

DISTRICT COURT CIVIL COVER SHEET

A - 1 6 - 7 3 5 4 9 6 - C

County, Nevada

X X I I I

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): MICHELLE FLORES, an individual	Defendant(s) (name/address/phone): LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT, a political subdivision of the State of Nevada
Attorney (name/address/phone): Ashcraft & Barr LLP, Jeffrey F. Barr, Esq. 2300 W. Sahara Avenue, Suite 1130 Las Vegas, NV 89102 (702) 631-7555	Attorney (name/address/phone):

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 Probate (select case type and estate value) <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 <input type="checkbox"/> Writ of Habeas Corpus <input 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 checked="" type="checkbox"/> Other Civil Matters

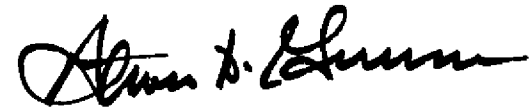
Business Court filings should be filed using the Business Court civil coversheet.

April 22, 2016

Date

Signature of initiating party or representative

See other side for family-related case filings.



CLERK OF THE COURT

COMP

JEFFREY F. BARR, ESQ

Nevada Bar No. 7269

barrj@AshcraftBarr.com

ASHCRAFT & BARR | LLP

2300 West Sahara Avenue, Suite 1130

Las Vegas, NV 89102

Telephone: (702) 631.7555

Facsimile: (702) 631.7556

LEE I. IGLODY, ESQ

Nevada Bar No. 7757

lee@iglody.com

Iglody Law, PLLC

2300 West Sahara Avenue, Suite 1130

Las Vegas, NV 89102

Telephone: (702) 425-5366

Attorneys for Plaintiff

Michelle Flores

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHELLE FLORES, an individual

Plaintiff,

v.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State
of Nevada; DOES I-X, inclusive; and ROES
A-Z, inclusive,

Defendants.

Case No.: A - 1 6 - 7 3 5 4 9 6 - C

Dept. No.: X X I I I

VERIFIED COMPLAINT

Plaintiff Michelle Flores complains and alleges against Defendants as follows:

SUMMARY OF THE ACTION

1. Defendant Las Vegas Clark County Library District (the "District") banned homemaker and homeschooling mother of three, Plaintiff Michelle Flores ("Michelle"), from the District's libraries after Michelle openly and responsibly carried a firearm in a secure holster while visiting the Rainbow Library with her children.

1 2. The District does not have the authority to ban Michelle because the District does
2 not have the authority to make rules relating to the open possession of firearms. Last year,
3 the Legislature made it clear in Senate Bill 175 (2015) (“SB175”) that the Legislature, alone,
4 has the sole right to regulate the possession of firearms.

5 3. Nevertheless, the District insists on enforcing some arbitrary policy regulating the
6 open possession of firearms in a conscious and willful disregard of Michelle’s constitutional
7 rights and the rights accruing to all Nevada citizens stemming from the broad reforms enacted
8 in SB175.

9
10 **THE PARTIES, JURISDICTION, AND VENUE**

11 4. All previous paragraphs in this Complaint are specifically incorporated herein as
12 though fully set forth.

13 5. Michelle is a resident of Clark County and a citizen of the State of Nevada.

14 6. Michelle is the mother of five-year-old minor R. Flores.

15 7. Michelle is the mother of three-year-old minor E. Flores.

16 8. Michelle is the mother of one-year-old minor H. Flores.

17 9. Michelle homeschools her three minor children and therefore the access to library
18 facilities is of great importance.

19 10. At all times relevant to this Complaint, Michelle was not the subject of any court
20 order prohibiting her possession of a firearm in the State of Nevada.

21 11. At all times relevant to this Complaint, Michelle lawfully owned and possessed a
22 .38 caliber revolver.

23 12. The District is a political subdivision of the State of Nevada.

24 13. The City of Las Vegas and Clark County formed the District.

25 14. The City of Las Vegas and Clark County derived its authority to form the District
26
27

1 from the District's enabling statute, NRS ch. 379.

2 15. The City of Las Vegas and Clark County each appoint five members to the
3 District's Board.

4 16. The District operates a facility named the Rainbow Library (the "Rainbow
5 Library").

6 17. The Rainbow Library is located at 3150 N. Buffalo Drive, Las Vegas, Nevada.

7 18. The District is, and was at all times relevant hereto, responsible for the
8 management of Rainbow Library.

9 19. Upon information and belief, the District employs the Rainbow Library staff
10 responsible for the actions complained of in this Complaint.

11 20. The District promulgates the Library Rules of Conduct (the "District Rules").

12 21. Upon information and belief, a true and correct copy of the District Rules in effect
13 as of March 16, 2016, is attached hereto as **Exhibit 1**.

14 22. The District Rules do not contain any regulation prohibiting the open carry of
15 firearms.

16 23. On or about March 16, 2016, in reliance upon an arbitrary policy or regulation, the
17 District issued a Trespass Notice to Michelle (the "Trespass Notice").

18 24. The Trespass Notice prohibits Michelle from entering any District library for a
19 period of twelve months.

20 25. A true and correct copy of the Trespass Notice is attached hereto as **Exhibit 2**.

21 26. DOE Defendants I through X, inclusive, and ROE CORPORATIONS A through
22 Z, inclusive, are fictitious names for the DOE Defendants and the ROE Defendants,
23 respectively (collectively, the "Unknown Defendants"). Michelle will seek leave to amend
24 this Complaint and proceedings herein to substitute the true names of such Unknown
25
26
27

1 Defendants. Michelle believes that each of the Defendants designated herein as Unknown
2 Defendants is responsible in some manner for the events herein referred to and negligently,
3 carelessly, recklessly, or intentionally caused damages proximately thereby to Michelle as
4 herein alleged.

5 27. The amount in controversy exceeds \$10,000.00.

6 28. Accordingly, jurisdiction and venue is proper in this Court.

7
8 **MARCH 16, 2016 LIBRARY VISIT**

9 29. All previous paragraphs in this Complaint are specifically incorporated herein as
10 though fully set forth.

11 30. On or about March 16, 2016, Michelle visited the Rainbow Library with her three
12 minor children.

13 31. During this visit Michelle visibly, openly, and obviously carried her .38 caliber
14 revolver in a side holster.

15 32. Michelle and her three minor children browsed the book stacks for approximately
16 one hour.

17 33. Michelle checked out some books and proceeded to the Rainbow Library exit.

18 34. As she was exiting with her books and three minor children, Michelle was stopped
19 between the first and second set of exit doors at Rainbow Library.

20 35. Michelle was stopped by a Rainbow Library security guard.

21 36. The Rainbow Library security guard was soon joined by another Rainbow Library
22 employee.

23 37. Michelle attempted to engage in dialogue with the Rainbow Library security guard
24 and employee regarding the reason for them stopping her.

25 38. The Rainbow Library employee summoned the police.

1 39. Police officers responded to the call.

2 40. At the instigation of the Rainbow Library security guard and employee, the police
3 placed Michelle in handcuffs between the first and second set of exit doors to the Rainbow
4 Library.

5 41. At the instigation of the Rainbow Library security guard and employee, the police
6 took Michelle's firearm and holster.

7 42. At the instigation of the Rainbow Library security guard and employee, the police
8 took five rounds of ammunition from Michelle.

9 43. The police initially proceeded to call Child Protective Services to take custody of
10 Michelle's three minor children.

11 44. At the instigation of the Rainbow Library security guard and employee, the police
12 initiated proceedings to incarcerate Michelle.

13 45. For reasons unknown and after a lengthy colloquy between the police officers,
14 Michelle was neither arrested nor incarcerated.

15 46. After the police released Michelle, the Rainbow Library employee issued the
16 Trespass Notice to Michelle.

17 47. All the actions by the police and the Rainbow Library security guard and employee
18 took place in front of Michelle's three minor children.

19 48. The District's conscious and willful disregard of the legal rights of Michelle
20 resulted in her public humiliation and emotional distress in front of her minor children and
21 the unlawful prohibition of her use of public library facilities.

22 **FIRST CLAIM FOR RELIEF**
23 **(Violation of SB 175 and Nevada Constitution)**

24 49. All previous paragraphs in this Complaint are specifically incorporated herein as
25
26
27

1 though fully set forth.

2 50. Article 1, Section 11(1) of the Nevada Constitution provides, “Every citizen has
3 the right to keep and bear arms for security and defense, for lawful hunting and recreational
4 use and for other lawful purposes.”

5 51. Pursuant to SB175, the Nevada Legislature expressly preempted the entire field of
6 firearms regulation, including but not limited to, the definition, the method and place of carry,
7 the manner of use, and who may possess firearms and where they may be possessed.

8 52. The Nevada Legislature has the exclusive authority to regulate firearms in Nevada.

9 53. Nevada law prohibits the District from enacting rules or policies that contradict
10 Nevada law.

11 54. The District’s arbitrary rules or policies banning the open carry of firearms in the
12 District’s libraries violates Nevada law.

13 55. The District denied Michelle her constitutional right to bear arms.

14 56. The District has enacted and enforced arbitrary rules and policies that are
15 prohibited by Nevada law and the Nevada Constitution.

16 57. The District denied Michelle her constitutional right to due process of law under
17 Article 1, Section 8(5) of the Nevada Constitution.

18 58. Michelle was damaged by the District’s actions.

19 59. Michelle suffered actual loss and damages as a result of the District’s unlawful
20 actions.

21 60. Michelle is entitled to damages in an amount equal to three times her actual
22 damages.

23 61. Michelle is entitled to attorney’s fees and costs.

**SECOND CLAIM FOR RELIEF
(Declaratory Judgment)**

62. All previous paragraphs in this Complaint are specifically incorporated herein as though fully set forth.

63. The District enacted and enforced arbitrary rules and policies that violate the Plaintiff's constitutional rights.

64. The District's enactment and enforcement of these arbitrary rules and policies violate Article 1, Section 11(1) and Section 8(5) of the Nevada Constitution.

65. The District's promulgation and enforcement of these arbitrary rules and policies violate Nevada law.

66. Nevada law preempts the District's arbitrary rules and policies prohibiting the open carry of a firearm in a District library, and these arbitrary rules and policies should be declared invalid.

67. The District's arbitrary rules and policies form the basis for the Trespass Notice.

68. Nevada law preempts the Trespass Notice, and it should be declared invalid.

69. Michelle is entitled to a declaratory judgment that the District's rules and policies that prohibit the open possession of firearms in libraries are unconstitutional.

70. Michelle is entitled declaratory judgment that the Trespass Notice is invalid.

71. Michelle is entitled to attorney's fees and costs.

**THIRD CLAIM FOR RELIEF
(Injunctive Relief)**

69. All previous paragraphs in this Complaint are specifically incorporated herein as though fully set forth.

70. Michelle has a right to carry firearms pursuant to the Nevada Constitution and

1 Nevada law.

2 71. This right is superior to any rule or regulation by any state or local entity not
3 specifically authorized by Nevada law.

4 72. The District had enacted and enforced arbitrary rules and policies that violate the
5 Michelle's rights.

6 73. The District's enforcement of these arbitrary rules and policies violates Nevada
7 law.

8 74. Nevada law preempts the District's arbitrary rules and policies prohibiting the
9 open carry of a firearm in a District library, and they are invalid.

10 75. The District's arbitrary rules and policies form the basis for the Trespass Notice.

11 76. Nevada law preempts the Trespass Notice, and it is invalid.

12 77. Michelle is entitled to a preliminary and permanent injunction to invalidate the
13 Trespass Notice and to permit her to return to the District's libraries.

14 78. Michelle is entitled to attorney's fees and costs.

15 WHEREFORE, Michelle prays for relief as follows:

16 A. For declarative relief;

17 B. For preliminary and permanent injunctive relief;

18 C. For general damages;

19 D. For damages in an amount of three times her actual damages;

20 E. For reasonable attorney's fees;

21 F. For costs of suit herein; and

22 ///

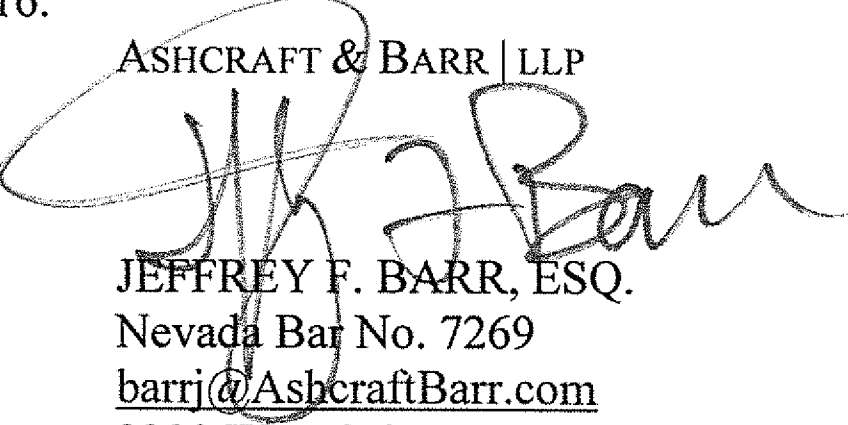
23 ///

24 ///

1 G. For such further relief as the Court may deem proper.

2 DATED this 22nd day of April, 2016.

3 ASHCRAFT & BARR | LLP

4 
5 JEFFREY F. BARR, ESQ.
6 Nevada Bar No. 7269
7 barrj@AshcraftBarr.com

8 2300 West Sahara Avenue, Suite 1130

9 Las Vegas, NV 89102

10 Attorneys for Plaintiff Michelle Flores

VERIFICATION

Under penalties of perjury, the undersigned declares that he is a Plaintiff named in the foregoing Verified Complaint and knows the contents thereof; that the pleading is true of her own knowledge, except as to those matters stated on information and belief, and that as to such matters she believes it to be true.

4/22/16

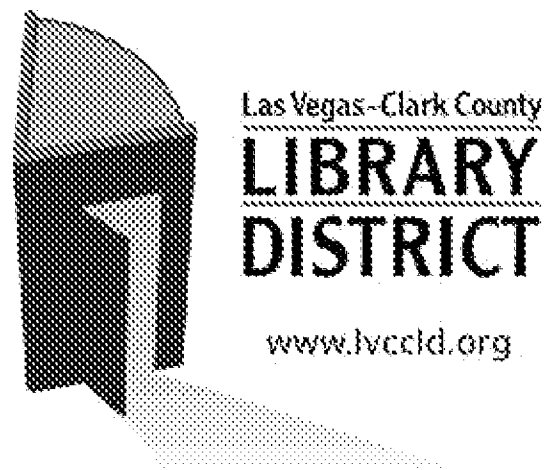
Date:

Michelle Flores

Name: Michelle Flores

EXHIBIT 1

EXHIBIT 1



Library Rules of Conduct

It is our intention to provide library visitors with good service in a pleasant atmosphere. In addition to obeying all applicable federal, state and local laws, each of you can help by observing the following rules of conduct.

1. Library patrons shall be engaged in normal activities associated with the use of a public library. Conduct that disturbs library users or staff, or that hinders others from using the library or library materials is prohibited.
2. Damage, destruction or theft of library property is prohibited. Parents are liable for all acts of minors. (Nevada Revised Statute 379.160)
3. Firearms are prohibited as outlined in NRS 202.3673.
4. Use of all types of tobacco is prohibited in the library. (Including e-cigarettes)
5. Food or beverages are prohibited in the library except for pre-approved events or in specified areas.
6. Sleeping is prohibited on library property.
7. Talking on cell phones or through other electronic devices is prohibited.
8. Selling or solicitation is prohibited on library property, except to gather signatures for petitions as outlined in NRS 293.127565 or in accordance with the District's meeting room use agreements.
9. Animals, except service animals, are prohibited on library property.

10. Shoes and shirts must be worn in the library.
11. All children under the age of 10 must be supervised by an adult who assumes responsibility. Adult patrons must monitor all activities and behavior of their children on library property. Anyone under the age of 18 who does not follow the *Library Rules of Conduct*, has an emergency or is left at closing, will be subject to staff contacting a caregiver. If a caregiver cannot be contacted, staff will notify the police.
12. Patrons are not permitted to bring any large bags or shopping carts into the library.
13. Any person creating or emanating an odor that can be detected from six feet away will be asked to leave the library until the situation can be corrected. Before ejecting any patron who creates such a disturbance, the acting librarian shall contact by telephone appointed representatives to act in an advisory capacity. If the representative determines that the person is not making a disturbance, the patron shall not be ejected. In the event the representative does not arrive within 30 minutes, the patron can be evicted.
14. Library materials may not be taken into restrooms.
15. The library is not responsible for personal items that are lost, stolen or damaged on library property.
16. The Library District reserves the right to inspect an individual's personal belongings to prevent unauthorized removal of library materials and equipment or for the health and safety of staff and other patrons.

Depending on the seriousness of the infraction, any patron who violates any of these Rules of Conduct may be trespassed from the Library District for a period of up to one year. Any patron who is trespassed is prohibited from use of all Las Vegas-Clark County Library District facilities and services. Trespassed patrons returning to a Las Vegas-Clark County Library District branch during a period of trespass will be issued a new one-year trespass.

A patron who has been trespassed may have the decision reviewed by appealing via written request to the Library Director within fourteen (14) days of when the trespass was issued.

EXHIBIT 2

EXHIBIT 2

Notice of Trespass

Please note that in accordance with NRS 207.200 you have been officially trespassed from the Las Vegas-Clark County Library District on 3/14/16 for the following infraction: (month, day, year)

firing in the library

You may not visit any branch of the Las Vegas-Clark County Library District for a period of one (1) year from the date indicated above. Failure to comply will result in staff contacting local law enforcement.

If you wish to appeal this decision, you must do so by written request to the Library Director within fourteen (14) days of the above date:

Executive Director
833 Las Vegas Blvd. N.
Las Vegas, NV 89101



LAS VEGAS METROPOLITAN POLICE DEPARTMENT			
<input type="checkbox"/> Apt. Notification	<input type="checkbox"/> Disturbance	<input checked="" type="checkbox"/> Trespassing	
<input type="checkbox"/> Garage Door	<input type="checkbox"/> Drug Activity	<input type="checkbox"/> Domestic Violence	
<input type="checkbox"/> Curfew Notification	<input type="checkbox"/> Theft	<input type="checkbox"/> Civil Stand-by	
<input type="checkbox"/> Other:	<input type="checkbox"/> Vandalism		
Address <u>3150 N. Rainbow</u>		Event # <u>160316-1602</u>	
Apt. Name <u>RAINBOW LIBRARY</u>		Message <u>TRESPASS DUE</u>	
<u>TO NOT CARRYING A GUN INSIDE</u>			
<u>AND STEALING</u>			
Date <u>3-16-16</u>	Time <u>1255</u>	Officer Name <u>ADK</u>	PR <u>7302</u>

INAPD 275 (REV. 10-14) LAS VEGAS METROPOLITAN POLICE DEPARTMENT WHITE - SUBSTATION CARDSTOCK - CITIZEN

BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

AACC
JOHN R. BAILEY
Nevada Bar No. 0137
DENNIS L. KENNEDY
Nevada Bar No. 1462
JOSEPH A. LIEBMAN
Nevada Bar No. 10125
KELLY B. STOUT
Nevada Bar No. 12105
AMANDA L. STEVENS
Nevada Bar No. 13966
BAILEY ♦ KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: 702.562.8820
Facsimile: 702.562.8821
JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
JLiebman@BaileyKennedy.com
KStout@BaileyKennedy.com
AStevens@BaileyKennedy.com

Attorneys for Defendant
Las Vegas-Clark County Library District

DISTRICT COURT
CLARK COUNTY, NEVADA

MICHELLE FLORES, an individual,

Plaintiff,

Case No. A-16-735496-C
Dept. No. XXIII

vs.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State of
Nevada; DOES 1-X, inclusive, and ROES A-Z,
inclusive,

Defendants.

**DEFENDANT LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT'S
ANSWER TO PLAINTIFF MICHELLE FLORES' VERIFIED COMPLAINT
AND COUNTERCLAIM**

Defendant Las Vegas-Clark County Library District (the "Library District" or "Defendant")
by and through its counsel of record, Bailey ♦ Kennedy, answers Plaintiff Michelle Flores' ("Ms.
Flores" or "Plaintiff") Verified Complaint (the "Complaint") as follows:

///

SUMMARY OF THE ACTION

1. Answering Paragraph 1, the Library District admits that it issued a Notice of Trespass to Ms. Flores and banned Ms. Flores from visiting any branch of the Library District for a period of one year. The Library District further admits that the Notice of Trespass arose out of an incident during which Ms. Flores was carrying a firearm on Library District property. The Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the remaining allegations, and, on that basis, denies them.

2. Answering Paragraph 2, the Library District states that Senate Bill 175, 2015 Leg., 78th Sess. (Nev. 2015) speaks for itself. To the extent that the allegations in Paragraph 2 are inconsistent with Senate Bill 175, the Library District denies those inconsistent allegations. The Library District further states that the remaining allegations in Paragraph 2 contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations. The Library District denies any remaining and/or inconsistent allegations contained in Paragraph 2.

3. Answering Paragraph 3, the Library District denies that its policy relating the open possession of firearms on Library District property is arbitrary. The Library District further states that Senate Bill 175, 2015 Leg., 78th Sess. (Nev. 2015) speaks for itself. To the extent that the allegations in Paragraph 3 are inconsistent with Senate Bill 175, the Library District denies those inconsistent allegations. The Library District further states that the remaining allegations in Paragraph 3 contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations. The Library District denies any remaining and/or inconsistent allegations contained in Paragraph 3.

THE PARTIES, JURISDICTION, AND VENUE

4. Answering Paragraph 4, the Library District reasserts and incorporates by reference the previous Paragraphs, inclusive, as though fully set forth herein.

5. Answering Paragraph 5, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

///

6. Answering Paragraph 6, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

7. Answering Paragraph 7, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

8. Answering Paragraph 8, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

9. Answering Paragraph 9, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

10. Answering Paragraph 10, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

11. Answering Paragraph 11, the Library District is without knowledge or information sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

12. Answering Paragraph 12, the Library District admits that it is a “political subdivision” as defined in NRS 379.142. The Library District states that the allegations contained in Paragraph 12 do not require a response to the extent that they assert legal conclusions rather than factual allegations; to the extent a response is required, the Library District denies the allegations. The Library District denies any remaining and/or inconsistent allegations contained in Paragraph 12.

13. Answering Paragraph 13, the Library District states that it was formed pursuant to NRS 379.010. The Library District further states that the allegations contained in Paragraph 13 do not require a response to the extent that they assert legal conclusions rather than factual allegations; to the extent a response is required, the Library District denies the allegations. The Library District denies any remaining and/or inconsistent allegations contained in Paragraph 13.

14. Answering Paragraph 14, the Library District states that the allegations contained in Paragraph 14 do not require a response to the extent that they assert legal conclusions rather than factual allegations; to the extent a response is required, the Library District denies the allegations.

15. Answering Paragraph 15, the Library District states that the allegations contained in Paragraph 15 do not require a response to the extent that they assert legal conclusions rather than factual allegations; to the extent a response is required, the Library District denies the allegations.

1 16. Answering Paragraph 16, the Library District admits it operates a branch facility that
2 is referred to as the Rainbow Library.

3 17. Answering Paragraph 17, the Library District admits the Rainbow Library is located
4 at 3150 North Buffalo Drive, Las Vegas, Nevada.

5 18. Answering Paragraph 18, the Library District admits that, by and through its trustees,
6 it is responsible for the management of the Rainbow Library. The Library District denies any
7 remaining and/or inconsistent allegations contained in Paragraph 18.

8 19. Answering Paragraph 19, the Library District admits that the workforce at the
9 Rainbow Library includes several categories of workers, which includes, but is not limited to
10 volunteers, independent contractors, and employees of the Library District. The Library District
11 denies all remaining and/or inconsistent allegations contained in Paragraph 19.

12 20. Answering Paragraph 20, the Library District admits that it promulgates the Library
13 Rules of Conduct.

14 21. Answering Paragraph 21, the Library District admits Exhibit 1 to the Complaint is a
15 true and correct copy of the Library Rules of Conduct that were in effect on March 16, 2016.

16 22. Answering Paragraph 22, the Library District denies the allegations.

17 23. Answering Paragraph 23, the Library District denies that its policy relating to the
18 open possession of firearms on Library District property is arbitrary. The Library District further
19 admits that it issued a Notice of Trespass to Ms. Flores on or about March 16, 2016. The Library
20 District denies all remaining and/or inconsistent allegations contained in Paragraph 23.

21 24. Answering Paragraph 24, the Library District admits the Notice of Trespass prohibits
22 Ms. Flores from entering any branch of the Library District for a period of one year.

23 25. Answering Paragraph 25, the Library District is without knowledge or information
24 sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 26.

25 26. Answering Paragraph 26, the Library District is without knowledge or information
26 sufficient to form a belief as to the truth or falsity of the allegations contained in Paragraph 26 as it
27 purports to apply to third-party fictitious defendants, and, on that basis, denies them.

28 ///

1 27. Answering Paragraph 27, the Library District states that the allegations contain legal
2 conclusions rather than factual allegations to which no response is required; to the extent the
3 allegations require a response, the Library District denies the allegations.

4 28. Answering Paragraph 28, the Library District states that the allegations contain legal
5 conclusions rather than factual allegations to which no response is required; to the extent the
6 allegations require a response, the Library District denies the allegations.

7 **MARCH 16, 2016 LIBRARY VISIT**

8 29. Answering Paragraph 29, the Library District reasserts and incorporates by reference
9 the previous Paragraphs, inclusive, as though fully set forth herein.

10 30. Answering Paragraph 30, the Library District admits that Ms. Flores was present at
11 the Rainbow Library with three minors on March 16, 2016. The Library District is without
12 knowledge or information sufficient to form a belief as to the truth or falsity of the remaining
13 allegations in Paragraph 30, and on that basis, denies all remaining allegations.

14 31. Answering Paragraph 31, the Library District admits that Ms. Flores was in
15 possession of a handgun while present at the Rainbow Library. The Library District denies any
16 remaining and/or inconsistent allegations contained in Paragraph 31.

17 32. Answering Paragraph 32, the Library District is without knowledge or information
18 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

19 33. Answering Paragraph 33, the Library District is without knowledge or information
20 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

21 34. Answering Paragraph 34, the Library District denies the allegations.

22 35. Answering Paragraph 35, the Library District admits that its security guard stopped
23 Ms. Flores on March 16, 2016, while she was exiting the Rainbow Library. The Library District
24 denies any remaining and/or inconsistent allegations contained in Paragraph 35.

25 36. Answering Paragraph 36, the Library District admits that another Rainbow Library
26 employee joined Ms. Flores and the Security Guard to speak to Ms. Flores. The Library District
27 denies all remaining and/or inconsistent allegations.

28 ///

1 37. Answering Paragraph 37, the Library District is without knowledge or information
2 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

3 38. Answering Paragraph 38, the Library District admits that a Rainbow Library
4 employee called the police because Ms. Flores refused to peacefully leave the Rainbow Library.

5 39. Answering Paragraph 39, the Library District admits that Las Vegas Metropolitan
6 police officers responded to the Library District's call for officer assistance at the Rainbow Library.

7 40. Answering Paragraph 40, the Library District admits that the police placed Ms. Flores
8 in handcuffs. The Library District denies all remaining allegations.

9 41. Answering Paragraph 41, the Library District is without knowledge or information
10 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

11 42. Answering Paragraph 42, the Library District is without knowledge or information
12 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

13 43. Answering Paragraph 43, the Library District is without knowledge or information
14 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

15 44. Answering Paragraph 44, the Library District is without knowledge or information
16 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

17 45. Answering Paragraph 45, the Library District is without knowledge or information
18 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

19 46. Answering Paragraph 46, the Library District admits that Ms. Flores was issued a
20 Notice of Trespass. The Library District denies all remaining allegations.

21 47. Answering Paragraph 47, the Library District denies the allegations.

22 48. Answering Paragraph 48, the Library District is without knowledge or information
23 sufficient to form a belief as to the truth or falsity of the allegations, and, on that basis, denies them.

24 The Library District further states that the allegations contain legal conclusions rather than factual
25 allegations to which no response is required; to the extent the allegations require a response, the
26 Library District denies the allegations.

27 ///

28 ///

FIRST CLAIM FOR RELIEF
(Violation of SB 175 and Nevada Constitution)

49. Answering Paragraph 49, the Library District reasserts and incorporates by reference the previous Paragraphs, inclusive, as though fully set forth herein.

50. Answering Paragraph 50, the Library District states that the Nevada Constitution speaks for itself and denies the allegations contained in Paragraph 50 to the extent that they contradict or are inconsistent with said document.

51. Answering Paragraph 51, the Library District states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations. The Library District further states that Senate Bill 175, 2015 Leg., 78th Sess. (Nev. 2015) speaks for itself. To the extent that the allegations in Paragraph 51 are inconsistent with Senate Bill 175, the Library District denies those inconsistent allegations.

52. Answering Paragraph 52, the Library District states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

53. Answering Paragraph 53, the Library District states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

54. Answering Paragraph 54, the Library District denies that its policy relating to the open possession of firearms on Library District property is arbitrary. The Library District further states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

55. Answering Paragraph 55, the Library District denies the allegations.

56. Answering Paragraph 56, the Library District denies that any of its policies and/or rules is arbitrary. The Library District further states that the allegations contain legal conclusions

///

1 rather than factual allegations to which no response is required; to the extent the allegations require a
2 response, the Library District denies the allegations.

3 57. Answering Paragraph 57, the Library District states that the allegations contain legal
4 conclusions rather than factual allegations to which no response is required; to the extent the
5 allegations require a response, the Library District denies the allegations.

6 58. Answering Paragraph 58, the Library District denies the allegations.

7 59. Answering Paragraph 59, the Library District denies that its behavior was unlawful.
8 Consequently, the Library District denies that it caused Ms. Flores any loss or damage. The Library
9 District denies any remaining and/or inconsistent allegations.

10 60. Answering Paragraph 60, the Library District states that the allegations contain legal
11 conclusions rather than factual allegations to which no response is required; to the extent the
12 allegations require a response, the Library District denies the allegations.

13 61. Answering Paragraph 61, the Library District states that the allegations contain legal
14 conclusions rather than factual allegations to which no response is required; to the extent the
15 allegations require a response, the Library District denies the allegations.

16 **SECOND CLAIM FOR RELIEF**
17 **(Declaratory Judgment)**

18 62. Answering Paragraph 62, the Library District reasserts and incorporates by reference
19 the previous Paragraphs, inclusive, as though fully set forth herein.

20 63. Answering Paragraph 63, the Library District denies that any of its policies and/or
21 rules is arbitrary. The Library District further states that the allegations contain legal conclusions
22 rather than factual allegations to which no response is required; to the extent the allegations require a
23 response, the Library District denies the allegations.

24 64. Answering Paragraph 64, the Library District denies that any of its policies and/or
25 rules is arbitrary. The Library District further states that the allegations contain legal conclusions
26 rather than factual allegations to which no response is required; to the extent the allegations require a
27 response, the Library District denies the allegations.

28 ///

1 65. Answering Paragraph 65, the Library District denies that any of its policies and/or
2 rules is arbitrary. The Library District further states that the allegations contain legal conclusions
3 rather than factual allegations to which no response is required; to the extent the allegations require a
4 response, the Library District denies the allegations.

5 66. Answering Paragraph 66, the Library District denies that any of its policies and/or
6 rules is arbitrary. The Library District further states that the allegations contain legal conclusions
7 rather than factual allegations to which no response is required; to the extent the allegations require a
8 response, the Library District denies the allegations.

9 67. Answering Paragraph 67, the Library District denies that any of its policies and/or
10 rules is arbitrary. The Library District further admits that the Notice of Trespass arose out of an
11 incident during which Ms. Flores was carrying a firearm on Library District property. The Library
12 District denies all remaining and/or inconsistent allegations.

13 68. Answering Paragraph 68, the Library District states that the allegations contain legal
14 conclusions rather than factual allegations to which no response is required; to the extent the
15 allegations require a response, the Library District denies the allegations.

16 69. Answering Paragraph 69, the Library District states that the allegations contain legal
17 conclusions rather than factual allegations to which no response is required; to the extent the
18 allegations require a response, the Library District denies the allegations.

19 70. Answering Paragraph 70, the Library District states that the allegations contain legal
20 conclusions rather than factual allegations to which no response is required; to the extent the
21 allegations require a response, the Library District denies the allegations.

22 71. Answering Paragraph 71, the Library District states that the allegations contain legal
23 conclusions rather than factual allegations to which no response is required; to the extent the
24 allegations require a response, the Library District denies the allegations.

25 ///

26 ///

27 ///

28 ///

THIRD CLAIM FOR RELIEF
(Injunctive Relief)

69. Answering second Paragraph 69,¹ the Library District reasserts and incorporates by reference the previous Paragraphs, inclusive, as though fully set forth herein.

70. Answering second Paragraph 70, the Library District states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

71. Answering second Paragraph 71, the Library District states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

72. Answering Paragraph 72, the Library District denies that any of its policies and/or rules is arbitrary. The Library District further states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

73. Answering Paragraph 73, the Library District denies that any of its policies and/or rules is arbitrary. The Library District further states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

74. Answering Paragraph 74, the Library District denies that any of its policies and/or rules is arbitrary. The Library District further states that the allegations contain legal conclusions rather than factual allegations to which no response is required; to the extent the allegations require a response, the Library District denies the allegations.

75. Answering Paragraph 75, the Library District denies that any of its policies and/or rules is arbitrary. The Library District further admits that the Notice of Trespass arose out of an incident during which Ms. Flores was carrying a firearm on Library District property. The Library District denies all remaining and/or inconsistent allegations.

¹ Ms. Flores has inadvertently repeated paragraph numbers 69, 70, and 71. For the sake of clarity, the Library District adopts Ms. Flores' errant numbering system.

1 76. Answering Paragraph 76, the Library District states that the allegations contain legal
2 conclusions rather than factual allegations to which no response is required; to the extent the
3 allegations require a response, the Library District denies the allegations.

4 77. Answering Paragraph 77, the Library District states that the allegations contain legal
5 conclusions rather than factual allegations to which no response is required; to the extent the
6 allegations require a response, the Library District denies the allegations.

7 78. Answering Paragraph 78, the Library District states that the allegations contain legal
8 conclusions rather than factual allegations to which no response is required; to the extent the
9 allegations require a response, the Library District denies the allegations.

10 **AFFIRMATIVE DEFENSES**

11 1. Ms. Flores' Complaint fails to set forth facts sufficient to state a claim upon which
12 relief may be granted against the Library District and further fails to entitle Ms. Flores to the relief
13 sought, or to any relief whatsoever from Defendant.

14 2. Ms. Flores' claims against the Library District are barred, in whole or in part, by a
15 lack of standing.

16 3. Ms. Flores' claims against the Library District are barred, in whole or in part, for lack
17 of ripeness.

18 4. Ms. Flores' claims are barred, in whole or in part, by her failure to exhaust
19 administrative remedies.

20 5. Ms. Flores' claims are barred, in whole or in part, by the applicable statute of
21 limitations and/or statutes of repose, including, but not limited to, NRS 379.040.

22 6. Ms. Flores' claims are barred, in whole or in part, to the extent that any applicable
23 law prohibits her from lawfully carrying and/or owning a handgun. This includes, but is not limited
24 to, the following laws: NRS 202.300, NRS 202.360, and NRS 159.0593.

25 7. Ms. Flores' claims against the Library District are barred, in whole or in part, by Ms.
26 Flores' own acts, omissions, and other unlawful conduct.

27 8. Ms. Flores' claims against the Library District are barred, in whole or in part, by Ms.
28 Flores' own intentional and/or negligent conduct.

1 9. Ms. Flores' claims against the Library District are barred, in whole or in part,
2 because, at all times and places mentioned in the Complaint, the Library District's actions were
3 justified.

4 10. Ms. Flores' claims against the Library District are barred, in whole or in part,
5 because, at all times and places mentioned in the Complaint, Defendant acted in a manner authorized
6 by law.

7 11. While the Library District denies any liability to Ms. Flores whatsoever, to the extent
8 that Ms. Flores seeks equitable relief, Ms. Flores' claims for such relief are barred as she has an
9 adequate remedy at law.

10 12. Pursuant to the Nevada Rules of Civil Procedure, the Library District reserves the
11 right to assert, and gives notice that it intends to rely upon, any other affirmative defenses that may
12 become available or appear during discovery proceedings or otherwise in this case, and reserves the
13 right to amend its Answer to assert any such additional affirmative defenses.

14 13. The Library District has not yet completed a thorough investigation and study of all
15 facts and circumstances of the subject matter of the Complaint, and accordingly, reserves the right to
16 amend, modify, revise, or supplement its Answer, and to plead such further defenses and take such
17 further actions as it deems proper and necessary in its defense upon the completion of said
18 investigation and study.

19 DATED this 27th day of May 2016.

20 BAILEY ♦ KENNEDY

21 By: /s/ Dennis L. Kennedy
22 JOHN R. BAILEY
23 DENNIS L. KENNEDY
24 JOSEPH A. LIEBMAN
25 KELLY B. STOUT
26 AMANDA L. STEVENS

27 Attorneys for Defendant
28 Las Vegas-Clark County Library District

COUNTERCLAIM

Counterclaimant Las Vegas-Clark County Library District (the “Library District” or “Counterclaimant”) by and through its counsel of record, Bailey ♦ Kennedy, complains against Counterdefendant Michelle Flores (“Ms. Flores” or “Counterdefendant”) as follows:

I. THE PARTIES

1. The Library District is a political subdivision created pursuant to Nevada Revised Statute Chapter 379.

2. Upon information and belief, Counterdefendant Michelle Flores is and was, at all times relevant, a resident of Clark County, Nevada and a citizen of the State of Nevada.

II. JURISDICTION AND VENUE

3. Pursuant to NRS 30.030, this Court has jurisdiction over a case seeking a declaratory judgment.

4. Pursuant to NRS 13.040, venue is proper in the Eighth Judicial District Court, Clark County, Nevada.

III. FACTS

5. NRS 379.040 states that the Library District must ensure that “[t]he library and reading room of any consolidated, county, district or town library must forever be and remain free and accessible to the public.”

6. In accordance with its statutory obligations, values, and operating principals, the Library District has adopted Rules of Conduct and a policy prohibiting dangerous weapons (the “Dangerous Items Policy”).

7. The Library District’s Rules of Conduct includes a requirement that “[l]ibrary patrons shall be engaged in normal activities associated with the use of a public library. Conduct that disturbs library users or staff, or that hinders others from using the library or library materials is prohibited.”

8. The Rules of Conduct provides for consequences up to and including a one-year suspension of library privileges.

///

9. The Library District's Dangerous Items Policy states as follows:
NRS 379.040 (quoted below) requires the Trustees of the Las Vegas-Clark County Library District to guarantee that libraries are free and accessible to the public. The Library District bans bringing or possessing on Library District owned premises any dangerous item, including, without limitation, a deadly or dangerous weapon, loaded or unloaded, or ammunition or material for a weapon.

NRS 379.040 Library to be free and accessible to public; regulations of trustees. The library and reading room of any consolidated, county, district or town library must forever be and remain free and accessible to the public, subject to such reasonable regulations as the trustees of the library may adopt.

A "no firearms" sign is posted at all public entrances to libraries. The "no firearms" policy protects the health and safety of the Library District's patrons, which include young children. The Library District will reasonably enforce its "no firearms" policy by asserting trespass claims against violators.

Patrons wishing to use Library District services while in possession of any dangerous item, including without limitation, a deadly or dangerous weapon, or ammunition or material for a weapon may consult with Library District Administration at 702.507.4400 and/or administration@lvccld.org about alternative sources of library services provided within Clark County by the Library District or others.

10. Pursuant to the Dangerous Items Policy, the Library District has posted a notice on all public entrances which consists of a silhouette of a pistol in a circle with a line through it, next to the words: "No Firearms Allowed (Violators Subject to Prosecution)"

11. The Library District has arranged for its staff to provide alternative services to patrons who, if they entered the building, would be in violation of the Dangerous Items Policy. Staff is prepared to:

- a. Assist patrons with online services;
- b. Allow patrons to check out materials without having to enter the facility; and
- c. Discuss any other services requested and provide any reasonable accommodation.

12. On March 16, 2016, Ms. Flores entered the Rainbow Branch with three young children.

13. Ms. Flores and the children proceeded to use the Library District facilities for approximately one hour before proceeding towards the exit.

///

1 14. As Ms. Flores was exiting the building, the Library District's security guard observed
2 that she was carrying a handgun in a holster on her hip.

3 15. Because carrying a firearm violates the Library District's policy prohibiting
4 dangerous weapons, the security guard approached Ms. Flores and informed her that during future
5 visits, she could not bring a handgun into the building.

6 16. When Ms. Flores began to argue with the security guard, he called for a librarian.

7 17. Ms. Tinsler, an Adult Services Librarian, spoke with Ms. Flores and explained that
8 the Library District's Dangerous Items Policy does not allow patrons to carry firearms on Library
9 District property, and directed Ms. Flores' attention to the notice posed on the front doors, which
10 consists of a silhouette of a pistol in a circle with a line through it, next to the words: "No Firearms
11 Allowed (Violators Subject to Prosecution)."

12 18. Ms. Tinsler also read Ms. Flores the Library District's Dangerous Items Policy
13 prohibiting dangerous weapons.

14 19. When Ms. Flores questioned the Library District's statutory authority to adopt this
15 policy, Ms. Tinsler explained that NRS 379.040 requires that the Library District Trustees are
16 obligated to ensure that "[t]he library and reading room of any consolidated, county, district or town
17 library must forever be and remain free and accessible to the public, subject to such reasonable
18 regulations as the trustees of the library may adopt."

19 20. Ms. Tinsler informed Ms. Flores that she was charged with enforcing the policy, but
20 would not debate the policy's merits.

21 21. Ms. Tinsler provided Ms. Flores with the phone number for the Library District's
22 Administrative Offices and explained that it was the proper department if Ms. Flores wanted to
23 further discuss the issue.

24 22. Since Ms. Flores' business at the Library District was completed, Ms. Tinsler asked
25 Ms. Flores to leave and not return with a firearm.

26 23. Ms. Flores refused to leave.

27 ///

28 ///

1 24. Although Ms. Flores had been in the process of departing when she was approached
2 by the Library District's security guard, Ms. Flores refused to vacate the premises.

3 25. Instead, she and the three children (now crying) sat down on the floor in the entryway
4 between the two sets of glass doors (immediately below the notice regarding the Library District's
5 Dangerous Items Policy) and instructed Ms. Tinsler to "go ahead and call Metro."

6 26. During the fifty minutes that it took the police to arrive, Ms. Flores was repeatedly
7 informed that she could leave at any time.

8 27. Ms. Flores refused to leave until Las Vegas Metro police officers arrived.

9 28. Ms. Flores did not make any demands, did not explain why she had decided to sit in
10 the Library's main entrance, and did not state what she hoped to obtain by her behavior.

11 29. When police officers arrived, Ms. Tinsler explained that the Library District merely
12 wanted Ms. Tinsler to leave peacefully.

13 30. If Ms. Flores agreed to leave peacefully, the Library District was not interested in
14 imposing any punishment or consequences.

15 31. However, Ms. Flores would not leave.

16 32. The police officers had to issue Ms. Flores a citation for trespassing and escorted her
17 off the Library District's property.

18 33. Before Ms. Flores left, Ms. Tinsler gave one of the officers a Notice of Trespass,
19 which informed Ms. Flores of her suspension, and a form for submitting an appeal of her suspension.

20 34. Ms. Flores never submitted an appeal.

21 **A. FIRST CAUSE OF ACTION**
22 **(Declaratory Relief)**

23 35. The Library District realleges and incorporates by reference the averments contained
24 in all previous Paragraphs, inclusive, as though fully set forth herein.

25 36. The parties disagree over the interpretation of NRS 244.364, 268.418, and NRS
26 269.222.

27 37. The parties disagree over the enforceability of the Library District's Dangerous Items
28 Policy.

1 38. Pursuant to NRS 30.040, the Library District seeks a declaratory judgment stating
2 whether NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015) preempts the Library
3 District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting
4 the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm
5 on the Library District's property.

6 39. Pursuant to NRS 30.100, the Library District also requests that the Court award the
7 Library District its attorneys' fees and any other supplemental relief that the Court deems
8 appropriate.

9 WHEREFORE, Counterclaimant prays for the following relief:

- 10 1. For an award of costs and attorneys' fees reasonably incurred by Counterclaimant;
11 2. For declaratory relief; and
12 3. For such other and further relief as the Court deems just and proper.

13 DATED this 27th day of May 2016.

14 BAILEY ♦ KENNEDY

15 By: /s/ Dennis L. Kennedy

16 JOHN R. BAILEY

17 DENNIS L. KENNEDY

18 JOSEPH A. LIEBMAN

19 KELLY B. STOUT

20 AMANDA L. STEVENS

21 Attorneys for Defendant

22 Las Vegas-Clark County Library District
23
24
25
26
27
28

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 27th day of May, 2016, service of the foregoing DEFENDANT LAS VEGAS-CLARK COUNTY LIBRARY DISTRICT'S ANSWER TO PLAINTIFF MICHELLE FLORES' VERIFIED COMPLAINT AND COUNTERCLAIM was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

JEFFREY F. BARR, ESQ.
ASHCRAFT & BARR LLP

2300 West Sahara Avenue, Ste. 1130
Las Vegas, NV 89102

Email: barrj@AshcraftBarr.com

Attorneys for Plaintiff
MICHELLE FLORES

LEE I. IGLODY, ESQ.

IGLODY LAW, PLLC

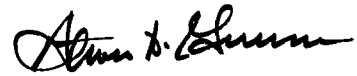
2300 West Sahara Avenue, Ste. 1130
Las Vegas, NV 89102

Email: lee@iglody.com

Attorneys for Plaintiff
MICHELLE FLORES

/s/ Jennifer Kennedy

Employee of BAILEY ♦ KENNEDY



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

MICHELLE FLORES,

Plaintiff,

v.

LAS VEGAS-CLARK COUNTY
LIBRARY DISTRICT,

Defendant.

CASE NO.: A735496

DEPARTMENT XXIII

DECISION & ORDER

I. INTRODUCTION

On July 5, 2016, Plaintiff Michelle Flores filed her Motion for Partial Summary Judgment on Plaintiff's Declaratory Relief Claim and on Counterclaimant's Declaratory Relief Claim. Defendant filed an opposition on July 28, 2016, and Plaintiff filed a reply on August 9, 2016. The motion came on for hearing before this Court on September 13, 2016, and after oral argument by both parties, the Court indicated it would render a written decision. Having considered the law as well as the filings and oral argument of the parties, this Court hereby renders the following decision and order.

II. BACKGROUND FACTS

The undisputed material facts of this case are as follows. Plaintiff, Michelle Flores, entered a Clark County library openly carrying a firearm. She conducted her business at the library without any issue. However, on her way out of the library, a security guard stopped her and informed her that she should not bring her firearm into the library on her next visit. Ms. Flores disagreed with the security guard's instruction, and the security guard asked a

STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

1 nearby librarian to explain the library's "Dangerous Items Policy," which prohibited patrons
2 from bringing "dangerous items" such as firearms into the library.

3
4 Ms. Flores continued to disagree with the policy, and refused to leave the premises.
5 Eventually, the police were called and Ms. Flores was escorted off the property. As she was
6 leaving, the librarian gave Ms. Flores a Notice of Trespass, informing her that she was
7 banned from the library for 1 year. On the notice was written "firearms in the library."

8
9 However, numerous other facts are in dispute, most significantly the "actual" reason
10 for Plaintiff's ban from the library. Plaintiff contends it is due to her bringing the firearm
11 into the library in contravention of the "Dangerous Items Policy," whereas Defendant
12 contends it was due to Plaintiff causing a disturbance by refusing to leave.

13 III. DISCUSSION

14 A. Summary Judgment

15 It is well-settled in Nevada that "summary judgment is only appropriate when a
16 review of the record viewed in a light most favorable to the nonmoving party reveals no
17 triable issues of material fact and judgment is warranted as a matter of law." *Scialabba v.*
18 *Brandise Construction Company, Inc.*, 112 Nev. 965, 968, 921 P.2d 928, 930 (2006) (citing
19 *Butler v. Bogdanovich*, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985); *see also Wood v.*
20 *Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); NRCP 56(c). The movant
21 has the burden of demonstrating that there is no genuine issue of material fact and cannot
22 "build a case on the gossamer threads of whimsy, speculation, and conjecture." *Wood v.*
23 *Safeway, Inc.* 121 Nev. 724, 121 P.3d 1026 (Nev. 2005); NRCP 56(c). The non-movant is
24 "entitled to have the evidence and all reasonable inferences accepted as true." *Id.* (quoting
25 *Wiltsie v. Baby Grand Corp.*, 105 Nev. 291, 292, 774 P.2d 432, 433 (1989)).
26
27
28

1 An issue of fact is genuine when it materially alters the outcome of the proceedings and “a
2 rational trier of fact could return a verdict for the nonmoving party.” *Wood*, 121 Nev. at
3 731, 121 P.3d at 1031. Moreover, all doubts must be resolved against the moving party and
4 his supporting affidavits and depositions, if any, must be scrutinized carefully by the court,
5 even as to inferences. *See, e.g., Hoffmeister Cabinets of Nevada, Inc. v. Bivins*, 87 Nev. 282,
6 284, 486 P.2d 57, 58 (1971).

8 *B. Senate Bill 175*

9 In 2015, the Nevada legislature passed Senate Bill 175 (“SB 175”), which amended
10 various chapters of the NRS in part relating to the legislature’s powers to regulate firearms
11 throughout the State of Nevada. Of note are sections 1 and 2 of the three statutes amended
12 by SB 175 sections 8, 9, and 10, which are NRS 244.364, NRS 268.418, and NRS 269.222.
13 As amended, section 1 of each statute is identical and provides as follows:
14

15 1. The Legislature hereby declares that:

- 16 (a) The purpose of this section is to establish state control over the regulation of
17 and policies concerning firearms, firearm accessories and ammunition to ensure
18 that such regulation and policies are uniform throughout this State and to ensure
19 the protection of the right to keep and bear arms, which is recognized by the
20 United States Constitution and the Nevada Constitution.
21 (b) The regulation of the transfer, sale, purchase, possession, carrying, ownership,
22 transportation, storage, registration and licensing of firearms, firearm accessories
23 and ammunition in this State and the ability to define such terms is within the
24 exclusive domain of the Legislature, and any other law, regulation, rule or
25 ordinance to the contrary is null and void.
26 (c) This section must be liberally construed to effectuate its purpose.

27 ///

28 ///

///

///

///

STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

1 Section 2 of each statute are identical other than specifying county, city, or town:

2 NRS 244.364(2). "Except as otherwise provided by specific statute, the Legislature
3 reserves for itself such rights and powers as are necessary to regulate the transfer,
4 sale, purchase, possession, carrying, ownership, transportation, storage, registration
5 and licensing of firearms, firearm accessories and ammunition in Nevada and to
6 define such terms. No **county** may infringe upon those rights and powers."

7 NRS 268.418(2). "Except as otherwise provided by specific statute, the Legislature
8 reserves for itself such rights and powers as are necessary to regulate the transfer,
9 sale, purchase, possession, carrying, ownership, transportation, storage, registration
10 and licensing of firearms, firearm accessories and ammunition in Nevada and to
11 define such terms. No **city** may infringe upon those rights and powers."

12 NRS 269.222(2). "Except as otherwise provided by specific statute, the Legislature
13 reserves for itself such rights and powers as are necessary to regulate the transfer,
14 sale, purchase, possession, carrying, ownership, transportation, storage, registration
15 and licensing of firearms, firearm accessories and ammunition in Nevada and to
16 define such terms. No **town** may infringe upon those rights and powers."

17 Plaintiff argues the above statutes, as amended by SB 175, either explicitly or
18 implicitly disempower the Library District from adopting any firearm regulations such as the
19 "Dangerous Items Policy." Thus, Plaintiff asserts, the Library's Dangerous Items Policy
20 must be declared null and void and Plaintiff's ban from the library must be overturned.
21 Plaintiff describes this as "preemption," and cites case law regarding federal preemption of
22 state laws. However, unlike the dual sovereignty that exists between the States and the
23 Federal Government, political subdivisions of the State such as counties, cities, towns, and
24 library districts are extensions of the State itself and created via the state constitution (*see*
25 *Nev. Const. art VIII*) and state statutes (*see e.g. NRS Chapter 243*). As a result, this Court
26 simply looks to the language of the relevant state statutes in determining their applicability.

27 In the context of federal preemption, "Where Congress has expressly provided for
28 pre-emption, resort to the implied pre-emption doctrines is unnecessary; instead the court
need only determine the scope of the pre-emption." *Davidson v. Velsicol Chem. Corp*, 108

1 Nev. 591, 594 (1992). Here, the SB 175 does contemplate express preemption of certain
2 local rules. Thus, even applying federal preemption principles, the Court need only examine
3 the scope of the express preemption in SB 175, based on rules of statutory interpretation.
4

5 When interpreting a statute, legislative intent “is the controlling factor.” *State v.*
6 *Lucero*, 127 Nev. 92, 95 (2011). “The starting point for determining legislative intent is the
7 statute’s plain meaning; when a statute is clear on its face, a court can not go beyond the
8 statute in determining legislative intent” *Id.* Additionally, “[t]he maxim ‘expressio Unius Est
9 Exclusio Alterius’, the expression of one thing is the exclusion of another, has been
10 repeatedly confirmed in this State.” *E.g., Galloway v. Truesdell*, 83 Nev. 13, 26 (1967).
11

12 It is certainly true that each of the three statutes amended by sections 8-10 of SB 175
13 begins in section 1 with a broad statement of legislative “purpose” which does not limit
14 itself by the political subdivision. However, section 2, the actual legislative mandate,
15 specifies that “no county/city/town” may infringe upon the state legislature’s rights and
16 powers to regulate firearms; library districts are not included. Additionally, the statutes
17 modified by SB 175 are in chapters 244, 268, and 269, entitled “*Counties: Government*,”
18 “*Powers and Duties Common to Cities and Towns*,” and “*Unincorporated Towns*.”
19

20 Plaintiff nevertheless argues that the sections apply to all political subdivisions
21 beneath the State level (including Library Districts) pursuant to the language in section 1.
22 This Court disagrees. In addition to amending sections 1 and 2 mentioned above, SB 175
23 also amended those statutes to define “political subdivision” as including “without
24 limitation, a state agency, county, city, town or school district.” NRS 244.364(9)(e); NRS
25 268.418(9)(e); NRS 269.222(9)(e). Although not stated explicitly therein, a library district
26 is defined as a political subdivision in NRS 379.142, suggesting that a library district is
27 contemplated in subsection (9)(e) via its recognition that the list is not exhaustive.
28

1 Thus, SB 175 amended each of the three abovementioned statutes with a definition
2 of "political subdivision" that recognized that other political subdivisions exist on par with
3 counties, cities, and towns, such as school and library districts. In light of this recognition,
4 the legislature failed to indicate any intent to have the effects of sections 8-10 apply to any
5 other type of political subdivision, such as amending NRS chapter 379 ("Public Libraries")
6 or a chapter of more general applicability.
7

8 Therefore, **COURT FINDS** NRS 244.364, NRS 268.418, and NRS 269.222, by their
9 express terms, do not apply to a public library district.
10

11 Plaintiff also asserts that even if those three statutes only apply to the political
12 subdivisions that they name, the library district is still covered as an "instrumentality" of the
13 city and the county. Plaintiff relies on federal case law regarding Eleventh Amendment
14 sovereign immunity. In particular, Plaintiff cites *Johnson v. University of Nevada*, 596
15 F.Supp. 175, 177-78 (D. Nev. 1984), which suggests that relevant factors in determining
16 whether an entity is an "instrumentality" of the State for sovereign immunity purposes are
17 whether the constituent entity provides a government function, whether the constituent
18 entity is comprehensively controlled by another entity, and whether the constituent entity is
19 fiscally tied to another entity.
20

21 However, it also held that "[t]he most crucial question ... is whether the named
22 defendant has such independent status that a judgment against the defendant would not
23 impact the state treasury." *Id.* at 177. In *Johnson*, the court was tasked with deciding
24 whether the University of Nevada Reno or its Board of Regents was an instrumentality of
25 the State. The court noted that pursuant to the state constitution, funding for the University
26 came from the State's general fund. Therefore, damages against the University "would be
27 chargeable to the State and would therefore be an award against the State." *Id.*
28

1 Plaintiff argues that the Library District satisfies these factors. First, Plaintiff points
2 out that the library does perform a public function. Second, Plaintiff argues that the District
3 is controlled by Clark County and the City of Las Vegas because it was created by the city
4 and county pursuant to NRS 379.0221 and those two entities together have sole control over
5 the members of the Library District's board of trustees. Finally, Plaintiff also asserts that the
6 Library District is fiscally tied to the city and county because they must jointly approve its
7 budget and any bond issuance, and only the county can levy taxes to fund the District.
8

9 Assuming *arguendo* that the instrumentality analysis under the Eleventh Amendment
10 applies in this case to place the same restrictions on a Library District as are placed on cities
11 and counties by SB 175, this Court is unpersuaded that the Library District qualifies as an
12 instrumentality. The primary question is the fiscal relationship of the Library District to the
13 city and the county; in particular, the concern is which entity's account would be charged if
14 a monetary judgment is obtained against the Library District. Here, the county may be the
15 entity to actually levy the tax, but instead of entering the general county fund, the money is
16 used for creating and maintaining the "fund for the consolidated library." NRS 379.0227(1).
17

18 "All claims for indebtedness incurred or created by the trustees of any consolidated,
19 county, district or town library must: . . . (c) be paid out of the appropriate library fund."
20 NRS 379.030(1). This is quite unlike the University in *Johnson* that drew from the State's
21 general fund, which would thereby cause a judgment against the University to have the same
22 effect as a judgment against the State. As a result, regardless of which entity levies the tax or
23 approves the budget or bonds, the Library District is simply not fiscally tied to the city and
24 the county in the powerful way that the University in *Johnson* was fiscally tied to the State.
25

26 The same level of control does not exist either. In *Johnson*, the University was
27 governed by "fairly comprehensive programs of controls and mandates." This included
28

1 annual reports to the governor for all money received and disbursed, the need for direct
2 legislative appropriations of funds for support and maintenance, and approval from the state
3 board of examiners before payment of any kind of claims. *Johnson*, 596 F.Supp. at 178.
4

5 Here, however, although the city and county have a role in the management of the
6 District such as by appointing trustees, the Library District makes its own sets of bylaws and
7 regulations. NRS 379.025(1)(h); NRS 379.040. An example of such a regulation is the very
8 “Dangerous Items Policy” at issue herein. Additionally, the library district is controlled in
9 large part by *state* statutes, not local laws. Even the involvement of the city and county in
10 the District’s affairs are controlled by state statutes such as NRS 379.0222, NRS 379.0225,
11 NRS 379.025, and NRS 379.030.
12

13 But even more problematically for Plaintiff, this Court is not persuaded that the
14 Eleventh Amendment instrumentality analysis is even relevant to the issues herein. First,
15 Plaintiff provides no legal authority for usage of this concept in analyzing the preemptive
16 effect of a state statute on seemingly conflicting local rules. Instead, the Plaintiff baldly
17 asserts that it would be “absurd” for restrictions placed on specifically identified parent
18 entities to not also apply to a “creature” of those entities.
19

20 This Court disagrees. It is not foreign to our system of government for one entity to
21 take part in establishing another entity which then possesses powers the former does not. For
22 example, inferior federal courts are established by Congress, U.S. Const. art. III § 1, yet
23 pursuant to the same constitutional provision and the core principal of separation of powers,
24 they possess judicial powers which Congress itself does not have. The fact that the city and
25 county have some influence in the management of the Library District makes no difference,
26 as being interrelated yet distinct is the basis of checks and balances, another core principal.
27

28 Finally, extending Plaintiff’s logic, the city and county, as “creatures” of the state legislature

1 (see Nev. Const. art VIII), would have its same rulemaking powers. But by denying certain
2 powers to cities, counties, and towns which the State retains, SB 175 itself recognizes that
3 this is not the case, and accordingly that such a doctrine is simply inapplicable here.
4

5 Therefore, **COURT FINDS** the Eleventh Amendment instrumentality analysis is
6 irrelevant to the issues herein, and the Library District does not qualify anyway.

7 **COURT FURTHER FINDS** the three statutes amended by SB 175, NRS 244.364,
8 NRS 268.418, and NRS 269.222, do not preclude the Library District from implementing
9 and enforcing the Dangerous Items Policy.
10

11 *C. Dillon's Rule*

12 Dillon's Rule is a common-law doctrine, codified in only two legislative declaration
13 sections of the Nevada Revised Statutes, holding that a local government possesses and may
14 exercise only powers expressly granted to it by constitution or statute, powers necessarily or
15 fairly implied in or incident to the powers expressly granted, and powers indispensable to
16 accomplishing objectives and purposes. *See* NRS 244.137(3); NRS 268.001(3). When there
17 is any "fair or reasonable doubt" concerning whether a power exists, it is resolved against
18 the local government. *See* NRS 244.137(4); NRS 268.001(4).
19

20 Plaintiff cites NRS 202.265, NRS 392.466, NRS 407.0475, and NRS 503.150, as
21 examples of the state legislature specifically delegating the ability to regulate firearms to a
22 local governing body. Plaintiff argues that because there is no similar specific delegation to
23 the Library District, Dillon's Rule operates in this case to preclude the Library District's
24 ability to regulate the possession of firearms in public libraries, thereby rendering the
25 Dangerous Items Policy null and void. Plaintiff's argument is unpersuasive.
26

27 Although the legislative declarations contained in NRS 244.137 and NRS 268.001
28 indicate that the rule has been applied to certain local governments, no case law has been

1 provided and none can be found in which the Nevada Supreme Court applied Dillon's Rule
2 to Library Districts or any type of political subdivision other than counties, cities, and towns.
3 That absence is telling when considered alongside the fact that the legislative declarations
4 regarding Dillon's Rule exist in only two NRS chapters (which relate specifically to
5 counties, cities, and towns), and the broad legislative grant of regulatory power to Library
6 District trustees found in NRS 379.025(1)(h) and NRS 379.040.
7

8 Moreover, Plaintiff's application of Dillon's Rule would imply that a common-law
9 doctrine can operate to abrogate a statutory mandate, an absurd result. The regulatory power
10 granted in NRS 379.025(1)(h) and NRS 379.040 is broad. Therefore, extending Plaintiff's
11 logic, because the only powers under Dillon's Rule must be express and specific, Library
12 District trustees must have no power to make any regulations. This is clearly contrary to the
13 intent of the legislature in enacting the language "the trustees of any consolidated . . . library
14 . . . shall: (h) *Establish bylaws and regulations for the management of the library . . .*" and
15 "the library and reading room . . . must forever be and remain free and accessible to the
16 public, *subject to such reasonable regulations as the trustees of the library may adopt.*"
17 NRS 379.025(1)(h); NRS 379.040.
18

19 Therefore, COURT FINDS Dillon's Rule has no applicability, and does not preclude
20 the Library District from implementing and enforcing the "Dangerous Items Policy."
21

22 *D. Nevada and U.S. Constitution*
23

24 Finally, Plaintiff argues the Dangerous Items Policy violates Nevada's Constitutional
25 protection of the right to bear arms. The Nevada constitution provides "[e]very citizen has
26 the right to keep and bear arms for security and defense, for lawful hunting and recreational
27 use and for other lawful purposes." Nev. Const. art. 1 § 11(1). Because the Dangerous Items
28

1 Policy inhibits the right of the people to keep and bear arms (by preventing people from
2 carrying a firearm into the library), Plaintiff argues, it violates the Nevada Constitution.

3
4 NRS 30.130 provides that "[w]hen declaratory relief is sought, all persons shall be
5 made parties who have or claim any interest which would be affected by the declaration, and
6 no declaration shall prejudice the rights of persons not parties to the proceeding. In any
7 proceeding which involves the validity of a municipal ordinance or franchise . . . if the
8 statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General shall
9 also be served with a copy of the proceeding and be entitled to be heard." No proof is on file
10 that the Attorney General was served with the instant motion, and the Attorney General did
11 not appear at the hearing on this motion. Thus, this Court cannot issue a declaration which
12 prejudices the rights of the Attorney General, i.e., by declaring the Dangerous Items Policy
13 unconstitutional. In turn, whether or not Plaintiff's argument on this issue is correct, this
14 Court cannot grant Plaintiff's motion on that basis.

15
16 Therefore, without ruling upon the merits of Plaintiff's constitutional argument, the
17 Court denies Plaintiff's motion as to this issue as well.

18 IV. ORDER

19
20 For all of the foregoing reasons, COURT HEREBY ORDERS Plaintiff's Motion for
21 Partial Summary Judgment on Plaintiff's Declaratory Relief Claim and Motion for Summary
22 Judgment on Counterclaimant's Declaratory Relief Claim, filed July 5, 2016, DENIED.

23
24 Dated this 26th day of October, 2016.

25
26
27
28

HONORABLE STEFANY A. MILEY
DISTRICT COURT JUDGE
DEPARTMENT XXIII

STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Decision and Order was electronically served and/or placed in the attorney's folders maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as follows: Lee I. Iglody, Esq.; and Dennis L. Kennedy, Esq.

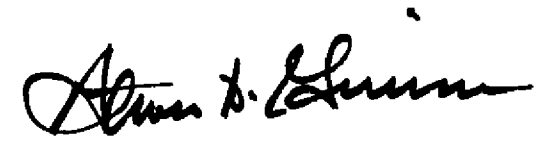
By: _____

Carmen Alper

Judicial Executive Assistant

STEFANY A. WILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2458


CLERK OF THE COURT

NOED

JOHN R. BAILEY

Nevada Bar No. 0137

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

KELLY B. STOUT

Nevada Bar No. 12105

AMANDA L. STEVENS

Nevada Bar No. 13966

BAILEY ♦ KENNEDY

8984 Spanish Ridge Avenue

Las Vegas, Nevada 89148-1302

Telephone: 702.562.8820

Facsimile: 702.562.8821

JBailey@BaileyKennedy.com

DKennedy@BaileyKennedy.com

JLiebman@BaileyKennedy.com

KStout@BaileyKennedy.com

AStevens@BaileyKennedy.com

Attorneys for Defendant

Las Vegas-Clark County Library District

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHELLE FLORES, an individual,

Plaintiff,

vs.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State of
Nevada; DOES I-X, inclusive, and ROES A-Z,
inclusive,

Defendants.

Case No. A-16-735496-C
Dept. No. XXIII

AND RELATED CLAIMS.

NOTICE OF ENTRY OF DECISION AND ORDER

PLEASE TAKE NOTICE that a Decision and Order was entered in the above-captioned
matter on the 26th day of October, 2016.

///

1 A true and correct copy of the Decision and Order is attached.

2 DATED this 4th day of November, 2016.

3 BAILEY ♦ KENNEDY

4
5 By: /s/ Dennis L. Kennedy

6 JOHN R. BAILEY

7 DENNIS L. KENNEDY

8 JOSEPH A. LIEBMAN

9 KELLY B. STOUT

10 AMANDA L. STEVENS

11 *Attorneys for Defendant*

12 Las Vegas-Clark County Library District

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 4th day of November, 2016, service of the foregoing **NOTICE OF ENTRY OF DECISION AND ORDER** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

JEFFREY F. BARR, ESQ.
ASHCRAFT & BARR LLP
2300 West Sahara Avenue, Ste. 800
Las Vegas, Nevada 89102

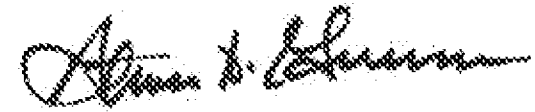
Email: barrj@AshcraftBarr.com

LEE I. IGLODY, ESQ.
IGLODY LAW, PLLC
2300 West Sahara Avenue, Ste. 1130
Las Vegas, Nevada 89102

Email: lee@iglody.com

Attorneys for Plaintiff
MICHELLE FLORES

/s/ Jennifer Kennedy
Employee of BAILEY ♦ KENNEDY



CLERK OF THE COURT

DISTRICT COURT
CLARK COUNTY, NEVADA

MICHELLE FLORES,

Plaintiff,

CASE NO.: A735496

DEPARTMENT XXIII

LAS VEGAS-CLARK COUNTY
LIBRARY DISTRICT,

Defendant.

DECISION & ORDER

I. INTRODUCTION

On July 5, 2016, Plaintiff Michelle Flores filed her Motion for Partial Summary Judgment on Plaintiff's Declaratory Relief Claim and on Counterclaimant's Declaratory Relief Claim. Defendant filed an opposition on July 28, 2016, and Plaintiff filed a reply on August 9, 2016. The motion came on for hearing before this Court on September 13, 2016, and after oral argument by both parties, the Court indicated it would render a written decision. Having considered the law as well as the filings and oral argument of the parties, this Court hereby renders the following decision and order.

II. BACKGROUND FACTS

The undisputed material facts of this case are as follows. Plaintiff, Michelle Flores, entered a Clark County library openly carrying a firearm. She conducted her business at the library without any issue. However, on her way out of the library, a security guard stopped her and informed her that she should not bring her firearm into the library on her next visit. Ms. Flores disagreed with the security guard's instruction, and the security guard asked a

STEFANY A. MILEY
DISTRICT JUDGE

DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-3808

1 nearby librarian to explain the library's "Dangerous Items Policy," which prohibited patrons
2 from bringing "dangerous items" such as firearms into the library.
3

4 Ms. Flores continued to disagree with the policy, and refused to leave the premises.
5 Eventually, the police were called and Ms. Flores was escorted off the property. As she was
6 leaving, the librarian gave Ms. Flores a Notice of Trespass, informing her that she was
7 banned from the library for 1 year. On the notice was written "firearms in the library."
8

9 However, numerous other facts are in dispute, most significantly the "actual" reason
10 for Plaintiff's ban from the library. Plaintiff contends it is due to her bringing the firearm
11 into the library in contravention of the "Dangerous Items Policy," whereas Defendant
12 contends it was due to Plaintiff causing a disturbance by refusing to leave.
13

14 III. DISCUSSION

15 A. Summary Judgment

16 It is well-settled in Nevada that "summary judgment is only appropriate when a
17 review of the record viewed in a light most favorable to the nonmoving party reveals no
18 triable issues of material fact and judgment is warranted as a matter of law." *Scialabba v.*
19 *Brandise Construction Company, Inc.*, 112 Nev. 965, 968, 921 P.2d 928, 930 (2006) (citing
20 *Butler v. Bogdanovich*, 101 Nev. 449, 451, 705 P.2d 662, 663 (1985); see also *Wood v.*
21 *Safeway, Inc.*, 121 Nev. 724, 729, 121 P.3d 1026, 1029 (2005); NRCP 56(c). The movant
22 has the burden of demonstrating that there is no genuine issue of material fact and cannot
23 "build a case on the gossamer threads of whimsy, speculation, and conjecture." *Wood v.*
24 *Safeway, Inc.* 121 Nev. 724, 121 P.3d 1026 (Nev. 2005); NRCP 56(c). The non-movant is
25 "entitled to have the evidence and all reasonable inferences accepted as true." *Id.* (quoting
26 *Wiltzie v. Baby Grand Corp.*, 105 Nev. 291, 292, 774 P.2d 432, 433 (1989)).
27
28

1 An issue of fact is genuine when it materially alters the outcome of the proceedings and "a
2 rational trier of fact could return a verdict for the nonmoving party." *Wood*, 121 Nev. at
3 731, 121 P.3d at 1031. Moreover, all doubts must be resolved against the moving party and
4 his supporting affidavits and depositions, if any, must be scrutinized carefully by the court,
5 even as to inferences. *See, e.g., Hoffmeister Cabinets of Nevada, Inc. v. Bivins*, 87 Nev. 282,
6 284, 486 P.2d 57, 58 (1971).
7

8 *B. Senate Bill 175*

9
10 In 2015, the Nevada legislature passed Senate Bill 175 ("SB 175"), which amended
11 various chapters of the NRS in part relating to the legislature's powers to regulate firearms
12 throughout the State of Nevada. Of note are sections 1 and 2 of the three statutes amended
13 by SB 175 sections 8, 9, and 10, which are NRS 244.364, NRS 268.418, and NRS 269.222.
14 As amended, section 1 of each statute is identical and provides as follows:

15 1. The Legislature hereby declares that:

- 16 (a) The purpose of this section is to establish state control over the regulation of
17 and policies concerning firearms, firearm accessories and ammunition to ensure
18 that such regulation and policies are uniform throughout this State and to ensure
19 the protection of the right to keep and bear arms, which is recognized by the
20 United States Constitution and the Nevada Constitution.
21 (b) The regulation of the transfer, sale, purchase, possession, carrying, ownership,
22 transportation, storage, registration and licensing of firearms, firearm accessories
23 and ammunition in this State and the ability to define such terms is within the
24 exclusive domain of the Legislature, and any other law, regulation, rule or
25 ordinance to the contrary is null and void.
26 (c) This section must be liberally construed to effectuate its purpose.
27
28

1 Section 2 of each statute are identical other than specifying county, city, or town:

2 NRS 244.364(2). "Except as otherwise provided by specific statute, the Legislature
3 reserves for itself such rights and powers as are necessary to regulate the transfer,
4 sale, purchase, possession, carrying, ownership, transportation, storage, registration
5 and licensing of firearms, firearm accessories and ammunition in Nevada and to
6 define such terms. No county may infringe upon those rights and powers."

7 NRS 268.418(2). "Except as otherwise provided by specific statute, the Legislature
8 reserves for itself such rights and powers as are necessary to regulate the transfer,
9 sale, purchase, possession, carrying, ownership, transportation, storage, registration
10 and licensing of firearms, firearm accessories and ammunition in Nevada and to
11 define such terms. No city may infringe upon those rights and powers."

12 NRS 269.222(2). "Except as otherwise provided by specific statute, the Legislature
13 reserves for itself such rights and powers as are necessary to regulate the transfer,
14 sale, purchase, possession, carrying, ownership, transportation, storage, registration
15 and licensing of firearms, firearm accessories and ammunition in Nevada and to
16 define such terms. No town may infringe upon those rights and powers."

17 Plaintiff argues the above statutes, as amended by SB 175, either explicitly or
18 implicitly disempower the Library District from adopting any firearm regulations such as the
19 "Dangerous Items Policy." Thus, Plaintiff asserts, the Library's Dangerous Items Policy
20 must be declared null and void and Plaintiff's ban from the library must be overturned.
21 Plaintiff describes this as "preemption," and cites case law regarding federal preemption of
22 state laws. However, unlike the dual sovereignty that exists between the States and the
23 Federal Government, political subdivisions of the State such as counties, cities, towns, and
24 library districts are extensions of the State itself and created via the state constitution (see
25 Nev. Const. art VIII) and state statutes (see e.g. NRS Chapter 243). As a result, this Court
26 simply looks to the language of the relevant state statutes in determining their applicability.

27 In the context of federal preemption, "Where Congress has expressly provided for
28 pre-emption, resort to the implied pre-emption doctrines is unnecessary; instead the court
need only determine the scope of the pre-emption." *Davidson v. Velsicol Chem. Corp.*, 108

1 Nev. 591, 594 (1992). Here, the SB 175 does contemplate express preemption of certain
2 local rules. Thus, even applying federal preemption principles, the Court need only examine
3 the scope of the express preemption in SB 175, based on rules of statutory interpretation.
4

5 When interpreting a statute, legislative intent "is the controlling factor." *State v.*
6 *Lucero*, 127 Nev. 92, 95 (2011). "The starting point for determining legislative intent is the
7 statute's plain meaning; when a statute is clear on its face, a court can not go beyond the
8 statute in determining legislative intent" *Id.* Additionally, "[t]he maxim 'expressio Unius Est
9 Exclusio Alterius', the expression of one thing is the exclusion of another, has been
10 repeatedly confirmed in this State." *E.g., Galloway v. Truesdell*, 83 Nev. 13, 26 (1967).
11

12 It is certainly true that each of the three statutes amended by sections 8-10 of SB 175
13 begins in section 1 with a broad statement of legislative "purpose" which does not limit
14 itself by the political subdivision. However, section 2, the actual legislative mandate,
15 specifies that "no county/city/town" may infringe upon the state legislature's rights and
16 powers to regulate firearms; library districts are not included. Additionally, the statutes
17 modified by SB 175 are in chapters 244, 268, and 269, entitled "*Counties: Government*,"
18 "*Powers and Duties Common to Cities and Towns*," and "*Unincorporated Towns*."
19

20 Plaintiff nevertheless argues that the sections apply to all political subdivisions
21 beneath the State level (including Library Districts) pursuant to the language in section 1.
22 This Court disagrees. In addition to amending sections 1 and 2 mentioned above, SB 175
23 also amended those statutes to define "political subdivision" as including "without
24 limitation, a state agency, county, city, town or school district." NRS 244.364(9)(e); NRS
25 268.418(9)(e); NRS 269.222(9)(e). Although not stated explicitly therein, a library district
26 is defined as a political subdivision in NRS 379.142, suggesting that a library district is
27 contemplated in subsection (9)(e) via its recognition that the list is not exhaustive.
28

1 Thus, SB 175 amended each of the three abovementioned statutes with a definition
2 of "political subdivision" that recognized that other political subdivisions exist on par with
3 counties, cities, and towns, such as school and library districts. In light of this recognition,
4 the legislature failed to indicate any intent to have the effects of sections 8-10 apply to any
5 other type of political subdivision, such as amending NRS chapter 379 ("Public Libraries")
6 or a chapter of more general applicability.

7
8 Therefore, **COURT FINDS** NRS 244.364, NRS 268.418, and NRS 269.222, by their
9 express terms, do not apply to a public library district.

10
11 Plaintiff also asserts that even if those three statutes only apply to the political
12 subdivisions that they name, the library district is still covered as an "instrumentality" of the
13 city and the county. Plaintiff relies on federal case law regarding Eleventh Amendment
14 sovereign immunity. In particular, Plaintiff cites *Johnson v. University of Nevada*, 596
15 F.Supp. 175, 177-78 (D. Nev. 1984), which suggests that relevant factors in determining
16 whether an entity is an "instrumentality" of the State for sovereign immunity purposes are
17 whether the constituent entity provides a government function, whether the constituent
18 entity is comprehensively controlled by another entity, and whether the constituent entity is
19 fiscally tied to another entity.

20
21 However, it also held that "[t]he most crucial question ... is whether the named
22 defendant has such independent status that a judgment against the defendant would not
23 impact the state treasury." *Id.* at 177. In *Johnson*, the court was tasked with deciding
24 whether the University of Nevada Reno or its Board of Regents was an instrumentality of
25 the State. The court noted that pursuant to the state constitution, funding for the University
26 came from the State's general fund. Therefore, damages against the University "would be
27 chargeable to the State and would therefore be an award against the State." *Id.*

1 Plaintiff argues that the Library District satisfies these factors. First, Plaintiff points
2 out that the library does perform a public function. Second, Plaintiff argues that the District
3 is controlled by Clark County and the City of Las Vegas because it was created by the city
4 and county pursuant to NRS 379.0221 and those two entities together have sole control over
5 the members of the Library District's board of trustees. Finally, Plaintiff also asserts that the
6 Library District is fiscally tied to the city and county because they must jointly approve its
7 budget and any bond issuance, and only the county can levy taxes to fund the District.
8

9
10 Assuming *arguendo* that the instrumentality analysis under the Eleventh Amendment
11 applies in this case to place the same restrictions on a Library District as are placed on cities
12 and counties by SB 175, this Court is unpersuaded that the Library District qualifies as an
13 instrumentality. The primary question is the fiscal relationship of the Library District to the
14 city and the county; in particular, the concern is which entity's account would be charged if
15 a monetary judgment is obtained against the Library District. Here, the county may be the
16 entity to actually levy the tax, but instead of entering the general county fund, the money is
17 used for creating and maintaining the "fund for the consolidated library." NRS 379.0227(1).
18

19 "All claims for indebtedness incurred or created by the trustees of any consolidated,
20 county, district or town library must: . . . (c) be paid out of the appropriate library fund."
21 NRS 379.030(1). This is quite unlike the University in *Johnson* that drew from the State's
22 general fund, which would thereby cause a judgment against the University to have the same
23 effect as a judgment against the State. As a result, regardless of which entity levies the tax or
24 approves the budget or bonds, the Library District is simply not fiscally tied to the city and
25 the county in the powerful way that the University in *Johnson* was fiscally tied to the State.
26

27 The same level of control does not exist either. In *Johnson*, the University was
28 governed by "fairly comprehensive programs of controls and mandates." This included

1 annual reports to the governor for all money received and disbursed, the need for direct
2 legislative appropriations of funds for support and maintenance, and approval from the state
3 board of examiners before payment of any kind of claims. *Johnson*, 596 F.Supp. at 178.
4

5 Here, however, although the city and county have a role in the management of the
6 District such as by appointing trustees, the Library District makes its own sets of bylaws and
7 regulations. NRS 379.025(1)(h); NRS 379.040. An example of such a regulation is the very
8 "Dangerous Items Policy" at issue herein. Additionally, the library district is controlled in
9 large part by *state* statutes, not local laws. Even the involvement of the city and county in
10 the District's affairs are controlled by state statutes such as NRS 379.0222, NRS 379.0225,
11 NRS 379.025, and NRS 379.030.
12

13 But even more problematically for Plaintiff, this Court is not persuaded that the
14 Eleventh Amendment instrumentality analysis is even relevant to the issues herein. First,
15 Plaintiff provides no legal authority for usage of this concept in analyzing the preemptive
16 effect of a state statute on seemingly conflicting local rules. Instead, the Plaintiff baldly
17 asserts that it would be "absurd" for restrictions placed on specifically identified parent
18 entities to not also apply to a "creature" of those entities.
19

20 This Court disagrees. It is not foreign to our system of government for one entity to
21 take part in establishing another entity which then possesses powers the former does not. For
22 example, inferior federal courts are established by Congress, U.S. Const. art. III § 1, yet
23 pursuant to the same constitutional provision and the core principal of separation of powers,
24 they possess judicial powers which Congress itself does not have. The fact that the city and
25 county have some influence in the management of the Library District makes no difference,
26 as being interrelated yet distinct is the basis of checks and balances, another core principal.
27 Finally, extending Plaintiff's logic, the city and county, as "creatures" of the state legislature
28

1 (see Nev. Const. art VIII), would have its same rulemaking powers. But by denying certain
2 powers to cities, counties, and towns which the State retains, SB 175 itself recognizes that
3 this is not the case, and accordingly that such a doctrine is simply inapplicable here.
4

5 Therefore, **COURT FINDS** the Eleventh Amendment instrumentality analysis is
6 irrelevant to the issues herein, and the Library District does not qualify anyway.

7 **COURT FURTHER FINDS** the three statutes amended by SB 175, NRS 244.364,
8 NRS 268.418, and NRS 269.222, do not preclude the Library District from implementing
9 and enforcing the Dangerous Items Policy.
10

11 *C. Dillon's Rule*

12 Dillon's Rule is a common-law doctrine, codified in only two legislative declaration
13 sections of the Nevada Revised Statutes, holding that a local government possesses and may
14 exercise only powers expressly granted to it by constitution or statute, powers necessarily or
15 fairly implied in or incident to the powers expressly granted, and powers indispensable to
16 accomplishing objectives and purposes. See NRS 244.137(3); NRS 268.001(3). When there
17 is any "fair or reasonable doubt" concerning whether a power exists, it is resolved against
18 the local government. See NRS 244.137(4); NRS 268.001(4).
19

20 Plaintiff cites NRS 202.265, NRS 392.466, NRS 407.0475, and NRS 503.150, as
21 examples of the state legislature specifically delegating the ability to regulate firearms to a
22 local governing body. Plaintiff argues that because there is no similar specific delegation to
23 the Library District, Dillon's Rule operates in this case to preclude the Library District's
24 ability to regulate the possession of firearms in public libraries, thereby rendering the
25 Dangerous Items Policy null and void. Plaintiff's argument is unpersuasive.
26

27 Although the legislative declarations contained in NRS 244.137 and NRS 268.001
28 indicate that the rule has been applied to certain local governments, no case law has been

1 provided and none can be found in which the Nevada Supreme Court applied Dillon's Rule
2 to Library Districts or any type of political subdivision other than counties, cities, and towns.
3 That absence is telling when considered alongside the fact that the legislative declarations
4 regarding Dillon's Rule exist in only two NRS chapters (which relate specifically to
5 counties, cities, and towns), and the broad legislative grant of regulatory power to Library
6 District trustees found in NRS 379.025(1)(h) and NRS 379.040.
7

8 Moreover, Plaintiff's application of Dillon's Rule would imply that a common-law
9 doctrine can operate to abrogate a statutory mandate, an absurd result. The regulatory power
10 granted in NRS 379.025(1)(h) and NRS 379.040 is broad. Therefore, extending Plaintiff's
11 logic, because the only powers under Dillon's Rule must be express and specific, Library
12 District trustees must have no power to make any regulations. This is clearly contrary to the
13 intent of the legislature in enacting the language "the trustees of any consolidated . . . library
14 . . . shall: (b) *Establish bylaws and regulations for the management of the library . . .*" and
15 "the library and reading room . . . must forever be and remain free and accessible to the
16 public, *subject to such reasonable regulations as the trustees of the library may adopt.*"
17 NRS 379.025(1)(h); NRS 379.040.
18

19 Therefore, COURT FINDS Dillon's Rule has no applicability, and does not preclude
20 the Library District from implementing and enforcing the "Dangerous Items Policy."
21

22 *D. Nevada and U.S. Constitution*
23

24 Finally, Plaintiff argues the Dangerous Items Policy violates Nevada's Constitutional
25 protection of the right to bear arms. The Nevada constitution provides "[e]very citizen has
26 the right to keep and bear arms for security and defense, for lawful hunting and recreational
27 use and for other lawful purposes," Nev. Const. art. 1 § 11(1). Because the Dangerous Items
28

1 Policy inhibits the right of the people to keep and bear arms (by preventing people from
2 carrying a firearm into the library). Plaintiff argues, it violates the Nevada Constitution.

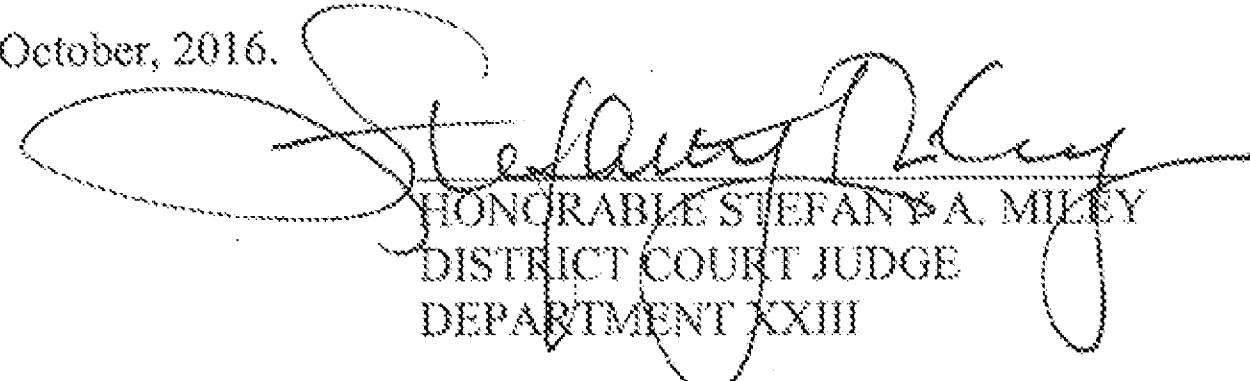
3
4 NRS 30.130 provides that "[w]hen declaratory relief is sought, all persons shall be
5 made parties who have or claim any interest which would be affected by the declaration, and
6 no declaration shall prejudice the rights of persons not parties to the proceeding. In any
7 proceeding which involves the validity of a municipal ordinance or franchise . . . if the
8 statute, ordinance or franchise is alleged to be unconstitutional, the Attorney General shall
9 also be served with a copy of the proceeding and be entitled to be heard." No proof is on file
10 that the Attorney General was served with the instant motion, and the Attorney General did
11 not appear at the hearing on this motion. Thus, this Court cannot issue a declaration which
12 prejudices the rights of the Attorney General, i.e., by declaring the Dangerous Items Policy
13 unconstitutional. In turn, whether or not Plaintiff's argument on this issue is correct, this
14 Court cannot grant Plaintiff's motion on that basis.
15

16
17 Therefore, without ruling upon the merits of Plaintiff's constitutional argument, the
18 Court denies Plaintiff's motion as to this issue as well.

19 IV. ORDER

20 For all of the foregoing reasons, COURT HEREBY ORDERS Plaintiff's Motion for
21 Partial Summary Judgment on Plaintiff's Declaratory Relief Claim and Motion for Summary
22 Judgment on Counterclaimant's Declaratory Relief Claim, filed July 5, 2016, DENIED.
23

24
25 Dated this 26th day of October, 2016.

26
27
28

HONORABLE STEFANY A. MILEY
DISTRICT COURT JUDGE
DEPARTMENT XXIII

STEFANY A. MILEY
DISTRICT JUDGE

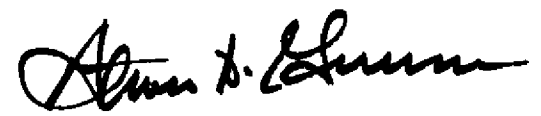
DEPARTMENT TWENTY THREE
LAS VEGAS NV 89101-2408

CERTIFICATE OF SERVICE

I hereby certify that on or about the date signed, a copy of this Decision and Order was electronically served and/or placed in the attorney's folders maintained by the Clerk of the Court and/or transmitted via facsimile and/or mailed, postage prepaid, by United States mail to the proper parties as follows: Lee I. Igledy, Esq.; and Dennis L. Kennedy, Esq.

By: _____

Carmen Alper
Judicial Executive Assistant



CLERK OF THE COURT

SOFJ

JOHN R. BAILEY

Nevada Bar No. 0137

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

KELLY B. STOUT

Nevada Bar No. 12105

AMANDA L. STEVENS

Nevada Bar No. 13966

BAILEY ♦ KENNEDY

8984 Spanish Ridge Avenue

Las Vegas, Nevada 89148-1302

Telephone: 702.562.8820

Facsimile: 702.562.8821

JBailey@BaileyKennedy.com

DKennedy@BaileyKennedy.com

JLiebman@BaileyKennedy.com

KStout@BaileyKennedy.com

AStevens@BaileyKennedy.com

Attorneys for Defendant

Las Vegas-Clark County Library District

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHELLE FLORES, an individual,

Plaintiff,

vs.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State of
Nevada; DOES I-X, inclusive, and ROES A-Z,
inclusive,

Defendants.

AND RELATED CLAIMS.

Case No. A-16-735496-C

Dept. No. XXIII

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input checked="" type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

STIPULATION AND ORDER FOR FINAL JUDGMENT

On October 26, 2016, the Court entered a Decision and Order denying Plaintiff Michelle Flores' ("Ms. Flores") Motion for Partial Summary Judgment on Plaintiff's Declaratory Relief Claim and Motion for Summary Judgment on Counterclaimant's Declaratory Relief Claim ("Motion

1 for Partial Summary Judgment”). Although not a final decision on all claims, the Court’s findings in
2 the Decision and Order are effectively dispositive of all claims in this action. Accordingly, the
3 Parties¹ hereby stipulate to the following Findings of Fact, the dismissal of all claims not resolved by
4 the Decision and Order, and entry of Final Judgment in this action.

5
6 **I. FINDINGS OF FACT.**

7 1. On April 22, 2016, Ms. Flores initiated the instant action against the Library District
8 relating to Ms. Flores’ March 16, 2016 visit to the Library District’s Rainbow Branch,² during which
9 she was issued a Notice of Trespass, which suspended her Library District privileges and banned her
10 from visiting any Library District property for a period of one year.

11 2. Ms. Flores’s Complaint asserted a violation of Nevada Senate Bill 175,³ which was
12 codified as NRS 244.364, 268.418, and 269.222, and Article 1, Section 11(1) of the Nevada
13 Constitution.

14 3. Ms. Flores sought monetary damages; a declaration that “the District’s rules and
15 policies that prohibit the open possession of firearms in libraries are unconstitutional”; a declaration
16 “that the Trespass Notice is invalid”; and an injunction “to invalidate the Trespass Notice and to
17 permit [Ms. Flores] to return to the [Library District]. (Compl. ¶¶ 69, 70, 77.)

18 4. On April 29, 2016, Ms. Flores filed a Motion for Preliminary Injunction to restore her
19 Library District privileges.

20 5. On June 21, 2016, the Court held a hearing on Ms. Flores’ Motion for Preliminary
21 Injunction and denied her request for an injunction allowing her to return to Library District
22 properties.

23 6. In its written Order Denying Plaintiff’s Motion for Preliminary Injunction,⁴ which is
24 expressly incorporated herein by reference, the Court found as follows:

25 ¹ The “Parties” include Ms. Flores and Defendant Las Vegas-Clark County Library District (“Defendant” or
26 “Library District”).

27 ² The “Rainbow Branch” is located at 3150 North Buffalo Drive, Las Vegas, Nevada 89128.

28 ³ S.B. 175, 2015 Leg., 78th Sess. (Nev. 2015), *available at* http://www.leg.state.nv.us/Session/78th2015/Bills/SB/SB175_EN.pdf

⁴ Note. of Entry of Order Denying Pl’s Mot. for Prelim. Inj., Aug. 9, 2016.

- a. “Ms. Flores has failed to demonstrate a likelihood of success on the merits because the evidence demonstrates that the trespass and suspension of Ms. Flores’ Library District privileges were likely the result of Ms. Flores’ disruptive conduct, which violated Rule 1 of the Rules of Conduct and were not due to her disagreement with or violation of the Library District’s Dangerous Items Policy.” (Order Denying Pl.’s Mot. for Prelim. Inj. ¶ 45.)
- b. “Ms. Flores has failed to establish that suspension of her library privileges will result in irreparable harm.” (*Id.* at ¶ 47.)
- c. “The hardship on the Library District if required to tolerate disorderly and disruptive behavior greatly outweighs any inconvenience to Ms. Flores in securing alternatives to services provided by the Library District.” (*Id.* at ¶ 50.)
- d. “The public interest weighs in favor of ensuring the safe and orderly operation of Library District facilities so that they remain free and accessible to the public” and “[t]he public interest also weighs in favor of applying the Rules of Conduct equally to all patrons.” (*Id.* at ¶¶ 52-53.)

7. On May 27, 2016, Defendant filed an Answer and asserted a Counterclaim for Declaratory Relief, which requested “a declaratory judgment stating whether NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015) preempts the Library District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm on the Library District’s property.”⁵

8. On July 5, 2016, Ms. Flores filed a Motion for Partial Summary Judgment, which sought summary judgment on the following claims:

- a. Ms. Flores’ request for a “declaratory judgment that the District’s rules and policies that prohibit the open possession of firearms in libraries are unconstitutional”; and

⁵ Def. Las Vegas-Clark Cnty. Library Dist.’s Answer to Pl. Michelle Flores’ Verified Compl. and Countercl., May 27, 2016.

b. The Library District's request for "a declaratory judgment stating whether NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015) preempts the Library District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm on the Library District's property."

9. On October 26, 2016, the Court issued a Decision and Order, which is expressly incorporated herein by reference, that denied Ms. Flores' Motion for Partial Summary Judgment on the Parties' respective Declaratory Relief claims, and contained the following findings:

- a. "NRS 244.364, NRS 268.418, and NRS 269.222, by their express terms, do not apply to a public library district." (Decision & Order 6:8-10.)
- b. "[T]he Eleventh Amendment instrumentality analysis is irrelevant to the issues herein, and the Library District does not qualify anyway." (*Id.* at 9:5-6.)
- c. "[T]he three statutes amended by SB 175, NRS 244.364, NRS 268.418, and NRS 269.222, do not preclude the Library District from implementing and enforcing the Dangerous Items Policy." (*Id.* at 9:7-10.)
- d. "Dillon's Rule has no applicability, and does not preclude the Library District from implementing and enforcing the 'Dangerous Items Policy.'" (*Id.* at 10:20-21.)
- e. "No proof is on file that the Attorney General was served with the instant motion, and the Attorney General did not appear at the hearing on this motion. Thus, this Court cannot issue a declaration which prejudices the rights of the Attorney General, i.e., by declaring the Dangerous Items Policy unconstitutional." (*Id.* at 11:9-15.)

II. DISMISSAL OF ALL REMAINING CLAIMS WITHOUT PREJUDICE.

10. Although the scope of the Decision and Order denying Ms. Flores' Motion for Partial Summary Judgment was limited to two causes of action for declaratory relief, the findings are effectively dispositive of all claims in this action.

11. The Court's finding that Ms. Flores failed to comply with NRS 30.130 and is not "entitled to a declaratory judgment that the District's rules and policies that prohibit the open possession of firearms in libraries are unconstitutional" effectively precludes any finding on her claim that the Library District's Dangerous Items Policy violates the Nevada Constitution.

12. The Court's finding that "NRS 244.364, NRS 268.418, and NRS 269.222, by their express terms, do not apply to a public library district" (Decision & Order 6:8-10) is dispositive of her claim for violation of SB 175.

13. The Court's finding that "the three statutes amended by SB 175, NRS 244.364, NRS 268.418, and NRS 269.222, do not preclude the Library District from implementing and enforcing the Dangerous Items Policy" (*id.* at 9:7-10) is dispositive of her claim for "a declaratory judgment that the Trespass Notice is invalid" and her claim for injunctive relief.

14. In light of the Court's Decision and Order, Plaintiff hereby agrees to dismiss all of the following claims without prejudice:⁶

- a. Plaintiff's First Claim for Relief for violation of SB175;
- b. Plaintiff's First Claim for Relief for violation of the Nevada Constitution;
- c. Plaintiff's Second Claim for Relief for a "declaratory judgment that the Trespass Notice is invalid"; and
- d. Plaintiff's Third Claim for Relief for Injunctive Relief.

III. STIPULATED ORDER AND FINAL JUDGMENT.

THE PARTIES HEREBY STIPULATE AND AGREE THAT judgment shall be entered as follows:

Judgment is entered against Plaintiff on her claim for a declaratory judgment "that the District's rules and policies that prohibit the open possession of firearms in libraries are unconstitutional."

Judgment is entered in favor of Defendant on Defendant's claim for declaratory relief, and a declaratory judgment is entered that NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015)

⁶ Should the District Court's ruling on Plaintiff's Motion for Partial Summary Judgment be reversed or remanded on appeal, the Parties agree that Plaintiff may reinstate these claims.

do NOT preempt the Library District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm on the Library District's property."

DATED this 12TH day of January, 2017.

DATED this 10TH day of JANUARY, 2017

By: [Signature]

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
KELLY B. STOUT
AMANDA L. STEVENS
BAILEY ♦ KENNEDY

By: [Signature]

JEFFREY F. BARR
ASHCRAFT & BARR LLP

AND

LEE I. IGLODY
IGLODY LAW, PLLC

Attorneys for Defendant
Las Vegas-Clark County Library District

Attorneys for Plaintiff
Michelle Flores

IT IS SO ORDERED.

[Signature]
HONORABLE STEFANY A. MILEY
DISTRICT COURT JUDGE
DEPARTMENT XXIII
Dated: 1-25-17

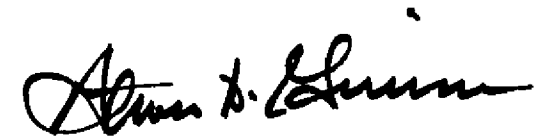
RESPECTFULLY SUBMITTED BY:

ae

By: [Signature]

JOHN R. BAILEY
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
KELLY B. STOUT
AMANDA L. STEVENS
BAILEY ♦ KENNEDY

Attorneys for Defendant
Las Vegas-Clark County Library District



CLERK OF THE COURT

1 **NTSO**
JOHN R. BAILEY
2 Nevada Bar No. 0137
DENNIS L. KENNEDY
3 Nevada Bar No. 1462
JOSEPH A. LIEBMAN
4 Nevada Bar No. 10125
KELLY B. STOUT
5 Nevada Bar No. 12105
AMANDA L. STEVENS
6 Nevada Bar No. 13966
BAILEY ♦ KENNEDY
7 8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
8 Telephone: 702.562.8820
Facsimile: 702.562.8821
9 JBailey@BaileyKennedy.com
DKennedy@BaileyKennedy.com
10 JLiebman@BaileyKennedy.com
KStout@BaileyKennedy.com
11 AStevens@BaileyKennedy.com
12 *Attorneys for Defendant*
Las Vegas-Clark County Library District

DISTRICT COURT

CLARK COUNTY, NEVADA

16 MICHELLE FLORES, an individual,
17 Plaintiff,

Case No. A-16-735496-C
Dept. No. XXIII

18 vs.

19 LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State of
20 Nevada; DOES I-X, inclusive, and ROES A-Z,
inclusive,

21 Defendants.
22

23 AND RELATED CLAIMS.
24

NOTICE OF ENTRY OF STIPULATION AND ORDER
FOR FINAL JUDGMENT

26 PLEASE TAKE NOTICE that a Stipulation and Order for Final Judgment was entered on the
27 8th day of February, 2017.

28 ///

BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

1 A true and correct copy of the Stipulation and Order is attached.

2 DATED this 9th day of February, 2017.

3 BAILEY ♦ KENNEDY

4
5 By: /s/ Kelly B. Stout

6 JOHN R. BAILEY

7 DENNIS L. KENNEDY

8 JOSEPH A. LIEBMAN

9 KELLY B. STOUT

10 AMANDA L. STEVENS

11 *Attorneys for Defendant*

12 Las Vegas-Clark County Library District

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
BAILEY ♦ KENNEDY
8984 SPANISH RIDGE AVENUE
LAS VEGAS, NEVADA 89148-1302
702.562.8820

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 9th day of February, 2017, service of the foregoing **NOTICE OF ENTRY OF STIPULATION AND ORDER FOR FINAL JUDGMENT** was made by mandatory electronic service through the Eighth Judicial District Court's electronic filing system and/or by depositing a true and correct copy in the U.S. Mail, first class postage prepaid, and addressed to the following at their last known address:

JEFFREY F. BARR, ESQ.
ASHCRAFT & BARR LLP
2300 West Sahara Avenue, Ste. 800
Las Vegas, NV 89102

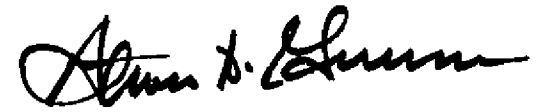
Email: barrj@AshcraftBarr.com

LEE I. IGLODY, ESQ.
IGLODY LAW, PLLC
2300 West Sahara Avenue, Ste. 1130
Las Vegas, NV 89102

Email: lee@iglody.com

Attorneys for Plaintiff
MICHELLE FLORES

/s/ Josephine Baltazar
Employee of BAILEY ♦ KENNEDY



CLERK OF THE COURT

SOFJ

JOHN R. BAILEY

Nevada Bar No. 0137

DENNIS L. KENNEDY

Nevada Bar No. 1462

JOSEPH A. LIEBMAN

Nevada Bar No. 10125

KELLY B. STOUT

Nevada Bar No. 12105

AMANDA L. STEVENS

Nevada Bar No. 13966

BAILEY ♦ KENNEDY

8984 Spanish Ridge Avenue

Las Vegas, Nevada 89148-1302

Telephone: 702.562.8820

Facsimile: 702.562.8821

JBailey@BaileyKennedy.com

DKennedy@BaileyKennedy.com

JLiebman@BaileyKennedy.com

KStout@BaileyKennedy.com

AStevens@BaileyKennedy.com

Attorneys for Defendant

Las Vegas-Clark County Library District

DISTRICT COURT

CLARK COUNTY, NEVADA

MICHELLE FLORES, an individual,

Plaintiff,

vs.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State of
Nevada; DOES I-X, inclusive, and ROES A-Z,
inclusive,

Defendants.

AND RELATED CLAIMS.

Case No. A-16-735496-C

Dept. No. XXIII

<input type="checkbox"/> Voluntary Dismissal	<input type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
<input checked="" type="checkbox"/> Stipulated Dismissal	<input type="checkbox"/> Default Judgment
<input type="checkbox"/> Motion to Dismiss by Deft(s)	<input type="checkbox"/> Judgment of Arbitration

STIPULATION AND ORDER FOR FINAL JUDGMENT

On October 26, 2016, the Court entered a Decision and Order denying Plaintiff Michelle Flores' ("Ms. Flores") Motion for Partial Summary Judgment on Plaintiff's Declaratory Relief Claim and Motion for Summary Judgment on Counterclaimant's Declaratory Relief Claim ("Motion

1 for Partial Summary Judgment”). Although not a final decision on all claims, the Court’s findings in
2 the Decision and Order are effectively dispositive of all claims in this action. Accordingly, the
3 Parties¹ hereby stipulate to the following Findings of Fact, the dismissal of all claims not resolved by
4 the Decision and Order, and entry of Final Judgment in this action.

5
6 **I. FINDINGS OF FACT.**

7 1. On April 22, 2016, Ms. Flores initiated the instant action against the Library District
8 relating to Ms. Flores’ March 16, 2016 visit to the Library District’s Rainbow Branch,² during which
9 she was issued a Notice of Trespass, which suspended her Library District privileges and banned her
10 from visiting any Library District property for a period of one year.

11 2. Ms. Flores’s Complaint asserted a violation of Nevada Senate Bill 175,³ which was
12 codified as NRS 244.364, 268.418, and 269.222, and Article 1, Section 11(1) of the Nevada
13 Constitution.

14 3. Ms. Flores sought monetary damages; a declaration that “the District’s rules and
15 policies that prohibit the open possession of firearms in libraries are unconstitutional”; a declaration
16 “that the Trespass Notice is invalid”; and an injunction “to invalidate the Trespass Notice and to
17 permit [Ms. Flores] to return to the [Library District]. (Compl. ¶¶ 69, 70, 77.)

18 4. On April 29, 2016, Ms. Flores filed a Motion for Preliminary Injunction to restore her
19 Library District privileges.

20 5. On June 21, 2016, the Court held a hearing on Ms. Flores’ Motion for Preliminary
21 Injunction and denied her request for an injunction allowing her to return to Library District
22 properties.

23 6. In its written Order Denying Plaintiff’s Motion for Preliminary Injunction,⁴ which is
24 expressly incorporated herein by reference, the Court found as follows:

25 ¹ The “Parties” include Ms. Flores and Defendant Las Vegas-Clark County Library District (“Defendant” or
26 “Library District”).

27 ² The “Rainbow Branch” is located at 3150 North Buffalo Drive, Las Vegas, Nevada 89128.

28 ³ S.B. 175, 2015 Leg., 78th Sess. (Nev. 2015), *available at* http://www.leg.state.nv.us/Session/78th2015/Bills/SB/SB175_EN.pdf

⁴ Notc. of Entry of Order Denying Pl’s Mot. for Prelim. Inj., Aug. 9, 2016.

- a. “Ms. Flores has failed to demonstrate a likelihood of success on the merits because the evidence demonstrates that the trespass and suspension of Ms. Flores’ Library District privileges were likely the result of Ms. Flores’ disruptive conduct, which violated Rule 1 of the Rules of Conduct and were not due to her disagreement with or violation of the Library District’s Dangerous Items Policy.” (Order Denying Pl.’s Mot. for Prelim. Inj. ¶ 45.)
- b. “Ms. Flores has failed to establish that suspension of her library privileges will result in irreparable harm.” (*Id.* at ¶ 47.)
- c. “The hardship on the Library District if required to tolerate disorderly and disruptive behavior greatly outweighs any inconvenience to Ms. Flores in securing alternatives to services provided by the Library District.” (*Id.* at ¶ 50.)
- d. “The public interest weighs in favor of ensuring the safe and orderly operation of Library District facilities so that they remain free and accessible to the public” and “[t]he public interest also weighs in favor of applying the Rules of Conduct equally to all patrons.” (*Id.* at ¶¶ 52-53.)

7. On May 27, 2016, Defendant filed an Answer and asserted a Counterclaim for Declaratory Relief, which requested “a declaratory judgment stating whether NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015) preempts the Library District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm on the Library District’s property.”⁵

8. On July 5, 2016, Ms. Flores filed a Motion for Partial Summary Judgment, which sought summary judgment on the following claims:

- a. Ms. Flores’ request for a “declaratory judgment that the District’s rules and policies that prohibit the open possession of firearms in libraries are unconstitutional”; and

⁵ Def. Las Vegas-Clark Cnty. Library Dist.’s Answer to Pl. Michelle Flores’ Verified Compl. and Countercl., May 27, 2016.

b. The Library District's request for "a declaratory judgment stating whether NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015) preempts the Library District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm on the Library District's property."

9. On October 26, 2016, the Court issued a Decision and Order, which is expressly incorporated herein by reference, that denied Ms. Flores' Motion for Partial Summary Judgment on the Parties' respective Declaratory Relief claims, and contained the following findings:

- a. "NRS 244.364, NRS 268.418, and NRS 269.222, by their express terms, do not apply to a public library district." (Decision & Order 6:8-10.)
- b. "[T]he Eleventh Amendment instrumentality analysis is irrelevant to the issues herein, and the Library District does not qualify anyway." (*Id.* at 9:5-6.)
- c. "[T]he three statutes amended by SB 175, NRS 244.364, NRS 268.418, and NRS 269.222, do not preclude the Library District from implementing and enforcing the Dangerous Items Policy." (*Id.* at 9:7-10.)
- d. "Dillon's Rule has no applicability, and does not preclude the Library District from implementing and enforcing the 'Dangerous Items Policy.'" (*Id.* at 10:20-21.)
- e. "No proof is on file that the Attorney General was served with the instant motion, and the Attorney General did not appear at the hearing on this motion. Thus, this Court cannot issue a declaration which prejudices the rights of the Attorney General, i.e., by declaring the Dangerous Items Policy unconstitutional." (*Id.* at 11:9-15.)

II. DISMISSAL OF ALL REMAINING CLAIMS WITHOUT PREJUDICE.

10. Although the scope of the Decision and Order denying Ms. Flores' Motion for Partial Summary Judgment was limited to two causes of action for declaratory relief, the findings are effectively dispositive of all claims in this action.

11. The Court's finding that Ms. Flores failed to comply with NRS 30.130 and is not "entitled to a declaratory judgment that the District's rules and policies that prohibit the open possession of firearms in libraries are unconstitutional" effectively precludes any finding on her claim that the Library District's Dangerous Items Policy violates the Nevada Constitution.

12. The Court's finding that "NRS 244.364, NRS 268.418, and NRS 269.222, by their express terms, do not apply to a public library district" (Decision & Order 6:8-10) is dispositive of her claim for violation of SB 175.

13. The Court's finding that "the three statutes amended by SB 175, NRS 244.364, NRS 268.418, and NRS 269.222, do not preclude the Library District from implementing and enforcing the Dangerous Items Policy" (*id.* at 9:7-10) is dispositive of her claim for "a declaratory judgment that the Trespass Notice is invalid" and her claim for injunctive relief.

14. In light of the Court's Decision and Order, Plaintiff hereby agrees to dismiss all of the following claims without prejudice:⁶

- a. Plaintiff's First Claim for Relief for violation of SB175;
- b. Plaintiff's First Claim for Relief for violation of the Nevada Constitution;
- c. Plaintiff's Second Claim for Relief for a "declaratory judgment that the Trespass Notice is invalid"; and
- d. Plaintiff's Third Claim for Relief for Injunctive Relief.

III. STIPULATED ORDER AND FINAL JUDGMENT.

THE PARTIES HEREBY STIPULATE AND AGREE THAT judgment shall be entered as follows:

Judgment is entered against Plaintiff on her claim for a declaratory judgment "that the District's rules and policies that prohibit the open possession of firearms in libraries are unconstitutional."

Judgment is entered in favor of Defendant on Defendant's claim for declaratory relief, and a declaratory judgment is entered that NRS 244.364, 268.418, and NRS 269.222 (as amended in 2015)

⁶ Should the District Court's ruling on Plaintiff's Motion for Partial Summary Judgment be reversed or remanded on appeal, the Parties agree that Plaintiff may reinstate these claims.

do NOT preempt the Library District from adopting, establishing, or otherwise creating any rule, regulation, or policy prohibiting the possession of a firearm, whether loaded or unloaded, or any ammunition or material for a firearm on the Library District's property."

DATED this 12TH day of January, 2017.

DATED this 10TH day of JANUARY, 2017

By: [Signature]
JOHN R. BAILEY
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
KELLY B. STOUT
AMANDA L. STEVENS
BAILEY ♦ KENNEDY

By: [Signature]
JEFFREY F. BARR
ASHCRAFT & BARR LLP

AND

LEE I. IGLODY
IGLODY LAW, PLLC

Attorneys for Defendant
Las Vegas-Clark County Library District

Attorneys for Plaintiff
Michelle Flores

IT IS SO ORDERED.

[Signature]
HONORABLE STEFANY A. MILEY
DISTRICT COURT JUDGE
DEPARTMENT XXIII

Dated: 1-25-17

RESPECTFULLY SUBMITTED BY:

ac

By: [Signature]
JOHN R. BAILEY
DENNIS L. KENNEDY
JOSEPH A. LIEBMAN
KELLY B. STOUT
AMANDA L. STEVENS
BAILEY ♦ KENNEDY

Attorneys for Defendant
Las Vegas-Clark County Library District

IN THE SUPREME COURT OF THE STATE OF NEVADA

INDICATE FULL CAPTION:

MICHELLE FLORES, an individual,
Appellant,

vs.

LAS VEGAS-CLARK COUNTY LIBRARY
DISTRICT, a political subdivision of the State
of Nevada,
Respondent.

No. 72462

DOCKETING Elizabeth A. Brown
CIVIL APPEALS Clerk of Supreme Court

Electronically Filed
Mar 07 2017 01:19 p.m.

GENERAL INFORMATION

Appellants must complete this docketing statement in compliance with NRAP 14(a). The purpose of the docketing statement is to assist the Supreme Court in screening jurisdiction, identifying issues on appeal, assessing presumptive assignment to the Court of Appeals under NRAP 17, scheduling cases for oral argument and settlement conferences, classifying cases for expedited treatment and assignment to the Court of Appeals, and compiling statistical information.

WARNING

This statement must be completed fully, accurately and on time. NRAP 14(c). The Supreme Court may impose sanctions on counsel or appellant if it appears that the information provided is incomplete or inaccurate. *Id.* Failure to fill out the statement completely or to file it in a timely manner constitutes grounds for the imposition of sanctions, including a fine and/or dismissal of the appeal.

A complete list of the documents that must be attached appears as Question 27 on this docketing statement. Failure to attach all required documents will result in the delay of your appeal and may result in the imposition of sanctions.

This court has noted that when attorneys do not take seriously their obligations under NRAP 14 to complete the docketing statement properly and conscientiously, they waste the valuable judicial resources of this court, making the imposition of sanctions appropriate. See KDI Sylvan Pools v. Workman, 107 Nev. 340, 344, 810 P.2d 1217, 1220 (1991). Please use tab dividers to separate any attached documents.

1. Judicial District Eighth Department XXIII
County Clark Judge Stefany Miley
District Ct. Case No. A-16-735496-C

2. Attorney filing this docketing statement:

Attorney Jeffrey F. Barr, Esq. Telephone (702) 631-7555
Firm Ashcraft & Barr LLP
Address 2300 West Sahara Ave
Suite 1130
Las Vegas, NV 89102

Client(s) Michelle Flores

If this is a joint statement by multiple appellants, add the names and addresses of other counsel and the names of their clients on an additional sheet accompanied by a certification that they concur in the filing of this statement.

3. Attorney(s) representing respondents(s):

Attorney Dennis Kennedy, Esq. Telephone (702) 562-8820
Firm Bailey Kennedy
Address 8984 Spanish Ridge Avenue
Las Vegas, NV 89148

Client(s) Las Vegas-Clark County Library District

Attorney Lee I. Iglody, Esq. Telephone (702) 425-5366
Firm Iglody Law
Address 2300 West Sahara Ave
Suite 1130
Las Vegas, NV 89102

Client(s) Michelle Flores

(List additional counsel on separate sheet if necessary)

4. Nature of disposition below (check all that apply):

- | | |
|--|---|
| <input type="checkbox"/> Judgment after bench trial | <input type="checkbox"/> Dismissal: |
| <input type="checkbox"/> Judgment after jury verdict | <input type="checkbox"/> Lack of jurisdiction |
| <input checked="" type="checkbox"/> Summary judgment | <input type="checkbox"/> Failure to state a claim |
| <input type="checkbox"/> Default judgment | <input type="checkbox"/> Failure to prosecute |
| <input type="checkbox"/> Grant/Denial of NRCP 60(b) relief | <input type="checkbox"/> Other (specify): _____ |
| <input type="checkbox"/> Grant/Denial of injunction | <input type="checkbox"/> Divorce Decree: |
| <input checked="" type="checkbox"/> Grant/Denial of declaratory relief | <input type="checkbox"/> Original <input type="checkbox"/> Modification |
| <input type="checkbox"/> Review of agency determination | <input type="checkbox"/> Other disposition (specify): _____ |

5. Does this appeal raise issues concerning any of the following?

- ☐ Child Custody
- ☐ Venue
- ☐ Termination of parental rights

6. Pending and prior proceedings in this court. List the case name and docket number of all appeals or original proceedings presently or previously pending before this court which are related to this appeal:

None.

7. Pending and prior proceedings in other courts. List the case name, number and court of all pending and prior proceedings in other courts which are related to this appeal (e.g., bankruptcy, consolidated or bifurcated proceedings) and their dates of disposition:

None.

8. Nature of the action. Briefly describe the nature of the action and the result below:

This is an action for declaratory relief for interpretation of a statute, S.B. 175 (2015). The parties filed competing motions for summary judgment. Plaintiff Michelle Flores appeals the determination of summary judgment in favor of Defendant Las Vegas-Clark County Library District.

9. Issues on appeal. State concisely the principal issue(s) in this appeal (attach separate sheets as necessary):

The principal issue is whether a newly-enacted statute, S.B. 175 (2015), preempts the Las Vegas-Clark County Library District "Dangerous Items Policy," which purports to prohibit the open-carry of a holstered firearm in library facilities.

10. Pending proceedings in this court raising the same or similar issues. If you are aware of any proceedings presently pending before this court which raises the same or similar issues raised in this appeal, list the case name and docket numbers and identify the same or similar issue raised:

None.

11. Constitutional issues. If this appeal challenges the constitutionality of a statute, and the state, any state agency, or any officer or employee thereof is not a party to this appeal, have you notified the clerk of this court and the attorney general in accordance with NRAP 44 and NRS 30.130?

☐ N/A

☐ Yes

☒ No

If not, explain: The principal issue is the constitutionality of a policy promulgated by a local government, not the constitutionality of a statute.

12. Other issues. Does this appeal involve any of the following issues?

☐ Reversal of well-settled Nevada precedent (identify the case(s))

☒ An issue arising under the United States and/or Nevada Constitutions

☒ A substantial issue of first impression

☒ An issue of public policy

☐ An issue where en banc consideration is necessary to maintain uniformity of this court's decisions

☐ A ballot question

If so, explain: The principal issue on appeal is whether a state-statute, S.B. 175 (2015), prohibits a library district from promulgating a policy prohibiting the open-carry of firearms in the library district's facilities. It raises issues of the constitutionality of the statute under Section 1(11) of the Nevada Constitution, issues of public policy under the preemption doctrine, and substantial issues of first impression in interpreting a statute passed in 2015.

13. Assignment to the Court of Appeals or retention in the Supreme Court. Briefly set forth whether the matter is presumptively retained by the Supreme Court or assigned to the Court of Appeals under NRAP 17, and cite the subparagraph(s) of the Rule under which the matter falls. If appellant believes that the Supreme Court should retain the case despite its presumptive assignment to the Court of Appeals, identify the specific issue(s) or circumstance(s) that warrant retaining the case, and include an explanation of their importance or significance:

The matter is presumptively retained by the Supreme Court under NRAP 17(a)(13) and (14).

The principal issue is whether a statute, S.B. 175 (2015), preempts a policy by a local government prohibiting firearms in a library. This raises an issue of first impression under a long-standing common-law rule called, Dillon's Rule and an issue of first impression under Section 1(11) of the Nevada Constitution.

By clarifying the contours of the rule-making ability of a local government, this also raises a question of statewide importance on an issue of public policy relating to the authority of all local governments.

14. Trial. If this action proceeded to trial, how many days did the trial last? _____

Was it a bench or jury trial? Not Applicable

15. Judicial Disqualification. Do you intend to file a motion to disqualify or have a justice recuse him/herself from participation in this appeal? If so, which Justice?
No.

TIMELINESS OF NOTICE OF APPEAL

16. Date of entry of written judgment or order appealed from February 9, 2017

If no written judgment or order was filed in the district court, explain the basis for seeking appellate review:

17. Date written notice of entry of judgment or order was served February 9, 2017

Was service by:

☐ Delivery

☒ Mail/electronic/fax

18. If the time for filing the notice of appeal was tolled by a post-judgment motion (NRCP 50(b), 52(b), or 59)

(a) Specify the type of motion, the date and method of service of the motion, and the date of filing.

☐ NRCP 50(b) Date of filing _____

☐ NRCP 52(b) Date of filing _____

☐ NRCP 59 Date of filing _____

NOTE: Motions made pursuant to NRCP 60 or motions for rehearing or reconsideration may toll the time for filing a notice of appeal. See AA Primo Builders v. Washington, 126 Nev. ____, 245 P.3d 1190 (2010).

(b) Date of entry of written order resolving tolling motion _____

(c) Date written notice of entry of order resolving tolling motion was served _____

Was service by:

☐ Delivery

☐ Mail

19. Date notice of appeal filed February 17, 2017

If more than one party has appealed from the judgment or order, list the date each notice of appeal was filed and identify by name the party filing the notice of appeal:

20. Specify statute or rule governing the time limit for filing the notice of appeal, e.g., NRAP 4(a) or other

NRAP 4(a)

SUBSTANTIVE APPEALABILITY

21. Specify the statute or other authority granting this court jurisdiction to review the judgment or order appealed from:

(a)

- | | |
|---|---------------------------------------|
| <input checked="" type="checkbox"/> NRAP 3A(b)(1) | <input type="checkbox"/> NRS 38.205 |
| <input type="checkbox"/> NRAP 3A(b)(2) | <input type="checkbox"/> NRS 233B.150 |
| <input type="checkbox"/> NRAP 3A(b)(3) | <input type="checkbox"/> NRS 703.376 |
| <input type="checkbox"/> Other (specify) _____ | |

(b) Explain how each authority provides a basis for appeal from the judgment or order:

The district court's order entered on February 9, 2017 was a final order, and there are no other issues to be litigated below.

22. List all parties involved in the action or consolidated actions in the district court:

(a) Parties:

Michelle Flores, Plaintiff/Counterdefendant-Appellant

Las Vegas-Clark County Library District, Defendant/Counterclaimant-Respondent

(b) If all parties in the district court are not parties to this appeal, explain in detail why those parties are not involved in this appeal, *e.g.*, formally dismissed, not served, or other:

Not applicable.

23. Give a brief description (3 to 5 words) of each party's separate claims, counterclaims, cross-claims, or third-party claims and the date of formal disposition of each claim.

All parties claims were for declaratory relief. Final judgment on all claims in favor of the Defendant/Counterclaimant Las Vegas-Clark County Library District was entered on February 9, 2017.

24. Did the judgment or order appealed from adjudicate ALL the claims alleged below and the rights and liabilities of ALL the parties to the action or consolidated actions below?

☒ Yes

☐ No

25. If you answered "No" to question 24, complete the following:

(a) Specify the claims remaining pending below:

(b) Specify the parties remaining below:

(c) Did the district court certify the judgment or order appealed from as a final judgment pursuant to NRCP 54(b)?

☐ Yes

☐ No

(d) Did the district court make an express determination, pursuant to NRCP 54(b), that there is no just reason for delay and an express direction for the entry of judgment?

☐ Yes

☐ No

26. If you answered "No" to any part of question 25, explain the basis for seeking appellate review (e.g., order is independently appealable under NRAP 3A(b)):

N/A

27. Attach file-stamped copies of the following documents:

- The latest-filed complaint, counterclaims, cross-claims, and third-party claims
- Any tolling motion(s) and order(s) resolving tolling motion(s)
- Orders of NRCP 41(a) dismissals formally resolving each claim, counterclaims, cross-claims and/or third-party claims asserted in the action or consolidated action below, even if not at issue on appeal
- Any other order challenged on appeal
- Notices of entry for each attached order

VERIFICATION

I declare under penalty of perjury that I have read this docketing statement, that the information provided in this docketing statement is true and complete to the best of my knowledge, information and belief, and that I have attached all required documents to this docketing statement.

Michelle Flores
Name of appellant

Jeffrey F. Barr
Name of counsel of record

March 7, 2017
Date

/s/ Jeffrey F. Barr
Signature of counsel of record

Clark County, Nevada
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 7th day of March, 2017, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

☒ By mailing it by first class mail with sufficient postage prepaid to the following address(es): (NOTE: If all names and addresses cannot fit below, please list names below and attach a separate sheet with the addresses.)

John Bailey, Esq.
Dennis Kennedy, Esq.
Joseph Liebman, Esq.
Kelly Stout, Esq.
Amanda Stevens, Esq.
BAILEY KENNEDY
8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302

Dated this 7th day of March, 2017

/s/ Jeffrey F. Barr
Signature