

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

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

Complainant,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondents,

CASE NO. A1-046020

ITEM: 775B

ORDER

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

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

This matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), on March 11, 2011 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.

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

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.

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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.

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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

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13 BY: 
14 SANDRA MASTERS, Board Member
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CASE NO. A1-046020

NOTICE OF ENTRY OF ORDER

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

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

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

A copy of said order is attached hereto.

DATED this 26th day of March, 2013.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY 
JOYCE A. HOLTZ, Executive Assistant

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Nick Crosby, Esq.
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Las Vegas, NV 89145

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