

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

5 STEVEN B. KILGORE,

6 Complainant,

7 vs.

8 CITY OF HENDERSON, HENDERSON  
9 POLICE DEPARTMENT, and HENDERSON  
POLICE OFFICER'S ASSOCIATION,

10 Respondents.

ITEM NO. 550D

CASE NO. A1-045763

**ORDER**

11 For Complainant:

Richard I. Dreitzer, Esq.  
Law Offices of Richard I. Dreitzer, Chtd.

12 For Respondent City:

William E. Cooper, Esq.

13 For Respondent Association:

Thomas D. Beatty, Esq.

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16 On October 14, 2003, Henderson Police Officer's Association (hereafter "HPOA") filed a  
17 Motion for Separate Hearing. Petitioner Steven B. Kilgore (hereafter "Kilgore") filed his  
18 opposition on October 24, 2003; and the HPOA replied on November 5, 2003.

19 On September 8, 2003, HPOA filed a Motion to Dismiss or Strike Amended Complaint.  
20 Kilgore opposed the motion belatedly on October 24, 2003, and simultaneously requested leave  
21 to file the late opposition. HPOA filed its "Response" on October 29, 2003, without elaborating  
22 further on its Motion to Dismiss.

23 The Board deliberated on this matter on November 14, 2003, noticed in accordance with  
24 Nevada's Open Meeting Law; and based upon such deliberations,

25 IT IS HEREBY ORDERED that although it is a close question for the Board, the Motion  
26 for Separate Hearing is denied.

27 IT IS FURTHER ORDERED that HPOA's Motion to Dismiss is denied. HPOA cites to  
28 the Nevada Rules of Civil Procedures in his Motion to Dismiss. However, NRCP 15 allows an


1 amendment to a "pleading once as a matter of course at any time before a responsive pleading is  
2 served." The previously filed motions to dismiss and/or strike were not "pleadings" as defined in  
3 NRCF 7. Based upon those rules and NAC 288.235, Kilgore's amended complaint was filed "as  
4 a matter of course" prior a responsive pleading being filed. Furthermore, NAC 288.235 provides  
5 the Board with authority to allow a "pleading" to "be amended or corrected." In the present  
6 matter, Kilgore "amended" his complaint and added HPOA as a party.

7 This matter is currently scheduled for hearing on December 9 & 10, 2003.

8 DATED this 14<sup>th</sup> day of November, 2003.

9 LOCAL GOVERNMENT EMPLOYEE-  
10 MANAGEMENT RELATIONS BOARD

11 BY:   
12 JANET FROST, ESQ., Chairman

13 BY:   
14 JOHN E. DICKS, ESQ., Board Member  
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