

# Limo drivers' suit seeks safety net: Minimum wage pay

By [Liz Benston](#)

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A group of Las Vegas limousine drivers has filed a class-action lawsuit against Nevada's largest limousine company, alleging failure to pay minimum wage and overtime.

## Documents

- [View court filings in the case](#)

## Sun Archives

- [Fewer visitors means fewer fares to go around \(2-8-2009\)](#)
- [Limo regulation plan proceeds \(4-16-2004\)](#)

## Beyond the Sun

- [Bell Trans](#)

The federal lawsuit, which seeks back wages for the Bell Trans drivers, could have broad implications for businesses grappling with Nevada's convoluted minimum wage law more than two years after voters approved a constitutional amendment to raise the wage.

The federal Fair Labor Standards Act exempts cabdrivers from minimum wage and overtime compensation but not limo drivers, according to the complaint. The lawsuit cites a Labor Department opinion and multiple court cases to argue that limo drivers, who have chartered or prearranged rides, are entitled to minimum wage and overtime.

Bell Trans officials declined to comment on the lawsuit, filed in December.

The company argues in court filings that drivers can't sue for wage violations because those standards are enforced by the state labor commissioner. To support their claim, they cite a well-publicized lawsuit filed by a pair of Wynn Las Vegas casino dealers against the property for giving a portion of the dealers' tips to their managers. Though the suit was dismissed without a decision on whether employers can redistribute tips, the Nevada Supreme Court upheld a District Court ruling that labor laws should be enforced by the labor commissioner.

Before voters approved a constitutional amendment on the minimum wage in 2006, Nevada law exempted taxi and limo drivers from minimum wage and overtime pay. The 2006 amendment removed those and other exemptions.

Bell Trans, which employs hundreds of drivers and has about 240 limos in service, argues that Nevada's preexisting law should trump the constitutional amendment.

Bell Trans' parent company, Whittlesea Bell Transportation, is one of the state's largest transportation companies, operating luxury limousines, shuttles and taxi companies Whittlesea Blue Cab and Henderson Taxi.

The drivers' rebuttal, filed this month, argues that the state Constitution "always prevails over a statute" and Nevada law allows employees to sue for unpaid wages. Moreover, the Wynn lawsuit dealt with tips and not base wages, which are at issue in this case.

The drivers' attorney, Mark Thierman, said he is pursuing a lawsuit rather than filing claims with the labor commissioner because the state lacks a speedy and cost-effective way of resolving wage disputes. Thierman said he is taking the case on a contingent fee basis, which means he will be paid a piece of any money the drivers, who worked for Bell Trans during the past three years, receive.

(Thierman also represented the Wynn dealers in the lawsuit cited by Bell Trans. That complaint is pending before the labor commissioner.)

Labor Commissioner Michael Tanchek has said he lacks the necessary staff to pursue broad investigations, preferring to review complaints on a case-by-case basis. His office is simultaneously investigating more than 1,000 wage claims.

Nevada's two-tiered minimum wage law has been difficult for employers to grasp, and perhaps even tougher for workers, Tanchek said.

"In my experience, new changes take a couple of years to really sink in," he said.

Tanchek has said the state constitution, after passage of the 2006 amendment, overrode his power to interpret wage laws. Some employers disagree and have pressed the commissioner to revisit the amendment in light of the preexisting exemptions for taxi and limo drivers.

Employers had justified such exemptions as a peculiarity of their business, where drivers are paid based on their ability to get rides, with downtime in between.

Drivers have argued for a minimum wage as a safety net, saying the time between rides represents working hours spent seeking passengers. Their concerns have multiplied amid the tourism slump, which has cut the number of visitors to Las Vegas.

Drivers say some companies that typically fire low-performing drivers have accelerated layoffs as the economy has worsened.

Some taxi drivers are exploring legal action against their employers for failure to pay minimum wage, though insiders say companies would be more inclined to terminate a low-performing driver than pay that worker the minimum wage.

Congress boosted the federal minimum wage in 2007 — the first increase in a decade. That rate is \$6.55 per hour, and rises to \$7.25 July 1.

The federal rate falls between the tiers of Nevada's two-tiered minimum wage. The limo drivers are seeking unpaid wages under the higher tier of \$6.85 per hour, mandated for employers that don't offer health insurance or whose health insurance premiums cost more than 10 percent of an employee's annual income.

Nevada employers, which are subject to state and federal laws, must pay the higher of state and federal minimum wage standards.