

14 The Taxicab Authority is aware of the corporate organization of A Cab
15 and the series LLCs which provide services to it. They are not concerned about the
16 financial organizations. A Cab is compliant with its statutory reporting requirements.
17 They've cleared this with the Taxicab Authority. His assertions that maybe they
18 haven't, that there's this statute and since they haven't proved they met the statute,
19 they haven't met the statute. It is the complete opposite of how the rule of law
20 issues. You don't get to say, well, there's a requirement and they haven't proved
21 they met it and therefore we're entitled to pierce the corporate veil. No. The
22 presumption is that there isn't any action that's been taken against A Cab, so the
23 presumption should be that they are compliant with any statutory and regulatory
24 authority that the Nevada Taxicab Authority has seen to fit to impose by either rule,

1 statute or law.

2 If he wants to bring an action, he has to sue them separately. He has
3 to bring an action to bring it. Now, the problem is is because these are businesses
4 that are intertwined -- I'm trying to explain it in the best way I can that makes it
5 simple. If I hire a janitor to clean my office, that doesn't mean that they're involved
6 somehow in the practice of law or that it's inappropriate for me to pay them as an
7 independent contractor because they provide services to me as a law firm, any more
8 than it's different for me to pay a copy company to provide copies for trial litigation
9 because that's involved in the practice of law.

10 His restriction of a series LLC to real estate properties is completely
11 wrong and it's completely inappropriate. The legislative history to NRS 86.296,
12 that contemplated that it would be used in various enterprises, such as restaurants,
13 real estate, anything where you have individual segments for which LLCs would
14 be useful to have but for which imposing the regulatory requirements would be a
15 substantial burden. Obviously having 150 LLCs that you have to update an officer
16 and director to imposes a substantial burden to do so. The Legislature has enacted
17 the requirements. We've met a prima facie case as to why these sub series LLCs
18 are not here. It would be against due process for the Court to order withholding of
19 the funds at this point. They have remedies and methods that they can enact to
20 protect their interest, but they can't just do whatever they want and use the ends
21 to justify the means.

22 THE COURT: When you say due process, you mean the due process as
23 it protects these individual persons?

24 MR. SHAFER: Correct.

1 THE COURT: Okay.

2 MR. SHAFER: Yeah, these individual LLCs. They have to name them or
3 they have to take some action to say that they are not and to absolve them of their
4 -- you know, to pierce the corporate veil and say they are an alter ego. I mean,
5 that's what the case they cited in their brief stands for, is that if you have a cause
6 of action against members of an LLC or another corporate entity, you can bring that,
7 you're entitled to bring that, but you have to bring it and you have to put that party
8 on notice of the claims and give them an opportunity to defend. In fact, that's one
9 of the clear issues in the statute. The statute says that a series LLC has an ability
10 to sue and to be sued, to defend, to take action to own property, to sell it, to dispose
11 of it. If it is a subsidiary, if it is an appendage --

12 THE COURT: Is that in that same statute or is that in a different one?

13 MR. GREENBERG: Yes, Your Honor.

14 MR. SHAFER: It is NRS 86.296 subparagraph 2, (a) through (f).

15 THE COURT: Yes. Okay. Okay.

16 MR. SHAFER: And the individual series in other cases have been sued.
17 This court is probably replete with all sorts of series LLCs that are a party, that are
18 plaintiffs and defendants in many courses of action. They are their own entity. They
19 have the ability to act on their behalf. If they are mere appendages to the master,
20 then that would defeat the separate nature because they wouldn't have the ability
21 to sell or dispose of property because they would be subject to any restrictions that
22 the master LLC or the one -- A Cab --

23 THE COURT: Well, let me ask you a question about that. If to operate a
24 taxi you have to have a medallion, you have to have -- you have to be licensed by

1 the Taxicab Authority, then to be separate would you not have to have each one of
2 those separate entities, the series LLCs go get their license? Does the license go
3 to them or does the license that's in place, is it for A Cab?

4 MR. SHAFER: No. I believe that it is the company. In fact, the license
5 I believe is held by a company by the name of Admiral Taxi, but it isn't operated as
6 that because there was another Admiral entity. They are entitled to have this broken
7 up. The only distinction here is that it lends to confusion because we call it a series
8 LLC. If you had separate LLCs we wouldn't even be having this argument because
9 it's axiomatic that an LLC is separate and has its own separate assets and own
10 separate liabilities.

11 THE COURT: Uh-huh.

12 MR. SHAFER: But because they are a series, it somehow confuses the
13 issues and we have some magical hand waving to conflate the issues. No. A series
14 LLC is an LLC and entitled to the same protections and rights as any other LLC,
15 subject to the restrictions of the statute under NRS 86.296. There's no support for
16 their proposition that it is somehow subordinate or subject to the liabilities of this
17 master LLC as a matter of law without any need to -- you know, to serve the entity
18 individually or separately. So as far as the -- I'm not a taxi attorney and I'm not
19 completely familiar with the administrative code on this issue, but I presume that if
20 there were an issue it would have been raised by the Taxicab Authority because the
21 corporate organization has been disclosed to the Taxicab Authority, how everything
22 is reported. They are required to report --

23 MR. NADY: We reported. We were agendized and we were changed of
24 type of entity from an LLC to a series LLC in 2012.

1 MR. SHAFER: So they've cleared this with the appropriate authority. So
2 as far as any administrative barrier or concerns, I think we can say with relative
3 confidence that that is not an issue and has been adjudicated by the appropriate
4 authority on that issue.

5 The sole issue for the Court is whether or not plaintiff can bypass the
6 requirement to sue you personally individually and claim assets and hold assets
7 of an unrelated -- excuse me, of a third party without due process. And they are
8 entitled to try to bring whatever action they can, but right now they have failed to do
9 that. The reason -- and I think that's -- as I'm going through my notes, that is about
10 as simple as I can make it. If plaintiffs have their way there is no protection for
11 series LLCs. It will completely destroy the purpose of the statute because it means
12 that anybody who has a claim against the master can just kind of run amok and grab
13 whatever they can grab. And it's not even against series LLCs, against any LLC.
14 They just happen to grab something that doesn't belong to them and they can hold
15 it until they prove -- the other side prove that it's not.

16 Really, the appropriate remedy here is to order Wells Fargo to release
17 the funds, and if the plaintiffs have any objections or have a belief that the series
18 LLCs are subject to liability for A Cab, then they bring the appropriate motion to
19 amend as they've done already.

20 THE COURT: Okay. Looking at 86.296, sub 3(b), which says that the
21 article -- they get to be treated as a separate entity if the articles of organization
22 or the operating agreement provides that the debts, liabilities, obligations and
23 expenses incurred, contracted for or otherwise existing with respect to a particular
24 series are enforceable against the assets of that series only and not against the

1 assets of the company generally or any other series. You submitted a number of
2 documents. Is that provision in either the articles of organization or an operating
3 agreement?

4 MR. SHAFER: Yes.

5 THE COURT: Okay. Where is that?

6 MR. SHAFER: Well, we have the provision from A Cab LLC, which in
7 Article 2 of the -- which is attached as Exhibit E to their motion, it says that this is
8 a Series Limited Liability Corporation that may establish and may have a separate
9 business purpose or investment objective or limitation of liabilities of such in
10 accordance with --

11 THE COURT: I'm sorry, before you get too far into it, tell me again where
12 you're at.

13 MR. SHAFER: I'm sorry. Exhibit E.

14 MR. GREENBERG: Exhibit E of the response, Your Honor.

15 MR. SHAFER: Exhibit E to their opposition.

16 THE COURT: Oh, okay. Okay. That's a certificate to a company, the
17 restated articles --

18 MR. SHAFER: If you go to the second page of that exhibit --

19 THE COURT: Okay.

20 MR. SHAFER: -- there is the Amended and Restated Articles of
21 Organization for A Cab LLC.

22 THE COURT: Okay.

23 MR. SHAFER: Article 2 to that says that this is a Series Limited Liability
24 Company.

1 THE COURT: Uh-huh.

2 MR. SHAFER: And says that it will establish a series. If we skip down to
3 the end, will have a separate business purpose or investment objective and a
4 limitation on liabilities of such series in accordance with the provisions of 86.161
5 of the Nevada Revised Statutes. This was --

6 THE COURT: It says to the extent provided in the operating agreement
7 of the company.

8 MR. SHAFER: Right. We don't have the individual series LLCs' operating
9 agreements present before the Court, but we do have sworn testimony as to what
10 they contain.

11 THE COURT: All right.

12 MR. SHAFER: And if the Court is -- I can get Steve Oshins to come and
13 testify about what they contain or we could get it within the next few minutes, but
14 I think that we've established sufficiently that they do contain that. If they don't and
15 the plaintiffs wish to test that argument, they can bring whatever action they want.
16 But I think we've established the prima facie case as to what they contain.

17 THE COURT: Okay. Anything else?

18 MR. SHAFER: And if you -- we could -- if that's the Court's concern, you
19 could order a release of the funds pending submission of the articles containing
20 language to that effect. Normally I would say additional briefing, but additional
21 briefing will kill this company.

22 THE COURT: All right. Anything else?

23 MR. SHAFER: I think that's -- I think we've established that the case law
24 is on our side and that despite the argument against it there's no record proving that

1 there is a separate -- or a basis to pierce the corporate veil or otherwise go against
2 the statute.

3 THE COURT: All right. This is for me, at least, a difficult analysis to make,
4 particularly at this point in the game. We've been involved in heated litigation for
5 five years, more than five years, really, because there's been various stays during
6 the litigation process. We get all the way down to the very end, a judgment is
7 rendered, rightly or wrongly, a judgment is rendered. The victorious plaintiff goes to
8 obtain what they have maintained is due and I would have to point out again this is
9 monies that were due that were found in -- you talk about constitutional rights, due
10 process, there's also the constitutional right because the people of Nevada said that
11 it is to receive pay in accordance with that provision of the Nevada Constitution.

12 We get all the way down to the very end, the plaintiff goes to execute
13 and is told at that point and we're told that, oh, you've got the wrong guy. That's not
14 -- this one that you took the money from, that's not me, that's some other guy. Well,
15 sometimes that's hard to pin down. When you have natural people it's pretty easy
16 to distinguish one from another. The law of Nevada says that they don't have to be
17 natural people, it can be a corporate citizen or it can be an LLC or, as we now learn,
18 it can be a series LLC.

19 In dealing with this question of are these series LLCs truly separate
20 individuals as apparently intended by the law of the State of Nevada, I have to view
21 it within the context of where we are in this lawsuit. What that means to me is that
22 if you're going to avoid the natural course of a lawsuit that ends in a judgment and
23 execution, then it's incumbent upon you to show that you're not the guy. In criminal
24 law we have the other dude did it as the defense. In business law, corporate law,

1 LLC law in the State of Nevada we now have the other series LLC did it or nobody
2 did it, it was only the -- I think at some point you used the term the umbrella
3 organization, although not that you agreed with it, but you know, A Cab LLC. And
4 I don't have the other people here. Today earlier in court you saw that somebody
5 came in and got an exemption from execution by showing that those funds weren't
6 theirs, they belong to somebody else. It's a much easier proposition with people
7 than it is with a corporate person or LLC person.

8 So I believe that it's incumbent upon me viewing this question and
9 issue arising in the context of this litigation to say to the separate series LLCs you
10 need to show me that you're not -- because you look just like the other guy. And so
11 in fact that's the only way you get standing. It is -- in trying to discern whether this is
12 really a separate individual -- and when I say this is, what I really mean, I guess for
13 our purposes it boils down to the six series LLCs that had money in their accounts
14 which was attempted to be levied upon. You only get to be treated that way under
15 Nevada law if you're doing certain things; for example, the things that we've been
16 through. We don't need to rehash all of that stuff, but particularly NRS 86.296.

17 And I don't have a record before me that shows that whichever of the
18 six series LLCs has the money has complied with everything that's in that statute,
19 most particularly somewhere where it says that it's only -- that liabilities are only
20 enforceable against the assets of that series only. Well, or in other words, that the
21 liabilities of A Cab LLC are not my liabilities. You have to -- you have to -- you go
22 through the extra step of saying I really am a person as that is recognized under
23 Nevada law. And I think that you have to do that. Otherwise, if you don't do that
24 then what you wind up with is a way for someone, be they a natural person or

1 corporate or LLC to literally make themselves judgment-proof by going through the
2 motions of some of the requirements of Nevada law as regards series LLCs but
3 not all of them.

4 So I think it's incumbent upon me to require that in this instance these
5 separate LLCs, series LLCs need to be able to say, hey, you can't take my money
6 because I really am a separate person. And so at the very least I think it would take
7 more of a record than we have here. I don't know what to do about the perhaps
8 devastating toll that this may have upon the company, the company at the top, the
9 LLC, but we have been through the entire litigation process provided under the laws
10 of the State of Nevada. As I said, rightly or wrongly this plaintiff has obtained a
11 judgment. Now they're trying to execute to get the money that is required under
12 the Constitution of the State of Nevada. When I put that up against the claim that --
13 and it's not even a person, it's lawyers for the defendant saying, oh, but this guy is
14 not me, so, you know, you're going to have to do more than that. That's all I can
15 tell you.

16 MR. SHAFER: If I -- I don't mean to argue. We did submit a declaration of
17 Mr. Steven Beck --

18 THE COURT: Okay.

19 MR. SHAFER: -- who is an employee of A Cab Series, LLC, Employee
20 Leasing II.

21 THE COURT: Where is this now?

22 MR. SHAFER: That is Exhibit B to our motion to quash.

23 THE COURT: B, you said, that's in Boy?

24 MR. SHAFER: Yes. It is the last three pages of our -- of the motion.

1 THE COURT: Oh, of Steve Beck?

2 MR. SHAFER: Correct.

3 THE COURT: Okay.

4 MR. SHAFER: And Mr. Beck, after being sworn testified that he keeps the
5 books and records for these companies and that -- he says that in paragraph 2. In
6 paragraph 7 he says that the garnished accounts are not those of A Cab LLC and
7 has sworn testimony attesting to that fact. He testifies that -- as to who owns the
8 funds that are being taken. I appreciate the Court's concerns with balancing the
9 rights of a plaintiff to collect on a debt which the Court has determined they are
10 owed and I am not here to argue that judgment, the validity of it, the enforceability
11 of it at all, except as opposed to these independent agencies.

12 If the Court is inclined because of the sheer nature of this, we would
13 be willing to submit to the Court with a sworn attesting affidavit the operating
14 agreement's articles of incorporation for these six entities and we could do so by
15 the close of business today, by four o'clock.

16 THE COURT: That would take care -- perhaps would take care of one of
17 my concerns. Another, though, concerns the licensing. If A Cab LLC is the only
18 entity licensed, as opposed to some of these individual series LLCs, then how is
19 that that they're the only ones licensed to make the money and yet somebody else,
20 a separate person is doing the business and making the money?

21 Yes?

22 MR. WALL: May I address that just shortly, Your Honor?

23 THE COURT: Yes.

24 MR. WALL: I don't know if --

1 MR. SHAFER: No, I think that would be --

2 THE COURT: Sure. Yeah.

3 MR. WALL: We set up corporations all the time every day in our business.
4 The licensing for a parent for whatever it is that the business is doing is always held
5 by a parent corporation. Subsidiary corporations then do business under those
6 licenses. They may have to have doing business licenses for whatever it is they're
7 doing, but each one of these LLCs has whatever licenses they need. It's a red
8 herring to say because there's one license that A Cab has to operate a company
9 that it's all one company.

10 THE COURT: Uh-huh.

11 MR. WALL: It is set up with separate companies just like any other
12 corporate organization would be set up for the purpose of limiting liability. This was
13 explained throughout this time and they only sued A Cab LLC. They can't get a
14 judgment against someone else. With all due respect, Your Honor --

15 THE COURT: Uh-huh.

16 MR. WALL: -- you're shifting the burden again. It's their burden to prove --

17 THE COURT: I love it when lawyers say with all due respect.

18 MR. WALL: -- that somebody -- they have to prove that somebody isn't the
19 person -- is the person they have a judgment against before they can take it. They
20 can't go to -- they can't get a judgment against Farmers and then go collect against
21 one of Farmers' subsidiaries. They have to sue and make sure that there is -- that
22 they've got the right entity.

23 THE COURT: Assuming that you have a subsidiary legally recognized in
24 the State of Nevada.

1 MR. WALL: The law presumes that until they prove otherwise.

2 THE COURT: Where does it say that, that the law presumes that?

3 MR. WALL: If I'm a corporation you can't just come and take my bank
4 account and say prove to me that you're an actual corporation. You have to prove
5 first that you have a basis for taking the money and that I'm not a corporation. It's
6 always the burden of the party who is taking the money to pierce the veil, not the
7 other way around. We get to defend when they try to pierce the veil, not the other
8 way around.

9 THE COURT: Well, I'd be happy to receive further briefing on that. I don't
10 -- you know, that doesn't change my conclusion that at this juncture it is not only fair
11 but incumbent upon the defendant or defendants -- or defendant -- it's not even that,
12 it's the series LLC that holds the money that they say has been wrongfully held up
13 for execution.

14 MR. WALL: Then they should have sued the series LLCs.

15 MR. SHAFER: That is the -- the appropriate remedy is to sue the series
16 LLCs and bring them into the jurisdiction of the Court. That's set out in the Greene
17 case versus the Eighth Judicial District.

18 THE COURT: But if they are not a separate person, then what? In other
19 words, if they haven't complied with Nevada law such that they are -- such that a
20 separate person recognizable by the law has even been created, is it no burden to
21 show that? I don't agree with that.

22 MR. WALL: You sue them and you prove that they're not a person when
23 they claim that they're a person. That's the requirement of the law.

24 THE COURT: I disagree.

1 MR. WALL: I have to sue the corporation. I don't get to just go take the
2 corporation's money and then say prove I stole it from you.

3 THE COURT: Well, at the beginning of the lawsuit that may be so, but
4 when you have series LLCs created by the defendant it becomes important to make
5 sure that the law has been complied with in order to shield those assets from the
6 liabilities of the parent. I don't think that is too much of a stretch to ask them to
7 show that you are in fact a person recognized by Nevada law.

8 MR. WALL: They have to show that when they're sued, Your Honor, not
9 before.

10 MR. SHAFER: They are, I believe --

11 THE COURT: Well, you may be right. In that case all I can say is then you
12 don't appear to represent those persons. You represent the defendant.

13 MR. SHAFER: And there is a process for claiming exemption. The sheriff
14 has not served the entities as required, has not served them with a notice of
15 execution. And this gets into some of the other argument. There is a process for
16 claiming exemption. That exemption requires that the notice of writ be served upon
17 the party being executed upon. No writ has been served --

18 THE COURT: Okay.

19 MR. SHAFER: -- upon the series LLCs.

20 THE COURT: All right.

21 MR. SHAFER: There's no basis to do that. I suppose -- in fact, I don't
22 believe even that they served the -- I guess it's another issue that they didn't serve --
23 the sheriff didn't serve the LLC with a notice of writ timely, either, or A Cab LLC.

24 THE COURT: Required by the law?

1 MR. SHAFER: Required by the law.

2 THE COURT: Okay.

3 MR. SHAFER: But that's I think an evidentiary issue that we may need to
4 get into when the things were mailed and that's not why we're here.

5 THE COURT: Well, it was raised.

6 MR. SHAFER: We raised that because we wanted to make every
7 argument we could --

8 THE COURT: Yeah.

9 MR. SHAFER: -- so there wasn't an unfair surprise at the time when we
10 came in here today, especially given that it was on an order shortening time.

11 THE COURT: Well, that's the kind of issue that if I -- it seems to me it's fair
12 to turn to the plaintiff and say did you comply with the statute, procedural statutes
13 regarding execution?

14 MR. GREENBERG: Your Honor, I can personally attest that when the writ
15 was sent out, because I personally delivered it to the constable, a notice form was
16 given to them because they wouldn't take it without the notice form and without
17 instructions as to where to serve it with the proper envelope and so forth.

18 THE COURT: Was that a notice form to the defendant LLC or to the
19 series?

20 MR. GREENBERG: Your Honor, we don't even know anything about the
21 existence of these series LLCs because they're not public record. There's no way
22 we could know about it. The writ was directed to the assets of --

23 THE COURT: I thought each one of them was created and made a public
24 record of. Is that not true?

1 MR. GREENBERG: It is not, Your Honor. That's part of the problem here.
2 They are not registered with the Secretary of State. They can go out tomorrow and
3 mint 100 more series LLCs. They don't have business licenses for any of these
4 series LLCs. They're not registered as business names with the County, Your
5 Honor. There's no way to know --

6 THE COURT: Does not the administrative LLC have some sort of business
7 license?

8 MR. GREENBERG: None that we've been able to find. None that's been
9 introduced in the record in these proceedings.

10 THE COURT: Do you know?

11 MR. GREENBERG: This is part of the problem that we're facing here,
12 Your Honor. What I wanted to just point out to the Court is that for Your Honor to
13 proceed in the fashion you are proceeding, you should also look at what is in the
14 record. What is in the record is two things. You have an EIN number, a Tax ID
15 number that ties these all together to A Cab LLC. And in addition, Your Honor,
16 when this case was commenced in 2012, A Cab LLC, the master LLC here against
17 whom the judgment is entered, was issuing W-2s as the employer, as the liable
18 party to the plaintiffs. I mean, a copy is at Exhibit A of my response.

19 THE COURT: Uh-huh.

20 MR. GREENBERG: So as Your Honor was saying, we need to sue --
21 this discussion you have to sue the right people, well, we did sue the right people.
22 I mean, Mr. Nady at his deposition confirmed that at the time that 2012 W-2 was
23 issued it was in fact being issued by the master LLC here. So the liability in this
24 case, as Your Honor understands, extends back quite a number of years before

1 2012 and after 2012. The point is once this litigation is ongoing, I mean they can't
2 then somehow shift their assets to these -- its subordinate LLCs after it's already
3 been named. You know, again, Your Honor, we don't have a clear -- I'm not
4 asserting we have a clear determinative record here, Your Honor. That's not what
5 I'm here to argue. What I'm here to argue is we don't have a sufficient record,
6 clearly, to grant the defendants the relief they were asking. And I think Your Honor
7 appreciates why we don't, okay.

8 And I just would like to emphasize two other things, which is that the
9 analogy to Farmers Insurance that Mr. Wall was giving the Court is not completely
10 correct because if you have a judgment against Farmers as the parent and there's
11 a Farmers subsidiary that Farmers parent wholly owns, they're the only interested
12 party of the subsidiary, yes, you can attach the subsidiary. You don't have to go
13 and sue the subsidiary because it's an asset of the judgment debtor which is the
14 parent. I think Your Honor understands that.

15 THE COURT: So is that -- but in this case the owner, the parent owner
16 would be Mr. Nady himself.

17 MR. GREENBERG: But Mr. Nady's interests are identical in the parent LLC
18 here, the master LLC.

19 THE COURT: Okay.

20 MR. GREENBERG: He should not be -- I mean, there's no difference of
21 membership. There's no difference of ownership between A Cab, the master --

22 THE COURT: Uh-huh.

23 MR. GREENBERG: -- and its, you know, 200 or 300 subordinate series
24 LLCs. It's no different, Your Honor. It's all owned by Mr. Nady. There's no basis

1 for him to hide or for A Cab LLC as the master that he's operating through to be able
2 to place the assets that are nominally titled to the slaves, so to speak, of the master
3 beyond reach of the liability of the master. I was explaining this in the language
4 of the statute itself. It does not mention any ability of the series to shield their
5 assets from liabilities of the master. It says that the liabilities of the slaves, the
6 subordinates, can be limited to their assets and not to their sisters, but it doesn't say
7 anything about if you get a judgment against the basis for their existence because
8 they can't exist without the master. There has to be a master for them to exist.

9 THE COURT: Yeah.

10 MR. GREENBERG: But, Your Honor, even if the Court was to find in
11 favor of defendants' request here and say that these assets are possessed, were
12 nominally titled to these six or whatever it is subordinate LLCs, there's still a
13 question as to whether some measure of those assets really is being held for the
14 benefit of A Cab LLC, the master. They've introduced evidence that it is, as we
15 were discussing, in respect to these monies they were supposedly holding for tax
16 payments. So there shouldn't be any rush here to release funds for any reason.
17 I mean, you need more of a record. I think Your Honor understands my position
18 on that. So Your Honor should proceed in that fashion as you think is best.

19 THE COURT: Well, what I'm trying to do is to see whether or not these
20 series defend-- not defendants, these series LLCs' existence can be appropriately
21 documented enough so the Court can at least know whether we do have an
22 execution that cannot go forward. As I said, I'm acutely aware that it's possible that
23 the life of the company hangs in the balance. It doesn't seem to me that you do too
24 much good by killing the goose that lays the golden egg. But that's a different thing

1 than someone who has participated in a lawsuit and has waited themselves to say
2 we're the wrong guy until this moment in time. I think it is -- as I said, then it's at
3 least incumbent on these parties to establish that they are really separate entities
4 cognizable under Nevada law.

5 All right, hang on a minute.

6 (Court confers with the clerk)

7 THE COURT: All right, here's what we're going to do. I'm going to meet
8 again with you on Friday, two days hence. A Cab and/or the Series LLCs who claim
9 to be officially cognizable will have until then to either supply or bring with you some
10 sufficient evidence to do so, to see that in all particulars it's appropriate for me to
11 hold off on this execution. I will be gone from the jurisdiction beginning the next day,
12 Saturday, so this is -- will be the last time. That will be for two weeks. This will be
13 the last time that we can get this resolved and I want to get it resolved appropriately
14 under Nevada law. I won't give you a time right now. I have to check a couple of
15 things. But we'll contact your offices. Is it okay if we contact one party for each
16 side? Which should we contact?

17 MS. RODRIGUEZ: May I seek the Court's indulgence for a moment --

18 THE COURT: Yes.

19 MS. RODRIGUEZ: -- because I know that I will be scheduled to be out of
20 town and Mr. Nady as well will be in Kiev, out of the country. So I just want to make
21 sure with Mr. Shafer and Mr. Wall. I can supply what the Court is asking to counsel,
22 but I want to make sure somebody else will be here.

23 THE COURT: Uh-huh.

24 MS. RODRIGUEZ: Will you be here Friday?

1 MR. SHAFER: I can be here Friday.

2 MR. NADY: I have payroll Friday. That's -- I have to issue paychecks those
3 days and I will not be able to since they've taken that money out of that payroll
4 account.

5 THE COURT: But it won't be you who's issuing the checks, will it?

6 MR. NADY: They took the money from the payroll account.

7 THE COURT: Which is the property of whom?

8 MR. NADY: Which is the property of the payroll account. It's a separate
9 corporation that wasn't even sued.

10 THE COURT: Okay. So that's yet another entity?

11 MR. SHAFER: Yes, Your Honor.

12 MR. NADY: They're called Employee Leasing Account.

13 MR. SHAFER: And this has been the structure --

14 THE COURT: That's not a series LLC?

15 MR. SHAFER: It is.

16 MR. NADY: Yes, sir, it is.

17 THE COURT: Oh, okay.

18 MR. NADY: A Cab Series LLC, Employee Leasing.

19 MR. SHAFER: It's been the structure since 2012. Is it -- it's not possible to
20 -- would it be possible to hold this tomorrow? If it's not, I understand.

21 THE COURT: No.

22 MR. SHAFER: Okay.

23 THE COURT: No, I really can't tomorrow.

24 MS. RODRIGUEZ: Your Honor, if I may, just for clarification because there

1 are over 120 series LLCs within the series LLC that have some reference to A Cab.
2 And since all the money was pulled through a common employer EIN number,
3 basically A Cab is on hold as to what accounts are going to be garnished because
4 if everything is under the EIN number, it just happened that those six accounts were
5 -- had money and so they were garnished.

6 THE COURT: Uh-huh.

7 MS. RODRIGUEZ: But they are living day-by-day in fear that maybe one
8 of the other 120, if there's a dollar in the account that it's going to be garnished by
9 the bank --

10 THE COURT: Uh-huh.

11 MS. RODRIGUEZ: -- because we're just using -- or the bank I believe was
12 instructed by Mr. Greenberg to just use an EIN number --

13 THE COURT: Uh-huh.

14 MS. RODRIGUEZ: -- which is common to the 120 plus. So what -- I think
15 for what the Court is requesting --

16 THE COURT: I guess I would have to leave it to the defendants to
17 determine which ones they want to show to the Court are --

18 MS. RODRIGUEZ: Well, that's what I wanted to ask the Court, is for now
19 do you want the operating agreements and the documentation for the six that have
20 already been garnished so that we can show those were improperly garnished?

21 THE COURT: If I were you that's what I would do. That's the thing -- that's
22 what we're really staring at right now in the face.

23 MR. NADY: Those operating agreements are already written. They're on
24 my desk.

1 MS. RODRIGUEZ: Hold on, Jay.

2 MR. NADY: I'm sorry.

3 THE COURT: So it makes sense to me that if I were you I would try to at
4 least get these six released and maybe you have to worry about the rest on another
5 day. I don't know. You have to make that decision.

6 MS. RODRIGUEZ: Well, that's what we were trying to prevent, 120
7 interpleader actions or complaints in intervention --

8 THE COURT: Yeah.

9 MS. RODRIGUEZ: -- on behalf of 120 different separate entities. But if
10 they're all subject to being garnished, then that's going to be the Court's preference.
11 But maybe with this, this will satisfy the Court, just if you see this --

12 THE COURT: I don't have a preference per se. I'm responding to the
13 various issues and arguments and matters put to me to try and sort out and apply
14 the law legally and justly.

15 MS. DOVE: Your Honor, could I just request service of anything that's filed
16 from the parties --

17 THE COURT: Yes.

18 MS. DOVE: -- a courtesy copy, and the time of Friday's so we can --

19 THE COURT: Any problem with that, folks? Anybody files anything, serve
20 it on the bank as well.

21 All right. We will contact, then -- whose office for the defense are we
22 going to contact?

23 MR. SHAFER: You can contact my office.

24 THE COURT: We will contact you shortly and let you know what time, and

1 also you, Mr. Greenberg.

2 MR. GREENBERG: Yes, Your Honor. Just note my objection for the
3 record. The presentation of the operating agreements that's being discussed does
4 not establish by themselves compliance with the statute that Your Honor has been
5 talking about. There still has to be an established business operation that's actually
6 operating independently in respect to how the books and records and the operations
7 of the business are managed. And I don't see that I'm going to be given an
8 opportunity in any kind of evidentiary hearing in this time frame to be able to
9 examine any of that. But we will take this up in the fashion that the Court will review
10 on Friday.

11 THE COURT: Yeah. Okay.

12 MR. GREENBERG: I'm just noting that for the record, Your Honor.

13 THE COURT: All right. I'll see you on Friday. I'll let you know shortly what
14 time.

15 MR. GREENBERG: Thank you, Your Honor.

16 THE COURT: Thank you.

17 (PROCEEDINGS CONCLUDED AT 1:14 P.M.)

18 * * * * *

19

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

22

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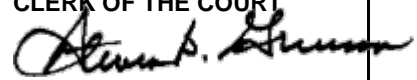
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Liz Garcia, Transcriber
LGM Transcription Service

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1 **TRAN**

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

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

11 BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE

12 FRIDAY, SEPTEMBER 28, 2018

13 ***TRANSCRIPT RE:***

14 DEFENDANT'S EX-PARTE MOTION TO QUASH WRIT OF EXECUTION
15 AND, IN THE ALTERNATIVE, MOTION FOR PARTIAL STAY
16 OF EXECUTION ON ORDER SHORTENING TIME

17 PLAINTIFFS' RESPONSE TO DEFENDANT'S EX-PARTE MOTION TO QUASH
18 WRIT OF EXECUTION ON OST AND COUNTERMOTION FOR
19 APPROPRIATE JUDGMENT ENFORCEMENT RELIEF

20 **APPEARANCES:**

21 For the Plaintiffs: LEON GREENBERG, ESQ.
22 DANA SNIEGOCKI, ESQ.

23 For the Defendants: ESTHER C. RODRIGUEZ, ESQ.
24 MICHAEL K. WALL, ESQ.
JAY A. SHAFER, ESQ.

For Non-party Wells Fargo Bank: KELLY H. DOVE, ESQ.

RECORDED BY: Lisa Lizotte, Court Recorder

001914

001914

1 LAS VEGAS, NEVADA, FRIDAY, SEPTEMBER 28, 2018, 10:40 A.M.

2 * * * * *

3 THE COURT: I received this morning the defendant's copies of defense
4 exhibits in support of this motion to quash the writ of execution consisting of
5 Exhibit A, which then consists of -- I don't know how many, but a whole series of --
6 well, A is the affidavit of Mr. Beck. B is the series -- no, sorry.

7 MR. SHAFER: I believe it's E, Your Honor.

8 THE COURT: C starts with the selected portions of NRS 86. And then
9 D has certificate to a company. I should probably use the ones that you formally
10 submitted. You wish this to be made an exhibit today?

11 MR. SHAFER: Yes, Your Honor.

12 THE COURT: All right. And defendant -- I mean, plaintiff has received
13 this?

14 MR. GREENBERG: We were given a copy here in court this morning.

15 THE COURT: Uh-huh. All right. Any objection to enter these into the
16 record?

17 MR. GREENBERG: Well, Your Honor, I don't see that we can object to
18 their introduction in the record, but in terms of them being considered by the Court
19 as representing what they purport to represent, we do have a serious problem --

20 THE COURT: Sure.

21 MR. GREENBERG: -- from an evidentiary point of view, Your Honor.

22 THE COURT: Yeah. Okay. So this will be admitted as Defense Exhibits --
23 altogether it's A through J, I believe. Is that correct?

24 MR. SHAFER: Yes, Your Honor.

1 THE COURT: And the -- how many of these exhibits are operating
2 agreements?

3 MR. SHAFER: Your Honor, Exhibit E.

4 THE COURT: E. Okay.

5 MR. SHAFER: E is one set of the operating agreements for one of the
6 series.

7 THE COURT: For one of the series.

8 MR. SHAFER: Yes.

9 THE COURT: For which series?

10 MR. SHAFER: It is for -- so I get the name right, A Cab Series LLC, Valley
11 Taxi Company.

12 THE COURT: Okay.

13 MR. SHAFER: And I will represent to the Court that this series is potentially
14 identical to all of the other series agreements, series operating agreements for each
15 taxicab.

16 THE COURT: All right. Okay, so those will be admitted as Defense A
17 through J.

18 I would say that my law clerk and I worked late into the night last night
19 trying to really get on top of this issue, including reviewing not only the Nevada
20 statute, form of the statute, but statutes enacted in -- similar statutes enacted in
21 other states and some reading materials -- where is that -- one of which is Limited
22 Liability Companies Law, Practice and Forms by Nicholas Karambelas, which has
23 a section which describes series LLCs. Some of the challenges that have come
24 about in those states that have adopted them and some of the various forms of

1 a series LLC creation in statutory creation. Some of the things -- rules that have
2 been adopted in certain states which seem to have avoided all of this that we've
3 encountered, and that is that each series LLC must be registered with the same
4 entity as the lead LLC, the lead series LLC. We don't have that, apparently, in
5 Nevada. If we do, I'd be happy to be disabused of that notion.

6 Also, I've taken a look at what this author at least says about how
7 various entities, governmental entities deal with a situation like this where they are
8 not separately publicly identified so that the public can know who they're really
9 dealing with as opposed to who they thought they were dealing with perhaps. In this
10 case A Cab LLC or ultimately as of last year A Cab Series LLC. And it appears that
11 to some extent -- and these are just generalities, these do not necessarily apply --
12 well, we're not even there in this case. Bankruptcy court tends to brush aside the
13 series LLCs and tend to go to the creator of the entire series. There's also some
14 treatment of what happens in non-series states. In other words, recognition of a
15 series LLC doing business in a non-series state, which we don't have in this case.
16 And there's also a treatment of what happens or what some of the issues are when
17 one gets into the treatment of series LLCs under the Uniform Commercial Code,
18 Article 9. There are any number of other topics that creep up but they're only
19 tangentially implicated in the present matter before the Court.

20 I'm going to hear from all of you. By the way, I understand you need
21 to leave, Mr. Wall, at 11:15. I'll try to make as much headway as we can before
22 that happens.

23 Here is the question that I wind up having, even having seen the
24 exhibits submitted by the defendant, and most particularly the operating agreements

1 or at least some of them that have been employed here. There is one, for example,
2 which says: Operating Agreement between A Cab Series dash Employee Leasing
3 Company II and A Cab Series LLC, Valley Taxi Company. Question for the
4 defense. Is there another operating agreement which first establishes A Cab Series
5 LLC dash Employee Leasing Company II or establishes A Cab Series LLC, Valley
6 Taxi Company? Or is this the document purported to be the creation of both of
7 those series LLCs?

8 MR. SHAFER: I think -- if I can respond. This is the only operating -- the
9 only agreement we have. There is not a separate operating agreement that is solely
10 as to Employee Leasing or solely as to Valley.

11 THE COURT: Uh-huh.

12 MR. SHAFER: But it is not -- under the statute it is not required --

13 THE COURT: Okay.

14 MR. SHAFER: -- to have such an operating agreement. And we refer to
15 this in the selected statutes, but in the state of Nevada an operating agreement is
16 an elective or a permissive matter to establish a limited liability corporation and not
17 mandatory.

18 THE COURT: Uh-huh.

19 MR. SHAFER: The mandated part is the articles of incorporation that are
20 filed with the Nevada Secretary of State and one you have that, that operating
21 agreement -- and you have an operating agreement for the filed entity, that permits
22 the members to then create series LLCs on their own. Now, if they wish to have
23 liability protection there has to be an operating agreement that provides that they
24 are subject -- excuse me -- that they are separate. And I believe that each of these

1 is an agreement signed by the members of the respective entities that provides
2 that each of these entities is its own entity, has its own liabilities and not subject to
3 attachment or liability of the other series or general corporation.

4 THE COURT: And so that's the purpose of this operating agreement here?

5 MR. SHAFER: That is one of the purposes.

6 THE COURT: Okay.

7 MR. SHAFER: It's also to establish the relationship between the various
8 series so that the relationships and the product or what they were going to do is
9 defined, which is one of the portions of keeping appropriate records so that there
10 is a written record of what the relationship is between the series LLCs. I think
11 that's incumbent on what the -- to maintain adequate records. If you don't have a
12 document of what they're going to do for each other -- having this establishes that
13 and provides that record of what they're going to do. So --

14 THE COURT: So that theoretically you could have a series LLC that has
15 a number of members, two of which, let's say, decide to form another series LLC
16 and then do business with yet a third series LLC?

17 MR. SHAFER: That's correct.

18 THE COURT: So if that happens and there is a dispute between these two
19 series LLCs and the dispute is not resolved and it eventuates in a lawsuit, would
20 the lawsuit of A Cab Series -- let's assume the Valley Taxi Company decided to sue
21 A Cab Series, Employee Leasing Company II, how would -- I mean, what effect
22 would that have? In other words, if they had a disagreement and sued each other,
23 even though they knew about each other --

24 MR. SHAFER: Uh-huh.

1 THE COURT: -- that we were doing business with a series LLC that is not
2 registered anywhere and does not do business under its own name. Well, I guess
3 I wouldn't go that far. It does business but in the form of doing agreements such
4 as the one that's done here and other things. I believe, and correct me if I'm wrong,
5 the Employee Leasing Company II was the one that had the responsibility for W-2s.

6 MR. SHAFER: Well, let's take this example that there was a dispute
7 between the Employee Leasing series and Valley Taxi series. Perhaps there was
8 some dispute about a payment that wasn't made. Here it's somewhat of a moot
9 issue because the member, the sole member of the company is the same in both
10 instances.

11 THE COURT: Right.

12 MR. SHAFER: Let's say that that was not -- there was some disunity of
13 interest or some shared interest, one was a multi-member or whatever, or maybe
14 they were completely disparate. I've established series LLCs that has -- Series 1
15 has one member and Series 2 has another entire member. Let's say there was
16 some dispute regarding that. They would -- each would have the ability to sue or
17 to be sued and there is no restriction that I'm aware of that would prevent one
18 company from suing the other. The only difference would be they would have to
19 serve the registered series with the Nevada Secretary of State. So if Valley Taxi
20 were to sue Employee Leasing, they would serve A Cab Series LLC at the address
21 indicated with the Nevada Secretary of State.

22 THE COURT: And I assume that's because A Cab Series LLC is the real --
23 the closest thing we have to a real --

24 MR. SHAFER: They -- it is a registered --

1 THE COURT: -- existing entity?

2 MR. SHAFER: Yeah, it is a registered entity, and so they are the correct
3 one to be served for that purpose.

4 THE COURT: So they would serve them, serve A Cab Series LLC?

5 MR. SHAFER: They would serve the registered agent for A Cab Series LLC.

6 THE COURT: Okay, the registered agent.

7 MR. SHAFER: There is a fine distinction, but -- and many times the
8 registered agent is the corporation itself.

9 THE COURT: And how would they know who the registered agent was?

10 MR. SHAFER: They would know that because that's listed with the Nevada
11 Secretary of State.

12 THE COURT: Okay.

13 MR. SHAFER: So --

14 THE COURT: And that's if these two companies -- I should probably
15 identify this document. There's no numbers on it, but it's one of the documents
16 contained in Exhibit E.

17 MR. SHAFER: Yeah.

18 THE COURT: And it is an operating agreement between Leasing Company
19 and Valley Taxi Company. If a third party had a dispute with A Cab Series LLC,
20 Valley Taxi Company, which could be anything -- I assume that Valley Taxi
21 Company operates taxis?

22 MR. SHAFER: Yes. It operates -- it owns one of the taxicabs.

23 THE COURT: Okay.

24 MR. SHAFER: Yes.

1 THE COURT: So if -- well, let's say the cab gets in a wreck and people are
2 harmed and they believe -- they take issue not only with the driver but the company
3 who owns the cab. And I suppose in Nevada we have theories of P.I. lawsuits that
4 include the owners of the vehicle. How would that person know who to sue?

5 MR. SHAFER: Well, it's pretty simple. In that instance they would -- if they
6 knew the name of the taxi company they would sue A Cab Series or Valley Taxi
7 Company. If they didn't, it's no different than any other accident where they don't
8 know the exact name. They would sue A Cab Series LLC or --

9 THE COURT: How would they know who to serve in Valley Taxi Company?

10 MR. SHAFER: Well, this goes back to one of the --

11 THE COURT: Does that go back to -- there's no registered agent for Valley
12 Taxi Company; right?

13 MR. SHAFER: No, there is a registered agent for Valley Taxi Company
14 and that's the same registered agent for A Cab Series LLC.

15 THE COURT: How would they know that that is the registered agent for
16 Valley Taxi Company? In other words, I assume that this is not a public document
17 somewhere --

18 MR. SHAFER: No, it is not.

19 THE COURT: -- Secretary of State for anyone to find out who to serve.
20 So they would serve in that case A Cab Series LLC, the registered agent?

21 MR. SHAFER: Correct.

22 THE COURT: And if they proceeded through the litigation and let's say
23 they did persevere and obtained a judgment against Valley Taxi Company, how
24 would they -- how would they execute on the judgment?

1 MR. SHAFER: Well, there is a very good way to do that and that's -- as in
2 the example of the personal injury accident, Nevada provides for several theories
3 of liability, including alter ego. Let me give you an example. If there was a car
4 accident and Valley Taxi Company owned the cab that was involved in the auto
5 accident, the plaintiff who was injured may bring suit against the taxi driver for
6 negligent operation of the vehicle. He may also bring a cause of action for negligent
7 maintenance or some other cause of action. The maintenance is done by a
8 completely separate entity. There is a way to do that. When you bring the lawsuit,
9 you bring it upon the information you have at the time and prudent practice is to
10 name Does and Roes so that if it indeed turns out that the person -- the name you
11 sued was not the correct person, you can move to amend.

12 Or as plaintiff has done in this instance, they have moved -- they
13 sued A Cab LLC and following the judgment have moved to amend to name A Cab
14 Series, LLC. I'm not commenting on the merits of that motion, but illustrating that it
15 is a method or a remedy that can be brought in the event that the improperly named
16 party, or if you allege that the improperly party was named. Plaintiff in their brief that
17 they submitted yesterday cited several cases regarding amendment and bringing
18 claims against a differently named party. In all of those instances they said that you
19 need to bring an action or bring some sort of proceeding to amend and to add that
20 cause of action as an alter ego.

21 THE COURT: Uh-huh.

22 MR. SHAFER: It's really -- I can appreciate the Court's concern in protecting
23 the public --

24 THE COURT: Uh-huh.

1 MR. SHAFER: -- because you do want to have accountability --

2 THE COURT: Uh-huh.

3 MR. SHAFER: -- for companies to be responsible. But there's really no
4 difference between that -- we do not require people to -- you know, to give their
5 name, necessarily. Well, I guess there is a statute that says that, but if you are --
6 let me give you an example. My wife was driving down the street yesterday and
7 some teenagers threw a rock at her car and damaged her car. She stopped and
8 asked their names and they gave their first names and that's it and then ran off.
9 If we were to bring a suit against that person, we would name Alexander and Kevin
10 Doe, bring the lawsuit against them and engage in our due diligence to name that
11 person. Upon finding out their identity, it would be incumbent upon us to move to
12 amend to correct the name of the parties as part of our due diligence, but we would
13 be able to bring that lawsuit even though we didn't know the correct name of the
14 parties. Or if it turned out that Kevin Smith was really not his name but in fact was
15 Joe Biden or some other name, we would be able to move to amend to name the
16 correct party. We do not mandate that we have our names tattooed on our
17 foreheads or otherwise provided. There is a method that balances that.

18 In the statute there's not a provision that requires registration with the
19 Nevada Secretary of State. I know other states have enacted to do that, but our
20 Legislature in its wisdom or folly has ruled that these are the requirements, that if
21 you operate in this manner that you can -- you do not have to register. In fact,
22 there's not a way for the series LLCs to register. It would be impossible for A Cab
23 Series LLC, Valley Taxi to go to the Nevada Secretary of State and try to file a
24 registered agent certificate. It is impossible for them to do that. There is no method

1 to do that. Even if they wanted to do that or tried to that, it is an impossibility to do
2 that. The method you have to do that is to have, as they set out in the statute, is to
3 create articles and then have an operating agreement that provides for how lawsuits
4 and how these things are to be managed. And this is what we've submitted in
5 Exhibit E and also -- excuse me, Exhibit F -- no, Exhibit E, and then Exhibit D is the
6 articles of incorporation that set out the basis for the registered LLC.

7 THE COURT: I'm sorry, that was Exhibit --

8 MR. SHAFER: Exhibit D.

9 THE COURT: D. Okay.

10 MR. SHAFER: And we referred to this yesterday.

11 THE COURT: Certificate to accompany restated articles or amended and
12 restated articles.

13 MR. SHAFER: Yes. And pages 2 and 3 are the amended and restated
14 articles of organization --

15 THE COURT: Uh-huh.

16 MR. SHAFER: -- that were filed in -- were created in February of 2012.

17 THE COURT: Uh-huh.

18 MR. SHAFER: And these set out the separate nature of the series LLCs
19 in accordance with the statute that was in place at that time.

20 THE COURT: Uh-huh.

21 MR. SHAFER: It's since been revised slightly, but that is why it was created
22 there. And this comes --

23 THE COURT: So are you saying that by -- I mean, how would a party
24 under the circumstances that I was describing where you have one of these series

1 LLCs that gets in a legal dispute and somebody wants to sue them, how would they
2 know?

3 MR. SHAFER: They would know the same way we get any information.
4 They would -- well, let me back up here. One of the reasons that the -- the benefit
5 of the way these are drafted now, A Cab Series LLC indicates its tie to the registered
6 entity by its name format, because if you notice all of the entities are A Cab Series
7 LLC comma Valley Taxi Company; A Cab, Employee Leasing Company, so that it
8 would put the various parties on notice that A Cab Series LLC is a part or related to
9 those entities.

10 THE COURT: Well, how would they know that, though? If somebody gets
11 in a wreck with the cab that we were talking about, how would they know that the
12 owner is known as A Cab Series LLC, Valley Taxi Company?

13 MR. SHAFER: Well, in the event of an accident the insurance for the
14 individual entity and the registration docs for the car show that the owner of the
15 vehicle is A Cab Series LLC, Valley Taxi Company. So --

16 THE COURT: But how would somebody know that? In other words, to
17 get even to the registration? I assume what you're saying is they have to do the
18 discovery to find out.

19 MR. SHAFER: Well, that would be part of it, but if we go back to the
20 automobile accident, it is incumbent on a registered driver in the state of Nevada to
21 provide insurance information and provide registration information in the event of
22 an accident.

23 THE COURT: Uh-huh.

24 MR. SHAFER: So if A Cab is in an automobile accident with another party,

1 they have to provide that information. That information then would identify them
2 as A Cab Series LLC, with an address that's indicated, just as if you or I were in
3 an auto accident we would have to provide that registration information and would
4 provide our address information for us to be sued or contacted in the event of a
5 claim for damages. It's no different for the series here in the event of an automobile
6 accident. It's listed on the insurance, it's listed on the registration documents so
7 that person, that cab driver -- the person that was involved in that accident or the
8 passenger would know who it is.

9 When we get to the series of hypotheticals, what if somebody driving
10 down the street wanted to sue Valley Taxi for offensive advertising or something.
11 Maybe there was an ad that they thought was a little too racy or something and they
12 felt offended and wanted to bring a lawsuit. How would they do that? Well, how
13 would they do that in any other instance if they say who it was? If I'm driving down
14 the street and they don't like -- they think my license plate is offensive and want to
15 sue me for that, how do they find out who I am? I mean --

16 THE COURT: Well, driving down the street, I assume they have the tag
17 number, like off the tag.

18 MR. SHAFER: Yeah. And they would have the tag number here, which
19 they would go to the DMV, find out who the registered operator of that vehicle was.
20 There is a method that's set out in the statute for service and that's that all of these
21 series LLCs have the registered agent that's indicated by the registered -- the
22 registered agent for the filed LLC is who has to be served.

23 THE COURT: Okay.

24 MR. SHAFER: Now, how do you find out that? I appreciate the Court's

1 concern, but I don't know that it has to be a full-proof method that no matter with
2 no effort on the part of the complaining party the name of the entity has to be
3 discovered. It's whether or not that entity is hiding or not representing who it is
4 or is engaging in some sort of skullduggery to obscure their identity. And in this
5 case they have registered the vehicle, they operate under Valley Taxi, they have
6 insurance in that name, so that any foreseeable action -- I guess the question is
7 how do you -- you know, we can get into lots of scenarios --

8 THE COURT: Yeah.

9 MR. SHAFER: -- in which it might be difficult for the plaintiff or putative
10 plaintiff to find out the exact identity of the entity, and that's I suppose a balancing
11 test. It's not set out in the statute that there has to be a way. The Legislature
12 has made an exception for the registration requirement for series LLCs. If the
13 Legislature chooses to change that or amend that in some way, as they have in
14 other states, there are certainly reasons why they would and reasons why they
15 would not want to do that.

16 Going back to the issue, one of the primary benefits of a series LLC
17 is that you do not have to do multiple filings with the Nevada Secretary of State.
18 That it makes it simpler. They've done that to invite businesses to the state of
19 Nevada and to compete with Delaware and other states that have such a similar
20 series LLC. I mean, to a certain extent we could argue against the creation of a
21 corporate entity or a limited liability corporation in the first place, but they have been
22 created and we have to deal with the statutes as they are written.

23 THE COURT: Uh-huh.

24 MR. SHAFER: So I appreciate the Court's concern, but I think the answer

1 to that is in most instances the remedy -- well, you don't need to reach the remedy
2 because they will know the identity of the entity in most scenarios, and if they don't
3 they can move to amend or they can move to seek alter ego. We do not require in
4 the state of Nevada that the identity of owners of a corporation or a limited liability
5 company be known. They are not required to be registered with the Nevada
6 Secretary of State. So if we want to pierce the corporate veil or bring an alter ego
7 theory, how would we go about that? Well, you Does and Roes and you seek to
8 amend and you seek discovery in that process. So there is a method that does not
9 leave a plaintiff without a remedy or without an ability to pursue a claim.

10 THE COURT: Let's return to this operating agreement that I was looking
11 at between the Employee Leasing Company II and Valley Taxi Company.

12 MR. SHAFER: Correct.

13 THE COURT: What part of this -- I'm concerned that this purports to be
14 an operating agreement that creates, apparently, both A Cab Series LLCs that are
15 named there, and yet what it really is is simply a lease because the very -- the
16 language, once it gets through with -- I mean, it starts off saying, "This employee
17 leasing agreement is made and entered into by and between A Cab Series LLC,
18 Employee Leasing Company II and A Cab Series LLC, Valley Taxi Company,
19 lessee, effective as of the commencement of business 2/25/16, the effective date."
20 So it's a lease. It says it's an operating agreement, but there is -- I don't see
21 anything in this operating agreement -- in other words, if somebody even did
22 diligence and came up with this document, how does this document create the
23 entities that it purports to have created and as lessor and lessee?

24 MR. SHAFER: And I appreciate the Court pointing to that. This is a lease.

1 It is an agreement that defines the relationship between these two entities. If we
2 turn to the second page of this agreement, particularly paragraphs 9 and 10,
3 paragraph 9 provides that the Employee Leasing Company II and Valley Taxi
4 Company have the list of items A through F, which are the same powers and
5 responsibilities that are set out in the organizing statute, NRS 86.296. So this
6 paragraph here establishes the series LLCs, plural. It is a reciprocal and mutual
7 establishment by the different -- the members of the different series LLCs.

8 THE COURT: Uh-huh.

9 MR. SHAFER: So this paragraph here establishes those entities and
10 reiterates the powers and abilities they have. Paragraph 10 limits the liability and
11 copies this language from the statute as to the limitation of liability as to the series
12 itself being responsible for its own debts and not responsible for others. So these
13 two paragraphs are the establishing and the limiting factors required in the statute
14 to establish a series LLC. While it's a bit of a sandwich in that it combines multiple
15 ingredients and multiple aspects and while some attorneys may like to have
16 separate documents, one establishing and then the other, I don't see anything in the
17 statute or anything in law that would preclude a combined agreement to this effect.

18 THE COURT: Uh-huh. What --

19 MR. SHAFER: It is a mutual pledge.

20 THE COURT: You mentioned just now that separate and distinct records
21 are maintained. They -- it says they're held directly or indirectly, including through
22 a nominee or otherwise, and accounted for separately from the other assets of the
23 company and any other series. What assets is -- would either of these entities own
24 since -- isn't one of the hallmarks of one of these series limited liability companies

1 is that they can control assets but not own them?

2 MR. SHAFER: It is possible to control and to own. The statute provides
3 and in fact this operating agreement says that they can own property -- they can
4 own, hold, improve or otherwise deal with real or personal property. Valley Taxi
5 Company owns a vehicle. That's the asset that it has that is used in the furtherance
6 of providing taxi service.

7 THE COURT: Which is -- Valley Taxi, which is a series --

8 MR. SHAFER: It is a series of A Cab Series, LLC.

9 THE COURT: Uh-huh.

10 MR. SHAFER: So it is the entity that owns the vehicle. So that's the asset
11 that it has. Employee Leasing, the assets that it has, I suppose, are the provision of
12 labor that is used by the -- provides the drivers of the vehicles then used to generate
13 revenue.

14 THE COURT: Does the limited liability -- or, sorry, the series LLC statute
15 in Nevada either allow explicitly or preclude a series LLC from owning property
16 assets?

17 MR. SHAFER: It explicitly provides for that, Your Honor.

18 THE COURT: Okay.

19 MR. SHAFER: In fact, if we look at --

20 THE COURT: Ahh. 86.311. Acquisition, ownership and disposition of
21 property by company and series.

22 MR. SHAFER: That is -- yes. Also, 86.296 2, sub (e) and (f).

23 THE COURT: Oh, where did that go? Where is our series LLC statute?

24 MR. SHAFER: That would be Exhibit B to our motion.

1 THE COURT: You put the statute in there?

2 MR. SHAFER: I did, Your Honor, just so we didn't have to pull the heavy
3 books.

4 THE COURT: Oh. D, did you say, like Dog?

5 MR. SHAFER: No. E. Edward and Frank, under paragraph 2.

6 THE COURT: All right.

7 MR. SHAFER: Leading into that --

8 THE COURT: Where's the statute? I'm looking for the statute. Is that in E?

9 MR. SHAFER: No. Sorry. Exhibit B. Or, excuse me, Exhibit C as in Charlie.

10 THE COURT: C. Okay. All right.

11 MR. SHAFER: On page 1 of Exhibit C, looking at paragraph 2, it says, "A
12 series may." And then directing to subparagraph (e) and (f), (e) says a series may
13 "purchase, take, receive, lease or otherwise acquire, own, hold, improve, use and
14 otherwise deal in and with real or personal property or an interest in it, wherever
15 situated, and the power to sell, convey, mortgage, pledge, lease, exchange, transfer
16 and otherwise dispose of all or any part of its property and assets."

17 THE COURT: Okay.

18 MR. SHAFER: So a series LLC has the ability to hold and to transfer
19 property.

20 THE COURT: All right. Let me jump to another statute, then. You may not
21 have this with you.

22 MR. SHAFER: Well, I think -- yeah. Counsel was just pointed to 86.311.

23 THE COURT: Oh, yes. Uh-huh.

24 MR. SHAFER: Which says essentially the same thing. Subparagraph 2

1 says, "Real and personal property may be purchased, owned and conveyed by
2 a series separately in the name of a series, as an asset of the series only."

3 THE COURT: Uh-huh.

4 MR. SHAFER: So a series LLC has the ability to do that, subject to the
5 authorization of its members and managers. Here there is only one member and
6 they have authorized this.

7 THE COURT: What I keep coming back to is this problem with interpreting
8 these statutes in this fashion, and that is that in this case we are dealing with a
9 constitutional mandate, the minimum wage act, only it's not just an act it's part of our
10 Constitution. And what I hear you saying is that if we interpret our limited -- I'm
11 sorry, our series LLC enabling legislation in the way that you're proposing, there is
12 really no way for employees to know who their real employer is. How many of the
13 drivers know that their employer is a series LLC, Employee Leasing Company?

14 MR. SHAFER: That I do not know the answer to, Your Honor, but I think
15 I can anticipate that there's -- there is a remedy for that situation.

16 THE COURT: And then similarly under NRS 86 -- now I don't recall exactly
17 which statute it is, but it says that -- where's the statute that says that you have to be
18 able to go to your employer and request your pay information and they have to give
19 it to them in ten days, within ten days? Where's that statute?

20 MR. GREENBERG: That would be in Chapter 608, Your Honor.

21 THE COURT: Oh, 608. That's right. That's right.

22 MR. GREENBERG: Or maybe 613. It's part of the labor code, Your Honor,
23 not the LLC.

24 THE COURT: So how would this Employee Leasing Company -- first of all,

1 how would an employee know to go there? How would they know to know who
2 their real employer is and how -- who would they make demand on in the Employee
3 Leasing Company to get the information guaranteed by NRS 608.115?

4 MR. SHAFER: Well, in that instance when the employee gets paid they
5 receive tax information. They receive tax statements, whether they're an
6 independent contractor or an actual employee, they receive tax documents that
7 identify who their employer is and the appropriate withholding. So in that instance --

8 THE COURT: So each of the payment stubs, the pay stubs identify the
9 employer as this series LLC, Employee Leasing Group?

10 MR. SHAFER: I do not know the answer to that, Your Honor, if they do or
11 they don't. But I suppose that's an issue as to whether or not -- it may be that they
12 identify only the dba. That would be when we have -- that would be a different
13 argument altogether as to whether or not the appropriate demand would be made
14 upon their employer, given that the employer identifies themselves as a particular
15 name.

16 THE COURT: Well, let's assume that -- who would it be? I don't even
17 know who it would be. You could say the IRS, but they play by different rules. If
18 the IRS came around and said we don't think you're withholding enough, how would
19 they know who to talk to if all they have is whatever the employee has?

20 MR. SHAFER: Well, they would make a demand on whoever was remitting
21 the taxes; that information.

22 THE COURT: How would they know who that is?

23 MR. SHAFER: Well, they would be getting a statement. They don't just get
24 a blank check or, you know, cash that's received. There is some tracking as to the

1 EIN number as to how that has to be prepared. Again, with the -- I think there is
2 a remedy to do that. If for some reason there was a mistake in the name of the
3 company that was identified, there's a remedy for that, amending or adding the
4 correct name, just as if you were in an auto accident and somebody identified
5 themselves by the incorrect name. For example, if my wife identified herself by her
6 maiden name as opposed to her married name, that would not disrupt necessarily
7 the lawsuit.

8 THE COURT: Well, in this instance I'm talking about how does the IRS go
9 to find out -- verify that the correct amount -- or if they look at the paystub and they
10 see what it reflects in terms of withholding and the amount of pay, how would they
11 go to the employer, which is this Leasing Company, and say you're not withholding
12 enough or you're withholding too much or whatever? How would they do that?

13 MR. SHAFER: Well, in reality they go to their HR department or to whoever
14 has been appointed to address that and, you know, try to deal with that issue.

15 THE COURT: How do they know that? Who's the HR department? I mean,
16 have they got a sign on the door, we are the HR department for the Employee
17 Leasing Group? Or, I'm sorry, Employee Leasing Company, being the Series LLC
18 dash Employee Leasing Company?

19 MR. SHAFER: Well, in some ways --

20 THE COURT: Is there a sign on the door?

21 MR. SHAFER: I don't know, is there a sign?

22 MS. RODRIGUEZ: Your Honor, may I?

23 THE COURT: Yeah.

24 MS. RODRIGUEZ: I don't want to add additional argument, but since Mr.

1 Nady is out of the country, I'm a little more familiar with the premises.

2 THE COURT: Okay.

3 MS. RODRIGUEZ: I won't make argument, but maybe I can answer some
4 of the questions if the Court is okay with that, because yes, there is a sign on the
5 door. It doesn't say Employee Leasing Company on the door, but there is a Human
6 Resources Department, there is a Payroll Department, that if an employee has
7 any problems with tax withholding or payroll questions, anything like that, they
8 are dealing with those people and those people are actually working for the
9 Administration Company, like Mr. Beck who supplied the declaration saying I'm the
10 bookkeeper, I'm the accountant, I work for the Admin. Company. And so if there
11 was a question --

12 THE COURT: So they're not employees of any of these entities?

13 MS. RODRIGUEZ: They -- the drivers?

14 THE COURT: No. No. You said these --

15 MS. RODRIGUEZ: The admin people?

16 THE COURT: Yeah, admin people.

17 MS. RODRIGUEZ: Right. They --

18 THE COURT: They're not employees --

19 MS. RODRIGUEZ: No, they're different. They're administration. The
20 Employee Leasing Company -- excuse me. A Cab Series LLC, Administration
21 Company is going to encompass such people as the payroll people, the HR people,
22 the accountant, the more professional people. It's a separate company entirely
23 than the taxicab drivers that are through Employee Leasing Company, as well as
24 Employee Leasing Company Roman numeral II.

1 THE COURT: So if the IRS through whatever means decided that there
2 was insufficient money being withheld and they wanted to deal directly with the
3 employer, if the -- even if the paystub identifies the true employer, which is this
4 Series LLC, Employee Leasing Company, then they would have to know to go to a
5 different company's administrative people or bookkeeping people to have somebody
6 to talk to about this.

7 MS. RODRIGUEZ: Well, like all the cab companies in town and especially
8 because A Cab is not that big, everybody is housed basically in the same
9 administration building, so it's not like they have to go to Henderson for one office
10 and Las Vegas for another. They're all in the same premises. There are just
11 different businesses according to purpose, really. I think the names speak for
12 themselves. The Admin. is very straightforward, those are the people that are going
13 to do the administration. So if something comes in from the IRS or from the Labor
14 Commissioner or from Nevada Equal Rights, anything like that, that's going to get
15 directed to the right answering department, whether it's going to be the payroll
16 people or the HR people that are dealing, you know, with the insurance health
17 benefits, that type of thing.

18 And I wouldn't necessarily rely on the W-2s or the paycheck stubs
19 or some of those things that they necessarily have A Cab Series LLC, Employee
20 Leasing Company, Roman numeral II, because again, like most companies, A Cab
21 outsources a lot of that to use through Intuit and check printing, people like Clark
22 Check Printing. And they -- I think that's where we originally got the name A Cab
23 Taxi Service, which is nonexistent altogether, because as Mr. Nady testified in his
24 deposition, the check printing company put that on the checks. So I can represent

1 that every entity, every series has the word A Cab in it, but whether anybody has
2 ever gotten it right from -- Are you familiar with Intuit? That's what I'm --

3 THE COURT: Only just barely, so not very much.

4 MS. RODRIGUEZ: Okay. The Intuit payroll processing and the Clark
5 Check Printing Services, the Costco check printing services. A lot of times they
6 really shortcut things and put A Cab Taxi or A Cab Service. And so it's hard to rely
7 upon those particular prints as being the appropriate name.

8 MR. SHAFER: But I think this is --

9 THE COURT: The operating agreement we've been looking at, which is
10 between the Employee Leasing Company II and Valley Taxi Company, says in it,
11 "The purpose of the lessor is to interview, select" -- I'm at number one -- "is to
12 interview, select or reject applicants, orientate those selected applicants to the
13 customs and requirements of A Cab Taxi Company." So the operating agreement
14 itself refers to an A Cab Taxi Company. So I would suggest that it may -- the
15 confusion may not have originated with whoever did that check stub or whatever
16 it was because the operating agreement itself refers to such a company. The
17 agreement is not between them and anybody, but it does refer to it. It also says,
18 "Taxicab drivers as needed for each taxi company within this series of cells named
19 under the series limited liability company, A Cab LLC." It does not say A Cab Series
20 LLC. A Cab Series LLC did not exist, am I correct, until 2017?

21 MR. SHAFER: No. A Cab Series LLC was created in 2012.

22 THE COURT: And is that because the --

23 MR. SHAFER: I think the reason it was created, after approval of the
24 Taxicab Authority in 2011 --

1 THE COURT: But it was still called A Cab LLC, it was not called A Cab
2 Series LLC.

3 MR. SHAFER: The name had not been updated with the Nevada Secretary
4 of State. Even though the articles was A Cab Series LLC, it had not been updated
5 with the Nevada Secretary of State.

6 THE COURT: So this agreement would be correct that it was being done
7 for cells ostensibly within A Cab LLC, even though there was no series liability
8 company -- there was no series LLC created by A Cab, whatever you want to call it
9 at the top, until 2017?

10 MR. SHAFER: Well, let me back up here.

11 THE COURT: And therefore why would not -- if somebody even had this
12 document, the operating agreement, why would they not think that the real cab
13 company, so to speak, was either A Cab Taxi Company, which is nonexistent,
14 apparently, or/and A Cab LLC, which is specifically referenced? And so my whole
15 point is unless you get all of this done right from the beginning, including
16 denominating A Cab as an A Cab Series LLC, you haven't complied with Nevada
17 statutes for purposes of creation of a whole series of LLCs.

18 In the example that we had before you said that for several of these
19 things they would simply go to the Secretary of State and they would find out who
20 A Cab Series LLC, who their registered agent was and they'd serve them, but there
21 was no such entity until -- well, let me rephrase that. They wouldn't have found
22 A Cab Series LLC, they would have found A Cab LLC, which I assume they would,
23 quite correctly, I think, or understandably assume was organized under Nevada's
24 laws pertaining to LLCs. They might have even taken comfort from -- that they had

1 the right person from Nevada statute NRS 86.141, which deals with LLCs which
2 says, "Except as otherwise provided in subsection 2, a limited liability company may
3 be organized under this chapter for any lawful purpose. A person shall not organize
4 a limited liability company for any illegal purpose or with the fraudulent intent to
5 conceal any business activity or lack thereof from another person or a governmental
6 agency." And number 2 says: "A limited liability company may not be organized
7 for the purpose of insurance unless approved to do so by the Commissioner of
8 Insurance."

9 So would you say that these putative defendants, any number of
10 series LLCs, are not bound by Nevada's -- by that particular statute that is not
11 included in the series LLC statutes but is included in the LLC statutes? Or would
12 you say that statute is not applicable to the defendant in this case, to A Cab LLC?

13 MR. SHAFER: I think I would argue that it is not relevant to this issue at
14 hand, and let me explain that. Nowhere has it been argued that the creation of
15 the series LLCs or the LLCs were for an illegal purpose. They aren't created to
16 distribute drugs or --

17 THE COURT: Did you say legal or --

18 MR. SHAFER: Illegal.

19 THE COURT: For an illegal purpose. Yeah.

20 MR. SHAFER: Right. They aren't created to, you know, do some -- to
21 create -- distribute drugs or illegal property or some other improper or illegal basis.

22 THE COURT: Would it be an illegal purpose to form them in order to avoid
23 liability for the minimum wage requirements in our Constitution? Would that not be
24 an illegal purpose?

1 MR. SHAFER: Well, there is nowhere on the record that these entities
2 were formed for the purpose of avoiding taxes or employment liability or minimum
3 wage liability. If that was the express purpose --

4 THE COURT: You're right.

5 MR. SHAFER: -- then that might be problematic --

6 THE COURT: Yeah.

7 MR. SHAFER: -- but they aren't here. The express -- and they aren't
8 created to hide assets, either. The authorizing statute permits and does not require
9 separate registration of the series LLC. So by their very nature if it permits a
10 company not to be registered, in fact you can't, then as a -- if it is impossible to
11 register, it is impossible to see how such creation of a series LLC would be created
12 for the purpose of avoiding or hiding recognition. If you're doing what the statute
13 says and you can't do any more --

14 THE COURT: And yet what you're telling me is because of A Cab LLC's
15 use of the series LLC mechanism, albeit not really legally until 2017 because it still
16 did not identify itself as a series LLC until that date, so no person who had any
17 quarrel with one of these series LLC companies could know that they better get it
18 right because that's a separate legal entity than A Cab LLC. Would that not qualify
19 -- I mean, would I -- don't I have to interpret this statute as being applicable to
20 A Cab LLC's purported creation of separate series LLCs in an illegal manner as far
21 as I can tell because it didn't identify itself as a series LLC, so nobody going to the
22 available public records would be put on notice that they better do some of the
23 things that we talked about earlier in terms of discovery?

24 MR. SHAFER: Let me --

1 THE COURT: Then how can I not hold that NRS 86.141 applies and that --
2 I don't want to hold that there was fraudulent intent to conceal any business activity,
3 but you have taken a series LLC statute that was designed -- it may be questioned,
4 I think, whether or not the Nevada Legislature ever intended for that statute to be
5 used for a company, an LLC, even a series LLC to take all of its business operation
6 and slice it up -- in my analysis it's kind of sliced up horizontally, meaning -- well,
7 you could do it vertically -- anyway, sliced up so as to actually be separate cells that
8 do not bear any liability for the activities of other cells but are never identified to the
9 public, never identified in any way that the public could know, even if they need to
10 dig deeper.

11 MR. SHAFER: I think that that is the actual intent of the statute, Your
12 Honor, is to allow a company to divide its assets up into separate series and to
13 create a limitation on liability.

14 Going back to whether or not the series LLC was created, I think it is
15 inaccurate to say that the series LLC was not created until 2017. The entity was
16 created in February of 2012 when the amended and restated articles was filed with
17 the Nevada Secretary of State. Anybody who looked at A Cab Series LLC -- and
18 the amended articles is a public record and could be obtained from the Nevada
19 Secretary of State --

20 THE COURT: There was no A Cab identified as A Cab Series LLC
21 because it was still -- it specifically said it shall be known as A Cab LLC.

22 MR. SHAFER: There is no requirement in the statute for a series LLC to be
23 identified as a series.

24 THE COURT: Well, then if there is not, all of the protection of assets by

1 creation of series LLCs that took place in this case could take place with no notice to
2 anyone who had sued the entity that was then the real entity. A Cab LLC was not a
3 series, was not -- gave no notice to the public. In other words, if I don't require that
4 notice be given under our series LLC, even if it's just by virtue of calling yourself a
5 series LLC in stead of an LLC, then I don't know how to avoid thinking that you run
6 afoul of the LLC statutes. I mean, at that point it was still an LLC at the point that it
7 filed its 2012 amendment.

8 MR. SHAFER: Yes. Up until 2012, A Cab initially -- the entity was known
9 as Admiral Cab or Admiral Taxi. In 2001 it changed its name to A Cab LLC. In
10 2012 it changed to be a series LLC through the amended restatement, which was
11 a public record.

12 THE COURT: And what was the name of the entity in that public record?

13 MR. SHAFER: The name was A Cab Series LLC, as we look --

14 THE COURT: No.

15 MR. SHAFER: The recorded name, the name which appeared under the
16 Nevada Secretary of State was A Cab. The question is does that destroy or make
17 it not a series? That there was a mistake or an error in recording, does that destroy
18 the series LLC? I see no basis to find so. That might be a basis for an argument as
19 to whether or not the appropriate entity was served, but in this instance and counsel
20 has advised me that in all the answers and in all the responses for discovery, in
21 every instance A Cab Series LLC denied that it was the employer, and so put it out
22 there for many, many years that they were not the employer. As we saw in the
23 deposition transcript of Mr. Nady, he says that the Employee Leasing Company
24 was actually the employer. But that's an argument for another day as to who the

1 appropriate entity should have been and there's a method for --

2 THE COURT: He said that in 2017, correct?

3 MR. SHAFER: Correct.

4 THE COURT: Okay.

5 MR. SHAFER: And there's an argument for why they might have been
6 excused for bringing it later on. I would think that the denial of the -- that they were
7 the employer would have spurred -- at least in my instance I would have sent a
8 request for admission or a request for interrogatory as to who the employer of these
9 drivers were. If you're denying that they were the driver (sic), who is the employer?
10 I'm not familiar with what happened in that case to know if they did or didn't do that
11 or what the responses were, but there is a remedy for doing that.

12 THE COURT: And they would have sent that -- they would have sent that
13 to A Cab?

14 MR. SHAFER: And they would have asserted jurisdiction over A Cab
15 through the service of process. If I get sued and I had nothing to do with an
16 automobile accident, I was in another state at the time, by virtue of my service I am
17 before the court and have an obligation to respond to the other party. Now, I can
18 move to quash, I can move to dismiss, I can move to take whatever remedies, but
19 by virtue --

20 THE COURT: Is that by long arm or --

21 MR. SHAFER: Well, I mean, ultimately it's by nature of the service. It is
22 presumptive that I have an obligation to respond. Obviously I can bring for lack of
23 jurisdiction a motion to dismiss or any number of remedies based on a failure to
24 bring the proper party before the court, but until that point I don't have the luxury

1 of not responding. I'm just ignoring the orders of the court because, hey, you've
2 got the wrong guy. No. I have an obligation, at least presumptively of being served,
3 of responding. That is the situation here. That does not -- the fact that I can be
4 brought or that I am the wrong person doesn't change the nature of the LLCs or the
5 separate nature of the property that's at issue. There is nothing -- and this is going
6 back to it really is an issue, I think, of due process and going through things the
7 right way.

8 THE COURT: Uh-huh.

9 MR. SHAFER: If you -- you have an obligation to do your due diligence.
10 If through your due diligence and reasonable effort you cannot discover the
11 appropriate party, you bring against the party you know -- you think that it is and you
12 engaged in that process. There is not a constitutional requirement for us to wear
13 name tags of who and where we can be legally served. I don't have to carry around
14 a registered agent card for myself. The Legislature has not enacted that rule. They
15 have for LLCs, that there has to be a registered agent. And for series LLCs there
16 is a registration requirement for the entity. But those are issues as to reasonability,
17 not foundational requirements for a separate nature.

18 The question the statute poses is, one, are there separate records?
19 Are there records that are kept that establish a separate nature? And I would
20 submit that the operating agreement between these various entities carves out
21 a separate nature for Taxi Company, the Employee Leasing Company, for the
22 maintenance company. And are finances kept separate? And we have sworn
23 testimony that they are. So presumptively we've met the two requirements under
24 the statute. I may not disagree with the Court, to its opinion as to whether or not

1 it would be a good idea or good public policy to require series LLCs to register, or
2 it would be a good idea to impose other requirements. But the Legislature hasn't
3 done that. The fact that other jurisdictions have indicates that the Legislature has
4 no desire to do that or has elected not to do that.

5 And again, the remedy is one that they've already elected, and that's
6 to move to amend the judgment. Now, here the crux of this issue is they served a
7 writ of execution on A Cab LLC, not on A Cab Series LLC, Maintenance Company.
8 There might be a different reason for carving A Cab Series, the employment
9 company, but that's not before the Court. They have an obligation to put the
10 individual series, the presumptive separate parties on notice.

11 They cited to a lot of case law in their brief about whether or not an
12 EIN number provides a basis to pierce the corporate veil, whether or not you can
13 have separate companies, but the thing they omit is that in every one of those
14 cases there was a separate action, there was a motion to amend, there was some
15 procedure that said that you have to go to the other person, you have to go to the
16 other party and bring them into the lawsuit by -- (unintelligible) -- by personal service
17 or by subjecting them to the jurisdiction of the Court. Until they are given that
18 opportunity to respond, you know, you can't jump to the end. You say, well, I think
19 they do, so let's take their money and then they can prove it later. But I think going
20 back to the separate -- as much as we would like to, the requirements are the ones
21 set out in the statute and I don't believe that there's a separate requirement to
22 register. Obviously they have endeavored to do so.

23 Going back to the operating agreement, you mentioned and I just want
24 to touch on this briefly, that A Cab LLC was mentioned in the operating agreement

1 between the separate series and A Cab Taxi Company. Again, A Cab Series LLC
2 or A Cab Taxi Company wasn't a party to that and any mistake shouldn't be
3 construed against it.

4 THE COURT: Wasn't a party to?

5 MR. SHAFER: To that operating -- to that contract or operating agreement.

6 THE COURT: This operating agreement? Neither of those entities was a
7 party to to this?

8 MR. SHAFER: No.

9 THE COURT: Who was, then?

10 MR. SHAFER: A Cab Series LLC, Valley Taxi Company and A Cab Series
11 LLC, Employee Leasing Company were parties to this agreement.

12 THE COURT: Okay.

13 MR. SHAFER: A Cab Series LLC or A Cab LLC are not. So if there's a
14 mistake in reference to the name, going back to contract construction does that
15 error or that mistake destroy this agreement or is it just simply -- you know, can we
16 reasonably interpret it to mean who it is?

17 THE COURT: Well, here's the problem I'm having with virtually all of these
18 explanations and the argument that you're making. It seems to me that if I agree
19 with that and simply say to these particular plaintiffs, sorry, Bud, you just -- you
20 sued the wrong entity, you didn't go and find that there was an Employee Leasing
21 Company and you didn't find that there was a Valley Taxi Company and you didn't
22 discover all of these various series LLCs, and therefore too bad, so sad, give me
23 the money back. And Mr. Nady and A Cab LLC, who have been parties to this
24 litigation, obviously, from the get-go, walk out with money that has been executed

1 upon. I can't get away from the notion that it is those employees, the employee
2 class who will thereby be deprived of due process of law.

3 MR. SHAFER: And I can appreciate the Court's concern.

4 THE COURT: And even, I would say, a heightened or, you know, we could
5 say strict scrutiny, we'll borrow a term from a different legal analysis, giving -- I think
6 the Court is duty bound to vouchsafe that parties really do have due process and
7 that that due process means you can't organize all these things behind closed
8 doors, not let anyone know, not even call the master LLC a series LLC until five
9 years after the litigation was commenced. I just -- I don't know how to countenance
10 that and not be forced to find that it works as a fraud upon the rights of these
11 employees.

12 MR. SHAFER: And I can appreciate the Court's concern regarding that.
13 I have two points in response to that. First, if I am sued, my co-counsel and I are
14 driving down the road, she's driving, she gets in an auto accident, she runs away
15 and the police cite me for driving, and I deny that I was the one that caused the
16 accident and I do that through the entirety of the litigation, it is not a fraud for me
17 to continue to maintain my innocence, nor is it a fraud to say -- to point to her, that
18 it's another party. There is a separateness there.

19 THE COURT: If there is a legal separation --

20 MR. SHAFER: Correct.

21 THE COURT: -- correct?

22 MR. SHAFER: Correct. If I say that my name is, you know, John Smith
23 and it's not John Smith, or they sued me as John Smith and I deny that that's the
24 thing through the litigation, I told them that, it is not a fraud to continue to say that,

1 you know, accounts that are held by Jane Smith are not subject to attachment.

2 There is a method for doing that.

3 They were advised early on that this was not the appropriate entity.
4 They could have taken steps and in fact they did so the moment the judgment was
5 entered, they moved to amend. And that's not what we're here for. I'm not arguing
6 whether or not they have a successful motion to amend or not. The Court doesn't
7 need to get there and in fact shouldn't get there at this point. The sole thing we
8 have to look at is are these separate entities as a prima facie case. Do they meet
9 the facial requirements for separation as a statute? Do they have a separate -- do
10 they hold themselves out as a separate entity? Have they met the requirements of
11 the statute? And I submit they have.

12 Is there a basis to move to amend? I don't know. Is there a basis to
13 name them personally? I don't know. The Court doesn't know. The Court can't
14 and should not reach that at this point. There is a method and a procedure for
15 doing that. If it turns out that they were hiding money and doing things, other things,
16 by all means pierce the corporate veil. It's no different than any other piercing of the
17 corporate veil requirement. There is a method for doing that, and that is as we saw
18 in the -- and I'll just name the cases that they cited, in Hennessey's Tavern, the one
19 out of California, it says that it is necessary that a new defendant be named in the
20 amended complaint and summons and that they be served upon in order for the
21 court to acquire jurisdiction. They were asserting alter ego, that they were the same
22 entity, and yet the court still required that jurisdiction be established over the other
23 entities.

24 In the Greene case that they cited last time we were here, there is a

1 basis to require personal jurisdiction. Greene v. Eighth Judicial District Court,
2 115 Nev. 391, Hagerman v. Tong Lee going back to 1877, all require that when you
3 seek alter ego or seek an independent party, you have to establish jurisdiction over
4 them. Maybe they have to file a separate lawsuit, maybe they can move to amend
5 the judgment in this case. I'm not arguing which is the appropriate remedy, nor am
6 I conceding any particular points, but there are remedies that are available. But
7 you cannot send a writ to Party A and because you get something of Party B, hold
8 it until such time as you can prove up a basis to argue that, to get that money,
9 because there is just no basis to do that. And that's -- it is that limited and discrete
10 issue, whether or not they can skip and jump to the end or whether they have to
11 jump through the appropriate procedural and due process requirements.

12 I appreciate the Court's concerns regarding collectability of judgment,
13 particularly as to the minimum wage claims for employees. There is a method to do
14 that. But I don't think that the Court -- as much as we would like to change the law
15 or as much as we might think that the law might be better if it were construed a
16 particular way, we have to abide by the law as it is written. We have to respect the
17 fact that the Legislature has permitted series LLCs to be created in this manner and
18 to have these certain requirements. And based on the promise that if you comply
19 with the requirements that are issued in the statute, that you have a separate liability,
20 that you have an ability to compartmentalize and to hold these out separately.

21 The fact that a claim is made on a wage claim does not distinguish
22 it or make it different than any other claim that is brought against a series LLC,
23 whether it be personal injury or breach of contract or defamation or whatever the
24 basis might be.

1 THE COURT: Let me ask you a question, then. Would a writ of execution
2 served upon the assets of the Employee Leasing Group have been effective in this
3 case at this juncture?

4 MR. SHAFER: Well, that's a hypothetical because they didn't. I think the
5 appropriate remedy would have been to seek a prejudgment writ of attachment and
6 to engage in that method to seek claims against Employee Leasing. And that might
7 be the only one for which --

8 THE COURT: So what's the answer to my question, though? Would it
9 have been effective to serve the bank with a writ of execution in the name of the
10 Employee Leasing Company?

11 MR. SHAFER: Well, by effective do you mean would it have been an
12 appropriate writ or would they ultimately end up getting the money?

13 THE COURT: Both.

14 MR. SHAFER: Well, the second one I think is easy to establish. No, it
15 would not necessarily because there's a basis for claims of exemption and there's
16 a process that's set out in the statute for claiming exemption and contesting the
17 objections or the exemption -- objecting to the exemptions and a hearing and all
18 that.

19 THE COURT: What would the exemption be?

20 MR. SHAFER: I don't know, Your Honor, what the exemptions might be.
21 I think certainly there would be exemptions for the funds that are held for the IRS
22 or for Social Security that are held. But that's a hypothetical and I'm going beyond
23 my brief as to what I actually have knowledge of. But I think, again, that might be
24 a case in which you would see that. A prejudgment writ of attachment, I cannot say

1 that it would be effective because I don't know the basis on which they would argue
2 that. It might be possible for it to be effective. If they appropriately had a basis to
3 pierce the corporate veil, and I know that's the subject of another motion which has
4 been briefed by my co-counsel on the motion to amend which is pending before the
5 Court, but that -- if there were to be an exception that would be the sole exception.

6 There would not be a basis to seek a writ of garnishment or a writ of
7 execution against the companies that own the medallions, nor would there be a
8 basis to do so on the Maintenance Company. The Maintenance Company doesn't
9 employ the drivers, doesn't provide paychecks to the drivers. It holds money for the
10 maintenance of the vehicles and the money that is held is to be used to buy tires
11 and change oil and to buy gas and all the other expenses that are incurred in the
12 operation and maintenance of the actual vehicles themselves, subject to the
13 operating agreement between the parties.

14 THE COURT: And am I correct that they don't get the money to do that
15 from the Employee Leasing Group, they must get that from someone else, that
16 money?

17 MR. SHAFER: I don't know if the money comes directly from the Employee
18 Leasing Company or if the Admin. Company delivers as sort of bailee from the
19 Employee Leasing Company to the Maintenance Company.

20 THE COURT: Okay.

21 MR. SHAFER: But I think that that's the -- it might be possible for them
22 to argue that the Employee Leasing -- and obviously that's subject to some later
23 argument and that goes beyond what I'm prepared to argue to the Court today.
24 But that would be -- if there is any exception, that would be the only one. And I'm

1 not conceding that it is, but that would be the only one because the others have a
2 clear and separate -- they have a different operation. They don't employ drivers.

3 THE COURT: Uh-huh.

4 MR. SHAFER: They aren't the appropriate party in any circumstance in
5 this as to who the appropriate entity might be. Now, if you argue that they should
6 have been or that they pulled money out of one account, then that's a different thing
7 altogether. That's no different than piercing the corporate veil and subject to -- well,
8 if they want to pursue that, they can do post-judgment discovery like any other
9 judgment creditor.

10 THE COURT: You heard Mr. Nady describe to some extent just a brief
11 thing of how the money transfers from one series LLC to another.

12 MR. SHAFER: Uh-huh.

13 THE COURT: And that a part I didn't quite understand was that it goes
14 from -- I think he said the Administrative Series LLC to him for one day and then
15 it's transferred back. Does that have anything to do with creating -- with legitimizing
16 the series LLC application in this instance?

17 MR. SHAFER: I don't know that it has --

18 THE COURT: Or what is the purpose of that? Do you know?

19 MR. SHAFER: Well, I believe the purpose of that is to take your profits --

20 THE COURT: Okay.

21 MR. SHAFER: -- just like any other LLC distributes profits.

22 THE COURT: So whatever amount he sends back is not the full amount
23 that was sent, presumably?

24 MR. SHAFER: I don't know that that's correct.

1 THE COURT: Okay.

2 MR. SHAFER: In some instances -- I don't know that there is any reason
3 to say that it is or is not. I think in most instances it is essentially the same amount.
4 Sometimes it may be less, sometimes it may be more. I believe that it is intended to
5 be -- they do that for accounting purposes to take profits and then to make capital
6 contributions to keep the operation going, so that the business is adequately funded.
7 If there was a shortfall on one particular week and inordinate expenses, then in
8 some instances the capital contribution that occurs may be greater than the
9 distribution that was taken the week before or the day before or whatever it happens
10 to be. And that's subject to the accounting and that would be, you know, if there
11 were such an action of post-judgment discovery, that would be -- well, subject to
12 whatever objections might be brought, but that would be -- but those are all
13 accounted for as to -- and those are reflected in the tax filings that go to the IRS.

14 THE COURT: Let me just ask our bank representative -- I'm sorry, would
15 you give us your name again, please?

16 MS. DOVE: Sure. It's Kelly Dove.

17 THE COURT: Last name?

18 MS. DOVE: Dove. D-o-v-e.

19 THE COURT: Dove.

20 MS. DOVE: Yes.

21 THE COURT: Do you know whether or not there is such a transfer from
22 one of these series LLC accounts directly to Mr. Nady, presumably some significant
23 sum, I would think, and then a transfer back from his personal account to one or
24 more of these series LLC accounts?

1 MS. DOVE: I don't have those transactions with me today or specific
2 knowledge of them. I am aware that there are daily trans-- my understanding is that
3 there are daily transfers between these accounts. And I could be incorrect, but that
4 the money goes into one and then there's transfers to other accounts on a daily
5 basis.

6 THE COURT: You heard his explanation of the meter --

7 MS. DOVE: Yes, I did.

8 THE COURT: -- that the meter is -- kind of is programmed, apparently, to
9 do this kind of divvying out of how much or what percentage goes to each of these
10 entities?

11 MS. DOVE: Yes. I mean, all I know at this point is that the transfers
12 between accounts are directed by the customer, is my understanding, and it's not
13 something that's just set up with the bank.

14 THE COURT: Do you know if that customer is Mr. Nady?

15 MS. DOVE: I don't know the person who -- the individual who gives the
16 instruction. I could find that out if Your Honor needs any more information --

17 THE COURT: No, I think that's --

18 MS. DOVE: -- to make your decision. That's part of why we're here, so
19 we can accommodate any requests for additional information. But I don't have the
20 details of nitty-gritty, so to speak.

21 THE COURT: All right. Thank you very much.

22 MS. DOVE: Thanks.

23 THE COURT: All right. Have you got anything to say, Mr. Greenberg, in
24 the two minutes remaining here?

1 MR. GREENBERG: Your Honor, there's quite a bit I could say. Your Honor
2 has talked about a great number of issues. You've obviously looked at the situation
3 very carefully and I appreciate that. What I hear from Your Honor is you reaching a
4 conclusion, as I understand it, that there is some not legitimate or not regular sort of
5 relationship here where fraud was used, Your Honor, a fraudulent sort of situation,
6 and based on that it's my understanding you're not going to grant the motion. I'm
7 not quite sure where you would go further at that point, Your Honor.

8 THE COURT: Well, let me clarify one thing. I have not said that this was
9 fraudulent activity. I have said that if I don't interpret this statute, and again, that's
10 86.141, as having some to do with the imperative placed upon A Cab LLC, which is
11 what it was known as, which is what it was, apparently, until 2017, some imperative
12 to give notice to, I don't know, the public or somehow to give notice that -- in this
13 instance that A Cab LLC was not the employer of these people. Otherwise, it would
14 appear to be concealing a business activity and it's only a short step from there
15 to arguing that it must have been done with fraudulent intent. Presumably the
16 fraudulent intent would simply be with the intent of avoiding legal process, execution
17 on a judgment, and avoiding any liability for the actions orchestrated and set out
18 and undertaken by Mr. Nady and A Cab LLC.

19 So I don't say that it was fraudulent, done with fraudulent intent, but
20 I do -- it does appear to me that if we do not at least apply this statute to what was,
21 as far as anybody including -- you know, anybody in the state knew until last year was
22 A Cab LLC. And I don't think that the Legislature intended to allow a series LLC to
23 be set up in the fashion that this was, again with the fact that there was no notice to
24 anybody, even in the name of the entity, until last year. I don't think the Legislature

1 intended to allow them to do that to escape liability under a constitutionally mandated
2 requirement to pay the minimum wage.

3 MR. GREENBERG: Your Honor, I would agree that that is absolutely
4 correct. What I was just going to state to bring us back to the narrow issue before
5 the Court concerning these particular assets that were attached, as I advised the
6 Court in my brief filed yesterday, the tying fact for all of these assets is their
7 identification under this EIN number.

8 THE COURT: Uh-huh.

9 MR. GREENBERG: And Your Honor has talked a lot about this question
10 of public notice and how the employees would know who the employer was, and
11 as I tried to explain to the Court in the submission I gave the Court yesterday, it is
12 not possible for anyone but the judgment debtor here, A Cab LLC, to have funds
13 identified with that Employee ID number, that EIN number that in turn are being
14 used to pay employees or operate a business because none of these LLCs, none of
15 these series LLCs have an EIN number. They couldn't possibly issue a W-2. For
16 example, the operating agreement you were referring to, Your Honor, it talks about
17 A Cab Employee Leasing Company having the purpose of hiring as W-2 employees.
18 They can't do that, Your Honor, because they don't have an EIN number. They use
19 the judgment debtor, the master's EIN number. The W-2s that I've introduced in
20 the court have the judgment debtor, A Cab LLC's name on them, along with that
21 EIN number.

22 So my point -- and again, Your Honor, what I'm just trying to clarify
23 with the Court is how far the Court wishes to go in dealing with the issues before the
24 Court at this point. I want to be respectful of the Court's due diligence here. You've

1 deliberated a lot on this and I appreciate that. I've limited my request to the Court,
2 as we were here on Wednesday, to simply maintain the status quo of keeping these
3 funds preserved and not granting the motion. And to the extent the Court is going
4 to make a determination as to, you know, these claims that these funds are not
5 properly subject to the judgment, let us develop a full record and let the Court reach
6 a further determination in the future. I don't know if the Court wants to go beyond
7 that today. That was my request on Wednesday and that's --

8 THE COURT: Are you speaking of a fuller determination as to the defense
9 motion to strike the -- was it strike or quash or what was it?

10 MR. SHAFER: Quash.

11 THE COURT: Quash.

12 MR. GREENBERG: I mean, in terms of the motion to quash, I think it
13 needs to be denied. In terms of the further implication of that denial, that's up to
14 the Court. The Court may not be making a determination at this time in terms of the
15 merits of the ownership of these funds, whether these funds are or are not in fact
16 subject to the judgment. I mean, the Court can make a more limited finding and
17 simply say, for the reasons Your Honor was discussing of what's before the Court,
18 there's certainly ample reason to keep these funds in escrow. It could be with the
19 bank, they could be placed in my IOLTA account pending a fuller determination,
20 a full record if the defendants insist that these are not in fact properly subject to
21 the judgment.

22 As I pointed out on Wednesday, Your Honor, we don't even have the
23 alleged possessors of these funds before the Court. These six series LLCs have
24 not intervened and appeared. We discussed this on Wednesday. In fact, the

1 documents before the Court, Your Honor, don't even establish that these series
2 LLCs exist. I mean, the operating agreement you were provided with, Your Honor,
3 if you look on page 2 where there's signatures, there is no signature or indication
4 of execution by the master, A Cab LLC. It is A Cab LLC, the registered agent, that
5 has the authority to create these series LLCs. They're not a party to this. They
6 didn't sign it. Assuming this document even is legitimate. I have serious questions
7 as to the legitimacy of the document in the first place, Your Honor. And in addition,
8 there's nothing in this -- this is not even an operating agreement because an
9 operating agreement would command the operations, the internal operations,
10 essentially like the corporate bylaws of the individual series, Employee Leasing
11 Company II, for example. This doesn't do that.

12 THE COURT: Who does -- normally who are the parties to an operating
13 agreement?

14 MR. GREENBERG: Well, the Nevada statute actually states that an LLC,
15 a series LLC, does not have to have an operating agreement and this has been
16 upheld in the case law. The question, though, in this case is, as we were discussing
17 on Wednesday, for this limitation of liability protection of assets to exist for a series
18 or a series of the master there must be a provision for that protection in a written
19 operating agreement or in the articles of incorporation for the master. And we
20 discussed this on Wednesday. And all the master says, Article 2 of the public
21 document which I think we were looking at earlier, it just simply says that A Cab LLC
22 may establish these series LLCs with these limitations on liability. It does not state
23 that if they are so established they have that limitation on liability.

24 And when you look at the operating agreement themselves, Your

1 Honor, all it does at the end of the operating agreement is parrot the language of
2 the statute. And I think Your Honor sort of understood this, it doesn't actually state
3 in those -- again, I don't see these are really operating agreements, these are
4 presumably contracts between two supposedly independent entities. It just parrots
5 the language of the statute. It doesn't actually identify any particular series LLC
6 that's placing its assets in this protective mode or any particular assets. And it says
7 nothing about those assets, whatever assets referring to, being insulated from the
8 liabilities of the company generally. It says the reverse. It says that the liabilities
9 of this series, of a series, a sub is not subject to being satisfied from the company
10 generally. It doesn't say anything about the reverse, Your Honor.

11 We had this discussion on Wednesday when I was pointing out to the
12 Court that the statute itself did not specifically authorize that sort of subsidiary or
13 lower level shield from the general's, you know, the creating entity's liabilities. But
14 assuming it was possible, there's nothing here actually confirming that this was ever
15 done.

16 So, Your Honor, there simply is nothing before this Court either
17 establishing the existence of these series LLCs, establishing that they complied
18 with the statutory requirements to enjoy this protection of their assets, assuming
19 that's even available. I do not see that the statute even authorizes that. But even
20 assuming the statute did authorize them to be immune from a judgment against
21 the general, against the master, it's not in anything before the Court. And the
22 requirements are also under the statute that they have to maintain regular books
23 and records. There are no business licenses for any of these operating entities.
24 They need to have a business license.

1 So, I mean, Your Honor's concerns are well placed. What I'm trying
2 to get to here is there was discussion about how the State of Nevada allows this.
3 Well, okay, let's just assume their interpretation of what the State allows under the
4 statute was correct. I disagree. But assuming it was, they need to comply with the
5 law. The law should be strictly construed here in terms of what they need to comply
6 with to enjoy these protections under the statute. So they need to comply. I mean,
7 there was a discussion about the defendants -- their complying with the statute
8 as written. They haven't complied with the statute as written, at least not on this
9 record, Your Honor. So --

10 THE COURT: What would it take to do that, to comply with the statute as
11 written? What is this missing here?

12 MR. GREENBERG: Well, they need to have an operating agreement for
13 each of these series LLCs if they're going to enjoy this asset immunity, and the
14 operating agreement --

15 THE COURT: And that operating agreement would be between whom?

16 MR. GREENBERG: It would be created to govern the internal operations
17 of each individual LLC. That's what the operating agreement is. They don't have
18 to have --

19 THE COURT: Well, who's -- if it's an agreement, you've got at least two
20 people who are agreeing to something.

21 MR. GREENBERG: Well, an operating --

22 THE COURT: So who are the parties to one that if it complied with the
23 statute?

24 MR. GREENBERG: If you look -- we were looking at the statute, Your

1 Honor, which is -- I think you had it in front of you. It's at Exhibit C of my response
2 that was filed on Monday, although it was also attached by defendants. In Article 1
3 it says -- this section 1 of the statute, "The articles of organization or operating
4 agreement" -- I'm sorry, I'm giving Your Honor the incorrect reference here. The
5 reference is at 86.286. I was just referring you to 296.

6 THE COURT: Okay.

7 MR. GREENBERG: I'm reading it off of my computer here. At 86.286
8 there's a section that says Operating Agreement. "A limited liability company may
9 but is not required to adopt an operating agreement." So it is the company that
10 adopts the operating agreement for its operations. "An operating agreement may be
11 adopted only by the unanimous vote or unanimous written consent of the members,
12 which may be in any tangible or electronic format or by the sole member." So it
13 needs to be -- an operating agreement, if it's going to exist -- it doesn't have to
14 have one, but if it's going to exist it has to exist in some written form. It could be in
15 electronic form, it could be in paper.

16 THE COURT: If it doesn't have an operating agreement to create this
17 separate entity, what else could they do to create it?

18 MR. GREENBERG: Well, that's a good question, Your Honor. It's not
19 clear from the statute what would constitute the creation of the entity. I would
20 submit they would have to have some sort of memorialization in writing to create
21 the entity. I don't believe that's addressed in the statute. But the reason why the
22 operating agreement is critical in the circumstances we're dealing with here, and
23 this was again discussed on Wednesday and this is in the language of 296, which
24 we've gone over a number of times, which is to enjoy the limitations of liability of

1 the assets, the asset protection, it must be provided in the operating agreement or
2 in the certificate of organization filed with the Secretary of State. There is nothing
3 in the record here meeting that requirement.

4 THE COURT: So you're saying this language in paragraph 9 of this
5 operating agreement does not do so?

6 MR. GREENBERG: Well, it says it has separate powers, rights or duties
7 in respect to specified property or obligations to the company. What property or
8 obligations of the company? It doesn't tell us. I mean, and then it goes on in
9 paragraph 10, it says, "Debts, liabilities, obligations and expenses incurred with
10 respect to a series." It doesn't say this series, it just says a series. Again, it is
11 simply reciting the language, okay. But even if it said this series, meaning -- well,
12 you've got two different series identified here, too. Again, this is actually a contract
13 allegedly between these two series groups. "Are only enforceable against the
14 assets of that series and not against the company generally," the master. It doesn't
15 say anything about the series liability for judgment against the master, which is our
16 situation here, okay.

17 And again, it recites the statute about separate and distinct records
18 must be held and so forth and so on. We don't have any proof that they're separate
19 and distinct records. In fact, we have proof that they didn't have proper records
20 because they didn't have proper licenses to be conducting businesses. All of these
21 entities should have business licenses. They're not even before this Court because
22 they haven't appeared.

23 My point, Your Honor, is just because you spent a lot of time on this
24 and there's a lot more I could discuss about the issues you raised. There's, you

1 know, quite a few other things. But to bring us to the immediate issue that brought
2 us here is the status of these funds. And if the Court has agreed to take the limited
3 approach that I was requesting of the Court, which is simply to deny this motion but
4 not necessarily make any final determination as to the status of the interest in this
5 property, then I understand and I think that is clearly the correct decision to be
6 made. You know, Your Honor had talked about its concern with there being
7 irregularities. And as I tried to stress to the Court, it's not about making a final
8 determination, it's about what's before the Court, the indicia that there's reason to
9 believe that these funds are properly attached under the circumstances, whether
10 as counsel for the defendant was saying it would be through the form of some sort
11 of writ of attachment, through a constructive trust, through some sort of equitable
12 order.

13 The Court has certified this class for equitable relief, as the Court is
14 aware. I mean, we have an alter ego claim pending against Mr. Nady that's stayed
15 for the moment, okay. And so presumably these assets could be reached on that
16 claim, even if -- a judgment on that claim even if not to be reached on a judgment
17 on the existing claim. I'd also like to point out --

18 THE COURT: But that would only be if you do alter ego and pierce the --
19 whatever veils we have here at play and reach through to Mr. Nady. Is that correct?

20 MR. GREENBERG: Well, if we could. But what I wanted to point out to
21 the Court is Mr. Nady has apparently perjured himself in his deposition because
22 when he was asked at his deposition who are the members and owners of each of
23 those cells, who is it? It's me.

24 THE COURT: Yeah.

1 MR. GREENBERG: He says it's me. If you look at the operating agreement,
2 it's in fact the Laurie Nady Family Trust.

3 THE COURT: Yeah. Yeah.

4 MR. GREENBERG: So as I pointed out in my response --

5 THE COURT: I forgot that point. That raised concerns for me as well.

6 MR. GREENBERG: Well, it concerns me, Your Honor, okay, and I think
7 it has to have -- the Court have some serious questions about the veracity of all of
8 Mr. Nady's representations, which quite candidly the most extensive element of the
9 record we have here is his deposition testimony which I've given to the Court. And
10 as I pointed out to the Court in the response that you got yesterday afternoon, and
11 the Court I think understand this in terms of this question of there being some sort of
12 -- skullduggery was the term that was used by the defendants here, at his deposition
13 Mr. Nady testified that there have been three different Employee Leasing entities
14 used by the A Cab Taxi business since February of 2012 when they were authorized
15 to issue series until the date of his deposition which was a little over five years later
16 in June of 2017. When he was asked at his deposition why this was done, he
17 refused to answer. He invoked the attorney-client privilege, saying it's based upon
18 legal advice.

19 Now, this is not a criminal proceeding, Your Honor, this is a civil
20 proceeding. I believe given his conduct at his deposition, his testimony, there is
21 ample reason in this record to believe that there is something, there is skullduggery
22 going on here to, you know, use the terminology that was used by the defendants,
23 at least enough at this point to maintain the status quo, which is all I'm asking for
24 in respect to these assets.

1 The Court needs to make a clear, proper decision here on a full record
2 as it deems appropriate. As I said, you spent a lot of time on this. I'm taking up
3 too much of your time I feel, Your Honor, myself. I want to assist the Court. So I'm
4 asking the Court to just clarify what it's doing today, where it wants us to go. I know
5 Your Honor told us you're going to be away from the jurisdiction for two weeks. I
6 mean, you could reconvene us when you return. You could direct us to, you know,
7 engage in some further development of the record or presentation of information for
8 the Court's consideration on this issue.

9 I would suggest that if we are going to have continued proceedings
10 relating to the nature and ownership of these assets and whether they are in fact
11 subject to the judgment, that two things be done. One is that every single series
12 LLC that they claim has an interest in these assets or that they claim they've
13 operated under appear in this action and file an appearance if they claim they're
14 entities, they provide discovery on those. We can hold a deposition in Your Honor's
15 absence. I mean, it will be difficult on such short notice, but I can find time in the
16 next couple weeks to do that, if necessary. And that the Court also issues an order
17 enjoining A Cab LLC from issuing any new series LLCs because as we have Mr.
18 Nady's testimony in his deposition, apparently they just keep issuing the series LLCs
19 to evade the liability that's presented in this case. I mean, he was actually asked at
20 his deposition about the liabilities posed by this case and, again, he invoked counsel
21 and did not really dispute that this was the motivation behind the conduct of the
22 business and what was going on with the series LLCs.

23 Your Honor doesn't have to get into any of that at this point. These
24 are just suggestions, thoughts that I would share with the Court. Is there anything

1 I can do to assist the Court in terms of any issues in its mind or anything else?

2 THE COURT: I don't think so.

3 MR. GREENBERG: Thank you, Your Honor.

4 THE COURT: Thank you.

5 MS. DOVE: Your Honor, may I make one brief request?

6 THE COURT: Yes.

7 MS. DOVE: Just on behalf of Wells Fargo Bank, we just request that Your
8 Honor give us clear direction whether we should continue to attach the funds,
9 release the funds to either party in a release as we would get in an interpleader
10 scenario. We would be happy to file a motion for interpleader if Your Honor found
11 that necessary. However, these proceedings effectively are doing the same thing.

12 THE COURT: Uh-huh.

13 MS. DOVE: So if you would like us to file such a motion, we'd be happy to
14 if that would assist the Court.

15 THE COURT: I don't feel --

16 MS. DOVE: Otherwise we just would prefer to follow the Court's direction
17 and understand that by following whatever this Court orders that we would have a
18 coverable release of liability under that scenario.

19 THE COURT: I don't see the need to do that at this point. Does any party
20 feel the necessity of the bank filing it as an interpleader?

21 MR. SHAFER: No.

22 THE COURT: Assuming -- you know, that assumes, of course, that the
23 Court were to take action on the pending motion.

24 MS. DOVE: That's correct, Your Honor. It's just that as has been made

1 very clear, by continuing to attach the funds A Cab has represented that it will suffer,
2 you know, certain harms by the sort of status quo of the attachment.

3 THE COURT: Understood.

4 MS. DOVE: So I just was raising that for that particular reason.

5 THE COURT: Understood. I made a comment the other day about trying
6 to avoid killing the goose that lays the golden egg. That was partly in response
7 to the understandable desperation to get the funds to continue operation of the
8 company. It appears to me that it is unavoidable that I find, given these two --
9 given the issues that we've already discussed at great length, that I should deny the
10 motion for quashing the writ of execution. I recognize that this means most likely,
11 I assume, that the defendants will seek redress from the supreme court as an aid
12 to making those funds in the most -- keeping them where this Court could respond
13 promptly to whatever directive the supreme court gives. I would order that the funds
14 be transferred to the Clerk of this court pending further action by this Court.

15 It is true that we are not -- I was thinking that I would simply announce
16 my decision on the plaintiff's motion to amend, but it strikes me that so much is
17 going on here that it may -- because it was submitted on a chambers calendar for
18 yesterday or today -- yesterday, I am not in a hurry, I do not want to rush the
19 consideration of that motion. And so I'm not going to rule on that motion at this time.
20 I think that -- am I correct that the defendants will attempt some sort of redress with
21 the supreme court?

22 MR. SHAFER: I believe that is one of the options we're pursuing. There's
23 also the exemption process that still remains yet to be done pursuant to the writ of
24 execution statute. I'd like to make one request.

1 THE COURT: Yeah.

2 MR. SHAFER: I guess it's a two part request. The first is if the Court is
3 denying it, we would request maybe that you would grant it -- or deny it in part and
4 grant it in part as to the funds in the Employee Leasing Company. And if the Court
5 is not inclined to do that, that the Court would preclude further execution of the
6 funds against the company. Essentially we maintain the status quo until such time
7 as two weeks when we can -- for example, the person who drafted the agreement
8 with Holland & Hart has since deceased. And Mr. Oshins, we wanted him here
9 today, was detained unavoidably and couldn't come to testify about the records.
10 So I think there's still some arguments to be made here, so we would at least
11 request if the Court doesn't grant it in part and release only the Employee Leasing
12 funds, that the Court preclude further execution on the funds that might be
13 deposited into Wells Fargo accounts.

14 THE COURT: You mean further execution on yet other funds that would
15 be in the account?

16 MR. SHAFER: Correct. We maintain the status quo.

17 THE COURT: Mr. Greenberg, what's your take on such an order?

18 MR. GREENBERG: Your Honor, what I would submit to the Court is that
19 these funds were restrained because they were held in accounts under this EIN
20 number, which is the same EIN number we had when we started this lawsuit that's
21 on the W-2s issued to the employee class. To the extent that there are funds being
22 held under that EIN number for the purposes of paying the liabilities of that EIN
23 number, whether to the IRS or anyone else or just being held as an asset under that
24 designation, we believe they should properly be subject to execution. It is sufficient

1 to identify them as funds of the judgment debtor of A Cab LLC. So I -- we never
2 served a writ on just A Cab Series Leasing Company in the generic form, Your
3 Honor, I mean, and we're not going to do that. We don't even know that that
4 company exists. But we did serve an execution based upon the designation of
5 these funds being associated under that EIN. And I don't see that there's any basis
6 to restrain us from doing that. A Cab, if it wishes to stop the process of execution
7 here, can post a bond. It has an appeal currently pending. It automatically will
8 stay our action.

9 THE COURT: Uh-huh.

10 MR. GREENBERG: Presumably they could post a bond and get this
11 \$230,000 released. We would consent to have the bond posted in the amount of
12 \$960,000, which is somewhat less than the full amount of the judgment your order
13 entered because your order restrained us from collection at this time of more than
14 that \$960,000 amount --

15 THE COURT: Uh-huh.

16 MR. GREENBERG: -- because there is a question as to a certain credit
17 that Your Honor provided for A Cab to still receive of about \$60,000 or so. If they'll
18 post a bond for the \$960,000, they will restrain all action on the judgment at this
19 time. So they have options, Your Honor. They just don't want to post a bond
20 because they're afraid of what's going to happen on the appeal, Your Honor.

21 MR. SHAFER: Your Honor, we can't post a bond. Because these funds
22 are held, we cannot post a bond at this time. We would be inclined to pursue that
23 option, but we can't because they're holding the funds. We deny that the EIN --
24 he's correct --

1 THE COURT: In other words, your client, Mr. Nady and A Cab LLC are
2 not able to post a bond, they don't have the money?

3 MR. SHAFER: They don't have the collateral to secure that. The other --
4 and I'll just briefly make this because I know we've run very long in this instance.
5 He is correct, there was not a writ served with the EIN number. The EIN number
6 that they're saying belongs to one company, he's incorrect on who it belongs to.
7 That issue has not been briefed before the Court. We anticipate it will be at some
8 future point. That's why we're asking until the Court returns in two weeks and we've
9 submitted additional briefing, which we anticipate will be forthcoming very shortly,
10 that they don't dig the knife any deeper, that they don't take these unrelated
11 companies, who we argue are unrelated, and hurt them further. What's going to
12 happen is they're not going to put the money in Wells Fargo. They're going to
13 have to have other work-arounds which are going to disrupt the operations of the
14 company and kill the golden goose, as it were.

15 So if the Court is not inclined to release in part, I think that it is only
16 fair to just put a stay on the proceedings on this particular writ. I'm not asking you
17 to restrain their ability to file other motions or other proceedings, but just as to this
18 account so there's some security that Wells Fargo -- that my company or A Cab
19 can continue to operate. If there are transfers --

20 THE COURT: You're suggesting that I put a stay on what?

21 MR. SHAFER: On further execution on the writ that was served on Wells
22 Fargo beyond -- and we're not asking for a stay on A Cab or A Cab Taxi -- as to
23 these other separately named series LLCs, that money is not withheld from those
24 accounts in the future or at any bank, really, as to the separately held LLCs. They

1 can go against A Cab and the named parties to their heart's content and they can
2 file whatever motions they would like to do. But until such time as there's been
3 further briefing, let's put a stay on the --

4 THE COURT: Do you represent any of these series LLC entities?

5 MR. SHAFER: I had not presently been retained at that point. I anticipate
6 we will do so when we file a request for exemptions.

7 THE COURT: Do you represent any of those entities?

8 MS. RODRIGUEZ: I think Mr. Wall -- I'm not trying to make a joke, Your
9 Honor, but yesterday he was anticipating contacting the entirety of Hutchison &
10 Steffen to make an appearance on perhaps 120 plus series individual entities if the
11 Court was going to require representation for each one of the entities. I'm a sole
12 practitioner. I don't have 120 lawyers, fortunately or unfortunately in my firm.

13 THE COURT: Yeah.

14 MS. RODRIGUEZ: But, no, in answer to the Court, I don't currently
15 represent the series.

16 THE COURT: These problems and these challenges come back to the
17 attempted use of Nevada's new -- relatively new series LLC statute. And, you know,
18 essentially for all the reasons that we've discussed and even more, this Court
19 concludes that they have not correctly in such a way as to assure due process to --
20 you know, you could say the public, but certainly to the plaintiffs, class members
21 who are employed by somebody in all of that. And so I don't -- you know, I've
22 wrestled with that myself as far -- I've taken it as far as I can without holding this
23 whole process up even further, which would simply keep the money out of anyone's
24 hands for even longer.

1 So that's why I've gone and ahead and ruled as I have and now the
2 defendant is free to seek redress on the central issue of whether or not these
3 separate entities have been created in such a way that it does not deny the rights
4 of the plaintiff class members. Or whether in order to assure that that has not
5 happened, the Court must construe the Nevada Series LLC statute in such a way
6 as to not have that happen. For example, falling back on the LLC statute like the
7 one that I read, 86.141. It's difficult to believe that the Nevada Legislature intended
8 to create something, the series LLC organizational statutes, and to on purpose
9 avoid the very important imperative in 86.141 that you can't use all these things as
10 a way to conceal the business activity in a way that winds up working a denial of
11 due process in the form of the execution, getting the monies that the plaintiff has
12 established were not paid to these individuals.

13 So anyway, I am only going to rule on that motion. I am denying it.
14 And if you wish to argue further on the -- I'm going to regret saying this, I know, but
15 I'm trying not to just rush through this as best as possible -- on plaintiff's motion,
16 rather than simply handling it on the calendar, if you wish we can do oral argument
17 on it, or handle it on the calendar. Does anybody wish oral argument on the
18 plaintiff's motion?

19 MR. GREENBERG: Your Honor, all I would like to say about that is I
20 believe the discussion we had today and defendant's counsel relating to A Cab LLC
21 and A Cab Series LLC establishes what I had represented to the Court, which is
22 that it is the same entity. There is no motion to amend to bring in a different entity.
23 A Cab LLC --

24 THE COURT: Actually I was just asking if you wanted to do further oral

1 argument. I wasn't asking for your argument.

2 MR. GREENBERG: I understand, Your Honor. I have not -- I mean, I think
3 this is all discussed in the papers. I mean, if the Court wants oral argument, if it
4 would help the Court, I want to help the Court, but.

5 THE COURT: Does the defense wish further oral argument on that motion?

6 MR. SHAFER: Yes, we would, on the motion for --

7 THE COURT: To amend the judgment.

8 MR. SHAFER: Yes. We would like further argument on that point.

9 THE COURT: All right. Is it a matter that can wait for two weeks?

10 MR. SHAFER: Well, I think at this point we have to wait because of the
11 Court's schedule.

12 THE COURT: Well, I'm not --

13 MR. SHAFER: And, you know, to be honest --

14 THE COURT: I'm here to serve. If I needed to be here in a week, I'd find
15 a way to do it.

16 MR. SHAFER: I appreciate that. We also would like to get -- we need to
17 go back to Holland & Hart and have them pull their client records because these are
18 not the total corporate records that have ever existed. And -- yes, so we would like
19 further argument on that point.

20 And I did have one question for clarification.

21 THE COURT: Yes.

22 MR. SHAFER: In the basis for its decision, is the Court ruling that the
23 February 2012 filing for the A Cab Series LLC was ineffective to notify the public of
24 the series election?

1 THE COURT: I don't think I would hold that. I think the way that it's set up
2 it appears to -- it appears to contemplate that if you're doing business with a series
3 LLC then you need to do this further scrutiny, as you've described it. The question
4 then becomes, well, does that mean if you sue an LLC and you go through litigation
5 for five years or more and then during the litigation the LLC changes what it is, that
6 is, a legally functioning series LLC by virtue of changing its name, then -- well, you
7 see where I'm going.

8 MR. SHAFER: Okay. All right, thank you.

9 THE COURT: All right. So is it sufficient if we set this for two weeks hence?

10 MR. SHAFER: Yes.

11 THE COURT: All right.

12 MR. GREENBERG: What day is that, Your Honor?

13 THE COURT: I haven't set it yet.

14 MR. GREENBERG: Oh, okay.

15 THE COURT: I'm just looking to see.

16 THE CLERK: Do you want a separate day?

17 THE COURT: Yeah, we'd have to have a separate day.

18 THE CLERK: We could do the 18th or the 19th, Thursday or Friday.

19 MS. RODRIGUEZ: Could we possibly do it maybe the following week,
20 because I anticipate -- well, I know I'll be in Prescott, Arizona on depositions the
21 17th, 18th and 19th.

22 THE COURT: Saturday?

23 MS. RODRIGUEZ: That's Wednesday, Thursday, Friday, I believe, Your
24 Honor.

1 THE COURT: Oh. Okay. So --

2 MS. RODRIGUEZ: Hopefully not Saturday. But I don't know if there's an
3 availability any time that following week, the 22nd through the 26th.

4 MR. GREENBERG: The 26th is Nevada Day. Yeah, that is Nevada Day.

5 MS. RODRIGUEZ: Or I can do it before then, the 15th or 16th.

6 THE CLERK: We're dark.

7 MS. RODRIGUEZ: Oh.

8 (The Court confers with the clerk)

9 THE COURT: Okay. Let's do Monday, October 22nd.

10 MR. GREENBERG: If that's what the Court believes is best, of course.

11 We're here to help the Court. I understand that.

12 THE COURT: Does that work?

13 MR. GREENBERG: It works, Your Honor. We will be here on the 22nd.

14 In terms of Your Honor's decision today, do you want an order submitted? And if
15 so --

16 THE COURT: I think we better because otherwise they won't have anything
17 to appeal.

18 MR. GREENBERG: I just want to be sure that I don't do anything beyond
19 what the Court -- I mean, we could have a very summary order that simply denies
20 the motion. If Your Honor wants findings in accordance with what I understood Your
21 Honor's view was of the record before it, I can try to draft some findings that aren't
22 extremely extensive. I don't know that we need extensive --

23 THE COURT: It would be extremely difficult to draft such findings. My
24 understanding is that you don't necessarily have to do that if it's a denial of a motion.

1 MR. GREENBERG: I would agree, Your Honor. I don't see -- I just want to
2 help the Court in terms of what the Court would like presented. I'm not asking the
3 Court to sign off on an order with lots of detailed findings.

4 THE COURT: Which means that you would need a transcript to take this
5 up. You know, this is the second time that this will have gone to the supreme court
6 and the supreme court did not like what I did last time, so I'm sensitive to that. I'm
7 sensible of it. And I want to do everything that the Court can to aid your process
8 so that the right decision can be made on what I think is a precedent-setting case.
9 I assume that you all agree with that?

10 MR. SHAFER: I agree this is likely -- this could very well be a published
11 opinion if the supreme court addresses it.

12 MR. DOVE: And just -- I'm sorry. I was just going to request that any
13 written order just include the direction to Wells Fargo --

14 THE COURT: Pay the money to the Clerk of the Court.

15 MS. DOVE: -- regarding depositing the funds, etcetera, so that we have
16 that in writing --

17 THE COURT: Yeah.

18 MS. DOVE: -- and not dependent on a transcript, if possible.

19 THE COURT: Okay.

20 MR. GREENBERG: Given the issue Your Honor has just raised, I realize
21 that perhaps some sort of more than summary order might helpful --

22 THE COURT: All right.

23 MR. GREENBERG: -- to the process here, Your Honor. So I will consider
24 all that. I will try to cooperate with the defendants, of course, and get something to

1 the Court that hopefully is not overly burdensome for anybody's review, but not
2 necessarily completely summary, either.

3 THE COURT: All right. Oh, we have the defendant's motion for
4 reconsideration presently set on the 18th of October. Do you want to move that
5 to the 22nd as well?

6 MR. GREENBERG: That was your chambers calendar, I believe, Your
7 Honor.

8 MS. RODRIGUEZ: Yes, if we could, please.

9 THE COURT: Oh, is that chambers calendar? Okay.

10 THE CLERK: The motion to amend is also -- they're both chambers.

11 THE COURT: Yeah. But we're changing the motion to amend to an oral
12 hearing date.

13 THE CLERK: Do you want that one changed too?

14 THE COURT: What's your pleasure? Do you want to leave that as a
15 chambers calendar for the 18th?

16 MS. RODRIGUEZ: No, Your Honor. That's our motion. We would like oral
17 argument on it as well. I don't know what time. Did you give us a time?

18 THE CLERK: I didn't. I was going to go ten o'clock. Do you want it at ten?

19 THE COURT: Yeah, ten o'clock. Yeah. So that will be ten o'clock on
20 October 22nd. That will be both motions --

21 MS. RODRIGUEZ: Thank you.

22 THE COURT: -- on that day.

23 MR. GREENBERG: Thank you, Your Honor. A minute order, I take it, will
24 issue so that the record is clear as to the disposition as of today. I understand we

1 need to submit a formal order to the Court, correct?

2 THE COURT: Yes. The minute order will issue, but if we need -- I think
3 we need an order, something for the supreme court to deal with.

4 MR. GREENBERG: I will work on getting that to the Court promptly, Your
5 Honor.

6 THE COURT: All right. Thank you.

7 MR. GREENBERG: Thank you, Your Honor.

8 THE COURT: Anything else that we need to address at this point?

9 MR. SHAFER: Just one clarification. You're ordering the money that is
10 currently held by Wells Fargo to be submitted to the Clerk?

11 THE COURT: The Clerk of the Court.

12 MR. SHAFER: But future garnishments will go through the normal process
13 that whatever --

14 THE COURT: Yes. I'm really -- you know, I'm entering no order in relation
15 to future garnishments.

16 MR. SHAFER: Okay.

17 THE COURT: So I assume it would fall to the plaintiff to take some action
18 again, would it not?

19 MR. SHAFER: Sometimes.

20 THE COURT: Execution?

21 MR. SHAFER: Yeah. And then there's the ordinary -- you know, there's --
22 you're not ruling on the exemptions and all the other procedural things that happen,
23 it was just our motion to quash?

24 THE COURT: Yeah, that's correct.

1 MR. SHAFER: Okay.

2 THE COURT: That's all I really had before me. I necessarily had to look at
3 all these things in order to know whether to grant the motion to quash. But it really is
4 -- it's only intended to be to deny the motion to quash the execution.

5 MR. SHAFER: Thank you, Your Honor.

6 MR. GREENBERG: Thank you, Your Honor.

7 THE COURT: Okay. Thank you all.

8 (PROCEEDINGS CONCLUDED AT 12:45 P.M.)

9 * * * * *

10

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

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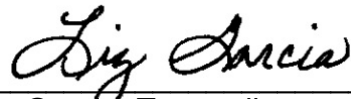
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Liz Garcia, Transcriber
LGM Transcription Service

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10/04/2018

Heather S. Lemin

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1 **DOC**2 A Cab Series, LLC, Maintenance Company3 *(Name)*

1500 Searles

4 *(Address)*

Las Vegas NV 89101

5 *(City, State, Zip Code)*

702-369-5686

6 *(Telephone Number)*7 *(E-mail Address)*8 ☐ Defendant/ ☒ Other, In Proper Person9 **EIGHTH JUDICIAL DISTRICT COURT**10 **CLARK COUNTY, NEVADA**11 MICHAEL MURRAY and MICHAEL RENO

12 Plaintiff(s),

Case No.: A-12-669926-C13 Dept. No.: 1 ☒

14 vs.

15 **CLAIM OF EXEMPTION FROM
EXECUTION**16 A CAB TAXI SERVICE LLC and A CAB LLC et al
17 Defendant(s).18 I, *(insert your name)* A Cab Series, LLC, Maintenance Company, submit this Claim of
19 Exemption from Execution pursuant to NRS 21.112 and state as follows:20 *(Check only one of the following boxes.)*21 ☐ I am a Defendant in this case and have had my wages withheld or have received a Notice of
22 Execution regarding the attachment or garnishment of my wages, money, benefits, or
23 property.24 ☒ I am not a Defendant in this case, but my wages, money, benefits, or property are the subject
25 of an attachment or garnishment relating to a Defendant in this case. (NRS 21.112(10).)26 My wages, money, benefits, or property are exempt by law from execution as indicated below.
27 Pursuant to NRS 21.112(4), if the Plaintiff/Judgment Creditor does not file an objection and notice of
28 hearing in response to this Claim of Exemption within eight judicial days after my Claim of Exemption
29 from Execution has been served, any person who has control or possession over my wages, money,
30 benefits, or property (such as my employer or bank, for example) must release them to me within nine

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

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

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

- 1 ☐ Money received as a result of the federal Earned Income Tax Credit or similar credit provided
2 under Nevada law. (NRS 21.090(1)(aa).)
- 3 ☒ \$10,000 or less of my money or personal property, identified as *(describe the specific money or property you*
4 *wish to make exempt)* \$10,000 held in the Wells Fargo Bank Account
5 which is not otherwise exempt under NRS 21.090. (NRS 21.090(1)(z).)
- 6 ☐ Money, up to \$1,000,000, held in a retirement plan which conforms with or is maintained
7 pursuant to applicable limitations and requirements of the Internal Revenue Code, including, but
8 not limited to, an IRA, 401k, 403b, or other qualified stock bonus, pension, or profit-sharing plan.
9 (NRS 21.090(1)(r).)
- 10 ☐ All money, benefits, privileges, or immunities derived from a life insurance policy. (NRS
11 21.090(1)(k).)
- 12 ☐ Money, benefits, or refunds payable or paid from Nevada's Public Employees' Retirement System
13 pursuant to NRS 286.670. (NRS 21.090(1)(ii).)
- 14 ☐ A homestead recorded pursuant to NRS 115.010 on a dwelling (house, condominium, townhome,
15 and land) or a mobile home where my equity does not exceed \$550,000. (NRS 21.090(1)(l).)
- 16 ☐ My dwelling, occupied by me and my family, where the amount of my equity does not exceed
17 \$550,000, and I do not own the land upon which the dwelling is situated. (NRS 21.090(1)(m).)
- 18 ☐ Check here if the judgment being collected arises from a medical bill. If it does, your
19 primary dwelling and the land upon which it is situated (if owned by you), including a mobile
20 or manufactured home, are exempt from execution regardless of your equity. (NRS 21.095.)
- 21 ☐ My vehicle, where the amount of equity does not exceed \$15,000, or I will pay the judgment
22 creditor any amount over \$15,000 in equity. (NRS 21.090(1)(f).)
- 23 ☐ Check here if your vehicle is specially equipped or modified to provide mobility for you or
24 your dependent and either you or your dependent has a permanent disability. Your vehicle is
25 exempt regardless of the equity. (NRS 21.090(1)(p).)
- 26 ☐ A prosthesis or any equipment prescribed by a physician or dentist for me or my dependent.
27 (NRS 21.090(1)(q).)
- 28 ☐ My private library, works of art, musical instruments, jewelry, or keepsakes belonging to me or

1 my dependent, chosen by me and not to exceed \$5,000 in value. (NRS 21.090(1)(a).)

2 ☐ My necessary household goods, furnishings, electronics, clothes, personal effects, or yard
3 equipment, belonging to me or my dependent, chosen by me and not to exceed \$12,000 in value.
4 (NRS 21.090(1)(b).)

5 ☐ Money or payments received from a private disability insurance plan. (NRS 21.090(1)(ee).)

6 ☐ Money in a trust fund for funeral or burial services pursuant to NRS 689.700. (NRS 21.090(1)(ff).)

7 ☐ My professional library, equipment, supplies, and the tools, inventory, instruments, and materials
8 used to carry on my trade or business for the support of me and my family not to exceed \$10,000
9 in value. (NRS 21.090(1)(d).)

10 ☐ Money that I reasonably deposited with my landlord to rent or lease a dwelling that is used as my
11 primary residence, unless the landlord is enforcing the terms of the rental agreement or lease.
12 (NRS 21.090(1)(n).)

13 ☐ Money or payments, up to \$16,150, received as compensation for personal injury, not including
14 compensation for pain and suffering or actual pecuniary loss, by me or by a person upon whom I
15 am dependent. (NRS 21.090(1)(u).)

16 ☐ Money or payments received as compensation for loss of my future earnings or for the wrongful
17 death or loss of future earnings of a person upon whom I was dependent, to the extent reasonably
18 necessary for the support of me and my dependents. (NRS 21.090(1)(v)-(w).)

19 ☐ Money or payments received as restitution for a criminal act. (NRS 21.090(1)(x).)

20 ☐ Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270. (NRS
21 21.090(1)(jj).)

22 ☐ Child welfare assistance provided pursuant to NRS 432.036. (NRS 21.090(1)(ll).)

23 ☒ Other: The garnished funds are the sole and separate property of a Series LLC as established by
24 NRS 86.296

25 **AUTOMATIC BANK ACCOUNT EXEMPTIONS**

26 *(Some direct-deposit funds are automatically protected and should not be taken from your bank account. If automatically*
27 *protected money was taken from your bank account, check the appropriate box below and attach proof of direct-deposit benefits.)*

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

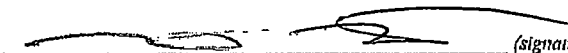
two months are protected, and I am, therefore, entitled to full and customary access to that protected amount. (31 C.F.R. part 212.6(a).) Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above.

- ☐ Exempt state or federal benefits were electronically deposited into my personal bank account during the 45-day period preceding Plaintiff's service of the writ of execution or garnishment relating to my personal bank account, and under Nevada law, I am entitled to full and customary access to \$2,000 or the entire amount in the account, whichever is less, regardless of any other deposits of money into the account. Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above. (NRS 21.105.)
- ☐ A writ of execution or garnishment was levied on my personal bank account, and under Nevada law, I am entitled to full and customary access to \$400 or the entire amount in my account, whichever is less, unless the writ is for the recovery of money owed for the support of any person. Money in my personal bank account that exceeds \$400 may be subject to the exemptions stated above. (NRS 21.105.)

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

DATED this 2nd day of October, 20 18.

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

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 3rd day of October, 2018, I placed
 a true and correct copy of the foregoing **CLAIM OF EXEMPTION FROM EXECUTION** in the
 United States Mail, with first-class postage prepaid, addressed to the following *(insert the name and address of the*
following parties/entities):

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

☐ Sheriff or ☐ Constable:

Office of Ex-Officio Constable

301 E Clark Avenue, Suite 100

Las Vegas NV 89101

Garnishee: ☐ Employer

Wells Fargo Bank

☒ Bank

1121 Las Vegas Boulevard South

☐ Other

Las Vegas NV 89104

DATED this 3rd day of October, 2018.

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



(signature)

EDWARD AVAKIAN

(print name)

☐ Defendant/ ☒ Other, In Proper Person

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Heather L. Shuman
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1 **DOC**

2 A Cab Series, LLC, CCards Company

3 (Name)

1500 Searles

4 (Address)

Las Vegas NV 89101

5 (City, State, Zip Code)

702-369-5686

6 (Telephone Number)

7 (E-mail Address)

☐ Defendant/ ☒ Other, In Proper Person

8 **EIGHTH JUDICIAL DISTRICT COURT**

9 **CLARK COUNTY, NEVADA**

10 MICHAEL MURRAY and MICHAEL RENO

11 Plaintiff(s),

Case No.: A-12-669926-C

Dept. No.: 1 ☒

12 vs.

13 **CLAIM OF EXEMPTION FROM
EXECUTION**

14 A CAB TAXI SERVICE LLC and A CAB LLC et al

15 Defendant(s).

16 I, (insert your name) A Cab Series, LLC, CCards Company, submit this Claim of

17 Exemption from Execution pursuant to NRS 21.112 and state as follows:

18 (Check only one of the following boxes.)

19 ☐ I am a Defendant in this case and have had my wages withheld or have received a Notice of
20 Execution regarding the attachment or garnishment of my wages, money, benefits, or
21 property.

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

24 My wages, money, benefits, or property are exempt by law from execution as indicated below.

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

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

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

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

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

my dependent, chosen by me and not to exceed \$5,000 in value. (NRS 21.090(1)(a).)

☐ My necessary household goods, furnishings, electronics, clothes, personal effects, or yard equipment, belonging to me or my dependent, chosen by me and not to exceed \$12,000 in value. (NRS 21.090(1)(b).)

☐ Money or payments received from a private disability insurance plan. (NRS 21.090(1)(ee).)

☐ Money in a trust fund for funeral or burial services pursuant to NRS 689.700. (NRS 21.090(1)(ff).)

☐ My professional library, equipment, supplies, and the tools, inventory, instruments, and materials used to carry on my trade or business for the support of me and my family not to exceed \$10,000 in value. (NRS 21.090(1)(d).)

☐ Money that I reasonably deposited with my landlord to rent or lease a dwelling that is used as my primary residence, unless the landlord is enforcing the terms of the rental agreement or lease. (NRS 21.090(1)(n).)

☐ Money or payments, up to \$16,150, received as compensation for personal injury, not including compensation for pain and suffering or actual pecuniary loss, by me or by a person upon whom I am dependent. (NRS 21.090(1)(u).)

☐ Money or payments received as compensation for loss of my future earnings or for the wrongful death or loss of future earnings of a person upon whom I was dependent, to the extent reasonably necessary for the support of me and my dependents. (NRS 21.090(1)(v)-(w).)

☐ Money or payments received as restitution for a criminal act. (NRS 21.090(1)(x).)

☐ Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270. (NRS 21.090(1)(jj).)

☐ Child welfare assistance provided pursuant to NRS 432.036. (NRS 21.090(1)(ll).)

☒ Other: The garnished funds are the sole and separate property of a Series LLC as established by

NRS 86.296

AUTOMATIC BANK ACCOUNT EXEMPTIONS

(Some direct-deposit funds are automatically protected and should not be taken from your bank account. If automatically protected money was taken from your bank account, check the appropriate box below and attach proof of direct-deposit benefits.)

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

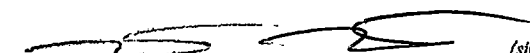
two months are protected, and I am, therefore, entitled to full and customary access to that protected amount. (31 C.F.R. part 212.6(a).) Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above.

- ☐ Exempt state or federal benefits were electronically deposited into my personal bank account during the 45-day period preceding Plaintiff's service of the writ of execution or garnishment relating to my personal bank account, and under Nevada law, I am entitled to full and customary access to \$2,000 or the entire amount in the account, whichever is less, regardless of any other deposits of money into the account. Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above. (NRS 21.105.)
- ☐ A writ of execution or garnishment was levied on my personal bank account, and under Nevada law, I am entitled to full and customary access to \$400 or the entire amount in my account, whichever is less, unless the writ is for the recovery of money owed for the support of any person. Money in my personal bank account that exceeds \$400 may be subject to the exemptions stated above. (NRS 21.105.)

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

DATED this 2nd day of October, 20 18.

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

 (signature)
Jane Beck (print name)
☐ Defendant/ ☒ Other, In Proper Person

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 3rd day of October, 2018, I placed
 a true and correct copy of the foregoing **CLAIM OF EXEMPTION FROM EXECUTION** in the
 United States Mail, with first-class postage prepaid, addressed to the following *(insert the name and address of the*
following parties/entities):

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

☐ Sheriff or ☐ Constable:

Office of Ex-Officio Constable
301 E Clark Avenue, Suite 100
Las Vegas NV 89101

Garnishee: ☐ Employer
☒ Bank
☐ Other

Wells Fargo Bank
1121 Las Vegas Boulevard South
Las Vegas NV 89104

DATED this 3rd day of October, 2018.

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

Edward Avakian (signature)
EDWARD AVAKIAN (print name)
☐ Defendant/ ☒ Other, In Proper Person

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10/04/2018

Heather S. Hume

CLERK OF THE COURT

1 **DOC**2 A Cab Series, LLC, Administration Company

3 (Name)

1500 Searles

4 (Address)

Las Vegas NV 89101

5 (City, State, Zip Code)

702-369-5686

6 (Telephone Number)

7 (E-mail Address)

8 ☐ Defendant/ ☒ Other, In Proper Person9 **EIGHTH JUDICIAL DISTRICT COURT**10 **CLARK COUNTY, NEVADA**11 MICHAEL MURRAY and MICHAEL RENO

12 Plaintiff(s),

Case No.: A-12-669926-C13 Dept. No.: 1 ☒

14 vs.

15 **CLAIM OF EXEMPTION FROM
EXECUTION**16 A CAB TAXI SERVICE LLC and A CAB LLC et al

17 Defendant(s).

18 I, (insert your name) A CAB SERIES, LLC, ADMINISTRATION COMPANY, submit this Claim of

19 Exemption from Execution pursuant to NRS 21.112 and state as follows:

20 (Check only one of the following boxes.)

21 ☐ I am a Defendant in this case and have had my wages withheld or have received a Notice of
22 Execution regarding the attachment or garnishment of my wages, money, benefits, or
23 property.24 ☒ I am not a Defendant in this case, but my wages, money, benefits, or property are the subject
25 of an attachment or garnishment relating to a Defendant in this case. (NRS 21.112(10).)

My wages, money, benefits, or property are exempt by law from execution as indicated below.

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

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

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

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

- 1 ☐ Money received as a result of the federal Earned Income Tax Credit or similar credit provided
2 under Nevada law. (NRS 21.090(1)(aa).)
- 3 ☒ \$10,000 or less of my money or personal property, identified as *(describe the specific money or property you*
4 *wish to make exempt)* \$10,000 held in the Wells Fargo Bank Account,
5 which is not otherwise exempt under NRS 21.090. (NRS 21.090(1)(z).)
- 6 ☐ Money, up to \$1,000,000, held in a retirement plan which conforms with or is maintained
7 pursuant to applicable limitations and requirements of the Internal Revenue Code, including, but
8 not limited to, an IRA, 401k, 403b, or other qualified stock bonus, pension, or profit-sharing plan.
9 (NRS 21.090(1)(r).)
- 10 ☐ All money, benefits, privileges, or immunities derived from a life insurance policy. (NRS
11 21.090(1)(k).)
- 12 ☐ Money, benefits, or refunds payable or paid from Nevada's Public Employees' Retirement System
13 pursuant to NRS 286.670. (NRS 21.090(1)(ii).)
- 14 ☐ A homestead recorded pursuant to NRS 115.010 on a dwelling (house, condominium, townhome,
15 and land) or a mobile home where my equity does not exceed \$550,000. (NRS 21.090(1)(l).)
- 16 ☐ My dwelling, occupied by me and my family, where the amount of my equity does not exceed
17 \$550,000, and I do not own the land upon which the dwelling is situated. (NRS 21.090(1)(m).)
- 18 ☐ Check here if the judgment being collected arises from a medical bill. If it does, your
19 primary dwelling and the land upon which it is situated (if owned by you), including a mobile
20 or manufactured home, are exempt from execution regardless of your equity. (NRS 21.095.)
- 21 ☐ My vehicle, where the amount of equity does not exceed \$15,000, or I will pay the judgment
22 creditor any amount over \$15,000 in equity. (NRS 21.090(1)(f).)
- 23 ☐ Check here if your vehicle is specially equipped or modified to provide mobility for you or
24 your dependent and either you or your dependent has a permanent disability. Your vehicle is
25 exempt regardless of the equity. (NRS 21.090(1)(p).)
- 26 ☐ A prosthesis or any equipment prescribed by a physician or dentist for me or my dependent.
27 (NRS 21.090(1)(q).)
- 28 ☐ My private library, works of art, musical instruments, jewelry, or keepsakes belonging to me or

- 1 my dependent, chosen by me and not to exceed \$5,000 in value. (NRS 21.090(1)(a).)
- 2 ☐ My necessary household goods, furnishings, electronics, clothes, personal effects, or yard
- 3 equipment, belonging to me or my dependent, chosen by me and not to exceed \$12,000 in value.
- 4 (NRS 21.090(1)(b).)
- 5 ☐ Money or payments received from a private disability insurance plan. (NRS 21.090(1)(ee).)
- 6 ☐ Money in a trust fund for funeral or burial services pursuant to NRS 689.700. (NRS 21.090(1)(ff).)
- 7 ☐ My professional library, equipment, supplies, and the tools, inventory, instruments, and materials
- 8 used to carry on my trade or business for the support of me and my family not to exceed \$10,000
- 9 in value. (NRS 21.090(1)(d).)
- 10 ☐ Money that I reasonably deposited with my landlord to rent or lease a dwelling that is used as my
- 11 primary residence, unless the landlord is enforcing the terms of the rental agreement or lease.
- 12 (NRS 21.090(1)(n).)
- 13 ☐ Money or payments, up to \$16,150, received as compensation for personal injury, not including
- 14 compensation for pain and suffering or actual pecuniary loss, by me or by a person upon whom I
- 15 am dependent. (NRS 21.090(1)(u).)
- 16 ☐ Money or payments received as compensation for loss of my future earnings or for the wrongful
- 17 death or loss of future earnings of a person upon whom I was dependent, to the extent reasonably
- 18 necessary for the support of me and my dependents. (NRS 21.090(1)(v)-(w).)
- 19 ☐ Money or payments received as restitution for a criminal act. (NRS 21.090(1)(x).)
- 20 ☐ Money paid or rights existing for vocational rehabilitation pursuant to NRS 615.270. (NRS
- 21 21.090(1)(jj).)
- 22 ☐ Child welfare assistance provided pursuant to NRS 432.036. (NRS 21.090(1)(ll).)
- 23 ☒ Other: The garnished funds are the sole and separate property of a Series LLC as established by
- 24 NRS 86.296

AUTOMATIC BANK ACCOUNT EXEMPTIONS

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

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

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

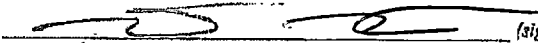
two months are protected, and I am, therefore, entitled to full and customary access to that protected amount. (31 C.F.R. part 212.6(a).) Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above.

- ☐ Exempt state or federal benefits were electronically deposited into my personal bank account during the 45-day period preceding Plaintiff's service of the writ of execution or garnishment relating to my personal bank account, and under Nevada law, I am entitled to full and customary access to \$2,000 or the entire amount in the account, whichever is less, regardless of any other deposits of money into the account. Money in my personal bank account that exceeds that amount may be subject to the exemptions stated above. (NRS 21.105.)
- ☐ A writ of execution or garnishment was levied on my personal bank account, and under Nevada law, I am entitled to full and customary access to \$400 or the entire amount in my account, whichever is less, unless the writ is for the recovery of money owed for the support of any person. Money in my personal bank account that exceeds \$400 may be subject to the exemptions stated above. (NRS 21.105.)

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

DATED this 2nd day of October, 20 18.

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

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

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on the 3rd day of October, 2018, I placed
 a true and correct copy of the foregoing **CLAIM OF EXEMPTION FROM EXECUTION** in the
 United States Mail, with first-class postage prepaid, addressed to the following *(insert the name and address of the*
following parties/entities):

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

☐ Sheriff or ☐ Constable:

Office of Ex-Officio Constable
301 E Clark Avenue, Suite 100
Las Vegas NV 89101

Garnishee: ☐ Employer

☒ Bank

☐ Other

Wells Fargo Bank

1121 Las Vegas Boulevard South

Las Vegas NV 89104

DATED this 3rd day of October, 2018.

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

Eddie Avakian

(signature)

EDWARD AVAKIAN

(print name)

☐ Defendant/ ☒ Other, In Proper Person

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Electronically Filed
10/04/2018

Heather S. Hemin
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1 **DOC**

2 A Cab Series, LLC, Taxi Leasing Company

3 (Name)

1500 Searles

4 (Address)

Las Vegas NV 89101

(City, State, Zip Code)

702-369-5686

(Telephone Number)

(E-mail Address)

☐ Defendant/ ☒ Other, In Proper Person

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

MICHAEL MURRAY and MICHAEL RENO

Plaintiff(s),

Case No.: A-12-669926-C

Dept. No.: 1 ☒

vs.

**CLAIM OF EXEMPTION FROM
EXECUTION**

A CAB TAXI SERVICE LLC and A CAB LLC et al
Defendant(s).

I, (Insert your name) A Cab Series, LLC, Taxi Leasing Company, submit this Claim of

Exemption from Execution pursuant to NRS 21.112 and state as follows:

(Check only one of the following boxes.)

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

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

My wages, money, benefits, or property are exempt by law from execution as indicated below.

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

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

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

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