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ATTORNEYS FOR TRUCKEE MEADOWS
8 FIRE PROTECTION DISTRICT

FILED
June 25, 2024
State of Nevada
E.M.R.B.
3:34 p.m.

9
10 **BEFORE THE EMPLOYEE MANAGEMENT RELATIONS BOARD**

11 **STATE OF NEVADA**

12 ***

13 TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT,
14 Complainant,

Case No. **2024-023**

15 v.

16 TRUCKEE MEADOWS FIREFIGHTERS
ASSOCIATION IAFF LOCAL 2487

18 Respondent.
19 _____/

20 **COMPLAINT**

21 COMES NOW, Complainant, Truckee Meadows Fire Protection District, by and
22 through its undersigned counsel of record, and hereby files this Complaint against Respondent
23 Truckee Meadows Firefighters Association, I.A.F.F. Local 2487, Non-Supervisory Unit for
24 practices prohibited NRS 288.270(2)(d). Accordingly, Complainant hereby complains and
25 alleges as follows:

26 //

1 **I. THE PARTIES**

2 1. Truckee Meadows Fire Protection District (TMFPD), is a local government
3 employer as defined in NRS 288.060 and is comprised of local fire departments charged with
4 providing fire protection and emergency medical services in the unincorporated areas of
5 Washoe County.

6 2. Truckee Meadows Firefighters Association I.A.F.F. Local 2487 (Local 2487) is
7 an employee organization as defined in NRS 288.040, and maintains offices in the City of Reno,
8 with its mailing address of 18124 Wedge Pkwy, STE. 143, Reno, NV 89511.

9 **II. LEGAL AUTHORITY AND JURISDICTION**

10 3. NRS 288.270(2)(d) states, “[i]t is a prohibited practice for a local government
11 employee or for an employee organization or its designated agent willfully to [...] [f]ail to
12 provide the information required by NRS 288.180.”

13 4. NRS 288.180(2) states, “[...] the employee organization or the local government
14 employer may request reasonable information concerning any subject matter included in the
15 scope of mandatory bargaining which it deems necessary for and relevant to the negotiations.
16 The information requested must be furnished without unnecessary delay. The information must
17 be accurate, and must be presented in a form responsive to the request and in the format in
18 which the records containing it are ordinarily kept.”

19 5. This Board has jurisdiction over this matter as the Complainant’s allegations
20 arise under Nevada Revised Statute Chapter 288 – Relations between Government and Public
21 Employees.

22 **III. FACTUAL ALLEGATIONS**

23 6. TMFPD and Local 2487 entered into a Negotiated Agreement (the “CBA” or
24 “Contract”) in 2012.

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1 7. Since the establishment of the CBA, the parties have regularly met to renegotiate
2 the terms of the CBA.

3 8. TMFPD and Local 2487 were involved in negotiations to update the CBA with
4 Local 2487. Ground rules for the negotiation sessions were signed on February 9, 2024.

5 9. Formal negotiations related to the CBA began on March 18, 2024.

6 10. Patricia Hurley (Hurley) appeared on behalf of TMFPD as its Chief Negotiator.

7 11. Jim Clouser (Clouser) appeared on behalf of Local 2487 as its Chief Negotiator.

8 12. On February 9, 2024, the parties signed the ground rules in anticipation of the
9 upcoming contract negotiations for the collective bargaining agreement (CBA). At this session,
10 the parties began preliminary discussions on their respective goals for bargaining and which
11 articles of the CBA were likely to be addressed.

12 **FAILURE TO PROVIDE REQUESTED INFORMATION**

13 13. The parties engaged in negotiation sessions on March 18, 2024, April 11, 2024,
14 and April 25, 2024.

15 14. At the March 18, 2024, negotiation session, TMFPD presented financial
16 information to Local 2487's negotiation team based on their request for information. TMFPD's
17 Fiscal Officer, Cindy Vance (Vance), handed out financial projections for various negotiable
18 items including funding sources and vacation and sick leave payouts. Vance provided updates
19 on changes in re-imbursement amounts that fund particular positions. Finally, Chief Charles
20 Moore (Chief Moore) also provided input on the C-Tax projections so that Local 2487 was
21 informed of TMFPD financial posture.

22 April 30, 2024 - Negotiation Session

23 15. During the April 30, 2024, negotiation session's discussion on cost-of-living
24 adjustments and salaries, Deputy Chief Chris Ketring (Ketring) asked if Local 2487 had
25 completed a financial analysis or study.

26 //

1 16. Clouser, on behalf of Local 2487, replied that they had the accounting firm
2 complete a study, indicating they were in possession of that financial study.

3 17. Clouser conveyed that Local 2487 did not intend to “break the bank,” with their
4 proposals. Thereby, indicating that Local 2487 had reviewed their financial study and had used
5 it in preparation for its financial proposals.

6 18. Ketring clearly explained the rationale for his inquiry into Local 2487’s financial
7 analysis. Ketring conveyed there was a disparity between the parties’ proposed acceptable
8 compensation packages. Ketring requested Local 2487 to provide a copy or present their third-
9 party financial study. Ketring further explained that TMFPD would like to review and compare
10 Local 2487’s third-party financial study to TMFPD’s financial study.

11 19. This request was reasonable and relevant under NRS 288.180(2) because the
12 TMFPD was attempting to understand Local 2487’s position on its financial proposals including
13 salaries, sick leave, vacation leave, holidays, paid leaves of absence and insurance benefits and
14 which are mandatory subjects of collective bargaining under NRS 288.150.

15 20. Later in the April 30, 2024, negotiation session, Ketring reiterated his request to
16 look at Local 2487’s financial analysis.

17 21. Clouser stated that they [Local 2487] are trying to “bust out” an excel
18 spreadsheet and provide TMFPD its version of a financial report. This statement indicated that
19 that Local 2487 was not currently in possession of a third-party financial study or they were
20 summarizing their accounting firm’s analysis. Presumably Local 2487 was working on turning
21 over an Excel spreadsheet of financial information that was being completed by Local 2487.

22 22. Again, Ketring requested the financial analysis completed by Local 2487's third-
23 party accountant. Additionally, Ketring even offered TMFPD’s Fiscal Officer to meet with
24 Local 2487’s financial analyst to help identify and understand the obvious discrepancies.

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1 23. Clouser wanted to clarify that TMFPD did not want to stop or delay the
2 negotiation process that day until the analysis was presented. Both parties agreed they wanted
3 to continue with the negotiation session.

4 May 1, 2024 – Follow up written request for information.

5 24. Ketring emailed a Request for Information (RFI) letter to Clouser, again asking
6 for the third-party financial report for the purpose of determining the fiscal impact of
7 implementing Local 2487's financial proposals.

8 25. The letter clearly and unambiguously stated:

9 The Truckee Meadows Fire Protection District makes this request for information
10 pursuant to NRS 288.180(2), which provides that the local government employer may
11 request reasonable information concerning any subject matter included in the scope of
12 mandatory bargaining which it deems necessary for and relevant to the negotiations. The
13 information requested must be furnished without unnecessary delay. The information
14 must be accurate, presented in a form responsive to the request, and in the format in
15 which the records containing it are ordinarily kept.

16 26. Specifically, Ketring asked for the following from Local 2487:

17 The third-party fiscal analysis of the District completed by L-2487. In conjunction, both
18 parties agreed that a meeting would be scheduled with the negotiating parties and the
19 agency that completed the study to allow for questions and answers regarding District
20 financials and the analysis. *The intent of our request is to have L2487 send the fiscal
21 analysis prior to the meeting.* (emphasis added).

22 27. Ketring specifically indicated that it wanted the third-party financial analysis
23 prior to the meeting so that meaningful negotiations could occur.

24 May 2, 2024, Negotiation Session

25 28. Chief Moore again requested the financial study from Local 2487. Chief Moore
26 reiterated that TMFPD needed to understand where Local 2487 was coming from financially.

 29. Clouser replied that their financial analyst needed to contact TMFPD's Fiscal
Officer to clarify a few items and that he would send it after that. However, based on
information and belief, Clouser did not contact TMFPD's Fiscal Officer for clarification on the
financials.

//

1 May 15, 2024 - Negotiation Session

2 30. Local 2487 declared impasse at the negotiation table over a non-mandatory
3 subject of bargaining on May 15, 2024. At this point, Local 2487 never provided the requested
4 information.

5 May 17, 2024 – Ketrings Email to Local 2487

6 31. Ketrings inquired about the financial analysis that had been requested at the
7 negotiation session on April 30, 2024.

8 May 21, 2024 – Local 2487 correspondence.

9 32. At 12:41 pm, Ketrings received the official letter from Clouser on behalf of Local
10 2487 officially declaring impasse.

11 33. After receiving the formal declaration of impasse, Ketrings received the requested
12 financial analysis from Clouser at 12:49 pm on May 21, 2024. The financial analysis was dated
13 February 6, 2024.

14 34. Based on this information and belief, Local 2487 was in possession of the
15 information at the time of the initial request and should have presented it in a form responsive to
16 the request and in the format in which the records containing it are ordinarily kept.

17 35. Local 2487's February 6, 2024, financial analysis was completed by Local
18 2487's third party financial analyst and was the report that had been requested by TMFPD.

19 36. Local 2487 also never provided the above referenced excel spreadsheet that it
20 indicated they were preparing to comply with TMFPD RFI.

21 37. Based on information and belief, Local 2487 was in possession of the February
22 6, 2024, financial analysis at the time of the initial request from TMFPD on April 30, 2024,
23 despite Clouser's contradictory statements on the matter.

24 38. Local 2487's financial analyst never contacted TMFPD's Fiscal Officer for
25 clarification on some data.

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1 39. Based on information and belief, Local 2487 unnecessarily withheld and delayed
2 turning over the relevant requested information in its possession at the time of the request until
3 after Local 2487 declared impasse.

4 40. Local 2487's failure to disclose relevant information until after Local 2487
5 declared impasses is a violation of NRS 288.180 (2) and constituting a prohibited practice
6 under NRS 288.270 (2)(d).

7 **IV. CAUSES OF ACTION**

8 Failure to Produce Documents Following a Proper Request for Information

9 41. Local 2487 failed to provide documents necessary and related to mandatory
10 subjects of bargaining in violation of NRS 288.150(2) and NRS 288.270(2)(d). Local 2487
11 possessed a third-party financial analysis significantly related to the mandatory subjects of
12 bargaining. TMFPD consistently and repeatedly requested this financial analysis from Local
13 2487 both verbally and in writing. The parties' financial analyses are significantly related to the
14 mandatory subjects of bargaining, including but not limited to: salaries, sick leave, vacation
15 leave, holidays, paid leaves of absence and insurance benefits. Local 2487 caused unnecessary
16 delay when it improperly withheld their previously completed financial analysis dated February
17 6, 2024, until after it formally declared impasse on May 21, 2024. Local 2487 did not provide
18 any explanation for its unnecessary delay. Local 2487 never provided any other information
19 they indicated they were compiling in response to TMFPD's request for financial information.
20 This is a violation of their duty to provide reasonable and relevant information without
21 unnecessary delay under NRS 288.150 (2) and constitutes a prohibited practice under NRS
22 288.270 (2)(d).

23 **V. PRAYER FOR RELIEF**

24 WHEREFORE, Complainant respectfully asks this Board:

25 1. For an order finding that Local 2487 committed prohibited practices under Chapter
26 288 of the Nevada Revised Statutes;

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- 2. For an order finding that Local 2487 failed to bargain with TMFPD in good faith;
- 3. For an order compelling Local 2487 to bargain in good faith with TMFPD;
- 4. For an order requiring Local 2487 to cease violating NRS Chapter 288;
- 5. For an order requiring Local 2487 to comply with all applicable provisions of NRS Chapter 288;
- 6. For an award of attorneys' fees and costs in favor of TMFPD to expenses incurred herein; and
- 7. For such other and further relief as the Board deems proper.

DATED 25th day of June, 2024.

CHRISTOHPER J. HICKS
Washoe County District Attorney

By /s/ Chaz Lehman
Chaz Lehman, Esq.
Deputy District Attorney
Brandon Price, Esq
Deputy District Attorney
One South Sierra St.
Reno, NV 89501
ATTORNEYS FOR TRUCKEE MEADOWS
FIRE PROTECTION DISTRICT

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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the Office of the District Attorney of Washoe County, over the age of 21 years and not a party to nor interested in the within action. I certify that on this date, a true and correct copy of the foregoing document was sent via Certified and First Class mail to the following address:

JIM CLOUSER
TRUCKEE MEADOWS FIREFIGHTERS ASSOCIATION
I.A.F.F. LOCAL 2487
18124 WEDGE PKWY, STE. 143
RENO, NV 89511

Dated this 25th day of June, 2024.

/s/ S. Haldeman

S. Haldeman

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

FILED
July 16, 2024
State of Nevada
E.M.R.B.

TRUCKEE MEADOWS FIRE)Case No. 2024-023
PROTECTION DISTRICT,)
Complainant,)
v.)
TRUCKEE MEADOWS FIREFIGHTERS)
ASSOCIATION, IAFF LOCAL 2487,)
Respondent.)

ANSWER TO COMPLAINT

COMES NOW Respondent TRUCKEE MEADOWS FIREFIGHTERS ASSOCIATION, IAFF LOCAL 2487 (“Local 2487”), by and through counsel, and hereby answers the Complaint filed herein by Complainant TRUCKEE MEADOWS FIRE PROTECTION DISTRICT (“District” or “TMFPD”) as follows:

I. THE PARTIES

- Respondent admits the allegation(s) contained in Paragraph 1 of the Complaint.
- Respondent admits the allegation(s) contained in Paragraph 2 of the Complaint.

II. LEGAL AUTHORITY AND JURISDICTION

- As to Paragraph 3 of the Complaint, NRS 288.270 speaks for itself and, therefore, Respondent denies this allegation.
- As to Paragraph 4 of the Complaint, NRS 288.180 speaks for itself and, therefore, Respondent denies this allegation.

- Respondent admits the allegation(s) contained in Paragraph 5 of the Complaint.

III. FACTUAL ALLEGATIONS

- Respondent admits the allegation(s) contained in Paragraph 6 of the Complaint.
- Respondent admits the allegation(s) contained in Paragraph 7 of the Complaint.

- 1 8. Respondent admits the allegation(s) contained in Paragraph 8 of the Complaint.
- 2 9. Respondent admits the allegation(s) contained in Paragraph 9 of the Complaint.
- 3 10. Respondent admits the allegation(s) contained in Paragraph 10 of the Complaint.
- 4 11. Respondent admits the allegation(s) contained in Paragraph 11 of the Complaint.
- 5 12. Respondent admits the allegation(s) contained in Paragraph 12 of the Complaint.
- 6 13. Respondent admits the allegation(s) contained in Paragraph 13 of the Complaint.
- 7 14. Respondent admits the allegation(s) contained in Paragraph 14 of the Complaint.
- 8 15. Respondent admits the allegation(s) contained in Paragraph 15 of the Complaint.
- 9 16. Respondent admits the allegation(s) contained in Paragraph 16 of the Complaint.
- 10 17. Respondent admits the allegation(s) contained in Paragraph 17 of the Complaint.
- 11 18. Respondent is without sufficient information to either admit or deny the allegation(s)
- 12 contained in Paragraph 18 of the Complaint, and on that basis, denies the same.
- 13 19. Respondent is without sufficient information to either admit or deny the allegation(s)
- 14 contained in Paragraph 19 of the Complaint, and on that basis, denies the same.
- 15 20. Respondent admits the allegation(s) contained in Paragraph 20 of the Complaint.
- 16 21. Respondent denies the allegation(s) contained in Paragraph 21 of the Complaint.
- 17 22. Respondent admits the allegation(s) contained in Paragraph 22 of the Complaint.
- 18 23. Respondent admits the allegation(s) contained in Paragraph 23 of the Complaint.
- 19 24. Respondent admits the allegation(s) contained in Paragraph 24 of the Complaint.
- 20 25. Respondent admits the allegation(s) contained in Paragraph 25 of the Complaint.
- 21 26. Respondent admits the allegation(s) contained in Paragraph 26 of the Complaint.
- 22 27. Respondent admits the allegation(s) contained in Paragraph 27 of the Complaint.
- 23 28. Respondent admits the allegation(s) contained in the first sentence of Paragraph 28
- 24 of the Complaint, denies the remaining allegation(s) contained in Paragraph 28 of the Complaint and
- 25 avers that Fire Chief Moore has always had all of the data necessary to extrapolate the total financial
- 26 impact of all of Local 2487's proposals which were based upon the District's financial records.
- 27 29. Respondent denies the allegation(s) contained in Paragraph 29 of the Complaint.
- 28 30. Respondent denies the allegation(s) contained in Paragraph 30 of the Complaint.

- 1 31. Respondent admits the allegation(s) contained in Paragraph 31 of the Complaint.
2 32. Respondent admits the allegation(s) contained in Paragraph 32 of the Complaint.
3 33. Respondent admits the allegation(s) contained in Paragraph 33 of the Complaint.
4 34. Respondent denies the allegation(s) contained in Paragraph 34 of the Complaint.
5 35. Respondent denies the allegation(s) contained in Paragraph 35 of the Complaint.
6 36. Respondent denies the allegation(s) contained in Paragraph 36 of the Complaint.
7 37. Respondent denies the allegation(s) contained in Paragraph 37 of the Complaint.
8 38. Respondent is without sufficient information to either admit or deny the allegation(s)
9 contained in Paragraph 38 of the Complaint, and on that basis, denies the same.

- 10 39. Respondent denies the allegation(s) contained in Paragraph 39 of the Complaint.
11 40. Respondent denies the allegation(s) contained in Paragraph 40 of the Complaint.

12 **IV. CAUSE OF ACTION**

- 13 41. Respondent denies the allegation(s) contained in Paragraph 41 of the Complaint.

14 **V. PRAYER FOR RELIEF**

15 WHEREFORE, Respondent respectfully requests an order from this Board:

- 16 A. Determining that Local 2487 did not commit a prohibited practice under
17 NRS Chapter 288;
18 B. Determining that Local 2487 did not fail to bargain with TMFPD in good faith;
19 C. Concluding that Complainant takes nothing and be awarded nothing under the
20 Complaint;
21 D. Concluding that the Complaint be dismissed with prejudice;
22 E. Awarding Respondent its reasonable attorney's fees and costs of defending this
23 frivolous action pursuant to NRS 288.110(6); and,
24 F. Including such other and further relief as the Board deems proper.

25 **VI. AFFIRMATIVE DEFENSES**

26 For affirmative defenses to all claims set forth in the Complaint, Respondent states as
27 follows:

- 28 1. The allegations and cause(s) of action in the Complaint are moot.

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2. Complainant has failed to state a claim upon which relief may be granted against Respondent.
3. Complainant has failed to exhaust its administrative remedies.
4. Complainant has waived any cause of action against Respondent.
5. Respondent did not violate any provisions of the parties' collective bargaining agreement.
6. Respondent did not violate any provisions of NRS Chapter 288.

DATED this 16th day of July, 2024.

DYER LAWRENCE, LLP

By: /s/ Thomas J. Donaldson
Thomas J. Donaldson, Esq.
Nevada State Bar No. 5283
1817 N. Stewart Street, Ste. 35
Carson City, Nevada 89706
Attorneys for IAFF Local 2487

CERTIFICATE OF SERVICE

Pursuant to NCA 255.200(2), I certify that I am an employee of DYER LAWRENCE, LLP, and that on the 16th day of July, 2024, I sent via electronic mail a true and correct copy of the within LOCAL 2487’S ANSWER TO COMPLAINT addressed to:

CHAZ LEHMAN
Deputy District Attorney
BRANDON PRICE
Deputy District Attorney
One South Sierra Street
Reno, Nevada 89501
(775) 337-5700
clehman@da.washoecounty.gov
brprice@da.washoecounty.gov
*Attorneys for Truckee Meadows
Fire Protection District*

/s/ Kelly Gilbert
Kelly Gilbert

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

FILED
JUL 03 2024
STATE OF NEVADA
E.M.R.B.

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5 TRUCKEE MEADOWS FIRE)
PROTECTION DISTRICT,) Case No. 2024-023
6 Complainant,)
7 v.)
8 TRUCKEE MEADOWS FIREFIGHTERS)
ASSOCIATION, IAFF LOCAL 2487,)
9 Respondent.)
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12 **LOCAL 2487’S MOTION TO DISMISS COMPLAINT WITH PREJUDICE**

13 COMES NOW Respondent TRUCKEE MEADOWS FIREFIGHTERS ASSOCIATION,
14 IAFF LOCAL 2487 (“Local 2487”), by and through counsel, and hereby moves to dismiss with
15 prejudice the explicitly baseless and moot Complaint filed by Complainant TRUCKEE MEADOWS
16 FIRE PROTECTION DISTRICT (“District” or “TMFPD”). The instant Motion is made pursuant
17 to NRS 288.110, NAC 288.200, NAC 288.240, NAC 288.373 and NAC 288.375 and based upon
18 the following memorandum of points and authorities and the pleadings and papers on file herein.

19 DATED this 3rd day of July, 2024.

20 DYER LAWRENCE, LLP

21 By: /s/ Thomas J. Donaldson
22 Thomas J. Donaldson, Esq.
23 Nevada State Bar No. 5283
24 Attorneys for IAFF Local 2487

24 **Memorandum of Points and Authorities**

25 The District’s Complaint completely lacks probable cause and is blatantly spurious and
26 frivolous and should be summarily dismissed with prejudice by the Employee Management

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28 ///

1 Relations Board (“Board”) in accordance with NAC 288.375. NRS 288.110 provides in pertinent
2 part:

3 1. The Board may make rules governing:
4 (a) Proceedings before it;

* * *

5 2. The Board may hear and determine any complaint arising out of the
6 interpretation of, or performance under, the provisions of [NRS Chapter 288]

* * *

7 5. The Board may decide without a hearing a contested matter:

8 (a) In which all of the legal issues have been previously decided by the Board,
9 if it adopts its previous decision or decisions as precedent; or
10 (b) Upon agreement of all the parties.

11 6. The Board may award reasonable costs, which may include attorneys' fees,
12 to the prevailing party.

* * *

13 A complaint must include “[a] clear and concise statement of the facts constituting the alleged
14 practice sufficient to raise a justiciable controversy under chapter 288 of NRS.” NAC 288.200(1)(c).

15 Pursuant to NAC 288.375, the Board may dismiss a matter for any of the following reasons:

16 1. If the Board determines that no probable cause exists for the
17 complaint

* * *

18 5. If an applicant, petitioner or complainant files a spurious or frivolous
19 complaint or a complaint which presents only issues that have been previously
20 decided by the Board.

21 The Board should grant a motion to dismiss a complaint with prejudice when the case is
22 moot. *Nevada Ass’n of Public Safety Officers v. Las Vegas Metropolitan Police Dept. et al.*, EMRB
23 Case No. 2021-002, Item #885 (2023).

24 In accordance with NRS 288.110(6), the Board may impose sanctions against a party who
25 fails to comply with any applicable provisions of NRS Chapter 288 or NAC Chapter 288.
26 NAC 288.373(1)(c). The sanctions that may be imposed pursuant to NAC 288.373(1) include,
27 without limitation: (a) Striking a pleading of a party; and (b) Ordering the party to pay to the other
28 party reasonable attorney’s fees and costs. NAC 288.373(2).

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1 Here, the District’s Complaint is based solely upon NRS 288.270(2)(d). Complaint, p. 1.
2 NRS 288.270(2)(d) states:

3 2. It is a prohibited practice for a local government employee or for an employee
4 organization or its designated agent willfully to:

* * *

(d) Fail to provide the information required by NRS 288.180.

5
6 The District alleges in the Complaint, “[Deputy Chief] Ketring emailed a Request for Information
7 (RFI) letter [dated May 1, 2024,] to [Local 2487’s President] Clouser, again asking for the third-party
8 financial report”¹ Complaint, p. 5 ¶ 24. Yet, the District admits, “Ketring received the
9 requested financial analysis from Clouser at 12:49 pm on May 21, 2024.” Complaint, p. 6 ¶ 33.
10 Thus, contrary to the District’s contention, Local 2487 did **not** “[f]ail to provide the information
11 required by NRS 288.180” and, hence, clearly did **not** commit a prohibited labor practice pursuant
12 to NRS 288.270(2)(d). Complaint, p. 7 ¶ 41.

13 Further, the District contends, “Local 2487 did not provide any explanation for its
14 unnecessary delay [in complying with the District’s RFI].” Complaint, p. 7 ¶ 41. However, the
15 District cites no legal authority that responding to the District’s RFI within twenty (20) days
16 constitutes “unnecessary delay” pursuant to NRS 288.180(2). Indeed, the District cannot impose an
17 arbitrary deadline for Local 2487 to comply with the RFI. NRS 288.180(2).

18 Finally, the District resorts to claiming, “Local 2487 never provided any other information
19 they indicated they were compiling in response to TMFPD’s request for financial information.”
20 Complaint, p. 7 ¶ 41. However, Dep. Chief Ketring’s RFI only requested, “[t]he third-party fiscal
21 analysis of the District completed by [Local] 2487[,]” **not** the Excel spreadsheet that Local 2487 was
22 contemplating. Complaint, p. 4 ¶ 21 and p. 5 ¶ 26. Indeed, NRS 288.180(2) provides “[t]he
23 information must be accurate, and must be presented in a form responsive to the request and in the
24 format in which the records containing it are ordinarily kept.” Thus, since **no** Excel spreadsheet was
25 ever created (or requested), there was **no** “other information” for Local 2487 to produce.

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27 _____
28 ¹ President Clouser assumed the office in January, 2024, but has not been involved in the
administration of Local 2487 or the parties’ negotiations in the past.

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Conclusion

Without a doubt, based upon the District’s own accusations, the Complaint utterly fails to allege a “practice sufficient to raise a justiciable controversy under chapter 288 of NRS,” which violates NAC 288.200(1)(c). Therefore, pursuant to NAC 288.375, the Complaint should be dismissed with prejudice immediately since it is moot, it lacks probable cause and it is spurious and frivolous. Further, in accordance with NRS 288.110(6) and NAC 288.373, the Board should award Local 2487 reasonable attorney’s fees needlessly incurred to prepare the instant Motion.

DATED this 3rd day of July, 2024.

DYER LAWRENCE, LLP

By: /s/ Thomas J. Donaldson
Thomas J. Donaldson, Esq.
Nevada State Bar No. 5283
1817 N. Stewart Street, Ste. 35
Carson City, Nevada 89706
Attorneys for IAFF Local 2487

CERTIFICATE OF SERVICE

Pursuant to NCA 255.200(2), I certify that I am an employee of DYER LAWRENCE, LLP, and that on the 3rd day of July, 2024, I sent via electronic mail a true and correct copy of the within LOCAL 2487'S MOTION TO DISMISS COMPLAINT WITH PREJUDICE addressed to:

CHAZ LEHMAN
Deputy District Attorney
BRANDON PRICE
Deputy District Attorney
One South Sierra Street
Reno, Nevada 89501
(775) 337-5700
clehman@da.washoecounty.gov
brprice@da.washoecounty.gov
*Attorneys for Truckee Meadows
Fire Protection District*

/s/ Kelly Gilbert
Kelly Gilbert

Dyer Lawrence, LLP
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Carson City, Nevada 89706
(775) 885-1896

FILED

JUL 15 2024

**STATE OF NEVADA
E.M.R.B.**

1 CHRISTOPHER J. HICKS
Washoe County District Attorney
2 CHAZ LEHMAN
Deputy District Attorney
3 Nevada State Bar Number 12994
BRANDON PRICE
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8
9 **BEFORE THE EMPLOYEE MANAGEMENT RELATIONS BOARD**

10 **STATE OF NEVADA**

11 ***

12 TRUCKEE MEADOWS FIRE
PROTECTION DISTRICT,
13 Complainant,

Case No. 2024-023

14 v.

15 TRUCKEE MEADOWS FIREFIGHTERS
ASSOCIATION IAFF LOCAL 2487

16 Respondent.
17 _____/

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19 **Opposition to Respondent's Motion to Dismiss**

20 COMES NOW, Complainant, Truckee Meadows Fire Protection District (TMFPD), by
21 and through its undersigned counsel of record, and hereby files this Opposition to Respondent
22 Truckee Meadows Firefighters Association, I.A.F.F. Local 2487, Non-Supervisory Unit's
23 ("Local 2487" or "Association") Motion to Dismiss. This Opposition is based on the following
24 memorandum of Points and Authorities.

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1 Memorandum of Points and Authorities

2 I. Legal Authority

3 NAC 288.375 provides that a matter may be dismissed, “if the Board determines that no
4 probable cause exists for the complaint.” The Board, in determining whether to dismiss a
5 complaint, looks to whether the complaint fails to allege a violation of NRS 288 and therefore
6 fails to state a claim. *Clark Cty. Classroom Teachers Ass'n v. Clark County School District*,
7 EMRB Item 210, Case No. AI-045428 (1988). This Board has repeatedly held that cases
8 involving factual disputes require a hearing and cannot be disposed of by a motion to dismiss.
9 *Francis Davis v. Las Vegas Metropolitan Police Department and Las Vegas Police Protective*
10 *Association, Civilian Employees Case 2019-003.*

11 II. Argument

- 12 a. The matter before the Board is not moot because there is a justiciable controversy
13 before this Board about the timeliness of disclosure.

14 The issue before the Board is not moot because there are justiciable factual and legal
15 issues concerning whether Local 2487 engaged in bad faith bargaining and a prohibited practice
16 when it refused to timely respond to TMFPD’s request for information during bargaining. The
17 Board must determine whether the Local 2487 complied with the requirement in NRS
18 280.180(2) to turn over requested information “without unnecessary delay” when it held
19 requested information until after they declared impasse.

20 The obligation to bargain collectively in good faith includes a duty to furnish
21 information which the other party needs to carry out its statutory duties and responsibilities.
22 *Press Democrat Pub. Co. v. NLRB*, 629 F.2d 1320, 1324 (9th Cir. 1980). NRS 288.180(2)
23 states, “[...] the employee organization or the local government employer may request
24 reasonable information concerning any subject matter included in the scope of mandatory
25 bargaining which it deems necessary for and relevant to the negotiations. The information
26 requested must be furnished *without unnecessary delay*. The information must be accurate and

1 must be presented in a form responsive to the request and in the format in which the records
2 containing it are ordinarily kept.” (emphasis added).

3 It is clear from the language in NRS 288.180(2) that both parties can make requests for
4 records/information and that the requests must be reasonable and related to mandatory subjects
5 of bargaining. *Id.*; see also *International Association Fire Fighters. Local 5046*, Case No.2019-
6 011, Item No 847-A (EMRB, July 8. 2020); *Law Vegas Fire Fighters Local 1285, International*
7 *Association of Fire Fighters v. City of Las Vegas*, Case No. A 1-046074, Item No. 786 (EMRB,
8 May 21, 2013). Furthermore, once such a request is made, the information must be furnished
9 without *unnecessary delay*. *Id.* (emphasis added).

10 The question of mootness is one of justiciability. *Personhood Nevada v. Bristol*, 126
11 Nev. 599, 602, 245 P.3d 572, 574 (2010). Here, there are still justiciable issues of law and fact.
12 The primary legal controversy before the Board is whether the Association’s failure to turn over
13 information in a party’s possession until after declaring impasse constitutes “unnecessary
14 delay.” The Board must determine if Local 2487’s past conduct of delaying the disclosure of
15 relevant information constituted a prohibited practice and bad faith bargaining. Respondents
16 have requested declaratory and injunctive relief for Local 2487 to cease its prohibited practice
17 and bad faith bargaining. This is ripe for decision because this matter is ongoing because Local
18 2487 declared an impasse and a collective bargaining agreement has not been reached.

19 Local 2487’s eventual disclosure of the information does not negate its past prohibited
20 practices, especially considering the Association refused to provide TMFPD with the requested
21 documents/information until after declaring impasse. A party cannot declare the issue of
22 production moot just because the requested information was turned over later. See *NLRB v.*
23 *Pearl Bookbinding Co.*, 517 F.2d 1108, 1114 (1st Cir. 1975). The NLRB had rejected the
24 position that the eventual release of requested information made the disclosure issue moot,
25 finding that party had not conceded the illegality of its past conduct and “present compliance
26 [does not] deprive this [board] of the power to decide the disputed issues.” *Id.*

1 Here, Local 2487 is clearly not conceding that they engaged in prohibited practices
2 when they delayed disclosure of requested information; therefore, the Board can still make a
3 declaratory finding on their past prohibited practices. Also, the mere fact that Local 2487,
4 eventually turned over the requested information does not strip this Board of its ability to decide
5 whether they engaged in bad faith bargaining and prohibited practices. If this Board were to find
6 this matter moot, a party subject to NRS 288.180 would be permitted to delay turning over
7 information until after impasse had been declared.

8 Additionally, there is a clear factual issue about whether Local 2487 was in possession
9 of the February 6, 2024, financial analysis at the time of the TMFPD's request on April 30,
10 2024, and whether the Association intentionally refused to turn over the documents/information
11 despite the fact that they were in possess of it. Local 2487 withheld relevant information to a
12 mandatory subject of bargaining until after they declared an impasse.

13 Even if this issue were moot (TMFPD has shown it is not), the Board can consider a
14 moot issue if it involves a matter of widespread importance that is capable of repetition, yet
15 evading review." *Personhood Nevada*, 126 Nev. at 602 (2010), citing *Traffic Control Services*
16 *v. United Rentals*, 120 Nev. 168, 171–72, 87 P.3d 1054, 1057 (2004). The issue at hand could
17 affect the majority, if not all, public sector collective bargaining in Nevada because it deals with
18 the timely production of information in connection with collective bargaining. Further failure to
19 comply with NRS 288.180 is one of only four (4) specified prohibited practices under NRS
20 288.270 that an employer can bring against an employee association. The purpose of NRS
21 288.180(2) is to allow either party to request relevant information from the other party so that
22 meaningful negotiations can take place. Sufficient information is required to enable a
23 negotiating party to understand and intelligently discuss the issues raised in collective
24 bargaining. *Press Democrat Pub. Co.* 629 F.2d at 1324. And, Nevada's statute clearly
25 recognizes the need for timely disclosure. *See* NRS 288.180(2).

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1 The issue is capable of repetition because requests for information related to collective
2 bargaining under NRS 288.180 are an extremely common practice and occur in most, if not all,
3 public sector collective bargaining. This issue would continue to evade review because a party
4 could delay the production of requested relevant information until a Complaint was filed, or like
5 in this case, after declaring an impasse and the issue would always evade this Board's review
6 once it was turned over. This would encourage bad faith bargaining tactics and prohibited
7 practices. The information needs to be provided in preparation for collective bargaining, not
8 after the negotiation is concluded or is at impasse. If the Association would have provided the
9 requested documents/information, TMFPD would have been provided with
10 documents/information that was necessary and relevant for it to engage in productive
11 negotiations, and it may have prevented the parties from reaching impasse.

12 The Board should deny Local 2487's Motion to Dismiss because there are clearly
13 justiciable issues of law and fact. Also, the Board can decide on whether Local 2487's past
14 practices constituted a prohibited practice and bad faith bargaining under Nevada law. Local
15 2487's eventual response does not negate past prohibited practices.

16 b. TMFPD has met the required pleading standards under NAC 288.200

17 In its Motion, Local 2487 improperly puts the burden on TMFPD to cite legal authority
18 that "20 days constitutes unnecessary delay" in its Complaint. However, that is not the pleading
19 standard for Complaints articulated in this Board's rules. NAC 288.200(1) defines the pleading
20 standards for Complaints of prohibited practices. Specifically, the requirement is:

21 A clear and concise statement of the facts constituting the alleged practice
22 sufficient to raise a *justiciable controversy* under chapter 288 of NRS, including
23 the time and place of the occurrence of the particular acts and the names of
 persons involved.

24 TMFPD's Complaint provided a statement of facts that outlined the District's numerous
25 verbal and written requests for Local 2487's third-party financial analysis. TMFPD also
26 provided facts demonstrating that Local 2487 may have been in possession of the requested

1 documents/information and yet refused to produce it anyway. Local 2487 finally turned over
2 the financial analysis on May 21, 2024, and the analysis itself was dated February 6, 2024. This
3 indicates that Local 2487 was in possession of the financial analysis prior to when it was first
4 requested by the District. Whether or not Local 2487 engaged in an unnecessary delay is a
5 justiciable controversy that is clearly outlined in the Complaint. TMFPD also cites to the statute
6 that gives rise to a prohibited practice claim based on the underlying facts. This is sufficient to
7 state a plausible prohibited practice claim.

8 Nonetheless, the question of whether Local 2487 engaged in a prohibited practice of the
9 “unnecessary delay” of production of information relies on the individual facts of the case. In
10 one instance, an employer was found to have bargained in bad faith when it took two (2) weeks
11 to provide a Union with the relevant requested information. *Capitol Steel & Iron Co.*, 317
12 NLRB 809, 813 (1995). In *Capitol Steel & Iron Co.*, the NLRB found that a Respondent's 2-
13 week delay was not reasonable when the information was simple [and] also close at hand. Even
14 though it is not required under the standard of pleading, persuasive authority shows that a delay
15 of less than 20 days (2-weeks) was enough to determine bad-faith when the material was
16 available to the Association.

17 c. Local 2487 purposefully delayed the disclosure of relevant information

18 Finally in its opposition, Local 2487 states that an Excel Spreadsheet of compiled data
19 was never created, therefore it was not required to be turned over. That fact further
20 demonstrates Local 2487's bad faith bargaining and that they engaged in prohibited practices.
21 TMFPD agrees that it requested a third-party financial analysis from the union. However, when
22 directly asked about the third-party financial analysis, Local 2487's president and chief
23 negotiator replied, they [Local 2487] are trying to “bust out” an excel spreadsheet and provide
24 TMFPD its version of a financial report. See Complaint at 4. This misleading statement led
25 TMFPD to believe that that Local 2487 was not currently in possession of a third-party financial
26 study or they were summarizing their accounting firm's analysis. Instead of turning over the

1 third-party report that had been created almost three (3) months earlier, Local 2487, in bad faith,
2 delayed the production by feigning the need for additional time to compile data in the form of a
3 spreadsheet. TMFPD did not know what was in existence at the time because nothing had been
4 produced by the Association. The fact that the spreadsheet does not exist is further evidence that
5 they did not need to compile additional data and shows that it was merely a delay tactic to avoid
6 complying with their statutory duty to provide relevant information.

7 **III. Conclusion**

8 Based on the foregoing, TMFPD sufficiently stated a claim for a prohibited practice by
9 the Association. TMFPD respectfully requests that the EMRB enter an order denying the
10 Respondent's Motion to Dismiss and schedule this matter for a hearing.

11 DATED 15th day of July, 2024.

12 CHRISTOHPER J. HICKS
13 Washoe County District Attorney

14 By /s/ Chaz Lehman
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21 ATTORNEYS FOR TRUCKEE MEADOWS
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STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

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TRUCKEE MEADOWS FIRE)
PROTECTION DISTRICT,) Case No. 2024-023
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Complainant,)
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v.)
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TRUCKEE MEADOWS FIREFIGHTERS)
ASSOCIATION, IAFF LOCAL 2487,)
)
Respondent.)
/

LOCAL 2487’S REPLY TO OPPOSITION MOTION TO DISMISS COMPLAINT

COMES NOW Respondent TRUCKEE MEADOWS FIREFIGHTERS ASSOCIATION, IAFF LOCAL 2487 (“Local 2487”), by and through counsel, and hereby replies to the opposition filed by Complainant TRUCKEE MEADOWS FIRE PROTECTION DISTRICT (“District” or “TMFPD”) to Local 2487’s Motion to Dismiss Complaint with Prejudice (“Motion”). The instant reply is made pursuant to NRS 288.110, NAC 288.200, NAC 288.240, NAC 288.373 and NAC 288.375 and based upon the following memorandum of points and authorities and the pleadings and papers on file herein.

DATED this 29th day of July, 2024.

DYER LAWRENCE, LLP

By: /s/ Thomas J. Donaldson
Thomas J. Donaldson, Esq.
Nevada State Bar No. 5283
Attorneys for IAFF Local 2487

Memorandum of Points and Authorities

As set forth in Local 2487’s Motion, the District’s Complaint completely lacks probable cause and is blatantly spurious and frivolous and should be summarily dismissed with prejudice by the Employee Management Relations Board (“Board”) in accordance with NAC 288.375. Similarly,

1 the District’s opposition to Local 2487's Motion provides no pertinent or binding legal authority for
2 the Board not to grant Local 2487's Motion.

3 NRS 288.180(2) regarding a request for information provides in pertinent part:

4 Following the notification provided for in [NRS 288.180(1)], the employee
5 organization or the local government employer may request reasonable information
6 concerning any subject matter included in the scope of mandatory bargaining which
7 it deems necessary for and relevant to the negotiations. The information requested
8 must be furnished without unnecessary delay. The information must be accurate, and
9 must be presented in a form responsive to the request and in the format in which the
10 records containing it are ordinarily kept

11 Clearly, there is no material issue of fact for the Board to decide. It is utterly irrelevant when
12 Local 2487 received the financial report. It is undisputed that the District formally requested the
13 report on May 1, 2024, and Local 2487 provided it on May 21, 2024, twenty (20) days later.
14 Certainly, Local 2487 had to ensure the “information [was] accurate” and then “furnished [it]
15 without unnecessary delay” in accordance with NRS 288.180(2). Nothing in the District’s
16 opposition claims, let alone establishes, otherwise. Indeed, none of the cited legal authorities in the
17 opposition compel the Board to deny Local 2487's Motion under the circumstances. Further, the
18 District’s “argument” that had Local 2487 provided the report earlier, impasse could have been
19 prevented is completely speculative and disingenuous.

20 Conclusion

21 In essence, the District has retained two (2) “litigators” from the Washoe County District
22 Attorney’s office to needlessly file the Complaint initiating the instant matter without cause and in
23 bad faith. Therefore, Local 2487 respectfully requests an order from the Board granting Local 2487's
24 Motion, dismissing the District’s Complaint with prejudice and awarding Local 2487 reasonable
25 attorney’s fees and costs in needlessly responding to the Complaint.

26 DATED this 29th day of July, 2024.

27 DYER LAWRENCE, LLP

28 By: /s/ Thomas J. Donaldson
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CERTIFICATE OF SERVICE

Pursuant to NCA 255.200(2), I certify that I am an employee of DYER LAWRENCE, LLP, and that on the 29th day of July, 2024, I sent via electronic mail a true and correct copy of the within LOCAL 2487’S REPLY TO OPPOSITION TO MOTION TO DISMISS COMPLAINT addressed to:

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