

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

5 INTERNATIONAL ASSOCIATION OF
6 FIRE FIGHTERS, LOCAL 731,

7 Complainant,

8 vs.

9 CITY OF RENO,

10 Respondents.

) ITEM NO. 735B

) CASE NO. A1-045985

) **ORDER**

11
12 For Complainant: International Association of Fire Fighters, Local 731, and their attorney
Laurence Peter Digesti, Esq.

13 For Respondents: City of Reno, and their attorney Donald L. Christensen, Esq.

14 This matter came on before the State of Nevada, Local Government Employee-
15 Management Relations Board ("Board"), on November 1, 2011 for consideration and decision
16 pursuant to the provisions of the Local Government Employee-Management Relations Act ("the
17 Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed as item number 5-B on
18 the agenda for the Board meeting pursuant to Nevada's open meeting laws.

19 On October 17, 2011, the Second Judicial District Court entered an order remanding this
20 matter back to the Board. The Second District Court found that the Board's award of \$5,000.00
21 in costs and attorneys fees to the City of Reno was an abuse of discretion, and remanded the
22 matter back to the Board "for a decision including specific findings" that justify such an award as
23 outlined in the Nevada Supreme Court's decision in Brunzell v. Golden Gate Nat. Bank, 85 Nev.
24 345, 455 P.2d 31 (1969).

25 In order to comply with the District Court's order, we endeavor to now set forth sufficient
26 findings and reasoning consistent with Brunzell on the issue of the City's motion for fees and
27 costs.

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1 In Brunzell, the Nevada Supreme Court stated that the factors supporting a reasonable
2 award of fees fall into four general categories: (1) the qualities of the advocate: his ability, his
3 training, education, experience, professional standing and skill; (2) the character of the work to
4 be done: its difficulty, its intricacy, its importance, time and skill required, the responsibility
5 imposed and the prominence and character of the parties where they affect the importance of the
6 litigation; (3) the work actually performed by the lawyer: the skill, time and attention given to
7 the work; (4) the result: whether the attorney was successful and what benefits were derived.
8 Brunzell at 349, 455 P.2d at 33. We turn to each of the Brunzell factors.

9 Qualities of Advocate

10 The Board looks to the declaration of Donald Christensen, Esq., submitted in support of
11 the City's motion for fees as substantial evidence to support its findings. The declaration
12 indicates that Mr. Christensen is an experienced attorney, having been licensed to practice law
13 since 1977, and having 10 years of experience in the often complex field of labor law. These
14 facts support an award of attorneys fees in the amount discussed below.

15 Character of Work

16 The Board finds that the character of work supports an award of attorneys fees in the
17 amount discussed below. This claim was filed in the middle of the collective bargaining process
18 between two prominent parties- the City of Reno and the International Association of
19 Firefighters, Local 1107 ("Association"), and concerned the actions of the City's elected
20 governing body. These circumstances raised the importance of the issues that were presented in
21 this case. Mr. Christensen successfully defended against all 3 prohibited labor practice claims
22 that were alleged by the Association. The work performed by Mr. Christensen, subject to the
23 deductions stated below, adequately addressed the complaints raised by the Association and was
24 reasonably related to the claims and defenses that were at issue in this case.

25 Work Actually Performed

26 The Board again looks to Mr. Christensen's declaration. The declaration details the tasks
27 that Mr. Christensen performed and states the number of hours spent on each task. In reviewing
28 the declaration the Board finds that the following tasks are not reasonably related to the claims

1 before the Board: A telephone phone call and letter on 7/12/10 to KRNV (.5 hours); a telephone
2 call on 7/20/10 to Attorney Digesti regarding an unspecified stipulation (.2 hours); the separate
3 entry on 8/13/10 for review of the Association's opposition to the motion to dismiss (.6 hours);
4 and the time spent on 10/13/10 to research and draft the motion for attorney's fees incurred after
5 this Board had granted the motion to dismiss (1.7 hours). Additionally, the Board feels that 5.3
6 hours to research the motion to dismiss (7/6/10 and 7/8/10) is not reasonable, and that the
7 amount of research time should be reduced to 3.0 hours as this amount is consistent with the
8 amount of time that was required to research the reply to the motion to dismiss (8/14/10).

9 The remaining entries on the declaration reflect work actually performed on the motion
10 and include a corresponding entry of time that appears to be reasonable. As noted above, the
11 pleadings and work performed are directly related to the prohibited labor practice claims raised
12 by the Association, and the pleadings adequately addressed those claims.

13 The Board also finds that the claimed rate of \$250.00 per hour is a reasonable amount for
14 an attorney such as Mr. Christensen who has 10 years of experience in labor law. The Board
15 relies upon Mr. Christensen's declaration and reference to findings by the Second District Court
16 in Case No. CV09-00688 that \$250.00 per hour is a reasonable rate. The Board also relies upon
17 its experience, technical competence and specialized knowledge of labor law to conclude that
18 \$250.00 per hour is a reasonable rate. See NRS 233B.123(5). The Board has previously
19 recognized rates of \$250.00 per hour or more as reasonable. e.g. Spannbauer v. City of North Las
20 Vegas, Item No. 636E, EMRB Case No. A1-045885 2008 WL 8214260 (2008) (recognizing rate
21 of \$250.00 per hour as a reasonable rate for counsel in Board proceedings); Boykin v. City of
22 North Las Vegas, Item No. 674H, EMRB Case No. A1-045921 2011 WL 282244 (2011)
23 (recognizing rate of \$325.00 per hour as reasonable).

24 Result

25 As a result of Mr. Christensen's work, the City was successful on each of the 3 prohibited
26 labor practice claims, and was the prevailing party under NRS 288.110(6). The benefits to the
27 City were a final end to the prohibited labor practice proceedings before this Board. The Board

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1 agreed with the arguments on the merits that were presented by the City. Therefore the result
2 obtained by Mr. Christensen weighs in favor of the award of attorneys fees.

3 After analyzing the Brunzell factors as we have done, we determine a reasonable award
4 of fees by multiplying the number of hours reasonably spent on a case by the reasonable rate.
5 Shuette v. Beazer Homes Holdings Corp. 121 Nev. 837, 865, 124 P.3d 530, 549, n. 98 (2005)
6 (citing Herbst v. Humana Health Ins. of Nevada, 105 Nev. 586, 590, 781 P.2d 762, 764 (1989)).

7 In this case, the number of hours reasonably spent on the case, after our review of the
8 declaration and the elimination and reduction of time entries as discussed above is 20.45 hours as
9 follows:

- 10 3.0 hours for research on motion to dismiss (7/6/10 and 7/8/10)
- 11 3.4 hours to draft motion to dismiss (7/9/10)
- 12 1.25 hours to draft motion to dismiss (7/13/10)
- 13 3.0 hours to research and draft reply (8/14/10)
- 14 1.3 hours to continue to draft reply (8/15/10)
- 15 5.2 hours to continue to draft reply (8/16/10)
- 16 3.3 hours to revise reply (8/17/10)

17 Total: 20.45 hours

18 As discussed above, the Board finds \$250.00 per hour to be reasonable rate for this
19 matter. Under the lodestar method approved in Shuette, we multiply 20.45 hours by \$250.00 per

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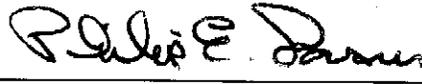
1 hour for a total award of \$5,112.50. We will reduce this amount down to an even \$5,000.00 so as
2 not to exceed the amount awarded in our prior order.

3 Based upon the foregoing, and good cause appearing therefore, it is hereby ordered that
4 Respondent City of Reno is awarded a total of \$5,000.00 for fees and costs pursuant to NRS
5 288.110(6).

6 DATED this 14th day of November, 2011.

7 LOCAL GOVERNMENT EMPLOYEE-
8 MANAGEMENT RELATIONS BOARD

9 BY: 
10 SEATON J. CURRAN, ESQ., Chairman

11 BY: 
12 PHILIP E. LARSON, Vice-Chairman

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NOTICE OF ENTRY OF ORDER

11 TO: International Association of Fire Fighters, Local 731, and their attorney Laurence Peter
12 Digesti, Esq.

13 TO: City of Reno, and their attorney Donald L. Christensen, Esq.

14 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on
15 November 14, 2011;

16 A copy of said order is attached hereto.

17 DATED this 14th day of November, 2011.

18 LOCAL GOVERNMENT EMPLOYEE-
19 MANAGEMENT RELATIONS BOARD

20 BY


JOYCE HOLTZ, Executive Assistant

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 14th day of November, 2011, I served a copy of the foregoing
4 ORDER by mailing a copy thereof, postage prepaid to:

5 Laurence Peter Digesti, Esq.
6 485 West Fifth Street
7 Reno, NV 89503

8 Donald L. Christensen, Esq.
9 Reno City Attorney's Office
10 PO Box 1900
11 Reno, NV 89505

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14 JOYCE HOLTZ, Executive Assistant
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