

FILED

JUN 02 2020

STATE OF NEVADA  
E.M.R.B.

STATE OF NEVADA  
GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

LUQUISHA MCCRAY,

Complainant,

v.

CLARK COUNTY,

Respondent.

Case No. 2019-012

**NOTICE OF ENTRY OF ORDER**

**PANEL D**

**ITEM NO. 850-A**

TO: Complainant Luquisha McCray and her attorneys, Adam Levine, Esq. and the Law Office of Daniel Marks;

TO: Respondent Clark County and its attorneys, Scott Davis, Deputy District Attorney and the Clark County District Attorney's Office.

PLEASE TAKE NOTICE that the **ORDER ON RESPONDENT'S MOTION TO DISMISS THIRD AMENDED COMPLAINT** was entered in the above-entitled matter on June 2, 2020.

A copy of said order is attached hereto.

DATED this 2nd day of June 2020.

GOVERNMENT EMPLOYEE-  
MANAGEMENT RELATIONS BOARD

BY

  
MARISU ROMUALDEZ ABELLAR  
Executive Assistant

1  
2 **CERTIFICATE OF MAILING**

3 I hereby certify that I am an employee of the Government Employee-Management Relations  
4 Board, and that on the 2nd day of June 2020, I served a copy of the foregoing **NOTICE OF ENTRY**  
5 **OF ORDER** by mailing a copy thereof, postage prepaid to:

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

9 Scott Davis  
10 Deputy District Attorney  
Civil Division  
11 500 South Grand Central Parkway  
Las Vegas, NV 89155  
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MARISU ROMUALDEZ ABELLAR  
Executive Assistant  
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GOVERNMENT EMPLOYEE-MANAGEMENT  
RELATIONS BOARD

LUQUISHA MCCRAY,

Complainant,

v.

CLARK COUNTY,

Respondent.

Case No. 2019-013

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

**PANEL D**

**ITEM 850-A**

On May 27, 2020, 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's Motion to Dismiss the Third Amended Complaint.

Respondent, in part, argues that Complainant failed to exhaust her contractual remedies because she has not brought a motion to compel arbitration and as such the Board should dismiss pursuant to NAC 288.375(2). In Opposition, Complainant cites to the Board's decision in *Yu v. Las Vegas Metropolitan Police Dep't*, Case No. 2017-025, Item No. 829 (2018), in which the Board indicated that the employer could violate the EMRA when it refuses to process a grievance under the negotiated process. Complainant states that Respondent refused to accept her grievance for processing at the Step 2 level prior to arbitration.

The Board has repeatedly emphasized that the preferred method for resolving disputes is through the bargained-for processes, and the Board applies NAC 288.375 liberally to effectuate that purpose. *See also* NAC 288.040; *see also, e.g., Ed. Support Employees Ass'n v. Clark Cty. School Dist.*, Case No. A1-045509, Item No. 288 (1992); *Int'l Union of Operating Engineers, Stationary Local 39 v. City of Reno*, Case No. A1-045567, Item No. 395 (1996); *Nevada Serv. Employees Union v. Clark*

1 *Cty.*, Case No. A1-045759, Item No. 540 (2003); *Carpenter vs. Vassiliadis*, Case No. A1-045773, Item  
2 No. 562E (2005); *Las Vegas Police Protective Ass'n Metro, Inc. v. Las Vegas Metropolitan Police*  
3 *Dep't*, Case No. A1-045783, Item No. 578 (2004); *Saavedra v. City of Las Vegas*, Case No. A1-  
4 045911, Item No. 664 (2007); *Int'l Ass'n of Firefighters, Local 731 v. City of Reno*, Case No. A1-  
5 045918, Item No. 670 (2008); *Boykin v. City of North Las Vegas*, Case No. A1-045921, Item No. 674B  
6 (2008); *Las Vegas City Employees' Ass'n v. City of Las Vegas*, Case No. A1-045940, Item No. 691  
7 (2008); *Wilson v. North Las Vegas Police Dep't*, Case No. A1-045925, Item No. 677D (2009);  
8 *Rosenberg v. The City of North Las Vegas*, Case No. A1-045951 (2009); *Storey County Firefighters*  
9 *Ass'n, IAAF Local 4226 v. Storey County*, Case No. A1-045979 (2010); *Jessie Gray Jr. v. Clark County*  
10 *School Dist.*, Case No. A1-046015, Item No. 758 (2011); *Las Vegas Metropolitan Police Dep't v. Las*  
11 *Vegas Police Protective Ass'n, Inc.*, Case No. 2018-017 (2018); *Operating Engineers Local Union No.*  
12 *3 v. Incline Village Gen'l Improvement Dist.*, Case No. 2020-012 (2020).

13       Moreover, the Board generally may defer to arbitration proceedings and, in such cases, it is the  
14 practice of the Board to stay matters pending during the arbitration process. *City of Reno v. Reno*  
15 *Police Protective Ass'n*, 118 Nev. 889, 895, 59 P.3d 1212, 1217 (2002); *Clark County Education Ass'n*  
16 *v. Clark County Sch. Dist.*, EMRB Case No. A1-046025, Item No. 764 (2011); *Rosenberg v. The City of*  
17 *N. Las Vegas*, EMRB Case No. A1-045951, Item No. 707 (2009); *Thomas v. City of N. Las Vegas*,  
18 EMRB Case No. A1-045618, Item No. 407 (1997), *City of Las Vegas v. LVPOA*, Case No. 2017-012  
19 (2017); *Las Vegas Metropolitan Police Dep't v. Las Vegas Police Protective Ass'n*, Case No. 2018-017  
20 (2018).

21       Respondent argues that regardless of whether Complainant is covered by the agreement, she has  
22 the ability to file a motion to compel arbitration with the Courts. Complainant has not done so and did  
23 not contest her ability to do so. The Board notes that the matter of *Yu* proceeded to a full hearing, and  
24 the respondent in that case did not seek to have the complainant file a motion to compel. Thus, the  
25 Board stays this matter pending exhaustion of contractual remedies consistent with the above.

26       As such, the Board does not address Respondent's remaining contentions. However, the Board  
27 does not preclude Respondent from bringing a motion to dismiss once the stay is lifted.

28       ///

1 IT IS, THEREFORE, ORDERED that the Motion to Dismiss the Third Amended Complaint is  
2 GRANTED in part.

3 IT IS FURTHER ORDERED that the matter be STAYED pending exhaustion of contractual  
4 remedies consistent with the above.

5 IT IS FURTHER ORDERED that the parties shall file a joint status report approximately every  
6 90 days on a schedule to be determined by the Commissioner.

7 Dated this 2nd day of June 2020.

8 GOVERNMENT EMPLOYEE-  
9 MANAGEMENT RELATIONS BOARD

10 BY: 

11 BRENT ECKERSLEY, Presiding Officer  
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