

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS CITY EMPLOYEES BENEFIT
AND PROTECTIVE ASSOCIATION, aka
LAS VEGAS CITY EMPLOYEES
ASSOCIATION, a Nevada Corporation; and
DIANNA REED, as named Plaintiff for NBS
EMPLOYEES,
Employees/Plaintiffs,

ITEM NO. 481F
CASE NO. A1-045688

vs.

REVISED ORDER

CITY OF LAS VEGAS; NEVADA
BUSINESS SERVICE; SOUTHERN
NEVADA WORKFORCE INVESTMENT
BOARD; SOUTHERN NEVADA JOB
TRAINING BOARD; and THE SOUTHERN
CHIEF ELECTED OFFICIAL
CONSORTIUMS,
Respondents.

For Employees/Plaintiffs: Victor M. Perri, Esq.

For Respondents: Morgan Davis, Esq.
Las Vegas City Attorney's Office

Yolanda T. Givens, Esq.
Clark County District Attorney's Office

This matter began on October 30, 2000, when Employees/Plaintiffs LAS VEGAS CITY
EMPLOYEES BENEFIT & PROTECTIVE ASSOCIATION a/k/a LAS VEGAS CITY
EMPLOYEES ASSOCIATION, a Nevada corporation, and DIANNA REED (hereinafter
collectively referred to as the "CEA") filed a Complaint with the LOCAL GOVERNMENT
EMPLOYEE-MANAGEMENT RELATIONS BOARD (hereafter "Board") against the CITY
OF LAS VEGAS (hereafter "City"), NEVADA BUSINESS SERVICE (hereafter "NBS"),
SOUTHERN NEVADA WORKFORCE INVESTMENT BOARD (hereafter "Investment
Board"), SOUTHERN NEVADA JOB TRAINING BOARD (hereafter "Training Board"), and
the SOUTHERN CHIEF ELECTED OFFICIAL CONSORTIUMS (hereafter "Consortiums").
An amended complaint was filed on March 13, 2001, and the Respondents filed their respective

1 responses to the same. The Board heard this matter on three separate days, and a decision was
2 rendered on April 14, 2002.

3 Based upon that decision, the CEA filed separate packages on each proposed plaintiff
4 itemizing the employees' alleged damages. The CEA also filed an application for
5 reimbursement of fees and costs. Respondents filed their respective responses to the damages
6 requests and the request for fees and costs. The Board deliberated on these issues with
7 particularity on October 16, 17, and 21, 2002; such deliberations were noticed in accordance
8 with Nevada's Open Meeting Law; and based upon the deliberations,

9 IT IS HEREBY ORDERED as follows concerning the various plaintiffs seeking alleged
10 damages:

11 Inasmuch as plaintiffs have failed to substantiate to this Board's satisfaction the "cost of
12 living adjustments," such will be disregarded as too speculative as to each and every Plaintiff.

13 As a successor employer, all employees would be entitled to a continuation of vacation
14 time and compensation therefor.

15 a. Ruby Bolden. Ms. Bolden's salary of \$18.52 per hour (all salary references
16 hereinafter are "per hour") shall be the base from which all damages are to be calculated for her.
17 Plaintiff must submit a revised accounting of her damages based upon this salary rate.

18 Furthermore, it appears that Ms. Bolden's years of service for longevity are
19 miscalculated. The correct years should be 22, 23, 23, and 24 rather than 23, 24, 24, 25. This
20 request for longevity damages must be recalculated.

21 The request for overtime appears reasonable; however, it must be adjusted based on Ms.
22 Bolden's salary of \$18.52.

23 b. Joyce Broussard. Ms. Broussard's salary of \$23.63 shall be the base from which all
24 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
25 based upon this salary rate.

26 c. Olga Carbia. Ms. Carbia's salary of \$26.05 shall be the base from which all damages
27 are to be calculated for her. Plaintiff must submit a revised accounting of her damages based
28 upon this salary rate.

1 d. Clentine Coleman. Ms. Coleman admits in her affidavit to being a project manager
2 for NBS. According to the City, a project manager would not be covered by the collective
3 bargaining agreement (hereafter "CBA") at issue in this matter. Her position as project manager
4 would be "at-will" and no evidence was provided at the hearing concerning whether her position
5 should be reclassified to a position that would have been within this bargaining unit. As a result
6 thereof, Ms. Coleman is not entitled to any damages in this litigation.

7 e. Hattie Colley. Ms. Colley appears to be a probationary employee as argued by the
8 Respondents. That issue was not timely grieved and cannot be raised at this time. Since she was
9 terminated on February 24, 2001, any damages would terminate on that date. Since she was with
10 NBS for less than five years, she is not entitled to any sick time buy-out.

11 Ms. Colley's salary of \$18.52 shall be the base from which all damages are to be
12 calculated for her. Plaintiff must submit a revised accounting of her damages based upon this
13 salary rate.

14 f. Brenda Davis. Ms. Davis' salary of \$18.52 shall be the base from which all damages
15 are to be calculated for her. Plaintiff must submit a revised accounting of her damages based
16 upon this salary rate. Since Ms. Davis was laid off by NBS, Inc. on August 10, 2001, wages can
17 only be awarded up to that date. No timely grievance was made on the lay-off issue and such
18 matter cannot be timely raised at this juncture.

19 Furthermore, Ms. Davis failed to provide any substantiation whatsoever concerning
20 overtime. Unless such substantiation is provided, no award for overtime shall be given.
21 Additionally, since Ms. Davis will be recovering certain wages, there will be no funeral pay
22 award, as to do so would appear to be a double award. Longevity appears to be miscalculated
23 and should be 24, 25, 25, and 26 rather than 25, 26, 26, and 27. This should be revised.

24 g. Lenore Felix. It has been alleged that Ms. Felix is a part-time employee. Ms. Felix is
25 to provide this Board with specific reference to the CBA substantiating that part-time employees
26 are entitled to the very same benefits provided to full-time employees prior to this damages claim
27 being considered.

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1 Upon proof of the entitlement to benefits as mentioned immediately above, Ms. Felix's
2 salary of \$23.63 shall be the base from which all damages are to be calculated for her. Plaintiff
3 must submit a revised accounting of her damages based upon this salary rate.

4 Longevity appears to be miscalculated and should be 16, 17, 17, and 18 rather than 17,
5 18, 18, and 19. This should be revised.

6 h. Ethel Fitzgerald. Ms. Fitzgerald's salary of \$23.63 shall be the base from which all
7 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
8 based upon this salary rate.

9 i. Randall Jones. Mr. Jones' salary of \$19.44 shall be the base from which all damages
10 are to be calculated for him. Plaintiff must submit a revised accounting of damages based upon
11 this salary rate. Furthermore, it is noted that Mr. Jones resigned on September 12, 2000. The
12 award for wages would end on that date.

13 Since Mr. Jones was hired in 1998 and resigned on September 12, 2000, he would not be
14 entitled to any sick leave buy-out. If Plaintiff felt he was forced to leave his employment
15 because of anti-union animus in September 2000, a timely grievance should have been lodged,
16 and the matter cannot now be considered. Plaintiff should submit a revised claim of his damages
17 based on this order.

18 j. Arla Dawn Kimoto. Ms. Kimoto's salary of \$23.63 shall be the base from which all
19 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
20 based upon this salary rate.

21 Ms. Kimoto provided a copy of a check showing 13 hours of overtime, yet she claimed a
22 total of 140 hours of overtime. Unless Ms. Kimoto can substantiate a greater number with yea -
23 end documentation, a reasonable expectation of overtime is 13 hours. Unless the additional
24 documentation is provided, a reasonable number of overtime hours appear to be 13 hours per
25 year and Ms. Kimoto shall provide a revised accounting on this issue.

26 k. Pamela Laub. By Ms. Laub's own admission, she never worked for NBS. Thus, she
27 is not entitled to a recovery in this action.

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1 l. Mary Lewis. Ms. Lewis' salary of \$23.63 shall be the base from which all damages
2 are to be calculated for her. Plaintiff must submit a revised accounting of her damages based
3 upon this salary rate.

4 Ms. Lewis' claim for longevity appears to be miscalculated. The years should be 18, 18,
5 19, and 20, rather than 18, 19, 19, and 20; and this claim should be revised and resubmitted.

6 m. Sandra Martinez. Ms. Martinez's salary of \$19.44 shall be the base from which all
7 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
8 based upon this salary rate.

9 n. Eberth Mendez. Mr. Mendez stated in his affidavit that his last salary at NBS was
10 "\$20.19 prior to a demotion." He did not provide information as to what his salary actually was
11 as of June 30, 2000 with the demotion. Exhibit 4 indicated a salary of \$828.39 for 40 hours.
12 That could compute to approximately \$20.71 per hour. Exhibit 2 indicates a salary of \$23.63.
13 The information provided to date is, at the least, conflicting. Until additional substantiation is
14 provided, no award can be made on the mere conflicting statements of Mr. Mendez.

15 Additionally, Mr. Mendez quit as of June 25, 2001. No timely grievance was filed and
16 the issue of anti-union animus cannot be raised at this time. Any recovery for Mr. Mendez will
17 terminate as of June 25, 2001.

18 Mr. Mendez seeks overtime as well. In the absence of any documentation in support of
19 his recovery request, such request is denied. Upon submission of substantiation of overtime, this
20 issue can be revisited.

21 Mr. Mendez also fails to mention all money earned which should be considered in
22 mitigation (e.g., UNLV earnings). All income from June 2000 to June 2002 should be included
23 in the calculations of damages.

24 o. Eileen Mendez. Mrs. Mendez provided no information to substantiate that she was
25 indeed employed with NBS (e.g., no W-2 was attached to the tax return from the City of Las
26 Vegas for the year 2000). Furthermore, the allegation contained in her affidavit is less than
27 credible that she was hired full-time by NBS in May 2000 when NBS was scheduled to cease
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1 operations in June 2000; therefore, unless Mrs. Mendez can provide substantiation of
2 employment with NBS, her claim is denied.

3 p. Debra Moulton. Ms. Moulton's salary of \$20.41 shall be the base from which all
4 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
5 based upon this salary rate.

6 q. Arneller Mullins. Mr. Mullins' salary of \$22.26 shall be the base from which all
7 damages are to be calculated for him. Plaintiff must submit a revised accounting of his damages
8 based upon this salary rate.

9 Mr. Mullins requests overtime of 140 hours. A more reasonable number for overtime
10 appears to be 35 hours per year based upon Exhibit 4. Unless substantial evidence is provided as
11 to the higher number, Mr. Mullins shall resubmit his request based upon 35 hours of overtime
12 per year.

13 r. Sandra Naegle. From the documents provided, it can only be concluded that Ms.
14 Naegle was a full-time employee unless Respondents provide additional documentation
15 evidencing part-time employment.

16 Ms. Naegle's salary of \$16.80 shall be the base from which all damages are to be
17 calculated for her. Plaintiff must submit a revised accounting of her damages based upon th s
18 salary rate.

19 Concerning life insurance, Mr. Perri directs the Board's attention to Exhibit 22. (Wage &
20 Benefit Request for Sandra Naegle, p. 8, l. 5.) There is no Exhibit 22. It is noted that M
21 Naegle died in November 2001; yet neither a death certificate nor a specific date of death was
22 provided. This Board requests that Ms. Naegle supplement her request by providing the
23 information as well as provide information as to whether life insurance was offered or available
24 to Ms. Naegle by her other employers, e.g., CCSN, and why life insurance was not purchased
25 through that employer or employers.

26 s. Marie Nguyen. By Ms. Nguyen's own admission in her affidavit, she was not
27 employed by NBS and, thus, is not entitled to a recovery in this action.

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1 t. Amanda Owens. Ms. Owens was not employed by NBS and, thus, is not entitled to a
2 recovery in this action.

3 u. Marquentta Porter. Ms. Porter's salary of \$22.63 shall be the base from which all
4 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
5 based upon this salary rate.

6 Ms. Porter terminated her employment with NBS, Inc. on December 30, 2001. A timely
7 grievance was apparently not made concerning anti-union animus and, thus, cannot be raised at
8 this time. For calculation of wages and benefits, such would also terminate on December 30,
9 2001.

10 v. Janice Rael. Ms. Rael's salary of \$15.99 shall be the base from which all damages are
11 to be calculated for her. Plaintiff must submit a revised accounting of her damages based upon
12 this salary rate.

13 w. Dianna Reed-Waters. Mrs. Waters' salary of \$23.63 shall be the base from which all
14 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
15 based upon this salary rate.

16 Additionally, Mrs. Waters did not list all sources of earned income for the years 2000-
17 2002. All sources of earned income shall be included in mitigating the request for wage and
18 benefits for consideration; and that should include, but is not limited to, monies earned from
19 Bridge Counseling and as a tax return preparer.

20 Furthermore, based upon Mrs. Waters' employment history and education, it is difficult
21 to understand why Mrs. Waters did not mitigate her damages by attempting to obtain similar,
22 suitable employment. It is requested that Mrs. Waters provide the job-search information
23 provided to the State's Unemployment Department plus all such other documentation in Mrs.
24 Waters' possession concerning her search for similar, suitable employment. The Board requires
25 full and complete photocopies of Mrs. Waters' tax returns for 2000 and 2001, as signed and
26 filed, with all attachments.

27 x. William Reuss. Mr. Reuss terminated his employment with NBS on June 30, 2000.
28 His income tax returns, under penalty of perjury, indicate Mr. Reuss is retired. No evidence was

1 provided to substantiate that Mr. Reuss attempted to mitigate any damages as a result of NBS'
2 closure. Therefore, no award shall be given to Mr. Reuss.

3 y. Ofelia Ricker. Ms. Ricker claims she quit NBS, Inc. on October 6, 2000 due to a
4 hostile work environment. Exhibit 7 is correspondence from Ms. Ricker to NBS, Inc. and the
5 content does not indicate a hostile work environment. More specifically, Ms. Ricker states she is
6 "resigning due to a position [she had] accepted with Cooperative Extension as a Teacher
7 Assistant II. [Ms. Ricker] decided to seek a position that would allow [her] more professional
8 growth within my field of expertise. Although I have enjoyed being a team member of NI
9 Inc. Youth Program, [Ms. Ricker feels] the need to grow professionally" Wage and
10 benefits, therefore, will also terminate as of October 6, 2000.

11 Ms. Ricker's salary of \$20.41 shall be the base from which all damages are to be
12 calculated for her. Plaintiff must submit a revised accounting of her damages based upon this
13 salary rate and the October 6, 2000 deadline.

14 z. Janet Therlot. Ms. Therlot's salary of \$18.52 shall be the base from which all
15 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damages
16 based upon this salary rate.

17 aa. Linda Treadwell. Based upon correspondence from Ms. Treadwell dated June 26,
18 2000 in which she voluntarily resigned, no award shall be given to Ms. Treadwell unless
19 evidence is submitted to substantiate a different conclusion.

20 bb. Hernan Vergara. Mr. Vergara's salary of \$15.99 shall be the base from which all
21 damages are to be calculated for him. Plaintiff must submit a revised accounting of his damages
22 based upon this salary rate.

23 cc. Brenda Whitaker. Ms. Whitaker's salary of \$18.52 shall be the base from which all
24 damages are to be calculated for her. Plaintiff must submit a revised accounting of her damag s
25 based upon this salary rate.

26 dd. Juan Ynigues. It is noted that Mr. Ynigues was "cashed out" when NBS changed to
27 NBS, Inc. He was off July 1, 2000 until September 28, 2000 from his employment with NB
28 Inc., due to an eye surgery. Mr. Ynigues would be entitled to compensation for this time period

1 less any compensation ultimately paid, but is not entitled to a double recovery of sick time and
2 wages for this specific time period.

3 Mr. Ynigues' salary of \$26.05 shall be the base from which all damages are to be
4 calculated for him. Plaintiff must submit a revised accounting of his damages based upon this
5 salary rate. His wages and benefits would terminate on June 6, 2001 when he retired.

6 This Board duly notes the City's objection to all plaintiffs' sick leave and annual leave
7 compensation requests. Inasmuch as the City should have payroll histories concerning sick leave
8 and annual leave taken by each of these plaintiffs, upon submission of evidence of likely usage
9 of such benefits, the Board will reconsider this issue.

10 This Board further notes the Respondents' objections to having to compensate plaintiffs
11 for health benefits (e.g., City's opposition, p. 14, Section F, Health Insurance); however, the
12 Respondents can either compensate the plaintiffs or procure insurance coverage for the eligible
13 plaintiffs mentioned above.

14 Interest on the monies due all eligible plaintiffs shall commence April 14, 2002.

15 The issue of apportionment of damages among named and unnamed Respondents was
16 raised only recently in the Respondents' oppositions to plaintiffs' damages packages. That issue
17 was not raised at the time of the hearing in this matter, nor did the parties brief it. Therefore, this
18 matter is not properly before the Board at this time.

19 IT IS HEREBY ORDERED that the Employees/Plaintiffs have ten (10) days from the
20 date of this order in which to submit the above-requested documentation.

21 IT IS HEREBY ORDERED that the attorneys' fees requested of \$22,262.50 appear
22 reasonable in light of the complexity of this case with numerous plaintiffs and numerous issues,
23 and it is so GRANTED.

24 IT IS HEREBY ORDERED that plaintiffs' request for costs be granted to the following
25 extent:

26 a. The court-reporting fee of \$8,273.75, pursuant to the invoices, shall be divided by one-
27 third and shared by the represented parties' attorneys to assure the payment of that full amount.

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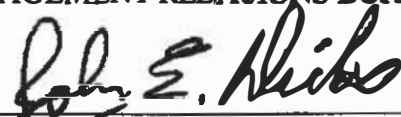
1 b. Without additional documentation, a reasonable fee for Mr. Merservy's services is
2 \$4,800.00, unless further evidence is submitted to substantiate an additional amount.

3 c. Service of process fees shall be reduced to \$297.50 as service of process on plaintiffs
4 were claimed and should not be recovered, i.e., service on Lachelle Fortune, Brenda Davis,
5 Ameller Mullins, Bill Reuss, and Brenda Whitaker.

6 d. The costs of postage, duplication, runner expenses, and facsimile transmission appear
7 reasonable and are hereby GRANTED to the plaintiffs in full.

8 DATED this 22nd day of October, 2002.

9 LOCAL GOVERNMENT EMPLOYEE-
10 MANAGEMENT RELATIONS BOARD

11 BY: 
12 JOHN E. DICKS, ESQ., Chairman

13 BY: 
14 JANET TROST, ESQ., Vice-Chairman
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