

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

5 CHARLES JENKINS, individually; LAS  
6 VEGAS POLICE MANAGERS AND  
7 SUPERVISORS ASSOCIATION,

8 Complainant,

9 vs.

10 LAS VEGAS METROPOLITAN POLICE  
11 DEPARTMENT,

12 Respondents,

CASE NO. A1-046020

ITEM: 775B

**ORDER**

13 For Complainant: John P. Aldrich, Esq., for Charles Jenkins and Las Vegas Police Managers  
14 and Supervisors Association.

15 For Respondent: Nick Crosby, Esq., of Marquis Aurbach, for Las Vegas Metropolitan Police  
16 Department

17 This matter came on before the State of Nevada, Local Government Employee-  
18 Management Relations Board ("Board"), on March 11, 2011 for consideration and decision  
19 pursuant to the provisions of the Local Government Employee-Management Relations Act ("the  
20 Act"); NAC Chapter 288, NRS chapter 233B, and was properly noticed pursuant to Nevada's  
21 open meeting laws.

22 As part of our decision in this case, we directed Complainants Charles Jenkins and Las  
23 Vegas Police Managers and Supervisors Association ("Association"), as prevailing parties, to  
24 submit a memorandum of fees and costs. Complainants filed their memorandum on February 21,  
25 2013. On March 4, 2013 Respondent Las Vegas Metropolitan Police Department filed an  
26 opposition to the memorandum of fees on costs. Complainants submitted a reply on March 11,  
27 2013.

28 The Board is expressly authorized to award a reasonable amount of costs, including  
attorneys' fees, to a prevailing party. NRS 288.110(6). Under NRS 288.110(6), it is proper for  
the Board to enter an award for fees and costs at this stage, even though a petition for judicial

1 review has been filed. Bybee v. White Pine County School Dist., Item No. 724C, EMRB Case  
2 No. A1-045972 (March 21, 2011).

3 The Board has previously determined that an award of costs, including attorney's fees, is  
4 appropriate in this matter. In considering the motion, the opposition and the reply, the Board has  
5 considered the factors stated in Brunzell v. Golden Gate National Bank, 85 Nev. 345, 455 P.2d  
6 31 (1969).

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

#### 15 Qualities of Advocate

16 The Board looks to the affidavit of John Aldrich, Esq., submitted in support of the motion  
17 as substantial evidence to support its findings. The affidavit indicates that Mr. Aldrich is an  
18 experienced attorney, having been licensed to practice law for 13 years, and is AV rated and that  
19 Mr. Aldrich is experienced in representing the Association in the often complex field of labor  
20 law. These facts support an award the award of attorneys' fees in the amount discussed below.

#### 21 Character of Work

22 The Board finds that the character of work supports an award of attorneys' fees in the  
23 amount discussed below. This claim concerned two prominent and sophisticated parties- the Las  
24 Vegas Metropolitan Police Department and the Las Vegas Police Managers and Supervisors  
25 Association and concerned complicated issues involving the Departments shift assignments to its  
26 supervisory employees. These circumstances raised the importance of the issues that were  
27 presented in this case. Complainants presented these complex issues in a clear and concise  
28 manner. The work performed by Complainants' counsel, subject to the deductions stated below,

1 was addressed to the issues raised in the complaint and was reasonably related to the claims and  
2 defenses that were at issue in this case.

3 Work Actually Performed

4 The Board again looks to Mr. Aldrich's affidavit. The affidavit details the tasks that Mr.  
5 Aldrich performed and states the number of hours spent on each task. In reviewing the  
6 declaration the Board finds that the following tasks, to which the Department objected, are not  
7 reasonably related to the claims before the Board: research on a First Amendment issue on  
8 5/19/11 (2.2 hours) and research on 10/16/12 on whether a fraud claim is arbitrable (.8 hours). In  
9 addition, the Board does not find that the claimed \$1,000.00 to prepare the motion for fees and  
10 costs is reasonable. This fee will be deducted.

11 The remaining entries on the affidavit and exhibits submitted by Complainants reflect  
12 work actually performed on this case and include a corresponding entry of time that appears to  
13 be reasonable. As noted above, the pleadings and work performed are directly related to the  
14 claims raised by the Association.

15 The Board finds that the claimed rate of \$190.00 per hour for Mr. Aldrich is a reasonable  
16 amount for an attorney such as Mr. Aldrich who has 13 years of experience, is AV rated and is  
17 experienced in representing the Association. The Board also finds that the claimed rate of  
18 \$175.00 per hour for work by associate attorneys is reasonable. The Board also relies upon its  
19 experience, technical competence and specialized knowledge of labor law to conclude these rates  
20 are reasonable. See NRS 233B.123(5). The Board has previously recognized higher hourly rates  
21 as reasonable. e.g. Spannbauer v. City of North Las Vegas, Item No. 636E, EMRB Case No. A1-  
22 045885 (2008) (recognizing rate of \$250.00 per hour as a reasonable rate for counsel in Board  
23 proceedings); Boykin v. City of North Las Vegas, Item No. 674H, EMRB Case No. A1-045921  
24 (2011) (recognizing rate of \$325.00 per hour as reasonable).

25 The work performed also reflected favorably on the skill, time and attention devoted to  
26 this matter. Notably, the briefs submitted were organized and presented the complex issues in  
27 this case in a straightforward manner.

28 ///

1 Result

2 As a result of counsel's work, the Association was successful on each of prohibited labor  
3 practice claims that were raised, and was the prevailing party under NRS 288.110(6). The  
4 benefits to the Association were a cease and desist order to the Department and the restoration to  
5 Sgt. Jenkins of the benefits of which he had been deprived by the Department's prohibited labor  
6 practices. The Board agreed with the arguments on the merits that were presented by the  
7 Association. Therefore the result obtained weighs in favor of the award of attorneys' fees.

8 After analyzing the Brunzell factors as we have done, we determine a reasonable award  
9 of fees by multiplying the number of hours reasonably spent on a case by the reasonable rate.  
10 Shuette v. Beazer Homes Holdings Corp. 121 Nev. 837, 865, 124 P.3d 530, 549, n. 98 (2005)  
11 (citing Herbst v. Humana Health Ins. of Nevada, 105 Nev. 586, 590, 781 P.2d 762, 764 (1989)).  
12 This is reflected in the billing statements submitted by Complainants.

13 In this case, the number of hours reasonably spent on the case, after our review of the  
14 declaration and the elimination and reduction of the specific time entries as discussed above  
15 yields an award of attorneys' fees in the amount of \$26,034.50.

16 Having reviewed the claimed hard costs submitted by Complainants, the Board finds that  
17 \$1,000.00 as an award for hard costs is reasonable. This will be added to the \$26,034.50 for  
18 attorneys' fees as stated above.  
19 Therefore the Board concludes that Complainants should be awarded a total of \$27,034.50 for  
20 costs, including attorneys' fees, incurred in this case.

21 ///  
22 ///  
23 ///  
24 ///  
25 ///  
26 ///  
27 ///  
28 ///

1 Based upon the foregoing, it is hereby ordered that Complainants Charles Jenkins and  
2 Las Vegas Police Managers and Supervisors Association are awarded a total of \$27,034.50 for  
3 costs to be paid by Respondent Las Vegas Metropolitan Police Department. This award is made  
4 pursuant to NRS 288.110(6).

5 DATED this 26th day of March, 2013.

6 LOCAL GOVERNMENT EMPLOYEE-  
7 MANAGEMENT RELATIONS BOARD

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

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

12  
13 BY:   
14 SANDRA MASTERS, Board Member  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

5 CHARLES JENKINS, individually; LAS  
6 VEGAS POLICE MANAGERS AND  
SUPERVISORS ASSOCIATION,

7 Complainant,

8 vs.

9 LAS VEGAS METROPOLITAN POLICE  
10 DEPARTMENT,

11 Respondents,

CASE NO. A1-046020

**NOTICE OF ENTRY OF ORDER**

12 To: John P. Aldrich, Esq., for Charles Jenkins and Las Vegas Police Managers  
and Supervisors Association.

13 To: Nick Crosby, Esq., of Marquis Aurbach, for Las Vegas Metropolitan Police Department

14 PLEASE TAKE NOTICE that an ORDER was entered in the above-entitled matter on  
15 March 26, 2013.

16 A copy of said order is attached hereto.

17 DATED this 26<sup>th</sup> day of March, 2013.

18 LOCAL GOVERNMENT EMPLOYEE-  
19 MANAGEMENT RELATIONS BOARD

20 BY   
21 JOYCE A. HOLTZ, Executive Assistant  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF MAILING**

I hereby certify that I am an employee of the Local Government Employee-Management Relations Board, and that on the 26th day of March, 2013, I served a copy of the foregoing ORDER by mailing a copy thereof, postage prepaid to:

John P. Aldrich, Esq.  
1601 S. Rainbow Blvd. #160  
Las Vegas, NV 89146

Nick Crosby, Esq.  
Marquis Aurbach  
10001 Park Run Dr.  
Las Vegas, NV 89145

  
JOYCE HOLTZ, Executive Assistant

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28