

FILED

FILED

JUL 07 2016

2016 JUL -1 PM 3:55 TRACIE K. LINDEMAN
CLERK OF SUPREME COURT

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Debra Peoples
DEPUTY

1 Case No. 14-CV-01304

2 Pursuant to NRS 239B.030, the undersigned
3 affirms that the following document does not
4 contain the social security number of any person.

4 Luke Andrew Busby, Ltd.
5 Nevada State Bar No. 10319
6 216 East Liberty St.
7 Reno, NV 89501
8 775-453-0112
9 luke@lukeandrewbusbyltd.com
10 *Attorney for the Petitioners*

11 IN THE THIRD JUDICIAL DISTRICT COURT
12 OF THE STATE OF NEVADA
13 IN AND FOR LYON COUNTY

12 COMSTOCK RESIDENTS ASSOCIATION,
13 JOE McCARTHY

14 Petitioners,

15 v.

16 LYON COUNTY BOARD OF
17 COMMISSIONERS; COMSTOCK
18 MINING INCORPORATED

19 Respondents,
20 _____

21
22 **PETITIONERS COMSTOCK RESIDENTS ASSOCIATION**
23 **AND JOE McCARTHY'S NOTICE OF APPEAL**

24
25 Notice is hereby given that the Comstock Residents Association and Joe McCarthy,
26 Petitioners above named, hereby appeal to the Supreme Court of Nevada from the following
27 final judgment and orders entered in this action:

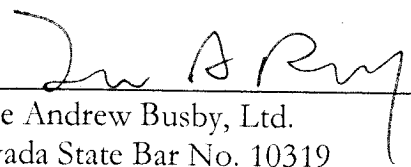
28 **RECEIVED**
JUL 10 7 2016
TRACIE K. LINDEMAN
CLERK OF SUPREME COURT
DEPUTY CLERK

Order Denying Petition, entered on June 14, 2016, attached hereto as Exhibit A.

1 Dated: July 1, 2016.

2 Respectfully submitted,

3
4
5 By


Luke Andrew Busby, Ltd.

6 Nevada State Bar No. 10319

7 216 East Liberty St.

8 Reno, NV 89501

9 775-453-0112

10 luke@lukeandrewbusbyltd.com

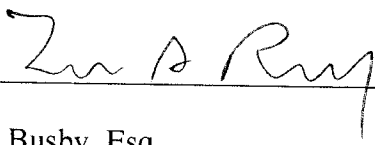
11 *Attorney for the Petitioners*

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Notice of Appeal was served on the parties by personal service and/or mailing a copy thereof on the 1st of July, 2016, by United States mail, postage prepaid to:

Steven B. Rye
District Attorney
31 S. Main Street
Yerington, NV 89447



Luke Busby, Esq.

Exhibit A

Exhibit A

1 Case No. 14-CV-01304
2 Dept. IV

FILED

2016 JUN 14 AM 9: 35

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Victoria Tovar DEPUTY

6 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
7 IN AND FOR THE COUNTY OF LYON

8 ***

9 COMSTOCK RESIDENT ASSOCIATION
10 AND JOE McCARTHY,

ORDER DENYING
PETITION

11 Petitioners,

12 vs.

13 LYON COUNTY BOARD OF
14 COMMISSIONERS et al.

15 Defendant.
16 _____/

17 On November 30, 2015, the Petitioner, Comstock Residents Association ("CRA"), filed a Writ of
18 Mandamus requesting this Court to compel Lyon County Commissioners to be in compliance with the
19 provisions of Nevada's Public Records Act ("NPRA"). On January 4, 2016, Respondents, Lyon County,
20 filed a Response. On April 14, 2016, the Court held a Hearing on the matter and took the issue under
21 submission

22 **FACTUAL BACKGROUND**

23 CRA brings this action to compel the Lyon County Board of County Commissioners to comply
24 with their nondiscretionary duty under the NPRA in response to a request for all records related to
25 Comstock Mining Inc's. ("CMI") application with Lyon County. Petitioner contends Lyon County
26 refuses to produce responsive public records created or received in the course of their public duties
27 located on individual commissioner's private electronic devices.
28

1 CMI filed an application with Lyon County to change land use designations zoning within Silver
2 City from more urban to more rural, to allow mining exploration. The County held a public meeting and
3 heard hours of testimony before granting the application.

4 CRA contends during the County's review of CMI's application, the commissioners and other
5 members of Lyon County communicated with CMI representatives through their personal devices.

6 CMI also contends that Lyon County Commissioner, Vita Keller, communicated with CMI using
7 her personal devices because the record is absent with regard to her last minute proposal during the
8 hearing. She has admitted that these conversations took place.

9 On February 11, 2014, Petitioners submitted to the Lyon County Board of County Commissions
10 and Lyon County staff, a request for all public records pursuant to the NPRA related to CMI's
11 Application for Master Plan Amendment and Zoning change. The request included disclosure of all
12 records of communication regarding CMI's application, to or from the Lyon County Commissioners and
13 CMI representatives, regardless of whether such communication occurred on devices owned by Lyon
14 County or personally by the Lyon County Commissioners.

15 Lyon County responded to the Petitioner's demand by disclosing all of the records relating to the
16 CMI application. Lyon County did not disclose private cell phone and e-mail records owned by the
17 commissioners. Lyon County explained the commissioners do not retain county issued cell phones.
18 Private cell phone and e-mail records, personally owned by the commissioners, are not maintained by
19 Lyon County.

20 It should be noted the request made by the Petitioners has language that includes the employees of
21 Lyon County, not just the Commissioners.

22 QUESTION PRESENTED

24 Should the Court compel the Lyon County commissioners to disclose their personal e-mail and
25 cell phone records to CRA relating to the CMI application?
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5 The Petitioners argue the NPRA applies to all "public records" regardless of the means of
6 creation. According to the Petitioners, the provisions of NRS § 239.010 requires a broad interpretation
7 that any elected official who uses his/her personal devices to conduct public business must disclose the
8 records created as "public records." The Petitioners cite to Nevada case law stating the Nevada Supreme
9 Court has instructed that all governmental entities public books and public records must remain open to
10 the public, unless "otherwise declared by law to be confidential." NRS 239.010. The purpose of this
11 statute is to promote a transparent governmental entity.

12 The Petitioners assert the NPRA defines a "governmental entity" as an elected or appointed
13 official of this State. NRS § 239.005. Thus the plain language of the NPRA defines "governmental
14 entity" to include elected officers of a political subsidiary. *Id.*

15 The Petitioners assert this is a straight forward interpretation of the statute. They argue Lyon
16 County's interpretation allows public officials to conduct public business on their personal devices,
17 thereby avoiding compliance with the statute. The Petitioners assert that the language of the statute
18 compels Lyon County Commissioners to disclose their personal cell phone and e-mail records. The
19 Petitioners state when a statute is plain and unambiguous, the Court must give the language its ordinary
20 meaning. *Nevada State Democratic Party v. Nevada Republican Party*, 256 P.3d 1, 4 (2011). The
21 Petitioners then contend the Court should disregard the Respondents claim that the administrators, or the
22 county office, do not possess such records. The Petitioners state the NPRA does not make any distinction
23 between an administrator's office records and the records of elected officials.

24 The Petitioners cite to other jurisdictions holdings that individual records are public records.

25 Lyon County makes the following arguments. The Respondents assert private e-mail and cell
26 phone records of elected officials are not "public records" because: (1) they are not "public records"
27 under the NRPA; (2) privacy interests weigh against disclosure; (3) practical limitations preclude the
28

1 Court from declaring all records "public records"; (4) the records are confidential under the deliberative
2 process privilege.

3 The Respondents stipulate that: NRS chapter 239 requires all books and "public records" of a
4 governmental entity be open for inspections; the provisions of the NPRA are designed to promote
5 governmental accountability; nondisclosure is the exception to the general rule; and elected officials fall
6 under the provisions of the NPRA. However, the Respondents state the issue is whether the specific
7 information requested is "public record."

8 The Respondents first argue private cell phone and email records are not "public records" under
9 the NPRA because: a) "public records" must be paid for with public money; b) the records sought are not
10 open to public inspection; c) the records are not in control of the Commissioners or County; d) the
11 communications are not official actions, and are not required by law to be public; and e) Nevada law does
12 not support that the requested documents be defined as "public records."

13 The Respondents argue the NPRA does not define "public record." The Respondents cite to the
14 Nevada Administrative Code which defined "public record" as "a record of a local governmental entity
15 that is created, received or kept in the performance of a duty and paid for with public money." However,
16 this definition was repealed in October of 2014. The Respondents argue at the time of the request it was
17 clear what a "public record" was. Further, private e-mails and cell phones of the Lyon County
18 Commissioners are not paid for with public money. Therefore, they are not "public records."

19 The Respondents state the Commissioners are entitled to rely on the law as it existed at the time.
20 Ruling in the alternative creates a burden on the government which does not exist.

21 The Respondents assert "public records" must be left open at all times for inspection by the
22 public. The Respondents argue private cell phone and/or e-mail records are not "public records" because
23 they are not on the books thus not open for inspection. The Respondents further claim that interpreting
24 the statute this way would require all "private" records of a government official to be subject to the
25 NPRA rendering an absurd result.

26 The Respondents cite to NRS § 239.010(4) which states an officer or employee who has legal
27 custody or control of a record shall not refuse to provide a copy. The Respondents claim the specific
28 information requested is not in the office's control, thus they are not required to produce that information.

1 The Respondents argue notes or any communication between the Commissioners with clients or
2 other parties do not fall under the provisions of NAC § 239.101. The statute states an office or
3 department of a local governmental entity is defined as an "office, department, board, commission,
4 committee, agency or any other subdivision of a local government entity where records are made
5 received or kept." NAC § 239.061. "Non-record materials" is any other documentation that does not
6 serve as the record of an official action of a local governmental entity. NAC § 239.051. The Respondents
7 argue private e-mail and cell phone records cannot be records because holding that they are render any
8 notes or communication of any Lyon County employee as a "public record."

9 In support of this claim, the Respondents cite to a string of Nevada cases, which does not answer
10 the question of private e-mail accounts or private cell phones. They state the Petitioners are asking the
11 Court to do something that has not been done in Nevada before. The Respondents claim such a question
12 should be left to the legislature to decide.

13 The Respondents make their sixth argument that privacy interest weigh against disclosure. They
14 cite to NRS § 241.015 which states the Nevada Open Meeting Law permits private conversation about
15 county business by less than a majority of its members. They assert this could have a chilling effect on
16 citizens who wish to exercise their constitutional right and talk to their representatives.

17 Finally, the Respondents claim the records are confidential pursuant to the deliberative process
18 privilege. DR Partners v. Bd. of Cty. Comm'rs of Clark Cty., 116 Nev. 616, 619, 6 P.3d 465, 467 (2000).

19 20 CONCLUSIONS OF LAW AND FACT

21 The Court agrees with the Respondent's arguments regarding this matter. The Court concludes
22 that the Petitioners are asking for records which are not paid for with public money. Specifically they are
23 requesting the Lyon County Commissioner's private cell phone and e-mail records. These records are
24 created by a third party phone and internet provider paid for by the Commissioner's private accounts.
25 Thus, the records in question were not paid for with public money which tends to show that these records
26 are not public.

27 Further, the Court agrees the records sought are not open to public inspection. Any member of the
28 public could inspect the records at the County Commissioner's office. However, not even the County

1 Commissioner employees themselves can inspect the Commissioner's personal records. In addition the
2 records sought are not in control of the public agencies.

3 The Court also agrees the records sought are not official actions of the County. Thus the
4 Petitioners are seeking all communications between the Lyon County Commissioner's and members of
5 the public. Such a request is beyond the provisions of the NPRC.

6 Finally, The Court does not believe it has authority to order personal information of the Lyon
7 County Commissioners be disclosed to the Petitioners. There are multiple privacy concerns which the
8 Court is concerned with. Such an action must be clearly supported by law which the Court finds it is not.
9 If the legislature intended the provisions of the NPRC to have such reaching consequences, then the
10 Court concludes the Legislature could have easily included language supporting such an assertion.

11 The Court is aware that this holding may cause public employees to skirt the provisions of the
12 NPRC by conducting business on their private devices. Such a concern is for the Legislature to address.

13
14 Therefore, good cause appearing, the Petitioner's Petition is **DENIED**

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16 Dated this 10th day of June, 2016.

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SENIOR DISTRICT COURT JUDGE

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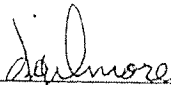
CERTIFICATE OF SERVICE

I hereby certify that I, Debbie Gilmore, am an employee of the Third Judicial District Court, and that on this date pursuant to NRCP 5(b), I mailed at Yerington, Nevada, a true copy of the foregoing document addressed to:

Lyon County District Attorney's Office
31 S. Main St.
Yerington, NV 89447

John Marshall, Esq.
570 Marsh Ave.
Reno, NV 89509

DATED: This 14th day of June, 2016.



Debbie Gilmore

1 Case No. 14-CV-01304

2 Pursuant to NRS 239B.030, the undersigned
3 affirms that the following document does not
4 contain the social security number of any person.

4 Luke Andrew Busby, Ltd.
5 Nevada State Bar No. 10319
6 216 East Liberty St.
7 Reno, NV 89501
8 775-453-0112
9 luke@lukeandrewbusbyltd.com
10 *Attorney for the Petitioners*

FILED

2016 JUL -1 PM 3:55

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Dalvin Peoples
DEPUTY

11 IN THE THIRD JUDICIAL DISTRICT COURT
12 OF THE STATE OF NEVADA
13 IN AND FOR LYON COUNTY

14 COMSTOCK RESIDENTS ASSOCIATION,
15 JOE McCARTHY

16 Petitioners,

17 v.

18 LYON COUNTY BOARD OF
19 COMMISSIONERS;

20 Respondents,
21 _____

22 CASE APPEAL STATEMENT
23

24 1. Name of appellant filing this case appeal statement: Comstock Residents Association and
25 Joe McCarthy.

26 2. Identify the judge issuing the decision, judgment or order appealed from: The
27 Honorable Steven R. Kosach, Senior Judge.
28

1 3. Identify each appellant and counsel:

2 a. Comstock Residents Association

3 Counsel: Luke Andrew Busby, Ltd.
4 Nevada State Bar No. 10319
5 216 East Liberty St.
6 Reno, NV 89501
7 775-453-0112
 luke@lukeandrewbusbyltd.com

8 b. Joe McCarthy

9 Counsel: Luke Andrew Busby, Ltd.
10 Nevada State Bar No. 10319
11 216 East Liberty St.
12 Reno, NV 89501
13 775-453-0112
 luke@lukeandrewbusbyltd.com

14
15 4. Identify each respondent and counsel:

16 a. Lyon County Board of Commissioners

17 Counsel: Steven B. Rye
18 District Attorney
19 31 S. Main Street
 Yerington, NV 89447

20 5. All counsel listed above are licensed to practice in the State of Nevada.

21 6. Appellants were represented by retained counsel in the district court.

22 7. Appellants are represented by retained counsel on appeal.

23 8. Appellants were not granted leave to appear in *forma pauperis*.

24 9. Proceedings commenced in the district court on October 24, 2014.

25 10. Comstock Residents Association (CRA) and Joe McCarthy sued Lyon County
26 over Lyon County's denial of their request under the Nevada Public Records Act for records
27 received or created by County Commissioners on their personal electronic devices or email
28

1 accounts in the course of their performance of public duties when considering Comstock
2 Mining Inc.'s land use application to reverse longstanding zoning policy. Appellants appeal
3 from the District Court denial of their Petition for Writ of Mandate, in which the Court declined
4 to order the production of the records sought by the Petitioners.

5 11. This case has not been subject of a previous appeal.

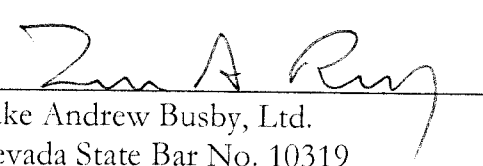
6 12. This appeal involves no issues of child custody or visitation.

7 13. This case likely involves no possibility of settlement because the dispute at issue is
8 primarily a question of law and not of fact.

9 Dated: July 1, 2016.

10 Respectfully submitted,

11 By

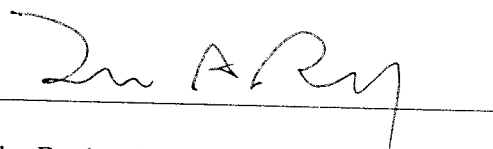
12 
13 Luke Andrew Busby, Ltd.
14 Nevada State Bar No. 10319
15 216 East Liberty St.
16 Reno, NV 89501
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18 luke@lukeandrewbusbyltd.com
19 Attorney for the Petitioners

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Case Appeal Statement was served on the parties by personal service and/or by mailing a copy thereof on the 14th day of July, 2016, by United States mail, postage prepaid to:

Steven B. Rye
District Attorney
31 S. Main Street
Yerington, NV 89447

A handwritten signature in dark ink, appearing to read "Luke Busby", is written over a horizontal line.

Luke Busby, Esq.

Case Summary

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE MCCARTHY, LYON COUNTY BOARD OF COMMISSIONERS - COMPLAINT

Case Number: 14-CV-01304

Type: Writ of Mandamus

Status: Closed

Received Date: 10/24/2014

Status Date: 6/14/2016

Agency: Third Judicial District Court

Involvements

Primary Involvements

MCCARTHY, JOE Plaintiff

SHERMAN, GAYLE Plaintiff

LYON COUNTY BOARD OF COMMISSIONERS Defendant

COMSTOCK RESIDENTS ASSOCIATION Plaintiff

Other Involvements

BUSBY, LUKE ANDREW ESQ. Plaintiff's Attorney

RYE, STEPHEN B Defendant's Attorney

Marshall, John Esq. Plaintiff's Attorney, Inactive

Third Judicial District Court (14-CV-01304)

KOSACH, STEVEN Senior Judge Judge

Aberasturi, Leon A. - LAA Dept II - TJDC, Inactive

Charges

1. NRCP 3 - COMPLAINT

COMSTOCK RESIDENTS ASSOCIATION Plaintiff

Disposition: Summary Judgment Dispo Date: 6/14/2016

Lead/Active: True

2. NRCP - RELATED PARTY

MCCARTHY, JOE Plaintiff

Disposition: Summary Judgment Dispo Date: 6/14/2016

Notes: Additional Plaintiff

Lead/Active: False

3. NRCP - RELATED PARTY

SHERMAN, GAYLE Plaintiff

Disposition: Stipulated Dismissal Dispo Date: 8/18/2015

Notes: Additional Plaintiff/Gayle Sherman dismissed 8/18/15

Lead/Active: False

4. NRCP 5 - ANSWER

LYON COUNTY BOARD OF COMMISSIONERS Defendant

Disposition: Summary Judgment Dispo Date: 6/14/2016

Lead/Active: False

Case Status History

10/24/2014 3:30:00 PM | Open

6/14/2016 10:14:00 AM | Closed

Documents

10/24/2014 Petition - Filed

Notes: Added from Document Scanning session.

10/24/2014 Civil Cover Sheet - Filed

Notes: Added from Document Scanning session.

10/24/2014 Notice - Filed

Notes: Added from Document Scanning session.

10/24/2014 Other - Filed

Notes: Added from Document Scanning session.

11/3/2014 Order - Filed

Notes: Added from Document Scanning session.

11/3/2014 Other - For Court Use Only

Case Summary

Notes: Emailed to AOC on 11/3/14
11/5/2014 Other - Filed
Notes: Added from Document Scanning session.
11/10/2014 Summons - Filed
Notes: Added from Document Scanning session.
11/10/2014 Proof of Service - Filed
Notes: Added from Document Scanning session.
12/8/2014 Answer - Filed
Notes: emailed to Judge Kosach on 03/01/15
4/8/2015 Setting Memo - Filed
Notes: Added from Document Scanning session.
7/8/2015 Other - Filed
Notes: Added from Document Scanning session.
8/18/2015 Stipulation and Order - Filed
Notes: Added from Document Scanning session.
10/29/2015 Letter - For Court Use Only
11/18/2015 Stipulation and Order - Filed
11/30/2015 Other - Filed
Notes: Emailed to Judge Kosach 11-30-15
11/30/2015 Other - Filed
Notes: Emailed to Judge Kosach 11-30-15
11/30/2015 Other - Filed
Notes: Emailed to Judge Kosach 11-30-15
1/4/2016 Exhibit - Filed
1/4/2016 Reply - Filed
Notes: Added from Document Scanning session.
1/28/2016 Other - Filed
Notes: Emailed to Judge Kosach 1/29/16
2/1/2016 Request for Submission - Filed
Notes: Emailed to Judge Kosach 2/3/16. Added from Document Scanning session.
2/1/2016 Reply - Filed
Notes: Emailed to Judge Kosach 2/3/16. Added from Document Scanning session.
2/1/2016 Opposition - Filed
Notes: Emailed to Judge Kosach 2/3/16. Added from Document Scanning session.
3/29/2016 Setting Memo - Filed
6/14/2016 Order - Filed
Notes: Added from Document Scanning session.
6/15/2016 Notice of Entry of Order - Filed
Notes: Emailed to Judge Kosach 6/16/16. -AA
7/1/2016 Notice - Filed
7/1/2016 Case Appeal Statement - Filed

Events

11/25/2014 2:30:00 PM | Pre-Trial Hearing | Jury Rm if Crtm not available | Jury Room
Peebles, DeAnn Dep. Clerk - DPEEPLES
Staff - STAFF
Rye, Stephen B. D.A. - X004800
Marshall, John Esq.
Cavilia, James R. Esq.
KOSACH, STEVEN Senior Judge
Notes: Justice Kosach stated Jury Room is fine if no Crtm avail, no Court Clerk needed and doesn't need to be recorded/TI
4/28/2015 3:30:00 PM | Pre-Trial Hearing | CRTM A DEPT IV | Court Room A
Peebles, DeAnn Dep. Clerk - DPEEPLES
Geurts, Patrick
Staff - STAFF
Court Room A - CourtRmA
Marshall, John Esq. (Plaintiff's Attorney)
RYE, STEPHEN B

Case Summary

KOSACH, STEVEN Senior Judge (Judge)

Notes: Senior Judge Steven Kosach presiding. He did not want JAVS recording. Counsel informed him of status of case. Mr. Marshall has prepared a briefing schedule on stipulated facts; Mr. Rye to review and then it can be submitted for Judge's signature. Mr. Marshall's merits brief due 3rd week of May. Court and counsel discussed dates for hearing on briefs that will be submitted. Matter set for July 1, 2015 @ 10:00 am for 2 hours.

7/1/2015 10:00:00 AM | Motion Hearing | COURT A DEPT IV | Court Room A

Peeples, DeAnn Dep. Clerk - DPEEPLES

Staff - STAFF

Court Room A - CourtRmA

Rye, Stephen B. D.A. - X004800

Marshall, John Esq. (Plaintiff's Attorney)
telephonic

KOSACH, STEVEN Senior Judge (Judge)

Notes: Senior Judge Kosach presiding. Due to conflict, Mr. Marshall will be substituting out of case. He has found new attorney to take case; just has to get signatures for the substitution. Once new attorney is on case, court suggested a conference call be set up between attorneys and court to see how case will proceed.

9/24/2015 11:30:00 AM | Status Hearing | Senior Judge Kosach presiding | Court Room A

Johnson, Orrin Dep D.A.

Geurts, Patrick

Staff - STAFF

Court Room A - CourtRmA

Rye, Stephen B. D.A. - X004800

KOSACH, STEVEN Senior Judge

BUSBY, LUKE ANDREW ESQ.

Notes: Clerk not present and hearing not recorded on JAVS. Per Judge Kosach, counsel agreed to briefing and discovery schedule. Counsel to prepare and submit for signature.

4/14/2016 1:00:00 PM | Motion Hearing | Court Room B

Sceirine, Tanya K - TSCEIRINE

Staff - STAFF

Court Room B - CourtRmB

Rye, Stephen B. D.A. - X004800

Geurts, Patrick Bailiff - X004896

Dragon, Joseph - JOED

BUSBY, LUKE ANDREW ESQ. (Plaintiff's
Attorney)

Notes: Court advised counsel that he did not feel that an evidentiary hearing was needed at this point. Court was familiar with the petition and briefs on file. Court requested counsel to make argument to the court. Court heard statements of Mr. Busby and Mr. Rye. Court took matter under submission

1 Case No. 14-CV-01304
2 Dept. IV

FILED

2016 JUN 14 AM 9:34

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Victoria Tova DEPUTY

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5 The Petitioners argue the NPRA applies to all "public records" regardless of the means of
6 creation. According to the Petitioners, the provisions of NRS § 239.010 requires a broad interpretation
7 that any elected official who uses his/her personal devices to conduct public business must disclose the
8 records created as "public records." The Petitioners cite to Nevada case law stating the Nevada Supreme
9 Court has instructed that all governmental entities public books and public records must remain open to
10 the public, unless "otherwise declared by law to be confidential." NRS 239.010. The purpose of this
11 statute is to promote a transparent governmental entity.

12 The Petitioners assert the NPRA defines a "governmental entity" as an elected or appointed
13 official of this State. NRS § 239.005. Thus the plain language of the NPRA defines "governmental
14 entity" to include elected officers of a political subsidiary. *Id.*

15 The Petitioners assert this is a straight forward interpretation of the statute. They argue Lyon
16 County's interpretation allows public officials to conduct public business on their personal devices,
17 thereby avoiding compliance with the statute. The Petitioners assert that the language of the statute
18 compels Lyon County Commissioners to disclose their personal cell phone and e-mail records. The
19 Petitioners state when a statute is plain and unambiguous, the Court must give the language its ordinary
20 meaning. *Nevada State Democratic Party v. Nevada Republican Party*, 256 P.3d 1, 4 (2011). The
21 Petitioners then contend the Court should disregard the Respondents claim that the administrators, or the
22 county office, do not possess such records. The Petitioners state the NPRA does not make any distinction
23 between an administrator's office records and the records of elected officials.

24 The Petitioners cite to other jurisdictions holdings that individual records are public records.

25 Lyon County makes the following arguments. The Respondents assert private e-mail and cell
26 phone records of elected officials are not "public records" because: (1) they are not "public records"
27 under the NRPA; (2) privacy interests weigh against disclosure; (3) practical limitations preclude the
28

1 Court from declaring all records "public records"; (4) the records are confidential under the deliberative
2 process privilege.

3 The Respondents stipulate that: NRS chapter 239 requires all books and "public records" of a
4 governmental entity be open for inspections; the provisions of the NPRA are designed to promote
5 governmental accountability; nondisclosure is the exception to the general rule; and elected officials fall
6 under the provisions of the NPRA. However, the Respondents state the issue is whether the specific
7 information requested is "public record."

8 The Respondents first argue private cell phone and email records are not "public records" under
9 the NPRA because: a) "public records" must be paid for with public money; b) the records sought are not
10 open to public inspection; c) the records are not in control of the Commissioners or County; d) the
11 communications are not official actions, and are not required by law to be public; and e) Nevada law does
12 not support that the requested documents be defined as "public records."

13 The Respondents argue the NPRA does not define "public record." The Respondents cite to the
14 Nevada Administrative Code which defined "public record" as "a record of a local governmental entity
15 that is created, received or kept in the performance of a duty and paid for with public money." However,
16 this definition was repealed in October of 2014. The Respondents argue at the time of the request it was
17 clear what a "public record" was. Further, private e-mails and cell phones of the Lyon County
18 Commissioners are not paid for with public money. Therefore, they are not "public records."

19 The Respondents state the Commissioners are entitled to rely on the law as it existed at the time.
20 Ruling in the alternative creates a burden on the government which does not exist.

21 The Respondents assert "public records" must be left open at all times for inspection by the
22 public. The Respondents argue private cell phone and/or e-mail records are not "public records" because
23 they are not on the books thus not open for inspection. The Respondents further claim that interpreting
24 the statute this way would require all "private" records of a government official to be subject to the
25 NPRA rendering an absurd result.

26 The Respondents cite to NRS § 239.010(4) which states an officer or employee who has legal
27 custody or control of a record shall not refuse to provide a copy. The Respondents claim the specific
28 information requested is not in the office's control, thus they are not required to produce that information.

1 The Respondents argue notes or any communication between the Commissioners with clients or
2 other parties do not fall under the provisions of NAC § 239.101. The statute states an office or
3 department of a local governmental entity is defined as an "office, department, board, commission,
4 committee, agency or any other subdivision of a local government entity where records and made
5 received or kept." NAC § 239.061. "Non-record materials" is any other documentation that does not
6 serve as the record of an official action of a local governmental entity. NAC § 239.051. The Respondents
7 argue private e-mail and cell phone records cannot be records because holding that they are render any
8 notes or communication of any Lyon County employee as a "public record."

9 In support of this claim, the Respondents cite to a string of Nevada cases, which does not answer
10 the question of private e-mail accounts or private cell phones. They state the Petitioners are asking the
11 Court to do something that has not been done in Nevada before. The Respondents claim such a question
12 should be left to the legislature to decide.

13 The Respondents make their sixth argument that privacy interest weigh against disclosure. They
14 cite to NRS § 241.015 which states the Nevada Open Meeting Law permits private conversation about
15 county business by less than a majority of its members. They assert this could have a chilling effect on
16 citizens who wish to exercise their constitutional right and talk to their representatives.

17 Finally, the Respondents claim the records are confidential pursuant to the deliberative process
18 privilege. DR Partners v. Bd. of Cty. Comm'rs of Clark Cty., 116 Nev. 616, 619, 6 P.3d 465, 467 (2000).

19 CONCLUSIONS OF LAW AND FACT

20
21 The Court agrees with the Respondent's arguments regarding this matter. The Court concludes
22 that the Petitioners are asking for records which are not paid for with public money. Specifically they are
23 requesting the Lyon County Commissioner's private cell phone and e-mail records. These record are
24 created by a third party phone and internet provider paid for by the Commissioner's private accounts.
25 Thus, the records in question where not paid for with public money which tends to show that these record
26 are not public.

27 Further, the Court agrees the records sought are not open to public inspection. Any member of the
28 public could inspect the records at the County Commissioner's office. However, not even the County

1 Commissioner employees themselves can inspect the Commissioner's personal records. In addition the
2 records sought are not in control of the public agencies.

3 The Court also agrees the records sought are not official actions of the County. Thus the
4 Petitioners are seeking all communications between the Lyon County Commissioner's and members of
5 the public. Such a request is beyond the provisions of the NPRC.

6 Finally, The Court does not believe it has authority to order personal information of the Lyon
7 County Commissioners be disclosed to the Petitioners. There are multiple privacy concerns which the
8 Court is concerned with. Such an action must be clearly supported by law which the Court finds it is not.
9 If the legislature intended the provisions of the NPRC to have such reaching consequences, then the
10 Court concludes the Legislature could have easily included language supporting such an assertion.

11 The Court is aware that this holding may cause public employees to skirt the provisions of the
12 NPRC by conducting business on their private devices. Such a concern is for the Legislature to address.

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14 Therefore, good cause appearing, the Petitioner's Petition is **DENIED**

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16 Dated this 10th day of June, 2016.

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20 SENIOR DISTRICT COURT JUDGE
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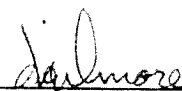
CERTIFICATE OF SERVICE

I hereby certify that I, Debbie Gilmore, am an employee of the Third Judicial District Court, and that on this date pursuant to NRCP 5(b), I mailed at Yerington, Nevada, a true copy of the foregoing document addressed to:

Lyon County District Attorney's Office
31 S. Main St.
Yerington, NV 89447

John Marshall, Esq.
570 Marsh Ave.
Reno, NV 89509

DATED: This 14th day of June, 2016.



Debbie Gilmore

Case No. 14-CV-01304

Dept. No. Senior Judge

The undersigned hereby affirms this document does not contain a social security number.

FILED

2016 JUN 15 PM 2:30

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Andrea Anderson DEPUTY

IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
IN AND FOR THE COUNTY OF LYON

COMSTOCK RESIDENTS ASSOCIATION,
JOE McCARTHY,

Plaintiffs/Petitioners,

vs.

LYON COUNTY BOARD OF COMMISSIONERS
et al;

Defendants/Respondents,

NOTICE OF ENTRY OF ORDER

Please take notice that the Court entered its Order Denying Petition for Writ of Mandamus on June 14, 2016. A copy of the Order is attached hereto.

DATED this 14th day of June, 2016.

STEPHEN B. RYE
DISTRICT ATTORNEY

By: *Stephen B. Rye*
STEPHEN B. RYE
DISTRICT ATTORNEY
31 South Main Street
Yerington, NV 89447
775-463-6511

Attorney for Respondent/Defendant
Lyon County Board of Commissioners

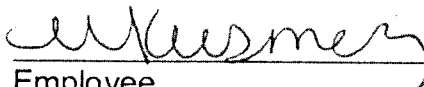
Office of the District Attorney
Lyon County, State of Nevada
801 Overland Loop, Suite 308, Dayton, Nevada 89403 · 31 South Main Street, Yerington, Nevada 89447 · 565 East Main Street, Fernley, Nevada 89429

Certificate of Service

The undersigned, an employee of the Lyon County District Attorney, certifies that on the 14th day of June, 2016, a copy of the foregoing Notice of Entry of Order and Order was mailed, postage prepaid, by placing the same in the mail receptacle at Lyon County Administrative Offices, addressed to:

Luke Andrew Busby, Esq.
216 East Liberty St.
Reno, NV 89501

Dated this 14th day of June, 2016.


Employee

1 Case No. 14-CV-01304
2 Dept. IV

FILED

2016 JUN 14 AM 9:34

TANYA SCEIRINE
COURT ADMINISTRATOR
THIRD JUDICIAL DISTRICT

Victoria Tora DEPUTY

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6 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
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8 IN AND FOR THE COUNTY OF LYON

9 ***

10 COMSTOCK RESIDENT ASSOCIATION
11 AND JOE McCARTHY,

ORDER DENYING
PETITION

12 Petitioners,

13 vs.

14 LYON COUNTY BOARD OF
15 COMMISSIONERS et al.

16 Defendant.

17 On November 30, 2015, the Petitioner, Comstock Residents Association ("CRA"), filed a Writ of
18 Mandamus requesting this Court to compel Lyon County Commissioners to be in compliance with the
19 provisions of Nevada's Public Records Act ("NPRA"). On January 4, 2016, Respondents, Lyon County,
20 filed a Response. On April 14, 2016, the Court held a Hearing on the matter and took the issue under
21 submission

22 **FACTUAL BACKGROUND**

23 CRA brings this action to compel the Lyon County Board of County Commissioners to comply
24 with their nondiscretionary duty under the NPRA in response to a request for all records related to
25 Comstock Mining Inc's. ("CMI") application with Lyon County. Petitioner contends Lyon County
26 refuses to produce responsive public records created or received in the course of their public duties
27 located on individual commissioner's private electronic devices.
28

1 CMI filed an application with Lyon County to change land use designations zoning within Silver
2 City from more urban to more rural, to allow mining exploration. The County held a public meeting and
3 heard hours of testimony before granting the application.

4 CRA contends during the County's review of CMI's application, the commissioners and other
5 members of Lyon County communicated with CMI representatives through their personal devices.

6 CMI also contends that Lyon County Commissioner, Vita Keller, communicated with CMI using
7 her personal devices because the record is absent with regard to her last minute proposal during the
8 hearing. She has admitted that these conversations took place.

9 On February 11, 2014, Petitioners submitted to the Lyon County Board of County Commissions
10 and Lyon County staff, a request for all public records pursuant to the NPRA related to CMI's
11 Application for Master Plan Amendment and Zoning change. The request included disclosure of all
12 records of communication regarding CMI's application, to or from the Lyon County Commissioners and
13 CMI representatives, regardless of whether such communication occurred on devices owned by Lyon
14 County or personally by the Lyon County Commissioners.

15 Lyon County responded to the Petitioner's demand by disclosing all of the records relating to the
16 CMI application. Lyon County did not disclose private cell phone and e-mail records owned by the
17 commissioners. Lyon County explained the commissioners do not retain county issued cell phones.
18 Private cell phone and e-mail records, personally owned by the commissioners, are not maintained by
19 Lyon County.

20 It should be noted the request made by the Petitioners has language that includes the employees of
21 Lyon County, not just the Commissioners.

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23 **QUESTION PRESENTED**

24 Should the Court compel the Lyon County commissioners to disclose their personal e-mail and
25 cell phone records to CRA relating to the CMI application?
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5 The Petitioners argue the NPRA applies to all "public records" regardless of the means of
6 creation. According to the Petitioners, the provisions of NRS § 239.010 requires a broad interpretation
7 that any elected official who uses his/her personal devices to conduct public business must disclose the
8 records created as "public records." The Petitioners cite to Nevada case law stating the Nevada Supreme
9 Court has instructed that all governmental entities public books and public records must remain open to
10 the public, unless "otherwise declared by law to be confidential." NRS 239.010. The purpose of this
11 statute is to promote a transparent governmental entity.

12 The Petitioners assert the NPRA defines a "governmental entity" as an elected or appointed
13 official of this State. NRS § 239.005. Thus the plain language of the NPRA defines "governmental
14 entity" to include elected officers of a political subsidiary. Id.

15 The Petitioners assert this is a straight forward interpretation of the statute. They argue Lyon
16 County's interpretation allows public officials to conduct public business on their personal devices,
17 thereby avoiding compliance with the statute. The Petitioners assert that the language of the statute
18 compels Lyon County Commissioners to disclose their personal cell phone and e-mail records. The
19 Petitioners state when a statute is plain and unambiguous, the Court must give the language its ordinary
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21 Petitioners then contend the Court should disregard the Respondents claim that the administrators, or the
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24 The Petitioners cite to other jurisdictions holdings that individual records are public records.

25 Lyon County makes the following arguments. The Respondents assert private e-mail and cell
26 phone records of elected officials are not "public records" because: (1) they are not "public records"
27 under the NRPA; (2) privacy interests weigh against disclosure; (3) practical limitations preclude the
28

1 Court from declaring all records "public records"; (4) the records are confidential under the deliberative
2 process privilege.

3 The Respondents stipulate that: NRS chapter 239 requires all books and "public records" of a
4 governmental entity be open for inspections; the provisions of the NPRA are designed to promote
5 governmental accountability; nondisclosure is the exception to the general rule; and elected officials fall
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8 The Respondents first argue private cell phone and email records are not "public records" under
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16 this definition was repealed in October of 2014. The Respondents argue at the time of the request it was
17 clear what a "public record" was. Further, private e-mails and cell phones of the Lyon County
18 Commissioners are not paid for with public money. Therefore, they are not "public records."

19 The Respondents state the Commissioners are entitled to rely on the law as it existed at the time.
20 Ruling in the alternative creates a burden on the government which does not exist.

21 The Respondents assert "public records" must be left open at all times for inspection by the
22 public. The Respondents argue private cell phone and/or e-mail records are not "public records" because
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25 NPRA rendering an absurd result.

26 The Respondents cite to NRS § 239.010(4) which states an officer or employee who has legal
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3 department of a local governmental entity is defined as an "office, department, board, commission,
4 committee, agency or any other subdivision of a local government entity where records and made
5 received or kept." NAC § 239.061. "Non-record materials" is any other documentation that does not
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9 In support of this claim, the Respondents cite to a string of Nevada cases, which does not answer
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12 should be left to the legislature to decide.

13 The Respondents make their sixth argument that privacy interest weigh against disclosure. They
14 cite to NRS § 241.015 which states the Nevada Open Meeting Law permits private conversation about
15 county business by less than a majority of its members. They assert this could have a chilling effect on
16 citizens who wish to exercise their constitutional right and talk to their representatives.

17 Finally, the Respondents claim the records are confidential pursuant to the deliberative process
18 privilege. DR Partners v. Bd. of Cty. Comm'rs of Clark Cty., 116 Nev. 616, 619, 6 P.3d 465, 467 (2000).

19 20 **CONCLUSIONS OF LAW AND FACT**

21 The Court agrees with the Respondent's arguments regarding this matter. The Court concludes
22 that the Petitioners are asking for records which are not paid for with public money. Specifically they are
23 requesting the Lyon County Commissioner's private cell phone and e-mail records. These record are
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25 Thus, the records in question where not paid for with public money which tends to show that these record
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27 Further, the Court agrees the records sought are not open to public inspection. Any member of the
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1 Commissioner employees themselves can inspect the Commissioner's personal records. In addition the
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3 The Court also agrees the records sought are not official actions of the County. Thus the
4 Petitioners are seeking all communications between the Lyon County Commissioner's and members of
5 the public. Such a request is beyond the provisions of the NPRC.

6 Finally, The Court does not believe it has authority to order personal information of the Lyon
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8 Court is concerned with. Such an action must be clearly supported by law which the Court finds it is not.
9 If the legislature intended the provisions of the NPRC to have such reaching consequences, then the
10 Court concludes the Legislature could have easily included language supporting such an assertion.

11 The Court is aware that this holding may cause public employees to skirt the provisions of the
12 NPRC by conducting business on their private devices. Such a concern is for the Legislature to address.

13
14 Therefore, good cause appearing, the Petitioner's Petition is **DENIED**

15
16 Dated this 10th day of June, 2016.

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20 SENIOR DISTRICT COURT JUDGE
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Debbie Gilmore
Debbie Gilmore

Case Summary

COMSTOCK RESIDENTS ASSOCIATION, GAYLE SHERMAN, JOE MCCARTHY, LYON COUNTY BOARD OF COMMISSIONERS - COMPLAINT

Case Number: 14-CV-01304

Type: Writ of Mandamus

Status: Closed

Received Date: 10/24/2014

Status Date: 6/14/2016

Agency: Third Judicial District Court

Involvements

Primary Involvements

MCCARTHY, JOE Plaintiff

SHERMAN, GAYLE Plaintiff

LYON COUNTY BOARD OF COMMISSIONERS Defendant

COMSTOCK RESIDENTS ASSOCIATION Plaintiff

Other Involvements

BUSBY, LUKE ANDREW ESQ. Plaintiff's Attorney

RYE, STEPHEN B Defendant's Attorney

Marshall, John Esq. Plaintiff's Attorney, Inactive

Third Judicial District Court (14-CV-01304)

KOSACH, STEVEN Senior Judge Judge

Aberasturi, Leon A. - LAA Dept II - TJDC, Inactive

Charges

1. NRCP 3 - COMPLAINT

COMSTOCK RESIDENTS ASSOCIATION Plaintiff

Disposition: Summary Judgment Dispo Date: 6/14/2016

Lead/Active: True

2. NRCP - RELATED PARTY

MCCARTHY, JOE Plaintiff

Disposition: Summary Judgment Dispo Date: 6/14/2016

Notes: Additional Plaintiff

Lead/Active: False

3. NRCP - RELATED PARTY

SHERMAN, GAYLE Plaintiff

Disposition: Stipulated Dismissal Dispo Date: 8/18/2015

Notes: Additional Plaintiff/Gayle Sherman dismissed 8/18/15

Lead/Active: False

4. NRCP 5 - ANSWER

LYON COUNTY BOARD OF COMMISSIONERS Defendant

Disposition: Summary Judgment Dispo Date: 6/14/2016

Lead/Active: False

Case Status History

10/24/2014 3:30:00 PM | Open

6/14/2016 10:14:00 AM | Closed

Documents

10/24/2014 Petition - Filed

Notes: Added from Document Scanning session.

10/24/2014 Civil Cover Sheet - Filed

Notes: Added from Document Scanning session.

10/24/2014 Notice - Filed

Notes: Added from Document Scanning session.

10/24/2014 Other - Filed

Notes: Added from Document Scanning session.

11/3/2014 Order - Filed

Notes: Added from Document Scanning session.

11/3/2014 Other - For Court Use Only

Case Summary

Notes: Emailed to AOC on 11/3/14
11/5/2014 Other - Filed
Notes: Added from Document Scanning session.
11/10/2014 Summons - Filed
Notes: Added from Document Scanning session.
11/10/2014 Proof of Service - Filed
Notes: Added from Document Scanning session.
12/8/2014 Answer - Filed
Notes: emailed to Judge Kosach on 03/01/15
4/8/2015 Setting Memo - Filed
Notes: Added from Document Scanning session.
7/8/2015 Other - Filed
Notes: Added from Document Scanning session.
8/18/2015 Stipulation and Order - Filed
Notes: Added from Document Scanning session.
10/29/2015 Letter - For Court Use Only
11/18/2015 Stipulation and Order - Filed
11/30/2015 Other - Filed
Notes: Emailed to Judge Kosach 11-30-15
11/30/2015 Other - Filed
Notes: Emailed to Judge Kosach 11-30-15
11/30/2015 Other - Filed
Notes: Emailed to Judge Kosach 11-30-15
1/4/2016 Exhibit - Filed
1/4/2016 Reply - Filed
Notes: Added from Document Scanning session.
1/28/2016 Other - Filed
Notes: Emailed to Judge Kosach 1/29/16
2/1/2016 Request for Submission - Filed
Notes: Emailed to Judge Kosach 2/3/16. Added from Document Scanning session.
2/1/2016 Reply - Filed
Notes: Emailed to Judge Kosach 2/3/16. Added from Document Scanning session.
2/1/2016 Opposition - Filed
Notes: Emailed to Judge Kosach 2/3/16. Added from Document Scanning session.
3/29/2016 Setting Memo - Filed
6/14/2016 Order - Filed
Notes: Added from Document Scanning session.
6/15/2016 Notice of Entry of Order - Filed
Notes: Emailed to Judge Kosach 6/16/16. -AA
7/1/2016 Notice - Filed
7/1/2016 Case Appeal Statement - Filed

Events

11/25/2014 2:30:00 PM | Pre-Trial Hearing | Jury Rm if Crtm not available | Jury Room

Peeples, DeAnn Dep. Clerk - DPEEPLES

Staff - STAFF

Rye, Stephen B. D.A. - X004800

Marshall, John Esq.

Cavilia, James R. Esq.

KOSACH, STEVEN Senior Judge

Notes: Justice Kosach stated Jury Room is fine if no Crtm avail, no Court Clerk needed and doesn't need to be recorded/TI

4/28/2015 3:30:00 PM | Pre-Trial Hearing | CRTM A DEPT IV | Court Room A

Peeples, DeAnn Dep. Clerk - DPEEPLES

Geurts, Patrick

Staff - STAFF

Court Room A - CourtRmA

Marshall, John Esq. (Plaintiff's Attorney)

RYE, STEPHEN B

Case Summary

KOSACH, STEVEN Senior Judge (Judge)

Notes: Senior Judge Steven Kosach presiding. He did not want JAVS recording. Counsel informed him of status of case. Mr. Marshall has prepared a briefing schedule on stipulated facts; Mr. Rye to review and then it can be submitted for Judge's signature. Mr. Marshall's merits brief due 3rd week of May. Court and counsel discussed dates for hearing on briefs that will be submitted. Matter set for July 1, 2015 @ 10:00 am for 2 hours.

7/1/2015 10:00:00 AM | Motion Hearing | COURT A DEPT IV | Court Room A

Peeples, DeAnn Dep. Clerk - DPEEPLES

Staff - STAFF

Court Room A - CourtRmA

Rye, Stephen B. D.A. - X004800

Marshall, John Esq. (Plaintiff's Attorney)
telephonic

KOSACH, STEVEN Senior Judge (Judge)

Notes: Senior Judge Kosach presiding. Due to conflict, Mr. Marshall will be substituting out of case. He has found new attorney to take case; just has to get signatures for the substitution. Once new attorney is on case, court suggested a conference call be set up between attorneys and court to see how case will proceed.

9/24/2015 11:30:00 AM | Status Hearing | Senior Judge Kosach presiding | Court Room A

Johnson, Orrin Dep D.A.

Geurts, Patrick

Staff - STAFF

Court Room A - CourtRmA

Rye, Stephen B. D.A. - X004800

KOSACH, STEVEN Senior Judge

BUSBY, LUKE ANDREW ESQ.

Notes: Clerk not present and hearing not recorded on JAVS. Per Judge Kosach, counsel agreed to briefing and discovery schedule. Counsel to prepare and submit for signature.

4/14/2016 1:00:00 PM | Motion Hearing | Court Room B

Sceirine, Tanya K - TSCEIRINE

Staff - STAFF

Court Room B - CourtRmB

Rye, Stephen B. D.A. - X004800

Geurts, Patrick Bailiff - X004896

Dragon, Joseph - JOED

BUSBY, LUKE ANDREW ESQ. (Plaintiff's
Attorney)

Notes: Court advised counsel that he did not feel that an evidentiary hearing was needed at this point. Court was familiar with the petition and briefs on file. Court requested counsel to make argument to the court. Court heard statements of Mr. Busby and Mr. Rye. Court took matter under submission

DISTRICT COURT CIVIL COVER SHEET

Lyon County, Nevada
 Case No. 14-CV-01304
 (Assigned by Clerk's Office) Dept II

I. Party Information (provide both home and mailing addresses if different)

Plaintiff(s) (name/address/phone):

Comstock Residents Association,
Gage Sherman, Joe McCarthy

Defendant(s) (name/address/phone):

Lyon County Board of Commissioners

Attorney (name/address/phone):

John L. Marshall
570 Marsh Avenue
Reno, NV 89502
(775) 303-4882

Attorney (name/address/phone):

2014 OCT 24 PM 3:29
 JANA OCT 24
 COURT ADMINISTRATOR
 THIRD JUDICIAL DISTRICT
 NEPITY

II. Nature of Controversy (please select the one most applicable filing type below)

Civil Case Filing Types

Real Property Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Other Landlord/Tenant Title to Property <input type="checkbox"/> Judicial Foreclosure <input type="checkbox"/> Other Title to Property Other Real Property <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property	Negligence <input type="checkbox"/> Auto <input type="checkbox"/> Premises Liability <input type="checkbox"/> Other Negligence Malpractice <input type="checkbox"/> Medical/Dental <input type="checkbox"/> Legal <input type="checkbox"/> Accounting <input type="checkbox"/> Other Malpractice	Torts Other Torts <input type="checkbox"/> Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Employment Tort <input type="checkbox"/> Insurance Tort <input type="checkbox"/> Other Tort
Probate <i>(select case type and estate value)</i> <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside <input type="checkbox"/> Trust/Conservatorship <input type="checkbox"/> Other Probate Estate Value <input type="checkbox"/> Over \$200,000 <input type="checkbox"/> Between \$100,000 and \$200,000 <input type="checkbox"/> Under \$100,000 or Unknown <input type="checkbox"/> Under \$2,500	Construction Defect & Contract Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> Other Construction Defect Contract Case <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Building and Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Collection of Accounts <input type="checkbox"/> Employment Contract <input type="checkbox"/> Other Contract	Judicial Review/Appeal Judicial Review <input type="checkbox"/> Foreclosure Mediation Case <input type="checkbox"/> Petition to Seal Records <input type="checkbox"/> Mental Competency Nevada State Agency Appeal <input type="checkbox"/> Department of Motor Vehicle <input type="checkbox"/> Worker's Compensation <input type="checkbox"/> Other Nevada State Agency Appeal Other <input type="checkbox"/> Appeal from Lower Court <input type="checkbox"/> Other Judicial Review/Appeal
Civil Writ Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input checked="" type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

Business Court filings should be filed using the Business Court civil coversheet.

10/24/14
 Date

Signature of initiating party or representative

for John L. Marshall

See other side for family-related case filings.

1 CASE NO: 14-CV-01304
2 DEPT: IV (Sr. Judge Kosach)

3
4 IN THE THIRD JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA
5 IN AND FOR THE COUNTY OF LYON
6

7
8 COMSTOCK RESIDENTS ASSOCIATION,
9 JOE MCCARTHY,

10
11 Petitioners,

CERTIFICATE

12 vs.

13 LYON COUNTY BOARD OF
14 COMMISSIONERS; COMSTOCK
15 MINING INCORPORATED,

16 Residents.
17 _____/

18 I, TANYA SCEIRINE, Clerk of the Third Judicial District Court of the
19 State of Nevada, in and for the County of Lyon, State of Nevada, hereby certify that the
20 foregoing *Notice of Appeal, Case Appeal Statement, District Court Docket, Order Denying*
21 *Petition, Notice of Entry of Order, District Court Minutes, and Civil Cover Sheet* are true
22 copies of documents on file in my office regarding the case referenced above.

23 WITNESS my hand and the Seal of said Court on this

24 5th day of July 2016.

25 TANYA SCEIRINE, Court Administrator

26 By , Deputy
27
28