

FILED

OCT 28 2024

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

1 STEVEN B. WOLFSON
 District Attorney
 2 **CIVIL DIVISION**
 State Bar No. 001565
 3 By: **SCOTT R. DAVIS**
 Deputy District Attorney
 4 State Bar No. 10019
 500 South Grand Central Pkwy.
 5 Las Vegas, Nevada 89155-2215
 (702) 455-4761
 6 Fax (702) 382-5178
 E-Mail: Scott.Davis@ClarkCountyDA.com
 7 Attorneys for Petitioner Clark County

STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

10 In the matter of CLARK COUNTY.)
 11 petition for declaratory order) Case 2024-016
 12)

PETITIONER’S PRE-HEARING STATEMENT

15 COMES NOW, Petitioner CLARK COUNTY, by and through District Attorney,
 16 STEVEN B. WOLFSON, through Scott R. Davis, Deputy District Attorney and presents its
 17 pre-hearing statement in this matter.

18 **I. NEED FOR AN EVIDENTIARY HEARING WITH WITNESSES**

19 Pursuant to this Board’s order dated October 7, 2024 directing the parties to specifically
 20 address whether the parties “...believe the hearing should be an evidentiary hearing with
 21 nesses and exhibits or whether oral argument would suffice” Clark County’s position is that
 22 oral argument would suffice.

23 Despite the position that the conglomerated unions take in their initial response, filed
 24 on August 28, 2024 this petition is not an attempt to litigate any particular prior negotiation.
 25 Nor is it necessary to delve into any prior negotiation as the requested relief in this petition is
 26 not seeking to undo any prior agreement or arrangement nor to restore any particular benefit
 27 of which the County was deprived. See NRS 288.110(2). Rather the requested relief is simply
 28 for this Board to provide guidance by answering the questions presented in this petition so that

1 the guidance given herein might inform and direct future negotiations.

2 As this petition is prospective, seeking clarity for future negotiations on pure legal
3 issues, and not retroactively looking back at prior negotiations, there is no pressing need for
4 evidentiary witnesses or to have exhibits.

5 In the event that the Board does call for an evidentiary hearing, the County's proposed
6 witnesses are listed below.

7 **II. STATEMENT OF THE ISSUES OF FACT AND LAW**

8 As stated in the County's original petition, there are no specific issues of fact and the
9 issues of law presented in this petition are as follows:

10 1. When an employee separates from employment after a collective bargaining
11 agreement has expired and before a successor agreement is reached, does a bargaining agent
12 lack standing to continue to represent the former employee through negotiations and fact-
13 finding?

14 2. When an employee transfers from one bargaining unit to another after a
15 collective bargaining agreement has expired and before a successor agreement is reached, does
16 the principle of exclusive representation prevent the former bargaining agent from continuing
17 to represent the employee through negotiations and fact finding?

18 3. When a prior agreement is unresolved before negotiations for a successor
19 agreement begin, such that there are two negotiations simultaneously occurring, can a party
20 temporarily defer negotiations on the successor agreement on subjects that are derivative of
21 the unsettled terms until the prior agreement is finalized?

22 4. Does the retroactive provision in NRS 288.215(10) authorize a factfinder to
23 change the terms of a party's final offer that included specified effective dates?

24 5. When the parties agree to a reopener during the term of an agreement, do the
25 fact-finding procedures automatically apply to reopener negotiations?

26 **III. MEMORANDUM OF LAW**

27 The issues in this case have already been extensively briefed. The County's petition
28 and reply both contain extensive memoranda of law and are incorporated herein.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

IV. LIST OF POSSIBLE WITNESSES

1. Any witness identified by Petitioner

The following witnesses are c/o
Scott Davis, Deputy District Attorney
500 South Grand Central Parkway
Las Vegas, Nevada 89155

- 2. Curtis Germany – Clark County Human Resources Director
- 3. Christina Ramos – Clark County Chief Negotiator
- 4. Anna Danchik – Clark County Comptroller

V. ESTIMATE OF TIME

1 day.

VI. STATEMENT REQUIRED BY NAC 288.250(1)(c)

This Board has determined that Case No. 2024-019 should be stayed pending the outcome of this petition. As that matter is stayed, the hearing or oral arguments in this case should not be stayed pending the outcome of that matter.

DATED this 28th day of October, 2024.

STEVEN B. WOLFSON
DISTRICT ATTORNEY

By: /s/ Scott Davis
SCOTT R. DAVIS
Deputy District Attorney
State Bar No. 010019
500 South Grand Central Pkwy. 5th Flr.
Las Vegas, Nevada 89155-2215
Attorney for Clark County

1 **CERTIFICATE OF ELECTRONIC SERVICE**

2 I hereby certify that I am an employee of the Office of the Clark County District
3 Attorney and that on this 28th day of October, 2024, I served a true and correct copy of the
4 foregoing **PETITIONER’S PRE-HEARING STATEMENT** by e-mailing the same to the
5 following recipients. Service of the foregoing document by e-mail is in place of service via
6 the United States Postal Service.

7 Adam Levine, Esq.
8 Law Office of Daniel Marks, Esq.
9 610 So. 9th Street
10 Las Vegas, NV 89101
11 office@danielmarks.net
12 ALevine@danielmarks.net
13 JHarper@danielmarks.net

11 Evan James, Esq.
12 Dylan Lawter, Esq.
13 CHRISTENSEN JAMES & MARTIN, CHTD.
14 7440 W. Sahara Avenue
15 Las Vegas, NV 89117
16 elj@cjmlv.com
17 DJL@CJMLV.COM

15 Sarah Owens Varela, Esq.
16 Luke N. Dowling, Esq.
17 MCCracken, Stemerman & Holsberry
18 475 14th Street, Suite 1200
19 Oakland, CA 94612-1929
20 svarela@msh.law

18 Andrew Regenbaum, Executive Director
19 NEVADA ASSOCIATION OF PUBLIC SAFETY OFFICERS
20 145 Panama Street
21 Henderson, NV 89015
22 andrew@napso.net

21 */s/ Christine Wirt*
22 _____
23 An Employee of the Clark County District
24 Attorney’s Office – Civil Division
25
26
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

STATE OF NEVADA
GOVERNMENT EMPLOYEE-MANAGEMENT
RELATIONS BOARD

In the matter of CLARK COUNTY's
Petition for Declaratory Order

CASE NO.: 2024-016

JOINT PREHEARING STATEMENT

CHRISTENSEN JAMES & MARTIN, CHTD.
7440 WEST SAHARA AVE., LAS VEGAS, NEVADA 89117
PH: (702) 255-1718 & FAX: (702) 255-0871

LAW OFFICE OF DANIEL MARKS
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536 FAX (702) 386-6812
*On behalf of Respondents Clark County
Prosecutors Association; Clark County
Defenders' Union; and Clark County
District Attorney Investigators
Association*

CHRISTENSEN JAMES & MARTIN, CHTD.
EVAN JAMES, ESQ.
Nevada State Bar No. 7760
DYLAN LAWTER, ESQ.
Nevada State Bar No. 15947
7440 W Sahara Avenue
Las Vegas, NV 89117
(702) 255-1718 FAX: (702) 255-0871
*On behalf of Respondent Service Employees
International Union Local 1107*

MCCRACKEN, STEMERMAN & HOLSBERY
SARAH OWENS VARELA, ESQ.
California State Bar No. 12886
475 14th Street, Suite 1200
Oakland, CA 94612-1929
(415) 597-7200 FAX: (415) 597-7201
*On behalf of Respondent International
Association of Fire Fighters Local 1908*

NEVADA ASSOCIATION OF PUBLIC SAFETY
OFFICERS
ANDREW REGENBAUM
Executive Director
145 Panama St.
Henderson, NV 89015
*On behalf of Respondents Clark County
Juvenile Justice Probation Officers
Association and Clark County Juvenile
Justice Supervisors Association*

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

I.

**STATEMENT OF THE ISSUES OF FACT & LAW and
MEMORANDUM OF LAW**

The Respondents’ Joint Answering Brief, filed with the Board on August 28, 2024, is hereby incorporated by reference.

II.

WITNESS LIST

If the Board believes that presentation of evidence is necessary in this case, Respondents reserve the right to call one or more of the following witnesses:

Clark County Prosecutor’s Association

- 1. Adam Levine
- 2. Marc DiGiacomo
- 3. Binu Palal

Clark County Defender’s Union

- 4. Adam Levine
- 5. David Westbrook
- 6. Rafael Nones
- 7. Katherine Currie-Diamond

Clark County District Attorney Investigators Association

- 8. Adam Levine
- 9. Joseph DeMonte
- 10. Jocelyn Scoggins

Nevada Service Employees Union (“NSEU”)

- 11. Jason Klumb – Mr. Klumb is expected to testify regarding statements made about fact-finding during recent contract negotiations with Clark County.
- 12. Brenda Marzan – Ms. Marzan is expected to testify regarding the impact of fact-finding on bargaining unit representatives.

1 If oral argument is considered alone, the undersigned believes Respondents would need
2 no more than one day for a hearing.

3 DATED this 28th day of October, 2024.

4 **CHRISTENSEN JAMES & MARTIN, CHTD.**

5 By: /s/ Dylan J. Lawter
6 Dylan J. Lawter, Esq.
7 Nevada Bar No. 15947
8 7440 W. Sahara Avenue
9 Las Vegas, NV 89117
10 *Attorneys for Local 1107*

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

CERTIFICATE OF SERVICE

I hereby certify that on October 28, 2024, I caused a true and correct copy of the foregoing Joint Prehearing Statement to be filed via email, as follows:

Employee-Management Relations Board
emrb@business.nv.gov

I hereby certify that on October 28, 2024, I served a true and correct copy of the foregoing Joint Prehearing Statement on Respondent via email to the following recipients:

CLARK COUNTY DISTRICT ATTORNEY
Scott R. Davis
500 S. Grand Central Pkwy
Las Vegas, NV 89155-2215
scott.davis@clarkcountyanv.gov

CHRISTENSEN JAMES & MARTIN, CHTD.

By: /s/ Dylan Lawter
Dylan Lawter