



Local Government Employee- Management Relations Board

Nevada Department of Business and Industry
"Growing business in Nevada"



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June 2018

Members of the Board

Brent C. Eckersley, Esq., Chair
Sandra Masters, Vice-Chair
Philip E. Larson, Board Member
Cam Walker, Board Member
Gary Cottino, Board Member

Staff

Bruce K. Snyder, Commissioner
Marisu Romualdez Abellar,
Board Secretary

Recent Decisions

Please note that summaries of recent decisions are provided for informational purposes only and are not intended to substitute for the opinions of the Board. These summaries should not be cited to or regarded as legal authority. The EMRB will provide copies of the decisions upon request. They also may be found on our website.

Item 830; Case 2017-035; Charles Danser v. City of North Las Vegas and North Las Vegas Police Officers Association. Officer Danser received unequivocal notice of the City's adverse action of terminating his employment on March 9, 2011. The statute of limitations to file a prohibited practices complaint was therefore September 9, 2011. Danser filed his complaint on November 17, 2017. However, the Courts have recognized an exception to the six-month limitation period called equitable tolling, which focuses on "whether there was excusable delay by the plaintiff. If a reasonable plaintiff would not have known of the existence of a possible claim within the limitations period, then equitable tolling will serve to extend the statute of limitations for filing suit until the plaintiff can gather what information he needs."

There are four factors in analyzing whether equitable tolling applies. The first is the claimant's diligence. Here, though advised to obtain private legal counsel Danser failed to do so. Danser also did not do any personal research and only relied on the comments of the union's general counsel. He also did not reach out to legal aid until 2016. The second factor is knowledge of the relevant facts. The Board found that no new factual information pertaining to his claims occurred beyond the six-month limitations period. The third factor is reliance on misleading authoritative agency statements or conduct. The Board did not find credible Danser's testimony that the union's general counsel informed him that his only option was to hire a private attorney. Moreover, even if this was the case, the Board had previously held that a union's failure to advise an employee of the right to file a complaint with the Board is not an affirmative misrepresentation. The fourth factor is prejudice to the Respondents. Here the Board found that the great elapse in time, almost 80 months, showed that the witnesses did not have a sufficient memory of the events that occurred and that Danser even admitted that his memory would have been better had the claim been filed within the six-month limitations period. Therefore the Board held that equitable tolling did not apply and that the complaint was to be dismissed as being untimely filed.

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List of Panels

Panel A Eckersley, Masters, Larson
Panel B Masters, Larson, Walker
Panel C Larson, Walker, Cottino
Panel D Eckersley, Walker, Cottino
Panel E Eckersley, Masters, Cottino

Note: The first person listed is the Presiding Officer of that panel.

Governor Reappoints Phil Larson to Board

On June 13th the Governor reappointed Philip E. Larson to the Board for another four-year term, expiring on June 30, 2022. Congratulations, Phil!

EMRB's 50th Anniversary: Guest Columnist Joyce Holtz

The EMRB officially came into existence on April 28, 1969. In the run-up to our 50th anniversary next April, each of our e-newsletters will have a guest columnist. This month's guest columnist is Joyce Holtz, who retired as the EMRB's Board Secretary in 2013. Each month's guest columnist will have the freedom to write what pleases him or her. We only asked that they not comment on pending cases. The opinions of our guest columnists may not necessarily reflect those of the Board or staff of the EMRB. Here is this month's message from Joyce Holtz:

A big and hardy congratulations to the EMRB on their Golden Anniversary of the establishment of the Agency. Chapter 288 of the NRS was added to the statutes in 1969 through enactment of Senate Bill 87. This collective bargaining law, related to local government employees, is referred to as the "Local Government Employee-Management Relations Act".

I joined the staff of the EMRB in February 2007 as the Executive Assistant to Julie Contreras, who was the current EMRB Commissioner. At that time, we worked with a three-person Board that consisted of John Dicks, Esq., Jim Wilkerson, Sr., and Janet Trost, Esq. The Deputy Attorney General, who represented the EMRB at that time was Diana Hegeduis, Esq. Two or three day Board meetings were held once a month, usually in the Las Vegas office. Those were always busy days for Julie and me, but we enjoyed seeing our Board Members, and of course, the attorneys and people involved in all the cases.

As time went on, Julie left EMRB and Andy (Eldon) Anderson was hired as the EMRB Commissioner. Andy is a retired Las Vegas Metro Police Officer and Past President of the Las Vegas Police Protective Association. He was very familiar with the work of the EMRB and made an excellent choice for the position of EMRB Commissioner. We also had a change in Board Members with Janet, John, and Jim retiring. Joining the EMRB Board at that time were Sandra Masters, Philip Larson, and Seaton Curran, Esq. Diana received a promotion to another State Agency, at which time Scott Davis, Esq. became the EMRB representative from the Attorney General's office. When Andy decided to retire from the EMRB, the Commissioner position was filled by J. Brian Scroggins.

In early 2013, I began to have some health issues and decided to look into retirement. After a couple of meetings with a representative from the Public Employees' Retirement System, I decided it was time to enjoy the fruits of my labor and retire. It was the best decision ever. I retired in July 2013 and I have enjoyed every day since. I love to travel and I have managed to take trips to Panama, Machu Picchu and the country of Peru, Mount Rushmore, a land tour of Monument Valley, Durango and Silverton, Colorado, and several cruises to Caribbean Islands of St. Lucia, Barbados, Antigua, St. Thomas, St. John, St. Maarten, Dominican Republic, Grand Turk and many ports in Mexico. At home, I still have my 2 kitties, Nutmeg and Smokey, and my dog, Pom Pom, to keep me company. Life has been very good for me and I hope that each of you is lucky enough to find the same peace and happiness as you head to your retirement years.

On the Horizon

The next meeting of the Board, which will be held in Las Vegas and video-conferenced to Elko, will be Wednesday, July 11th through Thursday, July 12th. At that time Panel E is scheduled to hear case 2017-026, [City of Elko v. Elko Police Officers Association](#). The City contends that the Sergeants are supervisory employees are thus cannot belong to the existing police bargaining unit but must instead form their own bargaining unit. The union denies that the Sergeants are supervisory employees.

Also on July 12th will be meetings of Panel C and Panel D, who each have one motion to deliberate and decide upon. Finally, the full Board will also be meeting on July 12th to elect a Chair and Vice-Chair for the coming fiscal year, as well as deliberate and decide upon a motion and moreover approve the holding of an election for the part-time employees who work for the Las Vegas-Clark County Library District.

In the Queue...

Once initial pleadings, including prehearing statements, have been filed with the EMRB and after any motions to dismiss or defer have been decided, then a case typically goes into a queue, waiting for the Board to decide whether to grant a hearing in the case or dismiss the complaint. The Board has now scheduled cases through October 2018.

July 10-12, 2018 in Elko (Panel E)

2017-026, City of Elko v. Elko Police Officers Association

July 31-August 2, 2018 in Las Vegas (Panel B)

2017-034, Cook, Burt & Las Vegas Police Protective Association v. Las Vegas Metropolitan Police Department

August 14-16, 2018 in Las Vegas, video-conferenced to Carson City (Panel C)

2017-028, Elizabeth Bantz v. Washoe County School District

2018-003, UMC v. SEIU, Local 1107

August 28-30, 2018 in Las Vegas (Panel A)

2018-005, Police Administrators Association of the CCSD v. Clark County School District

September 18-20, 2018 in Las Vegas (Panel D)

2018-007, Jarod Jackson v. Clark County

October 9-11, 2018 in Las Vegas (Panel E)

2018-001, Ruben Murillo v. Clark County Education Association

October 15-17, 2018 in Las Vegas (Panel B)

2018-006, Charles Ebarb v. Clark County & Clark County Water Reclamation District

Board Certifies Election Held in Pahrump

On June 16th, the EMRB Board certified the election results for an election held May 16th to determine whether 10 blue collar employees who work for the Town of Pahrump wished to be represented by Teamsters Local 14. The results were as follows: Yes 6; No 4. The Board thus certified Teamsters Local 14 as the exclusive bargaining agent for this bargaining unit.

Annual Assessment Invoices to Be Mailed

The EMRB will mail the annual invoices on June 22nd. The invoices will be mailed to the official contact person at each local government. The invoice is payable by July 31st. If a week goes by and you have not yet received the invoice, please call our office immediately. When you receive the invoice, please forward it to the appropriate person or section that approves invoices for payment. If, because of your local government's bill approval and paying process, you need a little extra time to remit the payment, please call our office and we will work with you.

"About the EMRB"

The Employee-Management Relations Board (EMRB), a Division of the Department of Business and Industry, fosters the collective bargaining process between local governments and their employee organizations (i.e., unions), provides support in the process, and resolves disputes between local governments, employee organizations, and individual employees as they arise.