Alex Velto, Esq.
Nevada State Bar No. 14961
Paul Cotsonis, Esq.
Nevada State Bar No. 8786
REESE RING VELTO, PLLC
200 S. Virginia Street, Suite 655
Reno, NV 89501
Telephone: (775)446-8096
alex@rrvlawyers.com
paul@rrvlawyers.com
Attorneys for Complainant

Before the State of Nevada

Government Employee-Management

Relations Board

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731,

Complainant,

v.

CITY OF SPARKS,

Respondent.

CASE NO.: 2025-001

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731 PROHIBITED PRACTICE COMPLAINT AGAINST CITY OF SPARKS

INTRODUCTION

This is a prohibited practice complaint pursuant to Nevada Revised Statutes ("NRS") 288.270(1)(e) based on the City of Sparks' ("Respondent" or "City") refusal to bargain in good faith with the International Association of Firefighters Local No. 731 ("Union," "Complainant," or "Local 731"). Local 731 asserts that the City violated NRS 288.270(1)(e) by unilaterally changing healthcare providers and benefits and then bargaining in bad faith the resolution of the subsequent grievance and by refusing to implement an agreed-to resolution involving Force Hires.

Complainant, by and through its undersigned counsel, respectfully submits this Complaint and complains and alleges as follows:

JURISDICTION AND PARTIES

1. At all times relevant herein, Complainant Local 731 was and is an "employee organization" pursuant to NRS 288.040 and/or a "labor organization." Complainant's current mailing address is 9590 S. McCarran Blvd, Reno Nv. 89523.

2. At all times relevant herein, Respondent is and was a "Government Employer" pursuant to NRS 288.060. Respondent's current mailing address is 431 Prater Way, Sparks, NV 89431.

3. The Board has jurisdiction of this matter pursuant to NRS 288.110 to hear and determine "any controversy concerning prohibited practices."

4. NRS 288.270 provides in relevant part:

> It is a prohibited practice for a local government employer or its designated representative willfully to:
>
> (a) Interfere, restrain, or coerce any employee in the exercise of any right guaranteed under this chapter.
> (b) Dominate, interfere or assist in the formation or administration of any employee organization.
> …
> (e) Refuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fiact-finding, provided for in this chapter.
> (f) Discriminate because of race, color, religion, sex, sexual orientation, gender identity or expression, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

5. The Respondent and Complainant have completed the negotiations for a successor one-year collective bargaining agreement ("CBA") to the parties' July 1, 2021, to June 30, 2024, CBA, that has yet been ratified.

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FACTUAL ALLEGATIONS

Force Hire Program

6. Respondent engages in a practice known as the "Force Hire Program" which is a practice of forcing employee overtime to ensure twenty-four hour seven-days a week coverage for certain positions.

7. The Force Hire Program operates off a rotating list whereby employees at the top of the list would be required to work forced overtime.

8. Initially an employee could expect to be forced to work overtime under the Forced Hire Program once a year, but over time the use of Force Hire occurrences increased to multiple times per six-day week in certain circumstances.

9. On or about March 2, 2022, Local 731 filed a grievance regarding the Force Hire Program ("Force Hire Grievance").

10. An arbitration regarding the Force Hire Grievance was subsequently held, but did not finish.

11. On or about July 12, 2023, the parties reached a side letter agreement putting the Force Hire Grievance Arbitration in abeyance and placing limits on the Force Hire Program's usage for a period of six months ("Side Letter").

12. On or about July 12, 2024, the parties proceeded to mediation on the Force Hire Grievance but were unsuccessful in reaching a resolution.

13. On or about September 4, 2024, Local 731 Vice President, Darren Jackson and Local 731 Representative, Mike Szopa, met with Chief Walt White and Division Chief Derek Keller to discuss the Force Hire Grievance and another grievance involving ambulance usage ("Ambulance Grievance").

14. During that meeting the parties reached an agreement to both the Ambulance and Force Hire Grievances. The parties agreed and shook hands over the essential terms of a resolution to

the grievance, which included a limitation on the frequency a member may be Force Hired and allowance of a specific number of refusals of Force Hires per sixth month period.

15. The agreed to resolution to the Ambulance Grievance included a 5% pay bump for ambulance work.

16. The agreed to resolution to the Force Hire Grievance was the official authorization of the practice into the CBA and codifying the limits thereto as were outlined in the Side Letter into the CBA as well.

17. Thereafter, on or about September 9, 2024, the City provided a draft Memorandum of Understanding ("MOU") which was a significant deviation from what was agreed to during the meeting.

18. Specifically, the MOU purported to revise the CBA to officially authorize the Force Hire Program, but did not include the agreed-to limits to that authorization into the CBA. Instead, the limits to the Force Hire Program were purportedly to be implemented by policy.

19. The City included a redlined version of the MOU that included edits and comments, including a comment that expressly clarified the City's intent was to keep the resolution in policy so that it could revoke the resolution between the Parties at any time later on. Including their intent to take work from L731 members and give said work to members of the Chief's Association and the Operating Engineers 3 union members in direct contradiction to arbitrator's previous decisions.

20. Thereafter, the Local 731 repeatedly attempted to get Respondent to put the limitations to the Force Hire Program into the CBA, rather than policy, as agreed to during the August , 2024, meeting, but Respondent refused.

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Group Health Care Committee

21. Pursuant to the CBA, the health benefits and changes thereto are governed by a Group Health Care Committee ("GHCC") comprised of 1 voting member and 1 alternate for Local 731, Operating Engineers 3("OE3"), and Sparks Police Protective Association ("SPPA").

22. The GHCC is empowered to bind each bargaining unit to any modification in benefits provided at least two voting members of the GHCC ratify said modification.

23. Changes to the health plan and benefits have always been made through the GHCC.

24. On or about January 1, 2024, Respondent unilaterally changed healthcare provisions including but not limited to putting a cap on physical therapy visits.

25. In April of 2024, Local 731 discovered Respondent's unilateral changes to the healthcare provisions and filed a grievance regarding Respondents blatant violation of the CBA ("GHCC Grievance").

26. Respondent then tried to have the GHCC approve of the changes on or about July 18th, 2024, which was unsuccessful.

27. The parties met in July of 2024 for the Step II meeting on the GHCC Grievance ("Step II").

28. During the Step II discussions the parties discussed getting Local 731's vote on the GHCC to retroactively approve the changes and resolving the GHCC Grievance.

29. Local 731's proposed options for resolution to the GHCC Grievance and securing Local 731's vote on the GHCC included providing additional benefits to Local 731 members, such as a health savings account, inclusion of a high deductible plan, more favorable sick leave conversions and/or higher percentages for retiree coverage.

30. At the conclusion of the Step II, Respondent requested the GHCC Grievance be stayed to October 10th of 2024 to allow Respondent to "run the numbers" on the proposed options to resolve the GHCC Grievance.

31. Local 731 agreed to Respondent's request for a stay to the GHCC Grievance.

32. On or about ~~October~~ August 28th of 2024, before the expiration of the stay to the GHCC Grievance, Respondent appointed City of Sparks Police Chief, Chris Crawforth as Committee Vice Chair to sit in on the September GHCC meeting, however, Chief Crawforth presided over the meeting that day.

33. On or about September 19, 2024, by a vote of 2 to 1 with the OE3 and SPPA in favor and Local 731 opposed, the GHCC voted to approve of the changes Respondent previously made to the health plan.

34. Shortly after the GHCC vote, Respondent denied the GHCC grievance.

35. Local 731 believes and herein alleges that Respondent had no intention of "running the numbers" in relation to Local 731's proposed options for resolving the GHCC Grievance and, instead, was using this as an excuse to delay the grievance process to allow Respondent to insert City of Sparks Police Chief Crawforth as Committee Chair to the GHCC in order to sway SPPA's vote in favor of approving of the changes Respondent made to the health plan.

36. The Collective Bargaining Agreement requires the City to negotiate over changes to the Plan, which means all changes, no matter how large or small.

37. Historically, the City has requested Union approval for all changes to the agreement regarding benefits.

38. The changes the City made were not small. They created significant changes, including, placing a limitation on the number of Physical Therapy visits a member can receive per year in an arbitrary manner.

39. Further, in late December 2024, the Union became aware of a change in the policy that effectively prevents members from submitting claims by no longer providing a process for Local 731 to submit claims.

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FIRST CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270(1)(e)

40. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

41. Under NRS 288.270(1)(e) it is a prohibited practice to "[r]efuse to bargain collectively in good faith with the exclusive representative as required in NRS 288.150. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter.

42. Respondent violated NRS 288.270(1)(e) when it refused to fully incorporate the agreed-to-terms resolving the Force Hire issue by codifying both the authorization for the Force Hire Program and limits to that authority into the CBA as agreed to.

SECOND CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270(1)(e)

43. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

44. Respondent violated NRS 288.270(1)(e) in seeking a continuance of the GHCC Grievance process under the false pretense of seeking a resolution to the GHCC Grievance when it had no such intention.

45. Local 731 believes and herein alleges that Respondent sought the continuance of the GHCC Grievance process to buy it time to pressure the SPPA member of the GHCC to vote in favor of retroactively ratifying Respondents changes to the Health Plan by putting the City of Sparks Chief of Police as the chair of the GHCC.

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PRAYER FOR RELIEF

Complainant respectfully requests that this Board:

1. Find in favor of Complainant and against the Respondent on each and every claim in this Complaint;

2. Find that Respondent violated NRS 288.270(1)(e) by failing to bargain in good faith with respect to the Force Hire Program;

3. Find that Respondent violated NRS 288.270(1)(e) by failing to bargain in good faith with respect to the GHHC Grievance;

4. Order that due to Respondent's bad faith bargaining in relation to the Force Hire Program that Respondent is enjoined from using it until such time as the parties have bargained in good faith over the terms of its usage and have come to an agreement;

5. Order Respondent to bargain in good faith with Local 731 the effects of its unilateral changes to the health care provisions;

6. Order that Respondent pay Complainant's attorney's fees and costs incurred in this matter; and

7. Order such further relief as the Board deems appropriate under the circumstances.

Date: January 24th 2025.

Respectfully submitted,

/s/ Alex Velto

ALEX VELTO, ESQ.
NV BAR NO. 14961
PAUL COTSONIS, ESQ.
NV BAR NO. 8786
REESE RING VELTO, PLLC
200 S. Virginia Street, Suite 655
Reno, Nevada 89501
T: 775-446-8096
E: alex@rrvlawyers.com
paul@rrvlawyers.com

CERTIFICATE OF SERVICE

I hereby certify that on January 24th 2025, I have mailed in portable document format as required by NAC 288.070(d)(3), a true and correct copy of INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731 PROHIBITED PRACTICE COMPLAINT AGAINST CITY OF SPARK as addressed below and sent certified mail pursuant to NAC 288.200(2). I also have filed the document with the Nevada Government Employee-Management Relations Board via its email address at emrb@business.nv.gov:

CITY OF SPARKS
431 Prater Way
Sparks, NV 8523

/s/Rachael L. Chavez

City of Sparks (Respondent)

Answer to Complaint

Wesley K. Duncan, #12362
Sparks City Attorney
wduncan@cityofsparks.us
Jessica L Coberly, #16079
Acting Chief Assistant City Attorney
jcoberly@cityofsparks.us
P.O. Box 857
Sparks, Nevada 89432-0857
(775) 353-2324
Attorneys for Respondent City of Sparks

BEFORE THE STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731, Complainant, v. CITY OF SPARKS, Respondent.	Case No.: 2025-001 **ANSWER TO PROHIBITED PRACTICE COMPLAINT**

ANSWER

Respondent City of Sparks (Respondent), answers Complainant International Association of Firefighters Local No. 731 (Complainant)'s Prohibited Practices Complaint (Complaint) as follows, in paragraphs numbered to correspond to the paragraph numbers in the Complaint and with headings and subheadings that correspond to the headings and subheadings used in the Complaint.

JURISDICTION

1. Respondent is without information sufficient to form a belief as to the allegations contained in paragraph 1 regarding Complainant and therefore denies paragraph 1.

2. Admitted that Respondent is and was a "Government Employer" pursuant to NRS 288.060. Denied to the extent that any mail regarding this matter should be sent to mailing address 431 Prater way, Sparks, NV 89431 without additional direction—all mail regarding this matter that cannot be sent via e-mail should be sent c/o City Attorney's Office.

3. The allegation in paragraph 3 states Complainant's characterization of the law, which requires no response as the applicable law speaks for itself. To the extent Complainant's allegation is inconsistent with applicable law, Respondent denies it.

4. The allegation in paragraph 4 states Complainant's characterization of the law, which requires no response as the applicable law speaks for itself. To the extent Complainant's allegation is inconsistent with applicable law, Respondent denies it.

5. Admitted that as of the filing date of the Complaint, January 24, 2025, the City of Sparks City Council had not yet voted to approve the successor one-year Collective Bargaining Agreement (CBA). Denied to the extent that the allegation maintains that the CBA remains not yet ratified, as the CBA was approved by City of Sparks City Council on January 27, 2025.

FACTUAL ALLEGATIONS

Force Hire Program

6. Denied that Respondent operates any program or practice that the Respondent refers to as a "Force Hire Program," and Respondent restates this denial throughout the Answer to any use in the Complaint of the term "Force Hire Program." Admitted that it is the City's practice pursuant to CBA Section 1, Article C(5) and (6) to utilize mandatory emergency and non-emergency callback overtime and mandatory emergency and non-emergency overtime (collectively, "mandatory overtime").

7. Admitted that when Respondent utilizes mandatory overtime, Respondent operates off of one rotating list whereby employees at the top of the list would be required to work any type of mandatory or voluntary overtime.

8. Respondent lacks knowledge of what Sparks Fire Department (SFD) employees "expect[ed]," lacks knowledge of what time period this clause referred to through the use of the word "initially," and therefore denies the first clause of paragraph 8. Respondent lacks knowledge of what time period is referred to by the use of the words "over time" in the second clause and therefor denies the second clause as overbroad, vague and ambiguous. Respondent admits that since 2020, Respondent has utilized mandatory overtime more than one time in a six-day week per individual employee.

9. Denied that Respondent received any grievance from Complainant on March 2, 2022.

10. Admitted that Respondent previously attend a grievance arbitration regarding Complainant's Grievance 22-004, referred to in Complainant's Complaint as the "Force Hire Grievance," that did not finish.

11. Admitted that the parties reached a side letter agreement on July 12, 2023 regarding the Force Hire Grievance, putting the Force Hire Grievance in abeyance. Denied that that the side letter "plac[ed] limits on" any "force hire program," as SFD does not have a program with the title "force hire program." Admitted that in the July 12, 2023 side letter, Respondent committed to providing two opportunities per calendar year, per Complainant member, to turn down mandatory overtime, for a trial period of six months.

12. Admitted.

13. Admitted.

14. Admitted that the parties agreed generally on terms of a resolution to the Ambulance and Force Hire Grievances, which included a limitation on the frequency a member may be "Force Hired" as termed by Complainant. Denied that the essential terms included an "allowance of a specific number of refusals of Force Hires per sixth month period," or that any resolution discussed waiting until the sixth month of a year to place a limit on refusals. Denied that the agreement was a formal document or formal set of terms, as Chief White agreed to bring back a draft proposal and a separate draft SFD Standard Operating Procedure 1.16.

15. Admitted that the agreed-to resolution to the Ambulance Grievance included a 5% special pay for employees assigned to the ambulance.

16. Denied.

17. Admitted that Chief White provided to Complainant a draft Memorandum of Understanding (MOU) on September 6, 2024. Denied that the September 6, 2024 MOU "was a significant deviation from what was agreed to during the [September 4, 2024] meeting."

18. Admitted that on September 6, 2024, Respondent provided a draft Memorandum of Understanding (MOU) to Complainant that, if adopted, would revise the CBA to incorporate

a 1.75% special pay rate of the employee's base salary for mandatory overtime, provided at the Fire Chief's sole discretion, when attempting to maintain minimum staffing as outlined in CBA Section 1, Article G. Respondent admits that the September 6, 2024 MOU draft did not incorporate the process for filling any mandatory overtime vacancies into the CBA.

19. Admit to the first clause of paragraph 19, insofar as Respondent erroneously provided to Complainant a draft MOU with attorney-client privileged and deliberative comments. Respondent denies the second clause of the first sentence of paragraph 19 and denies the remainder of paragraph 19.

20. Admitted that Complainant "repeatedly attempted to get Respondent to put the limitations to the Force Hire Program into the CBA, rather than policy," and admitted that "Respondent refused." Respondent denies that Respondent agreed to incorporate the process for filling any mandatory overtime vacancies into the CBA during any meeting with Complainant.

Group Health Care Committee

21. Denied that "[p]ursuant to the CBA, the health benefits and changes thereto are governed by a Group Health Care Committee (GHCC)", given that the CBA states that the GHCC's "purpose … is to discuss cost containment measures and to *recommend to the City Council* any benefit changes." (emphasis added). Admitted that the GHCC is comprised of one (1) voting member and one (1) alternate for Local 731, Operating Engineers 3 ("OE3"), and Sparks Police Protective Association ("SPPA").

22. Denied. Admitted "[t]he voting member of each recognized bargaining unit shall have the authority to bind said bargaining unit to any modification in benefits *recommended to the City Council* subject to ratification of at least two (2) of the voting members." (emphasis added).

23. Denied that all changes to the wording or formatting of the health plan "have always been made through the GHCC." Admitted that the GHCC votes on all changes to the benefits in the health plan.

24. Denied.

25. Denied that Respondent made "unilateral changes to the healthcare provisions" and

denied that Respondent "blatant[ly] violat[ed] … the CBA." Admitted that Complainant filed a grievance on April 8, 2024.

26. Denied.

27. Admitted.

28. Denied.

29. Denied.

30. Denied.

31. Admitted that on August 6, 2024, Complainant agreed to Respondent's August 1, 2024 emailed request for a 90-day extension to issue the Step 2 response to the GHCC Grievance on October 10, 2024. Denied that Respondent made a "request for a stay to the GHCC Grievance."

32. Admitted that on August 28, 2024, Respondent re-appointed Chris Crawforth as Committee Vice Chair of the GHCC. Denied that any GHCC meeting occurred on August 28, 2024.

33. Denied that Complainant voted on September 19, 2024 on General Business Item 7.3, "Review, Discussion, and consideration to determine threshold for medical necessity review as applied to medically necessary therapies." The allegation in Complainant's second clause of paragraph 33 states Complainant's characterization of the GHCC General Business Item, which requires no response as the GHCC General Business Item speaks for itself. To the extent Complainant's allegation is inconsistent with the title and content of GHCC General Business Item 7.3, Respondent denies it. To the extent Complainant is characterizing in the second clause of paragraph 33 "the changes Respondent made to the health plan" as the "unilateral changes to the healthcare provisions" in "blatant violation of the CBA" referenced in paragraph 25, Respondent denies the second clause of paragraph 33.

34. Denied that "shortly after the GHCC vote" Respondent denied the GHCC Grievance. Admitted that Respondent's City Manager provided his Step 2 response and denied the Grievance on October 10, 2024.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. The City lacks awareness of the factual basis for paragraph 39 and therefore denies the allegation as overbroad, vague, and ambiguous.

FIRST CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270(1)(e)

40. Respondent admits and denies the allegations of paragraph 40 as stated above.

41. The allegations in paragraph 41 state Complainant's characterizations of law, which require no response as the applicable law speaks for itself. To the extent Complainant's allegations are inconsistent with the law, Respondent denies them.

42. Denied.

SECOND CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270(1)(e)

43. Respondent admits and denies the allegations of paragraph 43 as stated above

44. The allegations in paragraph 41 state Complainant's characterizations of law, which require no response as the applicable law speaks for itself. To the extent Complainant's allegations are inconsistent with the law, Respondent denies them.

45. Denied.

PRAYER FOR RELIEF

Respondent denies that Complainant is entitled to any of the relief requested in the Complaint, including, but not limited to, the relief prayed for in paragraphs 1 through 7 of the Prayer for Relief.

Respectfully submitted this 18th day of February, 2025.

WESLEY K. DUNCAN
Sparks City Attorney

By: */s/ Jessica L. Coberly*
JESSICA L. COBERLY
Attorneys for Respondent City of Sparks

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Sparks City Attorney's Office, Sparks, Nevada, and that on this date, I am serving the foregoing document(s) entitled **ANSWER TO PROHIBITED PRACTICE COMPLAINT** on the person(s) set forth below by email pursuant to NAC 288.0701(d)(3):

Alex Velto, Esq.
alex@rrvlawyers.com

Paul Cotsonis, Esq.
paul@rrvlawyers.com

I also have filed the document with the Nevada Government Employee-Management Relations Board via its email address at emrb@business.nv.gov.

DATED this 18th day of February, 2025.

/s/ Roxanne Doyle
Roxanne Doyle

City of Sparks (Respondent)
Cross Complaint

Wesley K. Duncan, #12362
Sparks City Attorney
wduncan@cityofsparks.us
Jessica L Coberly, #16079
Acting Chief Assistant City Attorney
jcoberly@cityofsparks.us
P.O. Box 857
Sparks, Nevada 89432-0857
(775) 353-2324
Attorneys for Complainant/Respondent
City of Sparks

BEFORE THE STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

CITY OF SPARKS, Complainant/Respondent, v. INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731, Respondent/Complainant.	Case No.: 2025-001 **CITY OF SPARKS' CROSS COMPLAINT**

INTRODUCTION

This is a prohibited practices complaint pursuant to Nevada Revised Statutes (NRS) 288.270(2)(b) based on the International Association of Firefighters Local No. 731 (Union/Complainant/Respondent)'s refusal to bargain in good faith with the City of Sparks (City/Respondent/Complainant). The City contends that the Union violated NRS 288.270(2)(b) by Union counsel violating the Nevada Rules of Professional Conduct (NRPC) in knowingly reviewing attorney-client privileged communications, the Union presenting false allegations to the Employee Management Relations Board (EMRB), the Union making knowingly false assertions in grievance meetings, and the Union engaging in surface bargaining within the grievance process as a whole by going through the motions to file grievances the Union has no real intention of pursuing. The City, by and through its undersigned counsel, respectfully submits this Cross-

Complaint and complains and alleges as follows:

JURISDICTION

1. At all times relevant herein, City is and was a "Government Employer" pursuant to NRS 288.060. City's current mailing address is c/o City Attorney's Office, 431 Prater Way, Sparks, NV 89431.

2. At all times relevant herein, Union was and is an "employee organization" pursuant to NRS 288.040 and or a "labor organization." Union's current mailing address is 9590 S. McCarran Blvd, Reno NV 89523.

3. The Board has jurisdiction to hear and review this matter pursuant to its authority to determine "[a]ny controversy concerning prohibited practices." NRS 288.110.

4. The City alleges that the Union violated NRS 288.270(2)(b) by "[r]efus[ing] to bargain collectively in good faith with the local government employer."

5. The City and the Union completed negotiations for a successor one-year collective bargaining agreement (CBA) to the parties' July 1, 2021 to June 30, 2024 CBA. The Union voted to approve the successor CBA on January 10, 2025, and the City Council approved the successor CBA on January 27, 2025.

FACTUAL ALLEGATIONS

Force Hire Grievance Background Facts

6. The Union filed Grievance 22-004 (the "Force Hire Grievance") on March 17, 2022, claiming that the City agreed in the CBA that it "would not force-hire firefighters to work overtime" and that when there are insufficient numbers of Sparks Fire Department (SFD) employees to staff an apparatus, the City should instead "place apparatuses out of service."

7. Pursuant to the then-current July 1, 2021 through June 30, 2024 CBA, under Section 1, Article L(4) - Grievance procedure, the City provided the Fire Chief's Step 1 response on April 13, 2022, the City Manager's Step 2 response on May 18, 2022, and the Union appealed the Step 2 decision to arbitration on June 7, 2022.

8. In lieu of arbitration, the City and the Union attempted to resolve the Force Hire Grievance through various means, including attending an ultimately unsuccessful mediation on

July 12, 2024.

9. Since June 7, 2022, the Union filed two additional grievances that related to the Force Hire Grievance.

10. The Union filed Grievance 22-009 regarding ambulance staffing (which contended lack of minimum staffing on an ambulance should result in placing the apparatus out of service),, to which the City provided a Step 1 response on July 8, 2022 and a Step 2 response on August 3, 2022, whereafter the Union appealed the response to arbitration on August 24, 2022.

11. In July 2023, Fire Chief Walt White began a discussion with the Union that resulted in a Side Letter detailing a proposed process for SFD employees to turn down mandatory overtime assignments, which gave employees two opportunities to turn down "force hire overtime" and limited force hire overtime of any individual to once per pay period. The Side Letter agreed to a six-month trial period of this process.

12. The Union further filed Grievance 24-004 regarding ambulance staffing (generally claiming safety and staffing issues again consistent with the arguments alleged under the Force Hire Grievance), on July 10, 2024.

13. The City began settlement discussions with the Union to craft a memorandum of understanding (MOU) to resolve all three grievances relating to force hiring in September 2024.

14. Negotiations consisted of numerous meetings between the Fire Chief and the Union, and multiple meetings and discussions with the City Manager's office.

15. In those negotiations, regarding "Ambulance" Grievances 22-009 and 24-004, the Union requested that normal daily staffing of ambulances be set at two (2) personnel, that no cross-staffing of the ambulance occur from other apparatuses except under extenuating circumstances, that the City would discuss with the Union before implementing single-role EMT or paramedics on the ambulance, and that Union employees assigned to the ambulance receive a special pay of 5% while assigned to the ambulance.

16. Regarding the Force Hire Grievance, the Union requested that a procedure be developed to allow SFD employees to turn down mandatory overtime assignments.

17. The City drafted an MOU that incorporated all the Ambulance Grievance requests,

addressed the Force Hire Grievance by proposing incorporation of a process to turn down mandatory overtime assignments into SFD's existing Standard Operating Procedure (SOP) 1.16 for "Overtime/Callback", and *additionally* offered a 1.75% special pay, at the Fire Chief's discretion, to any employees required to work mandatory overtime on any apparatus, in an effort to fully address the Force Hire Grievance.

18. The Union reviewed the draft, and in a meeting regarding the Force Hire and Ambulance Grievances on September 4, 2024, additionally requested that all negotiated elements of the MOU be incorporated into the CBA, including the process the City proposed for inclusion in SOP 1.16 by which the Fire Chief would allow employees to turn down mandatory overtime assignments.

19. In the September 4, 2024 meeting, the City did not agree to incorporate all elements of the MOU in the CBA.

20. Because the City declined to incorporate the proposed process for employees to turn down mandatory overtime into the CBA, in a later call between the City Manager and Union President Dan Tapia, the City instead offered in the next draft of the MOU that the City would not change the terms of that SOP for at least two years.

21. SFD's SOPs normally may be changed at the Fire Chief's discretion by issuing a new SOP for a "ten (10) day hanging," or allowing ten days for SFD employees to review and comment on the policy—referred to as a notice and comment process—before implementing the new SOP.

22. The City Manager's offer acknowledged the Union's request to keep the process to turn down mandatory overtime consistent and committed to retaining the process in SFD's SOP 1.16 for two years, instead of allowing the Fire Chief to change at any time through the normal ten-day notice and comment process.

NRPC 4.4 Violation – Force Hire Grievance

23. On September 6, 2024, Fire Chief White sent then-Union Vice President Darren Jackson, Union Vice President Tom Dunn, and then-Union Grievance Steward Jarrod Stewart the City's proposed amended MOU responding to the Union's suggested edits.

24. The draft provided by Chief White to the Union erroneously included deliberative and attorney-client privileged comments.

25. The MOU draft's title clearly indicated that it included revisions from at least two City employees, "alm" and "JLC."

26. Upon opening the document, it was immediately clear that the document contained internal and attorney-client privileged City comments. In fact, Jessica Coberly (Attorney Coberly), at the time Senior Assistant City Attorney, made an attorney-client privileged comment as early as Page 1 of the MOU.

27. The draft also included comments from Alyson McCormick, the Assistant City Manager (ACM) for the City of Sparks. As ACM McCormick does not currently fulfill a legal counsel role, her comments constituted deliberations that are protected from disclosure as part of the City's deliberative process. *Clark Cnty. Sch. Dist. v. Las Vegas Rev.-J.*, 134 Nev. 700, 705 (2018) (Deliberative Process is a recognized basis for the confidentiality of government records that "were part of a predecisional and deliberative process that led to a specific decision or policy").

28. ACM McCormick's comments on a draft sent to the City's attorney for review also constitute client requests for legal advice and would similarly be protected by the attorney-client privilege.

29. Both then-Union Vice President Jackson and then-Grievance Steward Stewart had met with Attorney Coberly numerous times regarding pending grievances and were aware she was an attorney employed by the City as early as May 20, 2024, when they both arranged to meet with her to discuss Grievance 24-002 regarding the City's Health Plan (Health Care Grievance).

30. Also on May 20, 2024, Attorney Coberly was introduced to Alex Velto, counsel for the Union via email sent by then-Vice President Jackson. *See* ***id.*** Counsel Velto was on notice that Attorney Coberly was an attorney for the City from May 20, 2024 forward.

31. At some point in time after September 6, 2024, the Union provided Fire Chief White's email and/or the attached draft MOU with Attorney Coberly's comments to Counsel Velto.

32. As demonstrated by the Complaint 2025-001 filed by Counsel Velto with the EMRB on January 24, 2025, Counsel Velto opened the draft MOU some time after September 6, 2024 and reviewed the attorney-client privileged comments on pages 1 and 2 before arriving to Attorney Coberly's final comment on page 3.

33. The Union's Complaint 2025-001 takes issue with Attorney Coberly's comment on page 3 of the draft MOU. Attorney Coberly's comment highlighted the words "Standard Operating Procedure (SOP)" in the following draft MOU language:

> SECTION 5: The parties agree that Fire Department Standard Operating Procedure (SOP) 1.16 will be amended to provide a process for filling any Mandatory Overtime vacancies.

34. Attorney Coberly's comment, directed internally, questioned that draft language to her client by adding the comment "Just confirming that SOPs can be amended without the notice & comment process."

35. The draft MOU itself stated that agreeing to the MOU would result in a change to an SFD SOP, but did not address the 10-day notice and comment process identified in the CBA to change SOPs.

36. On October 1, 2024, Counsel Velto provided notice under NRPC 4.4(b) to ACM McCormick that he received "a document … relating to the representation of the lawyer's client … inadvertently sent."

37. NRPC 4.4(b) is identical to the American Bar Association (ABA) Model Rule of Professional Conduct (MRPC) 4.4(b).

38. Under NRPC 1.0A, "[t]he … comments to the ABA Model Rules of Professional Conduct … may be consulted for guidance in interpreting and applying the Nevada Rules of Professional Conduct."

39. ABA MRPC 4.4 Comment 2 explains that "this Rule requires the lawyer to promptly notify the sender in order to permit that person *to take protective measures*." (emphasis added). Furthermore, per Comment 3, "[s]ome lawyers may choose to return a document … unread, for example, when the lawyer learns before receiving it that it was inadvertently sent."

ABA MRPC 4.4 Comment 3.

40. Similarly, as far back as 1992 the American Bar Association in a formal opinion observed:

> A lawyer who receives on an unauthorized basis materials of an adverse party that she knows to be privileged or confidential should, upon recognizing the privileged or confidential nature of the materials, either *refrain from reviewing such materials* or review them only to the extent required to determine how appropriately to proceed.

Gomez v. Vernon, 255 F.3d 1118, 1132 (9th Cir. 2001) (quoting ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 382 (1994)).

41. Counsel Velto knew before September 2024 that Attorney Coberly provided legal representation to the City before reviewing the draft MOU and still read all of Attorney Coberly's comments in the draft MOU.

42. Counsel Velto knew from the substance of the comments that these internal comments were privileged attorney-client communications and pertained to the confidential deliberative process of government decision-makers, and still read the remainder of the comments throughout the draft document, taking issue with the last comment written by Attorney Coberly on page 3 of the document after several other attorney-client and deliberative comments on the previous pages.

43. Given the confidential nature of the draft MOU was clear from page 1, reviewing all the comments on the MOU was not necessary to "determine how appropriately to proceed," *Gomez*, 255 F.3d at 1132, and Counsel Velto's review of the entire document did not permit Attorney Coberly "to take protective measures." ABA MRPC 4.4, Comment 2.

44. Following Counsel Velto's review of the attorney-client privileged and deliberative process comments, the City and the Union met to discuss the draft MOU on October 2, 2024.

45. At the October 2, 2024 meeting, Union Vice President Tom Dunn and Counsel Velto explained they interpreted Attorney Coberly's internally-directed comment regarding SFD's normal procedure for issuing SOPs as demonstrating the City's intent to immediately disregard the negotiated term of the MOU contained in SOP 1.16—regarding the process for

declining mandatory overtime—at any time, asserting that the comment demonstrated that the City intended to blatantly violate its commitment in the MOU to retain the SOP for two years.

46. Attorney Coberly explained in that meeting to the Union and its Counsel that, as it was directed internally, her comment was flagging that *in the MOU itself* the Union and the City were considering changing an SOP without the notice and comment process pursuant to the CBA.

47. Counsel Velto responded that he would not have arrived at his impression of Attorney Coberly's comment had not Fire Chief White made a representation that Counsel Velto believed Fire Chief White had yet to follow through on in an unrelated SFD personnel matter.

48. Attorney Coberly does not work on that unrelated personnel matter, which is handled by outside counsel hired by the City.

49. Chief White's alleged representations in an unrelated personnel matter have no bearing on the veracity or interpretation of Attorney Coberly's comment on the MOU to resolve the Ambulance and Force Hire Grievances.

50. In that October 2, 2024 meeting, the City and the Union had further discussions pertaining to other aspects of the MOU and the Union provided additional edits to the MOU for the City's consideration.

51. On October 15, 2024, Fire Chief White provided the City's response to the Union's October 2, 2024 suggested edits to the MOU as his formal Step 1 response to Grievance 24-004.

52. On November 4, 2024, the Union responded to the City's October 15, 2024 draft of the MOU, accepting the City's proposed edit to the MOU to retain the process for employees to turn down mandatory overtime in SOP 1.16 for at least two years.

53. The City reviewed the November 4 MOU draft and provided additional edits on November 13, 2024, similarly retaining the process to turn down mandatory overtime in SOP 1.16 for at least two years.

54. After failing to come to an agreement, the parties agreed to proceed with arbitration regarding the Force Hire Grievance on February 5–7, 2025.

55. On February 4, 2024, the evening before the Force Hire Grievance arbitration, the Union sent a draft MOU to the City's outside counsel for that arbitration entitled

"L731_EDITS_2OCT2024 Ambulance OTF MOU."

56. Given its "2OCT2024" title, this draft did not include the agreed-upon language from the Union's November 2024 draft, and instead again proposed incorporating the process to turn down mandatory overtime in the CBA, despite having already accepted edits in November 2024 providing an alternative solution.

57. The City again declined to incorporate the process to turn down mandatory overtime into the CBA. Instead, on February 5, 2025, the City offered a draft MOU committing that the process to turn down mandatory overtime in SOP 1.16 would only be changed after notice and discussion with the Union in a Labor-Management meeting and ninety (90) day notice to the employees, instead of the CBA's required ten (10) day notice.

58. This February 2025 proposal by the City was even more in the Union's favor than the November 2024 solution that the Union had agreed to and subsequently reneged on.

59. The Union did not agree to the City's February 5, 2024 proposed MOU terms and on February 5 and 6, 2025, the parties arbitrated the Union's contract interpretation claim in the Force Hire Grievance.

False Statement to EMRB – Group Health Care Grievance

60. For decades, the City has sponsored its self-funded Health Care Plan and administered that Plan through the use of Third-Party Administrators (TPAs), meaning that all Sparks employees have "City of Sparks" health insurance, administered by whatever company the City Council decides to contract with to process insurance payments to employee members' providers.

61. The City of Sparks previously used a TPA called CDS until January 2016, whereupon the City Council entered into a contract with Hometown Health to administer the City's Health Care Plan.

62. When the City contracted with CDS to be the City's TPA, the City used CDS's Plan document template to present the City's Health Plan benefits to its members.

63. Similarly, from January 2016 to January 2024, the City utilized Hometown Health to administer the City's Plan and used a Hometown Health Plan document template to present the

City's Health Plan benefits to its members.

64. In January 2024, the City Council entered into a contract with UMR, a UnitedHealthcare company, to administer the City's Health Plan and began using a UMR Plan document template to present the City's Health Plan benefits to its members.

65. Pursuant to the language in the CBA between the Union and the City, and in the CBA between the Sparks Police Protective Association (SPPA) and the City, and in Operating Engineers Local Union No. 3 Skilled Workforce (OE3) and the City, the City maintains a Group Health Care Committee (GHCC), comprised of one voting member from each of these three unions, and the GHCC's purpose "is to discuss cost containment measures and to recommend to the City Council any benefit changes to the City's self-insured group health and life insurance plan."

66. The GHCC did not vote on the formatting changes of the City's Plan document when the City changed TPAs from CDS to Hometown Health or from Hometown Health to UMR.

67. Changing TPAs does not change the Health Plan benefits offered by the City.

68. Despite having the exact same language regarding the GHCC's purpose in both SPPA's and OE3's CBAs, neither union has joined this Union by filing a grievance regarding the City's new TPA UMR or publicly expressed support for the Union's grievance.

69. In a September 21, 2023 GHCC meeting, the City's Human Resources (HR) department provided a presentation explaining that because then-City TPA Hometown Health's contract with the City would expire on December 31, 2023, that the City put out a Request for Proposals for a new TPA, and that the City Council would evaluate three potential TPAs—Hometown Health, UMR, and Meritain.

70. The City's HR presentation explained that, beginning in 2024, Staff would recommend to the City Council to select UMR as the City's TPA because UMR had a broader network of covered providers than Hometown Health, UMR's performance guarantees collectively held UMR to a higher standard than Hometown Health, and UMR had uniquely better mental health services than both other TPAs.

71. The GHCC does not have contracting authority for the City and did not vote on the

City's TPA selection.

72. The GHCC may only vote on "cost containment measures" and "any benefit changes."

73. At the September 21, 2023 GHCC meeting, Police Chief Chris Crawforth was identified as the Vice Chair.

74. On September 25, 2023, the Sparks City Council voted to select UMR as the City's TPA.

75. At the December 7, 2023 GHCC meeting, the City's HR department provided a presentation on the City's physical therapy medical benefit. Then-HR Director Jill Valdez explained that the City's Plan document required the then-TPA Hometown Health to "look for medical necessity" as it relates to Physical Therapy.

76. Later in that meeting, the Hometown Health representative revealed that Hometown Health believed all physical therapists must receive a doctor's prescription before providing physical therapy. Then-HR Director Valdez explained that was not the case in Nevada.

77. During the TPA transition from Hometown Health to UMR, the City learned during that Hometown Health had never confirmed whether any members' physical therapy was medically necessary as required by the City's Hometown Health-administered Plan document.

78. The December 7, 2023 meeting minutes list Police Chief Crawforth as the Vice Chair of the GHCC.

79. Both the Hometown Health-administered Plan document and the UMR-administered Plan document require physical therapy to be "medically necessary."

80. After the TPA transition to UMR, the City's UMR-administered Plan document provides administrative guidance that "medical necessity will be reviewed after 25 visits" for therapy services, including physical therapy.

81. The Hometown Health-administered Plan document did not include this administrative guidance, and Hometown Health was not reviewing physical therapy claims for medical necessity at all and was not enforcing the "medically necessity" requirement for the City's physical therapy benefit.

82. The City's UMR-administered Plan document further states that there is a cap of "26 … maximum visits per calendar year" for speech therapy services for developmental delays. ***Id.***

83. The language "review for medical necessity" is not the same as the language capping "maximum visits per calendar year."

84. Pursuant to the Plan's language, the administrative review conducted by UMR at 25 therapy visits determines whether medical necessity exists to authorize further therapy visits.

85. In early May 2024, before May 9, 2024, the City Attorney's Office's met with then-Union Vice President Jackson and then-Union Grievance Steward Stewart regarding member concerns about the City Council's recent decision to change the TPA of the City's Group Health Plan.

86. In that meeting, the Union provided a document to the City Attorney's Office for review a document with extensive annotations challenging perceived changes in benefits in the City's newly-issued UMR Plan, which was also shared with the City Manager's office.

87. The City immediately began reviewing the Union's over 100 identified concerns and began working with UMR to understand whether the Union's concerns constituted changes in benefits, or whether the new wording in the City's UMR Plan document presented the same benefits as the City's previous Hometown Health Plan document.

88. While that review was ongoing, on May 9, 2024, the Union filed Grievance 24-002, alleging that the City "den[ied] healthcare treatment previously provided by [the City's Health Care] Plan."

89. The May 9, 2024 Grievance identified an awareness date of April 8, 2024. ***Id.*** **at 1**.

90. An awareness date of April 8, 2024 made the grievance untimely pursuant to the CBA's requirement that any grievance be filed "within twenty (20) working days from the day the employee is grieved" (given that 20 working days from April 8, 2024 would have been May 3, 2024). "Grievances not filed within the required time frames will be forfeited."

91. On June 12, 2024, the Fire Chief denied the grievance and explained to the Union

the City Council's choice of the TPA was beyond the scope of his authority.

92. During the City's review of the Union's concerns, HR explained in the June 4, 2024 GHCC workshop that during the TPA transition from Hometown Health to UMR, "the City elected to choose 25" physical therapy visits "as a review spot for medical necessity. Not to say this is a cap, this is where we are going to review medical necessity…. [G]uidelines in the plan should never be bypassed [and] [t]here are guidelines in the plan that talk about medical necessity."

93. On June 24, 2024, the City Attorney's Office sent a letter to the City Manager detailing 59 concerns raised by the Union regarding the City's UMR-administered Health and Dental Plan documents that the City Attorney's Office determined did not demonstrate changes in benefits. The City Manager provided this letter to the Union.

94. The June 24 letter explained that any differences in language between the Hometown Health Plan document and the UMR Plan document did not result in a change in benefits as it related to physical therapy.

95. On June 25, 2024, the City Manager, former Acting City Manager/Police Chief Crawforth, City Attorney, and then-Senior Assistant City Attorney Coberly met with the Union for a "pre-meeting" regarding the Group Health Plan.

96. In the pre-meeting, the Union discussed its member who was experiencing difficulty with receiving UMR's approval for his physical therapy claims or his wife's multiple times a week physical therapy claims beyond the 25-visit check point stated in the City's UMR-administered Plan document.

97. The Union's solution to this particular employee's problem was for the City to reject the Plan document administered by UMR and force UMR to administer the Hometown Health Plan document language.

98. Making changes to the UMR-administered Plan document without UMR's notice or mutual consent is a violation of the City's contractual requirement to "mutually agree[] in writing prior to implementation of [any] change."

99. After this meeting, the Union sent a follow-up letter to the June 24 letter with further

questions and concerns.

100. On June 26, 2024, the City Manager's office requested an extension for the Step 2 response. The Union did not explicitly grant an extension but requested a meeting with the City Manager in lieu of an extension.

101. The City Manager agreed to meet with the Union until the Union no longer requested meetings and would then send the Step 2 response.

102. The City Manager met with the Union on July 16, 2024 for the Step 2 meeting at City Hall.

103. In the July 16, 2024 Step 2 meeting, Union counsel explained the Union's position was that *any* change to the City's Plan document—not just "any benefit changes", must go before the GHCC for a vote.

104. In that July 16, 2024 Step 2 meeting, no discussion occurred from either the City or the Union regarding potential future benefit changes to the City's Health Plan—in the form of adding a health savings account, inclusion of a high deductible plan, more favorable sick leave conversions and/or higher percentages for retiree coverage—in exchange for the Union's willingness to resolve the Group Health Grievance.

105. After the July 16, 2024 meeting, the Union agreed to continue meeting with the City in lieu of granting a written extension for the City Manager's Step 2 response.

106. On July 18, 2024, the Union sent then-Vice President Jackson to the scheduled GHCC meeting. Then-Vice President Jackson arrived 20 minutes late and refused to vote to approve the agenda and open the GHCC meeting.

107. Then-Vice President Jackson stated the Union demanded the City revert to the Plan document format used by former TPA Hometown Health and treat it as the controlling document, despite the City's contract signed by the City Council with UMR.

108. The July 18, 2024 GHCC meeting did not occur as the agenda was not approved by a majority of the voting members.

109. On July 24, 2024, the City met with the Union for scheduled collective bargaining negotiation.

110. In that discussion, the Union requested the City consider additional health benefits, and although the Union did not have a formal proposal to present, the Union discussed the possibility of the City adding a health savings account, inclusion of a high deductible plan, more favorable sick leave conversions and/or higher percentages for retiree coverage.

111. The Union did not request that the City consider implementing those new health benefits as a resolution to the Group Health Grievance.

112. The City Manager noted in the meeting that any change to the City's health benefits would have to be voted on by the GHCC and that he could not implement a change to benefits solely through CBA negotiations, but agreed to look into the cost to the Plan and the impact to the City's current benefits if any one of those options were presented to the GHCC.

113. On July 31, 2024, the City Attorney's Office sent a second letter to the City Manager explaining that the 15 clarification questions raised in the Union's follow-up letter still did not demonstrate changes in benefits in the Health Plan, and that 25 other concerns with the UMR-administered Health Plan document raised by the Union did not demonstrate changes in benefits. The City Manager provided this letter to the Union.

114. The July 31, 2024 letter specifically responded to the Union's additional question regarding the physical therapy benefit and expanded upon its previous response to clarify why the City did not interpret the change in the language of the Plan document as demonstrating a change in benefits.

115. The Union did not ask additional follow up questions regarding the City's interpretation of the City's physical therapy benefit after receiving the July 31, 2024 letter.

116. On August 1, 2024, the City Manager emailed then-Union Vice President Jackson requesting confirmation in writing by August 6, 2024, that the Union would grant an extension for his Step 2 response, explaining that he would provide his Step 2 response on August 7, 2024 if no extension was granted.

117. On August 6, 2024, the Union granted the City Manager's requested 90-day extension to October 10, 2024.

118. On September 19, 2024, the City Attorney's Office presented to the GHCC the

results of its review of over 161 concerns raised by the Union regarding the UMR-administered plan document.

119. The presentation identified that of the concerns raised, 138 did not constitute changes in employee health benefits or require additional clarification.

120. To ensure the Plan language clearly reflected the same benefits as the prior Hometown Health Plan document, the City would request 23 language changes be made to the UMR Plan document to clarify the benefits remained the same.

121. None of the City's requested language changes described in the presentation related to the Union's concern regarding the need to demonstrate medical necessity for physical therapy benefits.

122. None of the City's requested changes related to any concerns previously brought forward by any members of the City's Health Plan.

123. The Union's representative on the GHCC thanked the City Attorney's Office for the hard work.

124. The GHCC did not vote on the changes presented by the City Attorney's Office, as those changes clarified that employees' health benefits stayed the same.

125. Also at the September 19, 2024 meeting, GHCC Vice Chair Police Chief Crawforth gave a presentation explaining why, when he was the Acting City Manager in 2023 and 2024, he and Human Resources agreed on setting the 25 visit checkpoint with UMR.

126. UMR told then-Acting City Manager Crawforth that the average physical therapy patient uses 12 physical therapy appointments a year. The City determined that it would request UMR check for medical necessity at 25 appointments, once more than double the average amount of physical therapy appointments had occurred.

127. GHCC Vice Chair Crawforth also gave an overview of other municipalities in the area, identifying that Reno's health plan administered by UMR also checked for medical necessity of therapies at 25 visits.

128. GHCC Vice Chair Crawforth explained that UMR identified that seven members of the City's plan utilized PT more than 25 times in a year.

129. The GHCC voting members SPPA and OE3 at the September 19, 2024 meeting voted on General Business Item 7.2 to ratify the City's decision to set 25 visits as the threshold at which UMR would conduct its City Plan-required medical necessity review.

130. The Union did not vote on General Business Item 7.2 at the September 19, 2024 meeting.

131. On October 3, 2024, the City Attorney's Office sent a third letter to the City Manager identifying that the remaining 37 concerns raised by the Union did not demonstrate changes in benefits. With this letter, the City through counsel had reviewed and responded to all of the Union's identified concerns and determined that none demonstrated a change in benefits.

132. The City Manager provided this letter to the Union on October 3, 2024.

133. The Union did not ask for further clarification after receiving the October 3, 2024 letter.

134. Therefore, pursuant to the agreed-upon extensions, the City Manager timely provided the Step 2 response to the Union's Group Health Care Grievance denying the Grievance on October 10, 2024.

135. The statement in the Union's EMRB complaint 2025-001 that the UMR Plan document "put[] a cap on physical therapy visits" is a false statement.

136. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

False Statements in Negotiations – Light Duty Grievance

137. On November 4, 2024, the Union filed Grievance 24-005 ("Light Duty Grievance").

138. The Grievance does not state the factual basis for the alleged violation of the CBA.

139. Prior to filing the Grievance, in Labor Management discussions the Union argued that the City's past practice of placing employees on light duty due to a workers' compensation injury on a 40-hour schedule, while retaining the employees' 56-hour pay and benefits, violated

the CBA in two ways.

140. The Union argued the CBA required that either (a) employees put on a 40-hour work schedule for light duty due to a workers' compensation injury be fully transitioned to a 40-hour schedule, including pay rate and benefits, and the City's past practice of keeping employees' pay and benefits on a 56-hour schedule and only changing the work schedule to a 40-hour schedule violated the CBA; or (b) employees on light duty due to a workers' compensation injury should stay on a 56-hour schedule for their schedule, pay, and benefits, because temporarily transitioning 56-hour employees to a 40-hour schedule due to workers' compensation injuries violated Nevada statute.

141. In Labor Management discussions, Management provided the Union the Nevada Supreme Court case *Taylor v. Truckee Meadows Fire Protection District*, 479 P.3d 995, 1001–02 (Nev. 2021), which determined that the employer's practice of putting Fire Department employees that normally work a 56-hour schedule on a 40-hour light duty schedule when those employees experience workers' compensation-covered injuries is not "an unreasonable burden" and constitutes a "substantially similar" schedule to the employee's 56-hour schedule.

142. In the Fire Chief's review of the Light Duty Grievance, he evaluated the option presented by the Union to fully transition workers' compensation-injured employees onto a 40-hour schedule for work and benefits, and determined the CBA specifically provided that employees on light duty could be transitioned to a 40-hour work schedule and retain 56-hour pay and benefits, consistent with the City's past practice.

143. The Fire Chief determined that the City did not have bed space to maintain workers' compensation employees on 56-hour schedules, particularly given the Union's secondary claim in the Ambulance Grievance that the current sleeping accommodations were insufficient.

144. The Fire Chief's Step 1 response accordingly denied the Light Duty Grievance on December 19, 2024, determining it did not state a violation of the CBA.

145. The Union's Vice President Dunn and by that time former-Grievance Steward Stewart met with the City Manager and the City Attorney's Office in a Grievance "pre-meeting" on January 15, 2024.

146. Union Vice President Dunn said he "saw the City's point" regarding the Fire Chief's Step 1 response pointing to CBA language that specifically allowed the City's past practice of transitioning employees' work schedule—but not pay and benefits—to 40-hour schedule when on light duty due to a workers' compensation injury.

147. Former Steward Stewart in that meeting then contended that changing a workers' compensation-injured employee's schedule from a 56-hour schedule to a 40-hour schedule constituted a violation of statute.

148. This statement was in direct contradiction to the case law former Steward Stewart had been presented in Labor Management meetings, which established 56-hour schedules for firefighters are "substantially similar" to 40-hour schedules. *Taylor*, 479 P.3d at 1001–02.

149. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

Surface Bargaining – Outstanding Grievances

150. In addition to these Grievances and those for which the Union is continuing to negotiate, the Union maintains two additional grievances, Grievance 22-009 filed in November 2022 and appealed to arbitration in February 2023, and Grievance 23-001 filed in January 2023 and appealed to arbitration in April 2023.

151. In the over two years since these Grievances were filed, the Union has failed to select arbitrators, which is a required initial step to commence these arbitration proceedings, indefinitely stalling any resolution of these Grievances.

152. In the over two years since these Grievances were filed, the Union is not currently negotiating with the City regarding these grievances.

153. The Union's filing of grievances just to let them languish for years evinces a lack of good faith in the underlying alleged concern.

154. "[A] party's conduct at the bargaining table must evidence a sincere desire to come to an agreement. The determination of whether there has been such sincerity is made by 'drawing

inferences from the conduct of the parties as a whole.'" *Washoe County School District v. Washoe School Principals' Association and Washoe School Principals' Association v. Washoe County School District*, Item #895 Consolidated Case 2023-024 (consolidated with 2023-031) at 3 (EMRB, Mar. 29, 2024) (en banc) (quoting *City of Reno v. Int'l Ass'n of Firefighters, Local 731*, Item No. 253-A (EMRB, Feb. 8, 1991)).

155. "Surface bargaining is a strategy by which one of the parties merely goes through the motions, with no intention of reaching an agreement. In this regard, it is a form of bad faith bargaining." *Id.* at 6 (citing *City of Reno v. Int'l Ass'n of Firefighters, Local 731,* Item No. 253-A (EMRB, Feb. 8, 1991)).

156. The Union's practice of filing grievances and moving them through the grievance process only to abandon them after requesting arbitration constitutes surface bargaining, where the Union merely goes through the motions to file grievances that do not have good faith basis to use the existence of grievances as negotiation tools.

157. To provide additional context to the Union's interaction with the City, in March 2022, the Union's predecessor union, International Association of Fire Fighters Local 1265, published a motion approved at a Union executive board meeting by then-President Darren Jackson, wherein the Union stated then-Fire Chief Jim Reid "mismanaged COVID-19 relief funds."

158. Under NRS 204.020, if a "public officer … who has control or custody any public money belonging … to any … city … who uses any of the public money … for any purposes other than one authorized by law, if the amount unlawfully used is $650 or more, is guilty of a category D felony."

159. Stating that then-Fire Chief Reid "mismanaged" thousands of dollars in City funds states a claim that then-Fire Chief Reid committed a felony under NRS 204.020.

160. Then-City Manager Krutz reached to the Union for clarification or details regarding this accusation of fiscal mismanagement.

161. Local 1265 then-President Darren Jackson replied by email, stating, "We are not alleging some kind of unlawful act. We are simply stating that an opportunity was missed and

that the small amount of money that the FD received was not spent on anything that the men and women on the line could use to make our response to COVID better."

162. Under NRS 200.510(1)–(2), "libel is a malicious defamation, expressed by …writing … tending to … impeach the honesty, integrity, virtue, or reputation, … of a living person … and thereby to expose them to public hatred, contempt or ridicule," which is a gross misdemeanor.

163. Then-City Manager Krutz stated "I am pleased that Local 1265 clarified that they are not alleging that Chief Reid engaged in illegal activity."

164. Publishing a false statement asserting that then-Fire Chief Reid committed a felony, knowing it was not a felony, constitutes libel.

165. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

FIRST CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b)—Unethical Review of Privileged Communications

166. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

167. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

168. The Union violated NRS 288.270.(1)(e) when its counsel opened the draft MOU inadvertently sent to him containing attorney-client privileged and deliberative communications, read initial attorney-client privileged communications between Attorney Coberly and Chief White, and then attempted to utilize attorney-client privileged and deliberative process communications against the City in grievance negotiations, in violation of NRPC 4.4(b), ABA

MRPC 4.4(b) Comment 2, 3, and long-established ABA Committee on Ethics and Professional Responsibility Formal Opinions.

SECOND CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b) – False Statements to the EMRB

169. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

170. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

171. The Union violated NRS 288.270.(1)(e) when it falsely stated in its EMRB complaint 2025-001 that the UMR Plan document "put[] a cap on physical therapy visits."

172. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

THIRD CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b) – Bad Faith Negotiation

173. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

174. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

175. The Union violated NRS 288.270.(1)(e) when it falsely stated in grievance negotiations to the City in relation to the Light Duty Grievance that the City's practice was in violation of statute when the Union was on notice that the City's past practice was in accordance with Nevada Supreme Court case law evaluating the same claim.

176. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

FOURTH CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b) – Surface Bargaining By Failing to Pursue Filed Grievances

177. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

178. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

179. The Union violated NRS 288.270.(1)(e) when it engaged in surface bargaining through filing grievances and appeals to arbitrators in bad faith that it had no intent to pursue.

180. "Surface bargaining is a strategy by which one of the parties merely goes through the motions, with no intention of reaching an agreement. In this regard, it is a form of bad faith bargaining." *Washoe County School District*, Item #895 at 6 (EMRB, Mar. 29, 2024) (en banc) *Id.* at 6 (citing *City of Reno v. Int'l Ass'n of Firefighters, Local 731,* Item No. 253-A (EMRB, Feb. 8, 1991)).

PRAYER FOR RELIEF

The City respectfully requests that this Board:

1. Find in favor of the City and against the Union on each and every claim in this Complaint;

2. Find that the Union violated NRS 288.270(2)(b) by failing to bargain in good faith by Union counsel violating NRPC 4.4(b);

3. Find that the Union violated NRS 288.270(2)(b) by making false statements to the EMRB;

4. Find that the Union violated NRS 288.270(2)(b) by failing to bargain in good faith by making false statements in negotiations for the Light Duty Grievance;

5. Find that the Union violated NRS 288.270(2)(b) by failing to bargain in good faith by surface bargaining through filing bad faith grievances;

6. Order that the Union bargain in good faith with the City;

7. Order that the Union pay the City's attorney's fees and costs incurred in this matter; and

8. Order such further relief as the Board deems appropriate under the circumstances.

Respectfully submitted this 19th day of February, 2025.

WESLEY K. DUNCAN
Sparks City Attorney

By: */s/ Jessica L. Coberly*
JESSICA L. COBERLY
Attorneys for Respondent City of Sparks

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Sparks City Attorney's Office, Sparks, Nevada, and that on this date, I am serving the foregoing document(s) entitled **CITY OF SPARKS' CROSS COMPLAINT** on the person(s) set forth below by email pursuant to NAC 288.0701(d)(3):

Alex Velto, Esq.
alex@rrvlawyers.com

Paul Cotsonis, Esq.
paul@rrvlawyers.com

DATED this 19th day of February, 2025.

/s/ Roxanne Doyle
Roxanne Doyle

City of Sparks (Respondent)
Amended Cross Complaint

Wesley K. Duncan, #12362
Sparks City Attorney
wduncan@cityofsparks.us
Jessica L Coberly, #16079
Acting Chief Assistant City Attorney
jcoberly@cityofsparks.us
P.O. Box 857
Sparks, Nevada 89432-0857
(775) 353-2324
Attorneys for Complainant/Respondent City of Sparks

FILED
February 27, 2025
State of Nevada
E.M.R.B.
12:24 p.m.

BEFORE THE STATE OF NEVADA

GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

CITY OF SPARKS,

Complainant/Respondent,

v.

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731,

Respondent/Complainant.

Case No.: 2025-001

CITY OF SPARKS' AMENDED CROSS COMPLAINT

INTRODUCTION

This is an amended prohibited practices complaint pursuant to Nevada Revised Statutes (NRS) 288.235(1) and NRS 288.270(2)(b) based on the International Association of Firefighters Local No. 731 (Union/Complainant/Respondent)'s refusal to bargain in good faith with the City of Sparks (City/Respondent/Complainant). The City contends that the Union violated NRS 288.270(2)(b) by Union counsel violating the Nevada Rules of Professional Conduct (NRPC) in knowingly reviewing attorney-client privileged communications, the Union presenting false allegations to the Employee Management Relations Board (EMRB), the Union making knowingly false assertions in grievance meetings, and the Union engaging in surface bargaining within the grievance process as a whole by going through the motions to file grievances the Union has no

real intention of pursuing. The City, by and through its undersigned counsel, respectfully submits this Cross-Complaint and complains and alleges as follows:

JURISDICTION

1. At all times relevant herein, City is and was a "Government Employer" pursuant to NRS 288.060. City's current mailing address is c/o City Attorney's Office, 431 Prater Way, Sparks, NV 89431.

2. At all times relevant herein, Union was and is an "employee organization" pursuant to NRS 288.040 and or a "labor organization." Union's current mailing address is 9590 S. McCarran Blvd, Reno NV 89523.

3. The Board has jurisdiction to hear and review this matter pursuant to its authority to determine "[a]ny controversy concerning prohibited practices." NRS 288.110.

4. The City alleges that the Union violated NRS 288.270(2)(b) by "[r]efus[ing] to bargain collectively in good faith with the local government employer."

5. The City and the Union completed negotiations for a successor one-year collective bargaining agreement (CBA) to the parties' July 1, 2021 to June 30, 2024 CBA. The Union voted to approve the successor CBA on January 10, 2025, and the City Council approved the successor CBA on January 27, 2025.

FACTUAL ALLEGATIONS

Force Hire Grievance Background Facts

6. The Union filed Grievance 22-004 (the "Force Hire Grievance") on March 17, 2022, claiming that the City agreed in the CBA that it "would not force-hire firefighters to work overtime" and that when there are insufficient numbers of Sparks Fire Department (SFD) employees to staff an apparatus, the City should instead "place apparatuses out of service."

7. Pursuant to the then-current July 1, 2021 through June 30, 2024 CBA, under Section 1, Article L(4) - Grievance procedure, the City provided the Fire Chief's Step 1 response on April 13, 2022, the City Manager's Step 2 response on May 18, 2022, and the Union appealed the Step 2 decision to arbitration on June 7, 2022.

8. In lieu of arbitration, the City and the Union attempted to resolve the Force Hire

Grievance through various means, including attending an ultimately unsuccessful mediation on July 12, 2024.

9. Since June 7, 2022, the Union filed two additional grievances that related to the Force Hire Grievance.

10. The Union filed Grievance 22-009 regarding ambulance staffing (which contended lack of minimum staffing on an ambulance should result in placing the apparatus out of service),, to which the City provided a Step 1 response on July 8, 2022 and a Step 2 response on August 3, 2022, whereafter the Union appealed the response to arbitration on August 24, 2022.

11. In July 2023, Fire Chief Walt White began a discussion with the Union that resulted in a Side Letter detailing a proposed process for SFD employees to turn down mandatory overtime assignments, which gave employees two opportunities to turn down "force hire overtime" and limited force hire overtime of any individual to once per pay period. The Side Letter agreed to a six-month trial period of this process.

12. The Union further filed Grievance 24-004 regarding ambulance staffing (generally claiming safety and staffing issues again consistent with the arguments alleged under the Force Hire Grievance), on July 10, 2024.

13. The City began settlement discussions with the Union to craft a memorandum of understanding (MOU) to resolve all three grievances relating to force hiring in September 2024.

14. Negotiations consisted of numerous meetings between the Fire Chief and the Union, and multiple meetings and discussions with the City Manager's office.

15. In those negotiations, regarding "Ambulance" Grievances 22-009 and 24-004, the Union requested that normal daily staffing of ambulances be set at two (2) personnel, that no cross-staffing of the ambulance occur from other apparatuses except under extenuating circumstances, that the City would discuss with the Union before implementing single-role EMT or paramedics on the ambulance, and that Union employees assigned to the ambulance receive a special pay of 5% while assigned to the ambulance.

16. Regarding the Force Hire Grievance, the Union requested that a procedure be developed to allow SFD employees to turn down mandatory overtime assignments.

17. The City drafted an MOU that incorporated all the Ambulance Grievance requests, addressed the Force Hire Grievance by proposing incorporation of a process to turn down mandatory overtime assignments into SFD's existing Standard Operating Procedure (SOP) 1.16 for "Overtime/Callback", and *additionally* offered a 1.75% special pay, at the Fire Chief's discretion, to any employees required to work mandatory overtime on any apparatus, in an effort to fully address the Force Hire Grievance.

18. The Union reviewed the draft, and in a meeting regarding the Force Hire and Ambulance Grievances on September 4, 2024, additionally requested that all negotiated elements of the MOU be incorporated into the CBA, including the process the City proposed for inclusion in SOP 1.16 by which the Fire Chief would allow employees to turn down mandatory overtime assignments.

19. In the September 4, 2024 meeting, the City did not agree to incorporate all elements of the MOU in the CBA.

20. Because the City declined to incorporate the proposed process for employees to turn down mandatory overtime into the CBA, in a later call between the City Manager and Union President Dan Tapia, the City instead offered in the next draft of the MOU that the City would not change the terms of that SOP for at least two years.

21. SFD's SOPs normally may be changed at the Fire Chief's discretion by issuing a new SOP for a "ten (10) day hanging," or allowing ten days for SFD employees to review and comment on the policy—referred to as a notice and comment process—before implementing the new SOP.

22. The City Manager's offer acknowledged the Union's request to keep the process to turn down mandatory overtime consistent and committed to retaining the process in SFD's SOP 1.16 for two years, instead of allowing the Fire Chief to change at any time through the normal ten-day notice and comment process.

NRPC 4.4 Violation – Force Hire Grievance

23. On September 6, 2024, Fire Chief White sent then-Union Vice President Darren Jackson, Union Vice President Tom Dunn, and then-Union Grievance Steward Jarrod Stewart the

City's proposed amended MOU responding to the Union's suggested edits.

24. The draft provided by Chief White to the Union erroneously included deliberative and attorney-client privileged comments.

25. The MOU draft's title clearly indicated that it included revisions from at least two City employees, "alm" and "JLC."

26. Upon opening the document, it was immediately clear that the document contained internal and attorney-client privileged City comments. In fact, Jessica Coberly (Attorney Coberly), at the time Senior Assistant City Attorney, made an attorney-client privileged comment as early as Page 1 of the MOU.

27. The draft also included comments from Alyson McCormick, the Assistant City Manager (ACM) for the City of Sparks. As ACM McCormick does not currently fulfill a legal counsel role, her comments constituted deliberations that are protected from disclosure as part of the City's deliberative process. *Clark Cnty. Sch. Dist. v. Las Vegas Rev.-J.*, 134 Nev. 700, 705 (2018) (Deliberative Process is a recognized basis for the confidentiality of government records that "were part of a predecisional and deliberative process that led to a specific decision or policy").

28. ACM McCormick's comments on a draft sent to the City's attorney for review also constitute client requests for legal advice and would similarly be protected by the attorney-client privilege.

29. Both then-Union Vice President Jackson and then-Grievance Steward Stewart had met with Attorney Coberly numerous times regarding pending grievances and were aware she was an attorney employed by the City as early as May 20, 2024, when they both arranged to meet with her to discuss Grievance 24-002 regarding the City's Health Plan (Health Care Grievance).

30. Also on May 20, 2024, Attorney Coberly was introduced to Alex Velto, counsel for the Union via email sent by then-Vice President Jackson. Counsel Velto was on notice that Attorney Coberly was an attorney for the City from May 20, 2024 forward.

31. At some point in time after September 6, 2024, the Union provided Fire Chief White's email and/or the attached draft MOU with Attorney Coberly's comments to Counsel

Velto.

32. As demonstrated by the Complaint 2025-001 filed by Counsel Velto with the EMRB on January 24, 2025, Counsel Velto opened the draft MOU some time after September 6, 2024 and reviewed the attorney-client privileged comments on pages 1 and 2 before arriving to Attorney Coberly's final comment on page 3.

33. The Union's Complaint 2025-001 takes issue with Attorney Coberly's comment on page 3 of the draft MOU. Attorney Coberly's comment highlighted the words "Standard Operating Procedure (SOP)" in the following draft MOU language:

> SECTION 5: The parties agree that Fire Department Standard Operating Procedure (SOP) 1.16 will be amended to provide a process for filling any Mandatory Overtime vacancies.

34. Attorney Coberly's comment, directed internally, questioned that draft language to her client by adding the comment "Just confirming that SOPs can be amended without the notice & comment process."

35. The draft MOU itself stated that agreeing to the MOU would result in a change to an SFD SOP, but did not address the 10-day notice and comment process identified in the CBA to change SOPs.

36. On October 1, 2024, Counsel Velto provided notice under NRPC 4.4(b) to ACM McCormick that he received "a document … relating to the representation of the lawyer's client … inadvertently sent."

37. NRPC 4.4(b) is identical to the American Bar Association (ABA) Model Rule of Professional Conduct (MRPC) 4.4(b).

38. Under NRPC 1.0A, "[t]he … comments to the ABA Model Rules of Professional Conduct … may be consulted for guidance in interpreting and applying the Nevada Rules of Professional Conduct."

39. ABA MRPC 4.4 Comment 2 explains that "this Rule requires the lawyer to promptly notify the sender in order to permit that person *to take protective measures*." (emphasis added). Furthermore, per Comment 3, "[s]ome lawyers may choose to return a document

… unread, for example, when the lawyer learns before receiving it that it was inadvertently sent." ABA MRPC 4.4 Comment 3.

40. Similarly, as far back as 1992 the American Bar Association in a formal opinion observed:

> A lawyer who receives on an unauthorized basis materials of an adverse party that she knows to be privileged or confidential should, upon recognizing the privileged or confidential nature of the materials, either *refrain from reviewing such materials* or review them only to the extent required to determine how appropriately to proceed.

Gomez v. Vernon, 255 F.3d 1118, 1132 (9th Cir. 2001) (quoting ABA Comm. on Ethics and Prof'l Responsibility, Formal Op. 382 (1994)) (emphasis added).

41. Counsel Velto knew before September 2024 that Attorney Coberly provided legal representation to the City before reviewing the draft MOU and still read all of Attorney Coberly's comments in the draft MOU.

42. Counsel Velto knew from the substance of the comments that these internal comments were privileged attorney-client communications and pertained to the confidential deliberative process of government decision-makers, and still read the remainder of the comments throughout the draft document, taking issue with the last comment written by Attorney Coberly on page 3 of the document after several other attorney-client and deliberative comments on the previous pages.

43. Given the confidential nature of the draft MOU was clear from page 1, reviewing all the comments on the MOU was not necessary to "determine how appropriately to proceed," *Gomez*, 255 F.3d at 1132, and Counsel Velto's review of the entire document did not permit Attorney Coberly "to take protective measures." ABA MRPC 4.4, Comment 2.

44. Following Counsel Velto's review of the attorney-client privileged and deliberative process comments, the City and the Union met to discuss the draft MOU on October 2, 2024.

45. At the October 2, 2024 meeting, Union Vice President Tom Dunn and Counsel Velto explained they interpreted Attorney Coberly's internally-directed comment regarding SFD's normal procedure for issuing SOPs as demonstrating the City's intent to immediately

disregard the negotiated term of the MOU contained in SOP 1.16—regarding the process for declining mandatory overtime—at any time, asserting that the comment demonstrated that the City intended to blatantly violate its commitment in the MOU to retain the SOP for two years.

46. Attorney Coberly explained in that meeting to the Union and its Counsel that, as it was directed internally, her comment was flagging that *in the MOU itself* the Union and the City were considering changing an SOP without the notice and comment process pursuant to the CBA.

47. Counsel Velto responded that he would not have arrived at his impression of Attorney Coberly's comment had not Fire Chief White made a representation that Counsel Velto believed Fire Chief White had yet to follow through on in an unrelated SFD personnel matter.

48. Attorney Coberly does not work on that unrelated personnel matter, which is handled by outside counsel hired by the City.

49. Chief White's alleged representations in an unrelated personnel matter have no bearing on the veracity or interpretation of Attorney Coberly's comment on the MOU to resolve the Ambulance and Force Hire Grievances.

50. In that October 2, 2024 meeting, the City and the Union had further discussions pertaining to other aspects of the MOU and the Union provided additional edits to the MOU for the City's consideration.

51. On October 15, 2024, Fire Chief White provided the City's response to the Union's October 2, 2024 suggested edits to the MOU as his formal Step 1 response to Grievance 24-004.

52. On November 4, 2024, the Union responded to the City's October 15, 2024 draft of the MOU, accepting the City's proposed edit to the MOU to retain the process for employees to turn down mandatory overtime in SOP 1.16 for at least two years.

53. The City reviewed the November 4 MOU draft and provided additional edits on November 13, 2024, similarly retaining the process to turn down mandatory overtime in SOP 1.16 for at least two years.

54. After failing to come to an agreement, the parties agreed to proceed with arbitration regarding the Force Hire Grievance on February 5–7, 2025.

55. On February 4, 2024, the evening before the Force Hire Grievance arbitration, the

Union sent a draft MOU to the City's outside counsel for that arbitration entitled "L731_EDITS_2OCT2024 Ambulance OTF MOU."

56. Given its "2OCT2024" title, this draft did not include the agreed-upon language from the Union's November 2024 draft, and instead again proposed incorporating the process to turn down mandatory overtime in the CBA, despite having already accepted edits in November 2024 providing an alternative solution.

57. The City again declined to incorporate the process to turn down mandatory overtime into the CBA. Instead, on February 5, 2025, the City offered a draft MOU committing that the process to turn down mandatory overtime in SOP 1.16 would only be changed after notice and discussion with the Union in a Labor-Management meeting and ninety (90) day notice to the employees, instead of the CBA's required ten (10) day notice.

58. This February 2025 proposal by the City was even more in the Union's favor than the November 2024 solution that the Union had agreed to and subsequently reneged on.

59. The Union did not agree to the City's February 5, 2024 proposed MOU terms and on February 5 and 6, 2025, the parties arbitrated the Union's contract interpretation claim in the Force Hire Grievance.

False Statement to EMRB – Group Health Care Grievance

60. For decades, the City has sponsored its self-funded Health Care Plan and administered that Plan through the use of Third-Party Administrators (TPAs), meaning that all Sparks employees have "City of Sparks" health insurance, administered by whatever company the City Council decides to contract with to process insurance payments to employee members' providers.

61. The City of Sparks previously used a TPA called CDS until January 2016, whereupon the City Council entered into a contract with Hometown Health to administer the City's Health Care Plan.

62. When the City contracted with CDS to be the City's TPA, the City used CDS's Plan document template to present the City's Health Plan benefits to its members.

63. Similarly, from January 2016 to January 2024, the City utilized Hometown Health

to administer the City's Plan and used a Hometown Health Plan document template to present the City's Health Plan benefits to its members.

64. In January 2024, the City Council entered into a contract with UMR, a UnitedHealthcare company, to administer the City's Health Plan and began using a UMR Plan document template to present the City's Health Plan benefits to its members.

65. Pursuant to the language in the CBA between the Union and the City, and in the CBA between the Sparks Police Protective Association (SPPA) and the City, and in Operating Engineers Local Union No. 3 Skilled Workforce (OE3) and the City, the City maintains a Group Health Care Committee (GHCC), comprised of one voting member from each of these three unions, and the GHCC's purpose "is to discuss cost containment measures and to recommend to the City Council any benefit changes to the City's self-insured group health and life insurance plan."

66. The GHCC did not vote on the formatting changes of the City's Plan document when the City changed TPAs from CDS to Hometown Health or from Hometown Health to UMR.

67. Changing TPAs does not change the Health Plan benefits offered by the City.

68. Despite having the exact same language regarding the GHCC's purpose in both SPPA's and OE3's CBAs, neither union has joined this Union by filing a grievance regarding the City's new TPA UMR or publicly expressed support for the Union's grievance.

69. In a September 21, 2023 GHCC meeting, the City's Human Resources (HR) department provided a presentation explaining that because then-City TPA Hometown Health's contract with the City would expire on December 31, 2023, that the City put out a Request for Proposals for a new TPA, and that the City Council would evaluate three potential TPAs—Hometown Health, UMR, and Meritain.

70. The City's HR presentation explained that, beginning in 2024, Staff would recommend to the City Council to select UMR as the City's TPA because UMR had a broader network of covered providers than Hometown Health, UMR's performance guarantees collectively held UMR to a higher standard than Hometown Health, and UMR had uniquely better mental health services than both other TPAs.

71. The GHCC does not have contracting authority for the City and did not vote on the City's TPA selection.

72. The GHCC may only vote on "cost containment measures" and "any benefit changes."

73. At the September 21, 2023 GHCC meeting, Police Chief Chris Crawforth was identified as the Vice Chair.

74. On September 25, 2023, the Sparks City Council voted to select UMR as the City's TPA.

75. At the December 7, 2023 GHCC meeting, the City's HR department provided a presentation on the City's physical therapy medical benefit. Then-HR Director Jill Valdez explained that the City's Plan document required the then-TPA Hometown Health to "look for medical necessity" as it relates to Physical Therapy.

76. Later in that meeting, the Hometown Health representative revealed that Hometown Health believed all physical therapists must receive a doctor's prescription before providing physical therapy. Then-HR Director Valdez explained that was not the case in Nevada.

77. During the TPA transition from Hometown Health to UMR, the City learned during that Hometown Health had never confirmed whether any members' physical therapy was medically necessary as required by the City's Hometown Health-administered Plan document.

78. The December 7, 2023 meeting minutes list Police Chief Crawforth as the Vice Chair of the GHCC.

79. Both the Hometown Health-administered Plan document and the UMR-administered Plan document require physical therapy to be "medically necessary."

80. After the TPA transition to UMR, the City's UMR-administered Plan document provides administrative guidance that "medical necessity will be reviewed after 25 visits" for therapy services, including physical therapy.

81. The Hometown Health-administered Plan document did not include this administrative guidance, and Hometown Health was not reviewing physical therapy claims for medical necessity at all and was not enforcing the "medically necessity" requirement for the

City's physical therapy benefit.

82. The City's UMR-administered Plan document further states that there is a cap of "26 … maximum visits per calendar year" for speech therapy services for developmental delays.

83. The language "review for medical necessity" is not the same as the language capping "maximum visits per calendar year."

84. Pursuant to the Plan's language, the administrative review conducted by UMR at 25 therapy visits determines whether medical necessity exists to authorize further therapy visits.

85. In early May 2024, before May 9, 2024, the City Attorney's Office's met with then-Union Vice President Jackson and then-Union Grievance Steward Stewart regarding member concerns about the City Council's recent decision to change the TPA of the City's Group Health Plan.

86. In that meeting, the Union provided a document to the City Attorney's Office for review a document with extensive annotations challenging perceived changes in benefits in the City's newly-issued UMR Plan, which was also shared with the City Manager's office.

87. The City immediately began reviewing the Union's over 100 identified concerns and began working with UMR to understand whether the Union's concerns constituted changes in benefits, or whether the new wording in the City's UMR Plan document presented the same benefits as the City's previous Hometown Health Plan document.

88. While that review was ongoing, on May 9, 2024, the Union filed Grievance 24-002, alleging that the City "den[ied] healthcare treatment previously provided by [the City's Health Care] Plan."

89. The May 9, 2024 Grievance identified an awareness date of April 8, 2024.

90. An awareness date of April 8, 2024 made the grievance untimely pursuant to the CBA's requirement that any grievance be filed "within twenty (20) working days from the day the employee is grieved" (given that 20 working days from April 8, 2024 would have been May 3, 2024).

91. Under the CBA, "Grievances not filed within the required time frames will be forfeited."

92. On June 12, 2024, the Fire Chief denied the grievance and explained to the Union the City Council's choice of the TPA was beyond the scope of his authority.

93. During the City's review of the Union's concerns, HR explained in the June 4, 2024 GHCC workshop that during the TPA transition from Hometown Health to UMR, "the City elected to choose 25" physical therapy visits "as a review spot for medical necessity. Not to say this is a cap, this is where we are going to review medical necessity…. [G]uidelines in the plan should never be bypassed [and] [t]here are guidelines in the plan that talk about medical necessity."

94. On June 24, 2024, the City Attorney's Office sent a letter to the City Manager detailing 59 concerns raised by the Union regarding the City's UMR-administered Health and Dental Plan documents that the City Attorney's Office determined did not demonstrate changes in benefits. The City Manager provided this letter to the Union.

95. The June 24 letter explained that any differences in language between the Hometown Health Plan document and the UMR Plan document did not result in a change in benefits as it related to physical therapy.

96. On June 25, 2024, the City Manager, former Acting City Manager/Police Chief Crawforth, City Attorney, and then-Senior Assistant City Attorney Coberly met with the Union for a "pre-meeting" regarding the Group Health Plan.

97. In the pre-meeting, the Union discussed its member who was experiencing difficulty with receiving UMR's approval for his physical therapy claims or his wife's multiple times a week physical therapy claims beyond the 25-visit check point stated in the City's UMR-administered Plan document.

98. The Union's solution to this particular employee's problem was for the City to reject the Plan document administered by UMR and force UMR to administer the Hometown Health Plan document language.

99. Making changes to the UMR-administered Plan document without UMR's notice or mutual consent is a violation of the City's contractual requirement to "mutually agree[] in writing prior to implementation of [any] change."

100. After this meeting, the Union sent a follow-up letter to the June 24 letter with further questions and concerns.

101. On June 26, 2024, the City Manager's office requested an extension for the Step 2 response. The Union did not explicitly grant an extension but requested a meeting with the City Manager in lieu of an extension.

102. The City Manager agreed to meet with the Union until the Union no longer requested meetings and would then send the Step 2 response.

103. The City Manager met with the Union on July 16, 2024 for the Step 2 meeting at City Hall.

104. In the July 16, 2024 Step 2 meeting, Union counsel explained the Union's position was that *any* change to the City's Plan document—not just "any benefit changes", must go before the GHCC for a vote.

105. In that July 16, 2024 Step 2 meeting, no discussion occurred from either the City or the Union regarding potential future benefit changes to the City's Health Plan—in the form of adding a health savings account, inclusion of a high deductible plan, more favorable sick leave conversions and/or higher percentages for retiree coverage—in exchange for the Union's willingness to resolve the Group Health Grievance.

106. After the July 16, 2024 meeting, the Union agreed to continue meeting with the City in lieu of granting a written extension for the City Manager's Step 2 response.

107. On July 18, 2024, the Union sent then-Vice President Jackson to the scheduled GHCC meeting. Then-Vice President Jackson arrived 20 minutes late and refused to vote to approve the agenda and open the GHCC meeting.

108. Then-Vice President Jackson stated the Union demanded the City revert to the Plan document format used by former TPA Hometown Health and treat it as the controlling document, despite the City's contract signed by the City Council with UMR.

109. The July 18, 2024 GHCC meeting did not occur as the agenda was not approved by a majority of the voting members.

110. On July 24, 2024, the City met with the Union for scheduled collective bargaining

negotiation.

111. In that discussion, the Union requested the City consider additional health benefits, and although the Union did not have a formal proposal to present, the Union discussed the possibility of the City adding a health savings account, inclusion of a high deductible plan, more favorable sick leave conversions and/or higher percentages for retiree coverage.

112. The Union did not request that the City consider implementing those new health benefits as a resolution to the Group Health Grievance.

113. The City Manager noted in the meeting that any change to the City's health benefits would have to be voted on by the GHCC and that he could not implement a change to benefits solely through CBA negotiations, but agreed to look into the cost to the Plan and the impact to the City's current benefits if any one of those options were presented to the GHCC.

114. On July 31, 2024, the City Attorney's Office sent a second letter to the City Manager explaining that the 15 clarification questions raised in the Union's follow-up letter still did not demonstrate changes in benefits in the Health Plan, and that 25 other concerns with the UMR-administered Health Plan document raised by the Union did not demonstrate changes in benefits. The City Manager provided this letter to the Union.

115. The July 31, 2024 letter specifically responded to the Union's additional question regarding the physical therapy benefit and expanded upon its previous response to clarify why the City did not interpret the change in the language of the Plan document as demonstrating a change in benefits.

116. The Union did not ask additional follow up questions regarding the City's interpretation of the City's physical therapy benefit after receiving the July 31, 2024 letter.

117. On August 1, 2024, the City Manager emailed then-Union Vice President Jackson requesting confirmation in writing by August 6, 2024, that the Union would grant an extension for his Step 2 response, explaining that he would provide his Step 2 response on August 7, 2024 if no extension was granted.

118. On August 6, 2024, the Union granted the City Manager's requested 90-day extension to October 10, 2024.

119. On September 19, 2024, the City Attorney's Office presented to the GHCC the results of its review of over 161 concerns raised by the Union regarding the UMR-administered plan document.

120. The presentation identified that of the concerns raised, 138 did not constitute changes in employee health benefits or require additional clarification.

121. To ensure the Plan language clearly reflected the same benefits as the prior Hometown Health Plan document, the City would request 23 language changes be made to the UMR Plan document to clarify the benefits remained the same.

122. None of the City's requested language changes described in the presentation related to the Union's concern regarding the need to demonstrate medical necessity for physical therapy benefits.

123. None of the City's requested changes related to any concerns previously brought forward by any members of the City's Health Plan.

124. The Union's representative on the GHCC thanked the City Attorney's Office for the hard work.

125. The GHCC did not vote on the changes presented by the City Attorney's Office, as those changes clarified that employees' health benefits stayed the same.

126. Also at the September 19, 2024 meeting, GHCC Vice Chair Police Chief Crawforth gave a presentation explaining why, when he was the Acting City Manager in 2023 and 2024, he and Human Resources agreed on setting the 25-visit checkpoint with UMR.

127. UMR told then-Acting City Manager Crawforth that the average physical therapy patient uses 12 physical therapy appointments a year. The City determined that it would request UMR check for medical necessity at 25 appointments, once more than double the average amount of physical therapy appointments had occurred.

128. GHCC Vice Chair Crawforth also gave an overview of other municipalities in the area, identifying that Reno's health plan administered by UMR also checked for medical necessity of therapies at 25 visits.

129. GHCC Vice Chair Crawforth explained that UMR identified that seven members

of the City's plan utilized PT more than 25 times in a year.

130. The GHCC voting members SPPA and OE3 at the September 19, 2024 meeting voted on General Business Item 7.2 to ratify the City's decision to set 25 visits as the threshold at which UMR would conduct its City Plan-required medical necessity review.

131. The Union did not vote on General Business Item 7.2 at the September 19, 2024 meeting.

132. On October 3, 2024, the City Attorney's Office sent a third letter to the City Manager identifying that the remaining 37 concerns raised by the Union did not demonstrate changes in benefits. With this letter, the City through counsel had reviewed and responded to all of the Union's identified concerns and determined that none demonstrated a change in benefits.

133. The City Manager provided this letter to the Union on October 3, 2024.

134. The Union did not ask for further clarification after receiving the October 3, 2024 letter.

135. Therefore, pursuant to the agreed-upon extensions, the City Manager timely provided the Step 2 response to the Union's Group Health Care Grievance denying the Grievance on October 10, 2024.

136. The statement in the Union's EMRB complaint 2025-001 that the UMR Plan document "put[] a cap on physical therapy visits" is a false statement.

137. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

False Statements in Negotiations – Light Duty Grievance

138. On November 4, 2024, the Union filed Grievance 24-005 ("Light Duty Grievance").

139. The Grievance does not state the factual basis for the alleged violation of the CBA.

140. Prior to filing the Grievance, in Labor Management discussions the Union argued that the City's past practice of placing employees on light duty due to a workers' compensation

injury on a 40-hour schedule, while retaining the employees' 56-hour pay and benefits, violated the CBA in two ways.

141. The Union argued the CBA required that either (a) employees put on a 40-hour work schedule for light duty due to a workers' compensation injury be fully transitioned to a 40-hour schedule, including pay rate and benefits, and the City's past practice of keeping employees' pay and benefits on a 56-hour schedule and only changing the work schedule to a 40-hour schedule violated the CBA; or (b) employees on light duty due to a workers' compensation injury should stay on a 56-hour schedule for their schedule, pay, and benefits, because temporarily transitioning 56-hour employees to a 40-hour schedule due to workers' compensation injuries violated Nevada statute.

142. In Labor Management discussions, Management provided the Union the Nevada Supreme Court case *Taylor v. Truckee Meadows Fire Protection District*, 479 P.3d 995, 1001–02 (Nev. 2021), which determined that the employer's practice of putting Fire Department employees that normally work a 56-hour schedule on a 40-hour light duty schedule when those employees experience workers' compensation-covered injuries is not "an unreasonable burden" and constitutes a "substantially similar" schedule to the employee's 56-hour schedule.

143. In the Fire Chief's review of the Light Duty Grievance, he evaluated the option presented by the Union to fully transition workers' compensation-injured employees onto a 40-hour schedule for work and benefits, and determined the CBA specifically provided that employees on light duty could be transitioned to a 40-hour work schedule and retain 56-hour pay and benefits, consistent with the City's past practice.

144. The Fire Chief determined that the City did not have bed space to maintain workers' compensation employees on 56-hour schedules, particularly given the Union's secondary claim in the Ambulance Grievance that the current sleeping accommodations were insufficient.

145. The Fire Chief's Step 1 response accordingly denied the Light Duty Grievance on December 19, 2024, determining it did not state a violation of the CBA.

146. The Union's Vice President Dunn and by that time former-Grievance Steward Stewart met with the City Manager and the City Attorney's Office in a Grievance "pre-meeting"

on January 15, 2024.

147. Union Vice President Dunn said he "saw the City's point" regarding the Fire Chief's Step 1 response pointing to CBA language that specifically allowed the City's past practice of transitioning employees' work schedule—but not pay and benefits—to 40-hour schedule when on light duty due to a workers' compensation injury.

148. Former Steward Stewart in that meeting then contended that changing a workers' compensation-injured employee's schedule from a 56-hour schedule to a 40-hour schedule constituted a violation of statute.

149. This statement was in direct contradiction to the case law former Steward Stewart had been presented in Labor Management meetings, which established 56-hour schedules for firefighters are "substantially similar" to 40-hour schedules. *Taylor*, 479 P.3d at 1001–02.

150. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

151. To provide additional context to the Union's interaction with the City, in March 2022, the Union's predecessor union, International Association of Fire Fighters Local 1265, published a motion approved at a Union executive board meeting by then-President Darren Jackson, wherein the Union stated then-Fire Chief Jim Reid "mismanaged COVID-19 relief funds."

152. Under NRS 204.020, if a "public officer … who has control or custody any public money belonging … to any … city … who uses any of the public money … for any purposes other than one authorized by law, if the amount unlawfully used is $650 or more, is guilty of a category D felony."

153. Stating that then-Fire Chief Reid "mismanaged" thousands of dollars in City funds states a claim that then-Fire Chief Reid committed a felony under NRS 204.020.

154. Then-City Manager Krutz reached to the Union for clarification or details regarding this accusation of fiscal mismanagement.

155. Local 1265 then-President Darren Jackson replied by email, stating, "We are not alleging some kind of unlawful act. We are simply stating that an opportunity was missed and that the small amount of money that the FD received was not spent on anything that the men and women on the line could use to make our response to COVID better."

156. Under NRS 200.510(1)–(2), "libel is a malicious defamation, expressed by …writing … tending to … impeach the honesty, integrity, virtue, or reputation, … of a living person … and thereby to expose them to public hatred, contempt or ridicule," which is a gross misdemeanor.

157. Then-City Manager Krutz stated "I am pleased that Local 1265 clarified that they are not alleging that Chief Reid engaged in illegal activity."

158. Publishing a false statement asserting that then-Fire Chief Reid committed a felony, knowing it was not a felony, constitutes libel.

159. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

FIRST CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b)—Unethical Review of Privileged Communications

160. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

161. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

162. The Union violated NRS 288.270.(1)(e) when its counsel opened the draft MOU inadvertently sent to him containing attorney-client privileged and deliberative communications, read initial attorney-client privileged communications between Attorney Coberly and Chief

White, and then attempted to utilize attorney-client privileged and deliberative process communications against the City in grievance negotiations, in violation of NRPC 4.4(b), ABA MRPC 4.4(b) Comment 2, 3, and long-established ABA Committee on Ethics and Professional Responsibility Formal Opinions.

SECOND CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b) – False Statements to the EMRB

163. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

164. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

165. The Union violated NRS 288.270.(1)(e) when it falsely stated in its EMRB complaint 2025-001 that the UMR Plan document "put[] a cap on physical therapy visits."

166. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

THIRD CLAIM FOR RELIEF

Prohibited Practice under NRS 288. 270(2)(b) – Bad Faith Negotiation

167. The allegations contained in all preceding paragraphs of this Complaint are incorporated herein by reference as if fully set forth herein.

168. Under NRS 288.270(2)(b), it is a prohibited practice to "Refuse to bargain collectively in good faith with the local government employer…. Bargaining collectively includes the entire bargaining process, including mediation and fact-finding, provided for in this chapter."

169. The Union violated NRS 288.270.(1)(e) when it falsely stated in grievance negotiations to the City in relation to the Light Duty Grievance that the City's practice was in

violation of statute when the Union was on notice that the City's past practice was in accordance with Nevada Supreme Court case law evaluating the same claim.

170. "[F]alse representations amount to 'a failure to bargain in good faith regarding each of the above mandatory subjects of bargaining,' which 'constitutes an unfair labor practice.'" *Ballou v. United Parcel Serv., Inc.*, No. 20-2640-JWB, 2023 WL 130542, at *7 (D. Kan. Jan. 9, 2023), *aff'd*, No. 23-3021, 2024 WL 700424 (10th Cir. Feb. 21, 2024).

PRAYER FOR RELIEF

The City respectfully requests that this Board:

1. Find in favor of the City and against the Union on each and every claim in this Complaint;

2. Find that the Union violated NRS 288.270(2)(b) by failing to bargain in good faith by Union counsel violating NRPC 4.4(b);

3. Find that the Union violated NRS 288.270(2)(b) by making false statements to the EMRB;

4. Find that the Union violated NRS 288.270(2)(b) by failing to bargain in good faith by making false statements in negotiations for the Light Duty Grievance;

5. Order that the Union bargain in good faith with the City;

6. Order that the Union pay the City's attorney's fees and costs incurred in this matter; and

7. Order such further relief as the Board deems appropriate under the circumstances.

Respectfully submitted this 27th day of February, 2025.

WESLEY K. DUNCAN
Sparks City Attorney

By: */s/ Jessica L. Coberly*
JESSICA L. COBERLY
Attorneys for Respondent City of Sparks

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the Sparks City Attorney's Office, Sparks, Nevada, and that on this date, I am serving the foregoing document(s) entitled **CITY OF SPARKS' CROSS COMPLAINT** on the person(s) set forth below by email pursuant to NAC 288.0701(d)(3):

Alex Velto, Esq.
alex@rrvlawyers.com

Paul Cotsonis, Esq.
paul@rrvlawyers.com

DATED this 27th day of February, 2025.

/s/ Roxanne Doyle
Roxanne Doyle

IAFF, Local 731 (Complainant)
Answer to Amended Cross Complaint

Alex Velto, Esq.
Nevada State Bar No. 14961
Paul Cotsonis, Esq.
Nevada State Bar No. 8786
REESE RING VELTO, PLLC
200 S. Virginia Street, Suite 655
Reno, NV 89501
Telephone: (775)446-8096
alex@rrvlawyers.com
paul@rrvlawyers.com
Attorneys for Complainant

FILED
March 20, 2025
State of Nevada
E.M.R.B.
2:24 p.m.

Before the State of Nevada

Government Employee-Management

Relations Board

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731,

Complainant/Respondent,

v.

CITY OF SPARKS,

Respondent/Complainant.

CASE NO.: 2025-001

INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731's ANSWER TO AMENDED CROSS COMPLAINT

The INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731 ("Union," "Complainant/Respondent" or "Local 731"), answers CITY OF SPARKS' ("Respondent/Cross Complainant" or "City") Amended Cross Complaint as follows, in paragraphs numbered to correspond to the paragraph numbers in the Amended Cross Complaint and with headings and subheadings corresponding to the headings and subheadings used in the Complaint.

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JURISDICTION

1. Answering paragraph 1 of the Amended Cross Complaint, Local 731 admits the City is and was a "Government Employer" pursuant to NRS 288.060 and that the City's current mailing address is 431 Prater Way, Sparks, NV 89431. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

2. Answering paragraph 2 of the Amended Cross Complaint, Local 731 admits Local 731 was and is an "employee organization" pursuant to NRS 288.040 and or a "labor organization," and that its current mailing address is 9590 S. McCarran Blvd, Reno NV 89523. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

3. Answering paragraph 3 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response in required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 3.

4. Answering paragraph 4 of the Amended Cross Complaint, Local 731 denies every allegation therein.

5. Answering paragraph 5 of the Amended Cross Complaint, Local 731 admits the parties have reached an agreement on a successor Collective Bargaining Agreement ("CBA") covering July 1, 2024, to June 30, 2025. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

FACTUAL ALLEGATION

Force Hire Grievance Background Facts

6. Answering paragraph 6 of the Amended Cross Complaint, Local 731 admits that it filed a grievance regarding the City's use of Force Hiring in March of 2022 (hereinafter "Force

Hire Grievance"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

7. Answering paragraph 7 of the Amended Cross Complaint, Local 731 admits the Force Hire Grievance proceeded through the grievance process which included Local 731's moving the Grievance to arbitration. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

8. Answering paragraph 8 of the Amended Cross Complaint, Local 731 admits the parties attempted to resolve the Force Hire Grievance outside of arbitration. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

9. Answering paragraph 9 of the Amended Cross Complaint, Local 731 admits that it has filed additional grievances that are related to the Force Hire Grievance. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

10. Answering paragraph 10 of the Amended Cross Complaint, Local 731 admits it filed grievance regarding ambulance usage/staffing ("Ambulance Grievance 22-009"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

11. Answering paragraph 11 of the Amended Cross Complaint, Local 731 admits that in July of 2023, the parties reached an agreement placing limits of the Force Hire usage and staying the Force Hire Grievance for six months ("Side Letter"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

12. Answering paragraph 12 of the Amended Cross Complaint, Local 731 admits it filed a subsequent grievance that was related to the Ambulance Grievance 22-009 regarding

("Ambulance Grievance 24-004"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

13. Answering paragraph 13 of the Amended Cross Complaint, Local 731 admits the parties conducted settlement discussions in or around September of 2024 regarding the Force Hire Grievance and Ambulance Grievances 22-009 and 24-004 (collectively referred to as "Ambulance Grievances"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

14. Answering paragraph 14 of the Amended Cross Complaint, Local 731 admits the parties conducted settlement discussions in or around September of 2024 regarding the Force Hire Grievance and Ambulance Grievances. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

15. Answering paragraph 15 of the Amended Cross Complaint, Local 731 admits the parties resolved the Ambulance Grievances to include a 5% pay bump for ambulance work. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

16. Answering paragraph 16 of the Amended Cross Complaint, Local 731 admits that it sought a limitation mechanism to the use of Force Hires, including allowing employees a certain number of refusals. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

17. Answering paragraph 17 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 17 and, on that basis, denies every allegation therein.

18. Answering paragraph 18 of the Amended Cross Complaint, Local 731 admits that the Union and City met on September 4, 2024, and discussed the Force Hire Grievance and Ambulance Grievance and that the Union sought to have any negotiated elements to any

resolution to the Force Hire Grievance to be incorporated into the Parties' CBA. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

19. Answering paragraph 19 of the Amended Cross Complaint, Local 731 admits the City reneged on its prior agreement to include the agreed-to limits in the Side Letter into the CBA. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

20. Answering paragraph 20 of the Amended Cross Complaint, Local 731 admits that at some point after the September 4, 2024, meeting that the City offered to make the SOP changes irrevocable for two years. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

21. Answering paragraph 21 of the Amended Cross Complaint, Local 731 admits the Standard Operating Procedure ("SOP") referred to in the Amended Cross Complaint may be unilaterally changed by the City provided they are properly posted pursuant to the CBA. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

22. Answering paragraph 22 of the Amended Cross Complaint, Local 731 admits that at some point after the September 4, 2024, meeting that the City offered to make the SOP changes irrevocable for two years. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

NRPC 4.4 Violation – Force Hire Grievance

23. Answering paragraph 23 of the Amended Cross Complaint, Local 731 admits the City provided a proposed MOU *via* email on or about September 6, 2024, to resolve the Force Hire and Ambulance Grievances. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

24. Answering paragraph 24 of the Amended Cross Complaint, Local 731 denies every allegation therein.

25. Answering paragraph 25 of the Amended Cross Complaint, Local 731 denies every allegation therein.

26. Answering paragraph 26 of the Amended Cross Complaint, Local 731 denies every allegation therein.

27. Answering paragraph 27 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 27.

28. Answering paragraph 28 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 28.

29. Answering paragraph 29 of the Amended Cross Complaint, Local 731 admits Steward Stewart has met with Attorney Coberly about pending grievances. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

30. Answering paragraph 30 of the Amended Cross Complaint, Local 731 admits that Local 731's counsel was cc'd on an email dated May 20, 2024, from Darren Jackson to Jessica Coberly. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

31. Answering paragraph 31 of the Amended Cross Complaint, Local 731 admits the MOU was provided to Local 731's counsel sometime after the City sent it to Local 731. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

32. Answering paragraph 32 of the Amended Cross Complaint, Local 731 admits Local 731's counsel saw the MOU provided by the City. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

33. Answering paragraph 33 of the Amended Cross Complaint, Local 731 admits it takes issue with the City reneging on its prior commitment to include limitations to the Force Hire Program in the CBA and, instead, putting the restrictions in the SOP's purportedly to allow the City to unilaterally rescind those restrictions. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

34. Answering paragraph 34 of the Amended Cross Complaint, Local 731 admits the MOU contained a comment stating "[j]ust confirming that SOP's can be amended without the notice & comment process." To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

35. Answering paragraph 35 of the Amended Cross Complaint, Local 731 admits the MOU purported to amend SOP 1.16 to provide for a process for the Force Hire Program. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

36. Answering paragraph 36 of the Amended Cross Complaint, Local 731 admits Local 731's counsel emailed Ms. McCormick notifying her that the MOU appears to have comments from counsel to its client. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

37. Answering paragraph 37 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 37.

38. Answering paragraph 38 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 38.

39. Answering paragraph 39 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 39.

40. Answering paragraph 40 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 40.

41. Answering paragraph 41 of the Amended Cross Complaint, Local 731 denies every allegation.

42. Answering paragraph 42 of the Amended Cross Complaint, Local 731 admits Local 731's counsel recognized the MOU *appeared* to have comments from counsel to its clients

and that it showed bac faith bargaining. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

43. Answering paragraph 43 of the Amended Cross Complaint, Local 731 denies every allegation.

44. Answering paragraph 44 of the Amended Cross Complaint, Local 731 admits the City and Local 731 met to discuss the City's proposed MOU on or about October 2, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

45. Answering paragraph 45 of the Amended Cross Complaint, Local 731 admits it had multiple concerns with the City's proposed MOU and that it conveyed those concerns to the City during the meeting with the City on or about October 2, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

46. Answering paragraph 46 of the Amended Cross Complaint, Local 731 admits the parties discussed the comments attached to the MOU during the meeting on or about October 2, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

47. Answering paragraph 47 of the Amended Cross Complaint, Local 731 admits Local 731's counsel conveyed concerns regarding Chief White not following through on representations he made in the past. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

48. Answering paragraph 48 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 48 and, on that basis, denies every allegation therein.

49. Answering paragraph 49 of the Amended Cross Complaint, Local 731 denies every allegation therein.

50. Answering paragraph 50 of the Amended Cross Complaint, Local 731 admits the parties discussed the MOU during the meeting on or about October 2, 2024, with Local 731 proposing edits to the MOU. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

51. Answering paragraph 51 of the Amended Cross Complaint, Local 731 admits that after the October 2, 2024, meeting, the City provided another proposed MOU to resolve the Force Hire Grievance and Ambulance Grievances on or about October 15, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

52. Answering paragraph 52 of the Amended Cross Complaint, Local 731 admits that on or about November 4, 2024, it provided a qualified acceptance to amending the SOP to make the SOP as it relates to Force Hires unchangeable for two years subject to an arbitrator's decision on whether the Force Hire Program was a subject of mandatory bargaining within the MOU with the understanding that should the arbitrator rule that it was a subject of mandatory bargaining the subject changes to the SOP would be incorporated into the CBA. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

53. Answering paragraph 53 of the Amended Cross Complaint, Local 731 admits that on or about November 13, 2024, the City provided additional edits to the MOU removing Local 731's qualification to its acceptance of the SOP provision. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

54. Answering paragraph 54 of the Amended Cross Complaint, Local 731 admits the Force Hire Grievance proceeded to arbitration on February 5 and 6, 2025. To the extent this

paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

55. Answering paragraph 55 of the Amended Cross Complaint, Local 731 admits that on or about February 4, 2025, it submitted a draft MOU to the City. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

56. Answering paragraph 56 of the Amended Cross Complaint, Local 731 admits the February 4, 2025, draft MOU was different than its November 4, 2024, draft MOU. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

57. Answering paragraph 57 of the Amended Cross Complaint, Local 731 admits the City rejected the Union's February 4, 2025, draft MOU and that it submitted another draft MOU to Local 731 on or about February 5, 2025. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

58. Answering paragraph 58 of the Amended Cross Complaint, Local 731 denies every allegation therein.

59. Answering paragraph 59 of the Amended Cross Complaint, Local 731 admits every allegation therein.

False Statement to EMRB – Group Health Care Grievance

60. Answering paragraph 60 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 60 and, on that basis, denies every allegation therein.

61. Answering paragraph 61 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 61 and, on that basis, denies every allegation therein.

62. Answering paragraph 62 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 62 and, on that basis, denies every allegation therein.

63. Answering paragraph 63 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 63 and, on that basis, denies every allegation therein.

64. Answering paragraph 64 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 64 and, on that basis, denies every allegation therein.

65. Answering paragraph 65 of the Amended Cross Complaint, Local 731 admits that the health benefits and changes thereto are governed by a Group Health Care Committee ("GHCC") comprising of 1 voting member from three (3) recognized bargaining units (Operating Engineers, Sparks Police Protective Association, and Local 731) pursuant to the CBA between the City and Local 731. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

66. Answering paragraph 66 of the Amended Cross Complaint, Local 731 admits the GHCC did not vote on the changes to employee health benefits implemented by the City in January 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

67. Answering paragraph 67 of the Amended Cross Complaint, Local 731 denies every allegation therein.

68. Answering paragraph 68 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 68 and, on that basis, denies every allegation therein.

69. Answering paragraph 69 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 69 and, on that basis, denies every allegation therein.

70. Answering paragraph 70 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 70 and, on that basis, denies every allegation therein.

71. Answering paragraph 71 of the Amended Cross Complaint, Local 731 admits the GHCC did not vote on the City's TPA selection. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

72. Answering paragraph 72 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 72.

73. Answering paragraph 73 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 73 and, on that basis, denies every allegation therein.

74. Answering paragraph 74 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 74 and, on that basis, denies every allegation therein.

75. Answering paragraph 75 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 75 and, on that basis, denies every allegation therein.

76. Answering paragraph 76 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 76 and, on that basis, denies every allegation therein.

77. Answering paragraph 77 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 77 and, on that basis, denies every allegation therein.

78. Answering paragraph 78 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 78 and, on that basis, denies every allegation therein.

79. Answering paragraph 79 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 79 and, on that basis, denies every allegation therein.

80. Answering paragraph 80 of the Amended Cross Complaint, Local 731 admits that beginning on or about January 1, 2024, healthcare provisions were changed to require review for medical necessity for physical therapy after 25 visits. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

81. Answering paragraph 81 of the Amended Cross Complaint, Local 731 admits that prior to on or about January 1, 2024, there was no requirement for review of medical necessity for physical therapy after 25 visits. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

82. Answering paragraph 82 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 82 and, on that basis, denies every allegation therein.

83. Answering paragraph 83 of the Amended Cross Complaint, Local 731 denies every allegation therein.

84. Answering paragraph 84 of the Amended Cross Complaint, Local 731 admits the new TPA plan requires review of medical necessity for physical therapy after 25 visits before authorizing further therapy visits which provides for a potential barrier or bar to physical therapy visits beyond 25. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

85. Answering paragraph 85 of the Amended Cross Complaint, Local 731 admits the Union and City discussed the Union's concerns regarding the City's changing of TPA's in early May of 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

86. Answering paragraph 86 of the Amended Cross Complaint, Local 731 admits that it provided the City with a document with citations to changes in healthcare benefits pursuant to the new TPA in early May of 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

87. Answering paragraph 87 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 87 and, on that basis, denies every allegation therein.

88. Answering paragraph 88 of the Amended Cross Complaint, Local 731 admits it filed a grievance on or about May 9, 2024, regarding implementation of changes to the healthcare plan (hereinafter referred to as "Grievance S2024-002"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

89. Answering paragraph 89 of the Amended Cross Complaint, Local 731 admits that Grievance S2024-002 indicates awareness as of April 8, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

90. Answering paragraph 90 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 90.

91. Answering paragraph 91 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 91.

92. Answering paragraph 92 of the Amended Cross Complaint, Local 731 admits the City denied Grievance S2024-002 at Setp 1. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

93. Answering paragraph 93 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 93 and, on that basis, denies every allegation therein.

94. Answering paragraph 94 of the Amended Cross Complaint, Local 731 admits the June 24, 2024, letter from the City Attorney's Office to the City Manager ("June 24, 2024, Letter") alleges that certain concerns raised by Local 731 did not demonstrate differences in benefits. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

95. Answering paragraph 95 of the Amended Cross Complaint, Local 731 admits the June 24, 2024, Letter alleges that any physical therapy that did not produce improvement should have been denied under both the old TPA and new TPA plan. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

96. Answering paragraph 96 of the Amended Cross Complaint, Local 731 admits that on or about June 25, 2024, that there was a meeting with City personnel and Union personnel regarding the Group Health Plan. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

97. Answering paragraph 97 of the Amended Cross Complaint, Local 731 admits that during the meeting on or about June 25, 2024, it discussed issues that at least one of its members was facing regarding the number of physical therapy visits. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

98. Answering paragraph 98 of the Amended Cross Complaint, Local 731 denies every allegation therein.

99. Answering paragraph 99 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 99.

100. Answering paragraph 100 of the Amended Cross Complaint, Local 731 admits it had numerous questions and concerns regarding the health plan and that it has raised them with the City multiple times and in multiple ways. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

101. Answering paragraph 101 of the Amended Cross Complaint, Local 731 admits the Step II meeting on Grievance S2024-002 occurred on or about July 16, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

102. Answering paragraph 102 of the Amended Cross Complaint, Local 731 admits the Step II meeting on Grievance S2024-002 occurred on or about July 16, 2024. To the extent this

paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

103. Answering paragraph 103 of the Amended Cross Complaint, Local 731 admits the Step II meeting on Grievance S2024-002 occurred on or about July 16, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

104. Answering paragraph 104 of the Amended Cross Complaint, Local 731 admits that its position has consistently been that any change to the City's Plan document must go before the GHCC for approval. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

105. Answering paragraph 105 of the Amended Cross Complaint, Local 731 denies every allegation therein.

106. Answering paragraph 106 of the Amended Cross Complaint, Local 731 admits it agreed to a 90-day extension to the City's Step II response deadline to Grievance S2024-002. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

107. Answering paragraph 107 of the Amended Cross Complaint, Local 731 admits sending a representative to the GHCC meeting on or about July 18, 2024, and that the representative was late because the City did not have an avenue to allow the representative, who was on duty at the time of the meeting, to attend and that its representative abstained from voting on the agenda because the agenda was to vote on changes to a Health Plan that was never formally adopted. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

108. Answering paragraph 108 of the Amended Cross Complaint, Local 731 denies every allegation therein.

109. Answering paragraph 109 of the Amended Cross Complaint, Local 731 admits the agenda was not approved at the GHCC meeting on or about July 18, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

110. Answering paragraph 110 of the Amended Cross Complaint, Local 731 admits that there was a bargaining session on July 24, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

111. Answering paragraph 111 of the Amended Cross Complaint, Local 731 admits that adding health savings account, inclusion of high deductible plans, more favorable sick leave conversions and/or higher percentages for retiree coverage were discussed with the City. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

112. Answering paragraph 112 of the Amended Cross Complaint, Local 731 denies every allegation therein.

113. Answering paragraph 113 of the Amended Cross Complaint, Local 731 admits that the City Manager did indicate that one or more of the proposals listed in paragraph 111 required approval by the GHCC. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

114. Answering paragraph 114 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 114 and, on that basis, denies every allegation therein..

115. Answering paragraph 115 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 115 and, on that basis, denies every allegation therein..

116. Answering paragraph 116 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 116 and, on that basis, denies every allegation therein.

117. Answering paragraph 117 of the Amended Cross Complaint, Local 731 admits the City requested a 90-day extension to the City's Step II response deadline to Grievance S2024-002. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

118. Answering paragraph 118 of the Amended Cross Complaint, Local 731 admits it agreed to a 90-day extension to the City's Step II response deadline to Grievance S2024-002. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

119. Answering paragraph 119 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 119 and, on that basis, denies every allegation therein.

120. Answering paragraph 120 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 120 and, on that basis, denies every allegation therein.

121. Answering paragraph 121 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 121 and, on that basis, denies every allegation therein.

122. Answering paragraph 122 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 122 and, on that basis, denies every allegation therein.

123. Answering paragraph 123 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 123 and, on that basis, denies every allegation therein.

124. Answering paragraph 124 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 124 and, on that basis, denies every allegation therein.

125. Answering paragraph 125 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 125 and, on that basis, denies every allegation therein.

126. Answering paragraph 126 of the Amended Cross Complaint, Local 731 admits Crawforth spoke about the 25-visit checkpoint at the GHCC meeting on September 19, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

127. Answering paragraph 127 of the Amended Cross Complaint, Local 731 admits it was asserted that the median average for physical therapy visits was about 12 during the GHCC meeting of September 19, 2024. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

128. Answering paragraph 128 of the Amended Cross Complaint, Local 731 admits that it was alleged at the September 19, 2024, GHCC meeting that certain other municipalities check for medical necessity after 25 visits. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

129. Answering paragraph 129 of the Amended Cross Complaint, Local 731 admits that during the September 19, 2024, GHCC meeting it was asserted that seven members exceeded 25 physical therapy visits. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

130. Answering paragraph 130 of the Amended Cross Complaint, Local 731 admits the GHCC approved medical necessity review at the 25th visit for medically necessary therapies at the 9/19/24 GHCC meeting. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

131. Answering paragraph 131 of the Amended Cross Complaint, Local 731 admits that it did not vote on General Business Item 7.2. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

132. Answering paragraph 132 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 132 and, on that basis, denies every allegation therein.

133. Answering paragraph 133 of the Amended Cross Complaint, Local 731 admits it was provided a letter dated October 3, 2024, purportedly from the City Attorney's Office to the City Manager regarding the City Attorney Office's purported analysis that there were no changes in benefits between Hometown Health and UMR plans. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

134. Answering paragraph 134 of the Amended Cross Complaint, Local 731 admits it did not ask for further clarification after being provided with the October 3, 2024, letter. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

135. Answering paragraph 135 of the Amended Cross Complaint, Local 731 admits the City denied the GHCC Grievance in its Step II response. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

136. Answering paragraph 136 of the Amended Cross Complaint, Local 731 denies every allegation therein.

137. Answering paragraph 137 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 137.

False Statements in Negotiations – Light Duty Grievance

138. Answering paragraph 136 of the Amended Cross Complaint, Local 731 admits to filing a grievance regarding light duty ("Light Duty Grievance"). To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

139. Answering paragraph 139 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 139.

140. Answering paragraph 140 of the Amended Cross Complaint, Local 731 admits it believes the way the City handled the assignment to light duty assignments of employees due to worker's compensation injuries violated the CBA. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

141. Answering paragraph 141 of the Amended Cross Complaint, Local 731 admits argued that the CBA required that either (a) employees put on a 40-hour work schedule for light duty due to a workers' compensation injury be fully transitioned to a 40- hour schedule, including pay rate and benefits, and the City's past practice of keeping employees' pay and benefits on a 56-hour schedule and only changing the work schedule to a 40-hour schedule violated the CBA; or (b) employees on light duty due to a workers' compensation injury should stay on a 56-hour

schedule for their schedule, pay, and benefits, because temporarily transitioning 56-hour employees to a 40-hour schedule due to workers' compensation injuries violated Nevada statute. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

142. Answering paragraph 142 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 142.

143. Answering paragraph 143 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 143 and, on that basis, denies every allegation therein.

144. Answering paragraph 144 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 144 and, on that basis, denies every allegation therein.

145. Answering paragraph 145 of the Amended Cross Complaint, Local 731 admits the City denied the Light Duty Grievance at Step 1 of the grievance process. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

146. Answering paragraph 146 of the Amended Cross Complaint, Local 731 admits to meeting with the City regarding the Light Duty Grievance. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

147. Answering paragraph 147 of the Amended Cross Complaint, Local 731 admits to meeting with the City regarding the Light Duty Grievance. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

148. Answering paragraph 148 of the Amended Cross Complaint, Local 731 admits its position is that the facts and circumstances surrounding the Light Duty Grievance are distinguishable from the Nevada Supreme Court case *Taylor v. Truckee Meadows Fire Protection District*, 479 P.3d 995, 1001– 02 (Nev. 2021) and that notwithstanding that the City's practice is unlawful. To the extent this paragraph contains additional allegations or allegations inconsistent with this admission, Local 731 denies same.

149. Answering paragraph 149 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 149.

150. Answering paragraph 150 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 150.

151. Answering paragraph 151 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 151 and, on that basis, denies every allegation therein.

152. Answering paragraph 152 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 152.

153. Answering paragraph 153 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 153.

154. Answering paragraph 154 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 154 and, on that basis, denies every allegation therein.

155. Answering paragraph 155 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 155 and, on that basis, denies every allegation therein.

156. Answering paragraph 156 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 156.

157. Answering paragraph 157 of the Amended Cross Complaint, Local 731 lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 157 and, on that basis, denies every allegation therein.

158. Answering paragraph 158 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 158.

159. Answering paragraph 159 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 159.

FIRST CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270(2)(b)—Unethical Review of Privileged Communications

160. Local 731's responses contained in all proceeding paragraphs of this Answer are incorporated herein by reference as if fully set forth herein.

161. Answering paragraph 161 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 161.

162. Answering paragraph 162 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 162.

SECOND CLAIM FOR RELIEF

Prohibited Practice under NRS 288.270.(2)(b) – False Statements to the EMRB

163. Local 731's responses contained in all proceeding paragraphs of this Answer are incorporated herein by reference as if fully set forth herein.

164. Answering paragraph 164 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 164.

165. Answering paragraph 165 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 165.

166. Answering paragraph 166 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 166.

THIRD CLAIM FOR RELIEF

Prohibited Practice under NRS 288(2)(b) – Bad Faith Negotiations

167. Local 731's responses contained in all proceeding paragraphs of this Answer are incorporated herein by reference as if fully set forth herein.

168. Answering paragraph 168 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 168.

169. Answering paragraph 169 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 169.

170. Answering paragraph 170 of the Amended Cross Complaint, Local 731 objects to the allegations contained therein to the extent they call for a legal conclusion, as such allegations are improper and not subject to admission or denial. Insofar as a response is required and subject to and without waiving this objection, Local 731 denies the allegations contained in Paragraph 170.

PRAYER FOR RELIEF

171. Answering the requests for relief 1-7 in the Amended Cross Complaint, Local 731 denies that Respondent/Cross Complainant is entitled to any relief.

AFFIRMATIVE DEFENSES

1. Failure to State a Claim: The Amended Cross Complaint fails to state a cognizable prohibited practice under NRS Chapter 288.

2. Statute of Limitations: The claims raised in the Cross Complaint are untimely.

3. Lack of Jurisdiction: The Board lacks authority and jurisdiction to hear and decide the claims raised in the Cross Complaint.

4. Waiver: The Complainant, by its own actions, inactions, or conduct, has waived any right to assert the claims in the Cross-Complaint.

5. Estoppel: The Complainant is estopped from pursuing the claims due to its own representations, conduct, or agreements, upon which Local 731 reasonably relied.

6. Laches: The Complainant unreasonably delayed in bringing the claims, resulting in prejudice to Local 731.

7. Good Faith Conduct: Local 731 has acted in good faith at all times relevant to the allegations in the Cross-Complaint and has fulfilled its obligations under NRS Chapter 288.

8. Failure to Identify a Specific Prohibited Practice: The Cross-Complaint fails to allege any specific prohibited practice as defined by NRS 288.270 or other applicable provisions.

9. No Demonstrable Harm: The Complainant has not suffered any tangible harm as a result of the alleged actions of Local 731, and therefore, no relief is warranted.

10. Mootness: The claims are moot because the circumstances giving rise to the allegations have been resolved or are no longer applicable.

11. Unclean Hands: The Complainant's own conduct, actions, or omissions contributed to or caused the alleged harm, and therefore, the Complainant is barred from seeking relief.

12. Failure to Mitigate: The Complainant has failed to mitigate any alleged damages or harm, and therefore, any relief should be limited or denied.

13. Lack of Causal Connection: The alleged harm or violations are not the result of Local 731's actions, and there is no causal connection between the alleged conduct and the claims asserted.

14. Collective Bargaining Agreement Supersedes Claims: The claims asserted are governed by the terms of the Collective Bargaining Agreement (CBA), which supersedes any claim before the EMRB.

15. Compliance with Statutory and Contractual Obligations: Local 731 has complied with all obligations under NRS Chapter 288, applicable regulations, and any relevant contractual provisions.

16. Public Policy Considerations: The relief sought by Complainant would violate public policy, including principles governing collective bargaining and labor relations.

17. Reservation of Additional Defenses: In the event further inquiry reveals the applicability of additional affirmative defenses, Local 731 reserves the right to amend its Answer to specifically assert additional defenses.

WHEREFORE, this answering Complainant/Respondent prays as follows:

1. That Respondent/Cross Complainant take nothing by way of this Cross Complaint;
2. That judgement be awarded in favor of this answering Complainant/Respondent, International Association of Firefighters Local No. 731;
3. That this answering Complainant/Respondent, International Association of Firefighters Local No. 731, be awarded attorney's fees and costs in this matter; and
4. For such other and further relief as the Board deems just and appropriate.

DATED this 20th day of March, 2025.

Respectfully submitted,

/s/ Alex Velto

Alex Velto, Esq.
Nevada State Bar No.14961
Paul Cotsonis, Esq.
Nevada State Bar No. 8786
REESE RING VELTO, PLLC
200 S. Virginia Street, Suite 655
Reno, Nevada 89501
T: 775-446-8096
E: alex@rrvlawyers.com
paul@rrvlawyers.com

CERTIFICATE OF SERVICE

I hereby certify that on March 20th, 2025, I have sent a true and correct copy of the foregoing **INTERNATIONAL ASSOCIATION OF FIREFIGHTERS LOCAL NO. 731's ANSWER** as addressed via email to wduncan@cityofsparks.us and jcoberly@cityofsparks.us. I also have filed the document with the Nevada Government Employee-Management Relations Board via its email address at emrb@business.nv.gov:

CITY OF SPARKS
Wesley Duncan, Esq.
wduncan@cityofsparks.us
Jessica Coberly
jcoberly@cityofsparks.us

/s/Rachael L. Chavez