

FILED
April 23, 2025
State of Nevada
E.M.R.B.
11:20 a.m.

FISHER & PHILLIPS LLP
MARK J. RICCIARDI, ESQ.
Nevada Bar No. 3141
ALLISON L. KHEEL, ESQ.
Nevada Bar No. 12986
300 South Fourth Street, Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
Facsimile: (702) 252-7411
E-Mail Address: mricciardi@fisherphillips.com
Attorneys for Respondent

STATE OF NEVADA

EMPLOYEE-MANAGEMENT RELATIONS BOARD

JUSTIN DARLING, a Local Government Employee,	) Case No.: 2025-005
)
Complainant,	) RESPONDENT LVVWD'S
	) MOTION TO EXTEND TIME
vs.	) TO FILE ITS REPLY IN
	) SUPPORT OF ITS PARTIAL
	) MOTION TO STRIKE AND
LAS VEGAS VALLEY WATER DISTRICT, a Political Subdivision of the State of Nevada,	) PARTIAL MOTION TO
	) DISMISS UNTIMELY
Respondent.	) CLAIMS OUTSIDE OF THE
	) STATUTE OF LIMITATIONS
	) AND MOTION FOR STAY
	) AND FULL OR PARTIAL
	DEFERRAL

COMES NOW, Respondent, the Las Vegas Valley Water District ("LVVWD" or the "Respondent"), by and through its counsel of record, Mark J. Ricciardi, Esq., and Allison L. Kheel, Esq., of the law offices of Fisher & Phillips LLP, and hereby moves the Board for a ten (10) day extension of time to file its Reply in Support of its Partial Motion to Strike and Partial Motion to Dismiss Untimely Claims Outside of the Statute of Limitations and Motion for Stay and Full or Partial Deferral (hereinafter "Reply"). The Reply is currently due on April 23, 2025, and Respondent requests an extension to Monday, May 5, 2025 to file its Reply.

///

///

MEMORANDUM OF POINTS AND AUTHORITIES

Currently, the LVVWD has filed a Partial Motion to Strike and Partial Motion to Dismiss Untimely Claims Outside of the Statute of Limitations and Motion for Stay and Full or Partial Deferral of the matter until the completion of the Parties' related Grievance Arbitration (hereinafter the "Motion"). On April 9, 2025, Mr. Darling filed a 180-page Response to the Motion, and Counsel for Respondent has not had adequate time to complete its review of the Response, investigate the factual allegations and arguments raised therein, and prepare its Reply. To date, Counsel for Respondent has already devoted several hours and resources to this matter attempting to locate materials cited by Complainant in his Response, ultimately confirming that the cited material *does not exist*.

Additionally, Counsel for Respondent was out of the Country from April 11 through April 21, and had very limited access to e-mail and phone during that time. Counsel for Respondent has also been tied up with several other legal matters, including but not limited to, negotiations over collective bargaining agreements for several clients, defending multiple depositions, reviewing 23,000 records for potential production, and addressing problems arising with the execution of the settlement agreement in a 9-year class action involving over 11,000 class members nationwide.

Counsel for Respondent made multiple good faith attempts to contact *pro se* Complainant, Justin Darling, to obtain an agreed stipulation to a 10-day extension to be submitted in accordance with Adopted Regulation R010-15, but Complainant ultimately

///

///

///

///

///

///

///

1 responded and indicated that he will not stipulate to an extension, forcing Respondent to
2 file the instant Motion.

3 Accordingly, Respondent requests a 10-day extension to May 5, 2025 to file its
4 Reply.

5 DATED this 23rd day of April, 2025.

6 FISHER & PHILLIPS, LLP

7
8 /s/ Allison L. Kheel Esq.
9 MARK J. RICCIARDI, ESQ.
10 ALLISON L. KHEEL, ESQ.
11 300 South 4th Street, Suite 1500
12 Las Vegas, Nevada 89101
13 *Attorneys for Respondent*
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

CERTIFICATE OF ELECTRONIC SERVICE

This is to certify that on the 23rd day of April, 2025, the undersigned, an employee of Fisher & Phillips LLP, electronically served the foregoing **RESPONDENT LAS VEGAS VALLEY WATER DISTRICT'S MOTION TO EXTEND TIME TO FILE ITS REPLY IN SUPPORT OF ITS PARTIAL MOTION TO STRIKE AND PARTIAL MOTION TO DISMISS UNTIMELY CLAIMS OUTSIDE OF THE STATUTE OF LIMITATIONS AND MOTION FOR STAY AND FULL OR PARTIAL DEFERRAL** to EMRB (emrb@business.nv.gov) and the following:

JUSTIN DARLING
1610 Rocking Horse Drive
Henderson, NV 89002
Jwdwj713@hotmail.com

By: /s/ Darhyl Kerr
An employee of Fisher & Phillips LLP

Justin Darling (Complainant)

Opposition to Respondent's Motion to
Extend Time to File its Reply in Support of
its Partial Motion to Strike and Partial
Motion to Dismiss Untimely Claims
Outside of the Statute of Limitations and
Motion for Stay and Full or Partial Deferral

Justin Darling
1610 Rocking Horse Dr
Henderson, NV 89002
Jwdwj713@hotmail.com
702-587-2094

FILED
April 23, 2025
State of Nevada
E.M.R.B.
12:36 p.m.

Complainant

**BEFORE THE GOVERNMENT EMPLOYEE
MANAGEMENT RELATIONS BOARD**

JUSTIN DARLING, a Local
Government Employee,
Complainant,

vs.

LAS VEGAS VALLEY
WATER DISTRICT; a
Political Subdivision of the
State of Nevada
Respondents.

) **CASE NO.: 2025-005**
)
) **COMPLAINANT'S**
) **RESPONSE IN**
) **OPPOSITION TO**
) **RESPONDENT'S**
) **MOTION TO EXTEND**
) **TIME TO FILE REPLY**
)
)
)
)

Complainant Justin Darling respectfully submits this Opposition to the DISTRICT's Motion to Extend Time to file its Reply, which was filed on April 23—the same day the reply was due.

While the DISTRICT frames this as a routine and justified extension, several critical facts must be clarified

I. TIMING AND PROCEDURAL FAIRNESS

The extension was not requested until April 22, less than 24 hours before the reply deadline. The motion itself was not filed until the due date. This does not reflect diligence, and it does not establish good cause. Opposing parties should not be expected to accommodate such late, last-minute communications, especially when procedural timelines are vital to the integrity of the case

II. TWO ATTORNEYS LISTED ONE EXCUSE GIVEN

The DISTRICT is represented by two attorneys. The unavailability of one counsel due to travel does not constitute good cause for delay—particularly when the other has been actively involved throughout this matter. The DISTRICT is represented by a large national firm with the capacity to manage deadlines across concurrent matters.

III. MISREPRESENTATION OF CONTACT ATTEMPTS

The DISTRICT claims “multiple good faith attempts” to contact MR DARLING. In reality, every attempt occurred within a one-hour window on April 22: a voicemail at 11:29 AM, text messages at 11:33 AM, and an email shortly after 12:00 PM. MR DARLING responded clearly and promptly, and he did not consent to an extension. To describe this as “multiple attempts” is misleading and appears designed to suggest a lack of cooperation where there was none.

IV. CONTRADICTORY AND PREMATURE CLAIMS ABOUT THE RECORD:

The DISTRICT asserts that material cited in MR DARLING's response "does not exist," while simultaneously stating it has not had sufficient time to review the full 180-page filing. These claims are logically inconsistent and undermine the credibility of their request for more time.

Furthermore, it is the DISTRICT, not MR DARLING, who maintains full access to internal records. If the DISTRICT is unable to locate documents cited in the response, this raises a procedural concern that must be taken seriously. While we do not speculate as to cause, it is a documented reality that delays increase the risk of records being misplaced, altered, or destroyed—intentionally or not. That risk, coupled with the imbalance in access between the parties, reinforces why further delay should be avoided. This is not a personal accusation—it is a structural and evidentiary concern.

5. PREJUDICE TO THE COMPLAINANT:

May 15, 2025, will mark one year since MR DARLING was removed from his position. During that time, the DISTRICT has had continual access to records and personnel, while MR DARLING has had no access to internal documentation and continues to experience delays in obtaining public records. Memories fade, evidence risks being altered or lost, and continued delay disproportionately harms the Complainant. Despite these disadvantages, MR DARLING filed a comprehensive, on-time response. The same standard should be expected of the Respondent.

6. IMPROPER BLAME ON THE COMPLAINANT:

The DISTRICT claims it was “forced to file the instant motion” because MR DARLING did not agree to an extension. This is an unfair characterization. MR DARLING is under no obligation to stipulate to a delay—especially not one requested the day before a deadline and without demonstrated necessity. The Respondent’s lack of preparation or coordination does not shift the burden to MR DARLING. That assertion is improper and misplaces responsibility for their own procedural choices.

CONCLUSION

This is not a personal objection—it is a principled one. MR DARLING respectfully requests that the Board deny the motion and hold the parties to the same standard of timeliness and diligence.

DATED this 23rd day of April, 2025.

By:

JUSTIN DARLING
1610 Rocking Horse Dr
Henderson, NV 89002
Jwdwj713@hotmail.com
702-587-2094

Complainant

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2025, I served the foregoing Opposition to Respondent's Motion to Extend Time to File Reply by electronic mail to the following:

EMPLOYEE-MANAGEMENT RELATIONS BOARD

Email: emrb@business.nv.gov

Mark J. Ricciardi, Esq.

Email: mr Ricciardi@fisherphillips.com

Allison L. Kheel, Esq.

Email: akheel@fisherphillips.com

/s/ Justin Darling

Justin Darling

1610 Rocking Horse Drive

Henderson, NV 89002

Email: jwdwj713@hotmail.com

Las Vegas Valley Water District (Respondent)
LVVWD's Reply in Support of Motion to Extend
Time to File Reply in Support of Partial Motion to
Strike and Partial Motion to Dismiss Untimely
Claims Outside of the Statute of Limitations and
Motion for Stay and Full or Partial Deferral

FILED
May 6, 2025
State of Nevada
E.M.R.B.
9:17 p.m.

FISHER & PHILLIPS LLP
MARK J. RICCIARDI, ESQ.
Nevada Bar No. 3141
ALLISON L. KHEEL, ESQ.
Nevada Bar No. 12986
300 South Fourth Street, Suite 1500
Las Vegas, NV 89101
Telephone: (702) 252-3131
Facsimile: (702) 252-7411
E-Mail Address: mricciardi@fisherphillips.com
Attorneys for Respondent

STATE OF NEVADA

EMPLOYEE-MANAGEMENT RELATIONS BOARD

JUSTIN DARLING, a Local Government Employee,	) Case No.: 2025-005
)
Complainant,	) RESPONDENT LVVWD'S
	) REPLY IN SUPPORT OF ITS
vs.	) MOTION TO EXTEND TIME
	) TO FILE ITS REPLY IN
	) SUPPORT OF ITS PARTIAL
LAS VEGAS VALLEY WATER DISTRICT, a Political Subdivision of the State of Nevada,	) MOTION TO STRIKE AND
	) PARTIAL MOTION TO
Respondent.	) DISMISS UNTIMELY
	) CLAIMS OUTSIDE OF THE
	) STATUTE OF LIMITATIONS
	) AND MOTION FOR STAY
	AND FULL OR PARTIAL DEFERRAL

COMES NOW, Respondent Las Vegas Valley Water District ("LVVWD" and/or "Respondent") and files its Reply in Support of its Motion to Extend Time to File (hereinafter "Reply ISO Motion to Extend") its Reply in Support of Its Motion to Strike and Partial Motion to Dismiss Untimely Claims Outside of the Statute of Limitations and Motion for Stay and Full or Partial Deferral (hereinafter "Motion to Strike"). Respondent's Reply in Support of its Motion to Strike (hereinafter "Reply") was filed in this matter at 9:50am on May 6, 2025. Complainant Darling is taking the position that the Reply is untimely and the Motion to Strike should be denied on this basis. Respondent had originally requested an extension of time until May 5, 2025 to

1 file the Reply, but due to an unfortunate error, Counsel for Respondent misread the e-
2 mail from Commissioner Abellar setting the deadline for the Reply ISO Motion to
3 Extend, and mistakenly calendared both the deadline for the Reply and the deadline for
4 the Reply ISO Motion to Extend as being due on Wednesday, May 7, 2025. As soon as
5 Commissioner Abellar made Respondent aware of the issue on the morning of May 6,
6 2025, Respondent immediately filed its Reply.

7 The delay of under 10 hours in filing the Reply has resulted in no prejudice to
8 Mr. Darling as the Board has received both the Reply and the Reply ISO Motion to
9 Extend prior to the Board Meeting where both Motions will be considered.
10 Furthermore, as the Respondent is filing a Reply, Complainant Darling would not be
11 entitled to file a Sur-Reply responding to Respondent's Reply. As Mr. Darling's filing
12 of the morning of May 6, 2025 indicates that he has already read and reviewed the
13 Reply, Mr. Darling has suffered no harm from Respondent's unfortunate error.
14 Respondent would request the Board modify the originally requested deadline in the
15 Motion to Extend Time such that the deadline for the Reply be extended to May 6,
16 2025.

17 This is the first extension Respondent has requested in this matter and the
18 requested extension did not delay the Board's consideration of the underlying Motion to
19 Strike. Mr. Darling refused to grant counsel a simple courtesy in giving Respondent
20 additional time to respond to his 180-page Response. As most of Complainant's
21 Response is spent arguing the merits of his underlying claims and completely failing to
22 address any of the problems with the Complaint identified in Respondent's Motion to
23 Strike; Respondent's task of sifting through the Response to prepare its Reply became a
24 very lengthy process.¹

25 ///

26
27 ¹ A careful review of Mr. Darling's Response (e.g. Resp. p. 19 claiming over \$50,000 in legal fees
28 incurred on this case) and Exhibits (e.g. Exhibits G and J confirming the identity of counsel for
Complainant) even revealed evidence confirming the problems identified in the Motion to Strike (e.g. Mr.
Darling's undisclosed assistance of counsel).

Respondent was also forced to expend a significant amount of time attempting to locate the cited authority of the “EMRB Practice Manual” — which **does not exist** — as well as responding to several misrepresentations and demonstrably false claims (e.g. Mr. Darling’s claim on page 14 of the Response that “no exhibits were attached” to the Complaint where Paragraph 8 of the Complaint clearly states “The letter is attached hereto as Exhibit ‘A’”). Due to the additional time necessary to prepare the Reply, the Board should grant the Motion to Extend.

Regardless, Complainant’s claim that the Motion to Strike should be denied due to an untimely Reply lacks merit. The purpose of a Reply is to respond to additional arguments raised for the first time in the Response.² However, since Mr. Darling’s Response failed to address any of the arguments in the Motion to Strike, even if the Board were to deny Respondent’s Motion to Extend (which it should not do), the Motion to Strike should still be granted in its entirety based on the arguments contained therein.

For the reasons set forth above as well as in Respondent’s Motion, the Board should grant the Motion To Extend Time to File the Reply to May 6, 2025 and should consider the Reply in its consideration of the Motion to Strike.

DATED this 6th day of May, 2025.

FISHER & PHILLIPS, LLP

/s/ Allison L. Kheel Esq.
MARK J. RICCIARDI, ESQ.
ALLISON L. KHEEL, ESQ.
300 South 4th Street, Suite 1500
Las Vegas, Nevada 89101
Attorneys for Respondent

² However, the Board is still free to reject incorrect legal arguments raised in the Response (e.g. Mr. Darling’s application of the “continuing violation doctrine”) based on the Board’s own knowledge of binding legal precedent (e.g. *Gill v. City of Las Vegas*, EMRB Case No. 2019-020, Item No. 852-A, p. 3 (Aug. 26, 2020); *see also Crom v. Las Vegas Clark Cnty Library Dist.*, EMRB Case No. A1-046004, Item No. 752 (Modified), p. 2 (May 17, 2011) (setting forth the EMRB’s application of a discovery or “unequivocal notice” rule)).

CERTIFICATE OF ELECTRONIC SERVICE

This is to certify that on the 6th day of May, 2025, the undersigned, an employee of Fisher & Phillips LLP, electronically served the foregoing **RESPONDENT LAS VEGAS VALLEY WATER DISTRICT'S REPLY IN SUPPORT OF ITS MOTION TO EXTEND TIME TO FILE ITS REPLY IN SUPPORT OF ITS PARTIAL MOTION TO STRIKE AND PARTIAL MOTION TO DISMISS UNTIMELY CLAIMS OUTSIDE OF THE STATUTE OF LIMITATIONS AND MOTION FOR STAY AND FULL OR PARTIAL DEFERRAL** to EMRB (emrb@business.nv.gov) and the following:

JUSTIN DARLING
1610 Rocking Horse Drive
Henderson, NV 89002
Jwdwj713@hotmail.com

By: /s/ Allison L. Kheel, Esq.
An employee of Fisher & Phillips LLP

Justin Darling (Complainant)

Sur Reply

Notice of Untimely Filing and Failure to
Serve by Self-Requested Deadline

From: [Justin Darling](#)
To: [EMRB](#)
Cc: [Kheel, Allison](#); mricciardi@fisherphillips.com; [Kerr, Darhyl](#)
Subject: Notice of Untimely filing and failure to serve by self requested deadline case number 2025-005 Justin Darling v. LVVWD
Date: Tuesday, May 6, 2025 11:22:01 AM

WARNING - This email originated from outside the State of Nevada. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Subject: Notice of Untimely Filing and Failure to Serve by Self-Requested Deadline – Case No. 2025-005 (Justin Darling v. LVVWD)

CC: akheel@fisherphillips.com mricciardi@fisherphillips.com kerr@fisherphillips.com

BCC: Jwdwj713@hotmail.com

Dear Board Members,

This notice is submitted in connection with Case No. 2025-005, Justin Darling v. Las Vegas Valley Water District.

As of 11:59 PM on May 5, 2025, Complainant had not received any reply to his opposition to the District's motion to strike, dismiss, and stay. A reply from Respondent was received via email on the morning of May 6, 2025—one full day after the self-requested May 5 deadline. The filing itself, as well as the certificate of service included within it, are both dated May 6, confirming that the District did not meet its own proposed deadline and failed to serve Complainant in a timely manner.

Complainant respectfully requests that:

1. The May 6 reply be excluded as untimely and procedurally deficient;
2. The District's motion to dismiss and stay be denied on the merits, as the record now stands uncontested as of the original April 23 deadline;
3. The Board formally recognize that the Respondent failed to meet its procedural burden, even under its own requested terms.

Complainant reserves the right to request leave to file a limited clarification solely to address new factual allegations and personal accusations contained in Respondent's late reply.

This notice is being submitted to both the Board and opposing counsel to ensure proper service and record preservation.

Please confirm receipt of this email.

Sincerely,

/s/ Justin Darling

Complainant, Pro Se

Jwdwj713@hotmail.com

702-587-2094

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of May, 2025, I served the foregoing Notice of Untimely Filing and Failure to Serve by Self-Requested Deadline in Case No. 2025-005 upon the following parties by email, in accordance with the Nevada Administrative Code and EMRB procedures:

Employee-Management Relations Board

Email: EMRB@business.nv.gov

Allison Kheel, Esq.

Fisher & Phillips LLP

Email: akheel@fisherphillips.com

Email: mricciardi@fisherphillips.com

Submitted by:

/s/ Justin Darling

Jwdwj713@hotmail.com

702-587-2094

Complainant, Pro Se