

1 STATE OF NEVADA
2 LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
3 RELATIONS BOARD
4

5 JERRY MANN,

6 Complainant,

7 vs.

8 CLARK COUNTY SCHOOL DISTRICT;
9 CLARK COUNTY EDUCATION
10 ASSOCIATION; NEVADA STATE
11 EDUCATION ASSOCIATION; DOES I-V,
12 inclusive; and ROE CORPORATIONS I-V,
13 inclusive,

14 Respondent.

ITEM NO. 721E

CASE NO. A1-045969

ORDER

15 For Complainant: Amberlea Davis, Esq.

16 For Respondents: C.W. Hoffman, Jr., Esq.
17 Clark County School District

18 Sandra G. Lawrence, Esq.
19 Dyer, Lawrence, Penrose, Flaherty, Donaldson, & Prunty
20 For Clark County Education Association and Nevada State
21 Education Association

22 This matter came on before the State of Nevada, Local Government Employee-
23 Management Relations Board ("Board"), on January 12, 2011 for consideration and decision
24 pursuant to the provisions of the Local Government Employee-Management Relations Act ("the
25 Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's
26 open meeting laws.

27 Following the unsuccessful arbitration of a grievance against his former employer, Clark
28 County School District, Complainant Jerry Mann filed a complaint with this Board on December
1, 2009. The complaint alleged that Respondents Clark County Education Association and
Nevada State Education Association (collectively "the Associations") breached the duty of fair
representation when handling Mann's grievance against the School District. That grievance had

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1 proceeded through arbitration, and Mr. Mann was represented at the arbitration proceeding by
2 Paul D. Cotsonis, Esq.

3 NRS 288.110(4) imposes a six-month statute of limitations on complaints that are
4 brought before this Board. Previously the Associations had moved to dismiss the complaint as
5 being time-barred under NRS 288.110(4). We denied the motion at that time, as there appeared
6 to be a question concerning the date on which Mann first learned that the arbitrator had ruled
7 against him. That question has now been resolved. We find that Mann was aware of the
8 arbitrator's negative decision on May 29, 2009, and that the December 1, 2009 complaint was
9 filed more than six months later. Thus, the complaint is untimely under NRS 288.110(4).

10 At the hearing on this matter, the Board heard testimony from Mr. Cotsonis testifying to a
11 telephone conversation that he had with Mr. Mann on May 29, 2009. Mr. Cotsonis' testimony
12 was corroborated by a number of exhibits that were introduced into evidence before this Board.
13 These exhibits included billing records from Mr. Cotsonis' employer for May 29, 2009
14 indicating a telephone call between Mr. Cotsonis and Mr. Mann "regarding negative arbitration
15 award." Exhibit N. The Board also examined a letter from Mr. Cotsonis to Mr. Mann dated June
16 4, 2009 confirming an earlier telephone call in which Mr. Cotsonis had informed Mr. Mann that
17 the arbitrator had decided against Mann. Exhibit O. At the hearing, Mr. Cotsonis clarified that
18 the telephone call referenced in the June 4, 2009 letter had in fact occurred on May 29, 2009.
19 Additionally, the Board considered telephone records from Mr. Cotsonis' employer showing a
20 telephone call to Mr. Mann's phone number on May 29, 2009. The duration of that telephone
21 call was 3.6 minutes. Exhibit O. At the hearing before the Board, Mr. Cotsonis agreed that on
22 May 29, 2009 he had informed Mr. Mann that Mann had lost the arbitration. Tr. p. 147. The
23 Board finds Mr. Cotsonis to be credible.

24 Mann presented no evidence to rebut Respondents' affirmative defense that Mann knew
25 of the outcome of the arbitration on May 29, 2009.

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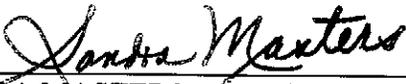
ORDER

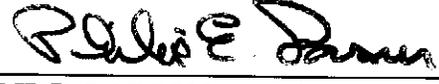
It is hereby ordered that this matter be dismissed with prejudice. Each side shall bear its own fees and costs.

DATED this 24th day of January, 2011.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: 
SEATON J. CURRAN, ESQ., Chairman

BY: 
SANDRA MASTERS Vice-Chairman

BY: 
PHILIP E. LARSON, Board Member

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14 Respondent.

CASE NO. A1-045969

NOTICE OF ENTRY OF ORDER

15 To: Amberlea Davis, Esq.

16 To: C.W. Hoffman, Jr., Esq.
Clark County School District

17 To: Sandra G. Lawrence, Esq.
Dyer, Lawrence, Penrose, Flaherty, Donaldson, & Prunty
For Clark County Education Association and Nevada State
Education Association

18 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
19 January 24, 2011.

20 A copy of said order is attached hereto.

21 DATED this 24th day of January, 2011.

22 LOCAL GOVERNMENT EMPLOYEE-
23 MANAGEMENT RELATIONS BOARD

24 BY


25 JOYCE HOLTZ, Board Secretary
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