STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

KRISTIE BILLINGS and MOLLY BROWN, Complainants, vs. CLARK COUNTY and SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1107, Respondents,	ITEM NO. 751 CASE NO. A1-046002 **ORDER**

For Complainants: Amberlea Davis, Esq.

For Respondent: Yolanda Givens, Esq., Deputy District Attorney for Clark County

For Respondent: Michael A. Urban, Esq. and Jonathan Cohen, Esq. for S.E.I.U., Local 1107

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board") on April 10 and 11, 2012 for consideration and decision pursuant to the provisions of the Local Government Employee-Management Relations Act ("the Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's open meeting laws.

I. Statement of Facts

This matter arises out of a reduction in force conducted by Respondent Clark County in June of 2010. At that time, Complainants Kristie Billings and Molly Brown ("Billings and Brown") were employed by the County as Recreation/Cultural Program Supervisors in the County's Department of Parks and Recreation. The Recreation/Cultural Program Supervisors positions are part of a bargaining unit made up of supervisory employees. Respondent Service Employees International Union, Local 1107 ("SEIU") is the recognized bargaining agent for this bargaining unit. Both Billings and Brown were members of SEIU. SEIU Local 1107 is also the

recognized bargaining agent for a separate bargaining unit comprised of the County's non-supervisory employees ("the general unit"). The terms of employment for both the supervisory unit and the general unit are controlled by separate collective bargaining agreements with the County.

Kristie Billings' career path with the County began in May of 2002 as a Recreation/Cultural Specialist I. She was promoted to Recreational Specialist II approximately one year later. Both the Recreation/Cultural Specialist I and Recreation/Cultural Specialist II are part of the general unit represented by SEIU. In September of 2007, Billings was promoted to the position of Recreation/Cultural Program Supervisor. By accepting her new position as a Recreation/Cultural Program Supervisor, Billings was no longer a member of the general bargaining unit and became a member of the supervisory bargaining unit. At the hearing, Billings testified that nobody from the County or from SEIU informed her at the time of her promotion that there were two separate bargaining units, or that she would be moving from the general bargaining unit to the supervisory bargaining unit.

Molly Brown followed a similar career path to that of Ms. Billings. Brown began with the County as a Recreation/Cultural Specialist I in August of 2003 and was promoted through the same path as Ms. Billings. Ms. Brown became a Recreation/Cultural Program Supervisor in 2006, and likewise moved from the general bargaining unit to the supervisory unit at that time.

Billing's and Brown's career path of beginning as a Recreational Specialist I and being promoted up the ranks within the Department of Parks and Recreation is typical for that Department according to the testimony of Jane Pike offered before the Board at the hearing.

In June of 2010 both Billings and Browns' positions were selected for elimination as part of a reduction in force the County was conducting.

Although the non-supervisory unit and the supervisory unit have separate collective bargaining agreements, each agreement contains identical language addressing "bumping" rights and reductions in force:

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> All permanent status personnel who are affected by a layoff shall have the right to elect a reduction in grade to a lower classification: 1) within the same classification series; or 2) in a classification in the same department that the employee has completed a probationary/qualifying period, provided that the classification still exists, the department has a vacant position and the department head determines the employee meets the minimum qualifications and abilities ... of the position. A vacant position need not exist if an employee exercises his/her bumping rights within the same classification series.

Ex 31; Ex. 32.

Under these provisions in the agreements, Billing's and Browns' ability to bump back down to their previous positions, and thus continue in their employment with the County, hinged entirely upon whether or not the Recreation/Cultural Specialist I and II positions were part of the same "classification series" as the Recreation/Cultural Program Supervisor position.[1] The term "classification series" is not defined in the collective bargaining agreements, nor do the agreements themselves specify which positions are part of the same classification series.

Testimony offered at the hearing disclosed that due to the rarity of layoffs with the County, no master classification series list existed prior to 2009. In early 2009, Diane Koksha, a Clark County Employment Manager, developed an initial classification series list. This list was developed out of necessity owing to a separate reduction in force that the County was conducting at that time. Ms. Koksha testified at the hearing that the County's intention in developing the classification series list was to group job classifications together to allow for natural career progression and promotional opportunities.

The initial list developed by Ms. Koksha listed Recreation/Cultural Specialists I and II in a classification series that was separate from Recreation/Cultural Program Supervisor. Under this uncombined list, Billings and Brown would not be afforded bumping rights because their prior positions were not part of the same class series.

On May 14, 2010 the first change to the classification series list relating to the Parks and Recreation class series occurred. On that date the Recreation/Cultural Specialists I and II were

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[1] Even after bumping, reductions in force were to be conducted of inverse seniority, however Billings and Brown have established, and no other party disputed, that Billings and Brown had sufficient seniority at the non-supervisory positions to have avoided being laid-off at the time.

combined into the same classification series list as the Recreation/Cultural Program Supervisor position.

The reason for this first change was due to an inquiry from the Director of Parks and Recreation, Jane Pike, about why the Recreation/Cultural positions were in separate classification series. The County's Human Resources Director, Jesse Hoskins, directed his staff to determine whether there was a natural career progression through the Recreation/Cultural positions. Hoskins determined that there was in fact a natural career progression from Recreation/Cultural Specialists I and II to Recreation/Cultural Program Supervisor and directed Koksha to consolidate the Parks and Recreation class series into a single classification series. Under this version of the classification series list, Billings and Brown would have bumping rights and would be able to bump down to the Recreation/Cultural Specialist II level.

On May 19, 2010, Joseph Campbell, SEIU's Chief Steward for the general unit, sent an email to Hoskins, inquiring as to whether or not there had been a change to the classification series list. Hoskins responded on May 20, 2010, admitting that the Parks and Recreation class series had been combined and explaining the reasons for consolidating of the Recreation/Cultural positions into one series was to provide consistency among the various classifications identified on the list.

On May 21, 2010, Joseph Campbell informed Mr. Hoskins via email that SEIU could not agree with the decision to combine the Parks and Recreation class series into a single series, expressing a concern that "it would give the impression to membership that the Parks and Recreation Department is trying to manipulate the layoff process." Ex. 5. There was no evidence presented at the hearing that SEIU had prompted the consolidation of the Parks and Recreation class series in any way.

In response to Campbell's concerns, the classification series was changed again on Monday, May 24, 2010 to separate the Parks and Recreation class series back to the way it had appeared on the initial classification series list. However, this would not be the final word from SEIU on this issue or the final change to the class series list.

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On June 15, 2010 Sharon Kisling, SEIU's Chief Steward of the supervisory unit sent an email to Hoskins agreeing with the County's rationale for consolidating the Parks and Recreation class series into a single classification series, and asking Hoskins to again change the classification series list to recombine the Recreation/Cultural positions. Ms. Kisling stated that her request to Hoskins had the approval of the union president, Al Martinez, and represented that SEIU had no disagreement with the May 14, 2010 version of the classification series list which had combined the Recreation/Cultural positions. In response to Ms. Kisling's email, the County again recombined the Parks and Recreation class series into a single series as of June 15, 2010 at 9:15 A.M. Ex. 10.

That same morning, Campbell wrote to Hoskins and re-expressed his concerns about combining the Recreation/Cultural positions into a single class series. Having received conflicting positions from SEIU's Chief Steward's about this issue, Hoskins informed Campbell that he would need to discuss this with his union leadership.

According to Campbell's testimony at the hearing, SEIU leadership was involved in heated discussions of this issue through the day of June 15, 2010. At 1:04 p.m. on June 15, 2010, Al Martinez, President of SEIU Local 1107, informed Mr. Hoskins that "the Union's official position is to keep the Parks and Rec classification series structure separate." Ex. 14.

Upon receiving this email, Hoskins deferred to SEIU's official position and as of 3:27 p.m. on June 15, 2010, the Recreation/Cultural positions were again separated into different classification series. This was the final change to the classification series list leading up to the June 2010 layoffs.[2] On June 18, 2010, Kristie Billings and Molly Brown were notified that they would be laid-off and that they were not entitled to exercise any bumping rights.

The layoff procedure provides for an appeal of the layoff decision to a Layoff Review Committee ("LRC"). Both Billings and Brown elected to appeal their layoffs to the LRC. Sharon Kisling represented Billings and Brown before the LRC. The LRC hearings were held on June 29, 2010, during which time both Billings and Brown were given an opportunity to speak and

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[2] The Recreation/Cultural positions were again re-combined into a single classification series after the June 2010 layoffs in February of 2011.

Ms. Kisling presented their appeal to the committee. The LRC did not set aside Billing's and Browns' layoff and Billing's and Brown's last day of work as a Recreation/Cultural Program Supervisor was July 6, 2010.

On July 23, 2010, SEIU filed a grievance with the County on behalf of seven Parks and Recreation supervisors who had been laid off and had not been allowed to exercise bumping rights, including Billings and Brown (the "class-action grievance"). The grievance charged disparate treatment by the County in that the classification series list did not consistently apply to all departments and that the layoff and bumping process was not carried out appropriately. The grievance asked the County to consolidate the class series list affecting the Parks and Recreation employees and to redo the layoffs. Ex. 24.

The County denied the grievance at Step 1, in part because SEIU had agreed to a separated class series list and could not then grieve a layoff claiming that the series list should have been consolidated. Ex. 25.

On August 27, 2010 SEIU's grievance review committee elected to withdraw the grievance rather than proceed to the next step in the grievance process.

Billings and Brown filed their prohibited labor practice complaint with this Board on December 21, 2010, alleging that in this process the County had interfered with their protected rights under the Act, that SEIU had breached the duty of fair representation that it owed to Billings and Brown, and that SEIU had interfered with their protected rights under the Act. The Board conducted the hearing in this matter January 10-12, 2012 in Las Vegas, Nevada. Following the hearing, the parties submitted post-hearing briefs to be due by February 1, 2012. SEIU filed its post-hearing brief on February 1, 2012. The County filed its post-hearing brief on February 2, 2012. Billings and Brown's post-hearing brief was received on February 8, 2012. SEIU filed a motion to strike Billings and Browns' post-hearing brief, alleging that the post-hearing brief was filed on February 8, 2012 and asserting that this delay had given Billings and Brown an advantage over the other parties when preparing their post-hearing brief.

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II. Analysis

Motion to Strike

As a preliminary matter, we address the motion to strike Complainants' post-hearing brief which Respondent SEIU contends should be stricken due to late-filing. Even assuming that Billings and Brown's post-hearing brief was not timely filed, SEIU's motion does not show that its substantial rights are affected by the late filing, and the Board therefore denies the motion. NAC 288.235(2).

Claims Against Respondent Clark County

Complainants assert that the County violated NRS 288.270(1)(a) by interfering coercing or restraining their exercise of a right protected under the Act. There are three elements to a claim of interference with a protected right: "(1) an employer's action can be reasonably viewed as tending to interfere with, coerce, or deter (2) the exercise of protected activity, and (3) the employer fails to justify the action with a substantial and legitimate business reason." Medeco Sec. Locks, Inc. v. N.L.R.B., 142 F.3d 733, 745 (4th Cir. 1998); Clark County Classroom Teachers Ass'n v. Clark County School Dist., Item No. 237, EMRB Case No. A1-045435 (1989).

Complainants' first assertion is that the County interfered with a protected right by using the separated class list as the authoritative list when conducting layoffs, which therefore denied Billings and Brown the bumping rights they would have otherwise been able to invoke.

The evidence at the hearing indicated that the class series list that the County used to conduct the June 2010 layoffs was in same form as the list that was in effect in 2009, prior to the layoffs. The evidence further established that the County engaged in negotiations with SEIU over both the separated class series list and the consolidated class series list and which list should be used for the June 2010 layoffs. There was significant evidence presented at the hearing of several series of negotiations over a short period of time, including the several changes made to the classifications series list on June 15, 2010, and ultimately leading to the decision not to consolidate the Parks and Recreation class series list, which list was used in implementing the

layoffs. There was no evidence that the County used any different procedure when conducting these layoffs other than the procedure that was bargained-for with SEIU.

In these actions, the Board does not see any actions on the part of the County which would reasonably tend to interfere with Billings and Browns' rights under the Act. Billings and Brown have the right to collectively bargain through SEIU over certain terms and conditions of their employment. This apparently happened in this case, and the County's actions appear to be consistent with its obligations towards SEIU under NRS 288.150. Further, the source of Billings and Browns' bumping rights is the collective bargaining agreement, not the Act. As the County's actions did not reasonably tend to interfere with a protected right under the Act, we do not find a prohibited labor practice on these grounds.

Similarly, we do not find any prohibited labor practice against the County when it offered a voluntary demotion to Molly Brown, rather than allow her to bump to a Recreation/Cultural Specialist II, as the County followed the bargained-for procedure and used the final class series list that had been agreed upon with SEIU.

Billings and Brown also assert that the County failed to inform them that they would lose bumping rights if they accepted a promotion to the Recreation Cultural Program Supervisor position. However, we do not see how this invokes a right under the Act. The County did not develop an initial class series list until 2009, after both Billings and Brown had been promoted, and did not have SEIU's official position on the class series list until 1:04 p.m. on June 15, 2010. Billings and Brown also assert that the County did not provide them with adequate notice of the LRC hearing and that the County violated their due process rights by not providing for a fair and neutral hearing. However, Billings and Brown did not establish such facts at the hearing. The evidence at the hearing indicates that the County provided Sharon Kisling, who was Billing's and Brown's union representative, with five days notice of the hearing, and Billings and Brown offered no reason to suppose that this was inadequate. As to due process violations, the Board notes that the source of an individual's due process rights is not the Act, and therefore jurisdiction over due process claims lies outside the authority of this Board.

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Finally, Billings and Brown assert that the County interfered with their rights by refusing to hear grievances over the layoff procedure. However, when the County decided to deny the class-action it did not interfere with any protected rights. The County denied the grievance for several sufficient reasons including that the grievance was filed contrary to SEIU's official position about which class series list to use for the June 2010 layoffs.

Accordingly, the Board finds that Clark County did not violate NRS 288.270(1)(a) in this matter.

Claims Against SEIU

Breach of the Duty of Fair Representation

"The duty of fair representation requires that when the union represents or negotiates on behalf of a union member, it must conduct itself in a manner that is not 'arbitrary, discriminatory, or in bad faith.'" Weiner v. Beatty, 121 Nev. 243, 249, 116 P.3d 829, 832 - 833 (2005).

A union's actions are arbitrary only if the union's conduct can be fairly characterized as so far outside a "wide range of reasonableness that it is wholly 'irrational' or 'arbitrary.'" Marquez v. Screen Actors Guild, Inc., 525 U.S. 33, 45 (1998). In order to prove that a union's actions were discriminatory, a complainant must "adduce substantial evidence of discrimination that is intentional, severe, and unrelated to legitimate union objectives." Amalgamated Ass'n of St., Elec. Ry. and Motor Coach Emp. of America v. Lockridge, 403 U.S. 274, 301 (1971). In order to show "bad faith," a complainant must present "substantial evidence of fraud, deceitful action or dishonest conduct." Id at 299.

This same duty of fair representation defines the contours of a union's duty when the same bargaining agent represents more than one group of employees. A union which represents more than one employee group does not breach the duty of fair representation merely by favoring one group over another, so long as the favoritism is not arbitrary, discriminatory or in bad faith. Humphrey v. Moore, 375 U.S. 335 (1964).

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In this case, a majority of this Board does not see SEIU's actions as rising to the level of a breach of the duty of fair representation.

Regarding the class series list, the mere fact that the uncombined list favored non-supervisors in the Parks and Recreation Department at the expense of the supervisors does not demonstrate a breach of the duty of fair representation. The evidence presented at the hearing indicated that the County compiled a class series list and submitted it to SEIU for consideration. At one point SEIU agreed with the County's proposed class series list which had combined the Recreation/Cultural positions into a single series. However, before the layoffs were commenced SEIU changed its official position to use the class series list which was identical to the initial list which had been in effect prior to the layoffs and which separated the Recreation/Cultural positions into two series. As a result the *status quo* based upon the initial class series list was maintained throughout the June 2010 layoffs. The Board did not see sufficient evidence to show that SEIU's actions in negotiating the class series list and in reaching its final position was so far outside wide range of reasonableness to be irrational. Further, the Board did not see sufficient evidence presented at the hearing that would indicate that SEIU's actions in reaching its official position was discriminatory or that its actions were unrelated to legitimate union objections. Thus, SEIU's actions were not discriminatory.

Further, while SEIU may have had some internal difficulty in arriving at its final and official position to separate the class series list, there was no indication of fraud, dishonesty or deceit behind these actions. Thus, we conclude that SEIU's actions were not in bad faith. SEIU did not breach the duty of fair representation when it insisted upon using a class series list which separated the Recreation/Cultural positions.

Nor do we find a breach of the duty of fair representation arising out of SEIU's post-layoff conduct. Regarding the LRC hearing, the evidence showed that Sharon Kisling notified both Billings and Brown about the hearing, and provided adequate representation to Billings and Brown at the LRC hearing.

Regarding the grievance, a union does not breach the duty of fair representation by refusing to pursue a grievance if it makes a good faith determination that the grievance lacks

merit. Asch v. Clark County School Dist., Item No. 314, EMRB Case No. A1-045541 (1993); Vaca v. Sipes, 386 U.S. 171, 192-193 (1967). In this case, SEIU's decision to withdraw the class-action grievance does not amount to a breach of the duty of fair representation. The grievance was filed contrary to the official position that SEIU President Al Martinez had communicated to Jesse Hoskins, and upon which Hoskins had relied when creating the final class series list. In light of these circumstances, SEIU's determination that the grievance lacked merit did not breach the duty of fair representation.

Accordingly, we find that SEIU did not breach the duty of fair representation owed to Billings and Brown in this matter.

Interference (NRS 288.270(a))

Finally, we do not find that SEIU otherwise interfered with, coerced or restrained Billings and Brown from exercising a protected right under the Act. At all times Billings and Brown were represented by SEIU, and Billings and Brown have not identified any other right under the Act which they claim SEIU had interfered with.

III. Findings of Fact and Conclusions of Law

Having considered the foregoing, the Board makes its Findings of Fact and Conclusions of Law as follows:

FINDINGS OF FACT

1. Prior to the June 2010 layoffs, Complainants Kristie Billings and Molly Brown were employed by Clark County as Recreation Cultural Program Supervisors and were local government employees under NRS 288.050.

2. Kristie Billings and Molly Brown were members of Service Employees International Union, Local 1107 at the time of the June 2010 layoffs.

3. Respondent Clark County is a local government employer under NRS 288.060.

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4. Respondent Service Employees International Union, Local 1107 is an employee organization under NRS 288.040 and is the recognized bargaining agent for both the general unit of Clark County employees as well as the supervisory unit of Clark County employees.

5. Clark County and SEIU are parties to separate collective bargaining agreements that govern the general unit and the supervisory unit, respectively.

6. The collective bargaining agreement allows for employees to exercise bumping rights when the County conducts a reduction in force, provided that employees may only exercise bumping rights within the same classification series.

7. Prior to 2009, there was no master list indicating which positions with the County were in a single classification series.

8. The initial classification series list was developed in 2009 and separated the positions of Recreation/Cultural Specialists I and II and the position of Recreation Cultural Program Supervisor into separate classification series.

9. Both Kristie Billings and Molly Brown had sufficient seniority to be able to retain a position as a Recreation/Cultural Specialist II had they been allowed to exercise bumping rights in the June 2010 layoffs.

10. On May 14, 2010 the County changed the class series list affecting Parks and Recreation by consolidating the positions of Recreation/Cultural Specialists I and II and the position of Recreation Cultural Program Supervisor into a single classification series.

11. Recreation Cultural Program Supervisors within the Parks and Recreation Department are typically promoted from within the Department and follow a natural career path that begins with Recreation/Cultural Specialists I and II followed by a promotion to the position of Recreation Cultural Program Supervisor.

12. On May 21, 2010 the County again separated the classification series list affecting Parks and Recreation by separating the positions of Recreation/Cultural Specialists I and II and the position of Recreation Cultural Program Supervisor into distinct classification series.

13. The May 21, 2010 change to the class series list was prompted by an email from Joseph Campbell, Chief Steward of the general unit, requesting that the series be separated.

14. On June 15, 2010 at 9:15 a.m. the Parks and Recreation class series was again combined based upon an email from Sharon Kisling, Chief Steward of the supervisory unit, to Jesse Hoskins which represented that SEIU President Al Martinez approved combining the class series list.

15. On June 15, 2010 at 1:04 p.m. SEIU President Al Martinez notified Jesse Hoskins that SEIU's official position was now that the Parks and Recreation class series list should be separated.

16. Clark County accepted SEIU's official position and again separated the Parks and Recreation class series list on June 15, 2010 as of 3:27 p.m.

17. On June 18, 2010 Kristie Billings and Molly Brown were notified of that their positions had been eliminated and that they did not have any bumping rights.

18. Billings and Brown appealed their layoffs to the Layoff Review Committee.

19. Sharon Kisling, acting as a steward for SEIU, represented Billings and Brown before the LRC and was notified of the LRC hearings five days prior to the LRC hearings.

20. Billings and Brown layoff became effective July 6, 2010.

21. The SEIU supervisory unit filed a class-action grievance with Clark County on July 23, 2010 asserting that the layoffs in Parks and Recreation which were based upon the separated class series list violated the collective bargaining agreement. Sharon Kisling and Kim Brothers were the stewards who brought the class-action grievance.

22. The County denied the class-action grievance at Step 1.

23. On August 27, 2010 SEIU's Grievance Review Committee withdrew the grievance.

24. If any of the foregoing findings is more appropriately construed a conclusion of law, it may be so construed.

CONCLUSIONS OF LAW

1. The Board is authorized to hear and determine complaints arising under the Local Government Employee-Management Relations Act.

2. The Board has exclusive jurisdiction over the parties and the subject matters of the Complaint on file herein pursuant to the provisions of NRS Chapter 288.

3. It is a prohibited labor practice for a local government employer to interfere, coerce or restrain an employee's exercise of any right arising under the Act.

4. Clark County did not interfere with, coerce or restrain Billing's and Brown's exercise of a protected right by accepting SEIU's official position to separate the Parks and Recreation class series list.

5. Clark County did not interfere with, coerce or restrain Billing's and Brown's exercise of a protected right when it did not allow Billings and Brown to exercise bumping rights.

6. Clark County did not interfere with, coerce or restrain Brown's exercise of a protected right by offering and accepting her voluntary demotion rather than allowing her to exercise bumping rights.

7. Clark County did not interfere with, coerce or restrain Billing's and Brown's exercise of a protected right by failing to inform Billings and Brown the consequences of accepting a promotion from Recreation/Cultural Specialists II to Recreation Cultural Program Supervisor.

8. Clark County did not interfere with, coerce or restrain Billing's and Brown's exercise of a protected right by failing to adequately notify Billings and Brown of the LRC hearing.

9. Clark County did not interfere with, coerce or restrain Billing's and Brown's exercise of a protected right by denying the class-action grievance that SEIU had filed on behalf of the laid-off Parks and Recreation supervisors.

10. Claims alleging a failure to afford due process of law are beyond the jurisdiction of the Board.

11. SEIU owed a duty of fair representation to Kristie Billings and to Molly Brown.

12. SEIU did not breach the duty of fair representation by taking the official position that the Parks and Recreation class series should not be combined.

13. SEIU did not breach the duty of fair representation by failing to inform Billings and Brown of the consequences of accepting a promotion from Recreation/Cultural Specialist II to Recreation Cultural Program Supervisor.

14. SEIU did not breach the duty of fair representation when it represented Billings and Brown before the LRC.

15. SEIU did not breach the duty of fair representation when it withdrew the grievance that had been filed on behalf of the Parks and Recreation supervisors who had been laid off.

16. SEIU did not otherwise interfere with, restrain or coerce Billings and Browns' exercise of a protected right under the Act.

17. If any of the foregoing conclusions is more appropriately construed a finding of fact, it may be so construed.

IV. Order

It is hereby ordered the Board finds in favor of Respondent Clark County on all claims asserted against it;

It is further ordered that the Board finds in favor of Respondent Service Employees International Union, Local 1107 on all claims asserted against it;

It is further ordered that each party shall bear its own fees and costs incurred in this matter.

DATED this 2nd day of May, 2012.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
SEATON J. CURRAN, ESQ., Chairman

BY: _____
PHILIP E. LARSON, Vice-Chairman

BY: _____
SANDRA MASTERS, Board Member

STATEMENT OF DISSENT

I dissent from my fellow Board members' determination that SEIU did not breach the duty of fair representation in this case. SEIU's ultimate instruction to the County, which the County simply accepted without question, to separate out the Parks and Rec class series was, in my opinion so far outside of a wide range of reasonableness as to be irrational. Once Joe Campbell broached the issue of combining class series in several other departments to Jesse Hoskins, the County seemed to lose any appetite it may have had for any further negotiations with SEIU and merely allowed SEIU to do whatever they wished to do in this matter.

Initially the Parks and Rec Department Head, Jane Pike made very comprehensive recommendations to HR, which Jesse Hoskins and his staff adopted and which resulted in the class series (Supervisory and Non-Supervisory/General unit employees within Parks and Rec) being combined. The subsequent decision which resulted in leaving the class series for Parks and Rec un-combined while most other departments with a similar career path fell under a combined or consolidated class series makes Parks and Rec Department stand out like a sore thumb. The effect was to single out the Parks and Rec Department as the lone Department whose employees would follow a natural career path but were not given bumping protections commensurate with other County Departments. SEIU's objections that it might look like favoritism if the class series list were to be combined have no basis in the facts presented at the hearing, and the arbitrariness of SEIU's actions is further emphasized by its inability to make up its mind on combining or un-combining the class series list and the institutional schizophrenia that preceded its final instructions to Jesse Hoskins to separate the class series. Further, it is incomprehensible how SEIU would keep the Chief Steward of its supervisory unit out of the loop for so long and would not even send her the email exchanges that were taking place related to the Parks and Rec class series list. The conspicuous absence of Sharon Kisling from SEIU's communications, her testimony of being excluded from having access to SEIU's legal staff while Joe Campbell had complete access to these resources leads me to believe that within SEIU not all Union Stewards were created equally and that SEIU was serving interests other than fairly representing its members. It should also be noted that both Molly Brown and Kristie Billings had been promoted

in the Parks and Rec Department from the C25 (Non-Supervisory) position to the C28 (Supervisory) position, and upon their layoff/s, Molly Brown had more seniority in the C25 position than 11 of the 52 C25's who were retained over her and Kristi Billings had more seniority in the C25 position than 27 of the 52 C25's who were retained over her. So given the above and the fact that SEIU lobbied so hard and fast to get the class series lists in the Parks and Rec Department un-combined, what value if any is the County really placing on seniority and in institutional knowledge as it relates to employees within this department?

It appears to me that the union leadership's primary purpose in separating the class series list in the Parks and Rec Department was to curry favor with the larger General (Non-Supervisory) unit on the eve of a union leadership election. This is entirely unrelated to any of the union's duties under the Act and therefore is arbitrary in my opinion under Chapter 288.

I would find that SEIU significantly breached its duty of fair representation and order it to make Molly Brown and Kristie Billings whole for its disgraceful actions**. I would also note with some irony that Clark County and SEIU ultimately did the right thing in combining the class series lists for the Parks and Rec Department in February 2011; however this act occurred eight months too late for Molly Brown and Kristie Billings.**

BY: _____

PHILIP E. LARSON, Vice-Chairman

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

KRISTIE BILLINGS and MOLLY BROWN, Complainant, vs. CLARK COUNTY and SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 1107, Respondents,	CASE NO. A1-046002 **NOTICE OF ENTRY OF ORDER**

To: Amberlea Davis, Esq.

To: Yolanda Givens, Esq.

To: Michael A. Urban, Esq. and Jonathan Cohen, Esq.

PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on May 2, 2012.

A copy of said order is attached hereto.

DATED this 2nd day of May, 2012.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY _____
JOYCE A. HOLTZ, Executive Assistant

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 2nd day of May, 2012, I served a copy of the foregoing ORDER by mailing a copy thereof, postage prepaid to:

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JOYCE HOLTZ, Executive Assistant