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FILED
June 21, 2024
State of Nevada
E.M.R.B.
1:12 p.m.

6 **STATE OF NEVADA**

7 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

8 SHELIA LEIJON,

Case Number: **2024-022**

9 Complainant,

10 vs.

COMPLAINT

11 INCLINE VILLAGE GENERAL
12 IMPROVEMENT DISTRICT,

13 Respondent.

14
15 COMPLAINANT, SHELIA LEIJON, by and through her undersigned counsel of record
16 JASON D. GUINASSO, ESQ. of GUINASSO LAW, LTD., pursuant to NRS 288.110(2) and
17 NAC 288.200, hereby files this complaint as follows:

18 **JURISDICTION**

19 1. Pursuant to NRS 288.110(2) the Nevada Government Employee-Management
20 Relations Board (“EMRB”) has jurisdiction to hear complaints arising out of the interpretation
21 of, or performance under, the provisions of NRS Chapter 288.

22 2. Pursuant to NRS 288.110(2), and NAC 288.200, SHELIA LEIJON seeks relief
23 for violations of NRS Chapter 288.

24 3. This Complaint is timely pursuant to NRS 288.110(4) because it is within “6
25 months after the occurrence which is the subject of the complaint or appeal.”

26 **PARTIES**

27 4. Complainant, Shelia Leijon (“Ms. Leijon”) was a local government employee of
28 Incline Village General Improvement District as defined by NRS 288.050. Ms. Leijon was

1 employed by Incline Village General Improvement District until May 8, 2024. Most recently,
2 Ms. Leijon served as the Director of Parks & Recreation for the Incline Village General
3 Improvement District. Pursuant to NRS 288.132, Ms. Leijon was an administrative employee,
4 and pursuant to NRS 288.138, Ms. Leijon was a supervisory employee. For the purposes of
5 these proceedings, Ms. Leijon's address is: c/o Jason D. Guinasso, Esq., GUINASSO LAW,
6 LTD., 5371 Kietzke Lane, Reno, NV 89511, telephone number: (775) 993-8899.

7 5. Respondent, Incline Village General Improvement District ("IVGID") is a local
8 government employer as defined by NRS 288.60. IVGID's address is 893 Southwood
9 Boulevard, Incline Village, Nevada 89451. IVGID's telephone number is (775) 832-1100.

10 **FACTUAL ALLEGATIONS**
11 **(Statement of Facts)**

12 6. Ms. Leijon began her employment with IVGID in 1992.

13 7. Ms. Leijon is a 30+ year resident and active member of the Incline Village
14 Crystal Bay community including such organizations as Incline Village Crystal Bay Community
15 & Business Association ("IVCBA"), Incline Tahoe Foundation ("ITF"), and the Rotary Club of
16 Incline Village.

17 8. As a resident of the Incline Village Crystal Bay community, Ms. Leijon has a
18 right to vote in local government elections and participate in any campaign efforts she chooses
19 in her personal capacity.

20 9. On or about, June 16, 2023, the political action committee, "The Committee to
21 Recall IVGID Trustee Matthew Dent," filed a Petition to Recall Trustee Matthew Dent alleging
22 Trustee Matthew Dent was not adequately representing the community of Incline Village and
23 Crystal Bay.

24 10. On that same date, the political action committee, "The Committee to Recall
25 IVGID Trustee Sara Schmitz," filed a Petition to Recall Trustee Sara Schmitz alleging Trustee
26 Sara Schmitz was not adequately representing the community of Incline Village and Crystal
27 Bay.

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1 11. On June 23, 2023, two additional petitions were reissued by the political action
2 committees, “The Committee to Recall IVGID Trustee Matthew Dent” and “The Committee to
3 Recall IVGID Trustee Sara Schmitz.”

4 12. On August 16, 2023, Shelia Leijon and her husband, Kenneth C. Leijon,
5 contributed \$1,000.00 to the political action committee, “The Committee to Recall IVGID
6 Trustee Matthew Dent” and also contributed \$1,000.00 to the political action committee “The
7 Committee to Recall IVGID Trustee Sara Schmitz.”

8 13. Kenneth C. Leijon also assisted the efforts of these political action committees
9 by volunteering his time to assist with collecting signatures on the Petitions to Recall Trustees
10 Matthew Dent and Sara Schmitz.

11 14. On or about July 4, 2023, Ms. Leijon received a call from Trustee Schmitz
12 demanding that she remove the Free Speech Area that had been set up at the beaches to collect
13 recall signatures on the Petitions to Recall Trustees Matthew Dent and Sara Schmitz. Ms.
14 Leijon and the staff endured persistent harassment from Trustee Schmitz’s political camp
15 regarding removal of the recall tables. Although Trustee Schmitz insisted that IVGID’s legal
16 counsel, Josh Nelson, Esq. stated that tables were not allowed at the beaches. Ms. Leijon
17 contacted Mr. Nelson directly and confirmed the tables could remain as they were operating in
18 accordance with District Policy 136.

19 15. Sometime between the middle of August 2023 to October 2023, Trustees Dent
20 and Schmitz requested records of those who signed The Recall Petitions. This is believed to be
21 the time Trustees Dent and Schmitz learned that Ms. Leijon had been involved with the political
22 action committees, “The Committee to Recall IVGID Trustee Matthew Dent” and “The
23 Committee to Recall IVGID Trustee Sara Schmitz.”

24 16. Upon information and belief, Trustee Dent and Trustee Schmitz publicly and
25 privately complained about Ms. Leijon’s presumed involvement in the effort to recall them.

26 17. Upon information and belief, Trustee Dent and Trustee Schmitz also complained
27 publicly and privately about Ms. Leijon’s association with members of the community
28 supporting the recall against them.

1 18. On or about October 13, 2023, Trustee Schmitz began working solely with
2 Director of IT, Mike Gove on the District's Restricted Beach Access project for which Ms.
3 Leijon was directly responsible.

4 19. On November 8, 2023, Trustees Dent, Schmitz and Tulloch pulled Ms. Leijon's
5 Ice Rink Proposal off the IVGID agenda stating it was due to the need for IVGID's General
6 Fund to be augmented, although this project was slated to be paid from IVGID's Recreational
7 Fund.

8 20. On November 8, 2023, Ms. Leijon was precluded from providing her update
9 regarding IVGID's No Trespassing signage at the restricted beaches by special legal counsel,
10 Kathy Parks, Esq. further directing Incline General Management ("IGM") to disallow Ms.
11 Leijon from addressing counsel without the Chair being present. Ms. Leijon inquired if this new
12 rule applied to all Directors or just her and was not provided a response. Ms. Leijon's update
13 also included a Black Eagle report for Tennis which Trustees Dent, Schmitz and Tulloch have
14 since claimed they had not received.

15 21. On December 21, 2023, Ms. Leijon was presented with an accusatory letter (the
16 "Letter") from IGM, Mike Bandelin and Erin Feore stating IVGID had received complaints
17 regarding her involvement with IVCBA, ITF, and the Rotary Club. That letter also indicated
18 that Ms. Leijon was guilty of a conflict of interest for her use of the IVGID logo for personal
19 benefit.

20 22. On January 10, 2024, the Interim Finance Director, now General Manager,
21 Bobby Magee verbally stated to Ms. Leijon that "two trustees want you gone, and one has made
22 it personal."

23 23. On January 23, 2024, Bobby Magee stated to Ms. Leijon that there was tax fraud
24 with IVCB Veterans Club and the Incliners (the longest-running IVGID senior program), both
25 programs for which Ms. Leijon oversaw. In response, Ms. Leijon provided links to detailed
26 information regarding both organizations to IVGID's legal counsel and Bobby Magee. To date,
27 Ms. Leijon has still not received a response regarding these allegations.

28

1 24. On January 25, 2024, Ms. Leijon facilitated a conference call with the Executive
2 Director of IVCBA, Linda Offerdahl to help Bobby Magee understand the relationship between
3 IVGID and IVCBA. Ms. Offerdahl provided a written accounting of the financial transactions
4 between IVGID and IVCBA and their relationship. Shortly thereafter, Ms. Leijon was served a
5 Nevada Commission on Ethics Complaint regarding her relationship with IVCBA.

6 25. On January 27, 2024, Mr. Bandelin provided a signed memorandum to Ms.
7 Leijon stating IVGID had not received any formal complaints regarding her relationship with
8 ICVB as was previously stated in the Letter dated December 21, 2023. It should be noted that
9 Ms. Leijon submitted three Public Records Requests, and undersigned counsel submitted one,
10 requesting any all records that could substantiate the claims made against Ms. Leijon in the
11 Letter. It took well over one month before a response was received to those four requests.

12 26. As a result of the ongoing harassment, Ms. Leijon was placed on FMLA in
13 February 22, 2024, and underwent medical and psychological care for approximately three
14 months.

15 27. On March 27, 2024, Ms. Leijon attempted to return to work on intermittent
16 FMLA fearful that if she did not return continued retaliation and undermining would ensue in
17 her absence.

18 28. However, Ms. Leijon was forced to return to FMLA on April 17, 2024.

19 29. On May 8, 2024, Ms. Leijon tendered her resignation from IVGID.

20 30. Now, even after Ms. Leijon's resignation, IVGID continues to spread unfounded
21 mistruths and misinformation about Ms. Leijon during its public meetings as continued
22 harassment and retaliation against Ms. Leijon. For example, Interim Director of Finance Bobby
23 Magee shared at two recent board meetings that Ms. Leijon "built" the current Park & Rec and
24 Beach budgets and that she "met" with him to discuss the beach budget. However, this is a
25 completely inaccurate statement since Ms. Leijon was on protected medical leave from
26 February 20 to May 8, 2024. Ms. Leijon requested on May 29, 2024, that Mr. Magee retracted
27 his statements and correct the record. To date, the record remains with false information.

1 31. Upon information and belief, the Letter and Nevada Commission on Ethics
2 Complaint against Ms. Leijon was initiated and encouraged by Trustees Sara Schmitz and
3 Matthew Dent, and then Interim Director of Finance Bobby Magee.

4 32. The issuance of the Letter and Ethics Complaint were unlawful, blatant
5 harassment, and inappropriate retaliation against Ms. Leijon for exercising her Constitutional
6 right to free association, free speech, and freedom to participate in the recall effort during the
7 summer of 2023.

8 33. Ms. Leijon has suffered severe emotional distress due to Trustees Sara Schmitz
9 Matthew Dent, and Ray Tulloch use of their positions as Trustees to harass, stonewall,
10 undermine, and ultimately force her resignation from IVGID, in retaliation for supporting the
11 recall efforts against them.

12 34. As stated above, Ms. Leijon was not informed of the specific complaints made in
13 the Letter, who made the allegations, or what evidence existed to support the allegations.

14 35. Upon information and belief, the result of the Letter was a finding that Ms.
15 Leijon did not engage in any wrongdoing.

16 36. Upon information and belief, the result of the Nevada Commission on Ethics
17 Complaint was a finding that Ms. Leijon did not engage in any wrongdoing.

18 37. Despite there being no evidence of Ms. Leijon violating a law or an IVGID
19 policy, she has been forced to resign from her employer for which she has worked for the last 30
20 years.

21 38. Putting Ms. Leijon under duress based on frivolous secret allegations was blatant
22 retaliation against Ms. Leijon by certain IVGID Trustees and a member of Staff who, upon
23 information and belief, pushed for this investigation due to their angst over Ms. Leijon's
24 "political or personal reasons or affiliations," in violation of her rights under state law. *See* NRS
25 281.370(1) and (2); NRS 288.270(1)(f) (for local government employers) and NRS
26 288.270(2)(c) (for local government employees and employee organizations).

27 39. The unwarranted accusations made against Ms. Leijon caused her emotional and
28 mental harm, took a toll on her physical health and well-being, and caused irreparable harm and

1 damage to her reputation and has otherwise had a chilling effect on Ms. Leijon and other public
2 employees efforts to engage in political activity, association, and free speech in opposition to the
3 Trustees.

4 **CLAIM FOR RELIEF**
5 **Discrimination because of Political or Personal Reasons or Affiliations**
6 **(Engaging in Prohibited Practices in violation of**
7 **NRS 281.370(1) and (2), NRS 288.270 (1)(f), and NRS 288.280)**

7 40. Shelia Leijon incorporates paragraphs 1-38 into this section of the Complaint as
8 if fully set forth herein.

9 41. It is a prohibited practice for a local government employer or its designated
10 representative to willfully discriminate against a public employee for “political or personal
11 reasons or affiliations.” See NRS 281.370(1) and (2); NRS 288.270(1)(f) (for local government
12 employers) and NRS 288.270(2)(c) (for local government employees and employee
13 organizations).

14 42. Under NRS 288.270 (1)(f), “It is a prohibited practice for a local government
15 employer or its designated representative willfully to:[] Discriminate because of race, color,
16 religion, sex, sexual orientation, gender identity or expression, age, physical or visual handicap,
17 national origin or because of **political or personal reasons or affiliations.**”

18 43. NRS 281.370 further provides that:

19 1. All personnel actions taken by state, county or municipal
20 departments, housing authorities, agencies, boards or appointing
21 officers thereof must be based solely on merit and fitness.

22 2. State, county or municipal departments, housing
23 authorities, agencies, boards or appointing officers thereof shall not
24 refuse to hire a person, discharge or bar any person from
25 employment or discriminate against any person in compensation or
26 in other terms or conditions of employment because of the person’s
27 race, creed, color, national origin, sex, sexual orientation, gender
28 identity or expression, age, political affiliation or disability, except
when based upon a bona fide occupational qualification.

27 44. The EMRB has adopted a formal definition of “personal reasons.” See *Kilgore v.*
28 *City of Henderson*, Item No. 550H (2005) (approved by the Nevada Supreme Court in *City of N.*

1 *Las Vegas v. Glazier*, Case No. 50781 (unpublished 2010)). The EMRB, referencing Black's
2 Law Dictionary, defined "personal reasons" as follows:

3 Black's Law Dictionary defines "Personal" to mean "[appertaining
4 to the person; belonging to an individual. . . " Black's Law
5 Dictionary 702 (6th ed. 1991). Additionally, the term "political or
6 personal reasons or affiliations" is preceded in NRS 288.270(1)(f) by
7 a list of factors, "race, color, religion, sex, age, physical or visual
8 handicap, national origin," that can best be described as "non-merit-
9 or-fitness" factors, i.e., factors that are unrelated to any job
10 requirement and not otherwise made by law a permissible basis for
11 discrimination. The doctrine of *ejusdem generis* states that where

12 general words follow an enumeration of particular classes of things,
13 the general words will be construed as applying only to those things
14 of the same general class as those enumerated. Black's Law
15 Dictionary 357 (6th ed. 1991). **Thus, the proper construction of
16 the phrase "personal reasons or affiliations" includes "non-
17 merit-or-fitness" factors, and would include the dislike of or bias
18 against a person which is based on an individual's
19 characteristics, beliefs, affiliations, or activities that do not affect
20 the individual's merit or fitness for any particular job.**

21 *Id.* (emphasis supplied). Since 2005, this has been the definitive definition of discrimination
22 based upon personal reasons.

23 45. IVGID, at the direction of certain disgruntled Trustees and a member of Staff,
24 engaged in prohibited practices by discriminating against Ms. Leijon for "political or personal
25 reasons or affiliations."

26 PRAYER FOR RELIEF

27 WHEREFORE, the Complainant respectfully requests the following relief:

28 1. For a finding in favor of Complainant and against Respondent on each and every
claim of this Complaint.

2. For a determination that IVGID has violated NRS 281.370(1) and (2); NRS
288.270(1)(f), and NRS 288.270(2)(c) and engaged in prohibited practices by discriminating
against Ms. Leijon for "political or personal reasons or affiliations."

3. For an order directing IVGID to cease and desist from violating the rights of

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Shelia Leijon;

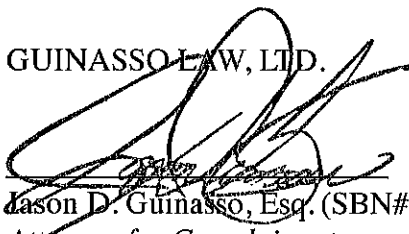
4. For an order that Complainant be reimbursed for attorney's fees and costs in this action; and

5. For such other and further relief as may be necessary or appropriate.

Dated this 21st day of June 2024.

GUINASSO LAW, LTD.

By:



Jason D. Guinasso, Esq. (SBN# 8478)
Attorney for Complainant

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NAC 288.200 (2), I caused a true and correct copy of the
3 **COMPLAINT** to be served on the following individuals by depositing for mailing with postage
4 prepaid via certified U.S. mail on this 21st day of June, 2024:


5
6 Sara Schmitz, Chair
7 Incline Village General Improvement District
8 893 Southwood Boulevard
9 Incline Village, Nevada 89451
10 *Certified U.S. Mail No.:* 9414811206204770789110

11 *Courtesy Copy to:*

12 Sergio Rudin, Esq.
13 Anne Branham, Esq.
14 Best Best & Krieger, LLP
15 500 Capitol Mall
16 Sacramento, California 95814
17 Sergio.rudin@bbklaw.com
18 anne.branham@bbklaw.com

19 *Certified U.S. Mail No.:* 9414811206204770782616

20 *Attorneys for Incline Village General Improvement District*

21 

22 For Guinasso Law, Ltd.

1 **Marquis Aurbach**
Nick D. Crosby, Esq.
2 Nevada Bar No. 8996
10001 Park Run Drive
3 Las Vegas, Nevada 89145
Telephone: (702) 382-0711
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ncrosby@maclaw.com
5 Attorneys for Respondent

FILED
July 23, 2024
State of Nevada
E.M.R.B.
8:56 a.m.

6 **STATE OF NEVADA**

7 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

8 SHELIA LEIJON,

9 Complainant,

Case No.: 2024-022

10 vs.

11 INCLINE VILLAGE GENERAL
12 IMPROVEMENT DISTRICT

13 Respondent.

14 **RESPONDENT'S ANSWER TO COMPLAINT**

15 Respondent Incline Village General Improvement District ("Respondent"), by and
16 through its attorney of record, Nick D. Crosby, Esq. of Marquis Aurbach, hereby files its Answer
17 to Complainant's Complaint in the above-referenced matter.

18 1. In answering Paragraphs 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 29, 36, 41, 42 and 43 of
19 Complainant's Complaint, Respondent admits the allegations contained therein.

20 2. In answering Paragraphs 3, 26, 28, 30, 31, 32, 33, 37, 38, 39 and 45 of
21 Complainant's Complaint, Respondent denies the allegations contained therein.

22 3. In answering Paragraphs 12, 13, 14, 15, 16, 17, 18, 19, 20, 22, 23, 25, 27, 34 and
23 35 of Complainant's Complaint, Respondent is without knowledge or information sufficient to
24 form a belief as to the truth of the allegations contained therein, and therefore, denies the same.

25 4. In answering Paragraph 21 of Complainant's Complaint, Respondent admits
26 Complainant was given the letter dated December 21, 2023, but denies the remaining allegations
27 contained therein.
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1 upon the filing of this Respondent's Answer to Complainant's Complaint; therefore, this
2 Respondent reserves the right to amend its answer to allege additional affirmative defenses if
3 subsequent investigations so warrant.

4 **PRAYER FOR RELIEF**

5 WHEREFORE, Respondent prays for judgment against Complainant as follows:

- 6 1. That Complainant takes nothing by way of her Complaint and that the same be
7 dismissed with prejudice;
- 8 2. For an award of reasonable attorney fees and costs of suit; and
- 9 3. For any further relief as the Court deems to be just and proper.

10 Dated this 23rd day of July, 2024.

11 MARQUIS AURBACH

12
13 By s/ Nick D. Crosby
14 Nick D. Crosby, Esq.
15 Nevada Bar No. 8996
16 10001 Park Run Drive
17 Las Vegas, Nevada 89145
18 Attorney(s) for Respondent Respondent

19 **CERTIFICATE OF MAILING**

20 I hereby certify that on the 23rd day of July, 2024, I served a copy of the foregoing
21 **RESPONDENT'S ANSWER TO COMPLAINT** upon each of the parties by depositing a copy
22 of the same in a sealed envelope in the United States Mail, Las Vegas, Nevada, First-Class
23 Postage fully prepaid, and addressed to:

24 Jason D. Guinasso, Esq.
25 5371 Kietzke Lane
26 Reno, NV 89511
27 *Attorney for Complainant*

28 and that there is a regular communication by mail between the place of mailing and the place(s)
so addressed.

s/Sherri Mong
an employee of Marquis Aurbach

1 Jason D. Guinasso, Esq. (SBN# 8478)
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3 5371 Kietzke Lane
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FILED
November 7, 2024
State of Nevada
E.M.R.B.
3:46 p.m.

6 STATE OF NEVADA

7 GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

8 SHELIA LEIJON,

Case Number: 2024-022

9 Complainant,

10 vs.

11 INCLINE VILLAGE GENERAL
12 IMPROVEMENT DISTRICT,

13 Respondent.

14
15 **PRE-HEARING STATEMENT**

16 Pursuant to the Commissioner's Order dated October 21, 2024, COMPLAINANT
17 SHELIA LEIJON, by and through her undersigned counsel of record JASON D. GUINASSO,
18 ESQ. of GUINASSO LAW, LTD., pursuant to NRS 288.273, hereby files this Pre-Hearing
19 Statement in anticipation of the future hearing on this matter to be set for a date certain after the
20 submission of this pre-hearing statement as follows:

21 **I. STATEMENT REGARDING WHETHER THIS MATTER SHOULD BE**
22 **CONSOLIDATED WITH SUSAN HERRON V. INCLINE VILLAGE GENERAL**
23 **IMPROVEMENT DISTRICT; CASE NO. 2024-015.**

24 While both Ms. Leijon's and Ms. Herron's cases involve allegations of political
25 discrimination by IVGID under NRS 288.270(1)(f), consolidation would not serve the interests
26 of justice or judicial economy. The cases should proceed separately for several compelling
27 reasons:

28 First, Ms. Leijon's case presents a unique factual pattern involving her former role as
Director of Parks & Recreation, and IVGID's action of forcing her to choose between enduring

1 continued harassment or retiring early. The specific evidence of political motivation - including
2 the irregular involvement of Bobby Magee directing Ms. Leijon to advise the Board of Trustee
3 to deviate from their policies as a recommendation for decision making on two agenda items she
4 was to present to the Board, the micromanaging and accusatory behavior of Trustee Schmitz,
5 Tulloch and ultimately Dent, the disparagement and stonewalling, the prompting of
6 investigations and false accusations of fraud and the coordinated campaign involving multiple
7 members of management - requires focused examination of a distinct chain of events and
8 decision-making process.

9 Second, the timelines and nature of retaliation against Ms. Leijon and Ms. Herron are
10 unique, with harassment intensifying to this day after the Trustees survived their recall elections
11 for Ms. Herron, while Ms. Leijon was forced to choose between continuing to endure the
12 harassment or retire early. This post-election escalation for Ms. Herron, including near-daily
13 demands for disciplinary action and termination, represents a pattern of conduct specific to Ms.
14 Herron's situation and her perceived role in the recall effort. The Board's ability to fully examine
15 this pattern would be diluted if combined with another employee's distinct experiences.

16 Third, the witness testimony required to prove Ms. Leijon's case involves detailed
17 accounts from multiple IVGID officials regarding specific incidents, communications, and
18 decisions unique to her situation. Many witnesses, including former General Manager Indra
19 Winquest, IT Director Mike Gove, and various Trustees, will need to testify about events and
20 documents particular to Ms. Leijon's case. Consolidation would unnecessarily complicate the
21 presentation of this evidence and potentially confuse the record.

22 Fourth, while both cases may involve similar legal theories under NRS 288.270(1)(f),
23 the evidence supporting political motivation and pretext differs substantially between the two
24 matters. Ms. Leijon's case includes unique evidence such as the specific retaliatory actions
25 taken by individual Trustees in response to her perceived support of the recall effort.

26 Finally, separate proceedings will allow for clearer development of the record regarding
27 each employee's distinct experiences of political discrimination, facilitating more precise
28 findings of fact and conclusions of law. This separation will also better serve the remedial

1 purposes of NRS Chapter 288 by allowing the Board to craft relief specifically tailored to each
2 employee's situation.

3 Therefore, while judicial economy generally favors consolidation of related cases, the
4 unique aspects of Ms. Leijon's experience of political discrimination warrant separate
5 proceedings to ensure full and fair consideration of her claims.

6 **II. STATEMENT OF BIFURCATED ISSUES¹**

7 **Part I of Hearing**

8 A. TRIGGERING OF STATUTE OF LIMITATIONS: Whether Complainant
9 Leijon's June 21, 2024, filing is timely under NRS 288.110(4) as she first received "unequivocal
10 notice of a final adverse decision" on January 10, 2024, when IVGID's Interim Finance
11 Director/General Manager Bobby Magee disclosed that "two trustees want you gone, and one
12 has made it personal," consistent with *City of North Las Vegas v. State of Nevada Local*
13 *Government Employee-Management Relations Board*, 127 Nev. 631, 639 (2011).

14 B. DISCOVERY OF DISCRIMINATORY ANIMUS: Whether, under Nevada
15 jurisprudence requiring that "the statute of limitations will not commence to run until the
16 aggrieved party knew, or reasonably should have known, of the facts giving rise to the breach":

17 1. Complainant could not have reasonably discovered the personal and
18 political motivations underlying IVGID's conduct until Magee's January 10, 2024,
19 disclosure; and

20 2. Prior incidents of allegedly discriminatory conduct are properly before
21 the Board as they form part of the pattern of discrimination only revealed through
22 Magee's admission.

23 C. CONTINUING VIOLATION DOCTRINE: Whether IVGID's conduct
24 constitutes a continuing pattern of discrimination where:

26 ¹ Pursuant to the the Order Denying Respondent's Motion to Dismiss in Part and Granting In Part
27 dated October 8, 2024, "the Board will hold a bifurcated hearing. The first part of the bifurcated
28 hearing will be solely related to the issue of when Complainant knew, or should have known, of
the facts giving rise to the Complaint. The second part of the hearing, if necessary, will be on the
underlying merits of the case.

1 1. The January 10, 2024, disclosure revealed the discriminatory nature of
2 both prior and subsequent conduct;

3 2. The totality of IVGID's actions represent an ongoing pattern of politically
4 and personally motivated discrimination continuing within the statutory period; and

5 3. The Board's bifurcated hearing approach specifically contemplates
6 examination of conduct predating the six-month filing window to establish when
7 Complainant Leijon knew or should have known of the discrimination.

8 **Part II of Bifurcated Hearing**

9 A. DISCRIMINATORY CONDUCT: Whether Complainant Sheila Leijon can
10 establish by a preponderance of the evidence that IVGID violated NRS 288.270(1)(f) through:

11 1. A coordinated pattern of pervasive, persistent, and ongoing
12 discriminatory conduct against Complainant;

13 2. Actions motivated by personal and political animus, as evidenced by
14 Interim Finance Director Bobby Magee's January 10, 2024, admission that "two trustees
15 want you gone, and one has made it personal"; and

16 3. Conduct deliberately calculated to harass, cause distress to, and punish
17 Complainant.

18 B. CONSTRUCTIVE DISCHARGE: Whether IVGID's discriminatory conduct
19 effectively compelled Complainant Leijon to choose between:

20 1. Continuing to endure harassment and professional/emotional distress; or

21 2. Involuntarily separating from her employment through resignation or
22 early retirement.

23 C. PRETEXTUAL JUSTIFICATION: Whether IVGID's purported justifications for
24 its conduct fail as:

25 1. Complainant Leijon can demonstrate IVGID would not have taken these
26 actions absent improper personal and political motivations; and

27 2. IVGID cannot establish any legitimate misconduct by Complainant
28 Leijon that would have warranted its actions or justified discipline, consistent with the

1 Board's precedent in *David O'Leary v. Las Vegas Metropolitan Police Department*, Case
2 No. A1-046116, Item No. 803 (EMRB, May 15, 2015).

3 **III. SHORT STATEMENT OF COMPLAINANT SHELIA LEIJON'S POSITION.**

4 Sheila Leijon, a dedicated 30-year IVGID employee, became the target of coordinated
5 discrimination and retaliation after exercising her constitutional rights to support recall efforts
6 against certain IVGID trustees. The timing of when Ms. Leijon first received "unequivocal
7 notice" that she was being discriminated against for political and personal reasons is critical to
8 establishing the timeliness of her complaint under NRS 288.110(4). While IVGID argues that
9 earlier events should have triggered the statute of limitations, a careful examination of the
10 timeline reveals that Ms. Leijon could not have reasonably known she was being targeted for
11 her protected political activities until January 10, 2024, when Bobby Magee explicitly revealed
12 the trustees' discriminatory motives. The sequence of events demonstrates how this pivotal
13 disclosure transformed what appeared to be disconnected workplace conflicts into a clear
14 pattern of politically motivated retaliation:

15 1. Initial Political Activity (Summer 2023)

- 16 • June 16-23, 2023: Recall petitions filed against Trustees Dent and Schmitz
17 • August 16, 2023: Ms. Leijon and her husband contribute \$1,000 to each recall
18 committee

19 2. Early Concerning Events (Not Yet Clearly Discriminatory)

- 20 • July 4, 2023: Trustee Schmitz demands removal of recall signature tables from beaches
21 ○ Issue resolved when Ms. Leijon confirms with counsel tables were permitted
22 under Policy 136
23 ○ Appeared as policy dispute rather than personal targeting
24 • August-October 2023: Trustees request records of recall petition signers
25 ○ While concerning, no direct action against Ms. Leijon at this time

26 3. Escalating Professional Interference (Still Without Clear Discriminatory Motive)

- 27 • October 13, 2023: Trustee Schmitz begins working solely with IT Director on Ms.
28 Leijon's beach access project

1 • November 8, 2023:

- 2 ○ Ice Rink Proposal pulled from agenda
- 3 ○ Ms. Leijon prevented from providing beach signage update
- 4 ○ While troubling, presented as procedural/budget issues

5 4. First Direct Action (Still Without Clear Political Connection)

6 • December 21, 2023: Accusatory letter regarding alleged conflicts of interest

- 7 ○ While hostile, letter cited complaints about community organization involvement
- 8 ○ No explicit connection to recall petition activity
- 9 ○ Presented as ethics/policy investigation rather than political retaliation

10 5. UNEQUIVOCAL NOTICE OF DISCRIMINATION (January 10, 2024)

11 • Bobby Magee explicitly states "two trustees want you gone, and one has made it
12 personal"

- 13 ○ First clear evidence linking adverse treatment to personal/political motivations
- 14 ○ Direct connection between trustees' animosity and Ms. Leijon's position
- 15 ○ Reveals previous actions were politically motivated retaliation

16 6. Subsequent Events Confirming Discriminatory Pattern

- 17 • January 23, 2024: Unfounded tax fraud allegations regarding programs Ms. Leijon
18 oversees
- 19 • January 25, 2024: Ethics complaint filed after Ms. Leijon attempts to clarify IVCBA
20 relationship
- 21 • January 27, 2024: Mr. Bandelin admits no formal complaints existed regarding IVCBA
- 22 • February 22, 2024: Ms. Leijon forced to take FMLA leave due to harassment
- 23 • May 8, 2024: Ms. Leijon constructively discharged through forced resignation

24 The foregoing timeline demonstrates that, while Ms. Leijon experienced various
25 concerning actions throughout late 2023, none provided unequivocal notice that she was being
26 targeted for discrimination based on political or personal reasons until Magee's January 10,
27 2024 disclosure. Prior events could reasonably have been interpreted as policy disputes,
28 personality conflicts, or legitimate investigations. Only Magee's statement explicitly revealed

1 the trustees' personal animus and political motivation, connecting the pattern of adverse actions
2 to Ms. Leijon's protected political activity supporting the recall petitions.

3 This timeline of events demonstrates that Ms. Leijon did not receive unequivocal notice
4 of this discrimination until January 10, 2024, when IVGID's Interim Finance Director/General
5 Manager Bobby Magee explicitly revealed that "two trustees want you gone, and one has made
6 it personal." This disclosure crystallized the true nature of IVGID's preceding actions and
7 triggered the six-month statute of limitations under NRS 288.110(4).

8 The evidence will establish that after learning of Ms. Leijon's political activities
9 supporting the recall petitions, Trustees Schmitz, Tulloch, and Dent orchestrated a campaign of
10 harassment and retaliation, including: fabricating baseless conflict of interest allegations,
11 excluding her from key projects, undermining her authority, initiating unfounded investigations,
12 and ultimately creating such an intolerable working environment that Ms. Leijon was forced to
13 take FMLA leave and eventually resign. Trustee Schmitz's statement that she "would not work
14 with staff after she learned they signed the recall petition" exemplifies the personal and political
15 animus driving these actions.

16 IVGID's discriminatory conduct violated NRS 288.270(1)(f)'s prohibition against
17 discrimination based on "political or personal reasons or affiliations." The evidence will show
18 that: (1) Ms. Leijon's support of the recall efforts was the motivating factor behind IVGID's
19 actions; (2) IVGID's purported justifications were pretextual, as demonstrated by the retraction
20 of unfounded allegations and dismissal of ethics complaints; and (3) IVGID would not have
21 taken these actions absent improper political motivations. Ms. Leijon's constructive discharge
22 after 30 years of service was the direct result of IVGID's persistent pattern of politically
23 motivated discrimination, warranting the Board's intervention and relief.

24 In conclusion, Ms. Leijon respectfully submits that the Board must not only remedy the
25 direct harm to Ms. Leijon but also send a clear message that political retaliation against public
26 employees will not be tolerated. Ms. Leijon seeks comprehensive relief, including reinstatement
27 with full back pay and benefits, compensation for medical and psychological treatment
28 necessitated by IVGID's conduct, and make-whole remedies to address the devastating

1 professional and personal consequences of IVGID's discriminatory actions. Beyond individual
2 relief, this case demands systemic reform through mandatory anti-discrimination training,
3 implementation of robust protections for employee political speech, and ongoing Board
4 oversight of IVGID's employment practices. Only through such comprehensive relief can the
5 Board both make Ms. Leijon whole and safeguard the fundamental right of public employees to
6 engage in protected political activity without fear of retaliation.

7 The stakes extend far beyond Ms. Leijon's individual case. IVGID's calculated campaign
8 of retaliation against a 30-year employee for exercising her constitutional rights threatens the
9 very foundation of public service. Without decisive action from this Board, including both
10 individual remedies and institutional reforms, IVGID's conduct will continue to chill protected
11 political speech and association among public employees throughout Nevada. This Board has
12 both the authority and the obligation to protect public employees' fundamental rights by holding
13 IVGID accountable and ensuring such politically motivated retaliation cannot happen again.

14 **IV. PROCEDURAL HISTORY**

15 As stated above, the Complainant in this matter is Shelia Leijon ("Ms. Leijon"). Ms.
16 Leijon was a local government employee of Incline Village General Improvement District as
17 defined by NRS 288.050. The Respondent in this matter is Incline Village General Improvement
18 District ("IVGID"), a local government employer as defined by NRS 288.60.

19 On June 21, 2024, Complainant Ms. Leijon filed her Complaint with the EMRB.

20 On June 21, 2024, Respondent was timely served by certified mail confirmed received
21 and signed for Attn: Sara Schmitz c/o IVGID on June 24, 2024 (Certified Mail No. 9414 8112
22 0620 4770 7891 10).

23 On July 15, 2024, Respondent, IVGID filed a Motion to Dismiss on the following
24 grounds: 1) the NRS 288.280 claim should be dismissed due to lack of probable cause; 2) the
25 Board lacks jurisdiction over the NRS Chapter 281 claim, 3) conduct arising beyond December
26 21, 2023 is time barred because such conduct falls outside of the six-month statute of limitations
27 under NRS 288.110(4); and 4) Complainant's discrimination claim under NRS 288.270(1)(f)
28 should be dismissed because complainant did not suffer an adverse employment action.

1 On July 23, 2024, Respondent's, IVGID filed an Answer to Complaint,

2 On July 29, 2024, Complainant, Shelia Leijon Filed an Opposition to Respondent's
3 Motion to Dismiss.

4 On August 9, 2024, Respondent, IVGID, filed a Reply to Opposition to Motion to
5 Dismiss.

6 On October 4, 2024, the matter of Respondent's Motion to Dismiss came before the
7 State of Nevada, Government Employee Management Relations Board (the Board) for
8 consideration and decision.

9 On October 8, 2024, the Board filed its Order Denying Respondent's Motion to Dismiss
10 in Part and Granting in Part En Banc. The Board GRANTED Respondent's Motion to Dismiss
11 as to the claim brought under NRS 288.280 and NRS 281. The Board DENIED Respondent's
12 Motion to Dismiss as to the claim for lack of jurisdiction under NRS 288.270(1)(f) and NRS
13 288.110(4).

14 Further, The Board ordered that the Board will hold a bifurcated hearing. The first par of
15 the bifurcated hearing will be solely related to the issue of when the Complainant knew, or
16 should have known, of the facts giving rise to the Complaint. The second part of the hearing, if
17 necessary, will be on the underlying merits of the case. The Board further ordered the parties
18 shall submit prehearing statements within 21 days of the date of notice of entry of order.

19 On October 21, 2024, EMRB Commissioner Snyder entered his Commissioner's Order
20 extending the time for the parties to file their pre-hearing statements in this matter making the
21 new deadline November 7, 2024. Also, on October 21, 2024, in granting the extension of time
22 for the parties to file their pre-hearing statements, Commissioner Snyder requested that in the
23 parties' pre-hearing statements that the parties address why or why not this case should be
24 consolidated with the case Susan Herron v. Incline Village General Improvement District; Case
25 No. 2024-015.

26 **V. STATEMENT OF FACTS**

27 Ms. For three decades, Sheila Leijon served IVGID with distinction, building deep roots
28 in the Incline Village Crystal Bay community through her professional work and volunteer

1 service. Since 1992, she has been an integral part of the community's fabric, dedicating herself
2 not only to her professional role at IVGID but also to vital community organizations including
3 the Incline Village Crystal Bay Community & Business Association ("IVCBA"), Incline Tahoe
4 Foundation ("ITF"), and the Rotary Club of Incline Village. Her dual role as public servant and
5 engaged citizen exemplified the best of local governance.

6 In June 2023, exercising her constitutional rights as a private citizen, Ms. Leijon and her
7 husband made the fateful decision to support recall efforts against Trustees Matthew Dent and
8 Sara Schmitz, who they believed were not adequately representing the community. Their
9 commitment to civic responsibility led them to contribute \$1,000 each to both recall
10 committees. This protected political activity would trigger a months-long campaign of
11 retaliation that would ultimately destroy Ms. Leijon's career and health.

12 The intimidation began on July 4, 2023, when Trustee Schmitz personally called Ms.
13 Leijon with an aggressive demand to remove recall signature tables from beach areas. Schmitz
14 falsely claimed IVGID's legal counsel had forbidden the tables, an assertion Ms. Leijon
15 disproved by confirming with counsel that the tables were explicitly permitted under District
16 Policy 136. This verification, however, only intensified the harassment from Trustee Schmitz's
17 political supporters, who repeatedly confronted Ms. Leijon and her staff about the tables.

18 Between August and October 2023, upon discovering Ms. Leijon's support for the recall
19 through petition records, Trustees Dent and Schmitz launched a coordinated campaign of
20 professional retaliation. Their systematic effort to undermine Ms. Leijon's authority and
21 effectiveness included:

- 22 • Trustee Schmitz deliberately bypassing Ms. Leijon's authority by working exclusively
23 with IT Director Mike Gove on the District's Restricted Beach Access project—a project
24 squarely within Ms. Leijon's responsibilities;
- 25 • The calculated removal of Ms. Leijon's carefully prepared Ice Rink Proposal from the
26 IVGID agenda by Trustees Dent, Schmitz, and Tulloch, using the pretext of General
27 Fund concerns despite the project being slated for Recreation Fund financing;

- 1 • Imposing unprecedented restrictions on Ms. Leijon's ability to communicate with legal
2 counsel, uniquely requiring the Board Chair's presence for her consultations—a
3 requirement not imposed on any other director; and
- 4 • Blocking Ms. Leijon from providing crucial updates about beach signage and the Black
5 Eagle Tennis report, then later falsely claiming they never received these reports.

6 The campaign escalated dramatically with a December 21, 2023 letter from IGM Mike
7 Bandelin and Erin Feore, lodging vague accusations about Ms. Leijon's community involvement
8 and alleging conflicts of interest without providing specific complaints or evidence. The true
9 motivation behind these actions became explicit on January 10, 2024, when Interim Finance
10 Director Bobby Magee revealed to Ms. Leijon that "two trustees want you gone, and one has
11 made it personal."

12 What followed was an intensified campaign of harassment designed to force Ms.
13 Leijon's resignation:

- 14 • On January 23, 2024, Magee leveled baseless tax fraud allegations regarding the IVCB
15 Veterans Club and Incliners programs—the latter being IVGID's longest-running senior
16 program;
- 17 • After Ms. Leijon arranged a January 25, 2024, conference call to clarify IVCBA
18 relationships, she was served with a retaliatory Nevada Commission on Ethics
19 Complaint; and
- 20 • Four separate public records requests—three from Ms. Leijon and one from counsel—
21 revealed no evidence supporting any allegations against her.

22 The relentless harassment took a devastating personal toll. On February 22, 2024, the
23 psychological trauma forced Ms. Leijon to take FMLA leave, requiring both medical and
24 psychological care. Her attempt to return to work on March 27 demonstrated her dedication, but
25 the hostile environment—marked by continued retaliation and undermining—made it
26 impossible to continue. After being forced back onto FMLA on April 17, Ms. Leijon finally
27 submitted her resignation on May 8, 2024, ending a 30-year career built on dedication and
28 integrity.

1 Even after forcing her resignation, IVGID continues its campaign against Ms. Leijon. In
2 recent board meetings, Interim Director of Finance Magee falsely claimed Ms. Leijon was
3 responsible for current Park & Rec and Beach budgets, despite her being on protected medical
4 leave during the entire budget process. Though Ms. Leijon requested a correction to these false
5 statements on May 29, 2024, IVGID has allowed these damaging misrepresentations to stand.

6 The vindication of Ms. Leijon—through Mr. Bandelin's formal retraction admitting no
7 complaints existed and the Nevada Commission on Ethics' dismissal of all charges—came too
8 late to save her career or repair the damage to her health and reputation. The trauma of this
9 coordinated campaign of retaliation resulted in:

- 10 • Severe emotional distress requiring ongoing medical and psychological treatment;
- 11 • Irreparable damage to her professional reputation in a close-knit community;
- 12 • Loss of her 30-year career and associated financial security;
- 13 • Lasting impact on her family life and well-being; and
- 14 • Physical health deterioration requiring medical intervention.

15 Beyond Ms. Leijon's personal tragedy, IVGID's actions have created a chilling effect
16 throughout the organization, effectively suppressing other employees' constitutional rights
17 through the stark example of what happens to those who dare to exercise their protected
18 political speech. The message is clear: engage in political activity opposing current leadership,
19 and your career, health, and reputation will be systematically destroyed.

20 **VI. LAW AND ARGUMENT**

21 **A. LEGAL FRAMEWORK AND BURDEN OF PROOF.**

22 Ms. Leijon's discrimination claim under NRS 288.270(1)(f) presents a clear case of
23 prohibited political retaliation analyzed under the burden-shifting framework established in
24 *Reno Police Protective Ass'n v. City of Reno*, 102 Nev. 98, 715 P.2d 1321 (1986) and refined in
25 *Bisch v. Las Vegas Metro Police Dep't.*, 302 P.3d 1108 (Nev. 2013). Under this framework, Ms.
26 Leijon must first present credible evidence that her protected political activities—supporting the
27 recall petitions against Trustees Dent and Schmitz—were a motivating factor in IVGID's
28 retaliatory actions. Once established, IVGID bears the burden of proving it would have taken

1 the same actions absent these protected political activities. Importantly, IVGID's justifications
2 must satisfy a reasonableness test "in light of the factual circumstances and protected rights at
3 issue." *Reno Police Protective Ass'n*, at 101, 715 P.2d at 1323.

4 **B. STATUTORY PROTECTION OF POLITICAL RIGHTS.**

5 NRS 288.270(1)(f) explicitly prohibits local government employers from discriminating
6 against employees "because of political or personal reasons or affiliations." This protection
7 stands alongside other fundamental protected characteristics such as race, religion, and gender,
8 underscoring the Legislature's recognition that political expression deserves equal protection
9 from discrimination. The Nevada Supreme Court has affirmed the EMRB's interpretation that
10 such protection extends to "non-merit-or-fitness factors"—characteristics unrelated to job
11 performance or legitimate employment requirements. *See Kilgore v. City of Henderson*, Item
12 No. 550H (2005), approved in *City of N. Las Vegas v. Glazier*, Case No. 50781 (unpublished
13 2010).

14 **C. APPLICATION TO MS. LEIJON'S CASE.**

15 The evidence in this case presents a textbook example of political discrimination
16 prohibited by NRS 288.270(1)(f). Ms. Leijon's exercise of her constitutional rights to support
17 recall petitions against sitting trustees triggered a calculated campaign of retaliation that
18 ultimately destroyed her thirty-year career with IVGID.

19 **1. Prima Facie Case of Political Discrimination.**

20 Ms. Leijon easily satisfies her initial burden under the *Reno Police Protective*
21 *Association* framework. In June 2023, she engaged in quintessentially protected political
22 activity by supporting recall petitions against Trustees Dent and Schmitz. The causal
23 connection between this protected activity and IVGID's discriminatory conduct crystallized on
24 January 10, 2024, when Bobby Magee explicitly revealed that "two trustees want you gone, and
25 one has made it personal." This smoking-gun statement directly connects Ms. Leijon's political
26 activity to the trustees' retaliatory motives.

27 The discriminatory intent became even more apparent through Trustee Schmitz's
28 categorical declaration that she "would not work with staff after she learned they signed the

1 recall petition." This remarkable statement reveals not only personal animus but also a
2 willingness to abandon professional responsibilities based solely on employees' protected
3 political activities. Such conduct epitomizes the "non-merit-or-fitness factors" that the EMRB
4 has consistently held cannot form the basis for employment decisions under Kilgore.

5 **2. Systematic Retaliation and Pretext.**

6 IVGID's attempts to disguise its political retaliation as legitimate employment actions
7 collapse under scrutiny. The timeline of events reveals a clear pattern: after discovering Ms.
8 Leijon's support for the recall efforts, IVGID leadership systematically stripped her authority
9 and manufactured baseless allegations against her. They excluded her from the Beach Access
10 project within her purview, imposed unique restrictions on her communications with counsel,
11 and removed her proposals from meeting agendas under false pretexts.

12 Most tellingly, every investigation and allegation against Ms. Leijon has crumbled when
13 subjected to examination. Mr. Bandelin's formal retraction admitting no complaints existed
14 about her community involvement exposed the December 21 letter as a pure intimidation tactic.
15 The Nevada Commission on Ethics' dismissal of all charges further demonstrates the pretextual
16 nature of IVGID's actions. Even now, after forcing her resignation, IVGID continues its
17 campaign by spreading demonstrably false statements about her involvement in budgeting
18 during her FMLA leave—a transparent attempt to damage her professional reputation through
19 easily disproven accusations.

20 **3. Constructive Discharge Through Political Retaliation.**

21 IVGID's coordinated campaign of harassment, following the protected political activity
22 that triggered Trustees' displeasure, presents exactly the type of discriminatory conduct NRS
23 288.270(1)(f) was designed to prevent. The psychological toll of this retaliation—evidenced by
24 Ms. Leijon's need for medical and psychological treatment during FMLA leave—demonstrates
25 the severe impact of IVGID's actions. Her attempted return to work in March 2024, followed by
26 forced retreat to FMLA status and ultimate resignation in May, shows both her commitment to
27 her position and the intolerable nature of the hostile environment IVGID created.

28 ///

1 **4. IVGID's Burden.**

2 IVGID cannot meet its burden of showing it would have taken the same actions absent
3 discriminatory intent. Every purported justification for its actions has been discredited. No
4 legitimate complaints existed. No ethics violations were found. No evidence of misconduct was
5 ever produced. Instead, the record shows a clear pattern: IVGID leadership, angered by Ms.
6 Leijon's protected political activity, orchestrated a campaign of retaliation that forced out a
7 thirty-year employee whose only "offense" was exercising her constitutional rights.

8 The test of reasonableness established in *Reno Police Protective Association* demands
9 that employment actions be justified by legitimate, non-discriminatory reasons. Here, IVGID's
10 shifting explanations, retracted allegations, and continued spreading of demonstrably false
11 information fail this test completely. The evidence instead reveals exactly what Bobby Magee
12 admitted: trustees wanted Ms. Leijon gone because she dared to support their recall, and they
13 made it personal.

14 **D. CONCLUSION AND REQUESTED RELIEF.**

15 The evidence establishes that: (1) Ms. Leijon timely filed her complaint after receiving
16 unequivocal notice of discrimination on January 10, 2024; (2) IVGID engaged in a pattern of
17 discriminatory conduct intended to punish Ms. Leijon for her protected political activities; (3)
18 political and personal animus were the motivating factors behind IVGID's actions; (4) IVGID's
19 conduct forced Ms. Leijon's constructive discharge; and (5) IVGID cannot demonstrate it would
20 have taken these actions absent discriminatory intent.

21 Ms. Leijon, therefore, requests comprehensive relief, including reinstatement, back pay,
22 benefits restoration, compensatory damages for medical and psychological treatment, and
23 attorney's fees and costs. Additionally, she seeks institutional reforms including mandatory anti-
24 discrimination training and ongoing Board oversight to prevent future political retaliation
25 against public employees.

26 ///
27 ///
28 ///

1 **V. WITNESSES**

2 Ms. Leijon identifies the following witnesses whose testimony will establish both the
3 timeline of discrimination and the coordinated nature of IVGID's retaliatory campaign. Ms.
4 Leijon reserves the right to call witnesses designated by Respondent and to call additional
5 witnesses if necessary.

6 **A. Sheila Leijon, Complainant**, will testify regarding her 30-year career with
7 IVGID, her protected political activities supporting the recall petitions, the systematic retaliation
8 she experienced, and the severe personal, professional, and health impacts of IVGID's
9 discriminatory conduct. Her testimony will establish when she first received unequivocal notice
10 of discrimination and detail the hostile work environment that led to her constructive discharge.

11 **B. Bobby Magee, Former IVGID General Manager**. Mr. Magee's testimony is
12 crucial to establishing both discriminatory intent and the timing of notice. He will testify
13 regarding:

- 14 1. His January 10, 2024, statement that "two trustees want you gone and one has
15 made it personal"—the pivotal disclosure that revealed the trustees' retaliatory
16 motives.
- 17 2. His coordination with Trustees Schmitz and Tulloch to manufacture ethics
18 violations against Ms. Leijon.
- 19 3. His explicit threat that "it will not go well for you" if Ms. Leijon didn't
20 recommend deviating from District Policy.
- 21 4. His actions undermining Ms. Leijon's position during her FMLA leave, including
22 hiring her replacement and posting her position before her resignation.
- 23 5. His continued campaign to damage Ms. Leijon's reputation through false
24 statements about her involvement in the 2025 budget process during her protected
25 leave.

26 **C. Mike Gove, IVGID Director of Information Technology**. Mr. Gove will testify
27 about the systematic effort to exclude Ms. Leijon from her duties, specifically:

- 28 1. His role in Trustee Schmitz's covert investigation through records searches;

- 1 2. The deliberate bypass of Ms. Leijon's authority on the RFID Beach Access
2 project; and
3 3. His firsthand knowledge of how Trustee Schmitz orchestrated Ms. Leijon's
4 professional isolation.

5 **D. Mike Bandelin, General Manager Diamond Peak Ski Resort.** Mr. Bandelin's
6 testimony will demonstrate the pretextual nature of IVGID's actions through:

- 7 1. His admission that no complaints existed to support the December 21, 2023 letter
8 alleging conflicts of interest;
9 2. His knowledge of Trustee Schmitz's statement about refusing to work with staff
10 who signed recall petitions; and
11 3. His participation in efforts to undermine Ms. Leijon's authority through project
12 removals and communication restrictions.

13 **E. Erin Feore, IVGID Director of Human Resources.** Ms. Feore will provide
14 critical testimony regarding:

- 15 1. Ms. Leijon's 17-month history of internal complaints about retaliation and
16 harassment;
17 2. Her contemporaneous documentation of the January 10, 2024 disclosure about
18 trustees wanting Ms. Leijon "gone";
19 3. The impact of harassment on Ms. Leijon's health necessitating FMLA leave;
20 4. Her presence during Magee's threat regarding District policy deviation; and
21 5. Her knowledge of trustees directing retaliatory investigations.

22 **F. Indra Winqest, Former IVGID General Manager.** Mr. Winqest will
23 corroborate Trustee Schmitz's discriminatory intent through direct conversations about her
24 refusal to work with employees who signed recall petitions, establishing the political motivation
25 behind IVGID's actions.

26 ///

27 ///

1 **G. IVGID Trustee Dave Noble.** Trustee Noble will testify about board discussions
2 and actions revealing the coordinated effort to retaliate against Ms. Leijon for her protected
3 political activity.

4 **H. IVGID Trustee Michaela Tonking.** Trustee Tonking's testimony will provide
5 insight into board-level discussions demonstrating the systematic nature of the retaliation against
6 Ms. Leijon.

7 **I. IVGID Trustee Ray Tulloch.** Trustee Tulloch's testimony will address his role in
8 the coordinated campaign against Ms. Leijon, including his involvement in spreading false
9 information about conflict of interest with outside organizations as Director of Parks &
10 Recreation and further spreading false information about her work responsibilities during FMLA
11 leave.

12 **J. IVGID Trustee Matthew Dent.** As Board Chair in 2023, and current Trustee,
13 Trustee Dent will testify about his role in restricting Ms. Leijon's access to legal counsel and his
14 coordination with other trustees to retaliate against her protected political activity.

15 **K. IVGID Trustee Sara Schmitz.** Trustee Schmitz's testimony is crucial to
16 establishing discriminatory intent through:

- 17 1. Her explicit statement refusing to work with staff who signed recall petitions
- 18 2. Her orchestration of the coordinated campaign to undermine Ms. Leijon's
19 authority
- 20 3. Her direction of other IVGID employees to participate in retaliatory actions
- 21 4. Her role in initiating baseless investigations and ethics complaints

22 **L. Kenneth Leijon.** Husband. Mr. Leijon will testify about:

- 23 1. The devastating personal and financial impact of IVGID's discriminatory conduct
24 on his family
- 25 2. His firsthand observations of the emotional and physical toll of the harassment on
26 Ms. Leijon
- 27 3. His own protected political activities supporting the recall effort and the resulting
28 retaliation against his wife

1 4. The long-term consequences of IVGID's actions on their family's well-being and
2 financial security

3 **VII. DOCUMENTARY EVIDENCE**

4 At this time, Complainant, Sheilia Leijon anticipates that will rely upon 18 exhibits, a list
5 only is provided below. Ms. Leijon reserves the right to amend and or supplement these
6 anticipated exhibits, rely on exhibits submitted by the Respondent and to submit additional
7 rebuttal evidence, if necessary.

Tentative Exhibit No.	Date	Document Description
1.	1/11/2023	Formal Complaint to HR and BBK re: OML complaint Trustee Tulloch brought calling Ms. Leijon into question in open session for violating the District's Conflict of Interest policy and NRS 281A.400 without proper notification.
2.	7/3/2024	E-mail from S. Schmitz to Leijon "I've gotcha"
3.	7/4/2023	Documentation re: Trustee Schmitz demanding the Recall Table be removed stating the untruth that "Josh (nelson) said the recallers could not be at the beach". This was proven to be untrue and a violation of District Policy 136
4.	10/7/2023	E-mail correspondence with M. Gove (M. Bandelin cc'd) re: Burnt Cedar Winter Operations
5.	Various	Documentation to HR re: Mike Gove and Trustee Schmitz micromanaging and excluding Ms. Leijon from meetings, discussion and decisions undermining Ms. Leijon's authority on the beach access project
6.	11/8/2023	Parks & Rec Status Report containing recommendations for beach access from Kathy Parks, Black Eagle Report and Ice Rink Project
7.	12/21/2023	Letter Re; Conflict of Interest "complaints" from Mike Brandlin, Erin Feore and Sergio Rudin
8.	Various	Four PRR requests, three from Ms. Leijon, one from Jason Guinasso re: Conflict of Interest Complaints as stated in IGM Bandelin's letter
9.	1/10/2024	Written complaint to HR re Bobby Magee stating "two trustees want you gone...personal"
10.	1/27/2024	Follow-up apology letter from Mike Bandelin retracting the letter and stating there were no complaints

11.	4/24/2024	Contract with Baker Tilly for Consulting Interim Parks & Rec Director (HR)
12.	4/25/2024	Resignation Letter effective 5/8/2024
13.	4/30/2024	Job posting for Director of Parks & Rec (HR) prior to resignation effective date
14.	5/8/2024	Thorndal Armstrong finding for the Nevada Commission on Ethics complaint from Frank Wright
15.	5/29/2024	Email from S. Leijon to B. Magee re: disparaging remarks and mistruths stated in last two board meetings
16.	Various	Minutes from open session with disparaging remarks from Magee and Tulloch (PRR)
17.		Nevada Commission on Ethics Findings to Frank Wrights Complaint- no violation
18.		Email from Trustee Schmitz stating she would not be able to work with staff who signed the Recall Petition.

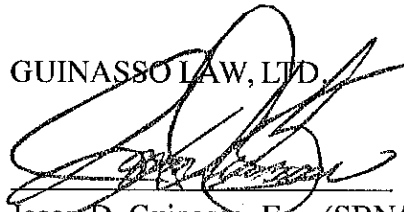
VI. ESTIMATED TIME

Ms. Leijon estimates that submission of evidence, examination of witnesses, and closing argument will take approximately four days.

Dated this 7th day of November, 2024.

GUINASSO LAW, LTD.

By:

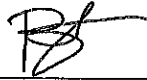


Jason D. Guinasso, Esq. (SBN# 8478)
Attorney for Complainant

1 **CERTIFICATE OF SERVICE**

2 Pursuant to NAC 288.200 (2), I caused a true and correct copy of the **PRE-**
3 **HEARING STATEMENT** to be filed with the EMRB and to be served on the following
4 individuals by depositing for mailing with postage prepaid on this 7th day of November, 2024:

5 Marquis Aurbach
6 Nick D. Crosby, Esq.
7 Nevada Bar No. 8996
8 10001 Park Run Drive
9 Las Vegas, NV 89145
ncrosby@maclaw.com
Attorneys for Incline Village General Improvement District

10 

11 _____
12 For Guinasso Law, Ltd.

1 **Marquis Aurbach**
2 Nick D. Crosby, Esq.
3 Nevada Bar No. 8996
4 10001 Park Run Drive
5 Las Vegas, Nevada 89145
6 Telephone: (702) 382-0711
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9 Attorneys for Respondent

FILED
November 7, 2024
State of Nevada
E.M.R.B.
3:31 p.m.

6 **STATE OF NEVADA**

7 **GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD**

8 SHELIA LEIJON,

9 Complainant,

Case No.: 2024-022

10 vs.

11 INCLINE VILLAGE GENERAL
12 IMPROVEMENT DISTRICT

13 Respondent.

14 **RESPONDENT'S PREHEARING STATEMENT**

15 Respondent Incline Village General Improvement District ("Respondent" or "IVGID"), by
16 and through its attorney of record, Nick D. Crosby, Esq. of Marquis Aurbach, hereby files its
17 Prehearing Statement in the above-captioned matter.

18 **I. STATEMENT OF FACTS**

19 **A. THE PARTIES.**

20 Complainant Shelia Leijon ("Complainant") worked as the Director Parks & Recreation
21 for the Incline Village General Improvement District ("Respondent") and was an employee of
22 Respondent since 1992. Complainant was a local government employee as defined in Nevada
23 Revised Statute 288.050. The Respondent is a local government employer, as defined in Nevada
24 Revised Statute 288.060, as was established pursuant to Nevada Revised Statute chapter 318 and
25 chartered to provide water, sewer, trash and recreation services for the Incline Village and Crystal
26 Bay communities in Lake Tahoe.
27
28

1 **B. THE COMPLAINT.**

2 Complainant filed her Complaint on or about June 21, 2024, alleging that on or about June
3 16, 2023, a political action committee, The Committee to Recall IVGID Trustee Mathew Dent
4 (“Dent PAC”), filed a petition to recall Trustee Matthew Dent (“Dent”) and, on that same date,
5 another political action committee, The Committee to Recall IVGID Trustee Sara Schmitz
6 (“Schmitz PAC”), filed a similar petition to recall Trustee Sara Schmitz (“Schmitz”). (Compl. at
7 ¶¶ 9-10). One week later, additional petitions were issued by the PACs against Dent and Schmitz.
8 (Id. at ¶ 11).

9 On August 16, 2023, Complainant and her husband, Kenneth C. Leijon (“Kenneth”),
10 contributed to the respective PACs. (Id. at ¶ 12). Complainant further alleges Kenneth “assisted
11 in the efforts of these political action committees by volunteering his time to assist with collecting
12 signatures on the Petitions....” (Id. at p. 13). Complainant alleges on or about July 4, 2023, she
13 received a call from Trustee Schmitz “demanding that she remove the Free Speech Area that had
14 been set up at the beaches to collect recall signatures on the Petitions....” (Id. at p. 14). The
15 Complaint further alleges she and her staff “endured persistent harassment from Trustee Schmitz’
16 political camp” over the removal of the signature tables and Schmitz represented Respondent’s
17 legal counsel had opined the tables were not allowed on the beaches, but Complainant maintains
18 she spoke with counsel who confirmed the tables could remain and were operating in compliance
19 with Respondent’s policies. (Id.)

20 Complainant alleges sometime between August and October 2023 Dent and Schmitz
21 requested records of persons who signed the Petitions and thereafter, publicly and privately
22 complained about Complainant’s “presumed involvement in the effort to recall” the Trustees, as
23 well as Complainant’s association with members of the community who supported the recall effort.
24 (Id. at ¶¶ 15-17).

25 The Complainant further alleges on November 8, 2023, Dent, Schmitz and Trustee Tulloch
26 pulled an Ice Rink Proposal from the Respondent’s meeting agenda and, on that same date, special
27 legal counsel for the Respondent directed Incline General Management (“IGM”) to not allow
28 Complainant to address special counsel without the Board chairperson present. (Id. at ¶ 20).

1 On December 21, 2023, Complainant received an “accusatory letter” from IGM, Mike
2 Bandelin (“Bandelin”) and Erin Feore (“Feore”), stating the Respondent received complaints
3 regarding Complainant’s involvement with some non-profit organizations and an apparent conflict
4 of interest. (Id. at ¶ 21). Complainant alleges on January 10, 2024, then-Interim Finance Director
5 Bobby Magee (“Magee”) told her “two trustees want you gone, and one has made it personal.”
6 (Id. at ¶ 22).

7 On January 23, 2024, Complainant alleges Magee advised her there was “tax fraud” with
8 the IVCB Veterans Club and the Incliners – two programs Complainant oversaw. (Id. at ¶ 23).
9 Complainant alleges she provided links with detailed information regarding both programs to
10 Respondent’s counsel and Magee but did not receive a response regarding the allegations. (Id.)
11 On January 25, 2024, Complainant alleges she “facilitated” a conference call with the Executive
12 Director of one of the not-for-profit organizations, the Incline Village Crystal Bay Association
13 (“IVCBA”) and Magee, to help Magee understand the relationship between Respondent and
14 IVCBA. (Id. at ¶ 24). Two days later, on January 27, 2024, Complainant alleges she received a
15 letter from Bandelin indicating Respondent had not received any formal complaints, as previously
16 stated in the December 21, 2023 letter. (Id. at ¶ 25). Shortly thereafter, an ethics complaint was
17 lodged against Complainant, though the Complaint does not state who lodged the Complaint, and
18 only alleges upon information and belief that it was “initiated and encouraged” by Schmitz and
19 Dent. (Id. at ¶¶ 24, 31).

20 Complainant alleges “[a]s a result of the ongoing harassment” she was placed on Family
21 Medical Leave Act (“FMLA”) leave on February 22, 2024. (Id. at ¶ 26). She alleges on March
22 27, 2024, she tried to return to work on an intermittent FMLA basis for fear that she would be
23 retaliated against if she did not return to work. (Id. at ¶ 27). Complainant alleges she was “forced”
24 to return to full FMLA leave on April 17, 2024 then tendered her resignation on May 8, 2024. (Id.
25 at ¶¶ 28-29).

26 Based upon the foregoing, Complainant asserted violations of Nevada Revised Statute
27 281.370(1) and (2), Nevada Revised Statute 288.270(1)(f) and Nevada Revised Statute 288.280
28 for discrimination because of political or personal reasons or affiliations. Respondent filed a

1 Motion to Dismiss the Complaint and, on October 8, 2024, the Board issued its Order on the
2 Motion. In the Order, the Board granted in part and denied in part, the Motion, leaving only the
3 issue of whether the Respondent discriminated against Complainant for political or personal
4 affiliations or reasons.

5 **II. STATEMENT OF ISSUES AND LAW TO BE DETERMINED BY THE BOARD**

6 1. Whether Complainant suffered an adverse employment action and, if so, what
7 was/were the specific adverse employment action(s)?

8 2. Whether conduct that falls short of an adverse employment action is sufficient to
9 trigger the protections afforded under Nevada Revised Statute 288.270(1)(f)?

10 3. Whether all of the alleged adverse employment actions, assuming those incidents
11 (a) occurred; and (b) constituted adverse employment actions, were timely claimed for purposes
12 of the statute of limitations?

13 4. Assuming Complaint demonstrates she suffered an adverse employment action,
14 were the actions of the Respondent for legitimate, non-discriminatory reasons?

15 5. Whether Respondent discriminated against Complainant because of political or
16 personal reasons or affiliations in violation of Nevada Revised Statute 288.270(1)(f)?

17 6. Assuming Complaint makes a prima facie showing of discrimination under Nevada
18 Revised Statute 288.270(1)(f), did Respondent prove by a preponderance of the evidence that the
19 same action would have taken place absent the alleged protected conduct?

20 **III. LEGAL ARGUMENT**

21 **A. CONDUCT ARISING BEFORE DECEMBER 21, 2023 IS TIME-BARRED.**

22 A complainant is required, by statute, to file a prohibited practices complaint within six
23 months of the date of notice of the alleged prohibited practice. Nevada Revised Statute 288.110(4)
24 states that “[t]he Board may not consider any complaint or appeal filed more than 6 months after
25 the occurrence which is the subject of the complaint or appeal.” The six-month statute of
26 “limitations period begins to run only when the complainant has unequivocal notice of a prohibited
27 labor practice.” Turner v. CCSD, Case No. A1-046106, Item No. 800, p. 1 (Jan. 21, 2015) (citing
28

1 City of N. Las Vegas v. State Local Gov't Employee-Mgmt. Relations Bd., 261 P.3d 1071 (Nev.
2 2011)).

3 Here, Complainant filed her Complaint on June 21, 2024, making December 21, 2023 the
4 outside date for the inclusion of alleged unfair labor practices. Complainant, however, lists several
5 alleged actions that occurred prior to December 21, 2023; namely July 4, 2023, August 2023-
6 October 2023, October 13, 2023 and November 8, 2023. (Compl. at ¶¶ 14, 15, 18-20).
7 Complainant is clearly and unequivocally aware of these incidents. Indeed, with respect to the
8 July 4, 2023 incident, Complainant was surely aware of the incident because it was allegedly a
9 personal phone call from Schmitz. (Compl. at ¶ 14). With respect to the November 8, 2023
10 incident, again, Complainant was aware – at that time – of the alleged unfair labor practice because
11 she avers that on that date an ice rink agenda item was pulled from the agenda and Complainant
12 was precluded from providing an update to the Board. There is no way Complainant can contend
13 she was not aware of the alleged conduct on the dates specified in the Complaint. Because these
14 alleged acts occurred prior to the six-month statute of limitations, the Board is precluded from
15 considering these as stand-alone claims.

16 **B. THE COMPLAINANT DID NOT SUFFER AN ADVERSE**
17 **EMPLOYMENT ACTION.**

18 The Complainant's claim for discrimination for personal or political reasons fails as a
19 matter of law because the Complainant did not suffer an adverse employment action. Nevada
20 Revised Statute 288.270(1)(f) prevents a local government employer or its representative from
21 willfully discriminating for, *inter alia*, political or personal reasons or affiliations. The Nevada
22 Supreme Court has held that in order for a claimant to assert a claim for discrimination under this
23 statute:

24 [a]n aggrieved employee must make a prima facie showing sufficient to support the
25 inference that protected conduct was a motivating factor in the employer's decision.
26 Once this is established, the burden of proof shifts to the employer to demonstrate
27 by a preponderance of the evidence that the same action would have taken place
28 even in the absence of the protected conduct. The aggrieved employee may then
offer evidence that the employer's proffered "legitimate" explanation is pretextual
and thereby conclusively restore the inference of unlawful motivation.

1 *Bisch v. Las Vegas Metro. Police Dept.*, 129 Nev. 328, 340, 302 P.3d 1108. 1116 (2013) (quoting
2 *Reno Police Protective Ass'n*, 102 Nev. at 101-102 (additional citations omitted)). The *Bisch* court
3 went on to hold that “it is not enough for the employee to simply put forth evidence that is capable
4 of being believed; rather, this evidence must actually be believed by the fact finder.” *Id.* (citing
5 *Director, OWCP v. Greenwich Collieries*, 512 U.S. 267, 276-78 (1994)). In the context of a claim
6 for discrimination for political or personal reasons or affiliations, “this presupposes that the
7 employee has also produced some evidence of an adverse employment action taken by the
8 employer against the employee.” *Ducas v. Las Vegas Metro. Police Dept.*, Case No. 2015-003,
9 Item No. 812 *6 (Feb. 4, 2016).

10 Here, the Complainant has not identified any adverse employment action. According to
11 the Complaint, the alleged adverse employment actions include: (1) receiving an “accusatory”
12 letter which indicated there were complaints regarding Complainant’s involvement with some not-
13 for-profit organizations; and (2) the filing of an ethics complaint. Neither of these qualify as an
14 adverse employment action.

15 First, receiving a letter that complaints were made regarding alleged inappropriate conduct
16 does not qualify as an adverse employment action. “[M]ere allegations, without more, are not
17 adverse employment actions.” *Benningfield v. City of Houston*, 157 F.3d 369, 376 (5th Cir. 1998).
18 Even false allegations of misconduct have been found to not qualify as adverse employment
19 actions. *See Sosa v. N.Y.C. Dep’t. of Ed.*, 368 F. Supp. 3d 489, 520 (E.D.N.Y. 2019); *see also*
20 *Hicks v. Baines*, 593 F.3d 159, 168 (2nd Cir. 2010). Further, the Federal District Court for Nevada,
21 in an unpublished opinion, found a plaintiff failed to provide any case establishing that being
22 investigated by an employer amounted to an adverse employment action. *See Peterson v. Washoe*
23 *Cnty.*, 2010 WL 1904475 *3 (D. Nev. 2010). Certainly, if being *investigated* for alleged
24 misconduct cannot arise to the level of an adverse employment action, simply notifying an
25 employee of potential misconduct allegations cannot be construed as an adverse employment
26 action. Moreover, the referenced December 21, 2023 letter notified Complainant of certain
27 restraints on conduct, generally, as outlined in Nevada Revised Statute chapter 281A, *vis a vis*
28

1 conflicts of interest and asked Complainant comply with those laws and regulations. This can
2 hardly be construed as an adverse employment action.

3 The same logic can be applied to the ethics complaint as well. Complainant alleges
4 sometime after January 25, 2024, Complainant received an ethics complaint, but did not state
5 Respondent was the entity that filed the complaint. (See Compl. at ¶¶ 24 and 31). An ethics
6 complaint is an allegation and does not operate as an adverse employment action. Like an
7 allegation of misconduct, which needs to be investigated, an ethics complaint cannot serve as an
8 adverse employment action because it is only an allegation. To hold otherwise would deter people
9 from filing ethics complaints against persons in public service, which would be contrary to the
10 Legislature’s announced purpose of chapter 281A of the Nevada Revised Statutes. See Nev. Rev.
11 Stat. 281A.020. Moreover, the ethics complaint referenced by Complainant was not filed by Dent,
12 Schmitz or Magee but, instead, was filed by a citizen, Frank Wright. Thus, there is no merit to
13 Complainant’s assertion that the ethics complaint is somehow related to any political or personal
14 activity *vis a vis* Respondent.

15 The Complainant does, however, assert she was forced to resign and, to this end, the
16 Respondent assumes Complainant equates the same to a termination. While termination is an
17 adverse employment action, the Complainant’s allegations in this regard do not rise to the level of
18 a coerced or forced resignation. See *O’Leary v. Las Vegas Metro Police Dep’t.*, Case No. A1-
19 046116, Item No. 803, *13 (May 15, 2015). Moreover, there is no evidence that will be presented
20 to demonstrate any actions on the part of Respondent were designed, motivated, or aimed at forcing
21 Complainant to resign.

22 **IV. PENDING OR ANTICIPATED ADMINISTRATIVE, JUDICIAL OR OTHER**
23 **PROCEEDINGS**

24 Respondent is not aware of any pending or anticipated administrative, judicial or other
25 proceedings regarding Complainant.

26 **V. RESPONDENT’S POSITION ON CONSOLIDATION**

27 In an October 21, 2024 email from the Commissioner, it was requested the parties include
28 a statement about whether this action should be consolidated with Case No. 2024-015. Respondent

1 objects to consolidating this matter with Case No. 2024-015. Although the Board is not bound by
2 the Rules of Civil Procedure, the Rules offer guidance on this issue. Rule 42 states, in relevant
3 part:

4 **Rule 42. Consolidation; Separate Trials**

5 (a) Consolidation. If actions before the court involve a common question of law
6 or fact, the court may:

- 7 (1) join for hearing or trial any or all matters at issue in the actions;
8 (2) consolidate the actions; or
9 (3) issue any other orders to avoid unnecessary cost or delay.

10 Nev. R. Civ. P. 42(a).

11 The Nevada Supreme Court has noted the similarity between the federal and state rule and,
12 accordingly, has looked to federal decisions interpreting the federal rule on consolidation. *See,*
13 *e.g., Marcuse v. Del Webb Communities, Inc.*, 123 Nev. 278, 286, 163 P.3d 462, 468 (2007). The
14 threshold question regarding consolidation is whether the actions involve common questions of
15 law or fact. Nev. R. Civ. P. 42(a). If common questions of law or fact are present, consolidation
16 is warranted where, on balance, the savings of time and effort that consolidation will produce are
17 greater than any inconvenience, delay, confusion, or prejudice that may result. *Huene v. U.S.*, 743
18 F.2d 703, 704 (9th Cir. 1984). Factors to be weighed in determining the propriety of consolidation
19 include whether there are overlapping parties, similar claims based on common facts and
20 transactions, and whether the case will involve the same discovery. *U.S. v. Dentsply Int'l, Inc.*,
21 190 F.R.D. 140, 143 (D. Del. 1999) (internal citations omitted); 9 Charles Alan Wright, et al.,
22 *Federal Practice and Procedure* § 2384 (3d ed. 2011).

23 The Respondent objects to consolidation, and there is no basis for consolidation. In this
24 case, the only real overlap with Case No. 2024-015 is the Respondent. While Case No. 2024-015
25 asserts the same causes of action, it involves a different complainant, completely different factual
26 allegations. Nowhere in the instant Complaint does the Complainant argue she was placed on paid
27 leave or subject to an internal investigation because of discriminatory conduct. Furthermore, none
28 of the factual allegations are the same as those alleged in Case No. 2024-015. Consolidating the

1 two matters will not reduce the time needed to conduct the respective hearings, as the cases present
2 different issues with different witnesses (though there will surely be some witnesses who testify
3 in both) and the risk of prejudice to Respondent far outweighs any concept of judicial economy.
4 Moreover, there is no risk of inconsistent decisions because, as noted in the Orders denying the
5 Motions to Dismiss, there are factual disputes which require consideration by the Board. If the
6 cases are consolidated, the Respondent will be prejudiced by the Board receiving evidence
7 designed to make Respondent look bad which, in the aggregate, will be compounded and likely be
8 conflated (e.g., evidence unique to Case 2024-015 could be used in this case, when it has nothing
9 to do with the allegations).

10 **VI. LIST OF WITNESSES**

- 11 1. Mike Bandelin
12 IVGID
13 c/o Marquis Aurbach
14 10001 Park Run Drive
15 Las Vegas, Nevada 89145

16 This witness is expected to testify about the facts and circumstances surrounding the
17 allegations made in the Complaint, as well as the Respondent's defenses thereto.

- 18 2. Erin Feore
19 IVGID
20 c/o Marquis Aurbach
21 10001 Park Run Drive
22 Las Vegas, Nevada 89145

23 This witness is expected to testify about the facts and circumstances surrounding the
24 allegations made in the Complaint, as well as the Respondent's defenses thereto.

25 Respondent reserves the right to call any witness(es) identified by Complainant.

26 ///

27 ///

28 ///

1 **VII. ESTIMATED TIME FOR HEARING**

2 Respondent estimates it will take one full day to present its case in chief.

3 Dated this 7th day of November, 2024.

4
5 MARQUIS AURBACH

6
7 By s/ Nick D. Crosby
8 Nick D. Crosby, Esq.
9 Nevada Bar No. 8996
10 10001 Park Run Drive
11 Las Vegas, Nevada 89145
12 Attorney(s) for Respondent

13 **CERTIFICATE OF MAILING**

14 I hereby certify that on the 7th day of November, 2024, I served a copy of the foregoing
15 **RESPONDENT'S PREHEARING STATEMENT** upon each of the parties by depositing a copy
16 of the same in a sealed envelope in the United States Mail, Las Vegas, Nevada, First-Class Postage
17 fully prepaid, and addressed to:

18 Jason D. Guinasso, Esq.
19 5371 Kietzke Lane
20 Reno, NV 89511
21 *Attorney for Complainant*

22 and that there is a regular communication by mail between the place of mailing and the place(s)
23 so addressed.

24
25 s/Sherri Mong
26 an employee of Marquis Aurbach
27
28