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Attorneys for Respondent

CITY OF HENDERSON

DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CITY OF HENDERSON,

Respondent.

Case No. A-16-747289-W

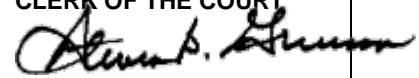
Dept. No. XVIII

**RESPONDENT CITY OF
HENDERSON'S NOTICE OF APPEAL**

NOTICE IS HEREBY GIVEN that, as permitted by Nevada Rule of Appellate Procedure 3(a)(1), Respondent City of Henderson ("Henderson") appeals to the Supreme Court of Nevada from the District Court's Order granting in part and denying in part the Motion for Attorney's Fees and Costs of Petitioner Las Vegas Review Journal (the "Review Journal") filed February 15, 2018.

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1 Notice of Entry of the District Court's Order was filed on February 15, 2018, and is attached hereto
2 as Exhibit A.

3
4 DATED this 16th day of March, 2018.

5 BAILEY❖KENNEDY

6
7 By: /s/ Dennis L. Kennedy

DENNIS L. KENNEDY

SARAH E. HARMON

8
9 and

10 JOSH M. REID, City Attorney
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11 BRIAN R. REEVE, City Attorney
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12 CITY OF HENDERSON
240 Water Street, MSC 144
Henderson, NV 89015

13
14 *Attorneys for Respondent*
CITY OF HENDERSON
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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 16th day of March, 2018, service of the foregoing **NOTICE OF APPEAL** 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:

MARGARET A. MCLETCHE
ALINA M. SHELL
MCLETCHE SHELL LLC
701 East Bridger Avenue, Suite 520
Las Vegas, Nevada 89101

Email: Alina@nvlitigation.com
Maggie@nvlitigation.com
Attorneys for Petitioner
LAS VEGAS REVIEW-JOURNAL

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY

EXHIBIT A

EXHIBIT A



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CITY OF HENDERSON

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CITY OF HENDERSON,

Respondent.

Case No. A-16-747289-W
Dept. No. XVIII

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order regarding Attorneys' Fees and Costs of Petitioner
Las Vegas Review Journal was entered on February 15, 2018.

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1 A true and correct copy is attached.

2 DATED this 15th day of February, 2018.

3 BAILEY❖KENNEDY

4
5 By: /s/ Dennis L. Kennedy
6 DENNIS L. KENNEDY

7 and

8 JOSH M. REID, City Attorney
9 Nevada Bar No. 7497
10 **CITY OF HENDERSON**
11 240 Water Street, MSC 144
12 Henderson, NV 89015

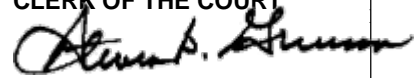
13 *Attorneys for Respondent*
14 **CITY OF HENDERSON**
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CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 15th day of February, 2018, service of the foregoing **NOTICE OF ENTRY OF 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:

MARGARET A. MCLETCHE	Email: Alina@nvlitigation.com
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701 East Bridger Avenue, Suite 520	<i>Attorneys for Petitioner</i>
Las Vegas, Nevada 89101	LAS VEGAS REVIEW-JOURNAL

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY



ORDR

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CITY OF HENDERSON

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CITY OF HENDERSON,

Respondent.

Case No. A-16-747289-W
Dept. No. XVIII

ORDER

The Motion for Attorney's Fees and Costs of Petitioner Las Vegas Review Journal (the "Review-Journal") came on for hearing at 9:00 a.m. on August 3, 2017, and for an additional hearing on August 10, 2017, the Honorable Mark B. Bailus presiding, the Review-Journal appearing by and through its counsel, Alina M. Shell, and Respondent City of Henderson ("Henderson"), appearing by and through Dennis L. Kennedy of Bailey Kennedy, City Attorney Josh M. Reid and Assistant City Attorney Brian R. Reeve, and the Court having read and considered all of the papers and pleadings on file, and having heard the argument of counsel, hereby makes the following findings of fact and conclusions of law:

1 1. On June 1, 2017, the Review-Journal filed a Motion for Attorney's Fees and Costs
2 pursuant to Nev. Rev. Stat. § 239.011(2). In total, the Review-Journal requested \$30,931.50 in
3 attorney's fees, and \$902.84 in costs.

4 2. In its Motion and supporting exhibits the Review-Journal requested compensation at
5 the following rates for the work performed by its attorneys and support staff:

Attorney/Biller	Hours	Billing Rate	Total Billed
Margaret A. McLetchie	38.20	\$450.00	\$16,434.00
Alina M. Shell	37.60	\$300.00	\$11,280.00
Gabriel Czop	15.70	\$125.00	\$1,962.50
Pharan Burchfield	5.80	\$100.00	\$580.00

11
12 3. Henderson filed an Opposition to the Review-Journal's Motion on July 10, 2017,
13 and the Review-Journal filed a Reply on July 27, 2017.

14 4. In its Opposition, Henderson asserted the Review-Journal was not the prevailing
15 party in this matter, and even if it was, requested this Court reduce any award of fees and costs to
16 compensate the Review-Journal for only the work its attorneys performed on the original NPRS
17 petition. Henderson also disputed various line items contained in the Review-Journal's attorneys'
18 bills. Henderson did not, however, dispute the billing rates for the Review-Journal's attorneys or
19 their support staff.

20 5. Henderson also asserted that pursuant to Nev. Rev. Stat. § 239.012—a provision of
21 the NPRA which provides immunity from damages for public officials who act in good faith in
22 disclosing or refusing to disclose information—the Review-Journal had to establish Henderson
23 acted in bad faith in refusing to disclose the requested records to obtain attorney's fees and costs.

24 6. This Court conducted a hearing on the Review-Journal's Motion for Attorney's Fees
25 and Costs on August 3, 2017. After hearing argument from counsel, the Court took the matter under
26 consideration, and conducted an additional hearing on August 10, 2017.

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ORDER

7. Recovery of attorney's fees as a cost of litigation is permissible by agreement, statute, or rule. *See Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001).

8. Recovery of attorney's fees is authorized by the NPRA, which provides in pertinent part that "...[i]f the requester prevails [on a petition for public records], the requester is entitled to recover his or her costs and reasonable attorney's fees in the proceeding from the governmental entity whose officer has custody of the book or record." Nev. Rev. Stat. § 239.011(2).

9. The Nevada Supreme Court has explained that "...by its plain meaning, [the NPRA] grants a requester who prevails in NPRA litigation the right to recover attorney fees and costs, without regard to whether the requester is to bear the costs of production." *LVMPD v. Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615 (2015), *reh'g denied* (May 29, 2015), *reconsideration en banc denied* (July 6, 2015).

10. A party "prevails" for the purposes of Nev. Rev. Stat. § 239.011(2) if "it succeeds on any significant issue in litigation which achieves some of the benefit it sought in bringing suit." *Valley Elec. Ass'n v. Overfield*, 121 Nev. 7, 10, 106 P.3d 1198, 1200 (2005) (emphasis added) (internal quotations omitted); *accord Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615.

11. To be a prevailing party, a party need not succeed on every issue. *See Hensley v. Eckerhart*, 461 U.S. 424, 434, 103 S. Ct. 1933, 76 L.Ed.2d 40 (1983); *accord Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615.

12. In Nevada, "the method upon which a reasonable fee is determined is subject to the discretion of the court," which "is tempered only by reason and fairness." *Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 864, 124 P.3d 530, 548-49 (2005). "[I]n determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a 'lodestar' amount or a contingency fee." *Id.*

13. "Whichever method is chosen as a starting point, however, the court must continue its analysis by considering the requested amount in light of the factors" announced by the Nevada

1 Supreme Court in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969). *Id.* at 865.

2 Pursuant to *Brunzell*, a court must consider four elements in determining the reasonable value of
3 attorneys' services:

4 (1) the qualities of the advocate: his ability, his training, education, experience,
5 professional standing and skill; (2) the character of the work to be done: its difficulty,
6 its intricacy, its importance, time and skill required, the responsibility imposed and the
7 prominence and character of the parties where they affect the importance of the
litigation; (3) the work actually performed by the lawyer: the skill, time and attention
given to the work; (4) the result: whether the attorney was successful and what
benefits were derived.

8 *Brunzell*, 85 Nev. at 349, 455 P.2d at 33 (citation omitted); *accord Shuette v. Beazer Homes*
9 *Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

10 14. Although the Review-Journal did not prevail on the claims for relief set forth in its
11 Amended Petition, the Court finds the Review-Journal is nevertheless a prevailing party because it
12 was able to obtain copies of the records it requested after initiating this action.

13 15. Thus, the Court finds that the Review-Journal is the prevailing party in this matter as
14 to its request for the records and therefore is entitled to attorney's fees and costs.

15 16. Having reviewed the papers and pleadings filed herein, including the documentation
16 provided by the Review-Journal regarding the work performed by its counsel and support staff, and
17 having considered the *Brunzell* factors, the Court finds the Review-Journal is entitled to an award of
18 attorney's fees in the amount of \$9,010.00, based on the hourly rates set forth on its Motion for
19 Attorney's Fees and Costs, and the work performed in this matter.

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17. The Court further finds the Review-Journal is entitled to \$902.84 in costs, resulting in a total award of \$9,912.84.

IT IS SO ORDERED this 8 day of FEBRUARY, ²⁰¹⁸~~2017~~.


HONORABLE MARK B. BAILUS
DISTRICT COURT JUDGE

Submitted by:

BAILEY ♦ KENNEDY

By 

Dennis L. Kennedy, Nevada Bar No. 1462

Sarah P. Harmon, Nevada Bar No. 8106

Kelly B. Stout, Nevada Bar No. 12105

and

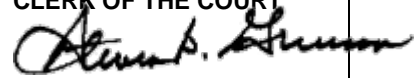
Josh M. Reid, Nevada Bar No. 7497

Brandon P. Kemble, Nevada Bar No. 11175

Brian R. Reeve, Nevada Bar No. 10197

CITY OF HENDERSON'S ATTORNEY OFFICE

Counsel for Respondent, City of Henderson



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12 DKennedy@BaileyKennedy.com
SHarmon@BaileyKennedy.com

13 *Attorneys for Respondent*
14 **CITY OF HENDERSON**

15 **DISTRICT COURT**
16 **CLARK COUNTY, NEVADA**

17 **LAS VEGAS REVIEW-JOURNAL,**
18
19 **Petitioner,**
20 **vs.**
21 **CITY OF HENDERSON,**
22 **Respondent.**

Case No. A-16-747289-W
Dept. No. XVIII

CASE APPEAL STATEMENT

23
24 Pursuant to Nevada Rule of Appellate Procedure 3(f)(1), Respondent City of Henderson
25 (“Henderson”) files its Case Appeal Statement.

26 **1. Name of Appellant Filing This Case Appeal Statement:**

27 Respondent City of Henderson.
28

2. Identify the Judge Issuing the Decision, Judgment, or Order Appealed From:

The Honorable Mark B. Bailus, District Court Judge.

3. Identify Each Appellant and the Name and Address of Counsel for Each Appellant:

Appellant: City of Henderson

Counsel for Appellant: DENNIS L. KENNEDY
Nevada Bar No. 1462
SARAH E. HARMON
Nevada Bar No. 8106
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8984 Spanish Ridge Avenue
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Nevada Bar No. 10197
CITY OF HENDERSON
240 Water Street, MSC 144
Henderson, Nevada 89015

4. Identify Each Respondent and the Name and Address of Appellate Counsel, if Known, for Each Respondent (if the Name of a Respondent's Appellate Counsel Is Unknown, Indicate as Much and Provide the Name and Address of That Respondent's Trial Counsel):

Respondent: Las Vegas Review-Journal

Counsel for Respondent: MARGARET A. MCLETHIE
Nevada Bar No. 10931
ALINA M. SHELL
Nevada Bar No. 11711
MCLETHIE SHELL LLC
701 East Bridger Avenue, Suite 520
Las Vegas, Nevada 89101

5. Indicate Whether Any Attorney Identified Above in Response to Question 3 or 4 Is Not Licensed to Practice Law in Nevada, and, if so, Whether the District Court Granted That Attorney Permission to Appear Under SCR 42 (Attach a Copy of Any District Court Order Granting Such Permission):

Not Applicable.

6. Indicate Whether Appellant Was Represented by Appointed or Retained Counsel in the District Court:

Retained counsel.

7. Indicate Whether Appellant Is Represented by Appointed or Retained Counsel on Appeal:

Retained counsel.

8. Indicate Whether Appellant Was Granted Leave to Proceed in *Forma Pauperis*, and the Date of Entry of the District Court Order Granting Such Leave:

Not Applicable.

9. Indicate the Date the Proceedings Commenced in the District Court (e.g., Date Complaint, Indictment, Information, or Petition Was Filed):

The Complaint was filed on November 29, 2016.

10. Provide a Brief Description of the Nature of the Action and Result in the District Court, Including the Type of Judgment or Order Being Appealed and the Relief Granted by the District Court:

The underlying action involved the Nevada Public Records Act. That action was dismissed by order dated May 15, 2017, and is the subject of a separate appeal (No. 73287).

On August 10, 2017, the District Court held a hearing on the Motion for Attorney's Fees and Costs filed by the Las Vegas Review Journal (the "Review Journal").

On February 15, 2018, the District Court entered its Order Granting in Part and Denying in Part Motion for Attorney's Fees and Costs of the Review-Journal. Henderson appeals from that Order.

11. Indicate Whether the Case Has Previously Been the Subject of an Appeal to or Original Writ Proceeding in the Supreme Court, and, if so, the Caption and Supreme Court Docket Number of the Prior Proceeding:

Yes. *The Las Vegas Review Journal v. City of Henderson*, Case No. 73287 – the appeal of the dismissal of the underlying matter.

12. Indicate Whether This Appeal Involves Child Custody or Visitation:

Not Applicable.

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13. If This Is a Civil Case, Indicate Whether This Appeal Involves the Possibility of Settlement:

Yes.

DATED this 16th day of March, 2018.

BAILEY ♦ KENNEDY

By: /s/ Dennis L. Kennedy

DENNIS L. KENNEDY

SARAH E. HARMON

and

JOSH M. REID, City Attorney

Nevada Bar No. 7497

BRIAN R. REEVE, City Attorney

Nevada Bar No. 10197

CITY OF HENDERSON

240 Water Street, MSC 144

Henderson, NV 89015

Attorneys for Respondent

CITY OF HENDERSON

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 16th day of March, 2018, service of the foregoing **CASE APPEAL STATEMENT** 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:

MARGARET A. MCLETCHE
ALINA M. SHELL
MCLETCHE SHELL LLC
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Email: Alina@nvlitigation.com
Maggie@nvlitigation.com

Attorneys for Petitioner
LAS VEGAS REVIEW-JOURNAL

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY

DEPARTMENT 18
CASE SUMMARY
CASE NO. A-16-747289-W

Las Vegas Review-Journal, Plaintiff(s)
vs.
Henderson City of, Defendant(s)

§
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§
§
§

Location: **Department 18**
Judicial Officer: **Bailus, Mark B**
Filed on: **11/29/2016**
Case Number History:
Cross-Reference Case **A747289**
Number:
Supreme Court No.: **73287**

CASE INFORMATION

Case Type: **Writ of Mandamus**
Case Flags: **Appealed to Supreme Court**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-16-747289-W
Court Department 18
Date Assigned 06/05/2017
Judicial Officer Bailus, Mark B






PARTY INFORMATION

Plaintiff	Las Vegas Review-Journal	<i>Lead Attorneys</i> McLetchie, Margaret A. <i>Retained</i> 702-728-5300(W)
Defendant	Henderson City of	Reeve, Brian R. <i>Retained</i> 702-784-5219(W)














DATE

EVENTS & ORDERS OF THE COURT












INDEX

11/29/2016	 Petition for Writ of Mandamus Filed by: Plaintiff Las Vegas Review-Journal <i>Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus</i>	
11/29/2016	 Initial Appearance Fee Disclosure Filed By: Plaintiff Las Vegas Review-Journal <i>Initial Appearance Fee Disclosure (NRS Chapter 19)</i>	
12/19/2016	 Affidavit of Service Filed By: Plaintiff Las Vegas Review-Journal <i>Affidavit of Service</i>	
01/02/2017	Case Reassigned to Department 18 <i>Case reassigned from Judge Kenneth Cory Dept 01</i>	
01/26/2017	 Stipulation and Order Filed by: Defendant Henderson City of <i>Stipulation and Order to Allow Las Vegas Review Journal to File an Amended Petition</i>	
01/30/2017	 Notice of Entry Filed By: Defendant Henderson City of <i>Notice of Entry of Order</i>	










DEPARTMENT 18
CASE SUMMARY
CASE NO. A-16-747289-W

01/30/2017	 Stipulation and Order Filed by: Defendant Henderson City of <i>Stipulation and Order to Allow Las Vegas Review Journal to File an Amended Petition</i>
02/08/2017	 Amended Petition Filed By: Plaintiff Las Vegas Review-Journal <i>Amended Public Records Act Application Pursuant to NRS 239.001/ Petition for Writ of Mandamus / Application for Declaratory and Injunctive Relief - Expedited Matter Pursuant to Nev. Rev. Stat. 239.011</i>
02/08/2017	 Memorandum Filed By: Plaintiff Las Vegas Review-Journal <i>Memorandum in Support of Application Pursuant to Nev. Rev. Stat. 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief</i>
03/08/2017	 Notice of Association of Counsel Filed By: Defendant Henderson City of <i>Notice of Association of Counsel</i>
03/08/2017	 Response Filed by: Defendant Henderson City of <i>City of Henderson's Response to Las Vegas Review-Journal's Amended Public Records Act Application Pursuant to NRS 239.001/ Petition for Writ of Mandamus/ Application for Declaratory and Injunctive Relief</i>
03/23/2017	 Reply Filed by: Plaintiff Las Vegas Review-Journal <i>Reply to Respondent City of Henderson's Response to Amended Public Records Act Application Pursuant To NRS 239.001/ Petition For Writ Of Mandamus/ Application For Declaratory And Injunctive Relief</i>
03/27/2017	 Stipulation and Order Filed by: Plaintiff Las Vegas Review-Journal <i>Stipulation and Order for Extension to Allow Las Vegas Review-Journal to File its Reply to Respondent City of Henderson's Response to Amended Petition</i>
03/28/2017	 Notice of Entry of Order Filed By: Plaintiff Las Vegas Review-Journal <i>Notice of Entry of Order</i>
03/30/2017	 Petition for Writ of Mandamus (9:00 AM) (Judicial Officer: Thompson, Charles)
04/05/2017	 Records Transcript of Hearing <i>Transcript of Proceedings Re: Petition for Writ of Mandamus 03/30/2017</i>
05/12/2017	 Order Denying Motion Filed By: Defendant Henderson City of <i>Order</i>
05/15/2017	 Notice of Entry of Order Filed By: Defendant Henderson City of <i>Notice of Entry of Order</i>
06/01/2017	 Motion for Attorney Fees and Costs Filed By: Plaintiff Las Vegas Review-Journal

DEPARTMENT 18
CASE SUMMARY
CASE NO. A-16-747289-W

	<i>Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
06/05/2017	Administrative Reassignment - Judicial Officer Change <i>From Judge David Barker to Judge Mark B. Bailus</i>
06/09/2017	 Notice of Appeal Filed By: Plaintiff Las Vegas Review-Journal <i>Notice of Appeal</i>
06/09/2017	 Case Appeal Statement Filed By: Plaintiff Las Vegas Review-Journal <i>Case Appeal Statement</i>
06/22/2017	 Stipulation and Order <i>Stipulation and Order to Modify Briefing Schedule and Move the Hearing on Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
07/10/2017	 Response Filed by: Defendant Henderson City of <i>City of Henderson's Opposition to Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
07/27/2017	 Reply to Opposition Filed by: Plaintiff Las Vegas Review-Journal <i>Reply to City of Henderson's Opposition to Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
08/03/2017	 Motion for Attorney Fees and Costs (9:00 AM) (Judicial Officer: Bailus, Mark B) <i>Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
08/10/2017	 Decision (9:00 AM) (Judicial Officer: Bailus, Mark B) <i>Decision - Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
08/24/2017	 Motion Filed By: Plaintiff Las Vegas Review-Journal <i>Motion for Extension of Time to Allow Las Vegas Review-Journal to Submit a Proposed Order Granting Las Vegas Review-Journal's Motion for Attorney's Fees and Costs</i>
08/25/2017	 Notice Filed By: Plaintiff Las Vegas Review-Journal <i>Notice of Submission of Proposed Order</i>
09/07/2017	 Motion Filed By: Plaintiff Las Vegas Review-Journal <i>Motion for Extension of Time to Allow Las Vegas Review-Journal to Submit a Proposed Order Granting Las Vegas Review-Journal's Motion for Attorney's Fees and Costs (Second Request)</i>
11/08/2017	 Motion for Clarification Filed By: Plaintiff Las Vegas Review-Journal <i>Motion for Clarification</i>
11/29/2017	 Opposition to Motion Filed By: Defendant Henderson City of <i>City of Henderson's Opposition to Las Vegas Review-Journal's Motion for Clarification</i>

DEPARTMENT 18
CASE SUMMARY
CASE NO. A-16-747289-W

11/29/2017	 Notice of Change of Hearing <i>Notice of Change of Hearing</i>
12/05/2017	 Reply to Opposition Filed by: Plaintiff Las Vegas Review-Journal <i>Reply to City of Henderson's Opposition to Motion for Clarification</i>
12/13/2017	 Motion for Clarification (9:00 AM) (Judicial Officer: Bailus, Mark B) <i>Plaintiff's Motion for Clarification</i>
01/03/2018	 Order Denying Motion Filed By: Defendant Henderson City of <i>Order</i>
01/04/2018	 Notice of Entry of Order Filed By: Defendant Henderson City of <i>Notice of Entry of Order</i>
02/15/2018	Order (Judicial Officer: Bailus, Mark B) Debtors: Henderson City of (Defendant) Creditors: Las Vegas Review-Journal (Plaintiff) Judgment: 02/15/2018, Docketed: 02/15/2018 Total Judgment: 9,912.84
02/15/2018	 Order Filed By: Defendant Henderson City of <i>Order</i>
02/15/2018	 Notice of Entry of Order Filed By: Defendant Henderson City of <i>Notice of Entry of Order</i>
03/16/2018	 Notice of Appeal Filed By: Defendant Henderson City of <i>Respondent City of Henderson's Notice of Appeal</i>
03/16/2018	 Case Appeal Statement Filed By: Defendant Henderson City of <i>Case Appeal Statement</i>

DATE	FINANCIAL INFORMATION																				
	<table> <tr> <td>Defendant Henderson City of</td><td></td></tr> <tr> <td>Total Charges</td><td>24.00</td></tr> <tr> <td>Total Payments and Credits</td><td>24.00</td></tr> <tr> <td>Balance Due as of 3/19/2018</td><td>0.00</td></tr> <tr> <td> Plaintiff Las Vegas Review-Journal</td><td></td></tr> <tr> <td>Total Charges</td><td>305.50</td></tr> <tr> <td>Total Payments and Credits</td><td>305.50</td></tr> <tr> <td>Balance Due as of 3/19/2018</td><td>0.00</td></tr> <tr> <td> Plaintiff Las Vegas Review-Journal</td><td></td></tr> <tr> <td>Appeal Bond Balance as of 3/19/2018</td><td>500.00</td></tr> </table>	Defendant Henderson City of		Total Charges	24.00	Total Payments and Credits	24.00	Balance Due as of 3/19/2018	0.00	 Plaintiff Las Vegas Review-Journal		Total Charges	305.50	Total Payments and Credits	305.50	Balance Due as of 3/19/2018	0.00	 Plaintiff Las Vegas Review-Journal		Appeal Bond Balance as of 3/19/2018	500.00
Defendant Henderson City of																					
Total Charges	24.00																				
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DEPARTMENT 18
CASE SUMMARY
CASE No. A-16-747289-W

DISTRICT COURT CIVIL COVER SHEET A-16-747289-W

County, Nevada

I

Case No.

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
The Las Vegas Review-Journal	City of Henderson
c/o McLetchie Shell LLC	
701 East Bridger Avenue, Suite 520; Las Vegas, NV 89101	
(702) 728-5300	
Attorney (name/address/phone):	Attorney (name/address/phone):
Margaret A. McLetchie and Alina M. Shell	City of Henderson, City Attorney's Office
McLetchie Shell LLC	240 Water Street; P.O. Box 95050; MSC 144
701 East Bridger Avenue, Suite 520; Las Vegas, NV 89101	Henderson, NV 89009-5050
(702) 728-5300	(702) 267-1200

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 Civil Writ <input type="checkbox"/> Writ of Habeas Corpus <input checked="" type="checkbox"/> Writ of Mandamus <input type="checkbox"/> Writ of Quo Warrant <input type="checkbox"/> Writ of Prohibition <input type="checkbox"/> Other Civil Writ		Other Civil Filing Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Other Civil Matters

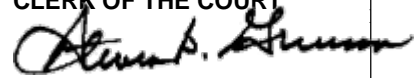
Business Court filings should be filed using the Business Court civil coversheet.

11/29/2016

Date

Signature of initiating party or representative

See other side for family-related case filings.



ORDR

JOSH M. REID, City Attorney
Nevada Bar No. 7497
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240 Water Street, MSC 144
Henderson, Nevada 89015
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Josh.Reid@cityofhenderson.com

DENNIS L. KENNEDY
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8984 Spanish Ridge Avenue
Las Vegas, Nevada 89148-1302
Telephone: 702.562.8820
Facsimile: 702.562.8821
DKennedy@BaileyKennedy.com

Attorneys for Respondent
CITY OF HENDERSON

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,
Petitioner,

vs.

CITY OF HENDERSON,
Respondent.

Case No. A-16-747289-W
Dept. No. XVIII

ORDER

The Motion for Attorney's Fees and Costs of Petitioner Las Vegas Review Journal (the "Review-Journal") came on for hearing at 9:00 a.m. on August 3, 2017, and for an additional hearing on August 10, 2017, the Honorable Mark B. Bailus presiding, the Review-Journal appearing by and through its counsel, Alina M. Shell, and Respondent City of Henderson ("Henderson"), appearing by and through Dennis L. Kennedy of Bailey Kennedy, City Attorney Josh M. Reid and Assistant City Attorney Brian R. Reeve, and the Court having read and considered all of the papers and pleadings on file, and having heard the argument of counsel, hereby makes the following findings of fact and conclusions of law:

1 1. On June 1, 2017, the Review-Journal filed a Motion for Attorney's Fees and Costs
2 pursuant to Nev. Rev. Stat. § 239.011(2). In total, the Review-Journal requested \$30,931.50 in
3 attorney's fees, and \$902.84 in costs.

4 2. In its Motion and supporting exhibits the Review-Journal requested compensation at
5 the following rates for the work performed by its attorneys and support staff:

Attorney/Biller	Hours	Billing Rate	Total Billed
Margaret A. McLetchie	38.20	\$450.00	\$16,434.00
Alina M. Shell	37.60	\$300.00	\$11,280.00
Gabriel Czop	15.70	\$125.00	\$1,962.50
Pharan Burchfield	5.80	\$100.00	\$580.00

11
12 3. Henderson filed an Opposition to the Review-Journal's Motion on July 10, 2017,
13 and the Review-Journal filed a Reply on July 27, 2017.

14 4. In its Opposition, Henderson asserted the Review-Journal was not the prevailing
15 party in this matter, and even if it was, requested this Court reduce any award of fees and costs to
16 compensate the Review-Journal for only the work its attorneys performed on the original NPRS
17 petition. Henderson also disputed various line items contained in the Review-Journal's attorneys'
18 bills. Henderson did not, however, dispute the billing rates for the Review-Journal's attorneys or
19 their support staff.

20 5. Henderson also asserted that pursuant to Nev. Rev. Stat. § 239.012—a provision of
21 the NPRA which provides immunity from damages for public officials who act in good faith in
22 disclosing or refusing to disclose information—the Review-Journal had to establish Henderson
23 acted in bad faith in refusing to disclose the requested records to obtain attorney's fees and costs.

24 6. This Court conducted a hearing on the Review-Journal's Motion for Attorney's Fees
25 and Costs on August 3, 2017. After hearing argument from counsel, the Court took the matter under
26 consideration, and conducted an additional hearing on August 10, 2017.

27 ///

28 ///

ORDER

7. Recovery of attorney's fees as a cost of litigation is permissible by agreement, statute, or rule. *See Sandy Valley Assocs. v. Sky Ranch Estates Owners Ass'n*, 117 Nev. 948, 956, 35 P.3d 964, 969 (2001).

8. Recovery of attorney's fees is authorized by the NPRA, which provides in pertinent part that "...[i]f the requester prevails [on a petition for public records], the requester is entitled to recover his or her costs and reasonable attorney's fees in the proceeding from the governmental entity whose officer has custody of the book or record." Nev. Rev. Stat. § 239.011(2).

9. The Nevada Supreme Court has explained that "...by its plain meaning, [the NPRA] grants a requester who prevails in NPRA litigation the right to recover attorney fees and costs, without regard to whether the requester is to bear the costs of production." *LVMPD v. Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615 (2015), *reh'g denied* (May 29, 2015), *reconsideration en banc denied* (July 6, 2015).

10. A party "prevails" for the purposes of Nev. Rev. Stat. § 239.011(2) if "it succeeds on any significant issue in litigation which achieves some of the benefit it sought in bringing suit." *Valley Elec. Ass'n v. Overfield*, 121 Nev. 7, 10, 106 P.3d 1198, 1200 (2005) (emphasis added) (internal quotations omitted); *accord Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615.

11. To be a prevailing party, a party need not succeed on every issue. *See Hensley v. Eckerhart*, 461 U.S. 424, 434, 103 S. Ct. 1933, 76 L.Ed.2d 40 (1983); *accord Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343 P.3d 608, 615.

12. In Nevada, "the method upon which a reasonable fee is determined is subject to the discretion of the court," which "is tempered only by reason and fairness." *Shuette v. Beazer Homes Holding Corp.*, 121 Nev. 837, 864, 124 P.3d 530, 548-49 (2005). "[I]n determining the amount of fees to award, the court is not limited to one specific approach; its analysis may begin with any method rationally designed to calculate a reasonable amount, including those based on a 'lodestar' amount or a contingency fee." *Id.*

13. "Whichever method is chosen as a starting point, however, the court must continue its analysis by considering the requested amount in light of the factors" announced by the Nevada

1 Supreme Court in *Brunzell v. Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969). *Id.* at 865.

2 Pursuant to *Brunzell*, a court must consider four elements in determining the reasonable value of
3 attorneys' services:

4 (1) the qualities of the advocate: his ability, his training, education, experience,
5 professional standing and skill; (2) the character of the work to be done: its difficulty,
6 its intricacy, its importance, time and skill required, the responsibility imposed and the
7 prominence and character of the parties where they affect the importance of the
litigation; (3) the work actually performed by the lawyer: the skill, time and attention
given to the work; (4) the result: whether the attorney was successful and what
benefits were derived.

8 *Brunzell*, 85 Nev. at 349, 455 P.2d at 33 (citation omitted); *accord Shuette v. Beazer Homes*
9 *Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

10 14. Although the Review-Journal did not prevail on the claims for relief set forth in its
11 Amended Petition, the Court finds the Review-Journal is nevertheless a prevailing party because it
12 was able to obtain copies of the records it requested after initiating this action.

13 15. Thus, the Court finds that the Review-Journal is the prevailing party in this matter as
14 to its request for the records and therefore is entitled to attorney's fees and costs.

15 16. Having reviewed the papers and pleadings filed herein, including the documentation
16 provided by the Review-Journal regarding the work performed by its counsel and support staff, and
17 having considered the *Brunzell* factors, the Court finds the Review-Journal is entitled to an award of
18 attorney's fees in the amount of \$9,010.00, based on the hourly rates set forth on its Motion for
19 Attorney's Fees and Costs, and the work performed in this matter.

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17. The Court further finds the Review-Journal is entitled to \$902.84 in costs, resulting in a total award of \$9,912.84.

IT IS SO ORDERED this 8 day of FEBRUARY, ²⁰¹⁸~~2017~~.


HONORABLE MARK B. BAILUS
DISTRICT COURT JUDGE

Submitted by:

BAILEY ♦ KENNEDY

By 

Dennis L. Kennedy, Nevada Bar No. 1462

Sarah P. Harmon, Nevada Bar No. 8106

Kelly B. Stout, Nevada Bar No. 12105

and

Josh M. Reid, Nevada Bar No. 7497

Brandon P. Kemble, Nevada Bar No. 11175

Brian R. Reeve, Nevada Bar No. 10197

CITY OF HENDERSON'S ATTORNEY OFFICE

Counsel for Respondent, City of Henderson



NEOJ
JOSH M. REID, City Attorney
Nevada Bar No. 7497
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240 Water Street, MSC 144
Henderson, Nevada 89015
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Telephone: 702.562.8820
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DKennedy@BaileyKennedy.com

Attorneys for Respondent
CITY OF HENDERSON

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CITY OF HENDERSON,

Respondent.

Case No. A-16-747289-W
Dept. No. XVIII

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order regarding Attorneys' Fees and Costs of Petitioner
Las Vegas Review Journal was entered on February 15, 2018.

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A true and correct copy is attached.

DATED this 15th day of February, 2018.

BAILEY❖KENNEDY

By: /s/ Dennis L. Kennedy
DENNIS L. KENNEDY

and

JOSH M. REID, City Attorney
Nevada Bar No. 7497
CITY OF HENDERSON
240 Water Street, MSC 144
Henderson, NV 89015

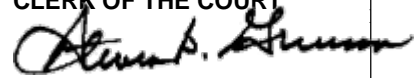
Attorneys for Respondent
CITY OF HENDERSON

CERTIFICATE OF SERVICE

I certify that I am an employee of BAILEY ♦ KENNEDY and that on the 15th day of February, 2018, service of the foregoing **NOTICE OF ENTRY OF 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:

MARGARET A. MCLETCHE	Email: Alina@nvlitigation.com
ALINA M. SHELL	Maggie@nvlitigation.com
MCLETCHE SHELL LLC	
701 East Bridger Avenue, Suite 520	<i>Attorneys for Petitioner</i>
Las Vegas, Nevada 89101	LAS VEGAS REVIEW-JOURNAL

/s/ Susan Russo
Employee of BAILEY ♦ KENNEDY



ORDR

JOSH M. REID, City Attorney
Nevada Bar No. 7497
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240 Water Street, MSC 144
Henderson, Nevada 89015
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Attorneys for Respondent
CITY OF HENDERSON

DISTRICT COURT
CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

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7 prominence and character of the parties where they affect the importance of the
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benefits were derived.

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9 *Holding Corp.*, 121 Nev. 837, 864-65, 124 P.3d 530, 548-49 (2005).

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13 15. Thus, the Court finds that the Review-Journal is the prevailing party in this matter as
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15 16. Having reviewed the papers and pleadings filed herein, including the documentation
16 provided by the Review-Journal regarding the work performed by its counsel and support staff, and
17 having considered the *Brunzell* factors, the Court finds the Review-Journal is entitled to an award of
18 attorney's fees in the amount of \$9,010.00, based on the hourly rates set forth on its Motion for
19 Attorney's Fees and Costs, and the work performed in this matter.

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17. The Court further finds the Review-Journal is entitled to \$902.84 in costs, resulting in a total award of \$9,912.84.

IT IS SO ORDERED this 8 day of FEBRUARY, ²⁰¹⁸~~2017~~.


HONORABLE MARK B. BAILUS
DISTRICT COURT JUDGE

Submitted by:

BAILEY ♦ KENNEDY

By 

Dennis L. Kennedy, Nevada Bar No. 1462

Sarah P. Harmon, Nevada Bar No. 8106

Kelly B. Stout, Nevada Bar No. 12105

and

Josh M. Reid, Nevada Bar No. 7497

Brandon P. Kemble, Nevada Bar No. 11175

Brian R. Reeve, Nevada Bar No. 10197

CITY OF HENDERSON'S ATTORNEY OFFICE

Counsel for Respondent, City of Henderson

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Mandamus**COURT MINUTES****March 30, 2017**

A-16-747289-W Las Vegas Review-Journal, Plaintiff(s)
vs.
Henderson City of, Defendant(s)

March 30, 2017	9:00 AM	Petition for Writ of Mandamus	Las Vegas Review-Journal's Petition for Writ of Mandamus
-----------------------	----------------	--------------------------------------	---

HEARD BY: Thompson, Charles**COURTROOM:** Phoenix Building Courtroom - 11th Floor**COURT CLERK:** Alan Castle**RECORDER:** Jennifer Gerold**REPORTER:****PARTIES**

PRESENT:	Henderson City of	Defendant
	Kennedy, Dennis L.	Attorney
	Las Vegas Review-Journal	Plaintiff
	McLetchie, Margaret A.	Attorney
	Reeve, Brian R.	Attorney
	Reid, Josh M.	Attorney
	Shell, Alina	Attorney

JOURNAL ENTRIES

- Arguments by counsel. COURT ORDERED, USB (Universal Serial Bus) flash drive containing approximately 69,000 pages shall be turned over as agreed within five (5) days of this date. Court Finds an adequate description is contained in the privilege log prepared (Defendant's Exhibit - H) to satisfy the requirement. COURT ORDERED, request to have Henderson rescind its document policy is DENIED at this time. Mr. Kennedy to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Mandamus

COURT MINUTES

August 03, 2017

A-16-747289-W Las Vegas Review-Journal, Plaintiff(s)
vs.
Henderson City of, Defendant(s)

August 03, 2017	9:00 AM	Motion for Attorney Fees and Costs	Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs
------------------------	----------------	---	---

HEARD BY: Bailus, Mark B

COURTROOM: Phoenix Building Courtroom -
11th Floor

COURT CLERK: Alan Castle

RECORDER:

REPORTER: Andrea Martin

PARTIES

PRESENT:	Henderson City of	Defendant
	Kemble, Brandon P.	Attorney
	Kennedy, Dennis L.	Attorney
	Las Vegas Review-Journal	Plaintiff
	Reeve, Brian R.	Attorney
	Reid, Josh M.	Attorney
	Shell, Alina	Attorney

JOURNAL ENTRIES

- Arguments by counsel. Court continued matter for further consideration and decision.

08/10/17 9:00 a.m. Decision

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Mandamus**COURT MINUTES****August 10, 2017**

A-16-747289-W Las Vegas Review-Journal, Plaintiff(s)
vs.
Henderson City of, Defendant(s)

August 10, 2017	9:00 AM	Decision	Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs
------------------------	----------------	-----------------	---

HEARD BY: Bailus, Mark B**COURTROOM:** Phoenix Building Courtroom -
11th Floor**COURT CLERK:** Alan Castle**RECORDER:** Robin Page**REPORTER:** Andrea Martin**PARTIES**

PRESENT:	Reeve, Brian R.	Attorney
	Shell, Alina	Attorney

JOURNAL ENTRIES

- Court stated its Findings regarding Plaintiff prevailing as to obtaining records. COURT ORDERED, Plaintiff's Motion for Attorney Fees and Costs is GRANTED. Court Finds in review of brief and considering the Brunzell factors, \$9,010.00 reasonable Attorney's fees GRANTED. FURTHER, COURT ORDERS, \$902.84 Costs GRANTED. Ms. Shell to prepare the order within 10 days and distribute a filed copy to all parties involved in this matter. The order must include last known addresses and all future scheduled court dates. Both the Plaintiff and Defendant are required to be present at the next court date.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Writ of Mandamus

COURT MINUTES

December 13, 2017

A-16-747289-W	Las Vegas Review-Journal, Plaintiff(s) vs. Henderson City of, Defendant(s)
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December 13, 2017	9:00 AM	Motion for Clarification	Plaintiff's Motion for Clarification
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HEARD BY: Bailus, Mark B	COURTROOM: Phoenix Building Courtroom - 11th Floor
---------------------------------	---

COURT CLERK: Alan Castle

RECORDER: Robin Page

REPORTER:

PARTIES

PRESENT:	Henderson City of Kennedy, Dennis L. Las Vegas Review-Journal Reeve, Brian R. Shell, Alina	Defendant Attorney Plaintiff Attorney Attorney
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JOURNAL ENTRIES

- Following arguments of counsel. COURT FINDS the record is sufficiently clear as to Court's findings and the factors used in making the determination with respect to fees. COURT ORDERS, Plaintiff's Motion for Clarification is DENIED. Mr. Kennedy to prepare the order within 10 days and have opposing counsel review as to form and content and distribute a filed copy to all parties involved in this matter.

Certification of Copy

State of Nevada }
County of Clark } SS:

I, Steven D. Grierson, the Clerk of the Court of the Eighth Judicial District Court, Clark County, State of Nevada, does hereby certify that the foregoing is a true, full and correct copy of the hereinafter stated original document(s):

RESPONDENT CITY OF HENDERSON'S NOTICE OF APPEAL; CASE
APPEAL STATEMENT; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER;
NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

LAS VEGAS REVIEW-JOURNAL,

Plaintiff(s),

vs.

CITY OF HENDERSON,

Defendant(s),

Case No: A-16-747289-W

Dept No: XVIII

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 19 day of March 2018.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk