

FILED

JUN 10 2019

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA
LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

LAS VEGAS METRO POLICE MANAGERS
AND SUPERVISORS ASSOCIATION,

Complainant,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondent.

Case No. 2019-001

PANEL C

NOTICE OF ENTRY OF ORDER

TO: Complainants and their attorneys of record Adam Levine, Esq. and the Law Office of Daniel Marks, and Daniel C. Coe, Esq.;

TO: Respondent and their attorneys of record Nick Crosby, Esq. and Marquis Aurbach Coffing.

PLEASE TAKE NOTICE that the **ORDER ON RESPONDENT'S MOTION TO DISMISS** was entered on the 10th day of June 2019, a copy of which is attached hereto.

DATED this 10 June 2019.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY:


MARISU ROMUALDEZ ABELLAR
Executive Assistant

1 **CERTIFICATE OF MAILING**

2 I hereby certify that I am an employee of the Local Government Employee-Management
3 Relations Board, and that on the 10th day of June 2019, I served a copy of the foregoing NOTICE OF
4 ENTRY OF ORDER by mailing a copy thereof, postage prepaid to:

5 Law Office of Daniel Marks
6 Daniel Marks, Esq.
7 Adam Levine, Esq.
8 610 South Ninth Street
9 Las Vegas, NV 89101

10 Daniel C. Coe, Esq.
11 801 S. Rancho Drive, Suite A-1
12 Las Vegas, NV 89106

13 Nick D. Crosby, Esq.
14 MARQUIS AURBACH COFFING
15 10001 Park Run Drive
16 Las Vegas, NV 89145

17
18
19
20
21
22
23
24
25
26
27
28


MARISU ROMUALDEZ ABELLAR
Executive Assistant

FILED

JUN 10 2019

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

LAS VEGAS METRO POLICE MANAGERS
AND SUPERVISORS ASSOCIATION,

Complainant,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT,

Respondent.

Case No. 2019-001

PANEL C

**ORDER ON RESPONDENT'S MOTION
TO DISMISS**

ITEM NO. 840

On May 29, 2019, this matter came before the State of Nevada, Local Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the Local Government-Management Relations Act (the "Act"); NAC Chapter 288 and NRS Chapter 233B.

At issue was Respondent's Motion to Dismiss. Respondent argues Complainant failed to timely file its Complaint, and Complainant waived a statutory right as Respondent has converted commissioned positions to appointed positions for years,

Complainant contends that Respondent does not dispute that the Complaint was filed within six months of the work actually being transferred, and the statute of limitations does not begin to run until a party has "clear and unequivocal" notice. Complainant details factual disputes that necessitate a hearing. Complainant further argues that whether a party is on clear and unequivocal notices requires a factual determination not suited to be determined on a motion to dismiss.

NRS 288.110(4) provides: "The Board may not consider any complaint or appeal filed more than 6 months after the occurrence which is the subject of the complaint or appeal." Further, time limitations are not triggered until the victim receives unequivocal notice of a final decision. *City of N. Las Vegas v. EMRB*, 127 Nev. 631, 639, 261 P.3d 1071, 1076-77 (2011). "[E]quitable tolling 'focuses on 'whether there was excusable delay by the plaintiff: If a reasonable plaintiff would not have known

1 of the existence of a possible claim within the limitations period, then equitable tolling will serve to
2 extend the statute of limitations for filing suit until the plaintiff can gather what information he needs.”
3 *Id.* at 640.

4 Based on the pleadings, an evidentiary hearing is required in order to determine the issues
5 presented including the proper submission and presentation of evidence as well as credibility
6 determinations in accordance with NRS and NAC 288.


7 **ORDER**

8 IT IS, THEREFORE, ORDERED that the Motion to Dismiss the Complaint is DENIED.

9 IT IS FURTHER ORDERED that the parties are required to submit pre-hearing statements
10 within 20 days of this date of this Order.

11 Dated this 10th day of June, 2019.

12 LOCAL GOVERNMENT EMPLOYEE-
13 MANAGEMENT RELATIONS BOARD

14 
15 BY: _____
16 Phillip E. Larson, Presiding Officer
17
18
19
20
21
22
23
24
25
26
27
28