

FILED

AUG 19 2019

STATE OF NEVADA
E.M.R.B.

STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

INTERNATIONAL ASSOCIATION OF FIRE
FIGHTERS, LOCAL 5046,

Petitioner,

v.

ELKO COUNTY FIRE PROTECTION
DISTRICT,

Respondent.

Case No. 2019-011

NOTICE OF ENTRY OF ORDER

PANEL C

ITEM NO. 847

TO: Complainant and their attorneys, Thomas Donaldson, Esq. and Dyer Lawrence, LLP;

TO: Respondent and their attorneys, S. Jordan Walsh, Esq. and Holland & Hart LLP.

PLEASE TAKE NOTICE that an **ORDER ON RESPONDENT'S MOTION TO DISMISS COMPLAINT** was entered in the above-entitled matter on August 19, 2019.

A copy of said order is attached hereto.

DATED this 19th day of August 2019.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY

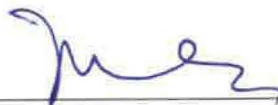

MARISU ROMUALDEZ ABELLAR
Executive Assistant

CERTIFICATE OF MAILING

1 I hereby certify that I am an employee of the Local Government Employee-Management
2 Relations Board, and that on the 19th day of August 2019, I served a copy of the foregoing **NOTICE**
3 **OF ENTRY OF ORDER** by mailing a copy thereof, postage prepaid to:

4 Thomas Donaldson, Esq.
5 Dyer Lawrence, LLP
6 2805 Mountain Street
7 Carson City, NV 89073

8 S. Jordan Walsh, Esq.
9 Holland & Hart LLP
10 5441 Kietzke Lane, Suite 200
11 Reno, NV 89511-2094



MARISU ROMUALDEZ ABELLAR
Executive Assistant

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FIGHTERS, LOCAL 5046,

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ELKO COUNTY FIRE PROTECTION
DISTRICT,

Respondent.

Case No. 2019-011

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

PANEL C

ITEM NO. 847

On August 13, 2019, this matter came before the State of Nevada, Government Employee-Management Relations Board ("Board") for consideration and decision pursuant to the provisions of the Employee-Management Relations Act, NAC Chapter 288, and NRS Chapter 233B. At issue was Respondent, ELKO COUNTY FIRE PROTECTION DISTRICT's ("District") Motion to Dismiss the Complaint.

The District argues that Complainant's allegations in this case are false and "[b]ased on the facts" of this case, the Board should dismiss the Complaint in accordance with NRS 288.375. In Opposition, Complainant points to the numerous factual disputes in this case. Local 5046 further requests this Board to issue sanctions against the District as it alleges that the instant motion was filed for the improper purpose of harassing Petitioner and needlessly increasing the cost of the instant proceeding.

As this Board has repeatedly held, cases involving factual disputes, and credibility determinations, require a hearing and cannot be disposed of by a motion to dismiss. NAC 288.375 provides that the Board **may** dismiss a matter if the Board determines that no probable cause exists for the complaint. An evidentiary hearing is required in order to determine the issues presented including the proper submission and presentation of evidence as well as credibility determinations in accordance

1 with NRS and NAC 288. Furthermore, the Board's ability to award sanctions is discretionary and it
2 would not be proper for an imposition of such in this case. Based on the facts in this case and the issues
3 presented, the Board declines to award fees and costs in this matter at this stage.

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

5 IT IS FURTHER ORDERED that pre-hearing statements not already filed shall be due within 20
6 days of the date of this Order.

7 Dated this 19th day of August 2019.

8 GOVERNMENT EMPLOYEE-
9 MANAGEMENT RELATIONS BOARD

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11 BY: _____
12 BRENT C. ECKERSLEY, Chair

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