

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
VOLUME 10
PAGES 2251-2500**

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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
162	Notice of Appeal	06/14/22	17	4194–4195
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 NRCP 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 NRCP 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
LEON GREENBERG
PROFESSIONAL CORPORATION
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Las Vegas, Nevada 89146

CHRISTIAN GABROY
GABROY LAW OFFICES
170 S. Green Valley Parkway, Suite 280
Henderson, Nevada 89012

Attorneys for Respondents

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

7 That I reported the taking of
8 Michael Murray, commencing on Wednesday
9 2015, at the hour of 1:59 p.m.; that
10 was, by me, duly sworn to testify to
11 that I thereafter transcribed my said
12 notes into typewriting, and that the
13 transcript of said deposition is a
14 and accurate transcription of said
15 that I am not a relative or employee
16 parties involved in said action, nor
17 employee of an attorney involved in
18 financially interested in said action
19 the reading and signing of the transcript
20 requested.

21 IN WITNESS WHEREOF, I have here
22 in my office in the County of Clark,
23 Nevada, this 3rd day of September, 2015.

24
25 ANDREA N. MARTIN,

EXHIBIT 3

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

10/08/2010
to
10/05/2012

FLSA

002253

I agree to pay the listed employees the
amount due shown above by 12/30/2015

Signed: _____

Date: _____

Employer Name and Address:

A Cab, LLC
A Cab, LLC
1500 Searles Ave
Las Vegas NV 89101

Subtotal: _____

Total: _____

EXHIBIT 4

Individually and on behalf of others similarly
situated,

Plaintiffs,

vs.

A CAB TAXI SERVICE LLC and A CAB, LLC,

Defendants.

Case
Dept.

A CAB, LLC'S OFFER OF JUDGMENT TO PLAINTIFFS

Defendant A Cab, LLC, by and through its attorney of
of RODRIGUEZ LAW OFFICES, P.C., and pursuant to NRS 17.115
against it and in favor of Plaintiff Michael Murray in the amount of
HUNDRED DOLLARS (\$7,500.00) as full and final settlement
inclusive of interest, costs and attorney's fees.

This offer shall not be construed as a waiver of any of Defendant's
This offer of judgment is made solely for the purposes specified herein and
compromise offer of settlement only and shall not be deemed an admission of
evidence at the time of trial.

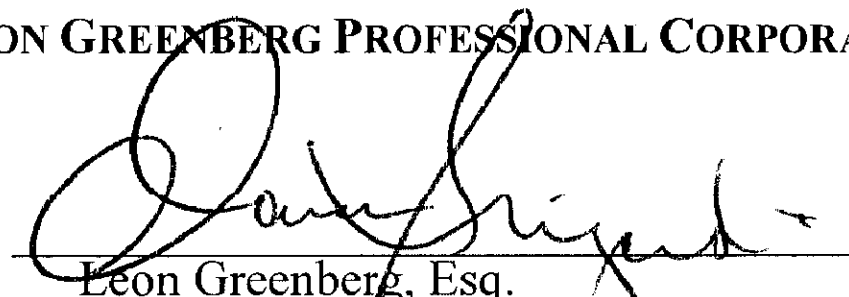
Pursuant to NRS 17.115 and NRCP Rule 68, if this offer is not accepted within
after service, it will be deemed withdrawn. If this action is the subject of a
fails to obtain a judgment in excess of this offer, Defendant will be bound by the terms of this offer.

RECEIPT OF COPY of A Cab, LLC'S Offer of Jud

is hereby acknowledged this 10th day of March, 2015 by:

LEON GREENBERG PROFESSIONAL CORPORATION

By:



Leon Greenberg, Esq.
2965 South Jones Boulevard, Suite E4
Las Vegas, Nevada 89146
Counsel for Plaintiff

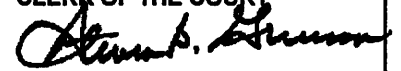
EXHIBIT 3

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EXHIBIT 3

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Steven D. Grierson
CLERK OF THE COURT



1 LEON GREENBERG, ESQ., SBN 8094
2 DANA SNIEGOCKI, ESQ., SBN 11715
3 Leon Greenberg Professional Corporation
4 2965 South Jones Blvd- Suite E3
5 Las Vegas, Nevada 89146
6 (702) 383-6085
7 (702) 385-1827(fax)
8 leongreenberg@overtimelaw.com
9 dana@overtimelaw.com
10 Attorneys for Plaintiffs

11
12 **DISTRICT COURT**
13 **CLARK COUNTY, NEVADA**

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

17 Plaintiffs,

18 vs.

19 A CAB TAXI SERVICE LLC, and A
20 CAB, LLC,

21 Defendants.

Case No.: A-12-669926-C

Dept.: I

NOTICE OF ENTRY OF ORDER

22 PLEASE TAKE NOTICE that the Court entered the attached Order Granting
23 Summary Judgment, Severing Claims, and Directing Entry of Final Judgment on
24 August 21, 2018.

25 Dated: August 22, 2018

26 LEON GREENBERG PROFESSIONAL CORP.

27 /s/ Leon Greenberg

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

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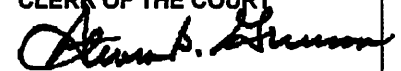
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Steven D. Grierson
CLERK OF THE COURT



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8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10
11 **MICHAEL MURRAY and**
12 **MICHAEL RENO, individually and**
13 **on behalf of all others similarly**
14 **situated,**

15 **Plaintiffs,**

16 **vs.**

17 **A CAB TAXI SERVICE LLC, A**
18 **CAB, LLC, and CREIGHTON J.**
19 **NADY,**

20 **Defendants.**

Case No.: A-12-669926-C

DEPT.: I

21 **ORDER GRANTING SUMMARY**
22 **JUDGMENT, SEVERING CLAIMS,**
23 **AND DIRECTING ENTRY OF FINAL**
24 **JUDGMENT**

25 **Hearing Date: June 5, 2018**
26 **Hearing Time: 3:00 p.m.**

27
28 On June 5, 2018, with all the parties appearing before the Court by their respective counsel as noted in the record, the Court heard argument on plaintiffs' motion filed on April 17, 2018 on an Order Shortening Time seeking various relief ("Plaintiffs' Motion"), including the holding of defendants in contempt for their violation of the Court's prior Orders appointing a Special Master; granting partial summary judgment to the plaintiffs pursuant to their motion filed on November 2, 2017; striking defendants' answer, granting a default judgment, and directing a prove

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

	A	B	C	D	E	F	G
555	3318	Mohr	Donald	\$135.02	\$19.90	\$154.92	\$13
556	105284	Monforte	Peter	\$5,074.87	\$748.06	\$5,822.92	\$5,07
557	3882	Monteagu	Oscar	\$937.81	\$138.24	\$1,076.04	\$93
558	3735	Montoya V	Francisco	\$551.62	\$81.31	\$632.93	\$1,11
559	30777	Moore	Jimmy	\$1,597.64	\$235.50	\$1,833.13	\$1,59
560	2110	Moore	Jerry	\$1,429.18	\$210.67	\$1,639.85	\$1,47
561	3913	Moore	Aileen-Louise	\$328.57	\$48.43	\$377.01	\$32
562	3664	Moreno	James	\$4,373.10	\$644.61	\$5,017.71	\$5,22
563	3626	Moretti	Bryan	\$1,422.89	\$209.74	\$1,632.63	\$1,42
564	3411	Morley	David	\$1,407.06	\$207.41	\$1,614.46	\$1,61
565	8321	Morris	Thomas	\$4,599.67	\$678.01	\$5,277.68	\$4,59
566	2162	Morris	Robert	\$2,890.99	\$426.14	\$3,317.13	\$2,89
567	106703	Mosely	David	\$1,143.38	\$168.54	\$1,311.92	\$1,14
568	3282	Mosley	Rory	\$177.21	\$26.12	\$203.33	\$17
569	3785	Mostafa	Ahmed	\$500.20	\$73.73	\$573.93	\$50
570	28917	Motazedi	Kamran	\$181.66	\$26.78	\$208.44	\$18
571	27059	Mottaghia	Joseph	\$30.98	\$4.57	\$35.54	\$3
572	107704	Muhtari	Abdulrahman	\$615.74	\$90.76	\$706.50	\$61
573	3518	Muldoon	Thomas	\$345.81	\$50.97	\$396.78	\$34
574	2735	Mumma	Donald	\$388.18	\$57.22	\$445.40	\$38
575	3847	Murawski	Richard	\$1,593.10	\$234.83	\$1,827.93	\$1,59
576	2018	Murray	MichaelP	\$4,393.97	\$647.69	\$5,041.65	\$4,39
577	2642	Murray	MichaelJ	\$2,654.68	\$391.31	\$3,045.99	\$2,65
578	2018	Murray	Michael P.	\$770.33	\$113.55	\$883.88	\$77
579	2717	Murray	Melinda	\$523.81	\$77.21	\$601.02	\$52
580	3856	Murray	Mark	\$23.74	\$3.50	\$27.24	\$2
581	3255	Mutia	Junno	\$173.69	\$25.60	\$199.29	\$17
582	107440	Nantista	Peter	\$212.28	\$31.29	\$243.57	\$21
583	3859	Nazarov	Mikael	\$2,455.84	\$362.00	\$2,817.84	\$2,73
584	3804	Ndichu	Simon	\$366.18	\$53.98	\$420.16	\$36
585	102656	Nedyalkov	Atanas	\$321.59	\$47.40	\$369.00	\$32
586	3530	Negashe	Legesse	\$1,456.47	\$214.69	\$1,671.16	\$1,79
587	3335	Negussie	Berhanu	\$177.66	\$26.19	\$203.85	\$17

	A	B	C	D	E	F	G
654	26679	Polchinski	Paul	\$111.37	\$16.42	\$127.78	\$111.37
655	3017	Polk	Craig	\$96.33	\$14.20	\$110.53	\$96.33
656	31149	Pony	David	\$51.52	\$7.59	\$59.11	\$51.52
657	3563	Portillo	Mario	\$593.50	\$87.48	\$680.98	\$593.50
658	3287	Portillo-Sa	Carlos	\$417.87	\$61.60	\$479.46	\$417.87
659	1030	Poulton	Todd	\$11.77	\$1.73	\$13.50	\$11.77
660	3129	Povolotsky	Anatoly	\$227.53	\$33.54	\$261.07	\$227.53
661	3152	Prather	Robert	\$445.01	\$65.60	\$510.60	\$445.01
662	3201	Presnall	Darryl	\$2,341.64	\$345.17	\$2,686.80	\$2,341.64
663	2568	Price	James	\$3,555.64	\$524.12	\$4,079.75	\$3,555.64
664	3800	Price	Allen	\$630.95	\$93.00	\$723.95	\$630.95
665	3449	Prifti	Ilia	\$418.70	\$61.72	\$480.42	\$418.70
666	26363	Punzalan	Luciano	\$236.08	\$34.80	\$270.87	\$236.08
667	3687	Purdue	Robert	\$210.21	\$30.99	\$241.20	\$210.21
668	2122	Purvis	James	\$58.24	\$8.58	\$66.83	\$58.24
669	3556	Pyles	Joseph	\$682.49	\$100.60	\$783.09	\$682.49
670	3307	Qian	Jie	\$376.94	\$55.56	\$432.51	\$376.94
671	3002	Rabara	Antino	\$698.55	\$102.97	\$801.52	\$698.55
672	107548	Rainey	James	\$219.28	\$32.32	\$251.60	\$219.28
673	3883	Ramirez	Erney	\$760.59	\$112.11	\$872.70	\$760.59
674	2180	Ramos	Lawrence	\$122.19	\$18.01	\$140.20	\$122.19
675	3085	Ramsey	Gary	\$1,312.85	\$193.52	\$1,506.37	\$1,312.85
676	3525	Rasheed	Willie	\$4,450.03	\$655.95	\$5,105.98	\$4,450.03
677	3812	Ray	William	\$12.61	\$1.86	\$14.47	\$12.61
678	2857	Reevell	Jeffrey	\$15.47	\$2.28	\$17.75	\$15.47
679	108758	Regans	Mark	\$379.98	\$56.01	\$435.99	\$379.98
680	2805	Reina	Linda	\$77.46	\$11.42	\$88.88	\$77.46
681	2237	Relopez	Craig	\$2,166.42	\$319.34	\$2,485.76	\$2,166.42
682	3544	Reno	Michael	\$4,966.19	\$732.04	\$5,698.22	\$4,966.19
683	2266	Reynolds	James	\$289.68	\$42.70	\$332.38	\$289.68
684	14261	Riipi	Karl	\$126.47	\$18.64	\$145.11	\$126.47
685	109502	Rios-Lopez	Oscar	\$189.76	\$27.97	\$217.73	\$189.76
686	107701	Risby	Clifford	\$1,060.42	\$156.31	\$1,216.73	\$1,060.42

EXHIBIT 4

002263

002263

EXHIBIT 4

**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 and A CAB, LLC,
and CREIGHTON J. NADY,

Defendants.

Case
Dept.

DEFENDANTS' MOTION FOR LEAVE TO

TO ASSERT A THIRD-PARTY COMPLAINT

Defendants A Cab, LLC and Creighton J. Nady, by and
and pursuant to NRCP 10(a) and NRCP 15, hereby move for leave
a Third Party Complaint against Leon Greenberg, Esq., Leon C
and Dana Sniegocki, Esq.

...

...

NOTICE OF HEARING

PLEASE TAKE NOTICE that Plaintiffs will bring the
before this Court on the 27 day of February,
may be heard. In CH

DATED this 27th day of January, 2017.

RODRIGUEZ L

By: /s/ Esther C.
Esther C.
Nevada St
10161 Par
Las Vegas
Attorneys

I.

POINTS AND AUTHORIT

1. The Requested Amendments Conform to the Eviden

A proposed amended answer with third-party complain
Exhibit 1. The requested amendments are tailored to conform
discovery period. The requested amendment is to assert a third
persons and entities which have engaged in champerty, interfere
relations, and seek to profit from the continued litigation of oth

9 unless the person maintaining has some interest in the s
10 *Stinnett*, 87 Nev. 402, 408, 488 P.2d 347, 350 (1971) (c
11 Nev. 453, 23 P. 858, 862 (1890)). "Where a person pro
12 has any interest whatever, legal or equitable, in the thin
13 also a suitor according to the nature and extent of his in
14 *Club Villas Condominium*, 421 So.2d 10, 11 (Fla.Dist.C
15 *Eliades*, 939 P.2d at 1036.

16 *See also, Vosberg Equipment v. Zupancic*, 737 P.2d 522, 103 M

17 In 1890 this court held that even in the absence of statu
18 law of England, unlawful to "maintain the suit of anothe
19 maintaining the suit "has some interest in the subject of
20 20 Nev. 453, 469, 23 P. 858 (1890). In *Lum v. Stinnett*
21 347, 350 (1971), we recognized the "common law offer
22 existing "when a person without interest in a suit offici
23 assisting either party with money or otherwise to prose
24 is maintenance with the additional feature of an agreem
25 compensation or personal profit from the subject of the
26 Nev. at 408, 488 P.2d at 350. *Vosberg Equipment v. Z*

27 In the present case, the evidence has demonstrated that

28 Leon Greenberg Professional Corporation, and Sniegocki are n

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case.
Most recently, Third-Party Defendant Greenberg confi
mediation or alternative type of resolution, nor will he disclose
Third-Party Defendants have now commenced interfering with
resolve and negotiate other matters with other employees.

Further, Third-party defendants have tortiously interfer
Cab employees, as evidenced in the breach of contract of Wen
Third party Defendants to breach her contract with Third-Party
Plaintiffs assert they have been damaged by Third-Party Defen
acts, and request the Court's leave to amend to conform to the

Also telling is that Third-Party Defendants have contin
for extension after extension with the Court, indicating they ne
compelling discovery which they in fact then do not utilize. In
have been prolonging the litigation to continue advertising and
stating, **"there is no set deadline for this case to be finished.**
advertising page, Exhibit 2. The website and ad is targeted di
Cab's employees, and in fact is labeled **"A Cab Driver's Page**

2. NRCP 15 Supports That Leave to Amend Should B

A party may amend the party's pleading only by leave
adverse party; and leave shall be freely given when justice so r

CONCLUSION

For the foregoing, Defendants respectfully request that
amend and permission to file the Third Amended Complaint at

DATED this 27th day of January, 2017.

RODRIGUEZ L

By: /s/ Esther C.
Esther C.
Nevada St
10161 Par
Las Vegas
Attorneys.

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EXHIBIT 1

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

Defendants.

A CAB, LLC, and CREIGHTON J. NADY,

Third-Party Plaintiffs,

v.

LEON GREENBERG; LEON GREENBERG
PROFESSIONAL CORPORATION; and DANA
SNIEGOCKI,

Third-Party Defendants.

DEFENDANTS A CAB, LLC and CREIGHTON J. NADY

SECOND AMENDED COMPLAINT AND THIRD

Defendants A Cab, LLC and Creighton J. Nady (collectively
their attorneys of record, pursuant to NRCP Rule 12, 14, and 16)

9 taxicab company.

10 3. Answering Paragraphs 3 and 4 of the Complaint

11 and managing member of A Cab, LLC. To the extent these paragraphs

12 allegations requiring a response, Defendants deny same.

13 **CLASS ACTION ALLEGATIONS**

14 4. Answering Paragraphs 5, 6, 7, 8, 9, 10, 11, 12, 13,

15 Defendants assert that the allegations contained therein are a legal conclusion to which no response is required. To the extent these Paragraphs contain any factual allegations requiring a response, Defendants deny same.

18 **AS AND FOR A FIRST CLAIM FOR RELIEF ON BEHALF OF**

19 **PLAINTIFFS AND ALL PERSONS SIMILARLY SITUATED**

20 **NEVADA'S CONSTITUTION**

21 5. Answering Paragraph 15 of the Complaint, Defendants deny same.

22 answers to the allegations contained in Paragraphs 1 through 14.

23 6. Answering Paragraph 16 of the Complaint, Defendants deny same.

24 contained therein are a legal conclusion to which no response is required.

25 Paragraph contains any factual allegations requiring a response, Defendants deny same.

26 7. Answering Paragraphs 17 and 18 of the Complaint, Defendants deny same.

27 allegation contained therein, including all sub-parts.

28 8. Answering Paragraphs 19, 20, and 21 of the Complaint, Defendants deny same.

9 the allegations contained therein are a legal conclusion to which

10 extent these Paragraphs contain any factual allegations requiring

11 **AS AND FOR A THIRD CLAIM AGAINST**

12 **NADY FOR CIVIL CONSPIRACY, AIDING AND ABETTING**

13 **CONCERT OF ACTION AND AS THOSE DEFENDANTS**

14 **OF THE CORPORATE DEFENSES.**

15 11. Answering Paragraph 27 of the Complaint, Defendants
16 answers to the allegations contained in Paragraphs 1 through 2

17 12. Answering Paragraphs 28, 30, 31, 32, 33, 34, 35 and 36
18 Defendants deny each and every allegation contained therein, and

19 13. Answering Paragraph 29 of the Complaint, Defendants
20 contained therein are a legal conclusion to which no response is
21 Paragraph contains any factual allegations requiring a response.

22 **AS AND FOR A FOURTH CLAIM AGAINST**

23 **Defendants NADY FOR UNJUST ENRICHMENT.**

24 14. Answering Paragraph 39 of the Complaint, Defendants
25 answers to the allegations contained in Paragraphs 1 through 3

26 15. Answering Paragraphs 40, 41, 42, 43, 44 and 45
27 each and every allegation contained therein.

28 . . .

9 As a second separate and affirmative defense, Defendants
10 mitigate their alleged damages, if any.

11 **THIRD AFFIRMATIVE DEFENSE**

12 As a third separate and affirmative defense, Defendants
13 any, were caused solely by the conduct of others and are not the
14 Defendants A Cab, LLC.

15 **FOURTH AFFIRMATIVE DEFENSE**

16 As a fourth separate and affirmative defense, Defendants
17 not ripe in this forum.

18 **FIFTH AFFIRMATIVE DEFENSE**

19 As a fifth separate and affirmative defense, Defendants
20 barred because Plaintiffs' own actions were the proximate cause.

21 **SIXTH AFFIRMATIVE DEFENSE**

22 As a sixth separate and affirmative defense, Defendants
23 jurisdiction because Plaintiffs have failed to exhaust their administrative
24 Nevada law.

25 **SEVENTH AFFIRMATIVE DEFENSE**

26 As a seventh separate and affirmative defense, Defendants
27 is barred by the doctrine of res judicata.

9 affirmative defenses may not have been alleged herein insofar
10 after reasonable inquiry upon the filing of Defendants' answer
11 these answering Defendants reserve the right to amend their an
12 defenses if subsequent investigation so warrants.

13 **ELEVENTH AFFIRMATIVE D**

14 As an eleventh separate and affirmative defense, Defen
15 of Plaintiffs' Complaint not specifically admitted or otherwise

16 **TWELFTH AFFIRMATIVE D**

17 As a twelfth separate and affirmative defense, it has be
18 Defendants to retain the services of an attorney to defend this a
19 a reasonable sum as and for attorney's fees.

20 **THIRTEENTH AFFIRMATIVE**

21 As a thirteenth separate and affirmative defense, Plaint
22 limitations / laches.

23 **FOURTEENTH AFFIRMATIVE**

24 As a fourteenth separate and affirmative defense, Plain
25 hands / in pari delicto/ illegality.

26 **FIFTEENTH AFFIRMATIVE D**

27 As a fifteenth separate and affirmative defense, Plaintiff

28 . . .

9 barred by the lack of any legal basis for Plaintiff attorney fees.

10 **NINETEENTH AFFIRMATIVE DEFENSE**

11 As a nineteenth separate and affirmative defense, Plaintiff
12 relating to the acts alleged in their Complaint, ratified through
13 and/or failure(s) to act, any act alleged to have been done or committed

14 **TWENTIETH AFFIRMATIVE DEFENSE**

15 As a twentieth separate and affirmative defense, Defendant
16 those affirmative defenses enumerated in NRCP 8 for the special

17 **TWENTY-FIRST AFFIRMATIVE DEFENSE**

18 As a twenty-first separate and affirmative defense, at all times
19 and in good faith in their dealings with Plaintiffs.

20 **TWENTY-SECOND AFFIRMATIVE DEFENSE**

21 As a twenty-second separate and affirmative defense, Defendant
22 did not directly or indirectly perform any acts whatsoever which
23 duty owed to Plaintiffs.

24 **TWENTY-THIRD AFFIRMATIVE DEFENSE**

25 As a twenty-third separate and affirmative defense, Plaintiff
26 doctrine of accord and satisfaction.

27 **TWENTY-FOURTH AFFIRMATIVE DEFENSE**

28 As a twenty-fourth separate and affirmative defense, Plaintiff

agencies, and not in ignorance/violation of the law.

TWENTY-SEVENTH AFFIRMATIVE

As a twenty-seventh separate and affirmative defense, punitive damages are not permissible.

WHEREFORE, Defendants prays as follow:

1. That Plaintiffs take nothing by way of their Complaint;
2. That Plaintiffs' Complaint be dismissed with prejudice entered in favor of Defendants;
3. That Defendants be awarded their attorneys' fees and costs;
4. For such other and further relief as this Court deems just.

DATED this 27th day of January, 2017.

RODRIGUEZ

/s/ Esther C. Rodriguez
Esther C. Rodriguez
Nevada Bar No. 10161
10161 Park Run Drive
Las Vegas, Nevada 89145
Attorneys.

County of Clark, State of Nevada.

2. At all times mentioned herein, Third-Party Plaintiff is a resident of Clark County, Nevada, is and was the sole managing

3. At all times mentioned herein, it is believed Third-Party Plaintiff (“Greenberg”), is an attorney practicing in Clark County, Nevada. Cab or Nady’s, and has no relationship to either Third-Party Plaintiff.

4. At all times mentioned herein, it is believed Third-Party Plaintiff Professional Corporation (“Greenberg PC”), is a Nevada Domestic business in the County of Clark, State of Nevada.

5. At all times mentioned herein, it is believed Third-Party Plaintiff (“Sniegocki”), is an attorney practicing in Clark County, Nevada. Cab or Nady’s, and has no relationship to either Third-Party Plaintiff.

6. A Cab’s obligations to pay the plaintiffs arose under the terms of the agreements, or in other words through an employer-employee

7. Plaintiffs’ claims in the underlying action arise from an employer-employee relationship.

8. At all time mentioned herein, Greenberg, Greenberg PC, and Greenberg referred to as “Third-Party Defendants”) never had an employer-employee relationship with the Third-Party Plaintiffs.

9 11. Since September 2012 through the present, Third-Party Defendants
10 to troll for clients by targeting Third-Party Plaintiffs' employees
11 online marketing, direct mailers, and publications distributed to Third-Party

12 12. Third-Party Defendants' solicitation of remuneration for a
13 transaction which he and/or she engaged in for his and/or her own
14 business act or practice. Third-Party Defendants let potential clients
15 interest in performing legal services for them.

16 13. Third-Party Defendants' trolling for clients was intentional. Greenberg
17 gave his opinion on liability indicating to Third-Party Plaintiffs that they
18 violated Nevada's Minimum Wage laws and may owe them an amount of
19 minimum wages. He made calculations and expressed his personal opinion
20 were collecting less than minimum wage. Greenberg's unsolicited opinion
21 suggest he had some significant personal knowledge about and

22 14. Third-Party Defendants acted intentionally in a manner that
23 agreements and relationships between Third-Party Plaintiffs and Third-Party

24 15. Third-Party Defendants have failed to prosecute Third-Party
25 Plaintiffs, but rather seek self-profit; and therefore have acted in their
26 benefit.

27 16. Such actions by the Third-Party Defendants in the absence of
28 absence of communication with Plaintiffs regarding Third-Party

other matters.

19. Third-Party Defendants have also interfered with Third-party Plaintiffs and former employees, including but not enticed and/or coerced to breach her written contract with Third

20. With such actions, Third-Party Defendants have caused an escalation of legal fees and costs and prolonged litigation, to the business, livelihood, well-being, and reputation of Third-Party

FIRST CAUSE OF ACTION

(ChamPERTY)

21. Third-Party Plaintiffs incorporate by reference the allegations in paragraphs 1 through 20 of the Third-Party Complaint as set forth

22. Plaintiffs initially had no interest in this litigation. During depositions, had no understanding of their claims against Third-Party

23. Third Party-Defendants solicited the Plaintiffs to bring this action

24. Third Party-Defendants undertook this litigation and have prosecuted this action on behalf of Plaintiffs in consideration for a part of the proceeds of the litigation and personal profit from the

25. The actions taken by Third-Party Defendants have harmed Plaintiffs who they purport to represent, but instead they have

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39. As a result of such intentional acts by Third-Party
have been damaged.

40. Further, it has become necessary for Third-Party
attorney to defend against the lawsuit and to bring this Third-Party
Party Plaintiffs are entitled to recover its reasonable attorney's

WHEREFORE, Third-Party Plaintiffs, expressly reserve
party complaint, demand judgment against Third-Party Defendant

1. For an award of damages in excess of \$50,000.00;
2. Punitive damages;
3. For attorneys' fees and costs of suit; and
4. For such other and further relief as this Court may deem

DATED this 27th day of January, 2017.

RODRIGUEZ

By: /s/ E
Es
Ne
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EXHIBIT 2

company during that time period are eligible to benefit if this case has a successful outcome.

- We would like all current and former A Cab drivers who worked during the period of July 1, 2007 through the present to register their information with our office. **YOU CAN DO SO USING THE FORM ON THIS PAGE.** Registration is optional and you are not required to register. You may still benefit from the case without registering.
- If you'd like to see a copy of the Court's Order certifying this case as a class action, please click [HERE](#).
- Because there are over 2000 individuals who are members of the class, we are not able to speak to all drivers individually by phone. E-mail communications are much more efficient. There is no set deadline for this case to be finished and the case is not scheduled for trial until January of 2017, at the earliest. The best way to stay updated about this case is by registering your e-mail address with this office so we may communicate important updates to you.

EXHIBIT 3

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

Defendants.

DISCOVERY COMMITTEE

Hearing Date: 11/18/16
Hearing Time: 9:00 a.m.

Attorney for Plaintiffs: Leon
Leon

Attorney for Defendants: Esth
Rod

Mic
Hut

17 Plaintiffs' Complaint as held by the
18 an express limitations period, we a
19 does not expressly indicate which
20 to the MWA is NRS 608.260, as b
21 minimum wage. Moreover, applyi
22 minimum wage law." *Id.* at pp. 10

23 4. The Discovery Commission
24 and thus the applicable period for
25 this finding, arguing for an equita
26 argument by Plaintiffs for deviatin
27 briefed, and brought by motion.

28 5. The Discovery Commission

17 Rule 30(d), and the Commissioner
18 fees and costs.

19 8. In further discussion pertai
20 parties) to be produced to Plaintiff
21 remain confidential pursuant to NR
22 by the District Court Judge.

23 9. In further discussion regard
24 October 12, 2016, Defendants lodg
25 prejudiced with the new initial exp
26 deadline of January 23, 2017, and
27 holidays. The Discovery Commis
28 that any *Objection to the DCR&R*

17 distributions, salary, payment to M
18 modified to encompass the years 2

19 WHEREAS IT WAS PREV
20 provide its profit and loss statemen
21 encompass the years 2010-2015. *f*

22 *insurance information*
IT IS FURTHER RECOMI

23 non-parties) produced to Plaintiffs
24 confines of litigation until otherwi

25 THE DISCOVERY COMM
26 the Discovery Commissioner Repo
27 and the following dates be implem

28 1. The Discovery Cut

17 Submitted by:

18 **RODRIGUEZ LAW OFFICES,**

19

20



ESTHER C. RODRIGUEZ, ESQ.

21

Nevada Bar No.: 6473

10161 Park Run Drive, Suite 150

22

Las Vegas, Nevada 89145

Tel: (702) 320-8400

23

Fax (702) 320-8401

info@rodriguezlaw.com

24

Attorneys for Defendants

25

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Dated this _____ day of _____

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EXHIBIT 5

002293

002293

EXHIBIT 5

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Other Civil Filing**COURT MINUTES****June 05, 2017**

A-12-669926-C Michael Murray, Plaintiff(s)
vs.
A Cab Taxi Service LLC, Defendant(s)

June 05, 2017 3:00 AM All Pending Motions

HEARD BY: Cory, Kenneth**COURTROOM:** RJC Courtroom 16A**COURT CLERK:** Michele Tucker

JOURNAL ENTRIES

DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER TO ASSERT A THIRD-PARTY COMPLAINT PLAINTIFF'S OPPOSITION TO DEFENDANTS' MOTION FOR LEAVE TO AMEND ANSWER TO ASSERT THIRD-PARTY COMPLAINT AND COUNTER-MOTION FOR SANCTIONS AND ATTORNEYS' FEES PLAINTIFFS' RE-NOTICE OF MOTION TO BIFURCATE ISSUE OF LIABILITY OF DEFENDANT CREIGHTON J. NADY FROM LIABILITY OF CORPORATE DEFENDANTS OR ALTERNATIVE RELIEF

COURT ORDERS, Plaintiffs' Re-Notice of Motion to Bifurcate Issue of Liability of Defendant Creighton J. Nady from Liability of Corporate Defendants or Alternative Relief GRANT for reasons urged by Plaintiff. Plaintiff to prepare the Order.

COURT ORDERS, Defendant s Motion for Leave to Amend is DENIED WITHOUT PREJUDICE. If the Court were to grant the Motion, it would simply have to severe determination of that cause of action from the Complaint in this case. Plaintiff to prepare the Order.

COURT ORDERS, Plaintiff s Countermotion DENIED WITHOUT PREJUDICE. Additionally, COURT ORDERS, Plaintiff s anti-SLAPP Motion is DENIED as presently MOOT in light of the Court's denial of the Motion for Leave to Amend. Defendant to prepare the Order

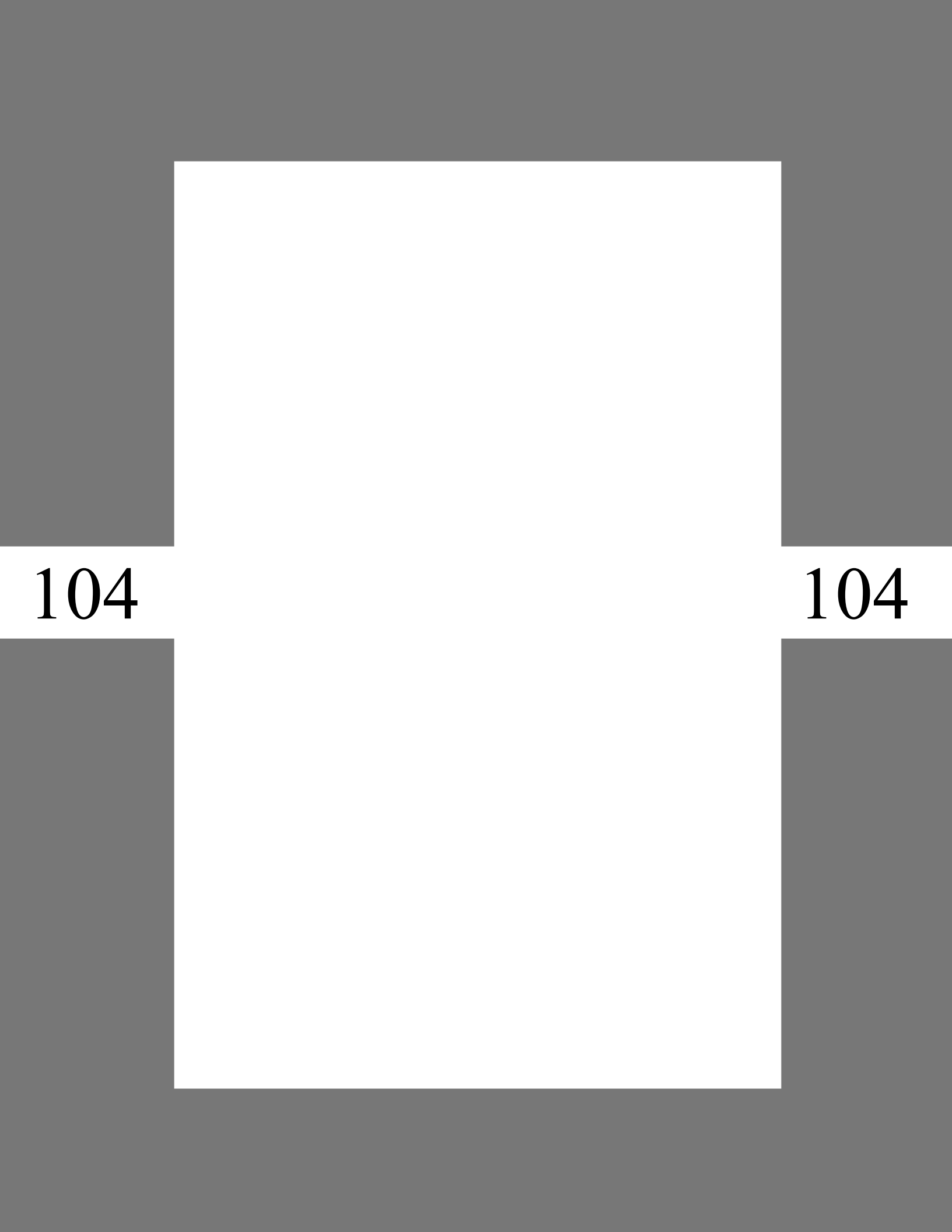
Counsel are reminded of the Court's stern admonition at the 05/18/17 hearing to quit fighting amongst themselves and litigate their clients cases first.

CLERK'S NOTE: The above minute order has been distributed to: Lean Greenberg, Esq. (leongreenberg@overtimelaw.com), Esther Rodriguez, Esq. (esther@rodriguezlaw.com), and Michael Wall, Esq. (mwall@hutchlegal.com). /mlt

PRINT DATE: 06/27/2017

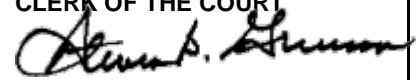
Page 1 of 1

Minutes Date: June 05, 2017



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LEON GREENBERG, ESQ., SBN 8094
DANA SNIEGOCKI, ESQ., SBN 11715
Leon Greenberg Professional Corporation
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dana@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' REPLY TO
DEFENDANTS' OPPOSITION
TO PLAINTIFFS' MOTION
FOR AN AWARD OF
ATTORNEYS FEES AND
COSTS AS PER NRCP RULE
54 AND THE NEVADA
CONSTITUTION**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,
hereby submit this reply to defendants' opposition to plaintiffs' motion for an award of
attorneys' fees and costs. This reply is submitted based upon the memorandum of
points and authorities below, the attached exhibits, and the other papers and pleadings
on file herein.

Dated: November 8, 2018

Leon Greenberg Professional Corporation

By: /s/ Leon Greenberg

Leon Greenberg, Esq.

Nevada Bar No.: 8094

2965 South Jones Boulevard - Suite E3

Las Vegas, Nevada 89146

(702) 383-6085

Attorney for Plaintiffs

002295

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MEMORANDUM OF POINTS AND AUTHORITIES
SUMMARY

Defendants opposition claims, as a matter of law, that (1) Their offers of judgment to named plaintiffs Murray and Reno (but not the class) preclude an award of attorney's fees; and (2) The fee and costs request is untimely. Both assertions are in error. Defendants, having never made any offer of judgment to the class, cannot invoke Rule 68 (their offers of judgment to Murray and Reno, individually, also were exceeded). The Court extended the time for the submission of the plaintiffs' attorney fee and costs request *prior* to the 20 days specified in Rule 54 that constituted the "last date" on which the Court could exercise such discretion and that request was submitted within that extension of time.

Defendants' remaining assertions, such as that the fees claimed are excessive, are unsupported and baseless.

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ARGUMENT

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I. Plaintiffs Have Secured a Judgment in Excess of One Million Dollars on Behalf of More Than 900 of Defendants' Current and Former Taxicab Driver Employees to Whom Defendants Owed Unpaid Minimum Wages

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A. Defendants Made No Offer of Judgment to the Class

The recovery in this case was for a Rule 23 class certified by the Court. Defendants made no offer of judgment for those class claims. If they had they could at least raise an argument that Rule 68 applied. *See, Schouweiler v. Yancey Co.*, 712 P.2d 786, 789-790 (Nev. Sup. Ct. 1985) (Stating, in a footnote, that there is "no express exemption" from Rule 68 to class actions). Since no offer of judgment was made to the class, there is no colorable basis to apply Rule 68 to the claim for attorneys fees and costs under the MWA owed to class counsel.

1 **B. Murray and Reno Individually Bettered Any Rule 68 Offer.**

2 Defendants ingore that their \$7,500 and \$15,000 Offers of Judgment to
3 plaintiffs Murray and Reno respectively (attached at Ex. "1" and "2" to defendants'
4 opposition) were "inclusive of interest, costs and attorney's fees." Under Article 15,
5 Section 16, of the Nevada Constitution (the "MWA"), a prevailing plaintiff in an
6 MWA action "shall be awarded his or her reasonable attorney's fees and costs." Nev.
7 Const., Art. 15, Sec. 16(B). At the time those offers of judgment were made (March
8 9, 2015) plaintiffs' counsel had expended over 70 hours of time on this case and at
9 least \$983 in expenses. Ex. "A" declaration of Leon Greenberg. That fee and
10 expense claim, at that time, was, conservatively, at least \$20,000. *Id.* This means that
11 the recovery actually achieved for Murray and Reno (\$5,736.52) was, when added to
12 that fee and expense claim (as of the time of the offers of judgment were made) greater
13 than the offers of judgment.

14 **C. Rule 68 Cannot Override Nevada's Constitution**

15 Plaintiffs' right to attorney's fees and costs, if they prevail on their MWA
16 claims, is directly conferred by Nevada's Constitution. The Nevada Constitution says
17 nothing about that right being subject to limitations under the Nevada Rules of Civil
18 Procedure and that right cannot be limited by Rule 68. Even if plaintiffs failed to
19 better a Rule 68 offer made to them, they are still entitled to an award of attorney's
20 fees and expenses under Nevada's Constitution.

21 **II. Plaintiffs' Counsel's Fees are Well-Documented and Not Excessive.**

22 Defendants assert that plaintiffs' "have failed to provide a copy of the fee
23 agreements executed with any of their clients which will most likely indicate that they
24 are already receiving fifty percent (50%) of the million dollar judgment entered by this
25 Court." Defendants' Opposition at p. 3. Plaintiffs' counsel **is receiving nothing**
26 **from any recovery secured for their clients except if so authorized by further**
27 **Order of this Court.** Ex. "A." It would be improper for them to do as they serve as
28

1 class counsel under the supervision of the Court, they cannot take any fees from the
2 class members' recoveries without Court approval.

3 Plaintiffs counsel have diligently and painstakingly documented to the Court,
4 through their declarations, their hours of attorney time expended in this case under
5 three different scenarios for fee awards. Nothing more is required.

6 Most tellingly, defendants do not offer any details as to **the fees incurred by**
7 **defendants and what defendants paid to their counsel in this case.** Defendants'
8 bald and unsupported allegations that plaintiffs' counsel fees are excessive and
9 unwarranted, or have been purposefully multiplied through unnecessary work, have no
10 merit. Defendants point to nothing specific that should warrant a reduction in the fees
11 sought by plaintiffs' counsel. Defendants' complete failure to disclose what the fees
12 were for the defense of this case (probably because they were **significantly greater**
13 **than the fees sought by class counsel or even the class judgment!)** renders their
14 claim that class counsel's fees are excessive unworthy of consideration.

15
16 **III. Further documentation on the fees and costs is not**
17 **required but can be provided if the Court so directs.**

18 There is no requirement that class counsel submit actual time records and
19 expense invoices for the Court's review. Defendants are insisting upon such a
20 submission but cite no authority requiring it (because none exists). Plaintiffs must
21 submit their requests for fees and costs in a sworn form, under NRS 18.110 (in respect
22 to costs) which they have done via declarations of counsel. If the Court seeks further
23 details (invoices, time records, etc.), plaintiffs' counsel will provide them but ask they
24 not be burdened with the additional time consuming process of submitting those
25 things.
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1 **IV. Plaintiffs' Request is Timely.**

2 Defendants misrepresent NRCP 54(b). This Court has the power to extend the
3 time to submit a fee and costs request as long as such extension is Ordered *prior* to the
4 expiration of the 20 day post judgment period specified in the rule. The Court did so
5 in the very Order directing entry of judgment and plaintiffs' submitted their fee and
6 costs request in a timely manner pursuant to that Order.

7
8 **CONCLUSION**

9 Wherefore, the plaintiffs' motion should be granted in its entirety.

10 Dated: November 8, 2018

11 LEON GREENBERG PROFESSIONAL CORP.

12
13 /s/ Leon Greenberg
14 Leon Greenberg, Esq.
15 Nevada Bar No. 8094
16 2965 S. Jones Boulevard - Ste. E-3
17 Las Vegas, NV 89146
18 Tel (702) 383-6085
19 Attorney for the Plaintiff Class
20
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CERTIFICATE OF SERVICE

1
2 The undersigned certifies that on November 8, 2018 she served the
3 within:

4 **Plaintiffs' Reply to Defendants' Opposition to Plaintiffs'**
5 **Motion for an Award of Attorneys Fees and Costs as per NRCP**
6 **Rule 54 and the Nevada Constitution**

7 by court electronic service to:

8 TO:

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

13 /s/ Dana Sniegocki

14 _____
15 Dana Sniegocki

EXHIBIT "A"

1 **DECL**
 2 LEON GREENBERG, ESQ., SBN 8094
 3 DANA SNIEGOCKI, ESQ., SBN 11715
 4 Leon Greenberg Professional Corporation
 5 2965 South Jones Blvd- Suite E3
 6 Las Vegas, Nevada 89146
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leongreenberg@overtimelaw.com
dana@overtimelaw.com
 Attorneys for Plaintiffs

**DISTRICT COURT
 CLARK COUNTY, NEVADA**

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

10 Plaintiffs,

11 vs.

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

14 Defendants.
 15

Case No.: A-12-669926-C

Dept.: I

**DECLARATION OF CLASS
 COUNSEL, LEON
 GREENBERG, ESQ.**

16 Leon Greenberg, an attorney duly licensed to practice law in the State of
 17 Nevada, hereby affirms, under the penalty of perjury, that:

18 1. I have been appointed by the Court as class counsel in this matter. I have
 19 personally reviewed the contemporaneous time records maintained by my office
 20 recording the attorney time expended in this case through March 9, 2015. Those
 21 records indicate that I, personally, expended no less than 30 hours of time through that
 22 date on the prosecution of this case and my associate counsel, Dana Sniegocki, no less
 23 than 40 hours of time as of that date. I have previously been awarded fees of \$400 an
 24 hour in this case on a prior sanctions motion. If these 70 hours of time were awarded at
 25 a rate of \$300 an hour (Ms. Sniegocki, an attorney with nearly 10 years of full time
 26 litigation experience, is properly awarded a fee at or near that rate) the total fee due my
 27 office, as of March 9, 2015, would have been \$21,000.

28 2. I have personally reviewed the expense records maintained by my office.

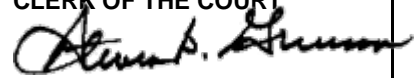
002303

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OPPM

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702-794-4411
jshafer@premierelegalgroup.com
Attorneys for Defendants

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

Defendants.

Case No.: A-12-669926-C
Dept. No. I

Hearing: December 6, 2018
Chambers

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

Defendants A Cab, LLC and Creighton J. Nady, by and through their attorneys of record,
ESTHER C. RODRIGUEZ, ESQ., of RODRIGUEZ LAW OFFICES, P.C., MICHAEL K. WALL, ESQ., of

HUTCHISON & STEFFEN, LLC, and JAY A. SHAFER, ESQ., of PREMIER LEGAL GROUP, hereby submit this Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs (hereinafter "*Motion*").

In their Motion, Plaintiffs are requesting additional costs that were omitted in *Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution*. However, as fully briefed in *Defendants' Opposition to Plaintiffs' Motion for an Award of Attorneys Fees and Costs as Per NRCP Rule 54 and the Nevada Constitution*, Plaintiffs' request must be denied in its entirety based upon the following.

Of note, are two things that should be glaring to the Court. First is the request in excess of half a million dollars in fees and costs for a case which never went to trial, and clearly was not prepared to go to the trial, *i.e.* the Court had to step in to appoint a Special Master to do the work which was not performed by the Plaintiffs. Secondly, the Court already extended the required time from 10 days to 60 days to provide the Plaintiffs the extra time to work up their requests for fees and costs; and still Plaintiffs are ill-prepared supplementing and requesting more after this extension.

1. Plaintiffs have failed to exceed Defendants' Offers of Judgment and must be denied pursuant to NRCP 68.

Plaintiffs failed to obtain a more favorable judgment than the Nevada Rule of Civil Procedure 68 offers made to them in this matter. As such, and pursuant to NRCP 68(f)(1) "the offeree cannot recover any costs or attorney's fees and shall not recover interest for the period after the service of the offer and before the judgment." Additionally, pursuant to NRCP 68(f)(2), "the offeree shall pay the offeror's post-offer costs, applicable interest on the judgment from the time of the offer to the time of entry of the judgment and reasonable attorney's fees, if any be allowed, actually incurred by the offeror from the time of the offer." As this Court is aware from prior pleadings filed in this matter, Plaintiffs have failed to obtain a more favorable judgment than that which was offered, and are absolutely precluded from obtaining "any costs or attorney's fees and shall not recover interest for the period after the service of the offer and before the judgment."

2. Plaintiffs' request is untimely.

Nevada Rule of Civil Procedure 54(b) states: Unless a statute provides otherwise, the motion

1 must be filed no later than 20 days after notice of entry of judgment is served; specify the judgment
 2 and the statute, rule, or other grounds entitling the movant to the award; state the amount sought or
 3 provide a fair estimate of it; and be supported by counsel's affidavit swearing that the fees were
 4 actually and necessarily incurred and were reasonable, documentation concerning the amount of fees
 5 claimed, and points and authorities addressing appropriate factors to be considered by the court in
 6 deciding the motion. **The time for filing the motion may not be extended by the court after it**
 7 **has expired.**

8 Notice of entry of order was entered August 22, 2018. Plaintiffs' motion for fees was not
 9 filed until October 12, 2018, and must be denied in its entirety pursuant to NRCP 54. There is no
 10 statute nor does the Constitution extend this time. Plaintiffs' additional request in their current
 11 *Motion* is even further beyond the time for filing that **may not be extended by the court after it**
 12 **has expired.**

13 Nor have Plaintiffs complied with the requirements of this rule requiring documentation
 14 concerning the amount of fees claimed. There is none attached nor addressed.

15 **3. Plaintiffs' request for costs must be denied.**

16 Plaintiffs' request for additional costs is not supported by a Verified Memorandum of Costs
 17 pursuant to NRS 18.110, and cannot be considered. No supporting documentation was attached to
 18 Plaintiffs' original request as required. Further, Plaintiffs are now seeking in excess of \$30,000 for
 19 experts who were never utilized, but more so were subject to being stricken as having not met the
 20 required standards for admissibility. See *Defendants' Motion in Limine to Exclude Plaintiffs'*
 21 *Experts* filed December 22, 2017.

22 Plaintiffs now also request \$387.50 for the cost of a transcript in *Dubric v. A Cab, LLC, et al*,
 23 District Court Case A-15-721063-C "proceedings in May of 2018 as needed to file a petition for a
 24 writ to secure certain relief impacting the interests of the class members in this case. The Nevada
 25 Supreme Court directed an answer to that writ petition that it subsequently decided did not require a
 26 resolution on its merits in light of the entry of a final judgment in this case." Again, Plaintiffs
 27 misrepresent the facts and offer self-serving documents. Plaintiffs simultaneously filed an
 28 *Emergency Motion for Stay of District Court Proceedings Pending Writ Proceedings Resolution as*

1 *Per NRAP 8(a) and NRAP 27(e) and a Writ of Mandamus with the Supreme Court regarding the*
 2 *pending settlement in the Dubric matter. The Supreme Court denied Plaintiffs' Motion for Stay*
 3 *pending resolution of the writ petition (See Order Denying Stay attached as Exhibit 1). The*
 4 *Supreme Court did not rule upon Plaintiffs' Writ of Mandamus. It was only after the filing of*
 5 *Motion of Petitioners Michael Murray and Michael Reno to File a Supplement, which attached a*
 6 *copy of the Order of this court granting Summary Judgment, that the Supreme Court issued the*
 7 *Order Plaintiffs rely upon as justification for costs unnecessarily incurred. What the Supreme Court*
 8 *did rule upon was Defendants' appeal of this Court's Injunction in the Dubric matter. As the parties*
 9 *are aware, the Supreme Court issued an Order of Reversal of the injunction (See Order of Reversal*
 10 *attached as Exhibit 2).*

11 CONCLUSION

12 Plaintiffs' request for fees and costs is outrageously excessive for a case never even
 13 commencing trial; and yet with the present request, Plaintiffs seek even more than their original
 14 request. Because Plaintiffs' underlying Motion for an Award of Fees and Costs is untimely and has
 15 not met the minimum requirements for an award, it should be denied in its entirety. Plaintiffs'
 16 Motion to file a Supplement should also be denied in its entirety. Further, Plaintiffs have failed to
 17 obtain a judgment in excess of the NRCP 68 Offers which were served; and therefore the request for
 18 fees and costs must be denied.

19 DATED this 16th day of November, 2018.

20 **RODRIGUEZ LAW OFFICES, P. C.**

21
 22 /s/ Esther C. Rodriguez, Esq.
 23 Esther C. Rodriguez, Esq.
 24 Nevada State Bar No. 006473
 10161 Park Run Drive, Suite 150
 Las Vegas, Nevada 89145
 Attorneys for Defendants

CERTIFICATE OF SERVICE

I HEREBY CERTIFY on this 16th day of November, 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

/s/ Susan Dillow
An Employee of Rodriguez Law Offices, P.C.

EXHIBIT 1

002309

002309

EXHIBIT 1

IN THE SUPREME COURT OF THE STATE OF NEVADA

MICHAEL MURRAY; AND MICHAEL
RENO, INDIVIDUALLY AND ON
BEHALF OF OTHERS SIMILARLY
SITUATED,

Petitioners,

vs.

THE EIGHTH JUDICIAL DISTRICT
COURT OF THE STATE OF NEVADA,
IN AND FOR THE COUNTY OF
CLARK; AND THE HONORABLE
KATHLEEN E. DELANEY, DISTRICT
JUDGE,

Respondents,

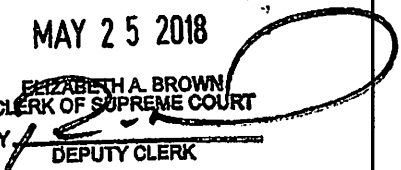
and

JASMINKA DUBRIC; A CAB, LLC; A
CAB SERIES LLC; EMPLOYEE
LEASING COMPANY; AND
CREIGHTON J. NADY,
Real Parties in Interest.

No. 75877

FILED

MAY 25 2018

ELIZABETH A. BROWN
CLERK OF SUPREME COURT
BY  DEPUTY CLERK

ORDER DENYING STAY

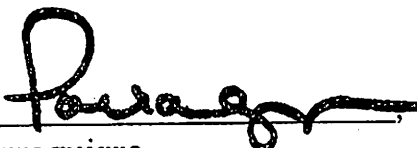
This original petition for a writ of mandamus challenges a district court order denying petitioners' motion for leave to intervene. Petitioners have moved to stay the district court proceedings pending our resolution of this petition.


In determining whether to grant a stay pending resolution of a writ petition, this court considers the following factors: (1) whether the object of the petition will be defeated if the stay is denied; (2) whether petitioners will suffer irreparable or serious injury if the stay is denied; (3) whether real parties in interest will suffer irreparable or serious injury if the stay is granted; and (4) whether petitioners are likely to prevail on the

18-21234

merits of the petition. Having considered the motion, the oppositions thereto, and the reply, we conclude that appellants have not demonstrated that these factors militate in favor of a stay at this time, especially as the district court must consider other pending actions when determining class certification questions, *see* NRCP 23(b)(3)(B), and any intervention may be effective even at a later date. Accordingly, we deny the motion for stay.

It is so ORDERED.

 J.
Parraguirre

 J.
Stiglich

CHERRY, J., dissenting:

It appears to me that, while the object of the petition will not be completely defeated absent a stay, whether intervention is warranted is best determined before the district court formally rules on the class certification and preliminary settlement approval questions and the parties then undertake further actions in accordance with the court's orders. To fail to do so limits the purpose of intervening, should intervention later be allowed. Petitioners have raised a substantial case on the merits, and I believe that the balance of equities weighs in favor of granting a stay. *See*

Hansen v. Eighth Judicial Dist. Court, 116 Nev. 650, 655, 6 P.3d 982, 985 (2000). Therefore, I dissent.

Cherry, J.
Cherry

cc: Hon. Kathleen E. Delaney, District Judge
Leon Greenberg Professional Corporation
Rodriguez Law Offices, P.C.
Bourassa Law Group, LLC
Eighth District Court Clerk

002312

002312

EXHIBIT 2

002313

002313

EXHIBIT 2


IN THE SUPREME COURT OF THE STATE OF NEVADA

A CAB TAXI SERVICE, LLC; A CAB,
 LLC; AND CREIGHTON J NADY,
 Appellants,
 vs.
 MICHAEL MURRAY; AND MICHAEL
 RENO, INDIVIDUALLY AND ON
 BEHALF OF OTHERS SIMILARLY
 SITUATED,
 Respondents.

No. 72691

FILED

APR 06 2018

ELIZABETH A. BROWN
 CLERK OF SUPREME COURT
 BY  DEPUTY CLERK

ORDER OF REVERSAL

This is an appeal from a district court order granting an injunction in a constitutional minimum wage action. Eighth Judicial District Court, Clark County; Kenneth C. Cory, Judge.

Appellants A Cab Taxi Service, LLC, A Cab, LLC, and Creighton J. Nady (collectively, ACTS) and respondents Michael Murray and Michael Reno (collectively, Murray) are parties to a class action which involves claims under the Minimum Wage Amendment of the Nevada Constitution. In the order certifying the class, the district court excluded another individual, Jaminska Dubric, from participating in the class.

Dubric later filed a separate action against ACTS (the Dubric action), alleging that ACTS was not paying employees the constitutionally mandated minimum wage. In the Dubric action, ACTS and Dubric were in settlement negotiations and jointly moved the district court to be certified as a class. While the motion to certify was pending, Murray filed a motion to enjoin ACTS from entering into a settlement agreement with Dubric. The district court granted the injunction, precluding ACTS from entering a

18-13224

settlement with Dubric and requiring ACTS to withdraw the motion to certify. ACTS appeals the order granting the injunction.

The decision to grant an injunction is within the district court's discretion, and we will not disturb that decision "absent an abuse of discretion or unless it is based on an erroneous legal standard." *Univ. & Cmty. Coll. Sys. of Nev. v. Nevadans for Sound Gov't*, 120 Nev. 712, 721, 100 P.3d 179, 187 (2004); see also *Dixon v. Thatcher*, 103 Nev. 414, 417, 742 P.2d 1029, 1031 (1987) ("As a general rule, we will not overturn the district court's ruling on a preliminary injunction. However, where . . . we conclude that the district court erred, we will not hesitate to do so." (citation omitted)). "Before a preliminary injunction will issue, the applicant must show (1) a likelihood of success on the merits; and (2) a reasonable probability that the non-moving party's conduct, if allowed to continue, will cause irreparable harm for which compensatory damage is an inadequate remedy." *Nevadans for Sound Gov't*, 120 Nev. at 721, 100 P.3d at 187 (internal quotation marks omitted). NRCP 65(d) requires the district court's order granting a preliminary injunction to "set forth the reasons for its issuance; . . . be specific in terms; [and] describe in reasonable detail, and not by reference to the complaint or other document, the act or acts sought to be restrained." However, "the lack of a statement of reasons does not necessarily invalidate a permanent injunction, so long as the reasons for the injunction are readily apparent elsewhere in the record and are sufficiently clear to permit meaningful appellate review." *Las Vegas Novelty, Inc. v. Fernandez*, 106 Nev. 113, 118, 787 P.2d 772, 775 (1990).

Here, the district court's order enjoining ACTS in the Dubric action fails to satisfy the minimum requirements to support injunctive relief under NRCP 65(d). Moreover, our review of the record demonstrates that

the reasons for the injunction are not readily apparent or sufficiently clear. Thus, we conclude that the district court's grant of a preliminary injunction was an abuse of discretion. Accordingly, we reverse the district court's order granting the preliminary injunction.

Douglas, C.J.
Douglas

Cherry, J.
Cherry

Gibbons, J.
Gibbons

Pickering, J.
Pickering

Hardesty, J.
Hardesty

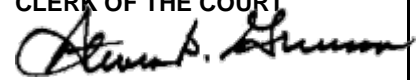
Parraguirre, J.
Parraguirre

Stiglich, J.
Stiglich

cc: Hon. Kenneth C. Cory, District Judge
Ara H. Shirinian, Settlement Judge
Rodriguez Law Offices, P.C.
Hutchison & Steffen, LLC/Las Vegas
Leon Greenberg Professional Corporation
Eighth District Court Clerk

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DANA SNIEGOCKI, ESQ., SBN 11715
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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' REPLY TO
DEFENDANTS' OPPOSITION
TO PLAINTIFFS' MOTION
TO FILE A SUPPLEMENT IN
SUPPORT OF AN AWARD OF
ATTORNEYS FEES AND
COSTS AS PER NRCP RULE
54 AND THE NEVADA
CONSTITUTION**

Plaintiffs, through their attorneys, Leon Greenberg Professional Corporation,
hereby file this Reply to defendants' Opposition to plaintiffs' Motion to supplement
their motion for an award of costs and attorneys fees.

ARGUMENT

**A. The request for the additional \$1,662.50 in costs are presented
in a timely fashion via the plaintiffs' motion to supplement.**

Defendants oppose not just the \$1,662.50 in costs at issue in this motion to
supplement, but the entirety of the costs and fee award requested on the basis it was
untimely under NRCP 54(b). As already explained to the Court in the briefings on the
initial motion for a costs and attorney fee award, the 20 day time limit of Rule 54(b)
was extended by the Court's Order granting final judgment and other relief (at p. 34, ¶
"E") to October 21, 2018. The motion for a costs and attorney fee award was filed on
October 12, 2018. The motion to supplement that still pending motion, to present the

1 additional \$1,662.50 in costs to the Court for consideration, was filed on October 29,
2 2018. Under these circumstances, with the initial motion filed in a timely fashion, and
3 still not decided or fully briefed, the supplemental motion in respect to the erroneously
4 omitted \$1,662.50 in costs should be deemed presented in a timely fashion.
5 Defendants provide no reason for the Court to hold otherwise.

6 **B. The requested additional \$1,662.50 in costs are proper.**

7 Defendants urge the Court to deny the portion of the \$1,662.50 in costs at issue
8 that were for computer data consultant expenses (\$1,272) on the basis that the total
9 computer data consultant and expert costs sought by plaintiffs (\$30,287) are excessive.
10 Yet defendants acknowledge they spent far more (over \$47,000) in such costs. Ex.
11 “A,” p. 2. Their objection to the plaintiffs’ far smaller such costs is specious.

12 The \$387.50 for the *Dubric* court reporter costs was proper and necessary to the
13 filing of the writ petition in that case to which defendants were Ordered to Answer.
14 That the Nevada Supreme Court, because of the later developments in this case, never
15 reached the merits of that writ petition (it was rendered moot by the final judgment in
16 this case) is irrelevant. Similarly irrelevant is the defendants’ success in the earlier
17 appeal in this case of the injunction related to the *Dubric* case. This expense was
18 properly incurred to protect the class members’ interests and should be paid by
19 defendants.

20 **CONCLUSION**

21 Wherefore, the plaintiffs’ motion should be granted in its entirety.

22 Dated: November 28, 2018

23 LEON GREENBERG PROFESSIONAL CORP.

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

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 28, 2018 she served the within:

Plaintiffs' Reply to Defendants' Opposition to Plaintiffs' Motion to File a Supplement in Support of an Award of Attorneys Fees and Costs as per NRCP Rule 54 and the Nevada Constitution

by court electronic service to:

TO:

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

/s/ Dana Sniegocki

Dana Sniegocki

002319

EXHIBIT "A"

Rodriguez Law Offices, P.C.
10161 Park Run Drive, Suite 150
Las Vegas, Nevada 89145
Tel (702) 320-8400
Fax (702) 320-8401

SUPP

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Attorneys for Defendants

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

Defendants.

Case No.: A-12-669926-C
Dept. No. I

DEFENDANTS' SECOND SUPPLEMENT TO

REBUTTAL EXPERT WITNESS DISCLOSURE

Defendants A Cab, LLC and CREIGHTON J. NADY, by and through their attorney of
record, ESTHER C. RODRIGUEZ, ESQ., of RODRIGUEZ LAW OFFICES, P.C., and pursuant to NRC
16.1(a)(2), hereby submit their rebuttal expert witness disclosures as follows (additions are **bolded**):

WITNESSES

1. Scott Leslie, CPA/ABV, CVA, CEF
Scott Leslie & Associates, Inc.
9107 West Russell Road
Las Vegas, Nevada 89148
(702) 878-2476

Mr. Leslie is a Certified Public Accountant, accredited in Business Valuations, and certified in Financial Forensics. He is an expert in the field of forensic accounting, public accounting, and business valuations, and is expected to testify in an expert/rebuttal expert capacity with respect to the reports prepared by Plaintiffs' Experts Terrence M. Clauretie, Ph.D./CPA, and Charles Bass, in addition to other matters identified in his rebuttal. Mr. Leslie's qualifications, list of deposition and trial testimony, and fee schedule are attached as A CAB 02325 - 02329. Mr. Leslie's rebuttal report is attached hereto as A CAB 02330 - 02365.

Pursuant to NRCF (a)(2)(B), Mr. Leslie has billed a total of 192.60 hours in testing, analysis and report writing, for total compensation in the amount of \$47,203.00 through September 9, 2017 in this matter.

DOCUMENTS

1. Curriculum Vitae, Prior Testimony and Fee Schedule of Scott Leslie, CPA/ABV, CVA, CEF, numbered A CAB 02325 - 02329;
2. Rebuttal Report prepared by Scott Leslie, CPA/ABV, CVA, CEF, numbered A CAB 02330 - 02365.

3. **The following files were provided to Mr. Leslie and are being produced simultaneously via Dropbox:**

CHECKLIST 1-1-13 to 12-31-15

CHECKLIST 10-8-10 to 12-31-12

CHECKLIST (with breaks) 1-1-13 to 12-31-15

TEST TRIP SHEETS 1-1-13 to 12-31-15 (1 of 2)

TEST TRIP SHEETS 1-1-13 to 12-31-15 (2 of 2)

TEST TRIP SHEETS 10-8-10 to 12-31-12

TEST TRIP SHEETS (with breaks) 1-1-13 to 12-31-15 (1 of 2)

TEST TRIP SHEETS (with breaks) 1-1-13 to 12-31-15 (2 of 2)

SECOND BATCH

2010-2012 Checklist

2010-2012

2013-2015 Checklist

2013-2015

Defendants have produced all documents that are currently known and available. However, Defendants reserve the right to supplement this list of documents and witnesses to add documents if subsequent information and investigation so warrant. Defendants further reserve the right to use the documents identified by the Plaintiffs. This designation is intended to supplement all discovery requests made by any other party to this matter regarding Defendants' expert witnesses.

As discovery is continuing, Defendants reserve the right to supplement this list to add documents, including expert reports, if subsequent information and investigation so warrant.

DATED this 15th day of September, 2017.

RODRIGUEZ LAW OFFICES, P.C.

By: /s/ Esther C. Rodriguez, Esq.
 Esther C. Rodriguez, Esq.
 Nevada Bar No. 6473
 10161 Park Run Drive, Suite 150
 Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

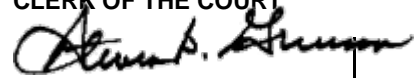
I HEREBY CERTIFY on this 15th day of September, 2017, I electronically *served* the foregoing with the Eighth Judicial District Court Clerk of Court using the E-file and Serve System which will send a notice of electronic service to the following:

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

/s/ Susan Dillow
 An Employee of Rodriguez Law Offices, P.C

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DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

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

BEFORE THE HONORABLE KENNETH CORY, DISTRICT COURT JUDGE

TUESDAY, DECEMBER 4, 2018

**RECORDER'S TRANSCRIPT OF HEARING:
ALL PENDING MOTIONS**

APPEARANCES:

FOR THE PLAINTIFFS:	LEON GREENBERG, ESQ.
	DANA SNIEGOCKI, ESQ.
FOR THE DEFENDANTS:	JAY A. SHAFER, ESQ.
FOR THE SPECIAL MASTER:	PETER DUBOWSKY, ESQ.

RECORDED BY: LISA LIZOTTE, COURT RECORDER
TRANSCRIBED BY: VERBATIM DIGITAL REPORTING, LLC

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 4, 2018

2 (Case called at 10:18 A.M.)

3 THE CLERK: -- 9926.

4 THE COURT: Good morning.

5 MR. GREENBERG: Good morning, Your Honor. Leon
6 Greenberg, Dana Sniegocki for plaintiffs.

7 MS. SNIEGOCKI: Good morning.

8 THE COURT: Good morning.

9 MR. DUBOWKSY: Good morning, Your Honor. Peter
10 Dubowsky, counsel for the Special Master, Resolution
11 Economics.

12 THE COURT: Ah, good morning.

13 MR. SHAFER: Just me, Jay Shafer, for defendant.

14 THE COURT: Good morning.

15 MR. SHAFER: Good morning.

16 THE COURT: This is a little different type of
17 calendar than I usually I have. I put it on to give the
18 ruling on some motions that are on the chambers calendar, have
19 been on a chambers calendar. And then we have still, argument
20 on the TRO motion, and I believe that's it for -- for today.
21 Am I correct?

22 MR. GREENBERG: I believe so, Your Honor.

23 THE COURT: All right.

24 MR. SHAFER: Yeah.

25 THE COURT: I did not set this up so that we could

1 have further argument on these. I just thought that perhaps
2 it would make a little more sense if I explained, and some of
3 this, I'll just flat be reading and you can, you know,
4 hopefully, it will find its way into the order which is
5 ultimately entered on these.

6 I'm going to take this out of order somewhat from
7 perhaps the way that it was listed on our chambers calendar.
8 The first one I'm going to deal with is the separate Motion
9 for an Order Granting a Judgment Debtor Examination and for
10 Other Relief. In response to that motion, the defendants
11 argue that there are a number of objections, including that
12 the plaintiffs' request is overbroad.

13 The Court has determined that the -- at this
14 juncture in the case that it is sufficient -- it is sufficient
15 that the interests that are argued in the Defendants'
16 Opposition, that they are protected by having in place a
17 Protective Order.

18 Accordingly, it's going to be the order of the Court
19 that the Motion for Judgment Debtor Examination is granted,
20 and an appropriate protective order, which I assume counsel
21 will be able to work out, if not, then come back in front of
22 me and we'll fashion an appropriate protective order.

23 There are allegations by the defendant that it would
24 include turning over personal information on these -- on some
25 of the individual cab drivers. Presumably, they are part of

1 Mr. Greenberg's clientele in this lawsuit. But as a
2 precaution, I'm going to enter a protective order that none of
3 the information which is turned over to -- or discovered
4 through the judgment debtor examination by the plaintiff, none
5 of it may be revealed beyond those -- to anyone other than
6 those directly involved with this case.

7 It is not to be -- and that protective order applies
8 to all personnel in Mr. Greenberg's firm -- they are not to
9 reveal any of the information which is received except that
10 which is brought up in court if it -- if it results in further
11 court action.

12 As to the Plaintiffs' Motion for an Award of
13 Attorneys' Fees and Costs, the Court is granting that motion.
14 Several figures were put forward by the plaintiff with
15 different rationale or criteria for each of them.

16 The Court is awarding what amounts to sort of the
17 middle position which is \$568,071 in attorneys' fees. The
18 Court is satisfied over the objection of the defendants that
19 the plaintiff has kept records, and we have seen them
20 previously, some of them, in this lawsuit.

21 I'm not going to require the plaintiffs' counsel to
22 cough up the 1,220 individual timesheets and -- nor am I -- do
23 I agree that they -- that those fees are excessive. It
24 probably would do with noting that we are dealing here with
25 attorneys' fees which are mandated by the Constitution of the

1 State of Nevada to a prevailing party.

2 And this important factor is one which comes back
3 into play in a number of the issues, both past issues, as well
4 as those that are currently before the Court, because some of
5 the arguments that the defense puts forward are not well-taken
6 in the face of a cause of action which itself is vouchsafed,
7 if you will, as a -- as a right in the Constitution of the
8 State. And we could -- we could argue all day long about
9 whether we agree with the philosophy of making essentially a
10 -- what is otherwise handled as a statutory cause of action
11 putting it into a constitution, but it's not for me to quibble
12 about that.

13 It is, as a fact -- matter of fact part of the
14 Constitution and this Court will do everything it can to
15 vouchsafe those rights which are enumerated in our
16 Constitution, and I consider this to be one of those rights.

17 The defendant contends that the plaintiffs will have
18 -- will collect another 50 percent of the judgment, in
19 addition to whatever fees the Court is awarding. I think that
20 the plaintiffs have adequately responded. But, Mr. Greenberg,
21 is it true that your fees will be exclusively from whatever
22 the Court awards as attorneys fees and that you will not be
23 taking, in addition to that, part of the judgment award as
24 part of your fees?

25 MR. GREENBERG: Your Honor, I cannot do that under

1 the retainer agreements with the representative plaintiffs.
2 I'm not authorized to do that, because Your Honor is setting
3 my fee. But beyond whether I would argue that you authorized,
4 I wouldn't as a matter of practice, and also, I can't in
5 compliance with the judgment you entered in this case, Your
6 Honor. The Judgment you entered back in August authorizes
7 collection, but it specifically prohibits any disbursement of
8 funds without further order from you.

9 So there may be circumstances where I would feel
10 that it would be justified for me to come to the Court and ask
11 that I be paid from the recovery, but that will be subject to
12 your approval and submission to Your Honor.

13 THE COURT: All right. Thank you.

14 So the Court orders that those attorneys fees in the
15 amount of \$568,071 are awarded pursuant to Article 15, Section
16 16 of the Nevada Constitution.

17 In response to the defendants' argument that the
18 plaintiffs have failed to exceed an Offer in Judgment, this is
19 my decision regarding that.

20 While the defendants contend that plaintiffs did not
21 beat the Offer in Judgment, when the \$7500 to plaintiff,
22 Michael Murray, and \$15,000 to plaintiff, Michael Reno, were
23 offered in an offer in judgment the -- while the defendants
24 argue that plaintiff Reno was ultimately awarded 4966.19, and
25 plaintiff Murray was awarded 770.33, and therefore, it is not

1 a more favorable judgment, well, without addressing any
2 argument that could come up perhaps under our old statute
3 about a reasonableness of rejecting such an offer, the Court
4 simply finds that the plaintiffs did secure a judgment in
5 excess of a million dollars on behalf of more than 900
6 plaintiffs, and the Court holds that plaintiffs did obtain a
7 more favorable judgment pursuant to Article 15, Section 16, of
8 the Nevada Constitution, and Rule 68.

9 As I indicated, Article 15, Section 16 of the Nevada
10 Constitution states that a prevailing plaintiff in one of
11 these causes of action, quote, "shall be awarded his or her
12 reasonable attorneys fees and costs", close quote.

13 At the time that those offers of judgment were made,
14 plaintiffs' counsel had already expended more than 70 hours
15 totaling at least \$20,000. The offers of judgment to the
16 plaintiffs in the amount of \$7,500 and \$15,000 were, quote,
17 "inclusive of interest, costs and attorneys fees", close
18 quote.

19 Partly because we are dealing here with a
20 constitutional provision, which serves a compelling public
21 purpose, the Court finds that the award of attorneys fees to a
22 prevailing plaintiff is mandated by the Constitution and
23 therefore it must be read into the calculation, if you will,
24 of the offer in judgment, and whether or not it was exceeded
25 by the plaintiffs.

1 As to defendants' arguments that the plaintiffs'
2 request is untimely as the plaintiff has argued and shown to
3 the Court, the contention that under Rule 54(d)(2)(B) one has
4 only 20 days after Notice of Entry of Judgment is served, that
5 provision also says that the time for filing the Motion for
6 Fees and Costs may not be extended after it has expired
7 whereas in this case the judgment itself provided that the
8 time was extended to 60 days after the service of the order
9 with Notice of Entry.

10 The Order was filed August 21st, 2018. Notice of
11 Entry was filed August 22nd, 2018, and so the deadline to file
12 the Motion for Attorneys Fees was approximately October 21st
13 and the Motion for Fees was actually filed on October 12th,
14 which was well within the 60-day period afforded by the Court.

15 Next, the defendants' argument that the costs must
16 be denied. The argument includes the point that plaintiffs
17 are seeking in excess of \$29,000 for experts who were never
18 utilized. And then the defendant brings up the argument that
19 -- that these experts were subject to being stricken as not
20 having met the required standards for admissibility, and it
21 cites us to the defendants' own Motion in Limine to exclude
22 the plaintiffs' experts.

23 And because the Court granted the plaintiffs' Motion
24 for Summary Judgment, at that point in time, the Court never
25 really ruled on Defendants' Motion in Limine to exclude the

1 plaintiffs' experts. For that reason, I will indicate that
2 the Court was prepared to deny the defendants' motion and hold
3 that the Court was satisfied that both Charles Bass and
4 Terrence Claurite, however he says it, have the requisite
5 knowledge, skill, experience, training and education to
6 express expert opinions on the plaintiffs' model and that
7 their testimony as to the reliability of the model and the
8 propriety of using such a model in the instant case would
9 assist the trier of fact in determining whether and to what
10 extent wages are owed to the class members. It is, as well,
11 it is appropriately limited in scope to each of their areas of
12 expertise and, finally, is based upon sufficiently reliable
13 methodology, and that it's largely based on particularized
14 facts.

15 That record was not made because the Court granted
16 the Motion for Summary Judgment in its place, but to -- to
17 argue -- any argument that the issue raised by the defendants
18 in their Motions in Limine would have precluded the granting
19 of costs, for those experts, is not well-taken.

20 So in these post-summary judgment proceedings, the
21 defendants continue to allege that they were blindsided by the
22 Court appointing a Special Master and the subsequent granting
23 of Plaintiffs' Motion for Summary Judgment. And they cite,
24 again, to their Motion in Limine. So the Court will take this
25 opportunity to explain to the defendants somewhat, part of the

1 course and reasoning of the December and January proceedings.

2 The Court heard the plaintiffs' Motion for Partial
3 Summary Judgment on December 14th of 2017. The Court granted
4 that motion, but only to the extent of holding that the
5 plaintiff had established liability. Thereafter, the
6 plaintiff filed the plaintiffs' supplement in support of the
7 Motion for Partial Summary Judgment arguing that the damages
8 and liability are inextricably related.

9 And the defendants also filed their Motion for
10 Summary Judgment on November 27th, 2017, which was heard
11 January 2nd, 2018. Other motions before the Court in the end
12 of December 2017, and early January of this year, included the
13 plaintiffs' Motion to Place Evidentiary Burden on the
14 defendant and the Plaintiffs' Motion to Bifurcate or Limit
15 Issues at Trial.

16 The defendants' objection to the Discovery
17 Commissioner's Report and Recommendation was also filed. Both
18 defendants' and plaintiffs' Motions in Limine, the Defendants'
19 Supplement Regarding January 2nd Hearing, and both sides'
20 objections pursuant to Rule 16.1(3), and the Plaintiffs'
21 motions to strike affirmative defenses was -- it was upon
22 review of all of those motions that the Court found that
23 liability and damages were, indeed, inextricably related and
24 that is precisely why the Court gave defendants one more
25 opportunity to present evidence which would rebut that

1 liability, but they could not.

2 In preparation of those pretrial motions the Court
3 inquired into what evidence would be submitted and presented
4 at trial. In the defendants' Motion in Limine the defendants
5 argued that the plaintiffs' expert's methodology was
6 unreliable because it calculated damages derived from
7 inaccurate information, despite the plaintiffs' experts using
8 the information consisting of computer data -- computer data
9 files, which were in fact provided by A Cab.

10 The defendants argued at that time that the trip
11 sheets were the only accurate information, and that is
12 precisely why this Court appointed a Special Master who,
13 unfortunately, apparently, alleges at least, that they
14 expended some \$85,000 before it was stopped, in order to
15 review those trip sheets and those trip sheets, it bears
16 repeating again, did not comply with NRS 608.115, and the
17 Special Master was doing this in an attempt to make a
18 determination on a precise calculation of hours.

19 The defendants continued to make their noncompliance
20 with the recordkeeping statutes, use it as both a sword and a
21 shield, and that is when this Court decided to apply the
22 reasoning of the Mt. Clemens, United States Supreme Court
23 opinion, which stated that, quote, "The employer cannot be
24 heard to complain that the damages lacked the exactness of
25 measurement that would be possible had he kept records," close

1 quote.

2 Contrary to the defendants' assertions that the
3 experts were never utilized, the plaintiffs' experts were
4 necessary to this Court in granting summary judgment. It was
5 the defendants' lack of evidence of the precise amount of work
6 performed to negate the reasonableness of the inferences to be
7 drawn from the employees' evidence, which warranted the
8 granting of summary judgment. Again, that is pursuant to
9 Anderson v. Mt. Clemens Potter Co., 328 U.S. 680, 687, a 1946
10 case which essentially holds that, The burden shifts to the
11 employer to come forward with evidence of the precise amount
12 of work performed or with evidence to negative or negate the
13 reasonableness of the inferences to be drawn from the
14 employees' evidence. If the employer fails to produce such
15 evidence the Court may then award damages to the employee,
16 even though the result be only approximate.

17 Now, I believe that case was probably in response to
18 a federal cause of action, not one that was in the State
19 Constitution like ours, but I see no reason why I would
20 differentiate on that basis, the reasoning. The reasoning is
21 equally applicable to this type of a case.

22 The Court gave the defendants every opportunity to
23 come forward with precise evidence but the defendants failed
24 to provide the initial \$25,000 deposit that was ordered by
25 this Court for the Special Master.

1 The defendants might have a colorable argument
2 against the plaintiffs' expert costs had the Special Master
3 completed his work regarding the trip sheets and had the trial
4 proceeded on that basis. However, as we know, that's not the
5 case here. That's not what happened.

6 Plaintiffs' experts were necessary and their
7 expenses were reasonable given the extent of the work
8 performed in calculating the damages based upon the computer
9 data information which was provided by A Cab. Therefore, the
10 costs are awarded in their entirety.

11 There was, additionally, a claim of exemption filed
12 in the case, together with Plaintiffs' Objections to the
13 Claims of Exemption, exemption from execution.

14 The Court agrees with the plaintiffs' analysis
15 regarding their objections. The defendants' claims of
16 exemption are denied except as to the Nevada "Wildcard"
17 exemption, which it does appear to be appropriate pursuant to
18 NRS 21.090(1)(z). Therefore, the "Wildcard" exemption is
19 applied in this case and the Clerk of the Court shall remit
20 \$10,000 out of -- we're speaking of the funds that were seized
21 from the Bank -- \$10,000 to A Cab, LLC, and the remainder of
22 the funds shall be -- which have been deposited with the Clerk
23 of the Court, shall be remitted to Plaintiffs' counsel for
24 placement in their IOLTA account pending further order of the
25 Court.

1 Now, having made those determinations, I go back to
2 a -- kind of a -- not a boilerplate, but expansive motion, and
3 that is, plaintiffs' countermotion. When the defendants
4 filed their Ex-Parte Motion to Quash the Writ of Execution,
5 the plaintiffs' filed a Counter-Motion for Appropriate
6 Judgment Enforcement Relief in which they asked for a judgment
7 debtor examination. The Court's already granted that from the
8 specific order.

9 So, I suppose that this would actually, in terms of
10 this Counter-Motion, would be denied as moot, since it was
11 already granted in the specific motion filed by the
12 plaintiffs.

13 They also asked that the Court order the property in
14 the possession of the series LLC's belonging to A Cab, LLC, be
15 deposited with plaintiffs' counsel.

16 For now, as will be explained a little bit further
17 in a minute, the Court is going to not order that it be given
18 to plaintiff's counsel, but that it not be -- the terms of the
19 TRO that the plaintiffs have obtained -- well, I guess that is
20 what is on calendar though, isn't it -- that it be -- not be
21 sold off or given away, that the property be maintained
22 pending further Order of the Court.

23 The plaintiffs also ask that the Court enjoin any
24 transfer of funds from A Cab, LLC to any of its series LLC's,
25 or to Defendant Nady, or any family members, without further

1 order of the Court. It follows, that the Court is going to
2 grant that. In doing so, I am well aware that that is a
3 terribly stifling order on a business.

4 Something has got to change in terms of the
5 collectability of the judgment here. I have, in the past,
6 spoken of not wanting to kill the goose that lays the golden
7 egg, but perhaps this is a place to insert the comment that
8 Mr. Nady himself indicated his understanding of this series,
9 LLC legislation was that it would enable him to avoid
10 liability, and he certainly has taken steps apparently to do
11 so in this case.

12 You cannot do that. I cannot condone that and say
13 that that's the purpose of the legislation. If I did say it
14 was the purpose of the legislation -- and by that what I mean
15 is to prevent collection of legitimate debts, like a judgment,
16 then I would have to make some sort of balancing determination
17 between the constitutional provision, and the legislation.

18 I don't believe it's necessary, because I don't
19 think that it was the legislature's intent to allow someone to
20 utilize that device in order to avoid paying one's debts
21 ordered pursuant to a judgment, most particularly, one
22 mandated by our Constitution.

23 The plaintiff also asked for an Order of Attachment
24 of assets including the CPCN Medallion and the sale of same.
25 The Court is not ordering that at this time. It's my belief,

1 as I'll get into -- well, I'll just say that I will leave that
2 hanging until we determine the viability of the TRO which is
3 on calendar today.

4 The plaintiff also asked that the Court appoint a
5 receiver. I have avoided doing that since the problem that
6 arose when the Court appointed a Special Master. The -- I
7 don't know how we would -- I don't know how we would pay for
8 the Receiver. I'm sure that the plaintiff has a notion on
9 that, but I just -- I have made no determination on that point
10 to this -- to this point.

11 That brings us then finally -- let's see -- to what
12 is on calendar today and, let's see, that is the Motion for a
13 TRO and the order requiring the turnover of certain property
14 of the judgment debtor pursuant to NRS 21.320.

15 So with that, I'll hear argument from the plaintiffs
16 first and then see what the defense has to say.

17 MR. GREENBERG: Your Honor, just to answer your
18 question that you asked a few minutes ago about appointment of
19 a receiver in this case and paying a receiver, from my
20 perspective, the class here is presented with two fairly
21 unattractive choices in terms of judgment enforcement at this
22 point.

23 One is to proceed to attempt to liquidate whatever
24 property can be attached from the business which I don't think
25 is going to be enough to easily satisfy the judgment. The

1 alternative would be to have a Receiver appointed which is
2 going to be an expense to run the business and hopefully
3 collect over time enough revenue to pay the judgment because I
4 do think the business has value as an ongoing operation,
5 greatly in excess of what its value would be in liquidation.

6 But of the two choices that are presented, neither
7 are terribly attractive, but I think it would be in the
8 interest of class members to see a Receiver appointed rather
9 than see the business -- seize doing business or simply be
10 sent into liquidation which is the other road that we have
11 available to us.

12 So to answer Your Honor's question about how a
13 Receiver would be appointed, as I understand it, Your Honor,
14 is authorizing the continued holding of the Wells Fargo funds
15 that were executed on, and that would be deposited in my
16 attorney trust account.

17 THE COURT: That's correct.

18 MR. GREENBERG: There are approximately \$200,000 of
19 funds there. That would be enough, obviously, to at least pay
20 a Receiver to sit down and go over the books and come up with
21 some sort of plan of operation. My understanding is that the
22 business has positive cash flow of approximately \$50,000 a
23 month based on the financials that we have, you know, which
24 are a couple years old.

25 THE COURT: Um-h'm.

1 MR. GREENBERG: But the more current financials show
2 that A Cab's volume of business, as reported to the Tax
3 Commission has been strong. Not every operator in Nevada --
4 in Las Vegas has been doing so well, but their business is
5 apparently stable, or strong in terms of just the volume of
6 trips they're taking, because they do have to publically
7 report that.

8 So there's every reason to believe that a Receiver
9 could step in here, and even though, you know, they may have
10 to be paid some thousands of dollars a month to perform their
11 job and oversee the operations, that it could, over time,
12 generate enough revenue to pay the judgment.

13 And that would be our preference, Your Honor, rather
14 actually -- I mean, the vehicles that I'm asking that be
15 seized towards judgment satisfaction, I'm not sure these
16 vehicles are even being used, actually, in the operations of
17 the business.

18 But candidly, Your Honor, they're a fairly small
19 asset upon liquidation value compared to the amount of the
20 judgment. The reason why I've come to the Court and requested
21 action on them is because it's simply the only other option I
22 have available to me at this point.

23 THE COURT: What if you did, you know, sort of a
24 standard Writ of Execution to go after them at which point the
25 defendant could put forward their claim for exemption or any

1 other objection to it, and the Court could rule on it then?

2 MR. GREENBERG: Well, Your Honor, part of my problem
3 is that the normal process with the Sheriff to execute on a
4 vehicle is they want to have a license plate number, not just
5 a VIN number. You can't get license plate numbers directly
6 from the Department of Motor Vehicles. It is possible I could
7 hire a private investigator who would have access to that
8 information and be able to provide it, and then I could
9 provide it to the Sheriff.

10 Setting aside the additional expense of doing that,
11 the Sheriff still has to actually physically locate the
12 vehicles. This is a fleet of vehicles, I mean, A Cab has a
13 fleet of maybe a hundred vehicles, 70 vehicles, dozens of
14 vehicles, Your Honor.

15 THE COURT: Um-h'm.

16 MR. GREENBERG: They have to go to the premises and
17 try to find the vehicles, whether they -- if they don't have
18 license plate numbers, it's pretty difficult to actually
19 examine each vehicle to find the VIN number on it.

20 The purpose of the requested order -- and I actually
21 drafted an order here that I could present to Your Honor for
22 consideration to counsel -- is really just to compel them to
23 cooperate with the Sheriff in respect to these vehicles. I
24 mean, if the Order is in place and the Sheriff goes down to
25 the property, there's no question that they're under an

1 obligation to say, okay, well, we'll bring the vehicle in at
2 3:00 o'clock or it's out -- it's out being used right now.

3 When it comes off shift, we're going to hold it and
4 turn it over to you, etcetera, etcetera. There's no -- Your
5 Honor understands, these things can be difficult when it comes
6 to, you know, collecting, or getting property in these kinds
7 of situations.

8 I don't see that there's any -- Your Honor mentioned
9 this question of exemption and I actually did -- because they
10 raised this in their Opposition, and I was examining yesterday
11 the provisions of 21.090 which contain the exemption
12 provisions, and 1(f) provides for an exemption for one vehicle
13 if the judgment debtor's equity does not exceed \$15,000.

14 I -- if defendants were to exempt one of these six
15 vehicles that we've identified -- and there may be more, Your
16 Honor, but my investigation leads me to believe that the -- 90
17 percent of their fleet, or whatever it is, the vast majority
18 is actually titled to the series LLCs, not A Cab, LLC, the
19 judgment debtor, which is the reason why I'm not bringing the
20 issue before Your Honor as to the status of property that's --
21 that's titled allegedly to these separate non-debtor entities.
22 I'm just focusing on what is, in fact, clearly, by public
23 record, titled to the judgment debtor.

24 But if one of these vehicles were to be exempted,
25 then the others would be subject to execution. I mean, the

1 Sheriff can take possession of the vehicles and at that point
2 the question of exemption can be taken care. Obviously, I
3 will cooperate and authorize pursuant to a court order and
4 understanding, the release of one of the vehicles, and the
5 other four or five can be, you know, processed and sent to
6 auction through -- through the normal course. I don't really
7 have much more to say about this, Your Honor. I mean --

8 THE COURT: Okay.

9 MR. GREENBERG: -- if Your Honor would like to see
10 the proposed order I drafted here, I could -- I could -- I
11 could approach the Bench --

12 THE COURT: All right.

13 MR. GREENBERG: -- if you have questions.

14 THE COURT: Has the other side seen it?

15 MR. GREENBERG: No, I will give it -- I'll give it
16 to them right now. But it's --

17 THE COURT: Okay.

18 MR. GREENBERG: -- it's two pages, it's about two
19 paragraphs.

20 THE COURT: Okay.

21 MR. GREENBERG: It's relatively short, Your Honor.

22 (Mr. Greenberg hands document to Mr. Shafer and to the Court)

23 THE COURT: Is this essentially a turnover order
24 that -- such as you were arguing for, or does this merely
25 prevent them from selling or otherwise getting rid of the

1 vehicles?

2 MR. GREENBERG: Well, the actual recital of relief,
3 the bottom paragraph of page one, makes clear that the relief
4 being ordered is in respect only to the fact that A Cab, LLC
5 is the sole title of any motor vehicles. So to the extent
6 that there are motor vehicles that are owned by the series,
7 that are owned by multiple owners on title, they are not
8 affected by this order. I mean, I'm trying to limit this
9 clearly to the property that is solely in the possession of
10 the judgment debtor, Your Honor.

11 THE COURT: Okay.

12 MR. GREENBERG: And that is -- that's on the first
13 -- the bottom paragraph on the first page.

14 THE COURT: Okay.

15 MR. GREENBERG: And the particular relief that I'm
16 suggesting the Court order is confined to the top half of the
17 second page.

18 And the purpose is to require that the defendants
19 deliver, disclose upon inquiry by, or otherwise fully
20 cooperate with the Sheriff of Clark County and make available
21 for judgment execution all motor vehicles of which A Cab is
22 the sole owner, including, but not limited to the following
23 vehicles, unless the following vehicles, in fact, are not
24 owned by them.

25 And, you know, to the extent that they say that I am

1 in error on the titles, the title information I've presented
2 to the Court is not correct, they obviously could still
3 establish that under this order and be excused from, you know,
4 turning those vehicles over to the Sheriff. But these
5 vehicles I have identified as having title held solely in the
6 name of the judgment debtor.

7 They have not disputed that, Your Honor, in their
8 Opposition. And the judgment is of record, Your Honor. I
9 don't see that there's a basis to deny the relief that's
10 requested here. I think Your Honor understands. If there's
11 any questions, anything I could assist the Court with?

12 THE COURT: Okay. The Motion and Order are directed
13 solely to these vehicles; correct?

14 MR. GREENBERG: Well, it commands their cooperation
15 in respect to any motor vehicle.

16 THE COURT: Okay.

17 MR. GREENBERG: So it identifies these. It says,
18 the following listed vehicles, including but not limited to.
19 Candidly, Your Honor, I don't believe there are any other
20 vehicles or if there are any other vehicles, their value is
21 probably fairly small because they are very old.

22 THE COURT: Okay. All right.

23 MR. SHAFER: I'll just respond. I think this is
24 indicative of the problem, that there are shortcuts here. And
25 I respect the Court's position regarding the validity of the

1 judgment and I'm not going to begin to address that.

2 The thing here is, it is enshrined in our
3 Constitution, a respect for due process, and a respect for the
4 execution of the -- that is set out in the statute. They are
5 asking essentially for an injunction to shut down the
6 business. They want every vehicle that A Cab uses. And, in
7 fact -- and I'll -- I'll briefly address this. If -- well,
8 would you -- I'd like to address the issue of the restraint of
9 the transfer of funds to the series LLC. Would you like me to
10 do that now or at the end of my argument?

11 THE COURT: Let's -- let's talk first about the --

12 MR. SHAFER: Okay.

13 THE COURT: -- vehicles --

14 MR. SHAFER: All right.

15 THE COURT: -- and then we'll go on to the other.

16 MR. SHAFER: So they have essentially asked for
17 injunctive relief for all of the property, regardless of the
18 fact that it is neither owned by A Cab, however, that there is
19 a claim of exemption for that. They haven't engaged in the --
20 in the process or the evaluation that is required under
21 injunctive statute, but you have to go through the test for
22 setting out whether they have a reasonable probability of
23 success, the suffering of irreparable harm, a balancing of the
24 hardship, including a balancing of the hardship to the public
25 and whether the present -- it maintains the status quo.

1 Forcing --

2 THE COURT: The question I would have for you is how
3 applicable is that at the, you know, following judgment? That
4 certainly is the correct standard when you're dealing on the
5 front end of a case where you don't have all the facts
6 ascertained and the -- so you have to go through the test.
7 But in this case, we're at the judgment.

8 MR. SHAFER: Correct.

9 THE COURT: So does those --

10 MR. SHAFER: We are --

11 THE COURT: -- does those -- is there some authority
12 that says that you still apply the balancing kind of test that
13 you would if this were a TRO on the front end of a case?

14 MR. SHAFER: Well, they are asking for injunctive
15 relief not just as to A Cab but to all the other series. We
16 have not been subjected to due process or, you know, service
17 in this case.

18 It would be one thing if they were executing a
19 single Writ as to, for example, the 2008 Toyota Corolla with a
20 VIN ending 5153 because there is a set statutory process for
21 which they execute the Writ, there's a basis for an objection
22 and then a hearing is heard on that vehicle. They're asking
23 for injunctive relief as to all vehicles, and precluding --
24 precluding A Cab from either transferring or acquiring new
25 they, you know, if they have a defunct cab that they need to

1 sell for parts they can't do that. They can't operate in the
2 normal business.

3 And so if the Court enjoins these cars, and forces
4 the turnover of these cars without the due process required in
5 the writ process, it will deprive -- of the four cars which
6 they alleged are owned by A Cab, that will put 8 to 12 cab
7 drivers out of work. Moreover --

8 THE COURT: So those are -- those are cabs? Those
9 are being used as cabs; is that right?

10 MR. SHAFER: I believe so. I mean, they -- A Cab
11 doesn't own any vehicles that they don't use for cabs.

12 THE COURT: All right.

13 MR. SHAFER: It will also deprive the public of
14 being --

15 THE COURT: Well, are the using the Mercedes Benz as
16 a cab?

17 MR. SHAFER: No. The Mercedes Benz is a personal
18 vehicle, I understand.

19 THE COURT: Okay.

20 MR. SHAFER: And the other vehicle is registered to
21 another company called Guard Force out of Arizona. It's my
22 understanding that that -- that's what the use of those two
23 vehicles.

24 THE COURT: Is that the Ford Transit?

25 MR. SHAFER: Correct.

1 THE COURT: Okay.

2 MR. SHAFER: That's my understanding of what the
3 situation is. And they certainly say that their investigation
4 has led them to believe that these are owned by A Cab but
5 there's no documentation of that.

6 THE COURT: Uh-huh.

7 MR. SHAFER: My understanding is that they're not
8 owned by A Cab, that they're owned by other entities. And
9 therein lies the problem; without a hearing or proper source
10 of claim for exemption they could basically take anything or
11 put my client in a significant risk of harm for trying to, you
12 know, dispose of their personal property if they're subject to
13 this --

14 THE COURT: So are --

15 MR. SHAFER: -- TRO.

16 THE COURT: -- you saying that contrary to what the
17 plaintiff is claiming that these -- let's take the four
18 Toyotas -- that they are not owned by the defendant?

19 MR. SHAFER: I'm -- I'm not making a position on
20 that either way at this point. Because of the shortness of
21 time that we had to respond, just a few days, I was not able
22 to get that information as to whether or not they are still
23 owned by A Cab, or whether they had been transferred to and --
24 or sold to another entity.

25 THE COURT: Well, I guess that kind of puts us right

1 into what the quandary is. The plaintiffs are saying don't
2 let them sell off the property --

3 MR. SHAFER: Right.

4 THE COURT: -- and --

5 MR. SHAFER: Well, and --

6 THE COURT: -- spend the money.

7 MR. SHAFER: Well, and the thing is, they would have
8 used this isn't their ordinary course of business. I'm not
9 saying that they have been, I'm just saying I don't know. I
10 do not know what the status of these vehicles is, above the
11 purported document that they have submitted in support of
12 their motion which claims to be from the DMV. So I'm not
13 contesting that they are or they aren't subject to that, but I
14 know --

15 THE COURT: Okay.

16 MR. SHAFER: -- I've been told that the Mercedes and
17 the Ford are not A Cab's vehicles.

18 THE COURT: Would it make more sense from your
19 standpoint, or at least comport more with your -- your notion
20 of due process, etcetera, if the Court merely entered a
21 Restraining Order preventing any of the defendants from
22 hypothecating, selling, giving away, whatever, any of the
23 vehicles which are currently in the name of the -- in other
24 words, and then require the -- the plaintiff to do a Writ of
25 Execution and defendant would have -- defendants would have

1 opportunity then to --

2 MR. SHAFER: Okay.

3 THE COURT: -- do any claim of exemption. Would
4 that --

5 MR. SHAFER: The answer to that is I have no problem
6 with them proceeding with the Writ except subject to a caveat
7 which we have filed in our Opposition and Counter-Motion for
8 Stay, but we can reach that in just a minute.

9 THE COURT: Yeah.

10 MR. SHAFER: As to the transfer, the problem with
11 the transfer of the vehicles is that they acquire the vehicles
12 and then they are transferred to the series LLC to establish
13 new entities or sometimes they are sold to another cab company
14 depending on -- as to these four vehicles, I would be fine
15 with an order of the Court precluding their transfer or sale
16 or further encumbrance as to these four Toyotas, if -- if they
17 still owned them at the time that they were served with the --
18 with the order.

19 THE COURT: What about a restraining order that was
20 broader than that, that simply said that the defendants are
21 enjoined from selling off, giving away, getting rid of any of
22 the vehicles owned by these defendants?

23 MR. SHAFER: By A Cab? I think that that might be
24 okay.

25 THE COURT: By A Cab Taxi Service, A Cab, LLC --

1 MR. SHAFER: Correct.

2 THE COURT: -- I believe, also A Cab Series, LLC,
3 and Mr. Nady.

4 MR. SHAFER: Well, Mr. Nady is not subject to the
5 judgment, nor has he been brought in, has no restrictions. He
6 can sell or dispose of his personal property as he would like.
7 And that's not here.

8 I have no problem with the A Cab. My concern is as
9 to the other series which own their own vehicles that are not
10 subject to this jurisdiction at this point which we're still
11 undergoing and may have an issue. But as to these four
12 vehicles, I have no problem stipulating that A Cab will not
13 transfer or if it hadn't -- if it still had them at the time
14 that they were served with the Writ.

15 THE COURT: Um-h'm.

16 MR. SHAFER: Because if they somehow sold it before
17 the Writ was served upon us then we can't maintain it if it's
18 gone already. Other than that, I have no problem with that.

19 My concern is just the overbroadness of the
20 potentially anything. You know, and they have a protection,
21 because under the statute, if there were a transfer that
22 wasn't in the ordinary course of business and value wasn't
23 received, then there -- they can move to set that aside as a
24 fraudulent transfer. You know, if A Cab sells these vehicles
25 for a dollar to B Cab, or some other entity, or you know,

1 Desert Cab or some other entity, without getting value for the
2 receipt, then that would be subject to a set-aside under the
3 fraudulent transfer statute.

4 If they sell the cab for \$25,000 because they need
5 it to fund on going operations, they have received value for
6 it and the plaintiffs are not in any worse condition that they
7 -- that there is liquid funds versus actual property to be
8 executed upon. In fact, they're probably better off, because
9 they don't have the transactions costs from the Sheriff and
10 get a highest and best value.

11 You know, we would be happy to keep records of any
12 transfer of sale of the property, such that there's no concern
13 about the property going out the back door or under cover of
14 night, that they know where it is and where everything went --
15 received.

16 It is not our intention to try to pull a fast one or
17 pull the wool over their eyes. We have a significant,
18 obviously, a dispute that is on appeal regarding the validity
19 of this and that needs to go through the process and then -- I
20 think as to why we have a stay, or why we've asked for a stay.

21 But certainly, I think that an order requiring a
22 defendant to turnover all of it's property is overbroad. As
23 to these specific four vehicles, that's a different matter.
24 There is the question though of whether or not it is in the
25 best interests to force a turnover, to deprive 8 to 12

1 employees of their gainful employment and to cease service to
2 the community. There was a reference to the appointment of a
3 Receiver.

4 THE COURT: Is this where we get into the employees
5 and the holiday season and putting them out of work and --

6 MR. SHAFER: I think we've addressed that in our
7 Opposition and I won't belabor the point.

8 THE COURT: Okay.

9 MR. SHAFER: But I think that is a significant
10 concern. Contrary to where -- where we are now in the
11 operation of the Cab business is substantially less profitable
12 than it was 5 or 6 years ago. With the advent of Uber, Lyft
13 and the other companies, there's been a significant drain on
14 the demand for taxi companies. Further, there has been an
15 increased vehicle cost. Vehicles cost more now than they used
16 to. Gas costs more now than it used to. All the materials
17 cost more now than they used to.

18 Labor costs more because now there's been an
19 additional change in how they do that, I suppose. So they are
20 less profitable now than they were 5 or 6 years ago.

21 And certainly, and I think this is where we go to,
22 if they are precluded from transferring money to the series
23 LLCs, that means that A Cab can't pay for the maintenance of
24 the company. It can't pay for the operations because it can't
25 pay its labor. It can't pay for the use of the medallions or

1 the taxis because that's how they pay for it. They have
2 transfers between the series LLCs to account for the economic
3 value that each one contributes.

4 And if they're precluded from doing so there is no
5 way to pay its ongoing bills and expenses. But as far -- so I
6 think as far as the TRO, I think it is overbroad. I think
7 they -- they had their TRO. Now, they are asking for further
8 injunctive relief.

9 THE COURT: Um-h'm.

10 MR. SHAFER: Because they want any property ever
11 that -- that A Cab has, any vehicle that they ever have to be
12 subject to turnover by the -- by the -- to the -- to the
13 Sheriff.

14 And they haven't gone through the analysis under the
15 injunctive relief and I don't believe that it's appropriate at
16 this time to enter such an expansive relief.

17 THE COURT: Well, I wonder if in making these
18 arguments which I -- which I -- I think are credible
19 arguments, and one that the Court would have to deal with, and
20 the plaintiffs would have to deal with, I wonder if you aren't
21 -- if it doesn't become an argument in favor of putting a
22 Receiver in, that that's the only thing that will preserve the
23 assets without having to stop and run to court every time we
24 turn around to try and get, you know --

25 MR. SHAFER: Yeah.

1 THE COURT: -- to have all these skirmishes over
2 whether --

3 MR. SHAFER: Yeah.

4 THE COURT: -- the property belongs to the
5 defendant, whether the defendant can hypothecate it or, you
6 know.

7 MR. SHAFER: Well, and I think I could address that.
8 There has been no significant risk of harm for A Cab disposing
9 of its assets improperly. Apart from the arguments --

10 THE COURT: Say that again? There's been no risk
11 of harm --

12 MR. SHAFER: Let me -- let me -- rephrase this.

13 THE COURT: Okay.

14 MR. SHAFER: Plaintiffs have argued that money might
15 go out the back door, that it might get transferred
16 inappropriately, precluding their execution on the judgment.

17 THE COURT: Um-h'm.

18 MR. SHAFER: There's no -- been no risk or
19 indication or any factual evidence that such a -- that that
20 either could or would occur. There's been no evidence that
21 there's been a significant transfer of funds to Jay Nady or
22 some other entity, that there's been a massive sell-off of its
23 assets or other transfer. They are continuing to operate
24 their business as they have and continuing to serve the public
25 as they have and continuing to account for, as they always

1 have. There is no risk of harm that the plaintiffs will have
2 if they continue -- if they allow this to go forward in the
3 ordinary course.

4 You have ordered a judgment debtor exam and for the
5 turnover of financial records. That will essentially
6 determine what a Receiver would uncover anyway without the
7 additional expense.

8 Now, there are times where Receivers are appropriate
9 and I think useful. In this instance, I don't know that they
10 are, not only because of the additional costs, but because of
11 the nature of the business, I do not know that a Receiver
12 could be appointed to a regulated business such as this. I
13 have not researched that issue but I know that there are
14 strict limitations put on the operation of a business that has
15 a Certificate of Public Necessity.

16 And so I don't know that if we were to appoint a
17 Receiver that they could continue to operate as a cab company
18 because that Receiver would then have to be subject to
19 investigation and approval by the Taxi Cab Authority, if they
20 are making business decisions and operational decisions about
21 the company.

22 THE COURT: Is that because this is a license, the
23 type of license that --

24 MR. SHAFER: That is my understanding, correct.

25 THE COURT: Um-h'm. Okay.

1 MR. SHAFER: So -- and again, that's not been
2 briefed, and I think that's why these ad hoc arguments do not
3 serve any party and it would be better to take this in the
4 ordinary course and with a calm and measured approach to how
5 things are to go forward.

6 Obviously, if there's transfers, you know, a million
7 dollars in gold bouillon goes out the back door to Jay Nady
8 and he starts tiling his walk with it or something like that,
9 then we've got a different situation. But we don't have that,
10 Your Honor. We have they're continuing to operate, continuing
11 to provide taxi service to the public.

12 So, I think that you have ordered a judgment debtor
13 exam which somebody from A Cab will show up and produce
14 records subject to these objections which will show the
15 finances. There is -- and so on that basis, without getting
16 too much into our countermotion for stay, unless you'd like us
17 to address that now --

18 THE COURT: No.

19 MR. SHAFER: -- I think that the -- our sole
20 position is that the TRO or the injunctive relief as to all
21 vehicles is just overbroad and there's no basis for it at this
22 point. If they have the specific four vehicles that they
23 would like turned over, that should go through the Writ
24 process.

25 THE COURT: Okay. Mr. Greenberg?

1 MR. GREENBERG: Yes, Your Honor. The problem here
2 is that there's representations made that, you know, well,
3 there's no diversion of funds, there's no money that's going
4 out the back door. We don't really know what's going on, Your
5 Honor. And more to the point is, again, the value of the
6 business here is as an ongoing operation.

7 And what's going on here is that the operation of
8 the business through the series LLCs is completely dependent
9 upon the judgment debtor status holding that CPCN. They hold
10 the CPCN. They have the medallions. They then have this
11 arrangement with this multitude of series LLCs to have them
12 use the medallions to actually generate money.

13 So, the series can't operate without the cooperation
14 of the judgment debtor in terms of giving them access to the
15 medallions. Mr. Nady's testimony at his deposition -- and
16 this is in the record, otherwise, I have it on my computer
17 here -- is that the way the business functions is that the
18 revenue comes in in the first instance to the cells, to the
19 series, LLCs, which are running the tabs. And then at the end
20 of the day, the money gets transferred out of that company
21 into a personal account of mine.

22 THE COURT: Um-h'm.

23 MR. GREENBERG: So what happens is, is that -- the
24 fruits of the enterprise are going directly to Mr. Nady by his
25 own testimony. There's no reason under this business

1 structure that any money should ever come back to the judgment
2 debtor. That is how the business is organized, Your Honor.
3 So ultimately, the purpose of appointing a Receiver is a
4 Receiver who has control over the judgment debtor and the
5 judgment debtor's use of those medallions is going to have to
6 come in and essentially have the business restructured so that
7 the profits that are earned, the revenue that's earned from
8 the operation of those medallions, comes back to the judgment
9 debtor for purposes of paying the creditors here which are my
10 clients, the class members. Under the current structure, that
11 money is just gone at the source or origin, essentially.

12 THE COURT: Um-h'm.

13 MR. GREENBERG: You understand my point, Your Honor.

14 THE COURT: Um-h'm.

15 MR. GREENBERG: And in terms of appointing a
16 Receiver and how this may be a problem in respect to the
17 operation of the Tax Commission and the CPCN, we're not
18 suggesting that Mr. Nady be displaced from managing the
19 business. I mean, we're simply asking that a Receiver come in
20 and be responsible for seeing that the revenue of the
21 business, as generated, is directed for the benefit of the
22 creditors, here, for my client.

23 And we would be very amenable, and presumably the
24 Court would be willing to supervise some sort of plan whereby
25 the Receiver would earmark a certain amount of that revenue

1 and that profit to pay towards the judgment and a certain
2 amount would be reserved for the owners of the business to
3 continue. I mean, we can be cooperative here in terms of
4 working out what would be akin, Your Honor, to in the
5 bankruptcy process, a Chapter 13 restructuring, but here in
6 the State Court, under your supervision with the guidance of a
7 Receiver.

8 The problem is the defendants are simply not going
9 to cooperate with any process like that unless Your Honor
10 directs it. They have no incentive to. The revenue that's
11 coming into the business, it's going out to the -- to the
12 beneficiaries of the business directly from the operations at
13 the source.

14 So the purpose of the Receiver is not actually to
15 make them do anything different in respect to the -- the day-
16 to-day operations of the business. It's only essentially to
17 go in, do an accounting, see that the funds are, in fact,
18 being directed to pay the judgment creditors, or in a
19 cooperative basis, some portion of the funds, at least, are
20 directed to pay for the judgment creditor --

21 THE COURT: So --

22 MR. GREENBERG: -- Mr. -- Mr. Nady presumably should
23 be entitled to compensation for running the business if he's
24 going to manage the business actively, as I think he has been
25 doing.

1 THE COURT: So it would be more of a simply a
2 reporting process that Mr. Nady would make to the Receiver of
3 monies that had been received by any of the defendants,
4 corporate defendants?

5 MR. GREENBERG: Well, Your Honor, under the current
6 structure, as limited documentation we have, is essentially
7 the series LLCs have the medallions. They generate the fare
8 revenue from the passengers, and then they -- they pass
9 certain portions of that revenue on to a company that pays the
10 driver, that pays for the maintenance and other series that
11 pays for the maintenance of the vehicle, and whatever profit
12 is left goes directly to Mr. Nady. That profit amount needs
13 to go back to the judgment debtor. It needs to go back to A
14 Cab, LLC so it can be available to pay the creditors of the
15 judgment debtor. The purpose --

16 THE COURT: So how would you -- what I'm trying to
17 get at is what -- what would this order of appointing a
18 Receiver, what would his duties and powers be?

19 MR. GREENBERG: His duties would be to have control
20 over the use of all the medallions that are issued to the
21 judgment debtor, which the judgment debtor has essentially
22 leased to all the individual Series and to require that the
23 judgment debtor get value for the use of those medallions.

24 Currently, the judgment debtor is giving those
25 medallions out to all of the series, and the judgment debtor

1 is not getting anything back, because none of the money comes
2 back to it. They, in fact, right now are making very
3 meticulous care to be sure none of it comes back to them
4 because it will be attached on the judgment. The money -- the
5 profit from the business goes out to Mr. Nady directly from
6 the Series themselves which are generated the fair revenue.

7 And, Your Honor, part of the -- part of what we
8 wanted in terms of the way the judgment debtor examination was
9 the financials that were filed with the Taxi Commission,
10 because I am sure they are filing a consolidated financial
11 statement with the Taxi Commission which indicates that A Cab
12 is, in fact, operating as a single business entity. It's not
13 -- it's 200 separate individually financially, you know,
14 sustaining entities as they are alleging as a matter of law in
15 respect to the attachment of its assets and income.

16 Essentially, A Cab, the judgment debtor itself, in
17 the defendants' view has no income because all of the revenue
18 that comes in is, again, at the source. It goes to the -- it
19 goes to these various separate Series LLCs. And to the extent
20 that there's any profit there it goes directly from there to
21 Mr. Nady. It never comes back to --

22 THE COURT: Well, I'm still trying to figure out
23 what -- how you would -- how you would formulate the duties
24 and powers of this Receiver --

25 MR. GREENBERG: Well, Your Honor, if the --

1 THE COURT: -- in terms of this -- this cash flow
2 business.

3 MR. GREENBERG: If the Receiver's duties would be to
4 review how the medallions issued to the judgment debtor are
5 being used and to ensure that the profits generated from those
6 medallions are coming back to A Cab, LLC, the judgment debtor.
7 They are not going from the operators, which are the series to
8 Mr. Nady.

9 THE COURT: Well, but what -- see, I'm trying to get
10 at, what -- where does the Receiver insert himself or herself
11 into the business functioning of A Cab? Does he or she simply
12 get bank statements, get reports of this money that's flowing
13 through --

14 MR. GREENBERG: Well --

15 THE COURT: -- A Cab -- well, through all the series
16 and then to Mr. Nady and then from Mr. Nady back to A Cab?

17 MR. GREENBERG: -- you -- you -- well, when Mr. Nady
18 was examined at his deposition in 2017 about this, about how
19 the fares are collected --

20 THE COURT: Uh-huh.

21 MR. GREENBERG: -- and what happens to the money,
22 the revenue that's generated, and he was specifically asked
23 about this. This is at page 70 of his deposition transcript.
24 I believe this may be in the record elsewhere. He says, "At
25 the end of the day, all those sales is most of the money. The

1 sales all have money on them all the time, but most of the
2 money gets transferred out of the company into a personal
3 account of mine and then the next day it goes back into the
4 administration company or the payroll company as it is
5 required."

6 THE COURT: Okay.

7 MR. GREENBERG: So the money goes directly from the
8 cab that's generating the fares, the series -- the single
9 series entity that is operating that taxi cab and gets that
10 fare in the first place, then gives the money to Mr. Nady.
11 Mr. Nady then returns such monies as are necessary at that
12 point to fund administration of the company, maintenance of
13 the vehicles, payroll, etcetera.

14 THE COURT: Okay.

15 MR. GREENBERG: Whatever he doesn't need to return
16 he keeps.

17 THE COURT: So what --

18 MR. GREENBERG: The --

19 THE COURT: -- do you want the Receiver to do?

20 MR. GREENBERG: What I want the Receiver to do is to
21 compel that the series that's operating that medallion, remit
22 the fares to A Cab, LLC, to the company. And --

23 THE COURT: So cut Mr. Nady out of that flow?

24 MR. GREENBERG: Right. Have -- the funds need to go
25 back to the judgment debtor from all the medallion operations

1 and then -- and then the Receiver will have oversight as to
2 what happens. I mean, Mr. Nady's presumably knows how to run
3 a taxi business, I mean, they've been running a successful
4 taxi business.

5 Again, we are not advocating that he should be
6 removed from management of the business, but the funds need to
7 go from the operators of the medallions into the judgment
8 debtor's account, and then the Receiver will authorize the
9 payment for maintenance costs, employee costs and so forth.

10 THE COURT: So the Receiver -- no payments could be
11 made from the judgment debtor's accounts without approval of
12 the Receiver?

13 MR. GREENBERG: That is correct, Your Honor. And
14 the Receiver needs to restructure the business so that the --
15 the fares generated by the medallions come back to the
16 judgment debtor. Currently, they don't come to the --

17 THE COURT: When you say --

18 MR. GREENBERG: -- judgment debtor.

19 THE COURT: -- when you say restructure the business
20 do you mean simply that Mr. Nady be cut out of the cash flow
21 at least at that initial stage --

22 MR. GREENBERG: Correct. He -- he --

23 THE COURT: -- let the money go to the -- to the
24 judgment debtor or debtors, and that it not be disbursed
25 without the approval of the Receiver.

1 MR. GREENBERG: Correct. And -- and --

2 THE COURT: Which presumably would then disburse all
3 normal business expenses to be paid.

4 MR. GREENBERG: Correct, Your Honor, and that could
5 include an appropriate salary compensation to Mr. Nady for
6 managing the business. The Receiver would -- would have a
7 plan, would come to Your Honor for approval. We would
8 cooperate with that process.

9 THE COURT: Okay.

10 MR. GREENBERG: To the extent that there's profit
11 leftover that would be -- go to pay the creditors, my clients.

12 THE COURT: Okay. Let's get a snapshot response
13 from Mr. Shafer and see what he thinks of that.

14 MR. SHAFER: I think our snapshot response is that
15 we're getting sandbagged here. They're bringing up relief --
16 they've had plenty of opportunity to bring up the issue of a
17 Receiver; they've been collecting for months. And given the
18 issues that I have, I don't think we can capitulate to this
19 given the significant issues we think might exist.

20 THE COURT: The -- given --

21 MR. SHAFER: As far as the Receiver --

22 THE COURT: -- the what?

23 MR. SHAFER: -- as far as the appointment of the
24 Receiver and whether it conflicts with the licensing of it.
25 They've also asked for a restructuring. It is cleverly

1 argued, essentially, he wants to structure it so that no
2 payments can be made to these separate companies. The
3 payments can't be made to me as his -- their attorney to
4 defend the case. The payments can't be made to their gas
5 company --

6 THE COURT: Well --

7 MR. SHAFER: -- without appointment of a Receiver
8 which is -- that is a possibility --

9 THE COURT: -- yeah, that --

10 MR. SHAFER: -- for a Receiver, but that's a
11 significant --

12 THE COURT: -- that the Receiver would --

13 MR. SHAFER: -- expense.

14 THE COURT: -- would have the say-so, whether the
15 money goes to those various places --

16 MR. SHAFER: Yeah. And that's a --

17 THE COURT: -- right?

18 MR. SHAFER: -- significant involved process, that
19 substantially increases the expenses. And I don't know that
20 there's --

21 THE COURT: Well, then what if -- what if initially
22 the order did not quite go that far but simply said the
23 Receiver will be made aware of all payments? In other words,
24 that he -- he get access to the bank accounts of the debtors,
25 judgment debtors, and that he be made aware of what payments

1 are going where.

2 MR. SHAFER: And I think my -- my response to that I
3 think would be that we still have some of the same issues as
4 far as briefing and the additional expense. And I don't know
5 what additional value it would bring given that the Court has
6 already required us to turn over the financial information as
7 part of the judgment debtor exam process. I don't know
8 what --

9 THE COURT: Well, that's on a one-time basis though,
10 right?

11 MR. SHAFER: Yeah.

12 THE COURT: We're talking about doing something that
13 we'd try to keep -- you know, once again we revisit the notion
14 of whether to keep the goose alive.

15 MR. SHAFER: Well, it's not going to. And I just --

16 THE COURT: Why?

17 MR. SHAFER: Well, given the Court's instruction
18 that A Cab can't transfer any funds to the other Series,
19 that's going to shut down the business. And that's why I
20 wanted to --

21 THE COURT: No, I say, what if initially it was
22 merely that the Receiver be there and be able to monitor all
23 those payments, not necessarily that the Receiver has to give
24 permission for any payments to be made, but that be made aware
25 of exactly what payments are going where?

1 MR. SHAFER: I think my response to that would be
2 tied in with both the opportunity -- we'd like to have an
3 opportunity to brief that issue for the Court and the
4 potential complex -- complexities that might arise being a
5 regulated business, and also our request for a stay that we
6 hadn't really addressed at this point.

7 THE COURT: Yeah.

8 MR. SHAFER: But we had made a counter-motion for a
9 stay for two reasons. First, there are some issues, some of
10 which are the orders which were delivered today that we may
11 need to be seeking a writ on appeal. We've not had an
12 opportunity to do so which directly come into whether or not
13 we can be collected on.

14 The other issue is that the Supreme Court has
15 ordered a stay on the proceedings pending assignment to the
16 Supreme Court Settlement Program. So A Cab can't take forward
17 it's appeal and can't get the timely relief because it's been
18 assigned to the Supreme Court Settlement Program.

19 And I'm hopeful that that might resolve the issues.
20 But it would be best for all parties to go in on equal footing
21 and not feel like we are unable to proceed in that Supreme
22 Court Settlement Program.

23 THE COURT: Well, are you -- are you saying that
24 because of the stay imposed that the Court, essentially, has
25 lost jurisdiction and can't order any of these things?

1 MR. SHAFER: I -- well, I don't know on that issue.
2 I think practically that would be the case. I mean, if the
3 Supreme Court isn't proceeding, has instituted a stay, I think
4 it would only be fair the District Court institute a stay for
5 the same period of time until this matter can be heard through
6 the Supreme Court Settlement Program.

7 THE COURT: Well, when you say through the Supreme
8 Court Settlement Program --

9 MR. SHAFER: Um-h'm.

10 THE COURT: -- let's assume that these folks don't
11 get along any better than they have in the past, and that it
12 doesn't settle.

13 MR. SHAFER: Um-h'm.

14 THE COURT: How long would we simply hang fire?

15 MR. SHAFER: Until it -- until the stay is in place
16 with the Supreme Court Settlement Program. It would track
17 concurrently.

18 THE COURT: I'm sorry? Until --

19 MR. SHAFER: It would track concurrently. So
20 because right now we can't go forward with the briefing on the
21 issue and get it in front of the Supremes because it's
22 assigned to the settlement program.

23 THE COURT: Yeah.

24 MR. SHAFER: And I think it is our argument that
25 during that period of time collection should not be allowed to

1 occur that would harm A Cab's ability to either make a
2 voluntary -- you know, a voluntary payment settlement, or to
3 be hindered in its ability to address this. If we're
4 constantly having to fight against collection and having to
5 spend the time and resources there, it incurs a loss to
6 plaintiff and a loss to A Cab by diverting resources which
7 could be used to pay for or voluntarily given to plaintiffs to
8 satisfy the judgment.

9 THE COURT: Is there any reason to believe that
10 these folks will, after the knockdown, drag out that we've
11 been through to this point, that they will be able to agree as
12 to most anything, even the time fo day?

13 MR. SHAFER: I don't -- I --

14 THE COURT: I mean, I have to --

15 MR. SHAFER: No, I know.

16 THE COURT: -- look at that notion with a bit of a
17 jaundiced eye.

18 MR. SHAFER: And I think that is absolutely
19 appropriate. We have certainly had cases -- I've had cases
20 where we think they are going to settle and they don't,
21 wherein they don't --

22 THE COURT: Yeah.

23 MR. SHAFER: -- and they -- and then they end up
24 settling.

25 THE COURT: Yeah.

1 MR. SHAFER: But I think that all parties recognize
2 the seriousness of this judgment. While A Cab has issues with
3 the -- some of the issues which led up to it and are on
4 appeal, they recognize that even if some of those issues are
5 not -- are, you know, remanded for further, you know, issues,
6 that there is the cost of defense and the possibility that a
7 judgment still may be entered against them.

8 THE COURT: Um-h'm.

9 MR. SHAFER: And so they are certainly willing to
10 negotiate and have -- are motivated to resolve this. But I
11 think that's our point is let's have an opportunity to sit
12 down at the table.

13 And I can't speak to what happened before my
14 involvement two months ago, but since I've been involved,
15 there certainly hasn't been any discussion as to a potential
16 resolution, so or that I'm aware of.

17 THE COURT: Um-h'm.

18 MR. SHAFER: But I think that's our request is that
19 let's maintain the status quo until such time as this matter
20 can at least be heard in front of a settlement conference and
21 that there is a good faith opportunity to try to resolve this.

22 If my client -- if A Cab has to give up all its
23 vehicles, it can't operate. It doesn't have any ability to
24 try to resolve this. And it just -- it'll result in a
25 liquidation and this matter will be mooted as a matter of

1 course.

2 As far as the payments and the representations as to
3 what happened, respectfully, that is not necessarily what
4 happens. Mr. Nady doesn't get payments himself personally.
5 Payments are made to a --

6 THE COURT: Until what?

7 MR. SHAFER: The payments are not made to Mr. Nady
8 personally.

9 THE COURT: It thought that's what his testimony
10 was.

11 MR. SHAFER: Well, he was mistaken. They are made
12 to a trust. And that is, again --

13 THE COURT: To his trust?

14 MR. SHAFER: To a trust, a trust.

15 THE COURT: Of which -- of which he is the trustor,
16 I assume?

17 MR. SHAFER: Actually, he -- I don't -- I think
18 someone else is the trustee for the trust.

19 THE COURT: Well, he is the trustor, he's the one
20 who set up the trust?

21 MR. SHAFER: I believe so. And I don't know whether
22 it's a revocable or a irrevocable trust or what the nature of
23 the trust is. But my point is that we're -- we're going off
24 with arguments about counsel -- about what's supposed to
25 happen without things being fully briefed. And it's our

1 requesting [sic], that a request for stay, that everybody take
2 a breath and take a step back to try to negotiate this and to
3 reach a resolution which maximizes the return to plaintiffs to
4 satisfy their judgment and doesn't shut down the company.

5 THE COURT: Well, you know, nine times out of ten I
6 would be all ears on that --

7 MR. SHAFER: Well, I understand.

8 THE COURT: -- because parties typically can work
9 out something that's better than, you know, some arbitrary
10 third party coming in and ruling.

11 MR. SHAFER: Um-h'm.

12 THE COURT: But in this case, that has not been the
13 case. That -- the history of this case all the way through
14 has not involved most any kind of -- that kind of cooperation.
15 It just hasn't.

16 MR. SHAFER: Well, I'd like to think I might make a
17 difference but that might be a little --

18 THE COURT: Well --

19 MR. SHAFER: -- hubris on my part.

20 THE COURT: -- you know, I mean, I'm --

21 MR. SHAFER: So essentially --

22 THE COURT: So what are you asking the Court to do
23 then?

24 MR. SHAFER: I'm asking the Court to deny their --
25 their injunctive relief regarding the vehicles except as to

1 the four Toyotas identified in their motion.

2 THE COURT: Okay.

3 MR. SHAFER: To the extent that they were still the
4 property of A Cab at the time they were -- the writ -- the
5 order was served, and that we will go through the normal debt
6 collection process including the judgment debtor exam, and
7 propounding of the finances at that time.

8 I think that might actually help a settlement
9 because they'll see what the actual finances of A Cab are at
10 that point. And that there be a stay in place, at least a
11 temporary stay so that we can take these issues, these orders
12 up on appeal.

13 So at least, at the very least, maybe another stay
14 for a month so that we can seek the appropriate relief either
15 first in this court on a stay or to the Supremes on these new
16 orders that were announced today.

17 THE COURT: All right. Mr. Greenberg, what's your
18 view of the -- the question of what's the impact on anything
19 that this Court might do, of the fact that the Supreme Court
20 has placed a stay?

21 MR. GREENBERG: Your Honor, the Supreme Court has
22 just stayed the appeal process. This is normal. I mean, you
23 know, when you file an appeal almost all of the appeals are
24 sent to the mediation program, and until the mediation efforts
25 are fulfilled with respect to the appeal, briefing is

1 suspended. That's all that's happened here.

2 In respect to Your Honor staying proceedings in this
3 case, Your Honor did stay proceedings for about two weeks last
4 time we saw you. And I was hopeful during that time there
5 would be discussions about trying to work out a resolution. I
6 did get a phone call from Ms. Rodriguez who proposed something
7 to me, I don't think it's appropriate for me to go into
8 details. I did invite us to have a further dialogue at that
9 point. She told me there would be no further dialogue. That
10 proposal was not, in my mind, appropriate. And that was where
11 that sort of ended. I wish it had extended further, Your
12 Honor.

13 THE COURT: Um-h'm.

14 MR. GREENBERG: In respect to appointing a Receiver
15 what I would suggest Your Honor might want to do here is to
16 have a receiver who's empowered to monitor the operations of
17 the business, form an accounting, come up with a proposal, not
18 actually implement any proposal for operations, but come up
19 with a proposal to submit to the Court to take over or to
20 direct the operations of the business so that the revenue can
21 be used to pay the class members.

22 And also invest the Receiver with the power to
23 withhold use of the medallions if they do not get cooperation
24 in preparing their report and gathering that information. The
25 reason why that third element is necessary, Your Honor, is

1 because it's defendants' position that the medallions are
2 actually being operated by people who aren't debtors to this
3 case, all of these series LLCs.

4 So I can very easily envision if Your Honor appoints
5 a Receiver over the judgment debtor they will come in and
6 there will be very little for them to examine because the
7 position of the defendants -- and I'm using "the defendants"
8 broadly -- is well, this series LLCs are not defendants in
9 this case. They're not the judgment debtor here. We don't
10 have access to their information.

11 The only way the Receiver would be able to get
12 access to that information would be if they had the power to
13 withhold use of the medallions, because the medallions have
14 been leased by the judgment debtor to all of these other
15 series entities.

16 So, that is the key to getting anything done through
17 the use of a Receiver here on behalf of the plaintiffs.
18 Without that power, the Receiver is essentially powerless
19 because I don't -- I don't think the judgment debtor is
20 keeping a penny in their own account.

21 And presumably, none of the actual operations of the
22 business, they will acknowledge, at least in respect to these
23 proceedings, as being undertaken in the name of the judgment
24 debtor. They've been working very hard to have everything
25 undertaken in the name of, you know, hundreds of different

1 series LLCs that they continually change. We've been through
2 this before, Your Honor. You don't need me to remind you of
3 that background. So I would --

4 THE COURT: You would be able to structure an order
5 that would accomplish those things without granting to the
6 Receiver any managerial powers then for the present time?

7 MR. GREENBERG: That is correct. I mean, the
8 Receiver -- the Receiver -- the only -- the power of the
9 Receiver would be to examine the books and records of A Cab,
10 LLC and the Series LLCs with which it has given use of the
11 medallions to. And if -- if the medallion -- and if those
12 separate series LLCs do not wish to cooperate with the
13 Receiver's efforts, the Receiver will have the power to
14 withhold use of the medallion. Because the medallion is a
15 property of the judgment debtor, Your Honor.

16 THE COURT: Uh-huh.

17 MR. GREENBERG: I mean, we should be able to attach
18 that and obtain -- and obtain control over it. That is the
19 only sort of, you know, how would one say, leverage we have
20 here, Your Honor, to get any sort of understanding of what's
21 actually going on with the business here or cooperation
22 because as Your Honor was commenting, Mr. Nady's entire sort
23 of position here in this litigation has been that the business
24 is operated by this multitude of separate entities that,
25 therefore, are beyond reach of the Court's judgment.

1 I'm not asking the Court to get into this whole
2 issue of, you know, setting aside or ignoring their claim that
3 these series LLCs have separate legal status and so forth. I
4 mean, we might get into that. But if we can side-step that
5 issue, I think it's in the interest of my clients, it's in the
6 interest of Your Honor.

7 Clearly, the medallions are possessed by the
8 judgment debtor. There is no dispute over that. The use of
9 those medallions is at the sufferance of the judgment debtor.
10 If the Receiver who is appointed has control over the use of
11 the medallions they can then get a complete financial picture
12 as to what is going on with the operation of the business,
13 what the series LLCs are doing with the medallions. And if
14 they refuse to cooperate, we'll suspend use of the medallions.
15 I mean, essentially, they'll have to cooperate or they'll go
16 -- or the business will have to stop operating Your Honor.

17 Short of the Receiver having that power, I don't see
18 that the Receiver's going to be do anything. And I'm not
19 asking Your Honor to empower the Receiver to actually
20 structure the business, as I was talking about before, and
21 require that the funds come back into the judgment debtor at
22 this point.

23 I believe that is justified, but if Your Honor
24 doesn't want to go that far, Your Honor doesn't have to go
25 that far. We can simply commission the Receiver to report

1 back with a plan based on their valuation of the business as
2 to how the business could be conducted to ensure that the
3 judgment creditors here, my clients, actually get paid because
4 the money is in the continuing operation of the business.

5 In respect to the defendants' request to continue a
6 stay of these proceedings, as I was explaining to Your Honor
7 before, the business seems to have a positive cash flow. It
8 could be \$50,000 a month on average, it could be close to a
9 million dollars a year. I don't know. In prior years, Mr.
10 Nady did present financial information indicating that the
11 business was clearing in excess of a million dollars a year as
12 recently as, I believe, 2015, or 2014.

13 I need to do something on behalf of my clients
14 here, Your Honor, and that's why we're here. I would much
15 rather we not be here. I'd much rather there was some
16 cooperative basis to resolve this case.

17 I mean, I believe defendants haven't proceeded to
18 bankruptcy court because -- presumably because the business is
19 solvent. If we went to bankruptcy court, I suspect the
20 bankruptcy court would compel the payment of not necessarily
21 the entire judgment to my clients, but probably a lot of it.
22 And they don't want to pay it.

23 As well as the fact that the bankruptcy court is
24 going to ignore the series LLC status. There is very well-
25 established law that the bankruptcy court is not going to

1 ignore the related entity status. They will look at it as a
2 single debtor and a single business.

3 And to the extent that there were transfers out of
4 the corporation to Mr. Nady or to the trust, they may also
5 look to set those aside in bankruptcy court.

6 Now, I know defendants have said, well, to the
7 extent that there's been transfers, we have our remedy, there
8 can be a fraudulent conveyance; Your Honor, we've been
9 litigating this case, as you've said, for many years now.

10 THE COURT: Yeah.

11 MR. GREENBERG: The last thing I have enthusiasm for
12 is to be bringing satellite litigation regarding, you know,
13 conveyance issues.

14 So I would like to have Your Honor order the
15 turnover of the four vehicles for sale by the Sheriff.

16 And by the way, Your Honor, I do have information
17 relating to the other two vehicles, and I will concede upon
18 close examination, if Your Honor wants to look at this -- the
19 Ford Sports Van apparently is jointly titled to A Cab series,
20 LLC and another entity. And I'd ask Your Honor only to direct
21 the turnover as to motor vehicles exclusively titled to the
22 judgment debtor. So, presumably, that would be excluded from
23 the scope of the order. This is an investigative report, this
24 is not the actual title document. The other Ford vehicles, I
25 gave Your Honor the title documents I got from the DMV. And

1 there really isn't any dispute that those are clearly and
2 exclusively titled, the four Toyotas, to A Cab, LLC. The
3 other two vehicles --

4 THE COURT: Have you already done a Writ of
5 Execution on those and has the defendant, you know, filed any
6 exemption?

7 MR. GREENBERG: Well, Your Honor, I haven't, in
8 part, because the Sheriff's Office' written instructions say
9 they need a license plate number. I don't have a license
10 plate number. They need a license plate number because --

11 THE COURT: Oh.

12 MR. GREENBERG: -- because they want to -- I guess
13 they want to visually be able to find the vehicle. And in
14 addition, they want a \$400 deposit per vehicle for a tow truck
15 and so forth and so on.

16 I already have \$50,000 in costs in this case, close
17 to it, invested Your Honor. I could -- I could proceed in
18 that fashion. It just -- it just seems unduly burdensome and
19 inefficient. I believe if Your Honor issues the order and
20 directs that they cooperate with the Sheriff they will
21 cooperate with the Sheriff. The vehicles will be turned over.
22 I mean, the Sheriff can go to the -- their place of
23 business. The vehicles could be out in use. They could be,
24 you know, wherever. There's -- there's dozens of vehicles
25 that they have. I don't know if the Sheriff can really locate

1 them effectively. My impression is it would be very difficult
2 for them to execute in that fashion.

3 THE COURT: Interesting question; what's -- what
4 does the Sheriff's Office do if you have a vehicle that
5 doesn't have a license plate?

6 MR. SHAFER: Well --

7 MR. GREENBERG: I -- yes --

8 MR. SHAFER: I can address that.

9 THE COURT: Yeah.

10 MR. SHAFER: They will take it. We've done it many
11 times. They do not require the license plate.

12 THE COURT: Okay. Here's my inclination and you
13 guys can see if anybody talks me out of it. My inclination is
14 to take a look -- a hard look at any proposed order that the
15 plaintiff might put forward at this time. I -- I need
16 something that gives a concrete idea of what the powers are
17 that are given to a Receiver at this point. And I think
18 before really addressing that further, I really need to see
19 what is it exactly that you're -- you're asking the Receiver
20 to be able to do.

21 MR. SHAFER: To that end, Your Honor, could we treat
22 their motion today as an oral motion? We could then have 10
23 days to file a response. We could even do it a little
24 shorter, I suppose, on the issue of --

25 THE COURT: Well, it's an oral --

1 MR. SHAFER: -- the Receiver.

2 THE COURT: -- motion to appoint a Receiver; is that
3 what you're saying?

4 MR. SHAFER: Yeah, that's a -- this is the first
5 we're hearing --

6 THE COURT: Well, they've --

7 MR. SHAFER: -- of it.

8 THE COURT: -- they -- they did ask for that in
9 their countermotion previously.

10 MR. SHAFER: I think that was just other relief.
11 There wasn't the -- we would like to have the opportunity to
12 respond on the issue of Receiver particularly as it applies to
13 the statutory issues.

14 THE COURT: Well, I think that --

15 MR. SHAFER: I mean, I think --

16 THE COURT: -- that -- did it not --

17 MR. SHAFER: -- even until the end of next week.

18 THE COURT: -- did that motion not specifically say
19 appoint a Receiver?

20 MR. GREENBERG: Yes, Your Honor On October 15th,
21 the defendants did -- did file an Opposition to the
22 countermotion and, I mean, it's fairly short. The
23 countermotion did specifically ask for, as Your Honor recited
24 earlier, a variety of different relief, or proposed a variety
25 of different relief including the appointment of a Receiver.

1 THE COURT: Um-h'm.

2 MR. GREENBERG: And --

3 MR. SHAFER: Because we have significant concerns
4 regarding the effect that an appointment of a Receiver,
5 especially if it has coercive powers. It can do violence to
6 the company, including withholding improperly of revenues
7 under a leased medallion. They have represented that these
8 are the property of defendant. They have not done so -- that
9 is not correct.

10 Under the case of Hagerman v. Tom Lee that we cited
11 to in our Opposition, if there is a claim by a third party to
12 the property it cannot be assigned without a hearing. There
13 has to be -- they have to bring them into due process.

14 The series LLC have a claim of right or a claim of
15 property as to these medallions, or at least to use of them.
16 And so the Court can't assign a Receiver that does -- that can
17 withhold that, without bringing them in as a property third
18 party, anymore than a Receiver can withhold payment to me as
19 their attorney or demand money back that I have been paid as
20 an attorney for providing services to A Cab.

21 But that's what they're asking for is the power to
22 withhold payment to anybody who doesn't cooperate without --

23 THE COURT: Well, I don't --

24 MR. SHAFER: And on that issue --

25 THE COURT: I'm not -- I'm not -- you're talking

1 about what the precise powers are that they're -- that they're
2 asking for. What I'm saying is, let me get a clear view of
3 what the plaintiff is requesting, because I kind of get this
4 (indicates), I kind of get, you know, it could do this and
5 this and this, but then again, then it gets more --

6 MR. SHAFER: Okay.

7 THE COURT: -- invasive, if you will, or it gets
8 more powers. I want to see what's the least intrusive powers
9 that a Receiver could do so that at least the Court can get a
10 clear picture of what's going on in the company.

11 MR. GREENBERG: Yes, Your Honor.

12 THE COURT: So that's why I want to see a specific
13 proposal. I'm not suggesting that -- that I'd simply submit
14 it in chambers and I would either sign it or not sign it. I
15 think I'd have to come back and see what your further
16 objections are. But in point of fact, I'm looking at page six
17 of the plaintiffs' counter-motion, and that was one of the
18 specific requests of the -- of the plaintiff.

19 So in terms of, you know, you asking them for ten
20 days to respond, well, that time has kind of come and gone.
21 This is a fluid issue because it makes all the difference in
22 the world as to what powers the Receiver would have and that's
23 what I need to have sorted out.

24 I'm going to ask the plaintiff to submit such an
25 order to the Court and make it very precise as to what powers

1 the Receiver would have. And then let me -- let me just.

2 (Court/Clerk conferring)

3 THE COURT: How long would it take you to get me a
4 proposed order on the Receiver?

5 MR. GREENBERG: I would hope I could do that towards
6 the end of next week, Your Honor. Is that -- is that
7 appropriate for the Court's schedule?

8 THE COURT: That's not -- that's not going to work.
9 We need to know before we go dark for the -- for Christmas.

10 MR. GREENBERG: Okay. What would be suitable for
11 the Court's schedule?

12 THE COURT: I would like to have you get it to me by
13 the end of this week and come back next week on Thursday at
14 10:30. And --

15 MR. GREENBERG: Yes. We will comply with that
16 desire, Your Honor.

17 THE COURT: Okay.

18 MR. GREENBERG: I will make it a point --

19 THE COURT: And that --

20 MR. GREENBERG: -- to do so.

21 THE COURT: If you can get it by the end of this
22 week then the defendants have an opportunity to see
23 specifically what powers I'm contemplating doing. And --
24 anyway, that's it.

25 MR. SHAFER: It's my hope --

1 MR. GREENBERG: Your Honor, I can also give Your
2 Honor two different potential orders involving different sort
3 of approaches. It sounds to me like Your Honor is concerned
4 at having, as you said, a structure that would be as minimally
5 intrusive as possible --

6 THE COURT: Yeah.

7 MR. GREENBERG: -- in terms of interfering with the
8 defendants' business operation.

9 THE COURT: Right.

10 MR. GREENBERG: But also, hopefully as a result,
11 giving the Court a clear understanding of the financial
12 circumstances and the options that would be available to help
13 the -- my clients, the judgment creditors here, you know, get
14 their judgment satisfied. I will see that something gets
15 distributed hopefully by midday Friday. I --

16 THE COURT: All right.

17 MR. GREENBERG: I'm not going to be working too late
18 Friday. Your Honor, question just in respect to the judgment
19 debtor examination which intersects this to some extent
20 because that does involve some disclosure of the financial
21 information; you indicated you were granting the request, and
22 part of the request is that the financial statements be
23 produced, particularly, the ones that have been filed with the
24 Taxi Commission, because they do have to file some yearly
25 statements with the Taxi Commission as to their operations.

1 I had requested that the judgment debtor exam be
2 before Your Honor. And I had requested that simply because of
3 my --

4 THE COURT: Oh, that's right.

5 MR. GREENBERG: -- my feeling is that if it is not,
6 which is typical, I'm afraid I'm going to run into some
7 problems with it not being effective. But that is within your
8 discretion, Your Honor, and I just -- you didn't say one way
9 or the other your inclination in that regard.

10 THE COURT: Well, I don't -- I don't really see that
11 that's likely to happen before the end of the year at this
12 point.

13 MR. GREENBERG: I understand, Your Honor.

14 THE COURT: So we can certainly --

15 MR. GREENBERG: In submitting an order --

16 THE COURT: -- consider that.

17 MR. GREENBERG: -- on that should I include a
18 recital that the Court will set a date for the examination --

19 THE COURT: If you wish --

20 MR. GREENBERG: -- for Your Honor?

21 THE COURT: If you wish you can -- you can insert
22 it. I mean, I don't -- I don't know what the chances are that
23 the Court's going to wind up just signing any order that you
24 submit at this point anyway.

25 MR. SHAFER: Okay.

1 THE COURT: But as far as a Receiver is concerned
2 anyway, but --

3 MR. GREENBERG: Well, yes, Your Honor, I just --

4 THE COURT: -- I just want to be able to consider
5 it, but with a clearer picture of what enumerated powers the
6 Receiver would have.

7 MR. GREENBERG: I understand. The order in respect
8 to the Receiver will be a priority for this week. In terms of
9 the judgment debtor examination, that's a different order,
10 different issue --

11 THE COURT: Yeah.

12 MR. GREENBERG: -- Your Honor. I was just trying to
13 get your information on your -- your inclination on that
14 because you did not clearly address it in what you discussed
15 with us otherwise, Your Honor.

16 MR. SHAFER: My suggestion on that point is we'll
17 try to mutually agree on a date that somebody on behalf of A
18 Cab would be available to be subject to that examination.

19 THE COURT: Um-h'm.

20 MR. SHAFER: And if we can't resolve it, at a
21 reasonable point, they will give us three available dates and
22 we'll pick one of them.

23 THE COURT: Um-h'm.

24 MR. SHAFER: So that they --

25 THE COURT: Why don't you -- why don't you guys make

1 it a priority of trying to hammer that out during this week as
2 well --

3 MR. SHAFER: I'm happy to do that.

4 THE COURT: -- so that when you come back -- I'm
5 going to have you back next Thursday at 10:30.

6 MR. SHAFER: Okay.

7 MR. GREENBERG: Yes, Your Honor.

8 THE COURT: And at that point, hopefully, you can
9 tell me there's some agreement. Now, of course, there's
10 nothing to preclude you all from engaging in that -- in those
11 discussions, those settlement discussions that Mr. Shafer
12 brought up, potential for some sort of overall agreement. I
13 would certainly welcome it. But --

14 MR. SHAFER: As would I.

15 THE COURT: -- it is --

16 MR. GREENBERG: As would I, Your Honor.

17 THE COURT: -- we're in the mode of a judgment has
18 been rendered and the Court is trying to do what is
19 unfortunate, but necessary. So I don't think the defendant
20 can count on the Court granting the leeway that the Court did
21 prior to judgment.

22 Frankly, I feel that the Court's earnest attempt to
23 make sure that the goose that lays the golden egg doesn't get
24 done in, in the process, has not worked to this point. It has
25 not worked.

1 MR. SHAFER: And I respect the Court's position
2 regarding --

3 THE COURT: Yeah.

4 MR. SHAFER: -- this is post-judgment although I
5 believe that there's due process, even post-judgment, AND
6 certainly as to the third parties that have not been subject
7 to any jurisdictional elements. And I'm concerned that that's
8 where we get into the problem is the --

9 THE COURT: Yeah.

10 MR. SHAFER: -- the shortcuts that are being taken
11 have the -- have a likelihood to infringe upon the rights of
12 those third parties and we don't want to have a --

13 THE COURT: Well, what shortcuts are you talking
14 about?

15 MR. SHAFER: Well, for example, the TRO and the
16 turnover instead of proceeding to through the Writ of
17 Execution.

18 THE COURT: Well, I'm not -- I'm not -- I haven't
19 agreed to any turnover order at this point.

20 MR. SHAFER: And I -- and I -- and I appreciate
21 that.

22 THE COURT: I think that's a problematic area you
23 need to address further.

24 MR. GREENBERG: Can we revisit that when we
25 reconvene next week, Your Honor?

1 THE COURT: Yeah.

2 MR. GREENBERG: We will leave the TRO in place?

3 THE COURT: Yeah. Yeah, it will remain in place.

4 And most specifically, what I don't want to have happen is
5 that any of the named defendants get rid of any property in
6 the -- you know, without --

7 MR. SHAFER: Okay.

8 THE COURT: -- without specific permission of the
9 Court to do so.

10 MR. SHAFER: And just for clarification, the two
11 vehicles which are not the property A Cab, the Ford and the
12 Mercedes, you're not ordering them to --

13 THE COURT: Right. I think there's --

14 MR. SHAFER: -- them be restrained?

15 THE COURT: -- agreement that both the Mercedes and
16 the Ford Transit Van are --

17 MR. GREENBERG: Uh --

18 THE COURT: -- are not subject to this order; is
19 that right?

20 MR. GREENBERG: Well, Your Honor, the information on
21 the Mercedes, I can show it here to counsel.

22 THE COURT: Okay.

23 MR. GREENBERG: My investigative information is
24 title is held solely in the name of A Cab, LLC. That is not
25 true with the Ford. I apologize for my oversight.

1 THE COURT: Okay.

2 MR. SHAFER: Well, respectfully, this from a 2013
3 issue date. I've been advised that it is now titled in
4 Arizona in another entity's name. So --

5 MR. GREENBERG: They --

6 THE COURT: Well, there you go.

7 MR. GREENBERG: Then they're not restrained, Your
8 Honor, if the title --

9 MR. SHAFER: Well and I --

10 MR. GREENBERG: -- is not --

11 MR. SHAFER: -- and I agree. But the order
12 specifically references that car and VIN number. And so --

13 THE COURT: Yeah.

14 MR. SHAFER: -- that's the problem.

15 THE COURT: Well, let's do this then. I'm going to
16 leave that in there. It's not being turned over.

17 MR. SHAFER: Okay.

18 THE COURT: Your clients are simply ordered not to
19 get rid of any such property. And -- and if it's in
20 Arizona --

21 MR. SHAFER: Well, the vehicle is located here
22 sometimes.

23 THE COURT: All right. Well, if -- whatever. If
24 you think that it's not subject to the Court's order for some
25 reason, then I suggest you submit some evidence to that

1 effect.

2 MR. SHAFER: I -- well, that's -- again, that's
3 where we came into the Writ of Execution process. But in --
4 under the --

5 THE COURT: Yeah, I agree with the rest of the
6 stuff.

7 MR. SHAFER: Yeah.

8 THE COURT: But we're already to this point with
9 these named items. And we're not talking about even turning
10 it over. This is not about -- what I am most concerned with
11 is -- at this moment is not so much whether it all gets turned
12 over or what if anything --

13 MR. SHAFER: Yeah.

14 THE COURT: -- gets turned over; what I am concerned
15 about is whether they get rid of it so it's outside of the
16 Court's power to do anything with it.

17 MR. SHAFER: And if it were A Cab's property, I
18 absolutely agree. But they have no more jurisdiction over
19 this Mercedes than they have over my personal vehicle, if it's
20 a third party that's unrelated to this. So I --

21 THE COURT: Well, I trust that you'll be able to
22 show that to the Court then.

23 MR. GREENBERG: And, Your Honor, I fully agree. If
24 it's not titled to the judgment debtor exclusively it should
25 not be subject --

1 THE COURT: Yeah.

2 MR. GREENBERG: -- to the TRO.

3 MR. SHAFER: Well, and respectfully, under the case
4 -- established case law you can't -- a third party cannot be
5 required to turn over information regarding its finances
6 unless they are subject to the jurisdiction that's established
7 in the procedures either through a Writ of Execution or
8 another action. So, I mean --

9 THE COURT: All right. I think --

10 MR. SHAFER: -- by -- by ordering --

11 THE COURT: -- you'd better start your Writ of
12 Execution process at least as far as the Mercedes is
13 concerned.

14 MR. GREENBERG: Your Honor, I understand. And
15 again, there's no dispute. If the title isn't held by the
16 judgment debtor we are not asking for judicial action against
17 it.

18 Just one other question, Your Honor; when you
19 announced your decision on the award of the attorneys' fees
20 and costs, the amount of the costs that were sought were
21 submitted to Your Honor initially and then about eight days
22 later I had submitted a supplement to Your Honor and there was
23 separate briefing on that regarding approximately another
24 \$1400 in costs --

25 THE COURT: Yeah.

1 MR. GREENBERG: -- that was omitted from the initial
2 submission.

3 THE COURT: That's correct.

4 MR. GREENBERG: I just want to be clear in terms of
5 what Your Honor is granting in respect to the costs request so
6 we can get --

7 THE COURT: The --

8 MR. GREENBERG: -- an order to Your Honor
9 accordingly --

10 THE COURT: The --

11 MR. GREENBERG: -- with -- yes.

12 THE COURT: The amount in the supplement, what the
13 total expenses or costs at that point, were \$46,528.07. And
14 the -- order of the Court is that those amounts are costs and
15 they are ordered to be collectible.

16 MR. GREENBERG: Does -- does that mean that Your
17 Honor is -- is -- is denying the request for the costs that
18 were specified in the -- in the supplement?

19 THE COURT: Oh, I'm sorry. I thought --

20 MR. GREENBERG: Yeah.

21 THE COURT: -- the supplement -- I thought the
22 supplement, the total at the end of the supplement was --
23 that's the amount it says. It says --

24 MR. GREENBERG: Um --

25 THE COURT: -- paragraph number 4, "As per above and

002399

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1 set forth in the motion filed October 12th, my office requests
2 reimbursement."

3 MR. GREENBERG: Yeah, \$46,528.07. I apologize, Your
4 Honor.

5 THE COURT: Yeah.

6 MR. GREENBERG: It's my confusion.

7 THE COURT: That's the amount that is ordered --

8 MR. GREENBERG: Thank you.

9 THE COURT: -- of costs.

10 MR. GREENBERG: We will -- we will submit an order
11 accordingly to the Court.

12 THE COURT: All right.

13 MR. GREENBERG: And I will have a proposed order to
14 Your Honor Friday, as we discussed. And --

15 THE COURT: All right So we will see you all on --

16 MR. DUBOWSKY: Tuesday, Your Honor.

17 THE COURT: You're on Tuesday?

18 MR. DUBOWSKY: Yes, Your Honor, for the --

19 THE COURT: Oh, boy.

20 MS. DUBOWSKY -- the Special Master's motion is on
21 for Tuesday of next week, one week from today, Your Honor.

22 THE COURT: Is that something that is resolvable
23 without taking account of the rest of this that's going on?
24 I'm wondering if that should be moved over to Thursday.

25 MR. SHAFER: I'm sure we'd all appreciate coming on

1 one day.

2 THE COURT: Yeah. I think it would --

3 MR. DUBOWSKY: I'd like to keep it on Tuesday, Your
4 Honor. It is a separate issue and I do have --

5 THE COURT: Yeah.

6 MR. DUBOWSKY: -- I do have -- I potentially will
7 have at least two people coming in, one from New York City,
8 one from Los Angeles. So they're already set hopefully to be
9 here on Tuesday for the hearings.

10 THE COURT: Ah.

11 MR. DUBOWSKY: I'm requesting that it stay on
12 Tuesday.

13 THE COURT: All right. Okay. We'll do that. We'll
14 leave it on Tuesday.

15 MR. DUBOWSKY: Thank you, Your Honor.

16 THE COURT: All right. Under other circumstances,
17 I'd be happy to put those together, but.

18 MR. SHAFER: And I apologize, one final
19 clarification.

20 THE COURT: Yeah.

21 MR. SHAFER: You'd mentioned that there was a
22 preclusion of transfers to the series, LLC. Are you
23 precluding any transfer of funds between the different series?
24 Are you precluding -- you're not precluding A Cab for paying
25 the maintenance company for the maintenance expenses or the

1 employee company for the employee expenses?

2 THE COURT: No. I'm really more -- more -- was
3 dwelling on the -- on property, not funds per se.

4 MR. SHAFER: Okay.

5 THE COURT: Not the --

6 MR. SHAFER: Okay. So it can continue --

7 THE COURT: -- business expenses.

8 MR. SHAFER: -- to operate and pay for the --

9 THE COURT: Yeah.

10 MR. SHAFER: -- the value its received?

11 THE COURT: Yeah.

12 MR. SHAFER: Okay. Thank you.

13 THE COURT: I'm not -- I'm not trying to -- that
14 would be a total shutdown.

15 All right. We'll see you Tuesday then.

16 MR. DUBOWSKY: Thank you, Your Honor.

17 THE COURT: Okay.

18 MR. GREENBERG: Yes, Your Honor, in terms of the --
19 the Court's -- well, we need to submit an order to the Court
20 and we will do so. I'm just -- to be clear on the -- the TRO,
21 the TRO as signed by the Court was in terms of the motor
22 vehicles. Your Honor from the Bench had mentioned restraining
23 transfers of property from the Series -- from A Cab or the
24 Series LLCs to Mr. Nady or any trust or family members he
25 controlled. We're not -- our position, Your Honor, is because

1 we understand the way the business is organized --

2 THE COURT: Yeah.

3 MR. GREENBERG: -- we are not asking for relief in
4 the form that would prohibit transfers among the series, LLCs
5 or among the judgment debtor to the LLCs in the normal course
6 of business.

7 THE COURT: And that's not -- that's not my
8 intention to prohibit that.

9 MR. GREENBERG: But we -- but we would ask that the
10 Court -- if it -- if it did intend to do so, which was our
11 understanding, maintain a -- a restraining order from any
12 monies being taken out of the series, LLCs, or A Cab to Mr.
13 Nady or any trust that he is a trustor of or that his family
14 members are --

15 THE COURT: You want the Court --

16 MR. GREENBERG: -- beneficiaries of.

17 THE COURT: -- to stop the -- the order of business
18 as it now stands where it all goes --

19 MR. GREENBERG: Well --

20 THE COURT: -- to Mr. Nady?

21 MR. GREENBERG: -- if Your Honor doesn't -- it was
22 -- it was somewhat confusing to us what we -- what Your Honor
23 was saying. And we're just asking for clarification.

24 THE COURT: Okay.

25 MR. GREENBERG: We would support that, if Your Honor

1 does not wish to direct that specific --

2 THE COURT: Well, would that not bring --

3 MR. GREENBERG: -- prohibition --

4 THE COURT: -- the business to a standstill?

5 MR. GREENBERG: Well, Your Honor, I -- I don't know.

6 The testimony I read to you from Mr. Nady is that the -- is
7 that the revenue in the first instance is going into the trust
8 and then --

9 THE COURT: Yeah.

10 MR. GREENBERG: -- or to himself, or his counsel has
11 clarified the trust, and then the trust is returning the money
12 to the business to fund operations. If Your Honor is not
13 going to interfere with that function, then there's nothing
14 further to be ordered.

15 THE COURT: Not at this -- not at this juncture --

16 MR. GREENBERG: Okay.

17 THE COURT: -- no. I assumed that the -- that loose
18 end, so to speak, gets picked up by if the Court imposes a
19 Receiver that would be within the purview of the Receiver to
20 at least be able to report accurately to the Court of how much
21 is going in that fashion.

22 MR. GREENBERG: Yes, Your Honor.

23 THE COURT: And then if need be, if things don't get
24 resolved, then if need be the Court could expand the powers of
25 the Receiver to have the veto power on any funds leaving

1 accounts of the judgment debtors for other than normal
2 business expenses.

3 MR. GREENBERG: We understand, Your Honor.

4 THE COURT: All right.

5 MR. GREENBERG: And I'm not proposing that Your
6 Honor should direct anything different at this point.

7 THE COURT: All right.

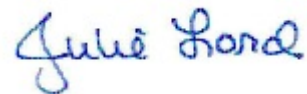
8 MR. GREENBERG: We've taken up a lot of your time
9 and I thank you.

10 THE COURT: We'll see you Tuesday.

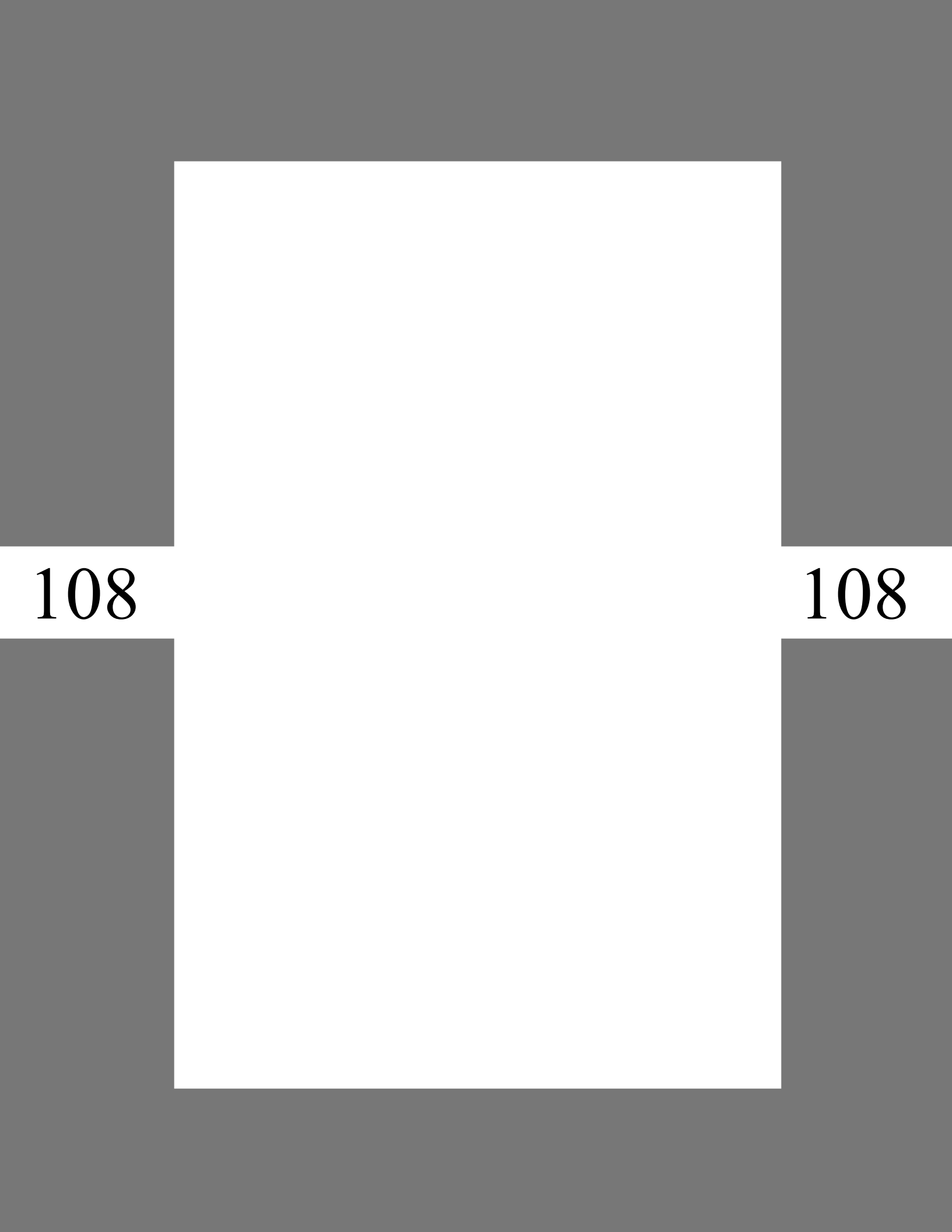
11 (Proceeding concluded at 12:03 P.M.)

12 * * * * *

ATTEST: I hereby certify that I have truly and correctly
transcribed the audio/visual proceedings in the above-entitled
case to the best of my ability.

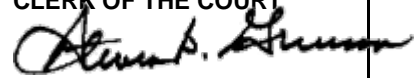


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TRAN

**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
TUESDAY, DECEMBER 11, 2018

TRANSCRIPT RE:
RESOLUTION ECONOMICS' APPLICATION FOR ORDER OF PAYMENT
OF SPECIAL MASTER'S FEES AND MOTION FOR CONTEMPT

APPEARANCES:

For the Plaintiffs: CHRISTIAN GABROY, ESQ.

For the Defendants: ESTHER C. RODRIGUEZ, ESQ.
MICHAEL K. WALL, ESQ.
JAY A. SHAFER, ESQ.

For Resolution Economics: PETER DUBOWSKY, ESQ.

ALSO PRESENT: COREY E. GILDART
JONATHAN WILSON
Resolution Economics

RECORDED BY: Lisa Lizotte, Court Recorder

002406

1 LAS VEGAS, NEVADA, TUESDAY, DECEMBER 11, 2018, 10:22 A.M.

2 * * * * *

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

5 MS. RODRIGUEZ: Good morning, Your Honor. Esther Rodriguez, Michael
6 Wall and Jay Shafer for the defendants.

7 THE COURT: Good morning.

8 MR. DUBOWSKY: Good morning, Your Honor. Peter Dubowsky for the
9 special master, Resolution Economics. Along with me is Mr. Cory Gildart, who flew
10 in from New York to be here.

11 THE COURT: Good morning.

12 MR. DUBOWSKY: And Mr. Jonathan Wilson, who came in from Los Angeles
13 to be here, both with Resolution Economics, Your Honor.

14 THE COURT: They are both with your client, then?

15 MR. DUBOWSKY: Yes.

16 THE COURT: Is that it? Okay.

17 MR. GABROY: Good morning, Your Honor. Christian Gabroy on behalf of
18 Michael Murray and the putative class. Bar number 8805.

19 THE COURT: Good morning.

20 THE CLERK: We need the other two gentlemen's names again.

21 MR. WILSON: Jonathan Wilson. J-o-n-a-t-h-a-n Wilson, like the basketball.

22 MR. GILDART: Corey, C-o-r-e-y Gildart, G-i-l-d-a-r-t. I apologize for the E.

23 THE COURT: You put an E in that name? Ahh, that doesn't auger well for
24 the plaintiff's side.

1 MR. GILDART: Well, it is a given.

2 THE COURT: Yeah. All right. In a case that just never lacks for novel
3 issues, we have another one. It is the motion by the -- it's not a receiver, special
4 master for contempt of the defendants for failure to abide by the Court's order.

5 You have the floor.

6 MR. DUBOWSKY: Thank you, Your Honor. This is a motion for contempt.
7 The defendants have not complied with orders going back to February, March;
8 May 27th where this Court ordered \$41,000 be paid. And then on August 21st
9 Your Honor said that the defendants are in contempt. So I'm not sure what to do.
10 I guess, Your Honor, another Court order that they're going to ignore. We're really
11 at an exhaustive approach here because they're just not paying. Now, again, let me
12 -- as Your Honor is very well aware, my clients were brought into the case by the
13 Court. This is not a pre-existing conflict that is brought into the court. Your Honor
14 brought my clients into the court and ordered the defendants to pay them. They
15 did an exhaustive amount of work, over \$85,000 in labor at the request of the Court.
16 This Court ordered my client to be paid. And they have -- with all due respect,
17 Your Honor, they snubbed their nose to the Court. They're not complying with this
18 Court's orders.

19 THE COURT: Uh-huh.

20 MR. DUBOWSKY: So, Your Honor, I just have to give it to you. I don't know
21 what more to do. We can't -- they're going to ignore another order. They haven't
22 approached to make any voluntary payment. And my client is out all this money.
23 It's this Court's -- respectfully, Your Honor, it's this Court's dignity at stake when
24 somebody comes into court and says we're not complying with your Court orders.

1 THE COURT: Uh-huh.

2 MR. DUBOWSKY: So, Your Honor, I had it over to Your Honor to see
3 what you're going to do. They're in contempt. Now, we're not asking for criminal
4 contempt. We're not asking that you punish them, not that they're not worthy of
5 punishment. We're not saying punish them, but just civil contempt. Whatever
6 punishment is necessary to get them to pay, to comply with the Court orders.
7 And then the additional amounts that are also due based upon my client's work.
8 And so, Your Honor, I had it over to you.

9 THE COURT: The typical -- one of the ways that the Court enforces a
10 contempt finding is -- there's any number of sanctions, of course, that the Court can
11 apply, up to and including incarcerating someone until such time as they comply
12 with the Court's order. Your motion does not ask for anything specific. You're
13 asking the Court simply to find them formally in contempt, is that correct?

14 MR. DUBOWSKY: No, Your Honor. We are asking -- we understand --
15 we've briefed the Court that the Court has the discretion to order it, and if
16 incarceration is necessary to compel them to comply with the Court's orders, then
17 that's what's necessary.

18 THE COURT: All right. Well, let's see what the defendants have to say.
19 I have of course read the briefs of both sides to this controversy, as well as the
20 plaintiff's response, the opposition filed by the defendants and the reply of the
21 special master.

22 Ms. Rodriguez.

23 MS. RODRIGUEZ: Thank you, Your Honor. As the Court is aware, as soon
24 as this issue of the special master was brought up rather surprisingly at one of the

1 hearings before trial, the defendants objected to the appointment of the special
2 master, opposed the appointment of the special master, and then at first opportunity
3 filed a motion with the Court to inform the Court and all the parties, including the
4 special master, who was served, that there was an inability to finance such a costly
5 project by the special master. I don't really know what Mr. Dubowsky is referring to,
6 that the Court has already found A Cab in contempt for failure to pay a \$40,000 bill,
7 because I don't believe that that was the case. And I looked again to see if he had
8 attached anything to show what he's referencing, because if anything what A Cab
9 did was to try to comply with the Court's order.

10 What I attached in my opposition was the letters that show the day
11 that we were in court here, I believe it was February 15th of 2018, and the Court
12 said you absolutely need to send data by tonight to the special master. A Cab did
13 that. We overnighted everything that the Court ordered. We fully complied with
14 everything that the Court has ever ordered as it pertains to the special master,
15 except for the money. That's nothing that I can pay and that's nothing that A Cab
16 could pay. And when we came to the Court, the Court did grant the stay, did allow
17 further opportunity to try to come up with the money, and then as the Court is fully
18 aware, things quickly transformed to go down a different path and that path was the
19 summary judgment motion, and then to utilize the spreadsheets that were prepared
20 by Mr. Greenberg rather than anything from the special master.

21 So in my opposition I also noted a couple of other things that I'll just
22 briefly touch on, Your Honor, is that we've never seen any work, any data, anything
23 from the special master. All we've ever gotten is a bill, a bill for \$85,000, which
24 we also argued without any showing of any data that we could -- that either party

1 could use. It's not fair. And secondly, just in reviewing the bill, the bill is extremely
2 excessive. You look at over \$17,000 to train temps or to train employees. The
3 majority of that is then listed as data entry. And if there is just a training of data
4 entry, then that should be a minimum wage payment, something like 8 to 10 dollars,
5 and it's \$50 an hour. And then the people that are doing the training are \$300 an
6 hour. So we're looking at all of a sudden a bill that's over \$85,000, with nothing to
7 show for it except the bill.

8 But, you know, in response to what Mr. Dubowsky is arguing, again,
9 civil contempt is not appropriate. We did comply, A Cab did comply with the Court's
10 order. And as Your Honor is aware, this issue of the special master is on appeal.

11 THE COURT: When you say you did comply with the Court's order, how is
12 that?

13 MS. RODRIGUEZ: Everything I attached, Your Honor, that showed that
14 we overnighted the QuickBooks data.

15 THE COURT: Oh, okay.

16 MS. RODRIGUEZ: We overnighted all the trip sheets. We downloaded
17 everything onto a thumb drive and a drop file, a drop box, and sent it off to the
18 special master as the Court ordered. The only thing -- I had no idea that we were
19 going to be served with an \$85,000 bill because as far as what the Court had
20 ordered was the \$25,000 initial deposit. And the special master was on alert
21 immediately that there was an inability to even come up with \$25,000. So why he
22 and the company proceeded to continue to run up the bill to \$86,000, you know,
23 is inexplicable. Ultimately then the Court, as the parties, have not seen anything
24 to support such a bill. I think that the special master should be made -- if the Court

1 is inclined to grant such a bill, to at least have them turn over something to show
2 what is worth \$86,000.

3 I don't have anything further, Your Honor.

4 THE COURT: Do you have anything to add in?

5 MR. GABROY: Your Honor, nothing. I mean, we've already -- we filed our
6 brief. And I think another court hearing on a different matter is coming up later this
7 week, but we have nothing further to add than what's already briefed.

8 THE COURT: All right.

9 MR. GABROY: Thank you, Your Honor.

10 THE COURT: Mr. Dubowsky.

11 MR. DUBOWSKY: Thank you, Your Honor. Your Honor, I don't like to use
12 Yiddish in court, but we're aware of the word chutspah. I think the definition would
13 be sending three attorneys from three separate law firms to come into court and
14 say they have no money to comply with a Court order.

15 Now, as far as my client, this is very specialized work and that is why
16 the bill may appear high, but in fact the bill is accurate as to what was earned and
17 the work that was done at the Court's request. In terms of this Court's order,
18 \$41,000, the defendants don't have to like it. They don't have to agree with it. They
19 do have to comply with it. And they did start to do some compliance, but not any
20 compliance with the payment or any apparent effort to comply with the payment
21 orders.

22 And, Your Honor, as far as contempt, I don't need to tell -- again,
23 I didn't know about this case more than a month or so ago, but Your Honor is living
24 it. I was here in court last week. I did find an order that says, "This Court finds

1 the defendant's persistent failure to comply with Court orders warrants holding
2 defendants in contempt." That was page 28, lines 20 to 22 and that's in my motion.
3 So I'm not sure if I misinterpreted what that means, but it sounds like defendants
4 are in contempt. That's what it sounds like it says. And elsewhere in the order,
5 which is put in the motion --

6 THE COURT: Do you know which -- was that contained in an Order of the
7 Court or was it a statement of the Court in court, in open court?

8 MR. DUBOWSKY: It may have been the judgment order, Your Honor. Does
9 that sound accurate?

10 THE COURT: I'm sorry?

11 MR. DUBOWSKY: The summary judgment order.

12 THE COURT: Okay. All right.

13 MR. DUBOWSKY: But again, it is cited to in the brief because in order to
14 come into --

15 THE COURT: Okay.

16 MR. DUBOWSKY: -- as you know, Your Honor, I had to walk into the middle
17 of a movie and get caught up on the plot.

18 MS. RODRIGUEZ: May I ask what exhibit you're looking at or you're
19 referencing?

20 MR. DUBOWSKY: This -- I have it as a judgment, the judgment order, page
21 28, lines 20 to 22. This is the order granting summary judgment dated August 21,
22 2018. And again, Your Honor, whether -- that's what it says. If I misinterpreted it,
23 I misinterpreted it, but for sure, Your Honor, I have not misinterpreted that Your
24 Honor has ordered on May 23rd that the defendants pay \$41,000, and they have

1 not paid a dime of it. So, Your Honor, yes, contempt is in order. Whether it means
2 incarceration until they comply, whether it means a payment of additional amounts
3 per day until they comply, but again, Your Honor, it's this Court's order. As the
4 supreme court has said, it's the honor and dignity of the Court that's at stake in a
5 motion on contempt. And this is about as clear a contempt as you can get, Your
6 Honor. So, again, I give it to the Court as to fashion something that will force the
7 defendants to comply and pay my client for their work.

8 If Your Honor has any specific questions about the work or about the
9 report, again, Your Honor, I have my clients, two different representatives come
10 in, one from Los Angeles, one from New York, who can answer any additional
11 questions you have, but I think Your Honor has what's in front of you in order to
12 fashion a necessary remedy to force compliance. Thank you.

13 THE COURT: Let me ask this question, then, and I don't care which
14 representative answers it. You just heard the objection that the defendant objects
15 to the fact that the special master began by hiring a bunch of temps and paying
16 them, to train them, apparently, to perform the work. Is that a normal thing?

17 MR. WILSON: In large scale cases like this with a small amount of time,
18 yes, very normal.

19 THE COURT: All right.

20 MR. WILSON: We try to refrain from hiring temps as much as possible, but
21 when the time constraint is what it is, we do our best to make sure that the work
22 is quality.

23 THE COURT: And indeed the Court did make it clear in a number of the
24 orders and statements that it was most concerned with the passage of time that it

1 would take in order to accomplish this purpose and that it was important to get this
2 done quickly.

3 MR. WILSON: We took that very seriously.

4 THE COURT: Is there anything else that you know of that would aid the
5 Court in determining the reasonableness of the charge of the \$85,000?

6 MR. WILSON: Just experience. I mean, we've all -- we've done this for
7 many years. We can give bills for other cases, if necessary. It's very standard.
8 And anything that you would need, we'd be happy to deliver.

9 MR. GILDART: Your Honor, if it pleases the Court. I'm Corey Gildart --

10 THE COURT: Yes.

11 MR. GILDART: -- legal officer for the firm. I would just mention that defense
12 mentioned the high rate for the temps.

13 THE COURT: Uh-huh. Yeah.

14 MR. GILDART: It is not minimum wage work. I would just add that. We take
15 H.R. data particularly very seriously from a privacy perspective. We don't just get
16 regular temps off the street. These are qualified individuals and we have to train
17 them accordingly, so that would explain that rate.

18 THE COURT: Okay. Again, a question for either of you, the representatives.
19 As I recall, the estimate that was given to complete the work was about \$180,000.
20 Is that correct?

21 MR. WILSON: Yes.

22 THE COURT: And was that again because of the rush nature of the services
23 involved?

24 MR. WILSON: It would probably come out very similarly if we had more time.

1 It's just a matter of there's a ramp-up cost that you have no matter what and then
2 after you ramp up it's smooth sailing from there.

3 THE COURT: Okay. And that's doing -- having to pull the information off of
4 some -- I don't recall the precise estimate, I think it was around 300,000 of these
5 time sheets.

6 MR. WILSON: Yeah. It was 300,000 files. I think it was 400,000 individual
7 pages.

8 THE COURT: Yeah. Okay, thank you.

9 Anything further, Mr. Dubowsky?

10 MR. DUBOWSKY: I don't believe so, Your Honor. Oh, one more.

11 MR. WILSON: Just with respect to the costs, I know that they were saying
12 something along the lines of that my boss, Ali Saad, didn't have too much time.
13 And I just want to point out that that doesn't really make sense because our whole
14 approach was to be as cost effective as possible. And if he had more time, for
15 example, if he was the one doing the data entry, it would be a lot more expensive.

16 THE COURT: Yeah.

17 MR. WILSON: So basically everything we did was we were trying to do this
18 as quickly as possible, as cost effective as possible. I spent an entire weekend
19 personally writing out a program to analyze as much of the documents as possible
20 programatically so that we could minimize the amount of data entry required. We
21 put in a lot of infrastructure to get this done as quickly as possible. We're solutions
22 oriented people. We just want to get things done as quickly as possible. And, you
23 know, it's not really nice to be here, but the quality of our work I think would speak
24 for itself if we had been able to complete it.

1 THE COURT: Okay. All right, thank you.

2 In this case, as all counsel will recognize, probably painfully so, we
3 have been at pains to try and come to a resolution that was fair and just to both
4 sides. All of this happens within the framework or the context, in my mind, of a
5 lawsuit that is filed to vindicate constitutional rights. I've already commented before
6 about -- what my opinion would be about is it a good idea overall to include your
7 minimum wage act in the constitution of the state. It doesn't matter what I think.
8 The people of this state determined that it was of sufficient importance they put it
9 in the constitution. Now, that means something to me and it also informs the Court
10 as to what powers it needs to exercise, both legal and equitable powers, in order
11 to determine if these rights have been violated, and secondarily to, as much as
12 possible, undo the violation and get them paid.

13 At length the Court determined that the defendants simply were not
14 willing to produce any evidence on their own. At most every turn the response that
15 I heard was, well, it's only the time sheets, only the time sheets. But the defendant
16 did not put forward any calculations based on the time sheets, and so ultimately
17 because of the passage of time in this litigation the Court determined that we're
18 going to have to go back and revisit a motion that had been brought by the plaintiffs
19 earlier, much earlier. And to say that the defendants were blindsided by it I don't
20 think is really accurate. It was argued, fully argued, briefed and argued by both
21 sides when it was first proposed by the plaintiff.

22 Simply it was the case that it became more obvious to the Court
23 ultimately that something like that, as drastic and perhaps as expensive as that was
24 the only way that we were going to get down to having the best evidence, according

1 to the defendants, of what was owed. And so the Court ordered it and ordered that
2 the defendant would pay the cost because it was -- the Court had already at that
3 point determined that there had been a violation of the constitutional provisions
4 regarding minimum wage; that there was indeed liability and the question was what
5 the amount of the damages would be.

6 In preparing for today I've gone back and looked at virtually all of the
7 minute orders recounting the efforts of both sides and the Court in this case for
8 the last at least year or perhaps more, and what I see is that the Court ordered the
9 defendant to pay the first \$25,000. The defendant came and protested and said
10 that it couldn't and put some forward some figures, I believe, to try and show the
11 Court that it couldn't. Well, in hindsight what I see it was saying was that it couldn't
12 afford to, that it didn't fit in its budget to pay such fees. Before I -- well, ultimately
13 the Court realized that the defendant was simply refusing to pay it. They had
14 the money. The Court ordered \$25,000 and then later \$41,000 based upon an
15 estimate, I believe. On March 6th the Court ordered that \$25,000 be paid. On
16 May 23rd, the Court ordered that \$41,000 be paid. Still, there was nothing from the
17 defendants to really show that the defendant was not able to pay. And as I said,
18 ultimately I concluded that what the defendant was really saying was not that they
19 didn't have the money but that they didn't want to pay it because they had other
20 business expenses.

21 Then on September 11th a writ of execution was filed and lo and
22 behold the defendants were in possession of somewhat over \$233,000 in cash.
23 It is frankly ludicrous for the defendants to claim that they do not have the money.
24 At that point that was clear. And while the defendants may argue, yeah, but that's

1 all gone, that was tied up, well, the defendant is still operating its business. It still
2 has income coming in. It has made -- this record is devoid of evidence that shows
3 that the defendants could not pay the money, that they did not have the money,
4 and that's in the face of a Court order, several Court orders.

5 And as was already touched upon, there was a stay put in place.
6 The Court was constantly trying to -- I think my comment during one or more of the
7 hearings was trying not to kill the goose that lays the golden egg. And it has all
8 come to naught and this Court cannot help but find that in the course of protesting
9 loudly having to pay anything, the defendant has just flat violated Court orders and
10 refused -- not that they couldn't -- they refused to pay the \$25,000 or the \$41,000,
11 or as was just argued by Mr. Dubowsky, in fact anything. Not a penny one has been
12 paid and tendered. This is a willful violation of a Court order.

13 I am sorry to see that Mr. Nady is not here today. He has attended
14 nearly all of the hearings. I know he has a great interest. But if he were here today,
15 I would seriously consider putting him in jail for contempt.

16 MS. RODRIGUEZ: Your Honor, I know you don't want to hear additional
17 argument, but I had forgotten a very important point and I'll be happy to supply an
18 affidavit to the Court. But during some of this, these transactions, I believe when
19 the first \$25,000 order following the stay -- and I have to get my time period right
20 because as I mentioned, I just remembered it, Mr. Nady went to the Clerk with a
21 check to attempt to make a deposit as the Court ordered and the Clerk refused it.
22 She said that because there was no order in place ordering the \$25,000 that they
23 couldn't accept it.

24 THE COURT: Hmm.

1 MS. RODRIGUEZ: So I can supply something to that effect because during
2 this he was attempting to make a payment, a large payment. I think it was the
3 twenty, twenty-five thousand dollars.

4 THE COURT: And so he instructed his attorneys to immediately bring that
5 to the Court's attention; correct?

6 MS. RODRIGUEZ: No, Your Honor, because like i mentioned --

7 THE COURT: Ahh.

8 MS. RODRIGUEZ: -- there was a complete transition and that special master
9 issue was pushed to the back burner, never to be addressed again.

10 THE COURT: Well, if it was to pay the \$25,000, that was ordered March 6th.
11 We didn't go to the Plan B or Plan C to try and vindicate constitutional rights here
12 until significantly later than that.

13 MS. RODRIGUEZ: Uh-huh.

14 THE COURT: I find no reason why that wasn't at least brought to the Court's
15 attention. I mean, are you saying that the Court would have said, oh, don't bother
16 to pay it? I mean, the Court of course would have done whatever was necessary
17 to get that paid so that we could get on down the road of a resolution of this case.
18 In any event, I don't think that that at all ameliorates the contempt which your client
19 has shown towards these court proceedings.

20 There is another facet to this case, if you will, that partially lends itself
21 to the conclusion that Mr. Nady had no intention of paying these people and had no
22 intention of even complying with the Court's orders regarding monies, and that is his
23 persistent attempts to create business entities which give no notice to the public that
24 any entity has any ownership of assets or any part in the workings of the business,

1 and of course I'm referring to the Series LLCs. There are statutes, of course, in
2 effect that allow a party to do Series LLCs, but in this case I'm not satisfied that
3 those statutes have been properly complied with. In any event, it isn't that I'm
4 saying he's done anything illegal with the Series LLCs, it simply makes it very
5 obvious the lengths to which he was willing to go to protect assets at all costs. And
6 so the course of conduct that I have delineated is consistent with the conclusion
7 that he's not going to pay even under Court order. I give him credit if he went to the
8 Clerk with a check at one point. I'm going to guess that was following my comment
9 in open court that I would consider putting him in jail, which I did comment about
10 one time in court.

11 It is simply amazing to me that the Court cannot seem to communicate
12 with Mr. Nady that these are important responsibilities and that he's not going to
13 avoid paying minimum wage. So I am virtually at the end of my rope. I do find that
14 Mr. Nady and the corporate defendants have willfully violated Court orders. I'm not
15 going to order a bench warrant today but we are going to schedule a hearing, which
16 won't take place until after the first of the year, to determine how far this Court
17 should go to exact payment. It does not please me to have to do so, but I'm virtually
18 at the end of my rope.

19 We're going to set this -- let's see, we have a hearing on Thursday,
20 don't we?

21 MR. GABROY: Yes, Your Honor.

22 THE COURT: I think Mr. Nady better be here personally on Thursday. I'm
23 ordering him to be present.

24 MS. RODRIGUEZ: I will communicate that with him, Your Honor --

1 THE COURT: Thank you.

2 MS. RODRIGUEZ: -- or to him.

3 THE COURT: Thank you.

4 MR. GABROY: Thank you, Your Honor.

5 THE COURT: And remind me what the nature of the hearing is on Thursday.

6 MR. GABROY: Your Honor, I believe co-counsel has drafted -- it's a motion
7 and supplemental motion regarding turnover orders in regards to certain property.

8 THE COURT: Okay.

9 MR. SHAFER: I think the order was actually to determine the scope of
10 whether a receiver would be entered and to what scope they would -- what powers
11 they would be appointed to.

12 THE COURT: Okay. And that's -- okay.

13 MR. GABROY: Thank you, Your Honor.

14 THE COURT: All right. So we will see you Thursday. While I am entering
15 an order finding the defendants, including Mr. Nady personally, in contempt, that's
16 as far as the Court is going on your motion to this point. You can probably -- I mean,
17 it's obvious that I am considering putting him in custody until that is paid. So you
18 may want to be here on Thursday. I think we had -- oh, your problem was with your
19 witnesses, though -- your representatives.

20 MR. DUBOWSKY: I can be here on Thursday, Your Honor.

21 THE COURT: Yeah, okay. All right. So we start Thursday at what time?

22 THE CLERK: 10:30.

23 THE COURT: 10:30.

24 MR. GABROY: 10:30, Your Honor. Thank you.

1 THE COURT: All right. We'll see you Thursday at 10:30.

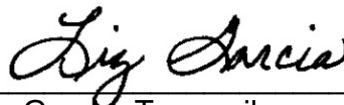
2 MR. GABROY: We'll see you Thursday. Thank you, Your Honor.

3 MR. DUBOWSKY: Thank you, Your Honor.

4 (PROCEEDINGS CONCLUDED AT 10:57 A.M.)

5 * * * * *

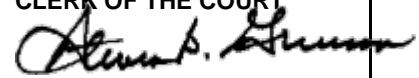
6
7 ATTEST: I do hereby certify that I have truly and correctly transcribed the
8 audio/video proceedings in the above-entitled case to the best of my ability.

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10 Liz Garcia, Transcriber
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**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
THURSDAY, DECEMBER 13, 2018

TRANSCRIPT RE:
PLAINTIFFS' EX PARTE MOTION FOR A TEMPORARY RESTRAINING ORDER
AND MOTION ON AN ORDER REQUIRING THE TURNOVER OF CERTAIN
PROPERTY OF THE JUDGMENT DEBTOR PURSUANT TO NRS 21.320

APPEARANCES:

For the Plaintiffs: LEON GREENBERG, ESQ.
CHRISTIAN GABROY, ESQ.
KAINE MESSER, ESQ.

For the Defendants: ESTHER C. RODRIGUEZ, ESQ.
MICHAEL K. WALL, ESQ.
JAY A. SHAFER, ESQ.

For Resolution Economics: PETER DUBOWSKY, ESQ.

ALSO PRESENT: JONATHAN WILSON
Resolution Economics

CREIGHTON J. NADY

RECORDED BY: Lisa Lizotte, Court Recorder

002424

002424

1 LAS VEGAS, NEVADA, THURSDAY, DECEMBER 13, 2018, 10:39 A.M.

2 * * * * *

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

5 THE COURT: Good morning.

6 COUNSEL IN UNISON: Good morning, Your Honor.

7 THE COURT: Will counsel enter your appearances, please.

8 MR. GREENBERG: Leon Greenberg for plaintiff, Your Honor.

9 MR. DUBOWSKY: Peter Dubowsky for the special master, Resolution
10 Economics. And my client is here also, Mr. Jonathan Wilson.

11 MR. GABROY: Christian Gabroy, Bar Number 8805, for the plaintiffs.

12 MR. MESSER: Kaine Messer also for the plaintiffs.

13 THE COURT: All right.

14 MR. SHAFER: Good morning, Jay Shafer for A Cab.

15 MS. RODRIGUEZ: Good morning. Esther Rodriguez for the defendants.

16 MR. WALL: And Michael Wall for the defendants.

17 THE COURT: Good morning. And I see that Mr. Nady is here.

18 All right. As it stands this morning, Mr. Greenberg, what is the
19 plaintiff's suggestion to the Court as to how to proceed?

20 MR. GREENBERG: Well, Your Honor, it was my understanding from our
21 appearance last week there were two issues Your Honor wished to address today.
22 One has to do with the TRO you signed.

23 THE COURT: Please be seated, folks.

24 MR. DUBOWSKY: Thank you.

1 MR. GREENBERG: The TRO you signed and the request for the transfer of
2 those motor vehicles or an order coordinating the transfer, so to speak, or assisting
3 me in having those motor vehicles transferred ultimately to the sheriff for sale on
4 judgment execution. And the other issue was this question of the appointment of
5 a receiver pursuant to what I understood to be your concerns last week. I did
6 submit, as you instructed, on Friday two different proposed orders for the Court's
7 consideration and some correspondence that Your Honor may have seen. I did
8 get a call yesterday from your law clerk, who asked me to provide those orders
9 in computer format, presumably for further review by the Court. I'm pleased to
10 address either of those issues or anything else I can help the Court with, but that's
11 my understanding as to what I'm supposed to be doing here today.

12 THE COURT: All right. We have this morning the matter of whether to
13 appoint a receiver, and if so, under what terms. You've seen the proposed order
14 submitted by the defendants, which modifies the order which you had proposed.
15 What is your view of that?

16 MR. GREENBERG: Well, Your Honor, I have two concerns regarding the
17 order that they are proposing on that issue. One is that they are removing the
18 provision that I had proposed to the Court. And just by way of background, Your
19 Honor, I had essentially proposed two approaches here consistent with my
20 understanding of the Court's concerns voiced last week. One would be really a
21 limited form of receivership which would allow the receiver to take possession of
22 assets that are under the control of the judgment debtor corporation, A Cab, LLC,
23 and hold those assets, potentially pay liabilities in his discretion if he thought it was
24 important to preserve the business, and to also gather information for a report to

1 the Court and a proposal, if possible, for actually managing the business in full for
2 the purposes of satisfying the judgment, Your Honor. He would not have the power,
3 essentially, to interfere or control any of the operations at this point, which is truly
4 what a receiver does in the normal course.

5 As part of that receiver proposal, he would have also had the authority
6 to withhold operation of the medallions which are possessed by the judgment debtor
7 from the Series, these cells to which I am sure they have all now been leased and
8 put in possession of who are generating revenue from them, not for the purpose
9 of doing anything with those medallions but simply to assure cooperation from
10 those cells in his work so that he can gather appropriate information. And if the
11 cells refuse to cooperate, the cells of course are all controlled by Mr. Nady. He
12 would have the authority to terminate those leases or if necessary ask the Taxi
13 Commission to terminate -- excuse me -- terminate the leases of those medallions
14 or ask the Taxi Commissioner to terminate the use of those medallions, essentially
15 just to give him the power so that he could, if necessary, coerce sufficient
16 cooperation so he can get the information he needs to do his job because as Your
17 Honor is aware, it is the position of the defendants that these 200 or so cells are
18 separate entities, they're not subject to o the judgment. We have no asked the
19 Court to, you know, go beyond or deal with that issue.

20 The other form of order I proposed to the Court was far more limited
21 and that was based on my discussion with Mr. Swarts last week, who said that
22 perhaps a special master appointment would be more appropriate here, and that
23 is far more limited. The special master would not actually take possession of any
24 assets of A Cab. He would have no authority to pay expenses. He would simply

1 be essentially in charge of obtaining the records and reviewing the books and have
2 access to the information of the company. He would have no coercive power in
3 respect to the taxi medallions as I was proposing for the limited receiver. And he
4 also would have a report to the Court with a proposal as to whether a receivership
5 could be managed and how it would be managed for the business.

6 Under the special master proposal, which is obviously the far more
7 limited of the two, that's the model the defendants have proposed a variation on
8 to Your Honor, okay. Their variation of that model does two things that I would be
9 strongly opposed to. First is it removes the provision that the special master would
10 provide to plaintiffs' counsel information as to assets he locates that are in the name
11 of the judgment debtor. The judgment is outstanding. I believe if there is going to
12 be a special master appointment we're not going to have a receiver who's actually
13 going to take possession of any assets. Plaintiff's counsel should be told, you know,
14 what assets the special master comes up with so we can take effective means, if
15 we can, to secure those assets for the benefit of our clients. They've removed that
16 power from their proposed special master appointment.

17 The other thing that they have done is they've capped the fee that
18 would be paid to the special master at \$5,000. That's clearly going to be an
19 inadequate amount for me to get anyone to be willing to accept the appointment.
20 I'm not pleased with seeing large amounts of money spent on a special master or
21 a receiver. I have, as I've told the Court, believed it would be appropriate to commit
22 some portion of the funds that have been attached in the Wells Fargo accounts
23 and I actually did submit an order to the Court, I believe it was two days ago, asking
24 Your Honor to direct the disbursement of those funds from the core \$10,000 to the

1 defendants, with the rest to go into my IOLTA account. This was ruled on last week
2 by Your Honor at the hearing. But \$5,000 is not going to be enough. Mr. Schwarz'
3 normal hourly fee is \$300 an hour. That is fairly substantial, although I suspect it's
4 probably within the range of people typical with his experience in this area. I'm not
5 eager to see, again, a large amount of money earmarked for a special master or a
6 receiver, but I suspect a commitment more in the range of \$20,000 probably needs
7 to be made to assure some kind of meaningful efforts are undertaken by anyone
8 who's appointed for a special master or a receiver.

9 And the way I structured both of the orders I proposed to Your Honor
10 is that the person so appointed would be earmarked such amount from the funds
11 collected that Your Honor believes is appropriate and in the event that they have,
12 you know, gone through 90 percent of that earmarked funds, they will at that point
13 sum up whatever they can and provide whatever report they can to the Court at that
14 point, even if it is a partial or incomplete report; the point being that we would like
15 to get some sort of completed result from this process of having a special master or
16 receiver appointed. Ultimately the cost of a receiver or special master really should
17 be borne by the defendants, Your Honor, not by my clients, but I understand the
18 problems we've had in this case and I cannot contemplate Mr. Swarts or anyone
19 else being willing to take on such an appointment, particularly given the history
20 we've had here, without an assurance that there are funds that have been dedicated
21 in advance to pay them for some measure of their work and also an assurance that
22 they will be relieved from doing unpaid work, which is why I tried to structure the
23 orders I presented to Your Honor in that fashion.

24 So I think that reviews what I've proposed to the Court, the thoughts

1 I have about this, the concerns I have with the alternative proposal that was given
2 yesterday by defendants. If the Court has questions, I'd like to help if I can.

3 THE COURT: All right, thank you. We are at this juncture, of course,
4 because of the refusal of the defendants, including Mr. Nady, to come forward with
5 funds necessary to pay the special master.

6 Mr. Nady, I asked you to be here -- well, more than that. I ordered you
7 to be here today and I indicated that I was seriously considering putting you in jail for
8 contempt of court. You might be asking, well, what brought that about? But when
9 I see that your attorneys are in her complaining that you simply can't pay -- first it
10 was \$25,000 and then it was \$41,000 to the special master to do the work that
11 really should have been done by you originally to make sure that the drivers were
12 receiving under the law the minimum wage and that, you know, secondarily, if it
13 wasn't done before there should have been evidence forthcoming from your side
14 as to what the appropriate amount was. And all we ever heard was it can't be done,
15 it can't be done; the trip sheets are the only accurate way to do it. And so we had
16 a way to accomplish that through the special master, admittedly an expensive
17 proposition, but that's what happens when you have to come back and clean up
18 somebody else's mess.

19 When I found that you, despite your protests in September and
20 October that you simply didn't have the money to pay the special master and then
21 the plaintiff effected a seizure of a bank account and there's some \$230,000 laying
22 in that bank account, I have become extremely immune to cries from an individual or
23 a company individual that they just don't have the money to pay the special master
24 to complete this work. And so it has resulted in the special master coming to the

1 Court and asking to be paid. It was the Court that appointed the special master
2 and I am certainly more than amenable to making sure that the special master gets
3 paid for the work that they've put into the project, up to the point where the Court
4 found that it was going to be so cumbersome and so expensive that it was better
5 to simply grant the plaintiffs' earlier motion for summary judgment that included
6 approximations. And according to the United States Supreme Court, those -- if
7 that's what you have, that's what you have and you can rely on those in a judgment.

8 So perhaps you can understand why it seemed to the Court that I
9 might have to just put you in jail in order to get your attention. Well, fortunately for
10 you and perhaps for all of us, rather than blow this matter up even further, there is
11 a way that I believe I can accomplish that without having to put you in jail. It gives
12 me no great pleasure to put you in jail, Mr. Nady, which is why I was so late coming
13 to the point of seriously considering doing that. It's my belief that with the proposals
14 that have been put forward by the plaintiff and been modified proposal by your
15 counsel that there is a way that we can get the special master paid, albeit it is a
16 way that will incur more fees that have to be paid.

17 I'm going to grant the relief that the plaintiffs have asked for in the
18 sense of having a special master appointed again. This time we're not going to use
19 the special master that previously was there. They have -- I wouldn't ask them to
20 continue on at this point, but I am highly likely in a few minutes -- I want to hear
21 from your attorney first, but I'm highly likely to appoint a special master, to have it
22 Mr. Swarts and to order the defendants and their agents, and at this point that's
23 where you come in, to give a full and complete disclosure of all the financial records
24 that pertain to the company.

1 I wanted to say that at this point because maybe it's just if you were
2 feeling nervous and if you have your toothbrush in your pocket, I wanted you to
3 realize that I'm not going to send you to jail today. Notwithstanding that, I hope that
4 out of all of this you will come to realize that the Court is very serious about having
5 this case proceed to its final resolution, including the payment of the judgments
6 which have been awarded.

7 So with that, Mr. Shafer, what do you have to say further? I have
8 received your opposition with your modifications of the proposed order by the
9 plaintiffs. One of those was for confidentiality, which I think is appropriate. Anything
10 which is revealed to the plaintiff should not be revealed to the public at large. I don't
11 assume that there's any problem with that from the plaintiffs. I am inclined, as I just
12 indicated, to not even make it an appointment of a receiver at this point, but I am
13 inclined to make it be a special master with a view towards, if need be, becoming a
14 receiver. Partly I have come to that conclusion because of your protests that when
15 it comes to those medallions, at least, that you can't have someone else running the
16 company or you run into problems. I don't know whether that is accurate, but I don't
17 propose to jump into the middle of that issue by literally turning the company over
18 to a receiver at this point. I agree with plaintiffs' counsel that to put a limit of \$5,000
19 for a special master at this point is not realistic for the job at hand. I may say that
20 my whole purpose in doing this -- immediate purpose is to get the previous special
21 master paid. Those are the things that I'm considering doing. What do you say?

22 MR. SHAFER: And I appreciate it, Your Honor. Obviously we've I think
23 addressed most of our big points in our opposition. I think that you've hit the nail
24 on the head that at least in our interpretation of the statutory authority appointment

1 of any operational control over A Cab would result in termination of its business or
2 at least the current operators would have to go to the Taxicab Authority and say
3 we can't operate anymore, which I think would cause problems for everybody.

4 As far as -- so we stand by our objection to the appointment of any
5 receiver or special master on the record, just because it's an extraordinary remedy.
6 They haven't even had a chance to look at our responses to their post-judgment
7 debtor request for production yet. I think we're a little premature on that. But given
8 that the Court's inclination is to appoint a receiver, we would like to make that as
9 limited as possible with the goal of accomplishing what the Court's concerns are,
10 and that's to maintain the assets to make sure we know what the current status is.

11 And I want to -- I'm glad the Court brought up the issue of the
12 \$230,000 or \$250,000 that was taken in September of this year. That was not
13 A Cab's money. As we briefed before the Court, and perhaps Mr. Dubowsky was
14 not aware of this when he filed his motion for the special master, a majority of that
15 money was held in trust either to pay employee tax provisions, the employer side
16 tax provisions, FICA, and to pay the State, the Taxicab Authority its revenue and
17 to pay the airport for its revenue. Those -- while those are collected daily, those
18 are remitted quarterly. So those funds, a large majority of those funds represents
19 payments that were held in escrow to be submitted to the State and its Authority.
20 So it's not like they had a quarter million dollars sitting in an account that was
21 available to pay whoever they wanted. That was already earmarked to be paid
22 and was owed to be paid for sales tax, transfer tax and other authority.

23 As far as the issue of the receiver, our goal should be to limit the
24 amount of costs that are incurred, the friction loss that is involved in this. My client

1 does not have the money to pay it. There is a limited amount of funds. And so
2 the more duplicative work that is done will decrease the return to the actual drivers.
3 As minimal as it is now, we would like to avoid that further.

4 So our request is just to limit it just to receipt and review of the
5 financial records of the company with the appropriate protective order. We put a
6 placeholder \$5,000, indicating our desire to have that be minimal. Whether or not
7 that's an accurate one, I don't know, but given the problem we had in this case of
8 the \$200,000 special master, we would like -- we have no objection to Mr. Swarts
9 being appointed, particularly if the Court is inclined to do that, but we would like it
10 to be limited. And if additional funds were needed to complete additional review, we
11 would rather them come back to the Court and ask for additional funds, rather than
12 being unlimited and all of a sudden we run up a \$20,000 bill within the first week
13 and not have additional funds later on. So that is why we put that placeholder, but
14 if you'll notice we left most of the blanks -- we left placeholders for most of the other
15 fees. But our goal is to have it as limited as possible and A Cab will cooperate to
16 provide the financial records to minimize the costs and expenses that it is being
17 forced to incur for the special master if the Court does grant that special master.

18 I think that's --

19 THE COURT: Let me do this. I have reworked the draft that was submitted
20 by the plaintiff and it's the short version. I've made some changes to it. This is
21 what I am considering ordering. I think it would be best maybe if we just took a few
22 minutes at least to let both sides see what's in the order that I'm thinking of signing
23 and seeing whether or not that covers the various needs and issues of the parties.
24 So why don't we run a couple of copies of this and let counsel have it and -- let's

1 see, let's make about four copies. My law clerk will run copies of that.

2 Let's -- while they're doing that, that kind of takes care of what -- on
3 my check-off sheet that takes care of two out of three. One is the appointment of
4 a receiver. I'm going to make that a special master for now. The prime objective
5 of the receiver of Mr. Swarts, assuming that he's the one that accepts this, will be to
6 get the previous special master paid. I want to see that happen and I want to see it
7 happen as a primary goal of the special master at this point. That is more important
8 to me than pulling funds out to pay the judgment creditor.

9 As to the contempt, I've already indicated I'm not going to hold Mr.
10 Nady -- well, I have held the defendants in contempt, but I'm not going to put Mr.
11 Nady into jail, until such time as he complies with the Court's order.

12 That leaves the final thing as being the temporary restraining order
13 not to sell items. Is there anything more that needs to be argued about that? I don't
14 see that it impedes the defendant's business to simply enter an order that says don't
15 sell any of the assets, whether they are the automobiles or anything else, any of the
16 assets without clearing it with the Court first.

17 Do defendants have problems with that?

18 MR. SHAFER: Our concern I think is just the transactional nature of this,
19 whether or not -- you know, when they -- if they dispose of a certain asset, whether
20 they have to get clearance from the Court to throw away a broken stapler or to --
21 you know, if a car is wrecked, to deal with that issue. We would probably put in
22 a request that anything be -- if there is a sale that it be for equivalent value and
23 records be maintained of that. So if they do sell that broken stapler, they donate it
24 to charity, there's a record of that, or if they have to -- if there is a wrecked car and

1 they get an insurance payoff, that there's an earmark or identification of that --

2 THE COURT: Uh-huh.

3 MR. SHAFER: -- which would -- and our concern is --

4 THE COURT: Well, in terms of a wrecked car, that's -- if the only prohibition
5 is from selling it -- oh, you're saying that it would be so wrecked you wouldn't be
6 fixing it.

7 MR. SHAFER: Yeah. And, you know, the insurance company would
8 probably require a sign-over of the wrecked vehicle in exchange for insurance
9 proceeds, I imagine. And I think that also deals with our other concern that exerting
10 control over the company might be considered exerting control over the operations
11 and would put us in violation of the statute.

12 THE COURT: Well, if it's a special master and he's given no power to control
13 at least initially, then that shouldn't be a problem, should it?

14 MR. SHAFER: I am not -- my concern is not reporting that to the special
15 master or not notifying the special master or not including that in the finances, but as
16 to the TRO and the Court exerting control over or precluding transfer or dealing with
17 those assets as they are in the ordinary course of business. That's our only objection
18 to that. We do not anticipate a sell-off of assets or otherwise deprive defendants of
19 any rightful recovery that they have. And so I think it is over-broad to require -- to
20 preclude them from transferring any asset, unless there is an exception --

21 THE COURT: Well, if we put a dollar amount in there and say something like
22 don't dispose of any assets of a value of \$500 or more without at least advising the
23 special master first --

24 MR. SHAFER: I think if the restriction is to reporting it to the special master,

1 I think that would probably be fine because that is -- you're not exerting control over
2 the operations of the business, just requiring disclosure of the financial records,
3 which is consistent with our position on the limitation and the nature of the special
4 master.

5 THE COURT: Well, but I'm talking about doing more than simply requiring
6 a reporting to the special master. I'm talking about saying don't dispose of assets.
7 Obviously we don't want to see the assets walking out the back door when we're in
8 a mode of trying to get a special master paid and then trying to get a plaintiff paid.
9 So I don't see that it's, you know, assuming any managerial role in the company
10 to have that kind of an order in place that the defendant is not to sell off assets.

11 MR. SHAFER: Our only caveat would be to -- if such an order is entered,
12 to be in the -- it's not to be sold off except in the ordinary course of business.
13 With that exception and with a notification requirement we can be assured that the
14 judgment creditor would receive equivalent value. Whether it's in a car or whether
15 it's in cash, it would make no difference to the judgment creditor. And would -- with
16 the notification requirement if a car is sold for a dollar and it is clearly a fraudulent
17 transfer, they would be notified of that transfer and would be able to recover it back.

18 THE COURT: All right. Then I'll go for that as long as there's some time
19 period of delay after notifying the special master before you actually dispose of the
20 assets. It doesn't do much good to tell the special master and then just go ahead
21 and sell the asset. If we say that, we haven't accomplished anything more than
22 the provisions that all the financial -- that the finances of the company be made
23 available to the special master.

24 MR. SHAFER: I understand. If I might have just one moment to --

1 THE COURT: Yeah.

2 MR. SHAFER: Your Honor, I would suggest five business days would be
3 an appropriate length of time.

4 THE COURT: All right, that will work. Let's make it say that no asset of a
5 value of more than \$500 will be disposed of, sold, given away, whatever, without
6 giving five days notice to the special master.

7 MR. SHAFER: Okay.

8 THE COURT: All right. Why don't we just take a few minutes while you guys
9 take a look at the order that I've handed out and then I'd like to hear from you again
10 before I finalize it.

11 Yes, sir?

12 MR. DUBOWSKY: May I address the issue of contempt, Your Honor?

13 THE COURT: Yes.

14 MR. DUBOWSKY: I understand Your Honor not putting Mr. Nady in
15 incarceration. I understand that. But Your Honor did adjudicate him in contempt.

16 THE COURT: Uh-huh.

17 MR. DUBOWSKY: Under Nevada law for a civil contempt is just to compel
18 compliance and whether this order addresses it or not, I'm not clear, but my client
19 has not been paid. They've been ordered to be paid. I think Your Honor needs to
20 -- in that you already made the order finding him guilty of contempt, just compel
21 compliance. Payment plus attorney's fees in order to comply with the Court order
22 by a date certain so we comply with the contempt rules. And whatever else needs
23 to be paid can be dealt with in the order, but Your Honor, you have found him to be
24 in contempt. Another order just saying that my client is going to be paid, we have

1 those orders already. So I'm going to ask Your Honor to make an order, which we
2 requested before, for civil contempt to do something that compels compliance.

3 THE COURT: In other words, that you be paid, your client be paid by a date
4 certain or else what, Mr. Nady goes to jail?

5 MR. DUBOWSKY: That's within Your Honor's discretion, but yes, there's
6 ways of dealing with that. But that would be one way, yes.

7 THE COURT: Uh-huh.

8 MR. DUBOWSKY: And under NRS 22.100, subsection 3, there's also
9 attorney's fees because we've had to spend a lot of attorney's fees just to ask the
10 Court --

11 THE COURT: Yeah.

12 MR. DUBOWSKY: -- to have him comply and we still can't get compliance.
13 And I can tell Your Honor that we have not been approached to say, listen, we don't
14 want to be in contempt. But under the Nevada rules he has to purge himself of
15 the contempt and that means compliance plus attorney's fees. And that has to be
16 addressed separately so that my client can be paid and we can be out of here. And
17 whatever else needs to be paid through this process, that's fine, but, Your Honor,
18 he is in contempt. He has to comply with the \$41,000 order.

19 MR. GREENBERG: Your Honor, if I may?

20 THE COURT: Uh-huh.

21 MR. GREENBERG: On behalf of my clients I do want to make clear on the
22 record that I respect Your Honor's authority and discretion to proceed however you
23 feel best within the confines of the law. And what you are proposing is within your
24 discretion. However, I want to make clear on the record that on behalf of my clients,

1 we definitely object to the idea that a special master should be appointed. The
2 funds that have been executed on my client's judgment should be earmarked to
3 pay that special master, with the purpose of that being really to try to locate funds or
4 come up with a further plan to pay the prior special master who was already ordered
5 to be paid by the Court. So to that extent we do not support the Court's direction
6 on that issue that you were voicing a little while ago, but I respect Your Honor's --

7 THE COURT: What is it that you don't support?

8 MR. GREENBERG: Well, Your Honor, as counsel for the special master who
9 has already been appointed was pointing out, they are due their funds pursuant to
10 a long-standing order of this Court. The defendants are properly held in contempt.
11 And candidly, Your Honor, I don't think that the defendants will comply with anything
12 unless they're coerced to do it. An order of contempt that was being proposed could
13 simply be that they either have to pay it by a date certain or Your Honor is going to
14 suspend the use of their medallions.

15 I mean, at this point, Your Honor, the judgment debtor in this case,
16 A Cab, LLC, I am sure has no assets except those medallions and the motor vehicles
17 that are still titled -- and titled inadvertently, no doubt, because Mr. Nady has made
18 it a point of transferring all of the assets to these various Series LLCs, the cells, as
19 he calls them. We did execute on those funds at the Wells Fargo. I have had
20 executions served on a variety of other banks. I was advised by Nevada State Bank
21 there was one dollar in an account there. No doubt the business is still running, but
22 they've acquired a new EIN number. They're running the operation through a new
23 legally-registered entity, whether it's one of the series with a Tax I.D. number or
24 something else. So --

1 THE COURT: Presumably that's something you will find out in your judgment
2 debtor examination.

3 MR. GREENBERG: I will, Your Honor. And as counsel for the defendants
4 have pointed out, well, if there's transfers of assets, you know, plaintiffs have their
5 remedy. We can proceed with fraudulent conveyance actions. And obviously we
6 may have to do that, Your Honor, but I don't wish to be involved in just a ceaseless
7 series of litigation here involving transfers of assets. It's not in the interest of my
8 clients. And defendants are essentially just working to exhaust my time, my
9 resources. I have other clients I'm committed to. I have other cases I have to
10 work on.

11 So ultimately the only way that anybody, my clients or the special
12 master may get paid is if this Court uses its coercive power and simply tells the
13 defendants, look, you either pay or the business is going to be shut down. Your
14 Honor clearly has the authority to suspend the use of those medallions. And that's
15 it. That's the only asset that the judgment debtor has and it only has that asset,
16 Your Honor, because they can't actually transfer the right to those medallions. It's
17 a limited franchise that's given to them under their CPCN. But they can lease them
18 out, they can direct the revenue from those medallions to, you know, Tom, Dick and
19 Harry, which is essentially what they've done here. I mean, this is the whole nature
20 of the financial operation that Mr. Nady has run with the business to evade this
21 judgment, to evade his creditors. So anything short of that --

22 THE COURT: Whose name are those medallions in?

23 MR. GREENBERG: The medallions are a limited license that's granted to
24 A Cab Series, LLC, the judgment debtor. And we have the CPCN, it's in the record

1 here. It's a one page document. They're authorized for 73 or 120 or 94 or whatever
2 it is medallions. And they are free -- they can't sell the medallions. They're not --
3 again, it's the nature of the license, but they can lease them, they are leasing
4 them. And ultimately unless some coercive power is applied to the use of those
5 medallions, I don't think the special master is going to get paid and I don't think my
6 clients are going to get paid by the judgment debtor because that's really the only
7 arrow we have left in the quiver here, Your Honor, against Mr. Nady because the
8 way the entire business is structured at this point, unless the Court is going to go --
9 and we may have to reach this point of proceeding with an examination of the legal
10 issues regarding the supposed separation of the cells, the Series LLCs from the
11 judgment debtor.

12 As Your Honor is aware, we do have an alter ego claim pending
13 against Mr. Nady which is currently stayed. Presumably the Court could some time
14 in the new year reconvene, proceed to trial on that, gather evidence, make findings.
15 I understand all of that, Your Honor, and perhaps that will have to be done at some
16 point as well. But I don't see that there's going to be any other way to get the very
17 substantial judgment rendered on behalf of my clients paid or the special master
18 paid unless some coercion is applied to the judgment debtor here and Mr. Nady's
19 business operations because essentially, Your Honor, the business is generating
20 a large amount of cash, \$50,000 or more a month. Mr. Nady is free to fund this
21 litigation, to fund the defense from the receipts of the business as long as he can
22 keep it going. I think he values having the business, as he should. He worked hard
23 to make the business and to keep it running, but he needs to respect the authority
24 of this Court.

1 And I'm trying to propose the simplest, most direct means, given the
2 posture of this litigation right now, for this Court to accomplish its objective, which
3 is to get the special master paid and to see that the judgment debtors (sic) are paid.
4 And short of hanging that prospect over the defendants that their medallions are
5 going to be suspended, that they're going to be shut down, I don't see that the Court
6 has any other authority; again, given the current posture of this case. If we go to
7 further proceedings and then we examine this whole issue of the alter ego claims
8 against Mr. Nady and the legal issues presented by the supposed existence of
9 these cells, that might be another avenue, Your Honor. But I think Your Honor
10 understands my point and I respect Your Honor's thoughtful efforts here to reach
11 an appropriate resolution and respect the interests of the parties.

12 THE COURT: Mr. Shafer, is this all a procedure that is going to wind up
13 without getting even the special master paid?

14 MR. SHAFER: I don't believe so. And if it is, it's because there's no money
15 to be paid and not out of any intent to avoid the judgment. And I understand --

16 THE COURT: Well, you know, to say that there's no money to pay is not
17 going to work because in that case then why wouldn't I cause the business to be
18 shut down and sell off whatever assets are left and --

19 MR. SHAFER: Well, I apologize, Your Honor. I tried to make my statement
20 conditional that if there is no money to be paid the result is the same. They receive
21 nothing. It is our argument that the Court's remedy in appointing a special master
22 to review the finances and conduct a review of the assets of A Cab would provide
23 some illumination both to this Court and to plaintiffs' counsel. As of now plaintiffs'
24 counsel is essentially making up out of whole cloth the financial condition of A Cab

1 and what A Cab does or does not do and the status of --

2 THE COURT: Well, I'm not so sure we can say that at this point, Mr. Shafer.
3 A Cab has been under a standing Court order since at least last September to pay
4 the special master and not one dime has gone to payment.

5 MR. SHAFER: And I will distinguish between the special master's request
6 for payment and the judgment collection. They are different and distinct. And
7 I appreciate that the Court -- as a special master they are subject to the Court's
8 review and discretion and they are essentially an adjunct to the Court and they
9 have their own set of limited remedies. The statute provides that if a special master
10 is not paid, they are entitled to a writ of execution.

11 THE COURT: Uh-huh.

12 MR. SHAFER: I don't believe that it is on that basis -- I think that the
13 appointment of the special master you've suggested to review the finances at least
14 on a limited basis would provide security both to the judgment creditor and to the
15 special master, as well as continuing the operations if they exist or are able to be --
16 if A Cab is able to continue on, then that will provide some illumination on that issue.
17 If the judgment creditor wants to shut down the company it has various methods
18 to do that. They can file for an involuntary bankruptcy. They can ask for other
19 extraordinary relief. But we are distinguishing between the judgment creditor and
20 the special master because there has been no contempt as to the judgment creditor.
21 It is limited only to the special master and the payment based on the Court's prior
22 order ordering the \$41,000 be paid. The Court will recognize we made objections,
23 but the Court issued that order. So there is a distinction between those two.

24 I do not think, responding to Mr. Dubowsky's point, that it is fair or

1 reasonable to impose a date certain by which a certain amount should be paid
2 because one of the important aspects in any contempt hearing is the ability. It has
3 not been established that as of now A Cab or Mr. Nady has the ability to pay, or
4 A Cab has the ability to pay the special master fees.

5 THE COURT: Well, if they don't -- if they don't, then why don't we just wind
6 up the business and pull out whatever assets to pay the judgment creditor -- I'm
7 sorry, to pay the special master and the judgment creditor whatever there is and
8 be done with it?

9 MR. SHAFER: Well, and that would be -- that would be subject to either
10 negotiation or some subsequent motion practice subsequently. But my point is
11 is that it is not --

12 THE COURT: Well, no, that kind of evades the question. I mean, what
13 you're telling me is that your client basically simply cannot pay, so therefore we don't
14 want to have any order that you must pay by a certain date or else because, gee,
15 now we have to have a trial after the trial to show that your client can pay. Well,
16 that's not my understanding of the way the process generally works. This is a
17 judgment. And --

18 MR. SHAFER: It is. And we have two competing claims on these funds.
19 Plaintiff's counsel took \$250,000 from our client, from A Cab. That money, most
20 of it, as we discussed before, was earmarked for other purposes which have
21 precedence to the State. But if there was any free funds, that could have been
22 used to pay Mr. Dubowsky's client, the special master. And so now we're in a
23 situation where my client does not have 1.6 million dollars to pay out of its ready
24 cash right now. Does that mean that they might not be able to pay a reasonable

1 amount over time? I don't know. I don't have personal knowledge of the finances
2 of the company. And even if I did, I'm not sure that the Court would believe me.

3 That's why I think it is imperative that the special master make the
4 report before any further recommendations be enacted -- certainly on the contempt.
5 If the special master determines that there is not sufficient funds nor sufficient
6 profits to pay off the special master and their award, then the Court will make its
7 determination based upon that when they make their report in thirty or whatever
8 reasonable amount of time they make their report. I don't presume to indicate what
9 time the special master would be able to complete that. But they would be no worse
10 off than they are today because of the Court's order precluding the transfer of
11 assets or the sale of assets according to the conditions that the Court has put in
12 place and the continued operations of the business. They will be no worse off than
13 they are today and they will still have the ability to recover those funds.

14 So I really seen no authority, also, to shut down the business. They
15 haven't cited to any case law or statute that permits a judgment creditor to shut
16 down a business or to preclude operations of its assets, except according to a
17 receiver or some other writ of execution. The certificates are not subject to a writ
18 of execution because they are not something that can be transferred. So, again,
19 that goes back to the most reasonable course of action at this point is to allow the
20 special master to conduct its review and to conduct the finances.

21 We are -- we have asked, as this Court knows, we asked for a stay
22 pending a resolution and settlement and an appeal. We are getting pummeled,
23 Your Honor, with the amount of motion practice and other procedures that are going
24 through as a result of the defendant and the special master. We're trying to get our

1 feet underneath us to negotiate a resolution. We asked the Court for a stay and
2 it wasn't inclined to issue that stay. We are now seeking an emergency stay with
3 the supreme court to try to resolve this so we can just figure out where everybody
4 stands and what the assets are and what resources would be available to pay the
5 judgment creditor and to work out a fair resolution. But I think that -- I understand
6 the Court's concerns about assets not being diminished and it certainly would never
7 be my intention to intentionally avoid any order of this Court or judgment debt that is
8 properly entered, but is also imperative that due process follow. And I think that the
9 imposition of the special master accomplishes all of the necessary goals to maintain
10 that the judgment creditor and the special master be paid, that the judgment debtor
11 also have its business assets not be unnecessarily disturbed.

12 THE COURT: All right.

13 MR. SHAFER: So that's -- I think we would object to any date certain be
14 paid.

15 MR. GREENBERG: Your Honor, if I might just clarify. On behalf of my
16 clients, the plaintiffs, the class members, I do not want to see the business close
17 because I don't think that's going to be in their interest in terms of getting paid.
18 My suggestion to the Court was in respect to the special master's claim that the
19 Court do issue an order with the course of power I was proposing, giving A Cab,
20 the defendants, a date certain to pay or to face the closure of their business. The
21 reason why I proposed that is the amount that is owed to the special master is of
22 a magnitude that I think they will definitely find the money to pay the special master
23 what he was awarded and that issue will be closed and done with. In terms of
24 appointing a special master going forward or a receiver, we've discussed this and

1 that is the avenue that I believe is in the interest of my clients. I think Your Honor
2 understands my position.

3 THE COURT: Uh-huh.

4 MR. GREENBERG: Mr. Dubowsky may want to address the Court.

5 THE COURT: Mr. Dubowsky.

6 MR. DUBOWSKY: Thank you, Your Honor. I don't understand Mr. Shafer's
7 argument. Number one, he can't just come into court when his client has already
8 been found in contempt and say we don't have the financial ability and it is the
9 burden of the plaintiff to put us in involuntary bankruptcy. Well, number one, I'm
10 no expert in bankruptcy, although I've worked alongside your brother for many
11 years in different bankruptcy cases. I believe you need three creditors to get into
12 an involuntary. But more important, in Your Honor's order, page 31, it says, "If
13 A Cab truly lacks the financial resources to comply with those orders" -- this is to
14 pay my client -- "it has a remedy under the United States Bankruptcy Code to
15 seek protection of the bankruptcy court and its power to relieve it of those orders,"
16 etcetera.

17 In other words, Your Honor, we are going through the same thing
18 again. It's the same song and dance. They're going to come in and say we don't
19 have the money. Your Honor, we're past that. If they don't have the money, they
20 have to file bankruptcy. And if they do, then everything gets resolved with the
21 bankruptcy courts. But as it is right now, as we stand here today, Your Honor
22 adjudicated them in contempt because they refuse to pay my client. And, yes,
23 a date certain to pay -- not if they have the ability.

24 THE COURT: Uh-huh.

1 MR. DUBOWSKY: No. That is the exception -- Your Honor, we know what's
2 happening here because so far as to my client, which was brought in by Your Honor,
3 nothing you have ordered will change anything in the lives of the defendants or their
4 counsel. Nothing.

5 THE COURT: Uh-huh.

6 MR. DUBOWSKY: So it's come to this point. I want to get my client paid.
7 Our attorney's fees are also under statute, and then we just want to go. We were
8 brought in by the Court. We want to make sure Your Honor gets us paid. You
9 already found willful contempt. Respectfully, Your Honor, this is not going to do
10 anything for my client. You already see that. So, yes, if they were smart they
11 would have come in today with the money and say we want to purge ourselves of
12 contempt. But under Nevada law you have to be purged of the contempt if they had
13 already been found to be in willful violation of this Court's order. That means purge,
14 pay the \$41,000 plus attorney's fees per statute and then that's it. Then we can
15 leave. We'll be out of the picture. But, Your Honor, they're in contempt saying no,
16 we can't comply. Your Honor, please, that is -- I think Your Honor can see through
17 that. And again, another Court order is not going to help us. Please get us paid
18 so we can get out. That's all I'm asking, Your Honor.

19 THE COURT: Let's take five minutes or so and let you folks look at the order
20 and then we'll come back and I will make the decision on what we're going to do.

21 (Court recessed from 11:32 a.m. until 11:42 a.m.)

22 THE COURT: All right, please be seated. What I'm looking for, folks, here
23 is minor tweaks to this order if there's anything that would help make this process
24 work. I'm not looking for entire this is our position on the granting of an order. I'm

1 going to sign this order.

2 So, the plaintiff.

3 MR. GREENBERG: Yes, Your Honor. My main concern is in paragraph 3.
4 It directs the special master to advise plaintiffs' counsel of property it identifies,
5 but then simultaneously restrains plaintiffs' counsel from performing any judgment
6 execution on any such property identified.

7 THE COURT: Uh-huh.

8 MR. GREENBERG: Candidly, Your Honor, that's counterproductive. I mean,
9 if I'm told about the property and then told I can't execute on it, it doesn't do me
10 any good in terms of the interest of my clients. I'd almost rather not be told by the
11 special master because if I found out about it myself presumably I wouldn't be
12 bound by the restraint in this order. The purpose -- I mean, when I had drafted this
13 originally that restraint was not in the draft.

14 THE COURT: That's correct.

15 MR. GREENBERG: I understand this was part of your thought process that
16 wound up putting that term in there, Your Honor.

17 THE COURT: Uh-huh.

18 MR. GREENBERG: Again, Your Honor, if the special master was not a
19 special master but was the form of limited receiver I was proposing and was actually
20 taking possession of the property, then that would safeguard my clients' interests.

21 THE COURT: Yeah.

22 MR. GREENBERG: But to the extent that there's property that is attachable
23 because it is solely in the name of the judgment debtor at the current time that the
24 judgment is entered against, my clients would like to preserve their right to proceed

1 with judgment execution, which is another issue we have with these motor vehicles,
2 Your Honor.

3 THE COURT: Uh-huh.

4 MR. GREENBERG: Candidly, I don't think there is any property, as we've
5 been discussing. But nonetheless, I think my clients should be entitled to execute
6 on it. So I would ask that that provision --

7 THE COURT: The reason -- there's one reason I did not and that is that if
8 you execute on it then you've got it, and my intention is to try and get the previous
9 special master paid.

10 MR. GREENBERG: I understand, Your Honor. And under the terms of the
11 existing judgment any amounts that I collect have to be held in trust. I cannot
12 disburse any of those funds without an order from Your Honor. I mean, that is the
13 existing --

14 THE COURT: Uh-huh.

15 MR. GREENBERG: -- limitation I am under in all respects, in respect to any
16 money that is collected on the judgment. So if Your Honor was of a mind to require
17 amounts that I collected on the judgment be paid over to the current special master
18 I would object to that, but that would clearly be within your power to do so.

19 THE COURT: Uh-huh.

20 MR. GREENBERG: And of course I have a duty currently to hold all those
21 funds in trust pending Your Honor's direction. So this additional provision is not
22 necessary to preserve that interest, so to speak, that Your Honor was concerned
23 about because it is already preserved under the current arrangement, the current
24 instructions accompanying the judgment, Your Honor.

1 THE COURT: All right. Mr. Dubowsky.

2 MR. DUBOWSKY: Thank you, Your Honor. Again, unless I'm misinterpreting,
3 is this supposed to address the contempt?

4 THE COURT: No.

5 MR. DUBOWSKY: Okay.

6 THE COURT: This really does not -- I mean, it only does in this sense. It is
7 an attempt to get you paid first and get you paid in full, but it does not address
8 specifically the contempt.

9 MR. DUBOWSKY: Will that be addressed, Your Honor? Because there is
10 a finding of contempt. Will that be addressed?

11 THE COURT: Well, I think probably then what we should do is you should
12 submit an order that does that separately because you are correct, the Court has
13 found the defendant to be operating in contempt of court. Before -- we'll revisit that
14 before we leave here.

15 Any minor tweaks?

16 MR. SHAFER: We do. I'll first respond to the issue on paragraph 3 that he's
17 addressed. I think that the Court's inclination on that is wise to preserve the status
18 quo. And I understand the concern that they have that if they identify the assets in
19 the report that they're barred from ever executing on them. While my client would
20 love that, we probably think that's probably not what the Court intended --

21 THE COURT: No.

22 MR. SHAFER: -- and think it would be --

23 THE COURT: My intention was to leave that in place until I get the report of
24 the special master.

1 MR. SHAFER: And I think if you added that additional term, shall not execute
2 it until after the special master's report is issued, that would both simultaneously
3 accomplish maintaining the status quo, not precluding them from executing and
4 allowing for the special master to get paid. I would echo that Mr. Greenberg brought
5 up the fact that the Court could order the \$80,000 or the \$40,000 be disbursed from
6 the monies that were already taken from A Cab. That would both simultaneously
7 cure the contempt of A Cab and satisfy the special master's concerns immediately.

8 THE COURT: Uh-huh.

9 MS. SHAFER: We do have some other concerns on some of the other
10 provisions.

11 THE COURT: Okay. Like what?

12 MR. SHAFER: Well, I think number two, Your Honor, and I hope this is not a
13 feature but rather a bug in part of the drafting. If we turn that, it requires the special
14 master -- it gives the special master powers to obtain records.

15 THE COURT: Uh-huh.

16 MR. SHAFER: And going down to lines -- well, 24, 25, 26, where it says,
17 "including but not limited to all such records involving (comma) and all of its
18 contracts or agreements with (comma) any other entity or person including any
19 Series LLC it has issued pursuant to the statute." Because of the commas it creates
20 a parenthetical phrase which you read by excluding that, which would mean that
21 they have the ability to get all such records involving any other person. And then
22 when you refer back to the prior sentence, that requires Mr. Nady and any other
23 Series LLC to provide any document it has concerning any other agreement with
24 anybody ever at any time. So if they wanted to find out Mr. Nady's --

1 THE COURT: Which language are you looking at again?

2 MR. SHAFER: So, yeah, the --

3 THE COURT: I'm looking at lines 23, 24.

4 MR. SHAFER: Yeah. So it says that -- if we look at the first part it says:
5 "The special master shall be provided by judgment debtor, including Creighton J.
6 Nady and any other agents of judgment debtors."

7 THE COURT: Uh-huh.

8 MR. SHAFER: And then it describes the type of documents: "Copies of all
9 electronic and paper financial business records of the judgment debtor" --

10 THE COURT: Right.

11 MR. SHAFER: -- "also known as A Cab Series, that the special master
12 deems advisable." No concerns with the provision on that, other than we do a little
13 bit to Mr. Nady as to his personal records. But the biggest concern is the part about
14 "including but not limited to," where it makes that exception.

15 THE COURT: Uh-huh.

16 MR. SHAFER: "Including but not limited to (comma) all such records
17 involving." And because of the parenthetical phrase that follows comma, and all
18 of its contracts or agreements with (comma), when you are reading that order you
19 have to exclude that clause for reading and interpreting the contract. So it's read
20 as including all such records involving any other entity or person --

21 THE COURT: Uh-huh.

22 MR. SHAFER: -- which would mean that that would entitle the special master
23 to review any marriage contracts, divorce records, contracts with attorneys,
24 contracts with -- communications. And I think it's probably not the Court's intention

1 to require that, but rather to all such records involving all of its contracts --

2 THE COURT: Does not "its" refer to the judgment debtor here or debtors?

3 MR. SHAFER: It does, Your Honor, but when you are reading that because
4 it is bracketed by commas you have to exclude that when you are interpreting the
5 scope of the documents because that --

6 THE COURT: Oh. All right. So take the comma out, then? Involving -- all
7 such records involving and all of its contracts or agreements with any other entity
8 or person, including any Series LLC. Is that what you're suggesting?

9 MR. SHAFER: All such records involving -- I would say all such records
10 involving it and all of its contracts or agreements with any other person.

11 THE COURT: Well, it says all of its contracts --

12 MR. SHAFER: Correct.

13 THE COURT: -- or agreements with.

14 MR. SHAFER: But it doesn't -- because of the comma, then, all such records
15 involving is not limited to the judgment debtor.

16 THE COURT: All right. Take the comma out. Anything else?

17 MR. SHAFER: Very quickly, on subparagraph 4A, which is on page 4, line --
18 I guess that would be 15.

19 THE COURT: Uh-huh.

20 MR. SHAFER: We would suggest that the -- it states: "that will allow the
21 profits from the operation of the taxi medallions authorized to it to be applied
22 towards satisfaction of plaintiffs' judgment." We would modify that to say "the
23 operation of the business of A Cab, LLC to be applied."

24 THE COURT: Let's see. So where does that pick up?

1 MR. SHAFER: So we would omit "taxi medallions authorized to it" and
2 substitute "business of A Cab, LLC." And the distinction then is to take the profits
3 of the company rather than the profits of an asset of the company.

4 MR. GREENBERG: Your Honor, may I? I have no problem including that,
5 along with the specification regarding the operation of the taxi medallions. The
6 business of A Cab, LLC has no profits. The business is structured to have no profits
7 because the profits, the revenue all flows to these supposed separate series entities
8 and then out of those entities into the trust. Your Honor is familiar with all of this.
9 So if the special master's authority is limited to proposing a plan relating to directing
10 the profits of A Cab Series LLC to the benefit of the judgment creditors, there will
11 be no plan. There will be no profits.

12 That's the reason why when I drafted this I referred to the operation
13 of the tax medallions that are authorized to A Cab Series LLC, because ultimately
14 those taxi medallions are the only asset of the business. They're the only asset of
15 the business -- of the judgment debtor that can't be transferred, as defendant's
16 counsel stated. So I have no problem inserting that additional language, but the
17 reference to the operation of the taxi medallions as part of the special master's
18 report to examine is critical here, Your Honor.

19 THE COURT: Okay. So where would you insert this language, Mr. Shafer?

20 MR SHAFER: I would substitute "he taxi medallions authorized to it" on lines
21 15 and 16 and substitute "business of A Cab LLC." And the reason is if revenue
22 from the medallions is seized before its workers are paid, there won't be continuing
23 to be, you know, a business, if they try to step ahead of the current costs and
24 expenses of operating that medallion.

1 THE COURT: We're talking about simply a proposed plan here to do this.

2 MR. SHAFER: Correct.

3 THE COURT: We're not talking about effecting any plan. I don't see a
4 reason to change that language. What else?

5 MR. SHAFER: The final change is in the last -- in the request to transfer
6 certain funds. Two parts. In line 10 of page 5 there is a request to -- well, I guess --
7 no, I apologize. I'll retract that one. My concern on the transfers, precluding
8 transfers to defendant Nady to any of his family members or to any trust which
9 Nady or his family members is a trust or trustee and beneficiary, my concern is that
10 that excludes any payment of salaries, any payment pursuant to any contracts that
11 are within the company or in the ordinary course of business. Mr. Nady is currently
12 continuing to operate the business and is entitled to and is being paid a salary for
13 that.

14 THE COURT: What is his salary?

15 MR. SHAFER: I do not know. And obviously that would be identified to the
16 special master that's being appointed. And in fact, I don't know that he is being
17 paid, but that's --

18 THE COURT: Mr. Nady, what is your salary?

19 MR. NADY: It varies by month. I couldn't tell you exactly what it is.

20 THE COURT: How is it calculated? Is it a percentage?

21 MR. NADY: No, sir. It's just whatever happens -- needs happen to come up.

22 MR. SHAFER: And I do not have an encyclopedic --

23 THE COURT: When you say the needs that happen, you mean personal
24 needs?

1 MR. NADY: Yes, sir.

2 THE COURT: Okay.

3 MR. SHAFER: So that would be our only concern is that that would preclude
4 that and put them in a very dire financial situation. I understand that it's the Court's
5 concern that all of the assets and profits will go out the back door and I think that our
6 proposal -- and this is kind of the first time seeing this -- is that it would be carveout
7 those exceptions and those exceptions would need to be explicitly identified to the
8 special master and would be subject to a reservation of rights, I presume.

9 THE COURT: My view is that if Mr. Nady needs to take less funds or no
10 funds as salary until the special master gets paid, the previous special master, that's
11 how -- one way to purge himself from the contempt of the court. At this moment
12 it's not the Court's concern to protect Mr. Nady in his need, personal need for salary
13 over the needs and rightful debt to the special master.

14 MR. SHAFER: And I respect that distinction, Your Honor. Unfortunately the
15 language in this proposed order does not make that distinction and precludes any
16 transfer until the judgment debtor is satisfied.

17 THE COURT: Yeah.

18 MR. SHAFER: And on that basis I think it is -- there is a distinction between
19 the two.

20 THE COURT: Well, it does -- the language says enjoined from transferring
21 any funds to defendant Nady or any of his family members. That's -- if that's what
22 it takes to get the special master paid, then that's what it's going to be.

23 MR. SHAFER: And, respectfully, I think is a distinction that is not reflected
24 in this order because it doesn't put a limit on --

1 THE COURT: Well, it says --

2 MR. SHAFER: Because it's referring --

3 THE COURT: It says enjoined from transferring any funds to defendant
4 Nady. How much -- how do we make that clearer?

5 MR. SHAFER: Because this order entered now continues on without end.

6 THE COURT: No. No, that's not necessarily so. Once I see that the
7 special master has been paid and once I get the report of the new special master,
8 Mr. Swarts, you know, all of the wording of this may be subject to being changed.

9 MR. SHAFER: If that's the Court's intention, we would suggest that that
10 language -- that limiting language be placed in this, that this will occur until the
11 special master is paid.

12 THE COURT: Well, I think we're past that. At this point we have someone
13 who's been found in contempt. As you yourself have said, Mr. Nady is the one
14 operating this business. It's under his control. If he chooses to get the special
15 master paid and off his back, then he can do so. If he would rather not do so and
16 he winds up violating this order, then we'll deal with it at that point.

17 MR. SHAFER: And perhaps my inartful speaking has not conveyed the point
18 I wish to convey, and that's that the remedy that you structured that Mr. Nady should
19 be precluded from being paid until the special master is paid is distinct from what
20 is here.

21 THE COURT: Well, let's put it this way. What Mr. Nady and the other
22 defendants have been found to be -- how they've been found to be in contempt
23 of court is they were ordered at one point to pay \$41,000 to the special master.
24 They didn't do so and they still haven't. So it is an ongoing contempt as far as I'm

1 concerned. If he wants to get some relief from the order of the Court, then obey
2 the order of the Court, pay the \$41,000 and then let's talk.

3 MR. SHAFER: And I understand your -- I believe I understand what the
4 Court is saying and all we're asking for is that that clause, that purge clause be
5 contained in this order that once the special master is paid that this restriction and
6 prohibition on Mr. Nady be excused.

7 THE COURT: No. We're past that, Mr. Shafer. We're past that. This Court
8 entered orders last September, October, and they've just -- to this point just been
9 blown off.

10 MR. SHAFER: And I understand.

11 THE COURT: So I'm not inclined to put those kinds of changes into this
12 order. Once I see that the Court's orders are being obeyed and that once we can
13 get the previous special master paid and out of this picture --

14 MR. SHAFER: So it is not --

15 THE COURT: -- that things can change.

16 MR. SHAFER: So it's not the intention of the Court to preclude payments
17 until the 1.6 million dollar judgment is satisfied?

18 THE COURT: No.

19 MR. SHAFER: Okay.

20 THE COURT: No.

21 MR. SHAFER: That is our concern because that's the way we interpret this
22 language being drafted. And if I'm incorrect --

23 THE COURT: I think Mr. Nady gets himself subject to this kind of language
24 when he commits contempt of court by just flat refusing to pay an amount that he

1 was ordered to be paid to the special master. That's all.

2 All right. Thank you for your input.

3 MR. GREENBERG: Your Honor, I have one additional suggestion. You
4 might want to include a provision in this order to prohibit A Cab Series, LLC from
5 issuing any additional Series LLCs without further order of the Court because
6 essentially that has been the gateway --

7 THE COURT: Uh-huh.

8 MR. GREENBERG: -- for them to avoid this Court's orders. And they are the
9 judgment debtor in this case. They ultimately are the one with the power to issue --

10 THE COURT: Yeah.

11 MR. GREENBERG: -- these supposed separate entities. I would ask Your
12 Honor to consider that and add a provision. I know I did not previously suggest that,
13 but I think it would be a meaningful restraint on sort of limiting what we've been
14 dealing with here in the future and appropriate under the circumstances.

15 THE COURT: All right, thank you. The Court is going to sign the order the
16 way that you see it, plus I don't know that -- did they get the one that shows the
17 confidentiality sits? We've included as paragraph 6 at the top of page 5, it now
18 says: "The information and records received by the special master shall be kept
19 confidential and subject to a protective order issued by the Court precluding
20 production to the general public, except as directed by the Court." So it does
21 include that confidentiality. The Court is going to say that the report of the special
22 master called for in paragraph number 4 -- I'm going to say February 1st. That is a
23 significant amount of time, but we do have the Christmas holidays in the meantime
24 so he'll need extra time. The Court is appointing George Swarts as the special

1 master. The amounts in paragraph 5 are going to be the sum shall not exceed
2 \$20,000 to pay for the special master's services. A fee not exceeding \$300 an hour.
3 And I will -- I am going to add the provision that the judgment debtors will not create
4 any further Series LLCs without further order of this Court.

5 MR. SHAFER: Your Honor, if I could just make a record on that very briefly?

6 THE COURT: Yeah.

7 MR. SHAFER: That is an issue that is of an extraordinary remedy because
8 it precludes their correct business operations and their liberty to engage in business.
9 It is not -- if they acquire a new taxicab, if there is another business that requires
10 them to set up a new Series LLC, there would be no basis to preclude that. It does
11 not -- creation of an LLC does not mean that any assets are being disbursed or are
12 otherwise being diverted. There is no benefit to the judgment creditor to have that
13 preclusion. There is no basis in law or in fact to preclude the entity from creating
14 a new business entity.

15 THE COURT: Now, that would be a business entity to do what?

16 MR.. SHAFER: I don't know, Your Honor and neither do they.

17 THE COURT: Well, then --

18 MR. SHAFER: And that's -- but this is a blanket prohibition. If you want to
19 include that they cannot create a Series LLC to receive assets of A Cab, LLC, that
20 might be a reasonable imposition.

21 THE COURT: Well, you just gave an example if there's a new taxicab. Is
22 that it?

23 MR. SHAFER: If there is a new taxicab or if there's some other reason they
24 need to create a new -- and the reason that they hold each taxicab is so if the taxi

1 is in an accident that liability doesn't spill over to the other assets of the corporation.

2 THE COURT: Uh-huh. Well, that doesn't say that they can never do it, it
3 just says without further order of the Court and that's going to be in there.

4 Yes?

5 MR. DUBOWSKY: Can we address the contempt, Your Honor?

6 THE COURT: Yes.

7 MR. DUBOWSKY: What is Your Honor going to do to order to purge -- to
8 have --

9 THE COURT: Well, as I've already stated verbally here, but it would probably
10 be good to have an order on file that the judgment debtors are found to be in
11 contempt of court by virtue of not having paid previous Court orders. One was
12 \$25,000 and then it was raised to \$41,000. That's the way it stands at this point.
13 I am not going to put a deadline in there at this point but I am considering doing that
14 once I get the report from the special master.

15 I recognize that it doesn't do what you're wanting the Court to do,
16 which is basically to enter an order and then if they don't pay it then they -- then
17 I guess you ask for the Court to arrest Mr. Nady or do something like that. I am
18 cognizant that in the statute that talks about payment of the special master it talks
19 about allowing the special master to attach and execute on the resources. I think
20 that is going to be closer to, assuming that there is some compliance by the time
21 we next meet. that may be the route that the Court would go. It is of a concern
22 to the Court and it hasn't been explained away how after being ordered to pay
23 those amounts, a short while later it's found that he's sitting on a bank account
24 with \$230,000 in it. And that has not been explained to the Court's satisfaction.

1 MR. DUBOWSKY: Your Honor, we're very concerned without a date certain
2 to pay my client. Again, we just want to get paid and get out.

3 THE COURT: I understand.

4 MR. DUBOWSKY: If this is wide open, we're back where we were in May
5 where Your Honor ordered the \$41,000. And then we have another order that they
6 have to pay it and now we don't even have any kind of date certain and we still have
7 the contempt that's up in the air. So I am going to ask Your Honor for some kind --

8 THE COURT: Well, he's looking at -- they're looking at losing control of their
9 business if the Court proceeds to implement a plan proposed by the special master
10 to make it be a receiver, notwithstanding their great concern that that's going to put
11 them in violation of other court statutes. I don't know that that's the case yet, but
12 that's the risk they take by further violation of this Court's orders. I think that is a
13 significant hatchet, if you will, hanging over your head to know that if you continue
14 to blow off Court orders you're going to lose control of your business.

15 MR. DUBOWSKY: I understand, Your Honor, but again I have to tell my
16 client when they're going to be paid. And if they're going to say, well, we don't still
17 have the money to pay, we need some kind of date certain for Your Honor, for
18 the dignity of the Court to have some kind of date certain how to purge them of
19 contempt to say, yes, by a certain date you have to pay the special master Your
20 Honor hired so we can at least have some certainty.

21 THE COURT: In other cases I would be willing to do so. In this case at this
22 juncture, given all of the competing interests, I am not willing to enter such an order.
23 When we come back on February 1st -- well, let's see. We'll see what that --
24 actually I guess it calls for the report to be made by February 1st. It isn't a court

1 date. So let's set a court date shortly after February 1st, at which we will take up
2 further, you know, generally these matters and specifically take up the matter of
3 the contempt of court.

4 MR. DUBOWSKY: One final issue, Your Honor. The order was for \$41,000,
5 however the fee is for \$85,280.56.

6 THE COURT: I'm sorry, say it again.

7 MR. DUBOWSKY: The order was for \$41,000.

8 THE COURT: Right.

9 MR. DUBOWSKY: However, the actual invoiced amount is for \$85,280.56.

10 THE COURT: Well, that is true, but I don't think that -- I mean, if I were
11 representing them, at least, let's put it that way, if it's for contempt of court on a
12 Court order, it's \$41,000. Then we deal with the rest of it.

13 MR. DUBOWSKY: Yes, Your Honor. So are you finding then that the
14 \$41,000 is the order, but they are due to be paid the \$85,000 that is in our motion
15 for fees?

16 THE COURT: The principal factor or goal of any plan that I put in place with
17 the special master or a receiver is to get your client paid first. It is fairly ludicrous
18 that after everything that's gone on in this case that the special master appointed
19 by the Court to effectuate the judgment can't even get paid, so that is upper most
20 in the Court's mind. But I'm still trying to do this in such a way that -- the defendants
21 seem to be saying that they would pay the judgment, given an appropriate plan to
22 do so. The plaintiffs seem to be saying we don't want to put them out of business,
23 we want them to pay the judgment. We'll see what comes out from the special
24 master and we'll see whether or not that's a workable goal or not.

1 MR. GREENBERG: Your Honor, in respect to scheduling for the
2 proceedings, I was going to suggest that Your Honor perhaps schedule a tentative
3 date towards the end of January, maybe within a week or two prior to when the
4 special master's report is due so that he could report to the Court if he's having
5 any obstacles in completing his report at that time. If he's moving ahead smoothly,
6 then we would cancel that and we would simply reconvene after the report is issued.
7 I think such a contingency might help move things along. Do you understand my
8 suggestion?

9 THE COURT: Well, I assume if the special master sees that he's not getting
10 cooperation and is running into problems that he will -- in other cases I have a
11 special master contact the Court and say I'm having this problem and then we
12 schedule something.

13 MR. GREENBERG: I understand. Then if Your Honor prefers to simply set
14 a date after the February 1st report, then that is of course appropriate.

15 THE COURT: Sure. I don't want -- for all I know, the special master may
16 come back right after January 1st and say this is not working.

17 MR. GREENBERG: Yes, Your Honor.

18 THE COURT: And if so, then we will meet again.

19 MR. GREENBERG: Very well, Your Honor. Your staff will propose to date
20 to us for February?

21 THE COURT: Yeah.

22 THE CLERK: February 6th at 9:00 a.m.

23 THE COURT: February 6th. If you'll submit an order, Mr. Dubowsky, holding
24 the defendants, including Mr. Nady, in contempt of court for failure to pay the

1 \$41,000 to the receiver -- I'm sorry, the special master, then I will be signing that.

2 MR. DUBOWSKY: Thank you, Your Honor. I can do that. I'm not sure
3 what the terms on how to purge them, but I can prepare that order. You made that
4 finding. But to clarify, the \$41,000 is what's ordered, but the invoice amounts are
5 for the \$85,000 figure which we presented. That is what is going to be paid in due
6 course, correct, Your Honor?

7 THE COURT: That is my intention, yeah.

8 MR. DUBOWSKY: Thank you, Your Honor.

9 MR. GREENBERG: Your Honor, the only other issue was the TRO and the
10 request for the turnover regarding those motor vehicles. I do have a proposed
11 order that would direct the defendants to cooperate with the sheriff in respect to
12 an execution. It would be my intent if Your Honor was to sign the order -- May I
13 approach?

14 THE COURT: Yes.

15 MR. GREENBERG: And this order is essentially the same as what I had
16 presented when we were here last week and I had given the defendants at that time.
17 It would be my intention if Your Honor signed this order to prepare the executions,
18 deliver them to the sheriff and the sheriff would then go through the normal process.
19 But the defendants would be bound by this order to cooperate with the process.
20 My concern is that without such an order the sheriff is simply not going to be able
21 to effectively seize the vehicles because we're talking about five vehicles among,
22 you know, a business that has maybe a hundred or more vehicles in use on their
23 property.

24 And again the way this order is set up is that if A Cab can demonstrate

1 that they are in fact not the sole titleholder on these vehicles, then obviously they're
2 not subject to execution. I've documented to the Court that we have the titles as
3 issued by the DMV for the first four. The fifth one, the Mercedes-Benz, is based
4 upon other information I have. But again, if they can produce documentation that
5 it's not titled to the judgment debtor, then it won't be subject to execution.

6 THE COURT: If we're going down the road which you indicated earlier that
7 on behalf of your clients you're not looking to put the defendants out of business,
8 you're looking to get the judgment paid, then if we start seizing the cabs that they
9 make their living with, are we --

10 MR. GREENBERG: Well, Your Honor, these vehicles are only titled to the
11 judgment debtor because obviously it was an oversight by them not to have had
12 them titled to one of the Series LLCs.

13 THE COURT: Uh-huh.

14 MR. GREENBERG: These are the only ones that I was able to identify. I did
15 do a thorough investigation from the sources available to me.

16 THE COURT: Okay.

17 MR. GREENBERG: This is it. I mean, the Wells Fargo account was attached.
18 There are not going to be any other bank accounts that are going to be attachable
19 at this point because defendants have shifted all of the liquid assets, the cash funds
20 into other entities, other registrations. The same thing with their motor vehicle fleet.
21 This is the only asset that is actually in the possession of A Cab, LLC are these
22 motor vehicles. There's nothing else, Your Honor.

23 THE COURT: So what are you saying? You want to go ahead and execute
24 on these?

1 MR. GREENBERG: I do. I do wish to go ahead and execute. I'm just trying
2 to explain to Your Honor in my view the impairment of the business by the seizure
3 of these assets is going to be nominal. It is some meaningful amount I can collect
4 for my clients. I think I'm duty bound to ask the Court to effectuate the seizure. If
5 the Court declines, the Court can decline to do so. You know, I could send it to the
6 sheriff without the Court's order. The Court restrained the transfer of these titles.
7 If the Court lifts that restraint, presumably those titles are going to be transferred
8 very quickly.

9 THE COURT: Well, I'm not -- I haven't lifted the restrain, have I?

10 MR. GREENBERG: You have not, Your Honor. I understand that. And if
11 Your Honor --

12 THE COURT: If I have, I certainly don't intend to. No.

13 MR. GREENBERG: I understand, Your Honor. And this is a request for
14 assistance by the Court. It is within your discretion, Your Honor --

15 THE COURT: Uh-huh.

16 MR. GREENBERG: -- either to proceed in the fashion I'm requesting or to
17 deny my request. I understand that.

18 THE COURT: Uh-huh.

19 MR. GREENBERG: And I don't want to belabor the point with the Court.
20 You were inquiring as to why we were proceeding in this fashion and our view, given
21 that I did advise the Court and I have repeatedly advised the Court that I think the
22 best way to get my clients paid is to see this business continue to operate over time
23 to pay them, and that ultimately is the big picture here. But in respect to this
24 particular issue, this is a very limited portion of the assets. It is the only asset that

1 I think I'm ever going to be able to attach directly of the judgment debtor at this point.
2 So absent the appointment of a receiver or absent we hold further proceedings and
3 the Court makes further findings regarding, you know, these Series LLCs, the alter
4 ego issues and so forth, Your Honor, this is probably the only other asset that I'm
5 going to be able to collect for my clients. That's why I'm asking the Court to let me
6 proceed in this fashion.

7 THE COURT: Well, it seems to me we're going down two -- trying to go down
8 two roads at the same time now. I'm not inclined to do that at this time. I am inclined
9 -- make no mistake, I consider these five vehicles to be under the Court's order that
10 they not be disposed of in any fashion, whether they're sold, given away, anything.
11 They're not to be disposed of. If it is possible to use these vehicles as part of a way
12 to get the plaintiff judgment creditors paid and the previous special master paid, then
13 they will be useful for that. But I'm not going to order them to be subject to execution
14 at this point unless we're just saying let's grab any assets we can.

15 MR. GREENBERG: Well, Your Honor, we have a right to execute on these
16 assets. I'm asking for the Court's assistance. If Your Honor declines to sign the
17 order in the form I've submitted, I can still go to the sheriff and ask the sheriff to use
18 his efforts to find them on the street and seize them. I'm trying to make that process
19 more streamlined here in the interest of my clients because the sheriff is going to
20 have to be paid for their efforts. If the sheriff possesses this order, he can go down
21 to the business premises and the defendants will be bound by the Court's order to
22 cooperate with that process. They're not necessarily bound to cooperate with the
23 sheriff terribly much in locating or turning over the assets. That's why I'm asking for
24 the Court's assistance, because we do have a right to seize these assets. They're

1 not exempt from execution.

2 So if Your Honor is not going to -- Your Honor has been very patient.
3 You've given us a lot of time today, as you have in this case continually, so I don't
4 want to belabor the point with the Court. But I do disagree with what you're telling
5 me. If Your Honor is not going to sign the order in the current form, I would ask
6 that Your Honor at least allow me to submit another order specifically prohibiting
7 the transfer of these vehicles' titles.

8 THE COURT: Yes, I would sign that. I would prohibit the transfer of these
9 specifically. They're already under the general order. But, you know, to clarify it
10 I would make it and make it very specific. I would sign an order that prohibits the
11 defendants from disposing of these five vehicles in any manner.

12 MR. GREENBERG: I understand, but there's nothing to keep them from
13 keeping them locked away or secreted somewhere where the sheriff will never find
14 them and I'll never be able to execute on them, either. Your Honor, you've made
15 your decision.

16 THE COURT: It sounds like you're inviting me to issue such an order.

17 MR. GREENBERG: Your Honor, you've made your decision. Let me not
18 take up more of your time. I said I was not.

19 THE COURT: All right.

20 MR. GREENBERG: I understand.

21 THE COURT: Okay. Anything else?

22 MR. SHAFER: Your Honor, just very briefly. The Mercedes identified does
23 not belong to A Cab. Let's make that for the record. It is titled to another entity.
24 So that's our only --

1 THE COURT: Okay. What entity?

2 MR. SHAFER: I do not know if it's -- the exact name. I believe it's the --

3 MR. NADY: I sold it.

4 MR. SHAFER: It's been sold. So obviously if it was titled to A Cab, that will
5 be part of it, but it wasn't. I don't know what information --

6 THE COURT: Mr. Nady, do you still have the four cabs -- these four Toyotas,
7 rather?

8 MR. NADY: They're -- excuse me, Your Honor. Two of them have liens
9 and two of them don't. We still have them. The answer to your question is yes,
10 we're still operating those cabs every day if they're not in a crash or anything.

11 THE COURT: When you say they have liens, what kind of liens?

12 MR. NADY: The bank owns them. The bank has the title to them.

13 THE COURT: Okay.

14 MR. NADY: I think the bank may own the title to all of them, but they do most
15 of them, but I don't know for sure.

16 THE COURT: All right. Do you know if they're in service? Are they being
17 used as taxis?

18 MR. NADY: They're probably in service. I have no reason to believe they're
19 not.

20 THE COURT: All right.

21 MR. NADY: They're part of my -- part of the operating.

22 THE COURT: Mr. Nady --

23 MR. NADY: Cabs get 100,000 miles a year. They have holes in the top
24 where the hats are held on. The retail value of a cab when it's done, we sell them

1 for about two hundred bucks. There's no great value in these cars that Mr.
2 Greenberg will actually (inaudible). They're -- we put a lot of hard miles on these
3 cars. To sell them, the return would be nil, honestly.

4 MR. GREENBERG: Your Honor, these are new vehicles so they do have
5 value. And I would be pleased to see them continue in operation with the business
6 if the revenue that they were generating or at least some portion of it was being
7 paid to satisfy my clients' judgments. I concur with Mr. Nady that would be a more
8 efficient economic use of them. The problem is that's not what they're being used
9 for. Essentially the revenue is being used to fund this litigation and obstruct the
10 collection of my clients' judgment, Your Honor --

11 THE COURT: Uh-huh.

12 MR. GREENBERG: -- in my view.

13 THE COURT: Well, I'm going to leave that as it is until we meet again.

14 MR. GREENBERG: Yes, Your Honor. I would just remind the Court I did
15 submit orders earlier in this week regarding the turnover of those funds from the
16 Clerk of the Court to my trust account and confirming the award of attorney's fees
17 that Your Honor had granted last week. Hopefully Your Honor and your staff will
18 be able to review those. There was also --

19 THE COURT: I'm sorry, say which order it is again.

20 MR. GREENBERG: There were two orders I submitted earlier this week.
21 One was submitted yesterday. I believe one was submitted on Tuesday. Your
22 Honor on our last meeting last week had granted the motion for the award of
23 attorney's fees to myself and Mr. Gabroy and costs.

24 THE COURT: Uh-huh.

1 MR. GREENBERG: I submitted that order for signature pursuant to your
2 findings last week. I had also submitted an order directing the Clerk of the Court
3 to release \$10,000 of the funds on deposit from the Wells Fargo execution to the
4 judgment debtor and to remit the rest of those funds to my trust account --

5 THE COURT: Yeah.

6 MR. GREENBERG: -- which Your Honor also ordered last week. So those
7 orders are with the Court. I would ask the Court in due course, hopefully soon, to
8 review those and have them signed. I would also just remind the Court there was
9 a fairly lengthy order involving some substantial findings regarding the motion to
10 quash the judgment execution. That was submitted more than 30 days ago. The
11 Court probably is still working on that. I'm just reminding the Court that we are
12 awaiting the Court's attention to that.

13 THE COURT: What was the thrust of that order?

14 MR. GREENBERG: Your Honor, we held two days of hearings regarding this
15 issue of the status of the Series --

16 THE COURT: What was the thrust of the order?

17 MR. GREENBERG: That the Wells Fargo accounts were properly executed
18 upon for various reasons, based upon the findings that Your Honor made. The
19 defendants had moved to quash the execution and Your Honor denied that.

20 THE COURT: Yeah.

21 MR. GREENBERG: I think it would be helpful for the record to have of
22 course that ultimately entered. It's just a reminder to the Court, that's all.

23 (The Court confers with the law clerk)

24 THE COURT: All right.

1 MR. GREENBERG: I don't wish to take up any more of the Court's time.

2 THE COURT: All right. Well, then if there's no other business, we will
3 adjourn. Thank you all.

4 MR. DUBOWSKY: Thank you, Your Honor.

5 THE COURT: I hope that you have good holidays.

6 MR. GABROY: Thank you, Your Honor. Happy Holidays.

7 MR. GREENBERG: Thank you, Your Honor. Yes, Happy Holidays to all.

8 THE COURT: And I trust that when we meet again it will be under slightly
9 happier circumstances.

10 MR. SHAFER: Thank you, Your Honor.

11 MR. GREENBERG: I hope so, Your Honor.

12 THE COURT: Thank you.

13 (PROCEEDINGS CONCLUDED AT 12:28 P.M.)

14 * * * * *

15
16 ATTEST: I do hereby certify that I have truly and correctly transcribed the
17 audio/video proceedings in the above-entitled case to the best of my ability.

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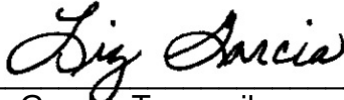
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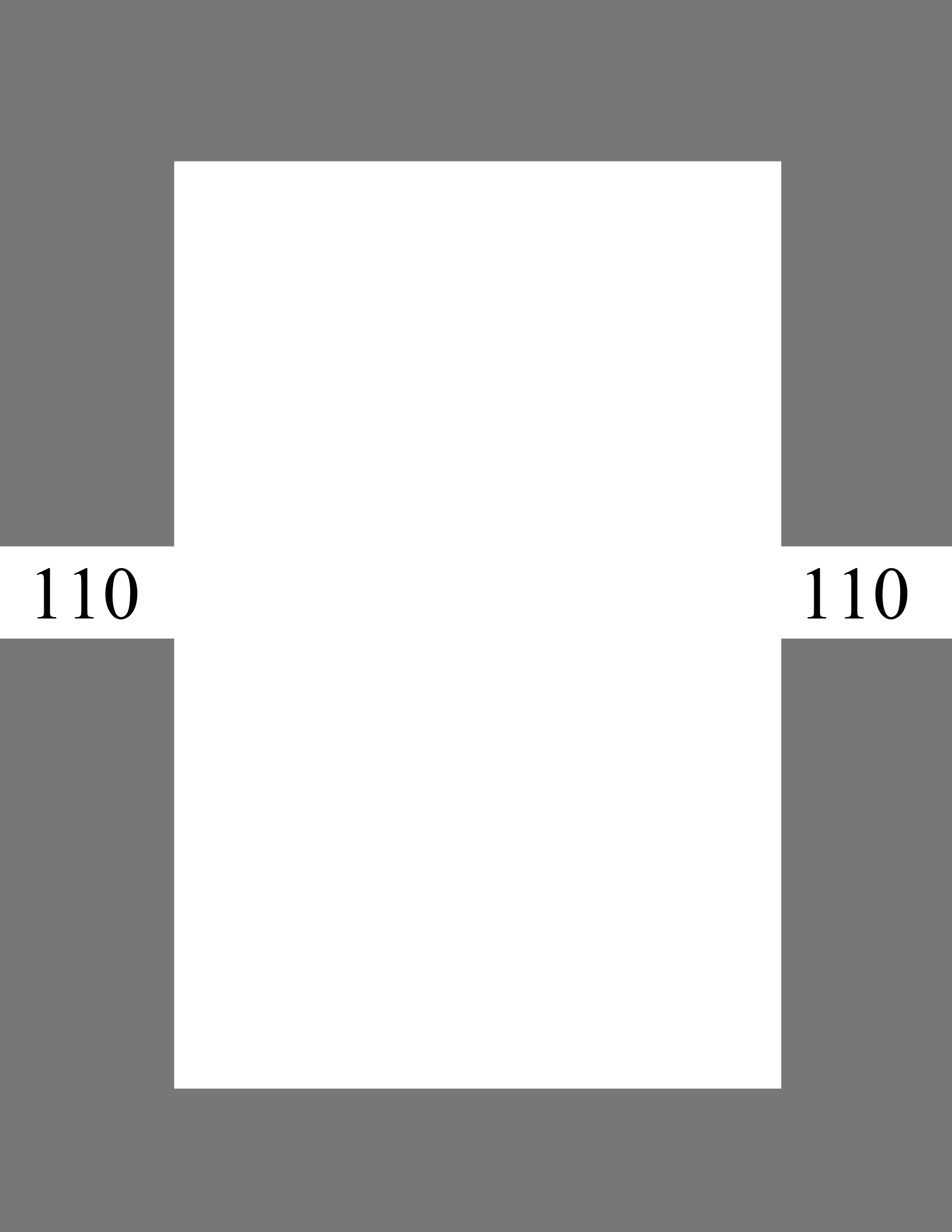
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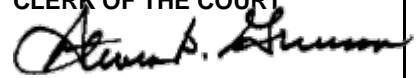


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7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

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

11 Plaintiffs,

12 vs.

13 A CAB TAXI SERVICE LLC, and A
14 CAB, LLC,

15 Defendants.

Case No.: A-12-669926-C

Dept.: I

NOTICE OF ENTRY OF ORDER

16
17 PLEASE TAKE NOTICE that the Court entered the attached Order on
18 December 18, 2018

19 Dated: December 18, 2018

20 LEON GREENBERG PROFESSIONAL CORP.

21 /s/ Leon Greenberg

22
23 Leon Greenberg, Esq.
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8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

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

Case No.: A-12-669926-C

DEPT.: I

13 Plaintiffs,

14 vs.

**ORDER DENYING DEFENDANTS'
MOTION TO QUASH WRIT OF
EXECUTION**

15 A CAB TAXI SERVICE LLC, A
16 CAB, LLC, and CREIGHTON J.
17 NADY,

**Hearing Dates:
September 26, 2018 and September 28,
2018**

18 Defendants.

19 On September 26, 2018 and September 28, 2018, with all the parties appearing
20 before the Court by their respective counsel as noted in the record, the Court
21 considered the defendants' ex-parte motion to quash writ of execution and in the
22 alternative motion for partial stay of execution on order shortening time (the
23 "motion"). Also before the Court at such time was the plaintiffs' opposition to the
24 motion and counter motion for appropriate judgment enforcement relief (the "counter-
25 motion"). After hearing and considering the arguments of counsel, and the written
26 motion and counter motion for appropriate judgment enforcement relief (the "counter-
27 motion"). After hearing and considering the arguments of counsel, and the written
28

1 submissions of the parties, the Court denied the motion for the reasons orally stated in
2 the record. The Court also deferred action on the counter-motion and Ordered the
3 deposit with the Clerk of the Court of certain funds at Wells Fargo Bank that were
4 subject to the writ of execution. The Court now provides this Order to set forth,
5 along with its oral rulings at the hearing, its findings on the motion for the benefit of
6 the parties and for the record of this case. To the extent there is any ambiguity, or
7 arguable inconsistency, between this Order and the Court's oral findings at the
8 hearing, this Order shall control. Otherwise, this Order, and the Court's oral findings
9 at the hearing, should be read together as the full findings of the Court.
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14 **Ultimate Issue Presented - Are the Well Fargo Funds Subject to the Writ?**

15 The event triggering the motion was the plaintiffs' service, post-judgment, of a
16 writ of execution on Wells Fargo Bank that resulted in a hold being issued by Wells
17 Fargo on \$233,619.56 maintained in six different bank accounts. Unless the writ is
18 quashed Wells Fargo, in compliance with the writ, is to turn those funds over to the
19 Sheriff to, in turn, transfer them to the plaintiffs' (judgment creditors) counsel. The
20 plaintiff judgment creditors are all members of an NRCP Rule 23(b)(3) certified class
21 who have been found to be owed unpaid minimum wages pursuant to Article 15,
22 Section 16, of the Nevada Constitution, the Nevada Minimum Wage Amendment (the
23 "MWA").
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28 The six Wells Fargo accounts were denominated in six different names. All of

1 those account names began with "A Cab Series LLC," and then concluded with one
2 of six "company" names.¹ All of those six accounts were identified, in the records
3 maintained by Wells Fargo, under the same IRS Employer Identification Number
4 ("EIN"), 88-0470590.
5

6 The motion is based upon the contention that the six Wells Fargo accounts, and
7 the money in those accounts, are not property of the judgment debtor, A Cab LLC,
8 and cannot be levied upon to satisfy the judgment. According to the defendants,
9 those accounts are the property of six legally separate entities, each such entity being a
10 separate "series" LLC issued by the judgment debtor, A Cab LLC, as per NRS 86.296.
11 Defendants press the Court to adopt that conclusion, find the Wells Fargo funds are
12 not the property of the judgment debtor A Cab LLC, and quash the writ on that basis.
13

14 In opposing the defendants' request for relief, plaintiffs raise a number of
15 issues. They assert defendants lack standing to move to quash, since defendants
16 simultaneously claim to have no interest in the property subject to the writ, meaning
17 such motion has to be made by the six allegedly independent entities who, defendants
18 claim, have proper title to the property; that registration of the Wells Fargo accounts
19 under an EIN number that has been assigned to the judgment debtor A Cab LLC and
20 used by it to issue W-2 statements in previous years to the class members establishes
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27 ¹ Those "company" names were "Maintenance Company," "Administration
28 Company," "Taxi Leasing Company," "Employee Leasing Company Two,"
"Medallion Company," and "CCards Company."

1 that the funds levied upon are those of the judgment debtor; that no proof is tendered
2 that the claimed independent entity series LLCs exist or were ever created and the
3 nomenclature used to identify the Wells Fargo accounts are nothing more than labels
4 of convenience for different operating departments of A Cab LLC and without any
5 legal significance; that NRS 86.296 does not shield the assets of a series LLC from a
6 judgment against its master LLC (which in this case would be the judgment debtor A
7 Cab LLC if the alleged series LLCs actually exist) when there is a complete identity
8 of ownership between such entities; and that for various other reasons, some particular
9 to the circumstances of this case, involving MWA claims and the operation of a taxi
10 cab business pursuant to a highly regulated statutory scheme involving the issuance of
11 a certificate of public convenience and necessity by the Nevada Taxicab Authority,
12 NRS 86.296 cannot operate in the fashion postured by defendants.

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17 The Court in this Order makes multiple separate findings as to the issues
18 presented and is of the opinion that any one of those findings would provide a
19 sufficient basis for the Court's denial of the motion. It makes those multiple findings
20 in an attempt to ensure that it is achieving a just and proper resolution of the issues
21 raised by the motion. None of those findings are advisory and all are intended, either
22 on their own or in conjunction, to provide a proper basis for the Court's decision.
23 And particularly because the standing finding made by the Court could be cured by a
24 belated appearance by the alleged series LLCs (if they are, in fact, properly
25 constituted and exist), the interests of justice, and the need to promote judicial
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1 efficiency, compel the Court to address all of such issues and make all of such
2 findings.
3

4 **I.**

5 **Defendants' Lack of Standing Requires Denial of the Motion**

6 Defendants' motion rests upon an impermissible conflict. The granting of the
7 motion to quash would require a finding by the Court that the Wells Fargo accounts
8 do not belong to the defendant A Cab LLC. The other defendant, Nady, also does not
9 claim any interest in the accounts. Rather, the motion relies, in its entirety, on the
10 assertion that the accounts belong to the six allegedly separate, non-party, "series"
11 LLC entities. Yet those entities have not appeared in this case or sought any relief in
12 respect to their property. There is no basis for the Court to recognize defendants'
13 standing to make the motion when, to succeed in that motion and secure relief,
14 defendants must establish that they have no actual interest in the property that is the
15 subject of the motion. Furthermore, defendants' entire theory, that NRS 86.296 has
16 bestowed a separate legal existence and separate rights upon the alleged series LLCs,
17 requires that they, not the defendants, seek to enforce those rights. The Court cannot
18 countenance such an inconsistent approach to the law and its processes. The
19 defendants are not entitled to invoke the sanctity of the separate legal existence of the
20 alleged series LLCs when it suits them and then simultaneously ignore it when they
21 find it burdensome or inconvenient. Accordingly, the Court finds the defendants lack
22 standing to make the motion and denies the motion on that basis.
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II.

The Use of A Cab LLC's EIN Number Requires a Denial of the Motion

The EIN number used on the Wells Fargo accounts is shown in the record to have been used to report wages paid on a W-2 form for at least one class member, in the name "A Cab LLC." Defendants do not deny that the class members have always been reported to the IRS as having been paid wages, for their work in A Cab's taxi business, by an entity using that EIN number. That history is particularly germane given the nature of the judgment at issue, which is for unpaid minimum wages owed to a class of employees. The Court cannot reconcile the idea that every class member, having been paid wages by an entity using that EIN number, cannot now attach funds registered with Wells Fargo to that same entity's EIN number, such attachment also being for the same purpose: the payment of wages the class members are owed and that have been found due in the Court's judgment.

Plaintiffs' argument on this point is also bolstered by the relevant IRS requirements, discussed in their supplement filed on September 27, 2018. It was impossible for the EIN number at issue to have been used by any entity *besides* the judgment debtor A Cab LLC to pay employee wages and comply with IRS tax withholding rules. *See*, 26 CFR 301.7701-2. Defendants' assertions that certain monies held in the Wells Fargo account denominated with the name "A Cab Series LLC, Employee Leasing Company Two" are to compensate employees of that allegedly legally distinct series LLC, and are not funds of the judgement debtor A Cab

1 LLC, is contrary to those IRS regulations. For that allegedly legally independent
2 series LLC entity to be paying its own employees it would have to secure its own,
3 unique, EIN number, and process its payroll with the IRS under such number and not
4 under A Cab LLCs EIN number. *Id.* It apparently has never used any such unique
5 EIN number and has always used A Cab LLC's EIN number (or at least it does not
6 dispute the evidence presented supporting that conclusion) and, as established by the
7 record, has never assigned any such independent and unique EIN number to such bank
8 account.
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12 The Court concludes that the holding of the Wells Fargo funds under the A Cab
13 LLC EIN number, either on its own or in conjunction with the other circumstances
14 and findings made by the Court and discussed *infra*, establish that the Wells Fargo
15 funds are properly levied upon by the judgment and the Defendants' motion must be
16 denied.
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20 III.

21
22 **There is no evidence that the allegedly independent series LLCs**
23 **exist or, if they exist, they have not complied with the asset shielding**
24 **provisions of NRS 68.296(3) and the motion is denied on that basis.**

25
26 Assuming, without concluding, that it is, potentially, possible for a series LLC
27 issued by the judgment debtor A Cab LLC to hold assets beyond the reach of the
28

1 judgment pursuant to NRS 86.296, there is nothing in the record supporting a
2 conclusion that compliance with NRS 86.296 has taken place. To comply with NRS
3 86.296 the alleged series LLCs must have (1) Been created by A Cab LLC; and (2)
4 Been organized to have specifically limited liability in respect to the obligations of A
5 Cab LLC; and (3) Maintained separate and distinct records and accounts for
6 themselves and the assets that are allegedly their property. Nothing is presented to
7 the Court establishing any of those three things.

8
9 Pursuant to NRS 86.296(2) “[a] series [LLC] may be created as a limited-
10 liability company, without the filing of articles of organization with the Secretary of
11 State, by the adoption of an operating agreement by the members of the series.” This
12 requires that a series LLC’s creation be confirmed by an operating agreement or in the
13 alternative by the filing of articles of organization with the Secretary of State. No
14 such articles of organization have been so filed for any of the six alleged series LLCs.
15 Nor have any operating agreements for those alleged entities, “adopted” by the
16 “members of the series” been presented to the Court. Defendants’ proffer (at Ex. “E”
17 of their supplement) six “Operating Agreements” *between* the six alleged series LLC
18 entities and another recited alleged entity identified as “A Cab Series LLC, Bally Taxi
19 Company.” Those documents are not the operating agreements specified by NRS
20 86.296(2). They purport to be transactional documents, contracts, between each of the
21 six alleged series LLC’s and such other identified alleged entity. Accordingly, the
22 Court finds that the six alleged series LLCs have not complied with NRS 86.296(2)

1 and have never been created in compliance with that statute. That defendants believe
2 they exist and may have purported to engage in business transactions with or through
3 them does not establish their legal existence.
4

5 Even if the Court were to find that the proffered documents constitute operating
6 agreements that establish the six alleged series LLCs were created, there is no
7 evidence they were organized to limit their obligations in respect to a judgment
8 against A Cab LLC. A properly constituted series LLC may limit its creditors'
9 recourse to the assets of the series LLC pursuant to NRS 86.296(3).² The critical
10 operative term is "may" meaning that to do so the series LLC must state in its
11 operating agreement or articles of organization it has adopted such a limitation. *See*,
12 NRS 86.296(3)(b). The six proffered documents contain language parroting the
13 language in NRS 86.296(3)(b) making such a limitation permissible but do not
14 actually recite, or confirm, that any such limitation is being adopted by any particular
15 identified series LLC.³ Accordingly, the Court finds that even if the six alleged series
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21 ² This statutory language speaks only of limiting the liabilities of the series
22 LLC to its assets. It is silent on whether the assets of the series LLC can be attached
23 to satisfy a judgment, such as in this case, against the creating or "master" LLC when
24 the owners (members) of both are identical. This important issue is discussed *infra*.

25 ³ The language used by defendants in the agreements is a virtually verbatim
26 recital of the first sentence of NRS 86.296(3)(b): "The debts, liabilities, obligations
27 and expenses incurred, contracted for or otherwise existing with respect to a particular
28 series are enforceable against the assets of that series only, and not against the assets
of the company generally or any other series." NRS 86.296(3)(b) then goes on to
specify how a series LLC can achieve this available protection of their assets,
language that defendants also substantially parrot in their agreements. But the

1 LLCs have been created, they have not complied with NRS 86.296(3) and have never
2 adopted the liability limitations available to series LLCs under that statute.
3

4 The record presented to the Court also establishes a failure of the alleged series
5 LLCs to comply with NRS 86.296(3)(a) requiring them, if they seek to enjoy that
6 statute's liability limitation provisions, to maintain "separate and distinct records" for
7 themselves and their assets and that such assets must be "accounted for separately
8 from the other assets of the [master creating LLC] company." As discussed, *supra*,
9 the assets at issue, the Wells Fargo bank accounts, were not maintained in a "separate
10 and distinct" fashion but under the EIN of the judgment debtor A Cab LLC, making
11 them indistinguishable from that entity's assets. Defendants do not dispute plaintiffs'
12 assertions that a thorough online public records search for business licenses for the six
13 alleged series LLCs confirms that none have any form of business license. They are
14 required to have such business licenses to legally engage in business as claimed by the
15 defendants. The Court finds that to meet the "separate and distinct records"
16 requirement of NRS 86.296(3)(a), the six alleged series LLC must have maintained
17 such a "distinct record" demonstrating the securing of the businesses licenses needed
18 to conduct business and they have failed to do so.
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20 Nor is any evidence presented that there exists any actual practice whereby the
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26 agreements, in their use of this language from NRS 86.296(3)(b), never identify any
27 "particular" series LLC that has elected to adopt such protection. They just recite the
28 statutory language explaining, in part, that such protection is potentially available, the
agreements never state any identified series LLC is actually adopting such protection.

1 assets of the six alleged series LLCs are “accounted for separately from the other
2 assets” of the judgment debtor A Cab LLC. Defendants’ moving papers contain a
3 non-specific declaration from Steven Beck that asserts, at paragraph 2, that “I keep the
4 books and records” of two of the alleged series LLCs at issue and others along with
5 those of the judgment debtor A Cab LLC. That is not even a clear allegation that such
6 a separate accounting of assets exists. Testimony introduced by plaintiffs from
7 defendant Nady’s deposition taken in 2017 is also, at most, just a bald assertion of that
8 fact, one that Nady’s testimony in many respects contradicts. In addition to
9 confirming that all of the series LLCs allegedly formed by A Cab LLC file a single tax
10 return (as part of his personal income tax return) Nady admits none of the alleged
11 series LLCs that he claims operate as part of A Cab’s taxi business (he calls each one
12 a “cell”) can function as independent businesses and that certain of those cells have a
13 “bailiff relationship” with the asset (a taxi medallion or vehicle) they use to generate
14 revenue. The Court finds that the six alleged series LLCs have failed to show any
15 basis to conclude that they have, in respect to the Wells Fargo accounts and any other
16 assets they are alleged to possess, accounted for such assets “separately from the other
17 assets” of the judgment debtor A Cab LLC as required by NRS 86.296(3)(a) to invoke
18 that statute’s liability limitations.

19
20 For the reasons stated above, and in Section II, the Court denies the motion
21 based upon its findings that all or some of the requirements of NRS 86.296 needed to
22 invoke that statute’s liability limitation protections have not been complied with.
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IV.

**NRS 86.296 does not afford the sort of asset shield asserted by
defendants, at least not under the circumstances of this case.**

Even if it was established that the six alleged series LLCs had complied with all of the requirements of NRS 86.296, and the findings in II and III *supra* were not made by the Court, the Court would still deny the motion.

A.

As pointed out by plaintiffs, the language of NRS 86.296(3) speaks of a limitation on the enforcement of the liabilities of a series LLC to its assets only.⁴ It is silent on whether a liability of “the company generally” can be recovered from the assets of any of its series LLCs. Plaintiffs argue that NRS 86.296(3) allows limited liability companies and the series they issue to enjoy the same liability limitations as a conventional parent corporation that owns 100% of the stock of a subsidiary corporation. In that situation the subsidiary is an asset of the parent and a judgment against the parent can be satisfied from such asset. But a judgment against the subsidiary corporation cannot be pursued “upstream” against the parent’s assets. In support of that “one way” asset shield argument (against any “upstream” judgment

⁴ It states: “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 [explaining conditions]....”

1 enforcement but not vice versa), plaintiffs rely on NRS 86.296(3) speaking of a bar
2 against enforcing the liabilities of a series LLC against assets of the “company
3 generally” while saying nothing about barring enforcement of the liabilities of the
4 “company generally” against the assets of its series LLCs. They also point out that
5 another state’s series LLC statute using language that mirrors NRS 86.296(3) then
6 goes on to add an additional section expressly granting a “two way” asset shield for
7 series LLC assets against liabilities of the company generally. *See*, Texas Business
8 Organizations Code Sec. 101.602(a)(2).

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12 In situations where the ownership (member interests) of the creating limited
13 liability corporation (the “company generally” in NRS 86.296(3)) is identical to that
14 of the series LLC, the plaintiffs’ argument has some persuasive force. The Nevada
15 Legislature could have written Nevada’s series limited liability statute to expressly
16 recognize that a series LLC can shield its assets from the liabilities of the company
17 generally. It did not. The plaintiffs’ analogy to a conventional corporation that owns
18 100% of the stock of its subsidiary corporation is also imperfect, as limited liability
19 companies do not have stockholders but membership interests. On the other hand, a
20 series LLC can only be created by a limited liability company that is in turn duly
21 registered with the Nevada Secretary of State. The series LLC is in some sense a
22 creature of its master upon whom it completely depends for its very existence. A
23 conventional corporation, whether or not it is a wholly owned subsidiary, comes into
24 being through an independent process performed by the Nevada Secretary of State. If
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1 it is a subsidiary, it continues as an independent legal entity despite the dissolution of
2 its parent owner (though such an event would result in a transfer of its ownership).

3
4 The same cannot be said for a series LLC which presumably⁵ has no continued legal
5 existence once its limited liability corporation creator has ceased to exist.

6
7 The Court finds that, at least in this case where it is undisputed that the member
8 interests (ownership) of the alleged series LLCs and the judgment debtor A Cab LLC
9 are one and the same, a judgment against a limited liability company that has created a
10 series LLC (in this case that would be A Cab LLC) is enforceable against the assets of
11 such series LLC. The Court further finds that the asset protections afforded to a
12 series LLC under NRS 86.296(3) do not, in all circumstances, bar enforcement of a
13 judgment against a limited liability corporation from the assets of the series LLCs it
14 has created and that compelling circumstances in this case, discussed *infra*, result in
15 the Court denying the motion.
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19 **B.**
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22 ⁵ The Court says “presumably” because under the overall structure of Nevada’s
23 series LLC law, it does not appear tenable for a series LLC, not registered with the
24 Nevada Secretary of State, to continue as a legal entity once its creating, and duly
25 registered, limited liability company has ceased its existence. Unfortunately this issue
26 is not squarely addressed in the relevant Nevada statutes. For example, NRS 86.491
27 sets forth a mechanism for dissolving both a limited liability company and just one of
28 its series but does not state how, or if, a series can continue to operate as a legal entity
once its creating limited liability corporation is dissolved. Yet NRS 86.213 imposes a
fine on anyone purporting to do business as a limited liability company without filing
articles of organization with the Nevada Secretary of State, a filing a series LLC is not
required to make.

1 While many aspects of the Nevada's series LLC law are not clearly addressed
2 by Nevada's statutes, and remain to be addressed by Nevada's Supreme Court, the
3 Court finds NRS 86.141(1)⁶ to provide compelling guidance in this case. It is clear
4 that Nevada's Legislature enacted the series LLC law to afford businesses wide range
5 of options and flexibility in managing their affairs and conducting business in Nevada.
6 Such a decision by the Legislature is not subject to question by the Court. Yet in
7 enacting the limited liability company law, the Nevada Legislature made
8 unequivocally clear in NRS 86.141(1) it was forbidding the use of such entities "for
9 any illegal purpose or with fraudulent intent to conceal any business activity, or lack
10 thereof, from any person." The Court finds this salutary directive, along with the
11 facts before the Court and the equitable considerations presented, to require denial of
12 the motion, irrespective of whether the six alleged series LLCs have complied with all
13 of the relevant provisions of NRS 86.296(3) (and as found by the Court in Parts II
14 and III they have not so complied).

15
16 The Nevada series LLC law does not authorize businesses to engage in a never
17 ending shell or "whack a mole" game to avoid satisfying their legal obligations by
18 issuing a limitless, continually changing, and unknown, line of series LLCs. That
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25 ⁶ "Except as otherwise provided in subsection 2 [relating to an insurance
26 business], a limited-liability company may be organized under this chapter for any
27 lawful purpose. A person shall not organize a limited-liability company for any illegal
28 purpose or with the fraudulent intent to conceal any business activity, or lack thereof,
from another person or a governmental agency."

1 intent is codified in NRS 86.141(1). Especially in a case such as this, involving the
2 liability of a business for unpaid minimum wages owed to its employees under the
3 Nevada Constitution, the Court must be vigilant to prevent such an abuse of the series
4 LLC form. Defendants' motion asserts that the employees of A Cab's taxi business
5 who are owed those minimum wages cannot collect such minimum wages from assets
6 held by the various alleged series LLCs because those alleged entities are not
7 judgment debtors. Yet, as noted in Part II, those assets are registered with Wells
8 Fargo bank under the same EIN number that was used to pay those employees their
9 wages in the first instance. That EIN number was also present on the W-2s issued to
10 those employees, the creditor class members.

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14 If the Court were now to adopt defendants' claim that the Wells Fargo monies
15 are not actually assets of the employer/judgment debtor, it would be approving of the
16 "concealment" of business activities in violation of NRS 86.141(1), if not of an
17 overtly illegal and fraudulent scheme to avoid paying minimum wages. The class
18 members should be entitled, as a matter of law, to rely upon the representations given
19 to them about the nature and identity of their employer when they seek to collect
20 minimum wages owed to them under Nevada's Constitution (and in respect to this
21 motion, the EIN associated with that employer). If they bring suit in this Court
22 accordingly they must be afforded the ability to vindicate whatever award the Court
23 grants them. Having relied upon the representations of their employer to secure their
24 judgment they cannot now be denied access to the Wells Fargo accounts, monies so

1 clearly tied to that employer, to satisfy such judgment. That is particularly true given
2 the unknown, and unknowable, existence of the alleged series LLCs which defendants
3 claim hold the assets used in A Cab's business beyond reach of the judgment. Those
4 alleged series LLCs do not exist in any public record or registration. They are
5 intended by the defendants to act as secret entities, to hold the assets of the A Cab taxi
6 business with their existence known to no one except such persons as the defendants
7 advise at a place and time of their choosing (such as now, when defendants proffer
8 them to be the true holders of the Wells Fargo accounts).

12 Particularly troubling is the defendants' apparently related attempt to insulate,
13 or divert, the "employer" liability for minimum wages owed under Nevada's
14 Constitution to an often changing group of series LLCs of A Cab LLC. Those
15 changing series LLCs appear to regularly cease their operations after a limited period
16 of time and to have no actual assets. At his 2017 deposition, defendant Nady testified
17 the alleged series LLC of A Cab LLC that defendants' claim was the true (and sole)
18 "employer" of the class members and paid their wages changed three times between
19 February of 2012 and June of 2017 (as discussed in plaintiffs' supplement filed on
20 September 27, 2018). While he refused to directly answer questions about that
21 practice (citing "legal advice" as the basis for such refusal at his deposition) he
22 admitted that A Cab LLC was using a large number of series LLCs, well over 100, to
23 avoid having to pay legal liabilities, including any judgment rendered in this case.

28 As plaintiffs' aptly point out in their supplement, naming some, or even all, of

1 the separate series LLCs as defendants in their lawsuit, prior to judgment (a task that
2 might be herculean) would be pointless given defendants' conduct. Undoubtably
3 defendants would, in that event, just prior to judgment, transfer the operations, and the
4 assets, of the A Cab taxi business to a newly minted set of unknown, and unknowable,
5 series LLCs. That such a course of conduct might be remedied, post judgment, via
6 additional litigation involving fraudulent conveyance or other sorts of claims, does not
7 cure the obvious impropriety of such conduct, which in the Court's view squarely
8 violates NRS 86.141(1). Accordingly, whatever legal significance the alleged series
9 LLCs of A Cab LLC may have, they cannot, under NRS 86.141(1), act to shield assets
10 from the collection of the judgment at issue, and the defendants' motion is denied on
11 that basis.
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16 C.

17 An additional reason for the denial of the motion is presented by the very nature
18 of A Cab's taxi business and the complete integration of such business (between A
19 Cab LLC and its series LLCs) as a matter of law in respect to the judgment at issue.
20 A Cab LLC operates a privileged, specially licensed, business pursuant to a Certificate
21 of Public Convenience and Necessity (a "CPCN") issued by the Nevada Taxicab
22 Authority. Its revenue is derived from the operation of taxicabs which, in turn,
23 require two things besides an operable motor vehicle. The first is a taxi driver, one of
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1 the class member employees.⁷ The second is a taxi medallion issued by the Nevada
2 Taxicab Authority pursuant to that CPCN. Defendants have furnished a copy of that
3 CPCN which states it is not a franchise or irrevocable and it cannot be transferred
4 without the approval of the Nevada Taxicab Authority.
5

6 While A Cab LLC can have its taxi medallions used by other persons or legal
7 entities, the revenue derived from each taxi medallion's operation is dependent upon
8 A Cab LLCs possession of its CPCN. Without that CPCN there is no taxi medallion,
9 and no "street legal" taxi, to operate and generate revenue. The CPCN is not, itself,
10 transferrable by A Cab LLC. The judgment rendered in this case was against A Cab
11 LLC and arose from its failure to properly compensate, as required by Nevada's
12 Constitution, the taxi drivers who drove the medallion taxi cabs it was privileged to
13 operate under its CPCN. It should not be allowed, under such circumstances, to
14 divert the revenue from those medallion taxi cabs, which is entirely dependent upon
15 its CPCN, to its series LLCs and place that revenue beyond the reach of such
16 judgment. The legal separation that may exist between A Cab LLC and the series
17 LLCs it creates cannot divorce such taxi medallion revenue from the minimum wage
18 liability imposed by Nevada's Constitution as that liability is also a product of the
19 same activity generating such revenue and the Court denies the motion on that basis.
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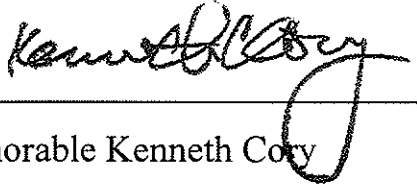
27 ⁷ During the time period at issue for the judgment, prior to January 1, 2016, A
28 Cab was required to use only employee taxi drivers in its business.

1 Therefore, IT IS HEREBY ORDERED for all of the foregoing reasons, that the
2 motion is denied; and
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5 IT IS FURTHER ORDERED that Well Fargo shall deposit with the Clerk of
6 the Court the funds subject to the writ of execution, with the Court to determine the
7 further disposition of those funds at a future date; and
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10 IT IS FURTHER ORDERED that plaintiffs' counter-motion is continued for
11 further hearing on October 22, 2018.
12
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14 **IT IS SO ORDERED.**
15

16 
17 _____
18 Honorable Kenneth Cory
19 District Court Judge
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12/17/2018

Date

1 Submitted by:

2 LEON GREENBERG PROF. CORP.

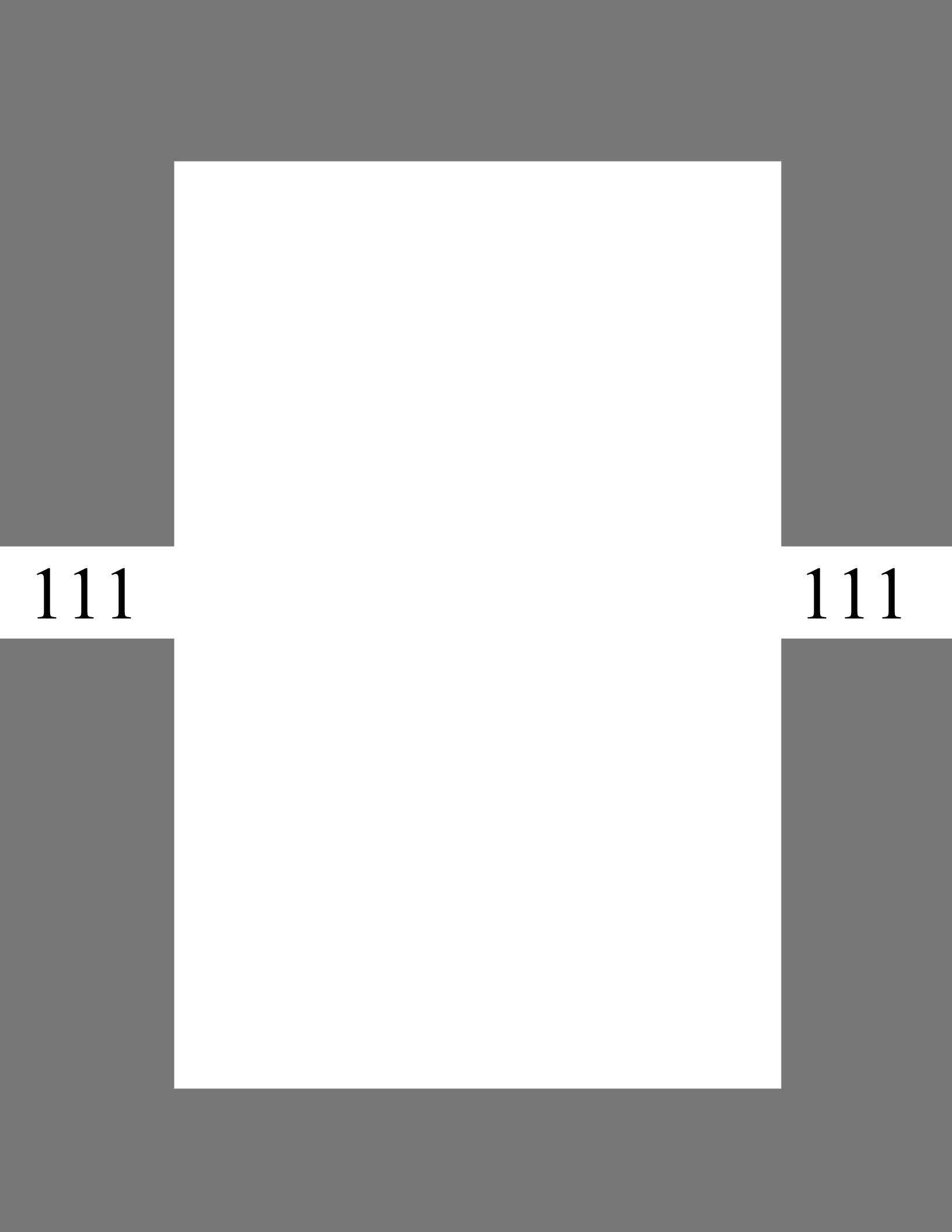
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Date

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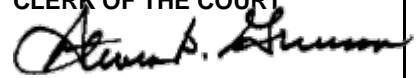
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7 **DISTRICT COURT**
8 **CLARK COUNTY, NEVADA**

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

11 Plaintiffs,

12 vs.

13 A CAB TAXI SERVICE LLC, and A
14 CAB, LLC,

15 Defendants.

Case No.: A-12-669926-C

Dept.: I

NOTICE OF ENTRY OF ORDER

16
17 PLEASE TAKE NOTICE that the Court entered the attached Order on
18 December 18, 2018

19 Dated: December 18, 2018

20 LEON GREENBERG PROFESSIONAL CORP.

21 /s/ Leon Greenberg

22
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28 Attorney for the Plaintiffs

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