

EXHIBIT “F”

1 CASE NO. A-17-750151-W

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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LAS VEGAS REVIEW JOURNAL,

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Plaintiff,

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vs.

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CLARK COUNTY SCHOOL DISTRICT,

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Defendant.

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REPORTER'S TRANSCRIPT
OF

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HEARING: SEARCH PARAMETERS

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BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

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DISTRICT COURT JUDGE

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DATED TUESDAY, MAY 9, 2017

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REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

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Pursuant to NRS 239.053, illegal to copy without payment.

CCSD906

11:04:01 1 refusal to disclose information. Somebody -- a public
2 officer employer has to act in good faith. This is
3 where it meets -- the rubber meets the road. We have
4 to have that. And that's all I'm saying.

11:04:13 5 MS. McLEITCHIE: Understood, your Honor.

6 THE COURT: Somebody has to do that.

7 MS. McLEITCHIE: Understood.

8 THE COURT: Now, I would anticipate as long as
9 my orders are complied with, that specific individual
11:04:24 10 would be complying in good faith. No. 1.

11 No. 2, refusing to disclose information as
12 long as it's logged, and a specific privilege is
13 asserted, probably good faith is met too, right?

14 MR. HONEY: Correct.

11:04:39 15 THE COURT: But you got to disclose it. And
16 then at the end of the day, I'll make a determination
17 as to whether or not that information should be
18 given -- right? -- pursuant to the request. That's
19 all.

11:04:49 20 It's just -- and that's all the democratic
21 principles we focus on that are the basis for this
22 statute, and that's why they have to be followed.

23 MS. McLEITCHIE: Your Honor, I would actually
24 argue that there's already evidence of a lack of good
11:05:02 25 faith. Not because the way he conducted searches was

11:05:04 1 unreasonable. But because Mr. Honey opted to do it in
2 a vacuum. And this is after the delays and responses
3 to the December request.

4 Whether or not his approach was reasonable, I
11:05:13 5 work with public entities all the time and have them
6 structured like, hey, let's start with certain
7 custodians, then we'll follow up with as needed.

8 The problem here --

9 THE COURT: But it's not reasonable. It's
11:05:22 10 good faith. That's a different animal.

11 MR. HONEY: Correct.

12 THE COURT: But go ahead, ma'am.

13 MS. McLEITCHIE: I don't think it was good
14 faith because I think NRS 239.0107 requires them to
11:05:30 15 identify what they're withholding and why. And by
16 making his decisions about where and when and how to
17 search without consultation without us and without
18 disclosing that he was not searching, for example, a
19 hot bed of responsive documents Cedric Cole in the
11:05:47 20 diversity office in my opinion is not good faith.

21 It may be a reasonable way to approach
22 staggering searches. We can agree right now that
23 we're -- that we're going to fight about those
24 documents later. Let's do other searches. But it was
11:05:55 25 not good faith, your Honor.

11:05:57 1 MR. HONEY: Your Honor.

2 MS. McLEITCHIE: Thank you.

3 MR. HONEY: Your Honor.

4 THE COURT: Mr. Honey, I'm not making that
11:06:01 5 decision today.

6 MR. HONEY: I know. I know. But I just
7 wanted to point one thing out.

8 THE COURT: Yes.

9 MR. HONEY: Is because I'm not sure where
11:06:07 10 you -- where you're standing on the point of --

11 THE COURT: I never stand. I always make a
12 decision. That's all.

13 MR. HONEY: Thank you. Thank you. Of where
14 you -- where you are on the idea that the December
11:06:16 15 request requested investigative materials and
16 investigative report. Because this is such a
17 after-the-fact position --

18 THE COURT: Well, it asks for all complaints;
19 right?

11:06:27 20 MR. HONEY: If petitioner --

21 THE COURT: This was very broad. It asked for
22 all complaints, right?

23 MR. HONEY: If petitioner believed that her
24 December requests were for the investigative report and
1:06:37 25 investigative materials, she would have raised it in

11:06:40 1 the order she prepared in regards to the writ in
2 January.
3 Her order that she prepared didn't say
4 anything about, And, your Honor, order them to provide
11:06:51 5 the Cole report, and provide all the investigative
6 materials, and all of the notes because I requested
7 that in December. She didn't say that. She didn't ask
8 for that because she never asked for it.
9 And this is all after the fact now saying,
11:07:02 10 like, oh, yeah, yeah. Those December requests, oh,
11 yeah, they meant the investigative report. There's
12 nothing in there that says the investigative report.
13 And it's not the district playing coy. It's they chose
14 the words that they wrote.
11:07:14 15 THE COURT: I'm not making the -- what did I
16 say a little earlier?
17 MR. HONEY: I know. I know. Thank you, your
18 Honor.
19 THE COURT: Okay.
11:07:19 20 MS. McLEITCHIE: Your Honor, in the interests
21 of speeding this along, I'm going do let Mr. Honey have
22 the last word. Otherwise, we might be here all day.
23 THE COURT: All right.
24 MR. HONEY: I think, your Honor, you have all
11:07:26 25 the information you need.

LVRTS Ex. 2 + 3
with CCSD counsels notations

EXHIBIT “G”

MCLETCHE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
1/18/2017	A 0.1	Margaret McLetchie	\$ 450.00	Communications with clients.	\$ 45.00
1/19/2017	A 0.2	Alina Shell	\$ 350.00	PRA letter - CCSD - Kevin Child. Review and edit letter.	\$ 70.00
1/19/2017	A 2.1	Margaret McLetchie	\$ 450.00	Review correspondence, compile exhibits, and draft demand letter.	\$ 945.00
1/19/2017	L A 0.9	Pharan Burchfield	\$ 150.00	Review Ms. Pak-Harvey's email with CCSD; redact forwarding information. Prepare exhibits and Ms. McLetchie's letter to CCSD re delayed response on Public Records Act request.	\$ 135.00
1/20/2017	A 0.5	Margaret McLetchie	\$ 450.00	Finalize letter and calendar next steps.	\$ 225.00
1/20/2017	A/G 1.0	Pharan Burchfield	\$ 150.00	Finalize letters (and exhibits) to CCSD. Mail/email to Mr. McDade re same. Email communications with clients.	\$ 150.00
1/25/2017	1.1	Leo Wolpert	\$ 175.00	Proofread and edit motion for writ of mandamus regarding Amelia Pak-Harvey's NPRA requests to CCSD.	\$ 192.50
1/25/2017	L B 3.1	Margaret McLetchie	³⁰⁰ \$ 450.00	Email to team re strategy in case. Follow up with reporter re petition to get information re communications with PIO officers. Attention to research/drafting of petition.	\$ 1,395.00
1/25/2017	G 0.2	Pharan Burchfield	\$ 150.00	Begin shelling Petition for Ms. McLetchie's review.	\$ 30.00
1/26/2017	C 0.9	Alina Shell	²⁵⁰ \$ 350.00	Revise draft petition relating to CCSD request; add facts regarding nature of request and supplemental request. Check and verify legal citations and citations the NPRA.	\$ 315.00
1/26/2017	B 2.0	Margaret McLetchie	²⁰⁰ \$ 450.00	Finalize petition.	\$ 900.00

MCLETCHE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
1/26/2017	G 0.1	Pharan Burchfield	\$ 150.00	Finalize and prepare exhibits re Petition and file re same. Draft and file Civil Cover Sheet and Initial Appearance Fee Disclosure. Email communications with clients.	\$ 15.00
1/27/2017	G 0.1	Pharan Burchfield	\$ 150.00	Contact and schedule Junes Legal Services re request process of service re Clark County School District of Petition and Summons.	\$ 15.00
1/30/2017	L B 0.4	Margaret McLetchie	³⁰⁰ \$ 450.00	Email to Mr. McDade re courtesy copy of complaint, requesting meeting re briefing schedule. Review response re same. Email communications with clients.	\$ 180.00
2/1/2017	B 0.4	Margaret McLetchie	³⁰⁰ \$ 450.00	Call with Mr. McDade. Email communications with clients.	\$ 180.00
2/2/2017	B 0.5	Margaret McLetchie	³⁰⁰ \$ 450.00	Email to Mr. McDade regarding complaint. Email communications with clients.	\$ 225.00
2/2/2017	G 0.1	Pharan Burchfield	\$ 150.00	Draft cover and file Affidavit of Service re Complaint.	\$ 15.00
2/3/2017	L B 3.4	Margaret McLetchie	³⁰⁰ \$ 450.00	Call/ email to Carlos. Take call from Scott Greenberg. Email memorializing same. Further calls and emails. Review first batch of documents received via email; confer with client. Address call from Kevin Child. Meeting at CCSD to review redactions. Email communications with clients.	\$ 1,530.00
2/6/2017	D 0.6	Admin Admin	\$ 25.00	Drop off Ex Parte Motion to Department 16 chambers	\$ 15.00
2/6/2017	L C 1.1	Alina Shell	²⁵⁰ \$ 350.00	Review and edit Ex Parte Motion for Order Shortening Time. Send edited draft to Ms. McLetchie. Revise and edit declaration in support of Order Shortening Time.	\$ 385.00

MCLETCHIE

SHALL

Date	Time Expended	Billor	Rate	Description	Total
2/6/2017	L B 4.9	Margaret McLetchie	300 \$ 450.00	Draft Order Shortening Time re scheduling; begin drafting brief in support of petition. Communications with clients.	\$ 2,205.00
2/6/2017	G 1.5	Pharan Burchfield	\$ 150.00	Finalize and prepare exhibits for Ex Parte Motion for Order Shortening Time. Email opposing counsel and clients re same.	\$ 225.00
2/6/2017	G 0.2	Pharan Burchfield	\$ 150.00	Prepare Motion and Order for Shortening Time for Ms. McLetchie's review.	\$ 30.00
2/7/2017	0.6	Admin Admin	\$ 25.00	Deliver Order for Shortening Time to Department 16 chambers for Judge's signature	\$ 15.00
2/7/2017	G 0.1	Pharan Burchfield	\$ 150.00	Revise Order on Shortening Time pursuant to Ms. McLetchie (as instructed by Department 16); to be delivered to chambers today.	\$ 15.00
2/8/2017	D 2.3	Admin Admin	\$ 25.00	Dropped off Ex Parte Motion for Order Shortening Time and Request for Expedited Hearing, Order Setting Hearing on Writ of Mandate, copy of letter dated 02/082017 to Judge Williams, and picked up redacted documents from Clark County School District: 5100 W Sahara Ave, Las Vegas, NV 89146, and dropped of letter to Judge Williams at: 200 Lewis Ave. Las Vegas NV, 89101. Total miles 10.3.	\$ 57.50
2/8/2017	D 0.4	Admin Admin	\$ 25.00	Picked up Order Setting Hearing on Writ of Mandate from the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 department 16.	\$ 10.00

MCLECHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
2/8/2017	D 0.7	Admin Admin	\$ 25.00	Picked up second Order Setting Hearing on Writ of Mandate at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas NV, 89101.	\$ 17.50
2/8/2017	L B 5.3	Margaret McLetchie	300 \$ 450.00	Review court order / amended court order; attention to service and filing of same / work with paralegal to accomplish immediate service; review letter from Mr. McDade; draft letter to court re redacted set and errors in McDade letter; emails to and calls with Mr. McDade and his office; review redacted finally received; provide updates to client throughout and plan strategy for 2/14/17 hearing.	\$ 2,385.00
2/8/2017	G 0.5	Pharan Burchfield	\$ 150.00	Draft and send letter to Honorable Judge Williams (fax) and copy (email) to opposing counsel re same.	\$ 75.00
2/8/2017	G 0.3	Pharan Burchfield	\$ 150.00	File Order Setting Hearing on Writ of Mandate; draft, file, and serve/mail/email Notice of Entry of Order re same.	\$ 45.00
2/9/2017	C 1.1	Alina Shell	250 \$ 350.00	Draft additional records requests for information pertaining to investigation of CCSD Trustee Kevin Child.	\$ 385.00
2/9/2017	B 0.4	Margaret McLetchie	300 \$ 450.00	Review pertinent documents. Communications with clients.	\$ 180.00
2/9/2017	G 0.2	Pharan Burchfield	\$ 150.00	Begin drafting shell for Public Records Act request to Clark County School District re Kevin Child.	\$ 30.00
2/9/2017	G 0.3	Pharan Burchfield	\$ 150.00	Create courtesy copy to go to Honorable Judge Williams in preparation of upcoming hearing.	\$ 45.00

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SHELL

Date	Time Expended	Billor	Rate	Description	Total
2/10/2017	L B 1.3	Margaret McLetchie	300 \$ 450.00	Review responsive records from Mr. Honey and fwd to clients. Draft additional request, addressing in part documents appearing to be missing from initial responses.	\$ 585.00
2/10/2017	G 0.2	Pharan Burchfield	\$ 150.00	Finalize and send (mail/email) Public Records Act request re CCSD-Kevin Child to Mr. Honey.	\$ 30.00
2/13/2017	L B 3.0	Margaret McLetchie	300 \$ 450.00	Review materials received (log of redactions) and provide to clients. Call Mr. Honey to confirm delay in providing to other outlets (Wed) and other matters. Receive and forward additional documents. Work with Ms. Burchfield on hearing binder. Closely review log and redactions on documents; prepare for hearing.	\$ 1,350.00
2/13/2017	G 0.4	Pharan Burchfield	\$ 150.00	Prepare pleadings (binderize) for preparation of upcoming hearing for Ms. McLetchie's review.	\$ 60.00
2/14/2017	C 0.6	Alina Shell	210 \$ 350.00	Edit draft of order granting petition for writ of mandamus: check facts, citations, and organization.	\$ 210.00
2/14/2017	L B 6.9	Margaret McLetchie	300 \$ 450.00	Prepare for and attend hearing. Prepare draft order; review with clients and incorporate edits and send to CCSD Counsel at 3:43 p.m. Respond to Mr. Honey's email re same and make some revisions to proposed order. Email communications with clients.	\$ 3,105.00
2/14/2017	G 0.2	Pharan Burchfield	\$ 150.00	Draft proposed order for Ms. McLetchie's review.	\$ 30.00

MCLECHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
2/15/2017	D 0.7	Admin Admin	\$ 25.00	Dropped off Order Granting Writ of Mandate at the Las Vegas Regional Center: 200 Lewis Ave., Las Vegas NV, 89101 department 16.	\$ 0 17.50
2/15/2017	L B 0.8	Margaret McLetchie	300 \$ 450.00	Emails with Mr. Honey re differences in order; re-review minutes and review Mr. Honey's proposed order; revise order and prepare transmission letter; direct Ms. Burchfield to submit to court; ask Mr. McDade to submit CCSD's order.	\$ 360.00
2/15/2017	G 0.2	Pharan Burchfield	\$ 150.00	Draft and send (email/hand-deliver) letter to the Honorable Judge Williams re proposed order.	\$ 30.00
2/16/2017	B 0.3	Margaret McLetchie	300 \$ 450.00	Emails re order, compliance.	\$ 135.00
2/17/2017	B 0.3	Margaret McLetchie	300 \$ 450.00	Call to Mr. Honey. Communications with clients.	\$ 135.00
2/20/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Email communication with clients.	\$ 45.00
2/21/2017	L B 1.0	Margaret McLetchie	300 \$ 450.00	Email to chambers and Mr. Honey re status of order. Call with Mr. Honey re same, plan for compliance with order, and re 2/10/17 request. Draft letter to Mr. Honey memorializing call and responding to 2/17/17 letter. Communication with clients.	\$ 450.00
2/21/2017	G 0.2	Pharan Burchfield	\$ 150.00	Finalize follow-up letter to Mr. Honey re Kevin Child Public Records Act request. Send (mail/email) re same.	\$ 30.00
2/22/2017	G 0.4	Pharan Burchfield	\$ 150.00	File Order Granting Writ of Mandate; email courtesy copies to opposing counsel and clients; draft Notice of Entry of Order; file and serve/mail re same.	\$ 60.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
2/23/2017	G 0.1	Pharan Burchfield	\$ 150.00	Email file-stamped copies of Notice of Entry of Order Granting Order of Writ of Mandate to Mr. Spousta and Ms. Pak-Harvey.	\$ 15.00
2/24/2017	D 0.4	Admin Admin	\$ 25.00	To Courthouse Re: Letter to Judge Williams in Dept. XVI	\$ 10.00
2/24/2017	L B 1.1	Margaret McLetchie	300 \$ 450.00	Review documents produced. Call to CCSD general counsel office. Address issue re improper redaction. Forward documents to client. Respond to letter to court re vacating 3/2 hearing.	\$ 495.00
2/24/2017	G 0.5	Pharan Burchfield	\$ 150.00	Draft and send/email letter to Department 16 (Honorable Judge Williams) re CCSD's produced documents and request to vacate upcoming status check hearing.	\$ 75.00
2/27/2017	L B 0.3	Margaret McLetchie	300 \$ 450.00	Email to Mr. Honey requesting status update on 2/10 request in advance of 3/2 hearing. Review document received. Communication with clients.	\$ 135.00
2/28/2017	0.2	Margaret McLetchie	\$ 450.00	Email communication with clients.	\$ 90.00
3/1/2017	D 0.6	Admin Admin	\$ 25.00	Dropped off: Amended Public Records Act Application Pursuant to NRS 239.001/ Petition for Writ of Mandamus Expedited Matter Pursuant to NRS 239.011, and letter to Judge Williams at the Las Vegas Regional Justice Center - 200 Lewis Ave. Las Vegas NV, 89101, Department 16.	\$ 15.00

MCLETCHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
3/1/2017	C 6.0	Alina Shell	²⁵⁰ \$ 350.00	Confer with Ms. McLetchie regarding amending petition. Review records disclosures from CCSD and correspondence between Ms. McLetchie and CCSD. Begin amending petition. Revise amended petition pursuant to comments from and conversation with Ms. McLetchie. Draft declaration for Ms. McLetchie. Review and organize Exhibits to Amended petition.	\$ 2,100.00
3/1/2017	L B 1.1	Margaret McLetchie	³⁰⁰ \$ 450.00	Call to Mr. Honey. Direct Ms. Shell re amending petition and identify pertinent communications to include. Communications with clients.	\$ 495.00
3/1/2017	G 1.0	Pharan Burchfield	\$ 150.00	Prepare exhibits and finalize, file, and serve/mail Amended Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011. Draft and send/email letter to the Honorable Judge Williams re same.	\$ 150.00
3/2/2017	L B 2.3	Margaret McLetchie	³⁰⁰ \$ 450.00	Follow up re obtaining documents (Mr. Honey directed me to Mr. McDade; Mr. McDade's office says Mr. Honey is lead counsel - neither is responsive. (.2) Prepare for and attend hearing in front of Judge Williams. (2.0) Communication with clients (.1).	\$ 1,035.00
3/2/2017	B 0.1	Margaret McLetchie	³⁰⁰ \$ 450.00	Review forwarded email from CCSD PIO to Ms. Pak-Harvey.	\$ 45.00

MCLECHIE

Date	Time Expended	Billor	Rate	Description	Total
3/3/2017	L B 0.6	Margaret McLetchie	300 \$ 450.00	Review redacted documents and accompanying letter rec'd from CCSD and send to client. Respond to Mr. McDade and Mr. Honey asking for log and for search information. Communication with client.	\$ 270.00
3/7/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Communication with clients.	\$ 45.00
3/8/2017	L B 0.3	Margaret McLetchie	300 \$ 450.00	Call with Mr. Honey; review email re stipulation to schedule for attorney's fees briefing (to allow for efficient, consolidated hearing on fees for petition, amended petition).	\$ 135.00
3/9/2017	B 0.7	Margaret McLetchie	300 \$ 450.00	Draft stipulation re fees hearing; email to Mr. Honey re same.	\$ 315.00
3/9/2017	G 0.4	Pharan Burchfield	\$ 150.00	Draft Stipulation and Order re attorneys' fees application for attorneys' review. Email communications with Mr. Honey re same.	\$ 60.00
3/10/2017	D 0.6	Admin Admin	\$ 25.00	Dropped off Stipulation and Order at the Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 15.00
3/10/2017	D 0.9	Admin Admin	\$ 25.00	Picked up Stipulation and Order at the Clark County School District: 5100 W Sahara Ave, Las Vegas, NV 89146.	\$ 22.50
3/13/2017	B 1.1	Margaret McLetchie	300 \$ 450.00	Email with Mr. Honey re status (.1) Email with clients. (.1) Begin preparing for status check, and provide clients with hearing information. (.3) Review and consider issues with letter from CCSD counsel received at 4:09 p.m. re searches and other matters;	\$ 495.00

MCLECHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
				continue preparing for hearing. (.6)	
3/13/2017	G 0.3	Pharan Burchfield	\$ 150.00	Prepare hearing binder for Ms. McLetchie for tomorrow's status check hearing.	\$ 45.00
3/14/2017	B ^L 1.6	Margaret McLetchie	^{2.00} \$ 450.00	Prepare for and attend status check. Provide update to clients/ upcoming dates; emails with clients.	\$ 720.00
3/14/2017	G 0.1	Pharan Burchfield	\$ 150.00	Review Ms. McLetchie's notes from today's status check hearing; draft proposed order for attorneys' review re same.	\$ 15.00
3/16/2017	D 0.4	Admin Admin	\$ 25.00	Picked up Signed Stipulation and Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 10.00
3/16/2017	G 0.1	Pharan Burchfield	\$ 150.00	File Stipulation and Order re attorneys' fee application deadline.	\$ 15.00
3/20/2017	B 1.4	Margaret McLetchie	^{2.00} \$ 450.00	Revise and circulate proposed order.	\$ 630.00
3/20/2017	G 0.1	Pharan Burchfield	\$ 150.00	File and send Notice of Entry of Order to opposing counsel/ general counsel for CCSD.	\$ 15.00
3/21/2017	D 0.7	Admin Admin	\$ 25.00	Drop off signed Order regarding briefing schedule at Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 17.50
3/21/2017	D 1.2	Admin Admin	\$ 25.00	Picked up signed Order regarding briefing schedule from Mr. Honey at 5100 W	\$ 30.00

MCLETCHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
				Sahara Ave, Las Vegas, NV 89146.	
3/21/2017	C 0.2	Alina Shell	²⁵⁰ \$ 350.00	Per Ms. McLetchie's request, proofread letter to Mr. McDade regarding search terms used by CCSD in responding to records request.	\$ 70.00
3/21/2017	G 0.3	Gabriel Czop	\$ -	Provide cites and edits to Ms. McLetchie's letter to CCSD.	\$ 0.00
3/21/2017	G 0.9	Gabriel Czop	\$ -	Research for Ms. McLetchie.	\$ 0.00
3/21/2017	B 2.1	Margaret McLetchie	³⁰⁰ \$ 450.00	Research. Draft letter to CCSD re: (1) need for additional searches to be consistent with NPRA; and (2) reasons why October Report re Child, Title VII issues (and related documents) should be produced.	\$ 945.00
3/21/2017	G 0.2	Pharan Burchfield	\$ 150.00	Finalize and send (mail/email) Ms. McLetchie's letter to Mr. McDade.	\$ 30.00
3/24/2017	B 0.2	Margaret McLetchie	³⁰⁰ \$ 450.00	Emails with Department 16 re order for pickup; direct filing of notice of entry.	\$ 90.00
3/24/2017	B 0.3	Margaret McLetchie	³⁰⁰ \$ 450.00	Review revised log received from CCSD. Communication with clients.	\$ 135.00
3/27/2017	D 0.6	Admin Admin	\$ 25.00	Picked up Order Regarding Briefing Schedule at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ ⁰ 15.00
3/27/2017	G 0.2	Pharan Burchfield	\$ 150.00	File Order Regarding Briefing Schedule; draft, file, and serve/mail Notice of Entry of Order re same; email clients re same.	\$ 30.00

MCLETCHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
3/28/2017	L C 4.4	Alina Shell	250 \$ 350.00	Meeting with Ms. McLetchie regarding opening brief. Review letter to Mr. McDade and Mr. Honey summarizing recent issues and begin drafting brief.	\$ 1,540.00
3/28/2017	L B 3.4	Margaret McLetchie	300 \$ 450.00	Work with Ms. Burchfield re compiling exhibits for opening brief in support of petition for writ of mandamus; compiling factual history. Preliminary edits/ provide direction to Ms. Shell re draft opening brief.	\$ 1,530.00
3/29/2017	C 6.3	Alina Shell	250 \$ 350.00	Resume drafting memorandum in support of petition. Attention to editing statement of facts. Draft arguments regarding privileges asserted by CCSD. Draft introduction. Edit facts and insert record citations.	\$ 2,205.00
3/29/2017	0.5	Gabriel Czop	\$ -	Assignment from Ms. McLetchie to review Nevada Public Records Act cases.	\$ 0.00
3/29/2017	0.2	Gabriel Czop	\$ -	Locate and download a memorandum with recommendations re: Trustee Child dated October 19, 2016 from the Office of Diversity and Affirmative Action.	\$ 0.00
3/29/2017	2.5	Leo Wolpert	\$ 175.00	Edit (proofread and cite-check) opening brief.	\$ 437.50
3/29/2017	L B 6.5	Margaret McLetchie	300 \$ 450.00	Attention to revising and editing opening brief in support of petition on writ of mandamus. Ensure all necessary exhibits are compiled.	\$ 2,925.00
3/29/2017	G 5.9	Pharan Burchfield	\$ 150.00	Prepare exhibits and index re Opening Brief cite-check Opening Brief; file and serve/mail re same.	\$ 885.00

MCLECHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
4/20/2017	3.5	Leo Wolpert	\$ 175.00	Review petition, opening brief, opposing brief, case law regarding NPRA in preparation to draft reply to opposing brief.	\$ 612.50
4/23/2017	2.3	Leo Wolpert	\$ 175.00	Outline reply brief and begin drafting per direction from Ms. McLetchie.	\$ 402.50
4/24/2017	C 6.7	Alina Shell	250 \$ 350.00	Draft sections of Reply Brief pertaining to CCSD Regulations and the predecisional/deliberative process privilege. Edit all sections. Compile Exhibits. Finalize and file document.	\$ 2,345.00
4/24/2017	10.8	Leo Wolpert	\$ 175.00	Draft, edit, and finalize reply to answer to opening brief re NPRA petition.	\$ 1,890.00
4/24/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Contact opposing counsel to request extension due to Ms. Burchfield out of office (call and email); no response provided.	\$ 90.00
4/24/2017	B L 8.9	Margaret McLetchie	300 \$ 450.00	Revising / expanding of reply brief (re PRA for Child records). Call with Mr. Spousta re same.	\$ 4,005.00
4/25/2017	B 0.3	Margaret McLetchie	300 \$ 450.00	Communication with clients. (.2) Email to CCSD counsel documenting destruction of arbitration brief they sent to us in error. (.1)	\$ 135.00
4/25/2017	G 0.3	Pharan Burchfield	\$ 150.00	Create courtesy copy of briefing for Honorable Judge Timothy C. Williams to be delivered to chambers prior to the May 9, 2017 hearing.	\$ 45.00
4/25/2017	G 0.1	Pharan Burchfield	\$ 150.00	File and serve/mail Amended Certificate of Service re Reply.	\$ 15.00

MCLETCHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
4/26/2017	D 0.4	Admin Admin	\$ 25.00	Dropped Courtney copy binder of hearing regarding Search Parameters to Judge Timothy C. Williams at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas NV, 89101 Department 16.	\$ 10.00
5/8/2017	L C B 2.6	Alina Shell	250 \$ 350.00	Meeting with Ms. McLetchie to discuss hearing on petition for public records. Create chart of requests and production for Ms. McLetchie's reference at hearing.	\$ 910.00
5/8/2017	B 0.4	Margaret McLetchie	300 \$ 450.00	Call with client. Attention to argument preparation.	\$ 180.00
5/8/2017	B 3.4	Margaret McLetchie	300 \$ 450.00	Prepare for 5/9 hearing.	\$ 1,530.00
5/8/2017	G 0.5	Pharan Burchfield	\$ 150.00	Prepare binders for Ms. McLetchie's review in preparation of tomorrow's hearing. Provide Ms. McLetchie's of copies of all cases referred to in briefing.	\$ 75.00
5/9/2017	L B 7.3	Margaret McLetchie	300 \$ 450.00	Prepare for and attend hearing. Respond to A. Honey email requesting extension. Provide direction to Ms. Burchfield regarding exhibits. Review article about hearing. Communications with clients.	\$ 3,285.00
5/10/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Emails with Mr. Honey.	\$ 90.00
5/15/2017	L C 1.9	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, draft order regarding amended petition for records pertaining to Trustee Kevin Child. Review minutes from 5/9/17 hearing in drafting order. Discuss same with Ms. McLetchie, and email draft to Ms. McLetchie.	\$ 665.00

MCLETCHE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
5/15/2017	B 1.1	Margaret McLetchie	300 \$ 450.00	Edit Order.	\$ 495.00
5/15/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Respond to Mr. Honey re email re order.	\$ 45.00
5/15/2017	G 0.1	Pharan Burchfield	\$ 150.00	Fax JAVS request to Ms. Isom, court reporter in Department 16, re May 9, 2017 hearing.	\$ 15.00
5/16/2017	C 0.2	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, review prior privilege logs and correspondence from CCSD to verify information in proposed order.	\$ 70.00
5/16/2017	C 0.9	Alina Shell	250 \$ 350.00	Review and address Ms. McLetchie's edits to draft order granting amended petition.	\$ 315.00
5/17/2017	B 1.4	Margaret McLetchie	300 \$ 450.00	Revise/ finalize draft order; send to Mr. Honey.	\$ 630.00
5/18/2017	L B 1.4	Margaret McLetchie	300 \$ 450.00	Send Mr. Honey word version of proposed order per his request. Emails. Call with Mr. Honey.	\$ 630.00
5/19/2017	D 0.5	Admin Admin	\$ 25.00	Delivered Proposed Order to Las Vegas Regional Justice Center, 200 Lewis Avenue, Department 12, Las Vegas, NV 89101	\$ 12.50
5/19/2017	L C 1.1	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, review edits to redlined order transmitted by CCSD counsel Mr. Honey. Review and verify factual statements in order. Edit for errors.	\$ 385.00
5/19/2017	B L 1.4	Margaret McLetchie	300 \$ 450.00	Emails with Mr. Honey re proposed order. Revise and finalize proposed order; letter re same.	\$ 630.00
5/19/2017	G 0.3	Pharan Burchfield	\$ 150.00	Finalize proposed order; draft and send attorney update letter to Honorable Judge Thompson re proposed order; to be delivered to judge's chambers.	\$ 45.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
5/23/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Emails with Mr. Honey re Bates-stamping/ re-production of documents not previously Bates-stamped.	\$ 90.00
5/24/2017	B 0.3	Margaret McLetchie	300 \$ 450.00	Review CCSD's correspondence to court. Communication with clients.	\$ 135.00
5/26/2017	L C 0.9	Alina Shell	250 \$ 350.00	Edit letter to Court regarding CCSD competing order and assertions made by Mr. Honey in his correspondence to the Court. Review and compare competing orders. Correct error to May 19, 2017 order submitted to the Court.	\$ 315.00
5/26/2017	0.7	Gabriel Czop	\$ -	travel to Regional Justice Center; deliver proposed order to Department 16; return to office	\$ 0.00
5/26/2017	B 0.4	Margaret McLetchie	300 \$ 450.00	Correspondence to court re order.	\$ 180.00
5/26/2017	G 0.2	Pharan Burchfield	\$ 150.00	Finalize and email Ms. McLetchie's letter to the Honorable Judge Williams re Mr. Honey's correspondence re competing proposed orders.	\$ 30.00
6/1/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Email to Mr. Honey re status (request information about whether documents had been provided in camera, and copies of certifications and log; not provided).	\$ 45.00
6/2/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Review and respond to email from Mr. Honey re status.	\$ 45.00
6/5/2017	B L 1.0	Margaret McLetchie	300 \$ 450.00	Review email from opposing counsel; preliminary review of documents received. Call with clients, emails with clients. Prepare for 6/6 status check.	\$ 450.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
6/6/2017	L C 0.6	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, locate and email Exhibit W to Opening Brief in Support of Amended Petition to assist in status hearing. Search for correspondence from Ms. McLetchie to Mr. Honey regarding prior CCSD representations re withheld documents.	\$ 210.00
6/6/2017	B ^L 2.9	Margaret McLetchie	300 \$ 450.00	Prepare for and attend status check; follow up email re same. Communication with clients.	\$ 1,305.00
6/6/2017	L B 0.7	Margaret McLetchie	300 \$ 450.00	Review and respond to emails from Mr. Honey (working on trying to obtain all documentation CCSD provided to court). Review certifications received from Mr. Honey.	\$ 315.00
6/6/2017	G 0.4	Pharan Burchfield	\$ 150.00	File Order Granting Writ of Mandamus as to Jurisdiction and Search Parameters; draft, file and serve/mail Notice of Entry of Order re same. Email communications with clients.	\$ 60.00
6/11/2017	B ^L 1.9	Margaret McLetchie	300 \$ 450.00	Review privilege log. Research.	\$ 855.00
6/12/2017	C 2.3	Alina Shell	250 \$ 350.00	Review CCSD privilege log and produced documents. (1.0) Create chart for court's review of propriety of redactions to produced documents (1.3).	\$ 805.00
6/12/2017	L B 6.8	Margaret McLetchie	300 \$ 450.00	Communication with clients. Begin drafting response to certifications and log; draft procedural history, section re inapplicability of CCSD regulations, Title VII section, and outline entirety of argument. Assign table and drafting of deliberative process privilege to Ms. Shell.	\$ 3,060.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
6/12/2017	G 0.4	Pharan Burchfield	\$ 150.00	Binderize Clark County School District's most recent correspondence, production, and log re June 6, 2017 hearing for Ms. McLetchie's review.	\$ 60.00
6/13/2017	D 0.5	Admin Admin	\$ 25.00	Dropped off: Binder of Memorandum Regarding CCSD's Privilege Log and Certification to Honorable Judge Williams at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 12.50 0
6/13/2017	C 1.3	Alina Shell	²⁵⁰ \$ 350.00	Draft section for response to CCSD privilege log about deliberative process privilege.	\$ 455.00
6/13/2017	C 0.7	Alina Shell	²⁵⁰ \$ 350.00	Draft section of response to CCSD privilege log regarding its argument that draft documents pertaining to its investigation of Trustee Child are "non-record" materials as defined by NAC 239.051.	\$ 245.00
6/13/2017	L C 3.4	Alina Shell	²⁵⁰ \$ 350.00	Edit and augment section in Memorandum regarding CCSD's certification re record searches. Review, edit, and finalize Memorandum. Review and edit Ms. McLetchie's declaration.	\$ 1,190.00
6/13/2017	0.3	Leo Wolpert	\$ 175.00	Edit and review chart of withheld/redacted documents.	\$ 52.50
6/13/2017	1.8	Leo Wolpert	\$ 175.00	Proofread, cite check and edit motion re withheld documents.	\$ 315.00
6/13/2017	L B 4.8	Margaret McLetchie	³⁰⁰ \$ 450.00	Finish revising/editing memorandum responding to log, certifications (draft section re certifications; incorporate and revise other sections, revise chart of documents, revise declaration and list of exhibits). Follow up/ transmission to	\$ 2,160.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
				chambers, copying opposing counsel.	
6/13/2017	G 4.1	Pharan Burchfield	\$ 150.00	Prepare exhibits (Bates and index) re Memorandum Regarding CCSD's Privilege Logs and Certifications; draft Ms. McLetchie's Declaration in support of re same. Format and prepare for filing. File, serve/mail and provide Judge Williams with courtesy copy (binder) and draft and send (email) letter to Honorable Judge Williams re same.	\$ 615.00
6/14/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Emails with clients re 6/15 hearing.	\$ 45.00
6/14/2017	B 0.8	Margaret McLetchie	300 \$ 450.00	Review and organize case materials in preparation for 6/15 hearing.	\$ 360.00
6/15/2017	L 0.6	Alina Shell	250 \$ 350.00	Assist Ms. McLetchie with preparation for hearing on privilege log/in camera documents; print cases cited by LVRJ and CCSD; identify exhibits for use in hearing.	\$ 210.00
6/15/2017	C 3.1	Alina Shell	250 \$ 350.00	In court for hearing on CCSD log and withheld documents; take notes.	\$ 1,085.00
6/15/2017	LB 3.1	Margaret McLetchie	300 \$ 450.00	Prepare for hearing; attend court (hearing continued).	\$ 1,395.00
6/16/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Review and forward document received from CCSD counsel (CCSD had indicated it would withhold but decided to produce).	\$ 90.00

MCLETCHIE SHELL

Date	Time Expended	Billor	Rate	Description	Total
6/19/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Emails with Mr. Honey to set phone conference as part of LVRJ's continued attempts to determine if any matters in case can be resolved without court intervention. Meeting set for 6/21.	\$ 45.00
6/21/2017	B ^L 0.9	Margaret McLetchie	300 \$ 450.00	Call with Adam Honey; begin preparation for hearing.	\$ 405.00
6/27/2017	C 3.5	Alina Shell	250 \$ 350.00	Attend hearing on CCSD's privilege log and withheld documents.	\$ 1,225.00
6/27/2017	C 0.6	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, review CCSD disclosures to determine if CCSD has disclosed any records regarding previous counseling to Mr. Child re inappropriate behavior.	\$ 210.00
6/27/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Direct Ms. Shell re preparation of order.	\$ 90.00
6/27/2017	L B 4.1	Margaret McLetchie	300 \$ 450.00	Prepare for (draft argument outline and review materials) and attend hearing re withheld records and certification/production issues. Communication with clients.	\$ 1,845.00
6/27/2017	G 0.2	Pharan Burchfield	\$ 150.00	Assist Ms. McLetchie with preparation for today's hearing.	\$ 30.00
6/28/2017	C 2.3	Alina Shell	250 \$ 350.00	Draft proposed order regarding release of withheld documents and depositions of Mr. Wray and Ms. Smith-Johnson.	\$ 805.00
6/28/2017	L C 0.2	Alina Shell	250 \$ 350.00	Review transcript from 6/26/2017 hearing re CCSD's revised privilege log. Revise draft proposed order based on review of transcripts.	\$ 70.00
6/28/2017	L B 0.5	Margaret McLetchie	300 \$ 450.00	Emails with paralegal re transcript order (confirmed ordered at hearing). Review transcript from hearing for final preparation of order.	\$ 225.00

M C L E T C H I E S H E L L

Date	Time Expended	Billor	Rate	Description	Total
6/28/2017	B 0.3	Margaret McLetchie	300 \$ 450.00	Receipt of transcript from hearing; preliminary review of same.	\$ 135.00
6/29/2017	D 0.6	Admin Admin	\$ 25.00	Dropped off Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions, and a letter to Honorable Judge Williams date 06/29/2017 to the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 department 16.	\$ 15.00
6/29/2017	D 0.3	Admin Admin	\$ 25.00	Dropped off payment (Check #:2062) to Court Reporter Margaret Isom for invoices: 13707, and 13753 at Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 department 16.	\$ 7.50
6/29/2017	C 3.5	Alina Shell	250 \$ 350.00	Attention to revising proposed order re disclosure of withheld records.	\$ 1,225.00
6/29/2017	C 0.4	Alina Shell	250 \$ 350.00	Draft letter to Court regarding proposed order.	\$ 140.00
6/29/2017	C 1.6	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, make additional revisions to proposed order.	\$ 560.00
6/29/2017	0.4	Leo Wolpert	\$ 175.00	Edit and proofread order drafted by Ms. Shell.	\$ 70.00
6/29/2017	L B 2.6	Margaret McLetchie	300 \$ 450.00	Work with Ms. Shell on order; review and direct revisions. Compare to transcript and prior orders to ensure all issues addressed. Multiple efforts to work with Mr. Honey re order input. Letter to chambers. Communication with clients.	\$ 1,170.00
6/29/2017	G 0.2	Pharan Burchfield	\$ 150.00	Finalize/prepare for Ms. McLetchie's signature Proposed Order and letter to the	\$ 30.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
				Honorable Judge Williams; email re same.	
6/30/2017	D 0.8	Admin Admin	\$ 25.00	Delivering Ms. McLetchie's correspondence to Judge Williams' chambers.	\$ 20.00
6/30/2017	C 0.2	Alina Shell	250 \$ 350.00	Edit letter to Court regarding correspondence from Adam Honey.	\$ 70.00
6/30/2017	G 0.1	Pharan Burchfield	\$ 150.00	Prepare Ms. McLetchie's letter to Honorable Judge Williams in response to Mr. Honey's correspondence.	\$ 15.00
7/3/2017	C 0.5	Alina Shell	250 \$ 350.00	Legal research re stay. Draft memo to Ms. McLetchie re same.	\$ 175.00
7/3/2017	C 0.3	Alina Shell	250 \$ 350.00	Research regarding the ordered depositions of CCSD employees Wray and Smith-Johnson. Review of transcript from 6/27/2017 hearing re same issue.	\$ 105.00
7/3/2017	L 1.0	Margaret McLetchie	300 \$ 450.00	Review email to Chambers and Adam Honey's proposed order. Update clients regarding CCSD's stated intent to appeal, and plan to file emergency motion for stay. Begin working with Ms. Shell on related procedural research.	\$ 450.00
7/5/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Call with Adam Honey.	\$ 90.00
7/6/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Emails with Adam Honey re depositions.	\$ 90.00
7/7/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Further emails with Mr. Honey re deposition scheduling.	\$ 45.00
7/10/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Emails with CCSD's General Counsel's office re deposition scheduling.	\$ 45.00
7/10/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Communication with clients.	\$ 90.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/11/2017	D 0.4	Admin Admin	\$ 25.00	Picked up signed Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions from - the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101.	\$ 10.00
7/11/2017	G 0.1	Pharan Burchfield	\$ 150.00	File Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions.	\$ 15.00
7/12/2017	L 0.1	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, determine whether NRAP 8 contains any deadline for filing a motion for a stay.	\$ 35.00
7/12/2017	G 0.2	Pharan Burchfield	\$ 150.00	Review Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions; draft, file, and serve/mail Notice of Entry of Order re same. Communication with clients.	\$ 30.00
7/13/2017	L 0.2	Alina Shell	250 \$ 350.00	Discuss CCSD's motion for stay on order shortening time and strategy for response with Ms. McLetchie.	\$ 70.00
7/13/2017	Bx 3.4	Alina Shell	250 \$ 350.00	Draft opposition to motion for stay: draft procedural history and legal standard regarding motion for stay. Respond to arguments in Motion for stay regarding serious	\$ 1,190.00
7/13/2017	L 2.0	Alina Shell	250 \$ 350.00	Read CCSD's motion for a stay pending appeal. Review rules regarding orders shortening time. Review NRAP 8 and NRCP 62. Research.	\$ 700.00
7/17/2017	L 3.3	Alina Shell	250 \$ 350.00	Complete draft of response to motion for stay: address arguments regarding likelihood of success on appeal. Circulate to Ms. McLetchie for review.	\$ 1,155.00

MCLETCHE SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/17/2017	L C 2.2	Alina Shell	250 \$ 350.00	Review Ms. McLetchie's comments and revisions to draft response to motion for stay. Address comments and edits and incorporate into new draft.	\$ 770.00
7/17/2017	B 0.9	Margaret McLetchie	300 \$ 450.00	Review and suggest changes to draft opposition to motion to stay.	\$ 405.00
7/18/2017	L C 1.5	Alina Shell	250 \$ 350.00	Legal research. Incorporate same into motion. Address additional comments and suggests provided by Ms. McLetchie.	\$ 525.00
7/18/2017	C 0.4	Alina Shell	250 \$ 350.00	Per Ms. McLetchie's request, review exhibits submitted in case and correspondence with CCSD to confirm factual representation in opposition to motion to stay that CCSD resisted providing a privilege log. Memo to Ms. McLetchie re same.	\$ 140.00
7/18/2017	C 1.5	Alina Shell	250 \$ 350.00	Pursuant to Ms. McLetchie's request, re-order portion of the argument in opposition to motion for stay. Incorporate additional facts into procedural history. Review draft for consistency and errors.	\$ 525.00
7/18/2017	B 1.1	Margaret McLetchie	300 \$ 450.00	Continued attention to Motion for Stay; review memo from Ms. Shell re CCSD privilege log. Review and edit latest draft of Opposition	\$ 495.00
7/18/2017	G 0.1	Pharan Burchfield	\$ 150.00	Email clients draft Opposition to Respondent's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions Pursuant to NRCP 62(c), (d) & (e) Pending Appeal on Order Shortening Time for review.	\$ 15.00

MCLECHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/19/2017	G 0.4	Pharan Burchfield	\$ 150.00	Finalize, file, and serve/mail Petitioner Las Vegas Review-Journal's Opposition to Respondent Clark County School District's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRCP 62(c),(d), & (e) Pending Appeal on Order Shortening Time. Email copy to clients re same.	\$ 60.00
7/20/2017	D 0.5	Admin Admin	\$ 25.00	Dropped off Petitioner Las Vegas Review - Journal's Opposition to Respondent Clark County School District's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRC 62(c), (d), & (e) Pending Appeal on Order Shortening Time at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas NV, 89101 Department 16.	\$ 12.50
7/24/2017	C 0.1	Alina Shell	250 \$ 350.00	Edit draft stipulation to extend deadline for application for attorney's fees.	\$ 35.00
7/24/2017	C 0.1	Alina Shell	250 \$ 350.00	Phone call from Ms. Hanna re stipulation to extend time for application for attorney's fees. Communication with Ms. McLetchie re same.	\$ 35.00
7/24/2017	C 0.2	Alina Shell	250 \$ 350.00	Phone call to Ms. Hanna at CCSD General Counsel Office re stipulated extension of time for attorney fee application. Communication with Ms. McLetchie re same.	\$ 70.00

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SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/24/2017	G 0.2	Pharan Burchfield	\$ 150.00	Draft Stipulation and Order re extension of deadline to file application for attorneys' fees; email to opposing counsel re review/approval.	\$ 30.00
7/24/2017	G 0.1	Pharan Burchfield	\$ 150.00	Email clients file-stamped copy of Respondent's Reply in Support of Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withhold Records Pursuant to NRCP 62(c), (d) & (e) Pending Appeal on Order Shortening Time with hearing reminder.	\$ 15.00
7/26/2017	D 0.4	Admin Admin	\$ 25.00	Dropped off Stipulation and Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 10.00
7/26/2017	P 1.1	Admin Admin	\$ 25.00	Picked up Stipulation and Order at the Las Vegas School District: 5100 W. Sahara Ave. Las Vegas, NV, 89146.	\$ 27.50
7/26/2017	C 0.2	Alina Shell	250 \$ 350.00	Phone call from Ms. Hanna at CCSD re notification pursuant to NRAP 27 that CCSD will file an emergency motion for stay with the Supreme Court in advance of 7/27 hearing. Communication with Ms. McLetchie re same.	\$ 70.00
7/26/2017	G 0.1	Pharan Burchfield	\$ 150.00	Send follow-up email to Mr. McDade re proposed Stipulation re extension.	\$ 15.00
7/27/2017	D 0.6	Admin Admin	\$ 25.00	Dropped off Respondent's Response to Status Report/ Notice of Intent to File Response at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 15.00

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SHELL

Date	Time Expended	Billor	Rate	Description	Total
7/27/2017	BL 2.5	Margaret McLetchie	300 \$ 450.00	Prepare for and attend hearing. Update clients.	\$ 1,125.00
7/27/2017	G 0.3	Pharan Burchfield	\$ 150.00	Begin preparing Response/Opposition to CCSD's Emergency Motion for Stay in the Nevada Court of Appeals.	\$ 45.00
7/27/2017	G 0.4	Pharan Burchfield	\$ 150.00	Draft Response to Status Check and Notice of Intent to File Response to Emergency Motion to Stay; phone call with Mr. Harris at Nevada Supreme Court/Court of Appeals Clerk's Office re emergency filing; fax and mail re submission; and mail/email/delivery re service re same.	\$ 60.00
7/27/2017	G 0.1	Pharan Burchfield	\$ 150.00	Prepare hearing binder for attorneys for hearing on Motion to Stay Pending Appeal.	\$ 15.00
7/31/2017	0.3	Admin Admin	\$ 25.00	Picked up Stipulation and Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 7.50
7/31/2017	B 2.4	Margaret McLetchie	300 \$ 450.00	Begin working on opposition to motion to stay.	\$ 1,080.00
7/31/2017	B 3.7	Margaret McLetchie	300 \$ 450.00	Draft proposed order denying stay.	\$ 1,665.00
7/31/2017	G 0.3	Pharan Burchfield	\$ 150.00	Begin drafting proposed Order for Ms. McLetchie's review; phone call with Ms. Gerace re set up a phone call with attorneys to discuss proposed Order; email draft proposed Order Denying Stay to Mr. McDade.	\$ 45.00
7/31/2017	G 0.2	Pharan Burchfield	\$ 150.00	File Stipulation and Order (re continue deadline to file Motion for Attorney's Fees); draft, file, and serve/mail Notice of Entry of Order re same.	\$ 30.00

MCLETCHE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
8/1/2017	D 0.7	Admin Admin	\$ 25.00	Dropped off Order Denying Stay, and Letter to Judge Williams dated 08/01/2017 at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ 17.50
8/1/2017	1.3	Leo Wolpert	\$ 175.00	Edit, proofread, and cite check proposed order.	\$ 227.50
8/1/2017	G 1.2	Pharan Burchfield	\$ 150.00	Finalize and submit (email/hand-delivery) Proposed Order Denying Stay; draft and send/email cover letter to Honorable Judge Williams re same.	\$ 180.00
8/3/2017	D 0.1	Admin Admin	\$ 25.00	Deposition Subpoena of Dan Wray, and Cynthia Smith - Johnson issued at the Las Vegas District Court: 200 Lewis Ave. Las Vegas, NV, 89101.	\$ 2.50
8/3/2017	L C 3.7	Alina Shell	²⁵⁰ \$ 350.00	Draft motion for leave to file excess pages in Response to CCSD's motion for stay pending appeal. Draft response to same, and circulate to Mr. Wolpert and Ms. McLetchie for review and editing.	\$ 1,295.00
8/3/2017	B 0.2	Margaret McLetchie	³⁰ \$ 450.00	Review and approve deposition notices for Cynthia Smith-Johnson and Matthew Wray.	\$ 90.00
8/3/2017	G 0.5	Pharan Burchfield	\$ 150.00	Begin drafting Motion for Excess Pages re Response to Emergency Stay. Submit via fax and mail to Nevada Court of Appeals for filing; serve/email/mail opposing counsel/general counsel and Honorable Judge Williams re same.	\$ 75.00

MCLECHIE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
8/3/2017	G 1/2	Pharan Burchfield	\$ 150.00	Draft Deposition Notices re Mr. Wray and Ms. Smith-Johnson; draft subpoenas re depositions; prepare witness fee checks; schedule depositions with Veritext Legal Solutions; serve (eserve, email, and mail) re all same.	\$ 180.00
8/4/2017	G 1/2	Pharan Burchfield	\$ 150.00	File Order Denying Stay; draft, file, and serve/mail Notice of Entry of Order.	\$ 30.00
8/16/2017	G 1/4	Pharan Burchfield	\$ 150.00	Prepare potential deposition exhibits for upcoming depositions of Ms. Smith-Johnson and Mr. Wray. Confirm depositions with Veritext Legal Solutions and court reporter.	\$ 60.00
8/16/2017	G 1/1	Pharan Burchfield	\$ 150.00	Send email reminder re Early Assessment Conference call to mediator and opposing counsel.	\$ 15.00
8/17/2017	L 3.5	Alina Shell	250 \$ 350.00	Attention to matters pertaining to deposition of Cynthia Smith-Johnson: refine deposition outline. Print out additional exhibits (correspondence between Ms. Smith-Johnson and Ms. Pak-Harvey; court orders, etc.). Attend deposition of Ms. Smith-Johnson. [NO CHARGE.] Organize our copies of deposition exhibits.	\$ 1,225.00
8/17/2017	C 0.6	Alina Shell	250 \$ 350.00	Revise Wray deposition outline.	\$ 210.00
8/17/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Communication with clients.	\$ 45.00
8/17/2017	B L 3.4	Margaret McLetchie	300 \$ 450.00	Prepare for deposition of Ms. Smith-Johnson. Consider next steps. Plan for Wray deposition.	\$ 1,530.00

MCLETCHE

SHELL

Date	Time Expended	Billor	Rate	Description	Total
8/18/2017	C 2.3	Alina Shell	\$ -	Assist Ms. McLetchie at deposition of Dan Wray regarding efforts to search for public records responsive to RJ requests.	\$ -
8/18/2017	B 0.1	Margaret McLetchie	³⁰⁰ \$ 450.00	Communication with clients.	\$ 45.00
8/18/2017	B 3.3	Margaret McLetchie	³⁰⁰ \$ 450.00	Prepare for and take deposition of Dan Wray.	\$ 1,485.00
8/24/2017	C 0.2	Alina Shell	²⁵⁰ \$ 350.00	Discuss pending deadline for motion for attorney's fees with Ms. McLetchie. Email Mr. McDade and Mr. Honey regarding request for stipulation to extend filing deadline.	\$ 70.00
8/25/2017	C 0.1	Alina Shell	²⁵⁰ \$ 350.00	Follow up email to McDade, Honey, et al. regarding stipulation to extension of time for filing motion for attorney fees.	\$ 35.00
8/28/2017	D 0.3	Admin Admin	\$ 25.00	Dropped off Stipulation and Order at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16.	\$ ⁹ 7.50
8/28/2017	D 0.7	Admin Admin	\$ 25.00	Picked up Stipulation and Order at the Las Vegas Clark County School District: 5100 West Sahara Ave. Las Vegas, NV 89146.	\$ ⁰ 17.50
8/28/2017	C 0.1	Alina Shell	²⁰⁰ \$ 350.00	Phone call with Ms. England to request a declaration in support of request for attorney's fees.	\$ 35.00
8/28/2017	C 0.1	Alina Shell	²⁰⁰ \$ 350.00	Review and approve draft stipulation to extend time for filing application for attorney's fees.	\$ 35.00
8/28/2017	G 0.1	Pharan Burchfield	\$ 150.00	Draft Stipulation re extension re attorneys' fees application for attorneys' review.	\$ 15.00

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Date	Time Expended	Billor	Rate	Description	Total
9/5/2017	G 0.3	Pharan Burchfield	\$ 150.00	Download and review deposition transcripts from Ms. Smith-Johnson and Mr. Wray.	\$ 45.00
9/11/2017	B 0.1	Margaret McLetchie	300 \$ 450.00	Review request for transcripts filed by CCSD.	\$ 45.00
9/12/2017	G 0.2	Pharan Burchfield	\$ 150.00	File Stipulation and Order (extension attorneys' fees application); draft, file, and serve/mail Notice of Entry of Order re same. Update attorneys and calendars accordingly.	\$ 30.00
9/18/2017	L C 2.2	Alina Shell	350 \$ 350.00	Attention to drafting motion for attorney's fees. Pursuant to Ms. McLetchie's request, contact CCSD counsel regarding stipulation to extension of time for filing because of scheduling conflict. Resume work on motion while awaiting response from counsel regarding stipulation.	\$ 770.00
9/18/2017	B 0.2	Margaret McLetchie	300 \$ 450.00	Communications with Ms. Shell regarding motion for attorney's fees.	\$ 90.00
Total Attorney's Fees					\$ 101,367.50

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Date	Description	Total
1/20/2017	Postage: mailing expense - Letter to CCSD's General Counsel, Mr. McDade re Public Records Act request.	\$ 2.20
1/26/2017	E-filing fee: Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011 [Amount: \$3.50; Court Fee: \$270.00; Card Fee: \$8.10].	\$ 281.60
1/26/2017	E-filing fee: Initial Appearance Fee Disclosure.	\$ 3.50
1/31/2017	Copying Costs: Through January 31, 2017: 77 pages at \$0.08 per page.	\$ 6.16
2/2/2017	E-filing fee: Affidavit of Service.	\$ 3.50
2/8/2017	E-filing fee: Ex Parte Motion for Order Shortening Time and Request for Expedited Hearing.	\$ 3.50
2/8/2017	E-filing fee: Order Setting Hearing on Writ of Mandate.	\$ 3.50
2/8/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
2/8/2017	Postage: mailing expense - Notice of Entry of Order mailed to CCSD's general counsel.	\$ 0.67
2/8/2017	Travel: Dropped off Ex Parte Motion for Order Shortening Time and Request for Expedited Hearing, Order Setting Hearing on Writ of Mandate, copy of letter dated 02/08/2017 to Judge Williams, and picked up redacted documents from Clark County School District: 5100 W Sahara Ave, Las Vegas, NV 89146, and dropped off letter to Judge Williams at: 200 Lewis Ave. Las Vegas NV, 89101. Total miles 10.3 at \$0.54/ per mile.	\$ 5.56
2/8/2017	Junes Legal Service Invoice # EP126361 for serving summons to the Clark County School District.	\$ 43.00
2/10/2017	Postage: mailing expense - PRA: Public Records Act request sent to Mr. Honey (Assistant General Counsel for CCSD).	\$ 0.46
2/22/2017	E-filing fee: Order Granting Writ of Mandate.	\$ 3.50
2/23/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
2/23/2017	Postage: mailing expense - Notice of Entry of Order mailed to CCSD's general counsel.	\$ 1.40
2/28/2017	Copying Costs: February 1, 2017 - February 28, 2017: 359 pages at \$0.08 per page.	\$ 28.72
2/28/2017	Legal Research: WestLawNext - charges for 16 transactions for February 2017.	\$ 10.13
3/1/2017	E-filing fee: Amended Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011.	\$ 3.50

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Date	Description	Total
3/1/2017	Postage: mailing expense - Amended Public Records Act Application Pursuant to NRS 239.001 / Petition for Writ of Mandamus Expedited Matter Pursuant to Nev. Rev. Stat. 239.011 mailed to CCSD's general counsel.	\$ 2.87
3/1/2017	Junes Legal Service Invoice # EP126361 for Summons and Complaint Served to the Clark County School District.	\$ 43.00
3/10/2017	Picked up Stipulation and Order at the Clark County School District: 5100 W Sahara Ave, Las Vegas, NV 89146. Total miles: 13 at \$0.54/ per mile.	\$ 7.02
3/16/2017	E-filing fee: Stipulation and [Proposed] Order.	\$ 3.50
3/20/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
3/20/2017	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel/general counsel for CCSD.	\$ 0.46
3/21/2017	Postage: mailing expense - Ms. McLetchie's letter sent to Mr. McDade.	\$ 0.46
3/21/2017	Picked up signed Order regarding briefing schedule from Mr. Honey at 5100 W Sahara Ave, Las Vegas, NV 89146. Total miles: 11.3 at \$0.54/ per mile.	\$ 6.10
3/27/2017	E-filing fee: Order Regarding Briefing Schedule.	\$ 3.50
3/27/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
3/27/2017	Postage: mailing expense - Notice of Entry of Order to opposing counsel/CCSD's general counsel.	\$ 0.46
3/29/2017	E-filing fee: Opening Brief.	\$ 3.50
3/29/2017	Postage: mailing expense - Opening Brief and Exhibits sent to opposing counsel/CCSD's general counsel.	\$ 13.60
3/31/2017	Copying Costs: March 1, 2017 - March 31, 2017: 853 pages at \$0.08 per page.	\$ 68.24
3/31/2017	Legal Research: WestLawNext - charges for 67 transactions for March 2017.	\$ 275.48
4/24/2017	E-filing fee: Reply Brief To Respondent's Answering Brief To Petitioner's Opening Brief And Public Records Act Application / Petition For Writ Of Mandamus.	\$ 3.50
4/25/2017	Postage: mailing expense - Reply Brief To Respondent's Answering Brief To Petitioner's Opening Brief And Public Records Act Application / Petition For Writ Of Mandamus sent to opposing counsel/CCSD's general counsel.	\$ 2.45
4/25/2017	E-filing fee: Amended Certificate of Service for Reply Brief.	\$ 3.50

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4/26/2017	Dropped Courtesy copy binder of hearing regarding Search Parameters to Judge Timothy C. Williams at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas NV, 89101 Department 16. Total miles 0.6 at \$0.54/ per mile.	\$ 0.32
4/30/2017	Copying Costs: April 1, 2017 - April 30, 2017: 2 pages at \$0.08 per page.	\$ 0.16
4/30/2017	Legal Research: WestLawNext - charges for 43 transactions for April 2017.	\$ 17.79
5/17/2017	Invoice # 13719: Court Reporter's Transcript of May 9, 2017 hearing.	\$ 409.60
5/31/2017	Copying Costs: May 1, 2017 - May 31, 2017: 303 pages at \$0.08 per page.	\$ 24.24
5/31/2017	Legal Research: WestLawNext - charges for 33 transactions for May 2017.	\$ 20.71
6/6/2017	E-filing fee: Order Granting Writ of Mandamus as to Jurisdiction and Search Parameters.	\$ 3.50
6/6/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
6/6/2017	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel/CCSD's general counsel.	\$ 1.40
6/13/2017	E-filing fee: Memorandum Regarding CCSD's Privilege Log and Certifications.	\$ 3.50
6/13/2017	Postage: mailing expense - Memorandum Regarding CCSD's Privilege Log and Certifications sent to opposing counsel/CCSD's general counsel.	\$ 1.40
6/28/2017	Invoice # 13753: Court Reporter's Transcript of June 27, 2017 hearing.	\$ 770.43
6/28/2017	Invoice # 13753: Court Reporter's Appearance Fee of May 9, 2017 hearing.	\$ 80.00
6/29/2017	Dropped off payment (Check #:2062) to Court Reporter Margaret Isom for invoices: 13707 and 13753 at Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16. Total miles: 0.9 at \$0.54 / per mile.	\$ 0.49
6/29/2017	Dropped off Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions, and a letter to Honorable Judge Williams date 06/29/2017 to the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101 Department 16. Total miles 0.9 at \$0.54 / per mile.	\$ 0.49
6/30/2017	Copying Costs: June 1, 2017 - June 30, 2017: 980 pages at \$0.08 per page.	\$ 78.40
6/30/2017	Legal Research: WestLawNext - charges for 42 transactions for June 2017.	\$ 29.04

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Date	Description	Total
7/11/2017	E-filing fee: Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions.	\$ 3.50
7/11/2017	Picked up signed Order Granting Writ of Mandamus as to Withheld Records and Requiring Depositions from - the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas, NV, 89101. Total miles: 0.9 at \$0.54/ per mile.	\$ 0.49
7/12/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
7/12/2017	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel/general counsel for Clark County School District.	\$ 1.61
7/19/2017	Postage: mailing expense - Petitioner Las Vegas Review-Journal's Opposition to Respondent Clark County School District's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRCP 62(c),(d), & (e) Pending Appeal on Order Shortening Time sent to opposing counsel/general counsel.	\$ 1.82
7/19/2017	E-filing fee: Petitioner Las Vegas Review-Journal's Opposition to Respondent Clark County School District's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRCP 62(c),(d), & (e) Pending Appeal on Order Shortening Time.	\$ 3.50
7/20/2017	Dropped off Petitioner Las Vegas Review - Journal's Opposition to Respondent Clark County School District's Motion to Stay Enforcement of Order Granting Writ of Mandamus as to Withheld Records Pursuant to NRC 62(c), (d), & (e) Pending Appeal on Order Shortening Time at the Las Vegas Regional Justice Center: 200 Lewis Ave. Las Vegas NV, 89101 Department 16. Total miles: 0.9 at \$0.54 / per mile.	\$ 0.49
7/26/2017	Picked up Stipulation and Order at the Las Vegas School District: 5100 W. Sahara Ave. Las Vegas, NV, 89146. Total miles 13.0 at \$0.54/ per mile.	\$ 7.02
7/27/2017	Postage: mailing expense - Respondent's Response to Status Check and Notice of Intent to File Response to Emergency Motion to Stay sent to opposing counsel and Nevada Court of Appeals.	\$ 0.92
7/31/2017	E-filing fee: Stipulation and Order.	\$ 3.50
7/31/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
7/31/2017	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel/general counsel.	\$ 0.46
7/31/2017	Copying Costs: July 1, 2017 - July 31, 2017: 343 pages at \$0.08 per page.	\$ 27.44

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Date	Description	Total
7/31/2017	Legal Research: WestLawNext - charges for 186 transactions for July 2017.	\$ 210.54
8/3/2017	Postage: mailing expense - Subpoenas and Deposition Notices re Dan Wray and Cynthia Smith-Johnson sent to opposing counsel/general counsel.	\$ 1.61
8/3/2017	Check # 2072 - Deposition Witness Fee - Cynthia Smith-Johnson.	\$ 40.00
8/3/2017	Check # 2073 - Deposition Witness Fee - Dan Wray.	\$ 40.00
8/3/2017	Postage: mailing expense - Motion for Excess Pages re Response to Emergency Stay mailed to opposing counsel/general counsel and Nevada Court of Appeals.	\$ 1.34
8/4/2017	E-filing fee: Order Denying Stay.	\$ 3.50
8/4/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
8/4/2017	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel/general counsel.	\$ 2.03
8/4/2017	Postage: mailing expense - Response to Emergency Motion for Stay, Appendix of Exhibits, and Supplement to Appendix of Exhibits mailed to opposing counsel/general counsel and Nevada Court of Appeals.	\$ 27.20
8/28/2017	Picked up Stipulation and Order at the Las Vegas School District: 5100 W. Sahara Ave. Las Vegas, NV, 89146. Total miles 13.0 at \$0.54 / per mile.	\$ 7.02
8/31/2017	Copying Costs: August 1, 2017 - August 31, 2017: 804 pages at \$0.08 per page.	\$ 64.32
8/31/2017	Legal Research: WestLawNext - charges for 16 transactions for August 2017.	\$ 13.48
9/11/2017	Invoice: 13824 - Margaret Isom (Court Reporter) Appearance fee for hearing: 07/27/2017.	\$ 40.00
9/12/2017	E-filing fee: Stipulation and Order.	\$ 3.50
9/12/2017	E-filing fee: Notice of Entry of Order.	\$ 3.50
9/12/2017	Postage: mailing expense - Notice of Entry of Order sent to opposing counsel/general counsel.	\$ 0.67
9/13/2017	Veritext Deposition Invoice CA3084162 for Cynthia Smith-Johnson taken on: 08/17/2017.	\$ 764.60
9/15/2017	Veritext Deposition Invoice CA3089360 for Daniel R. Wray taken on: 08/18/2017.	\$ 748.80
Total Costs and Expenses		\$ 4,330.87

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EXHIBIT “D”

Study of Nevada Laws Governing Public Books and Records



*Legislative Counsel
Bureau*

*Bulletin No.
93-9*

September 1992

STUDY OF NEVADA LAWS GOVERNING
PUBLIC BOOKS AND RECORDS

BULLETIN NO. 93-9

SEPTEMBER 1992

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SUMMARY OF RECOMMENDATIONS

Following is a summary of the recommendations approved by the Legislative Commission's Subcommittee to Study the Laws Governing Public Books and Records.

A. DEFINITIONS RELATED TO PUBLIC RECORDS AND CATEGORIZATION OF SUCH RECORDS

1. Enact legislation that provides for broad definitions of "public record" and "governmental entity." The definition should include electronic records as public records. (BDR 19-398)
2. Enact legislation that creates certain categories which, by example, lists those records that are always included as public records. (BDR 19-399)

In summary, records that are public include records regarding title to real property, contracts of government agencies, and certain job description information related to government employees.

3. Enact legislation that creates a category which lists certain information that is not to be considered a public record. (BDR 19-399)

In summary, such information includes certain working drafts for personal use, material legally owned by an individual, copy-righted material and proprietary software.

4. Enact legislation that lists certain kinds of information that falls within the definition of public records, but notwithstanding that fact, must not be disclosed. (BDR 19-399)

In summary, this list includes information where access is restricted by a Federal or State statute, certain medical records, certain personnel files, information that is privileged, and information related to certain governmental investigations.

5. Enact legislation addressing the category of non-disclosable public records which allows any record deemed non-disclosable to be disclosed if, with

respect to the particular record, the general policy in favor of open records outweighs an expectation of privacy or a public policy justification. (BDR 19-399)

6. Adopt a resolution requiring a study of all exemptions to the public records laws to determine which exemptions should be repealed, amended, or remain the same. (BDR R-395)

B. PROCEDURES FOR ACCESS TO PUBLIC RECORDS

7. Enact legislation which provides a uniform method of requesting information, procedures to provide access to or deny that information, and time frames within which responses or other actions are required. (BDR 19-397)

In summary, the following elements were recommended:

- Each agency, upon request by any person, shall make public records available for inspection and copying during regular business hours. Provide that the request may be oral or written and may be made in person, by telephone or by mail.
- Unless information is readily retrievable by the agency in the form in which it is requested, an agency is not required to prepare a compilation or summary of its records.
- Each agency shall ensure reasonable access to facilities for duplicating records and for making memoranda or abstracts from them.
- If an agency is not immediately able to fulfill a request for a governmental record, does not intend to fulfill it or denies it, the agency must inform the requester of his right to make a formal written request.
- Within a reasonable time, but no later than 3 working days after receiving a written request

for access which reasonably identifies or describes a governmental record, the agency shall:

- a. Make the record available to the requester;
 - b. Inform the requester that unusual circumstances (such as the volume of records which have been requested or the need to search for, consult with or obtain records from another office or agency) have delayed the handling of the request and specify a time and date, no later than 10 working days after the reply would otherwise be due, when the record will be available;
 - c. Inform the requester that the agency does not maintain the requested record and provide, if known, the name and location of the agency maintaining the record; or
 - d. Deny the request.
8. Enact legislation which provides that where access is denied, the complaining party may directly appeal to a court of competent jurisdiction seeking an order compelling access and giving such proceedings priority on the court's calender. Provide that court costs and attorneys' fees are awardable if the requester prevails. (BDR 19-393)
 9. Include in the final report a statement of the subcommittee's support for the concept of an intermediate appellate body that would have concurrent jurisdiction with the courts to consider appeals from the denial of a public record.
 10. Enact legislation to establish that the fact that a record contains restricted and non-restricted information is not a reason for denying access to the non-restricted information. (BDR 19-397)
 11. Enact legislation that prohibits a public body from inquiring about the intended use of requested public information or making any other inquiry of a person requesting to inspect or receive copies of public information, except to the extent necessary

to clarify the request for information. Include an exception for information requested from the Department of Motor Vehicles and Public Safety because *Nevada Revised Statutes* 482.170 requires the department to make an inquiry as to the purpose for requesting certain information. (BDR 19-397)

C. THE TREATMENT OF ELECTRONIC RECORDS

12. Urge the Department of Data Processing, in cooperation with the Nevada State Library and Archives, to create and maintain an inventory of statewide hardware, software and information.
13. Urge the Division of Archives and Records to work with other State agencies to establish retention and disposition schedules for records when information systems are designed or redesigned. Furthermore, urge all State agencies to consider record retention/disposition requirements at the point of system design.
14. Urge the Division of Archives and Records to undertake a program to educate State officials about their responsibilities for retention, care, and preservation of government records with special emphasis on electronically-stored public records.
15. Include in the final report a statement of the subcommittee's support for the concept of creating a centralized information storage facility and developing procedures for maintaining information.

(These resolutions are all drafted as BDR R-394.)

D. COSTS ASSOCIATED WITH PUBLIC RECORDS

16. Enact legislation that allows only the cost of the materials and the equipment, not labor, regarding reproduction of records. (BDR 19-396)
17. Include in the final report support for the concept of government using a cost analysis formula to calculate a per copy price. The formula should consider the average number of copies per month, the purchase price of the copying equipment, and an amortized cost per month over the anticipated life

of the equipment to achieve a total machine cost per copy.

18. Enact legislation which authorizes, but does not require, a governmental entity to fill "custom" requests (such as re-formatting information) and to charge a reasonable fee for completing such requests. (BDR 19-396)
19. Enact legislation which provides that, when a requester wants information in a format which is different from the format used to maintain or store the information, the governmental entity is not required to re-format that data. (BDR 19-396)

E. ENFORCEMENT OF PUBLIC RECORDS LAWS

20. Repeal the existing criminal penalty relative to the failure to disclose a public record. (BDR 13-393)
21. Enact legislation that prescribes the procedures for direct appeal to a court of law seeking an order compelling access and giving such proceedings priority on the court's calendar. Provide for court costs and attorneys' fees if the requester prevails. (Discussed in Section C regarding procedures for access.) (BDR 19-393)
22. Enact legislation providing that governmental entities and employees are immune from suit and liability if they act in good faith in disclosing or refusing to disclose information. (BDR 13-393)

REPORT TO THE 67TH SESSION OF THE NEVADA LEGISLATURE
BY THE LEGISLATIVE COMMISSION'S SUBCOMMITTEE TO
STUDY THE LAWS GOVERNING PUBLIC BOOKS AND RECORDS

I. INTRODUCTION

This report is submitted in compliance with Assembly Concurrent Resolution No. 90 (File No. 184, *Statutes of Nevada 1991*, pages 2643-2644) which directed the Legislative Commission to study Nevada's laws governing public books and records. The Legislative Commission appointed the following legislators to conduct the study:

Assemblyman Gene T. Porter, Chairman
Senator Ron Cook (resigned during the study)
Senator Joseph M. Neal, Jr. (appointed to replace
Senator Cook)
Senator Dina Titus
Assemblywoman Jan Evans
Assemblyman James A. Gibbons

The resolution required the Governor to appoint at least five members to serve as a technical advisory group to assist the legislative subcommittee. The Governor responded by appointing the following 12 members representing various groups interested in the public records law:

Melanie Meehan-Crossley, Deputy Attorney General,
Office of the Attorney General
Andrea K. Engleman, Nevada Press Association
Gentty Etcheverry, Executive Director,
Nevada League of Cities
Robert S. Hadfield, Executive Director,
Nevada Association of Counties
William E. Isaeff, Chairman, Public Lawyers Section,
Nevada State Bar
Karen Kavanau, Director,
Nevada's Department of Data Processing
Joan Kerschner, State Librarian,
State Library and Archives
Donald Klasic, General Counsel,
University of Nevada System
Dennis Myers, President,
Society of Professional Journalists
Guy L. Rocha, State Archivist, Division of Archives and
Records, State Library and Archives

Carl Scarbrough, Vice President, Las Vegas Chapter,
Society of Professional Journalists
Larry D. Struve, Director,
Department of Commerce

Legislative Counsel Bureau staff services for the study were
provided by:

Dennis Neilander of the Research Division
Principal Staff

Kimberly Ann Morgan
and
Kerry Schomer
of the Legal Division
Legal Counsel

Lyndl Payne of the Research Division
Committee Secretary

SUBCOMMITTEE AND ADVISORY GROUP HEARINGS

A total of 11 meetings were held in association with the study. Four of the hearings were joint meetings with participation from both the legislative subcommittee and the advisory group, although the advisory group did not have any voting privileges.

At the first meeting of the subcommittee, various parties interested in the public records issue testified regarding the problems that exist with the law. The parties included representatives from:

1. A private company that exchanges information with public entities in Nevada;
2. The Health Division of Nevada's Department of Human Resources;
3. Nevada's Department of Motor Vehicles and Public Safety (DMV&PS);
4. The Central Repository for Nevada Records of Criminal History in the Nevada Highway Patrol Division (DMV&PS);
5. The Office of Court Administrator;

6. Nevada district judges;
7. The Office of the Secretary of State;
8. Local government; and
9. The public.

At the second meeting, staff presented a comparison with other state public records laws and an overview of the Federal Freedom of Information Act (FOIA). Presentations regarding computer records and the fraudulent use of information were also given. The Chairman directed the advisory group to consider all the information presented and submit proposals to the subcommittee for consideration at the third meeting.

The advisory group then held a meeting that identified five major areas to be addressed. Those areas were:

- The definition and categorization of public records;
- Procedures for access to public records;
- The treatment of electronic records;
- The costs associated with public records; and
- Enforcement of public records laws.

The advisory group divided into five subgroups to propose recommendations in each of these areas. These groups conducted meetings and reported to the advisory group as a whole. The advisory group subsequently met two additional times and developed recommendations to submit to the legislative subcommittee. The subcommittee considered these proposals at its third and fourth meetings. The subcommittee adopted a total of 22 recommendations.

This final report of the subcommittee contains a discussion of the current status of the public records law in Nevada and an explanation of the recommendations adopted by the members. The report is divided into the areas of concern identified by the advisory group and subcommittee.

II. CURRENT STATUS OF NEVADA'S PUBLIC RECORDS LAW AND PROBLEMS IDENTIFIED

In order to readily understand the recommendations adopted by the subcommittee, this section of the report provides relevant background information. The current status of the law is discussed for each of the five major areas addressed by the subcommittee.

A. THE DEFINITION AND CATEGORIZATION OF PUBLIC RECORDS

This area was the most controversial and received the greatest amount of discussion. The Nevada Public Records Law was enacted in 1911 and has remained largely unchanged since that period. It provides in relevant part:

All public books and public records of the state * * * the contents of which are not otherwise declared confidential, shall be open at all times during office hours to inspection by any person, and the same may be fully copied * * *

While the law states that "all public books and records" shall be open to the public, it does not define the term. In the early 1900's, the lack of a specific definition was common among state laws. However, the complexion of records has changed dramatically over the years in both the characteristics and kind of records kept by government as well as the volume and manner in which they are maintained.

The lack of definitions has resulted in a constantly evolving body of law that includes related legislation, Attorney General opinions, and judicial decisions. With respect to legislation, the subcommittee discovered over 250 exemptions to the general law that public records be open to the public. These exemptions are contained in both the *Nevada Revised Statutes (NRS)* and the *Nevada Administrative Code*. Appendix A provides the general public records law and a list of the exemptions.

In 1965, the Nevada Legislature amended the law by inserting the term "public" when describing government records. The previous law declared that "all" books and records of the State were open to the public. In common law, the right of access to government records was restricted to public records; therefore, the 1911 law was actually an expansion of the right to access because of its failure to qualify the

records as public. That right was restricted in 1965 by adding the term "public." The 1965 amendment is the most significant change to the law since its enactment.

In an attempt to discern the meaning of the law, at least a dozen opinions interpreting the law have been issued by the Attorney General. Most of these opinions were initiated by various state agencies attempting to decide whether to release a record.

Only one Nevada Supreme Court case dealt squarely with the public records law. That case is attached as Appendix B (*Donrey of Nevada v. Bradshaw*, 106 Nev 630, 798 P.2d 144, [1990]). The case concerned the accessibility of certain criminal investigative records as public records. The party seeking the records argued for the application of a balancing test, which was announced and applied in various Attorney General opinions (although these opinions are not binding). This test balanced the interest and justification of the agency, or the public in general, in maintaining the confidentiality of the document against the interest or need of the public to review the document.

Nevada's Supreme Court agreed and proceeded to apply a balancing test. It held that there were no pending or anticipated criminal proceedings regarding the records at issue, no confidential source or investigative technique to protect, no potential jeopardy to law enforcement personnel, and no possibility of denying someone a fair trial. The court ordered the records to be released.

In so doing, the court weighed the absence of any privacy or policy justifications for nondisclosure and the general policy in favor of open government. The test favors open government, but recognizes the existence of policy or privacy reasons for nondisclosure of public records.

This case has provided some guidance in determining the scope of the term "public record," but state agency officials and others in possession of public records testified that the balancing test is difficult to apply.

B. PROCEDURES FOR ACCESS TO PUBLIC RECORDS

The next area of concern identified by the subcommittee involves access to public records. Even if a definition of a public record is adopted and clarified, the current law is

void of any procedures governing access to such records. The method for agencies to respond to requests and the procedures that should be followed in the granting or denying of a request is not addressed. If a dispute arises, there is no direction regarding the method of resolving it.

C. THE TREATMENT OF ELECTRONIC RECORDS

The subcommittee received testimony indicating that electronic records are generally treated as public records as a matter of practice; however, the law is not specific to electronic records. Because of the unique and technologically advancing means of storing records electronically, it was suggested that any amendments to the law consider and include reference to the treatment of electronic records.

D. THE COSTS ASSOCIATED WITH PUBLIC RECORDS

The law is currently vague about the costs of providing access to and copies of public records. The law does not address the issue of whether an agency or local government may recoup the costs of equipment in addition to copies or the costs of computer equipment that may be necessary to provide equitable access. The law also does not address the issue of the government generating a profit by providing access to certain records.

E. THE ENFORCEMENT OF PUBLIC RECORDS LAWS

The public records law provides that all public records be open to the public for inspection and copying. The current mechanism of enforcement is codified at NRS 239.010 (2) and provides that:

Any officer having custody of any of the public books and records described in subsection 1 who refuses any person the right to inspect such books and records as provided in subsection 1 is guilty of a misdemeanor.

Testimony indicated that the law is not substantive without some means of enforcement; however, due to the lack of definitions and other ambiguities in the statute, public officials could potentially be criminally liable for failing to release a record in good faith. It was suggested during the hearings that the criminal penalty be repealed and replaced with a civil mechanism of enforcement. On the other hand, it was suggested that, if some of the ambi-

guities in the law were clarified, the criminal penalty may be appropriate.

III. DISCUSSION OF RECOMMENDATIONS RELATED TO THE DEFINITION AND CATEGORIZATION OF PUBLIC RECORDS

Because the current law is void of a definition, the subcommittee recommended the adoption of a definition. In addition, it recommended a categorization scheme for public records.

A. THE DEFINITION OF PUBLIC RECORDS

In an effort to define public records in Nevada, the subcommittee and the advisory group looked to other states' definitions. Appendix C is a summary of the public records laws in the 50 states. An examination of the right to access in other states reveals that, although almost every state guarantees some right of access, the definitions and procedures for such access vary considerably. Parties interested in public records issues represent significant competing interests. Among these interests are the need for government efficiency, the right of the public to know, and the protection of confidential and private information.

After examining the various definitions, there appeared to be consensus among the subcommittee members and the advisory group regarding the basic definition of "public record." (A minority position preferred to use the term "government record" while the majority favored the term "public record.")

Therefore, the subcommittee recommends that the Nevada Legislature:

Enact legislation that provides for broad definitions of "public record" and "governmental entity." The definition should include electronic records as public records. (BDR 19-398)

During the work session, the subcommittee adopted the following language as a model for drafting the definition:

"Governmental entity" means the State, its officers, agencies, political subdivisions, and any office, board or commission thereof which is funded, at least in

part, by public money, or is established by the government to carry out the public's business.

"Public record" means a book, letter, document, paper, final budget, proposed budget and supporting information, map, plan, photograph, film, card, tape, recording or other material and electronic data, regardless of physical form or characteristics, which is prepared, owned, used, received, retained or maintained by a governmental entity in connection with the transaction of public business, the expenditure of public money or the administration of public property.

This model language was derived from Chapter 259, Laws of Utah 1991. The previous Utah public records law was similar to Nevada's as it was somewhat ambiguous. The Utah Legislature rewrote the law after studying the issue for over 2 years. The definition is very broad and inclusive.

B. RECORDS THAT ARE PUBLIC

The subcommittee and advisory group determined that, in addition to the basic definition, the law should be amended to include a categorization scheme that, by example, lists what is a record and which records are disclosable and which are not.

Therefore, the subcommittee recommended that the Nevada Legislature:

Enact legislation that creates certain categories which, by example, lists those records that are always included as public records. (BDR 19-399)

The subcommittee adopted the following language as a model to be used in drafting this category. The list identifies those records that are commonly recognized as public and should always be available for public inspection:

"Public record" includes, but is not limited to:
(a) Records maintained by a county recorder, clerk, treasurer, surveyor, the State Land Registrar, the State Engineer and other governmental entities which evidence:
(1) The title or encumbrances to real property;
(2) Any restrictions on the use of real property;
(3) The capacity of a person to take or convey title to real property; or

- (4) The amount of any tax assessed to real or personal property, and the status of the account.
- (b) Any contract entered into by a governmental entity.
- (c) The name, gender, gross compensation, job title, job description, job qualification, business address, business telephone number, number of hours worked per pay period, amount of annual and sick leave taken and date of employment and termination of any former or present officer or employee other than law enforcement officers or investigative personnel if such a disclosure would impair the effectiveness of an investigation or endanger any person's safety.
- (d) A draft that has never been made final but was relied upon by the governmental entity in carrying out action or policy.

C. RECORDS THAT ARE NOT PUBLIC

The subcommittee then determined that a list should be created to name those records that should not be deemed public even though the government may have possession of them.

Therefore, the subcommittee recommended that the Legislature:

Enact legislation that creates a category which lists certain information that is not to be considered a public record. (BDR 19-399)

This category contains information not normally considered "public". Access to this information would not be available to the public because it would not be deemed a public record. The subcommittee adopted the following language as a model to be used in drafting this category.

"Public record" does not include:
(a) Except as otherwise provided in this subsection, a temporary draft or similar material which is prepared for the originator's personal use or use by a person for whom the originator is working. A draft of a proposed budget and the supporting information for that proposal are not temporary, for the purposes of this subsection, if the originating department or entity submits that version of the proposal for final approval or adoption.

- (b) Any material which is legally owned by a person in his private capacity.
- (c) Any material to which access is limited by the laws of copyright or patent, unless the copyright or patent is owned by a governmental entity. This subsection does not grant the right of a governmental entity to obtain a copyright or patent.
- (d) Proprietary software.
- (e) Junk mail or commercial publications which are received by a governmental entity, officer or employee.
- (f) Books, governmental publications or other materials which are:
 - (1) Cataloged, indexed or inventoried; and
 - (2) Contained, in the collections of public libraries.
- (g) Property acquired by a library or museum for exhibition.
- (h) Artifacts and nondocumentary tangible property.

D. PUBLIC RECORDS THAT SHOULD NOT BE DISCLOSED

The subcommittee also determined that a list should be created that categorized certain records and conditions related to those records and provided that, although they may fit the definition of public records, they should not be disclosed.

Therefore, the subcommittee recommended that the Legislature:

Enact legislation that lists certain kinds of information that falls within the definition of public record, but not withstanding that fact, must not be disclosed.
(BDR 19-399)

The following list of such records was adopted by the subcommittee, with general agreement among the advisory group, to be used as a model to assist in the drafting of this category. If a record contains one of the following characteristics, it would not be available for public inspection.

1. Access is restricted by a specific Federal statute or regulation or by a specific statute of this State.

2. It contains information of a governmental agency relating to an ongoing or planned audit, unless the final report of the audit has been released.
3. Disclosure would jeopardize the physical security of governmental property, juvenile facilities, detentional facilities or correctional institutions.
4. The information is related to a governmental investigation, unless the investigation has been closed, or to the identity of a confidential informant.
5. The information is privileged from disclosure pursuant to a statute of this State or a rule of the Nevada Supreme Court.
6. It is material in a library, archive or museum which has been donated by a private person and the period of limitation on disclosure has not passed. If no period is specifically agreed upon by the donor and the custodian of the material, the period of nondisclosure must be the period of the donor's life or 30 years after the receipt of the material, whichever is longer.
7. It contains questions or answers used in, or preparatory information relating to, an academic examination or an examination to determine fitness for licensure, certification or employment, and if:
 - (a) Disclosure would compromise the security, fairness or objectivity of the examination; or
 - (b) A contract governing the use of the examination provides for the confidentiality of the questions or answers.
8. It is information which is in the custody of a governmental entity that performs data processing, microfilming or similar services, but which belongs to another agency that is using those services.

E. DISPUTED ITEMS

The following possible additions to the list were debated. There was disagreement on some of these issues among the members and the advisory group. Where an addition was made for each of the following various subheadings, the language in italics was adopted as a model to be used in drafting the remainder of this category.

Access Conditionally Restricted

9. *Access is restricted as a condition of participation in a State or Federal program or for receiving State or Federal money.*

There was some discussion of inserting the word "indirectly" to modify "participation." However, it was argued that the omission of the word would cover both indirect and direct participation.

Exemptions by Regulation

Some members of the advisory group favored adding a provision that would exclude records declared confidential by State agency regulations. The subcommittee elected not to include such records in the list, arguing that the responsibility to exempt records should remain with the Legislature.

Information Related to Benefits

Some members of the advisory group favored adding a provision that would protect information concerning eligibility for unemployment insurance benefits, social services, and welfare benefits. The subcommittee chose not to provide any additional protection than is already provided by law.

Personnel Files

After discussions regarding the merit of protecting certain information in personnel files, the subcommittee proposed the following model language:

10. *It is a personnel file of a governmental entity which contains information relating to the preemployment application or a postemployment evaluation, retention or promotion of the employee, to the extent that such information would reveal the person's home phone number, address, medical history or information of a personal or familial nature and not related to compensation or benefits received or to be received by the employee or his or her beneficiaries.*

Medical Files

The subcommittee debated the merits of allowing some medical records to be released as public records. The members determined that medical information of a personal nature should not be public, but such information of a general statistical nature should be public. Therefore, the subcommittee recommended that the following model language be included in the BDR.

11. *Access to a record is restricted if it contains information regarding a person's medical, psychiatric or psychological history, diagnosis, condition, treatment, evaluation, or similar data, to the extent that the information would reveal the person's identity.*

Auditing Techniques

The subcommittee adopted the following model language to protect against the disclosure of information that could facilitate embezzlement activity with government money by circumventing an audit.

12. *It contains information that would disclose auditing techniques, procedures or policies if disclosure would risk circumvention of an audit.*

Licensing Boards

Some members of the advisory group suggested a provision to protect information within the possession of licensing boards regarding a person's criminal history. It was argued that this information is already addressed by other state statutes, and such a provision was not included.

Government Appraisal and Procurement

It was also suggested that a provision be added to protect real estate appraisal information as the publication of this data may make future negotiations by the government for real property more difficult. The subcommittee determined that such publication did not create an unfair advantage and elected not to include such a provision.

A similar argument was made based on governmental procurement and the creation of an advantage in contracting, but

the subcommittee dismissed the notion for the same reasons stated earlier.

Litigation

The subcommittee adopted the following model language to protect certain information related to court cases.

13. *It contains material directly related to an existing lawsuit prepared in anticipation of or during litigation which has not been filed with a court or which would not be discoverable in accordance with the rules of Federal or State courts in which the matter is being litigated and which has been specifically determined by that court to be privileged for good cause shown under the standards of rule 26(c) of Nevada Rules of Civil Procedure by the Parties seeking nondisclosure.*

Trade Secrets

The subcommittee adopted model language to protect trade secrets. There appeared to be consensus among the advisory group and the members on the following language:

14. *The information contains trade secrets as defined in NRS 600A.030.*

Record Keeping Systems

The subcommittee recommended the following model language to protect the security of certain record keeping systems:

15. *It contains non-substantive administrative or technical information, including that contained in computer systems and programs, operating procedures or manuals, whose disclosure would jeopardize the security of a record keeping system.*

Balancing Test

One of the major points of contention during the study involved the balancing test adopted by Nevada's Supreme Court in *Donrey v. Bradshaw*. The majority of the advisory group argued that this balancing test is imperative because

it is impossible to define the universe of public records, and judgment calls will always be necessary. Even with a comprehensive definition and categorization of records, some information will inevitably be missed by the law. Also, some information collected by governments in the future may not be contemplated by the current law. This position also argued that the balancing test originates in the privacy protections guaranteed by the *United States Constitution* and cannot be altered by the State Legislature.

Another position argued that the balancing test was instituted because no statutory definition of public record and a definition would eliminate the need for the test. This position also argued that the balancing test is inconsistently applied by various agencies that and it is improper for an Executive Branch employee to conduct what is essentially a judicial test.

During the course of the hearings, it was also suggested that a different balancing test be adopted. The new test would be applied only to a record deemed nondisclosable. Some members of the advisory group argued that this use of the test was the intent of Nevada's Supreme Court in *Bradshaw* and that the case has been misconstrued. The balancing test should be applied to records deemed nondisclosable to determine if they should be disclosed, rather than applying them to public records to determine if they should not be disclosed.

After much debate, the subcommittee chose the latter approach and retained the balancing test but amended its application. The model language adopted by the subcommittee follows:

Enact legislation addressing the category of nondisclosable public records which allows any record deemed nondisclosable to be disclosed if, with respect to the particular record, the general policy in favor of open records outweighs an expectation of privacy or a public policy justification.
(BDR 19-399)

F. EXEMPTIONS

The advisory group determined that, due to the number of exemptions in Nevada law, it would be impossible to review them adequately within the budget and time constraints of

this legislative interim period. Thus, it was suggested that the exemptions remain as they are and be examined during the next interim.

Therefore, the subcommittee recommends that the 1993 Legislature:

Adopt a resolution requiring a study of all exemptions to the public records laws to determine which exemptions should be repealed, amended, or remain the same.
(BDR R-395)

IV. DISCUSSION OF RECOMMENDATIONS RELATED TO PROCEDURES FOR ACCESS TO PUBLIC RECORDS

The subcommittee determined that the final report should recommend rules of access to records and procedures for the denial of access and an appeal of such denial. The current law is void of any such guidelines.

The subcommittee and advisory group examined the Federal FOIA's provisions in this regard and utilized the concept of providing a uniform means of requesting information and responding to such requests. Appendix D provides an explanation of the FOIA.

The subcommittee and advisory group also examined the results of a previous study and relied on that study in establishing procedures for access to public records. The results of that study are reported in Legislative Counsel Bureau Bulletin No. 83-2, *Access to Government Records*.

A. INITIAL PROCEDURES REGARDING ACCESS TO PUBLIC RECORDS

Based primarily on the analysis of the 1983 recommendations and relevant provisions in the FOIA, the subcommittee recommended that the 1993 Legislature:

Enact legislation which provides a uniform method of requesting information, procedures to provide access to or deny that information, and time frames within which responses or other actions are required. (BDR 19-397)

Following is the model language adopted by the subcommittee regarding the procedures for access to public records:

1. Except as otherwise provided, each agency upon request by any person shall make public records available for inspection and copying during regular business hours. The request may be oral or written and may be made in person, by telephone or by mail.

2. Unless information is readily retrievable by the agency in the form in which it is requested, an agency is not required to prepare a compilation or summary of its records.

3. Each agency shall ensure reasonable access to facilities for duplicating records and for making memoranda or abstracts from them.

4. If an agency is not immediately able to fulfill a request for a governmental record, does not intend to fulfill it or denies it, the agency shall inform the requester of his right to make a written request.

5. Within a reasonable time, but no later than 3 working days after receiving a written request for access which reasonably identifies or describes a governmental record, the agency shall:

(a) Make the record available to the requester, including, if necessary, an explanation of any code readable by machine or any other code or abbreviation;

(b) Inform the requester that unusual circumstances, such as the volume of records which have been requested or the need to search for, consult with or obtain records from another office or agency, have delayed the handling of the request and specify a time and date, no later than 10 working days after the reply would otherwise be due, when the record will be available;

(c) Inform the requester that the agency does not maintain the requested record and provide, if known, the name and location of the agency maintaining the record; or

(d) Deny the request.

B. PROCEDURES UPON DENIAL OF ACCESS TO PUBLIC RECORDS

There appeared to be consensus among both the subcommittee and the advisory group on the initial procedures and rules regarding access. The subcommittee addressed the issue of denial of a request for information at the agency level.

The advisory group initially recommended that the subcommittee establish an intermediate appeals committee or panel that could review the agency decision to deny access. Some members of the advisory group preferred an ombudsman approach rather than an appellate panel. Other members of the advisory group did not support the concept of an appellate body but preferred to create a mechanism for appeals to be advanced directly to the courts in an expedited manner.

After much debate, the subcommittee recommended that the Legislature:

Enact legislation which provides that where access is denied, the complaining party may directly appeal to a court of competent jurisdiction seeking an order compelling access and giving such proceedings priority on the court's calendar. Provide that court costs and attorneys' fees are awardable if the requester prevails. (BDR 19-393)

C. ADMINISTRATIVE PANEL FOR APPEALS

As discussed earlier, some members of the subcommittee supported the concept of an intermediate panel and proposed that it be further explored. Testimony revealed that the State Library and Archives was requesting a bill draft separate from the interim study that would establish a committee for the approval of records and retention schedules. A similar bill was requested in 1991 but never introduced. The suggested committee was similar to the Utah public records committee which was considered by the advisory group and the subcommittee as a model during the course of the hearings. Chairman Porter directed the staff of the State Library and Archives to include the appellate board proposal in the bill draft as discussed by the advisory group. Thus, the subcommittee recommended to:

Include in the final report a statement of the subcommittee's support for the concept of an intermediate appellate body that would have concurrent jurisdiction with the courts to consider appeals from the denial of a public record.

Although the subcommittee did not recommend specifically the establishment of an appellate committee, it did support the concept and directed that this report include a

discussion of the various alternatives. Following is a description of the alternatives considered by the advisory group and the subcommittee throughout the course of the hearings.

The majority of the advisory group supported the creation of an administrative level committee or panel to decide appeals when access has been denied. Some members of the advisory group supported an "ombudsman" approach similar to that used in New York. That state has a Policymaking Committee and an Executive Director that hears appeals in these matters.

The group did not agree on the membership of the committee but agreed it should be broad based and ad hoc. The group analyzed Utah's approach and determined it could be used as a model. The group agreed that the Office of the Attorney General should not be on the panel, but should act as counsel to the panel.

Some examples of approaches used in other states follow.

New York

The New York Committee on Open Government is made up of 11 members that set policy and serve staggered 4-year terms. Six members are from the news media and the public. The remaining five are from government agencies. The committee establishes policy and the Executive Director actually hears the individual appeals.

Connecticut

The Connecticut Freedom of Information Commission actually hears the appeals and consists of five part-time commissioners. Two are from the media, two are from agencies and one is a lay person. No more than three may be from one political party.

Utah

Since the advisory group and subcommittee studied the Utah scheme closely, the following description of the Utah program is included in the report.

1. The State Records Committee was created within the Utah Department of Administrative Services. The committee is made up of the following individuals:
 - a. The State Archivist;
 - b. The State Librarian;
 - c. One citizen member appointed to a four year term by the governor upon the recommendation of the records committee;
 - d. One individual representing the news media appointed by the Governor to a 4-year term;
 - e. The Director of the Division of History;
 - f. One individual representing political subdivisions appointed by the Governor for a 4-year term; and
 - g. The State Auditor.
2. The Records Committee is required to take the following actions:
 - a. Meet at least once every 3 months to review and approve rules and programs for the collection, classification, and disclosure of records;
 - b. Review and approve retention and disposal of records;
 - c. Hear appeals from determinations of access; and
 - d. Appoint a chairman from among its members.
3. The Records Committee is authorized to:
 - a. Make rules to govern its own proceedings; and
 - b. Reassign classification for any record series by a governmental entity if that classification is inconsistent with the law.
4. The State Archivist is the Executive Secretary to the committee.

5. The State Archivist provides staff and supportive services for the records committee.
6. Unless otherwise reimbursed, the citizen member and the representative of the news media receive a per diem.
7. If the records committee reassigns the classification of a record, the governmental entity may appeal the re-classification to the district court.

The Utah law allows appeals to the records committee with the following being the major procedural and substantive provisions:

1. Appeal requested within 30 days after denial by the agency, or within 35 days after an agency has failed to act.
2. Records Committee schedules hearing no later than 5 days after notice of appeal and holds hearing within 30 days of the notice.
3. Records Committee provides notice to relevant parties.
4. Records Committee holds hearing allowing testimony and evidence and must issue an order within 3 days following the hearing.
5. The statute describes the requirements of the order and notice of right to appeal to district court.

D. OTHER PROVISIONS REGARDING ACCESS TO PUBLIC RECORDS

Testimony indicated that at times public information may be withheld because it is mixed with confidential information. The current law does not address this issue. Thus, the subcommittee recommended to:

Enact legislation to establish that the fact that a record contains both restricted and non-restricted information is not a reason for denying access to the non-restricted information. (BDR 19-397)

It was argued that once information is declared to be public and accessible, the government should not have an interest in attempting to determine the intended purpose of the information.

The members adopted the following recommendation in that regard:

Enact legislation that prohibits a public body from inquiring about the intended use of requested public information or making any other inquiry of a person requesting to inspect or receive copies of public information, except to the extent necessary to clarify the request for information. Include an exception for information requested from the Department of Motor Vehicles and Public Safety because *Nevada Revised Statutes* 482.170 requires the department to make an inquiry as to the purpose for requesting certain information. (BDR 19-397)

An exception to this rule would exist for information requested from the DMV&PS because NRS 482.170 requires the department to make an inquiry as to the purpose for requesting certain information. The department is entitled to deny the information if it appears that it will be used for an illegal purpose.

V. DISCUSSION OF RECOMMENDATIONS RELATED TO THE TREATMENT OF ELECTRONIC RECORDS

The advisory group determined that any recommendations, in providing definitions, should address the status of the record storage medium. This includes micrographic, audio, video, digital and optical formats, and how these forms of information storage, when deemed public records, should be preserved and managed.

There appeared to be consensus among the advisory group and the subcommittee regarding the adoption of the five major recommendations made by a consultant, Margaret Hedstrom, in her December 1990 report to the Nevada State Historical Records Advisory Board entitled: "Management and Preservation of Nevada's Electronic Public Records." A summary of the report is attached as Appendix E. This study was done pursuant to executive order, and the recommendations address the concerns expressed during the course of the hearings.

These recommendations are listed below. The subcommittee recommended that they be in the form of resolutions urging action rather than mandates. This is due in part, to the budget constraints and uncertainties related to the economy. The subcommittee recommended the following:

- The Department of Data Processing, in cooperation with the Nevada State Library and Archives is urged to create and maintain an inventory of statewide hardware, software and information.
- The Division of Archives and Records is urged to work with other State agencies to establish retention and disposition schedules for records when information systems are designed or redesigned. All State agencies are urged to consider record retention/disposition requirements at the point of system design.
- The Division of Archives and Records is urged to undertake a program to educate State officials about their responsibilities for retention, care, and preservation of government records with special emphasis on electronically-stored public records.
- Include in the final report support for the concept that the State should create an information storage facility and develop procedures for maintaining information.

(These resolutions are all drafted as BDR R-394.)

VI. DISCUSSION OF RECOMMENDATIONS RELATED TO THE COSTS ASSOCIATED WITH PUBLIC RECORDS

The subcommittee determined that the costs of providing access to public records is primarily a part of the government "doing business". The members supported the concept that government agencies should be allowed to recoup the costs associated with reproduction of records. Some members of the advisory group suggested a flat copying fee be enacted into law. However, local governments objected to this approach as it would require amendment by the Legislature for any changes in the fees. Also, they argued that a flat fee may not be appropriate in rural areas of Nevada as the costs of copying may be higher because of service fees and other pertinent charges.

Therefore, the subcommittee recommended that the Legislature:

Enact legislation that allows only the cost of the materials and the equipment, not labor, regarding reproduction of records. (BDR 19-396)

The advisory group and subcommittee examined the Idaho Public Records Law with respect to costs for copying information. The subcommittee based its recommendations, in part, on that law. The members directed that information relative to the Idaho law be included in this report, although it did not mandate the use of the exact formula. Appendix F is a letter from the Idaho Attorney General that explains the Idaho law, including the provisions addressing the costs of providing copies. Therefore, the subcommittee recommended the following:

Include in the final report support for the concept of government using a cost analysis formula to calculate a per copy price. The formula should consider the average number of copies per month, the purchase price of the copying equipment, and an amortized cost per month over the anticipated life of the equipment to achieve a total machine cost per copy.

There was discussion among the advisory group and the subcommittee concerning "custom requests." These requests involve such things as personalized searches for records. The subcommittee recommended that agencies should not be mandated to conduct such searches, but if an agency determines to fulfill such a request, it may charge a reasonable fee for the search. The fee may take into account personnel time in addition to costs related to equipment.

The subcommittee, therefore, recommended that the Legislature:

Enact legislation which authorizes, but does not require, a governmental entity to fill "custom requests" (such as re-formatting information) and to charge a reasonable fee for completing such requests. (BDR 19-396)

Some members of the advisory group raised the issue of requests for information in a format that is not normally

used by a government entity. The existing law does not provide guidance in this regard.

The subcommittee determined that re-formatting data to comply with such a request should not be mandatory, but should be permissive. Such requests are "custom requests" and should be governed by the preceding recommendation. Therefore, the subcommittee recommended the following:

Enact legislation which provides that, when a requester wants information in a format which is different from the format used to maintain or store the information, the government entity is not required to re-format the data. (BDR 19-396)

VII. DISCUSSION OF RECOMMENDATIONS RELATED TO THE ENFORCEMENT OF PUBLIC RECORDS LAWS

Testimony before the subcommittee and discussions in the advisory committee meetings raised the issue of whether criminal penalties are appropriate in public records cases. Various agency directors argued that the current Nevada law, which makes it a misdemeanor to withhold a public record, is inappropriate since there is no definition of public record. It has also been argued that the statute may have constitutional deficiencies because it is vague. Others have argued that the use of penalties is not an issue since the statute has never been used to charge a government official.

The enforcement of the public records laws is discussed last because its provisions were dependent upon the amendments and other additions to the law regarding access.

One option suggested during the course of the hearings was that the criminal penalties should be replaced with civil penalties. As discussed in the section on access to records, the subcommittee elected to establish an expedited procedure in court that grants attorneys fees and court costs to a requesting party that prevails. Because of this provision, the subcommittee determined not to recommend civil penalties, and to repeal the criminal penalties. Therefore, the subcommittee recommended that the Legislature:

Repeal the existing criminal penalty relative to the failure to disclose a public record. (BDR 19-393)

Enact legislation that prescribes the procedures for direct appeal to a court of law seeking an order compelling access and giving such proceedings priority on the court's calendar. Provide for court costs and attorneys' fees if the requester prevails.
(BDR 19-393) (Also discussed in Section IV regarding access.)

Because of the complexity associated with modern public records and the sensitive information that is contained in some records, the subcommittee determined a need for a liability standard that could be applied to the actions of government employees. The subcommittee elected to base the standard on "good faith."

Therefore, the subcommittee recommended the following:

Enact legislation providing that governmental entities and employees are immune from suit and liability if they act in good faith in disclosing or refusing to disclose information. (BDR 19-393)

EXHIBIT “E”

N " L I S

DETAIL LISTING
FROM FIRST TO LAST STEP

TODAY'S DATE: Oct. 14, 1993
TIME : 11:12 am
LEG. DAY: 93 Regular
PAGE : 1 OF 1

1993

AB 365 By Commerce PUBLIC RECORDS

Substitutes civil enforcement of access to public records
for criminal penalty. (BDR 19-393)

Fiscal Note: Effect on Local Government: No. Effect on the
State or on Industrial Insurance: No.

03/16 30 Read first time. Referred to Committee on
Government Affairs. To printer.
03/17 31 From printer. To committee.
03/17 31 Dates discussed in committee: 4/13, 4/14, 4/20, 4/23, 5/3 5/7
5/11, 5/25 (A&DP)
06/01 84 From committee: Amend, and do pass as amended.
06/01 84 (Amendment number 510.)
06/02✓ 85 Read second time. Amended. To printer.
06/03 86 From printer. To engrossment.
06/03 86 Engrossed. First reprint✓
06/04✓ 87 Read third time. Passed, as amended. Title approved.
(41 Yeas, 0 Nays, 1 Absent, 0 Excused, 0 Not Voting.) To
Senate.
06/05 87 In Senate.
06/05 87 Read first time. Referred to Committee on
Govt Affairs. To committee.
06/05 87 Dates discussed in Committee: 6/18, 6/25 (DP)
06/26 104 From committee: Do pass.
06/26 104 Declared an emergency measure under the Constitution and
placed on General File for next legislative day.
06/26 104 Placed on General File.
06/26✓ 104 Read third time. Passed. Title approved. (21 Yeas, 0 Nays,
0 Absent, 0 Excused, 0 Not Voting.) To Assembly.
06/27 106 In Assembly.
06/27 106 To enrollment.
06/29 108 Enrolled and delivered to Governor.
07/02 111 Approved by the Governor.
07/06 0 Chapter 393.
Section 5 of this act effective 12:01 a.m. October 1, 1993.
Remainder of this act effective October 1, 1993.
(* = instrument from prior session)

CCSD839

NEVADA LEGISLATURE
SIXTY-SEVENTH SESSION
1993

SUMMARY OF LEGISLATION

PREPARED BY
RESEARCH DIVISION
LEGISLATIVE COUNSEL BUREAU

A.B. 365 (Chapter 393)

Assembly Bill 365 removes the criminal penalty for a state officer who refuses to allow access to a public record. Instead of the criminal penalty, the measure substitutes a procedure for civil enforcement of the laws governing access to public records. The bill also grants immunity from liability for damages to public officers, employees and their employers who act in good faith in disclosing or refusing to disclose information.

Referred to Assembly Committee on Government Affairs

ASSEMBLY VOTE: 41-0-1

Referred to Senate Committee on Government Affairs

SENATE VOTE: 21-0-0

Effective October 1, 1993

ASSEMBLY BILL NO. 365---COMMITTEE ON COMMERCE

MARCH 16, 1993

Referred to Committee on Government Affairs

SUMMARY--Substitutes civil enforcement of access to public records for criminal penalty (BDR 19-393)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No.

EXPLANATION--Matter in italics is new; matter in brackets [] is material to be omitted.

AN ACT relating to public information; substituting civil enforcement of access to public books and records for a criminal penalty for denial of access; conferring immunity upon public officers and employees for certain actions in good faith; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY. DO ENACT AS FOLLOWS:

- 1 Section 1. Chapter 239 of NRS is hereby amended by adding thereto the
- 2 provisions set forth as sections 2 and 3 of this act.
- 3 Sec. 2. *If a request for inspection or copying of a public book or record*
- 4 *open to inspection and copying is denied, the requester may apply to the*
- 5 *district court in the county in which the book or record is located for an order*
- 6 *permitting him to inspect or copy it. The court shall give this matter priority*
- 7 *over other civil matters to which priority is not given by other statutes. If the*
- 8 *requester prevails, he is entitled to recover his costs and attorney's fees in the*
- 9 *proceeding from the agency whose officer has custody of the book or record.*
- 10 Sec. 3. *A public officer or employee who acts in good faith in disclosing or*
- 11 *refusing to disclose information is immune from liability for damages, either*
- 12 *to the requester or to the person whom the information concerns.*
- 13 Sec. 4. NRS 239.010 is hereby amended to read as follows:
- 14 239.010 [1.] All public books and public records of state, county, city,
- 15 district, governmental subdivision and quasi-municipal corporation officers
- 16 and offices of this state (and all departments thereof), the contents of which
- 17 are not otherwise declared by law to be confidential, [shall] *must* be open at
- 18 all times during office hours to inspection by any person, and the [same]
- 19 *books and records* may be fully copied or an abstract or memorandum
- 20 prepared therefrom, and any copies, abstracts or memoranda taken therefrom
- 21 may be utilized to supply the general public with copies, abstracts or memo-
- 22 *randa of the records or in any other way in which the [same] books and*
- 23 *records* may be used to the advantage of the owner thereof or of the general
- 24 public.

1 [2. Any officer having the custody of any of the public books and public
2 records described in subsection 1 who refuses any person the right to inspect
3 such books and records as provided in subsection 1 is guilty of a
4 misdemeanor.]

5 Sec. 5. NRS 122.040 is hereby amended to read as follows:

6 122.040 1. Before persons may be joined in marriage, a license must be
7 obtained for that purpose from the county clerk of any county in the state, at
8 the county seat of that county.

9 2. Before issuing a marriage license, the county clerk may require evi-
10 dence that the applicant for the license is of age. The county clerk shall accept
11 a statement under oath by the applicant and the applicant's parent, if availa-
12 ble, that the applicant is of age.

13 3. The county clerk issuing the license shall require the applicant to
14 answer under oath each of the questions contained in the form of license, and,
15 if the applicant cannot answer positively any questions with reference to the
16 other person named in the license, the clerk shall require both persons named
17 in the license to appear before him and to answer, under oath, the questions
18 contained in the form of license. If any of the information required is
19 unknown to the person responding to the question, he must state that the
20 answer is unknown.

21 4. If any of the persons intending to marry is under age and has not been
22 previously married, and if the authorization of a district court is not required,
23 the clerk shall issue the license if the consent of the parent or guardian is:

24 (a) Personally given before the clerk;

25 (b) Certified under the hand of the parent or guardian, attested by two
26 witnesses, one of whom must appear before the clerk and make oath that he
27 saw the parent or guardian subscribe his name to the annexed certificate, or
28 heard him or her acknowledge it; or

29 (c) In writing, subscribed to and acknowledged before a person authorized
30 by law to administer oaths. A facsimile of the acknowledged writing must be
31 accepted if the original is not available.

32 5. If the authorization of a district court is required, the county clerk shall
33 issue the license if that authorization is given to him in writing.

34 6. All records pertaining to marriage licenses are public records and open
35 to inspection pursuant to the provisions of NRS 239.010. [Any county clerk
36 who refuses to permit an inspection is guilty of a misdemeanor.]

37 7. A marriage license issued on or after July 1, 1987, expires 1 year after
38 its date of issuance.

Executive Director, Nevada Association of Counties; William Isaef, Chief Deputy City Attorney, City of Reno; Michael Pitlock, Member, Nevada Public Service Commission; Myla Florence, Administrator, Welfare Division; Brooke Nielsen, Assistant Attorney General, Office of Attorney General; Debbie Cahill, Nevada State Education Association; Mike Dyer, General Counsel, Nevada State Education Association; Jim Weller, Director, Department of Motor Vehicles and Public Safety; Darcy Coss, Deputy Attorney General, Department of Motor Vehicles and Public Safety; Orland Outland, Self; Robert Gagnier, Executive Director, State of Nevada Employees Association; Frank Barker, Captain, Las Vegas Metropolitan Police Department; Arlene Ralbovsky, Director, Police Records Section, Las Vegas Metropolitan Police Department; Joe Melcher, Washoe County Recorder; James Wright, Chief Deputy Recorder, Washoe County, Robert Cox, Nevada State School Board Association and Washoe County School District; and Jim Richardson, Nevada Faculty Alliance.

ASSEMBLY BILL 364 - Makes various changes regarding access to public books and records.

ASSEMBLY BILL 365 - Substitutes civil enforcement of access to public records for criminal penalty.

ASSEMBLY BILL 366 - Establishes procedures for public inspection of public records.

ASSEMBLY BILL 367 - Defines "public record" to accommodate various forms in which records are maintained.

ASSEMBLY BILL 368 - Requires charges for copies of public records not to exceed cost.

Assemblyman Gene Porter, District 8, testified AB 364, AB 365 and AB 366, as well as AB 367 and AB 368 scheduled to be heard on Wednesday, April 14, resulted from an interim subcommittee which he had chaired, to study Nevada's laws governing public books and records. Committee members, a twelve member advisory group appointed by the Governor to assist in deliberations, and the results of the study can be found in Bulletin No. 93-9, Research Library, Legislative Counsel Bureau. Mr. Porter then described how the study was carried out with the results leading to the adoption of 22 recommendations. It was those 22

recommendations which now made up the aforementioned five bills. Continuing, Mr. Porter said, "The issues involved with public records are difficult ones. There are few areas of public policy that have as many competing interests. The government's need for information, the people's right to have access to that information and the fundamental right to privacy must be delicately balanced. The task before the subcommittee and advisory group was enormous. Our public record's law has not been significantly amended since 1911. What you have before you is our attempt to balance those significant competing interests." Mr. Porter then gave the committee a brief overview of all the bills. In closing, Mr. Porter urged the committee to read the study and said, "The deliberations that you will undergo for the next two days, and subsequent work sessions, force you to balance the information contained, and which is now available in the technology age, with the public's right to know what its government is doing. Government has a lot of information on each of us, private industry has a lot of information on each of us....what the ACR subcommittee tried to do was formulate a broad, general policy that anything done on taxpayer time or expense within the public arena was accessible to the public." He explained the only exception dealt with medical records within a public facility, those records would be kept confidential. He then advised the committee to not try and craft exemptions to accommodate those in the audience who would testify to their own respected interest, as several hundred already existed in Nevada law and a subsequent interim study had been recommended to study those exemptions.

Mrs. Lambert questioned the meaning of the definition "governmental entity." She gave an example utilizing Chapter 624. Mr. Porter replied the subcommittee's definition was contained in Section 2 of AB 364. Mrs. Lambert then asked, "You think having 'funded by public money' will preclude any exemptions, like the example I gave you for the general improvement districts?" Mr. Porter answered he did not see any conflict in the two definitions. Further discussion followed.

Mr. Neighbors asked if a fiscal impact had been determined on any of the bills, specifically AB 366. Mr. Porter responded AB 366 merely outlined how to acquire a record, explaining the process.

Ande Engleman, Nevada Press Association (NPA) introduced Laura Wingard, City Editor, Las Vegas Review-Journal and President, Society of Professional Journalists.

Ms. Wingard presented prepared testimony (EXHIBIT C) to the committee.

Ms. Engleman then introduced Evan Wallach, General Counsel, Nevada Press Association, citing his background.

Mr. Wallach stated the public not only had the right to know, but the need to know, in order to make intelligent decisions and to give informed consent. He then proceeded to elaborate on his statement, addressed Mrs. Lambert's concern regarding the definition of "governmental entity, and explained the objectives of each bill.

Mrs. Lambert queried Mr. Wallach regarding Section 3, page 2 of AB 364. She asked, "Who is going to determine this and will they need guidelines?" Mr. Wallach answered, "This section arises because some years ago the Nevada Supreme Court decided a case called Bradshaw." He then gave his interpretation of the Bradshaw case and its interpretation across the state by governmental entities. He added, "I have yet to hear of a situation where somebody has asked for governmental records which are open by law, and the AG's office or District Attorney has said, 'We balanced it and you won, you get these records.' That's wrong, that's dead flat wrong. That's what this is in here to correct." Further discussion ensued regarding balancing.

Ms. Engleman testified this was not the first attempt to bring Nevada's public record's law into the twentieth century. She referenced the interim study performed in 1982 and the access the public presently had under Nevada Revised Statute 239. In addition, she presented the committee with Exhibit D and said, "You see an article there before you where a Clark County Commissioner could not even access public information as to the financial status of his own County from the County Treasurer who was another elected official....We are not set up to help the public, other than to give them some non-legal advice on things they might ask for when they go in....There really is no one to help the public at all at the present time." She then described the various problems encountered when attempting to acquire public records, the NPA's reluctance to participate in the interim study, the results of a private study she herself had conducted via telephone with each school district in an attempt to find out how much the County Superintendent of Education was paid, and pointed out the bills were a result of compromise. In conclusion, she directed the committee's attention to Exhibit E, a survey commissioned by NPA, and the removal of punitive

10067

affects on a public employee for refusing access to public records.

Mr. Williams asked for more clarification on Section 3. He suggested balancing dealt with a specific situation at a specific time but did not take into consideration future potentialities of abuse to the public. Mr. Wallach replied records closed by law were the only ones being dealt with. He said, "We are not asking that you mandate that somebody provide the information, because if we did and you did it, you would be saying it was open. We are not saying this laundry list of things which should be closed is something which should be opened. All we are saying in here is stop and consider. The situation that you pose is one factor to consider. But there are so many varieties in human experience, that all you can do is ask somebody in the law to apply it on a situation-by-situation basis. It's not perfect but it is the most workable thing we could create and it, at least, addresses your concern."

Mrs. Augustine commented on the survey saying, although statewide, it was such a small sample. A discussion ensued regarding statistical sampling.

In one last comment, Ms. Engleman clarified why it was important to open personnel files.

Karen Kavanau, Director, State Department of Data Processing, stated she had served on the advisory committee adding, "AB 367 which you will hear tomorrow declares electronic or computer records as a public record. AB 366 describes the procedure for accessing a public record. The Department of Data Processing is neutral as to what records should be accessible. This is clearly a legislative decision. I am here today to request two minor modifications to AB 366 and to emphasize a third point. If you would refer to Section 2 of AB 366 it reads,....I would ask that you would strike the words 'or other electronic means.' The reason I say that is because, if you don't, this could be interpreted to permit direct on-line access to government's databases and data communication networks. I don't believe that's your intent and I can tell you that state government simply isn't prepared for it. In Section 3, subsection a, subsection 2, if you would insert the word paper in the sentence that reads,....if you would amend that to say facilities for making 'paper' copies. The reason I ask that is, if you don't, it could be interpreted that government would have to provide facilities to make diskettes and tapes which could be very expensive. And finally, in Section 5, it reads,....I would like you to clarify....that we are talking about the government

entity that actually does gather and use that data, not the data keeper. The word custody is somewhat vague." She then gave an example, adding, "I just need some clarification in that section to make that perfectly clear that the department of data processing or its equivalent in other government organizations is not required to provide information that it does not have authority over."

Chairman Garner asked Ms. Kavanau to provide him with a list of proposed amendments as well as a copy for Mr. Wallach.

Mr. Porter pointed to Section 2 of AB 366 and said what the committee had envisioned was simply a fax machine, therefore, he did not object to the proposed amendment in that area.

Mr. Garner explained he was going to hear all testimony regarding all the bills pertaining to public records, but no action would be taken until a thorough study had been performed.

Tom Grady, Executive Director, Nevada League of Cities (NLC), stated after joint meetings with Nevada Association of Counties (NACO) and the cities and counties, he was pleased to submit the joint statement of the two organizations (Exhibit F) which supported most of the legislation with amendments.

Robert Hadfield, Executive Director, NACO, testified he had been a member of the advisory committee. He agreed with Mr. Porter the proposed legislation affected everyone; and with NPA that there was a spirit of cooperation in the effort to come up with recommendations for the committee. However, he said he thought it was necessary to present the dialogue which had taken place during the study but was not contained in the recommendations. When Mr. Hadfield asked Mr. Garner if he should step through Exhibit F, item by item, or if the committee would prefer to read it at its leisure, Chairman Garner replied he preferred the latter choice. Mr. Hadfield then summarized the concerns of NLC and NACO.

William Isaef, Chief Deputy City Attorney, City of Reno, stated he had served on the advisory committee and generally was in favor of AB 364, AB 365 and AB 366 with proposed amendments. Regarding AB 364, Mr. Isaef discussed the definition of "governmental entity," suggesting two definitions were being offered, both differing among the five bills and needing resolution; the reverse balancing test and the results it could render; violations of the supremacy laws of the United States by district or state judges; and open personnel records. Expressing his concerns regarding AB 365, Mr. Isaef said they

pertained to criminal proceedings against public employees for not providing public records and attorney's fees and costs. He next referenced AB 366 and supported Ms. Kavanau's suggestions, stating his reasons why; expressed his concern regarding Page 1, lines 20-22, which he felt would be creating new records from old records; and said he would appear to testify further on AB 367 and AB 368 at the scheduled hearing. In closing, Mr. Isaefff said, "We think that a good effort has been made here. We obviously don't agree with everything that's in the report. As a member of that advisory committee, I strongly argued for things that did not make it into the report. But this is the legislation before you and we're prepared to support this as much as we can, with amendments we feel will improve the effort."

Mr. Garner asked for written copies of Mr. Isaefff's comments and amendments.

Mrs. Segerblom asked Mr. Isaefff, "Are you suggesting that a government contract with a private company should not be public?" Mr. Isaefff replied absolutely not, with comment.

Michael Pitlock, Member, Nevada Public Service Commission, supported the concept of the legislation but intimated clarification was necessary. He said he would provide the chair with proposed, written amendments.

Myla Florence, Administrator, State Welfare Division, supported concepts but stated concerns. Written testimony, including proposed amendments, was provided to the committee. Exhibit G pertained to AB 364, Exhibit H to AB 366.

Brooke Nielsen, Assistant Attorney General, Office of Attorney General, introduced Melanie Crossley, Deputy Attorney General, Office of Attorney General, who had participated on the advisory committee. Ms. Nielsen testified she should have signed up in support of the legislation but with amendments. She then provided the committee with Exhibit I, written testimony, and proceeded to summarize it.

Debbie Cahill, Nevada State Education Association, introduced Mike Dyer and Jim Penrose, Attorneys, Nevada State Education Association. She then turned the floor over to Mr. Dyer who spoke as general counsel for the organization. Mr. Dyer explained his comments were directed to personnel files of educational employees only and did not support or oppose any other part of AB 364 or the other bills. He said educational

employees were unlike other employees, stressing teachers were subject to questioning by parents and other members of the public on a constant basis. Therefore, he did not think teachers should have their personnel records open to anyone and everyone who could pay the \$2.00, \$5.00 or \$10.00, especially students who could circulate the files around campus and faculty. Mr. Dyer then gave reasons and examples why it would not be good to open personnel records of teachers. In conclusion, Mr. Dyer asked for an amendment to AB 364 to exempt the records of educational employees unless there was a pending civil or criminal action requiring a disclosure of those records.

Mrs. Segerblom asked what information was available on teachers, Mr. Dyer replied under AB 364, everything; under current law, the balancing test and Bradshaw applied. He then gave an example of a legitimate request. When asked how long employee records were kept, Mr. Dyer answered it varied from district to district.

Jim Weller, Director, Department of Motor Vehicles and Public Safety, introduced Darcy Coss, Deputy Attorney General, Department of Motor Vehicles and Public Safety, and said the department's position on the legislation was neutral, but he wanted to express the department's concerns to the committee, which he did.

Darcy Coss concurred with the statements which had been made by previous testifiers and added her own reasons why records should not be opened. In conclusion, Ms. Coss said she would provide her statements in writing to the chair and Mr. Wallach.

Mrs. Kenny questioned the release of names and addresses. Ms. Coss explained those names were released under current law for legitimate purposes such as law enforcement, insurance or accident reports. When asked if a form containing the reason why the request was being made was prepared in these instances, the reply was yes.

Mrs. Freeman asked for clarification regarding the DMV providing lists to catalogs. Mr. Weller responded DMV did sell mailing lists to catalogs, stating the department had realized \$21,916 in 1992 and, to date, \$21,067. The lists contained name, address and the information requested. Mr. Weller said it would be good if each assemblyman checked with their constituents to see if they would like to have their names sold, as currently, there was no law saying a person could remove their name from the mailing list.

Mrs. de Braga queried if the request to not give out that information was honored. Mr. Weller replied there was nothing to preclude the department from doing that now.

Mr. Hettrick requested clarification on AB 366, lines 4 and 5, suggesting language should be tightened to exclude telephone modems as well.

A discussion ensued between Mr. Ernaut, Mr. Weller and Ms. Coss regarding the denial of access to records by a private citizen versus the selling of name and address lists to catalog businesses.

Mr. McGaughey said, from past legislative sessions, he remembered the reason for selling records had been budgetary, therefore he asked Mr. Weller to enlighten the committee in that regard.

Mr. Weller responded, "As I mentioned, the commercial sale accounts for around \$21,000 to \$22,000. That is just a small part of the \$3.9 million the department's record section brings in for giving out those records. So, you are right, it would have a financial impact. If we did not give out as much as we did, it would reduce staff."

Mr. McGaughey then said, "There is the issue. Do we want to fund \$3.9 million someplace else and retain privacy, or do you want to compromise the privacy?"

Orland Outland, speaking for himself, commented against the legislation. In addition, he gave the definition of "malfeasance," and said the legislation was blatantly an act of malfeasance, and the essence of malfeasance needed to be written into the statute with a three-step type penalty. In conclusion, he said he was highly supportive of openness in records, except for those he had spoken against, which he said would compound the problem for the individual constituent.

Mrs. Freeman asked Mr. Outland for his ideas regarding public and private partnerships in access of information. Mr. Outland replied, "I would hate to see it develop as a sham, as a mechanism to avoid accountability. If you are going to have advisory boards or commissions that will fall under this purview, then I feel that those types of activity should fall in the same type of oversight. I would hate to see it developed as an escape clause, as a mechanism to get around accountability. There is a little too much of that now."

Robert Gagnier, Executive Director, State of Nevada Employees Association, addressed AB 364. He cited Page 2, subsection 2, starting on line 27 and said, "All the information you see there, except J on line 38, is currently public record as far as state employees are concerned. We have a law which specifies what is open, public record for classified state employees and it includes almost all of this information. We do have some problem, however, with adding J when you start talking about sick leave." Mr. Gagnier continued by saying he endorsed many of Mr. Isaef's comments, but he was in opposition to some of the language which he then cited and proposed amendments to. In conclusion, Mr. Gagnier told Mr. Garner he would provide written copies of his amendments to the chair.

Frank Barker, Captain, Las Vegas Metropolitan Police Department, spoke in opposition to the legislation, providing Exhibit J to support his testimony.

Arlene Ralbovsky, Director, Police Records Section, Las Vegas Metropolitan Police Department, presented opposing testimony as outlined in Exhibit K.

Mrs. de Braga asked if a great number of requests for information was being turned down due to a lack of staff. Ms. Ralbovsky said the department was not turning down requests, only delaying them due to staffing. Mr. Barker added the staff limitations in the records department was overflowing into his department and he explained why.

Joe Melcher, Washoe County Recorder, speaking against the legislation, expressed his concerns to the committee and suggested adding language designating what kind of control the County Recorder would have of the records as there were many abuses which currently existed.

Mrs. Lambert queried issuing a subpoena to enforce a real estate transfer tax and asked if the tax statute specifically kept the information confidential. Mr. Melcher said he was not sure because no one had ever asked for that information although the information was available to the public. Further discussion followed.

James Wright, Chief Deputy Recorder, Washoe County, testified his concern was at what point a document became a public record; his department's ability to make a copy of the record before releasing it to the public; and the ability of the public to utilize equipment to make copies. Mr. Melcher agreed the last concern posed several problems for the department.

Assembly Committee on Government Affairs
April 13, 1993
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Robert Cox, Nevada State School Board Association and Washoe County School District, echoed the reservations of Mr. Isaef, Ms. Nielsen and Mr. Dyer, and requested amendments in those areas. In addition, Mr. Cox addressed the litigation section of AB 364 and stated his argument; AB 365, the balancing test, costs, and attorney fees. In conclusion, Mr. Cox said he would address a letter to the chair and Mr. Wallach stating his concerns and containing proposed amendments.

Chairman Garner explained the committee was running out of time, therefore, he would allow those who did not have the opportunity to testify to sign the attendance roster for the hearing on April 14, 1993, and he would permit them to speak prior to hearing the other bills on the agenda.

Jim Richardson, Nevada Faculty Alliance, expressed his concerns regarding AB 364, especially personnel records of educators. He asked that Section 3, the balancing test, be dropped, and suggested a notification procedure be included. He then cited what he believed to be other problems with the legislation.

There being no further business to come before committee, the meeting was adjourned at 10:56 a.m.

RESPECTFULLY SUBMITTED:


BETTY WILLS
Committee Secretary



Society of
Professional Journalists
Las Vegas Professional Chapter

ASSEMBLY GOVERNMENT AFFAIRS
Testimony on Open Records Bills
Assembly Bills 364, 365, 366, 367, 368

Good morning. Chairman Garner, members of the committee, my name is Laura Wingard. I'm the city editor for the Las Vegas Review-Journal and am here today in my capacity as president of the Las Vegas chapter of the Society of Professional Journalists, which includes members from newspapers, TV and radio.

My purpose today is not to go line by line through the public records bills before you but to stress to you why they are important and needed.

First, Nevada has more than 165 statutory exemptions to its so-called Open Records Act. The number of exemptions more than doubles when exclusions made through administrative regulations are included. This should disturb anyone committed to making sure that the business of government is done in the open.

Because there are so many exemptions, it is important that these bills pass so a signal is sent to the public employees who hold public records that it is their job to ensure the public has easy access to those documents which indeed are open for review by taxpayers. Journalists, in the course of trying to inform the public about the business of government, frequently encounter roadblocks in gathering open records. Too often, government agencies try to discourage reporters by first refusing access, then delaying access and finally releasing the record.

For example, a Review-Journal reporter told me on Friday the trouble she had obtaining a sexual assault report filed with the Metropolitan Police Department. First, she stood in line in the records department for the report. The records clerk went to pull the report and then refused, saying she could release no sexual assault reports. The reporter knew this was wrong, so she went and tracked down Metro's public information officer, who then intervened on the reporter's behalf. The reporter then returned to the records department and patiently waited for the records clerk to black out information that would identify the victim's name or address. She then paid the \$5 Metro requires for

any police report -- whether it's one page or 100 pages. If Metro's public information officer had not been available on Friday, the reporter would have left empty handed when there was no reason to withhold the public report.

This is not an isolated incident. Not a week goes by at the Review-Journal that a reporter does not complain to me about problems in obtaining public records. Some government agencies don't want to provide contracts they've made for lobbying services. Others don't want to reveal details of contracts with consultants and others. Some won't release the individual salaries of public employees. I would argue that all of these records should be open and available for public review.

Some have said the news media should stop whining about lack of access to public records and instead take government agencies to court every time a public record is refused. This would be a costly and unworkable solution. As I've said, my newspaper alone is refused public records every week. Add up all the other news organizations in the state -- not to mention citizens -- who are refused public documents, and the courts would face a glut of such cases. More importantly, lawsuits are public documents. A news organization does not want all of its competitors knowing it is suing for certain records, which -- if the courts ruled they were public -- then would be made available to everyone but with only one news organization having paid for the costly litigation.

So, in an effort to make it easier for the public to access the very records they paid to create through taxes, I urge you to pass these open records bills. By so doing, you would send a powerful message that you believe government's business should be done in the open and without fear of public scrutiny.

Thank you for listening to me. I'd be happy to try to answer any questions you may have.

COUNTY GOVERNMENT

Treasurer spars with Schlesinger

Aston, commissioner argue over banks

By Mary Manning
LAS VEGAS SUN

County Commissioner Don Schlesinger threatened to take legal action against county Treasurer Mark Aston after Aston refused to provide a list of banks doing business with county funds.

Aston turned down Schlesinger's month-old request for further financial details Tuesday. "I don't feel by providing it that that information would be of any value to you," he said.

Schlesinger is seeking more information on the banks that handle county investments in an attempt to determine if the banks have good records in dealing with minorities.

But Aston said the information, in the hands of an untrained person, could be misconstrued or misused to the county's detriment.

"I will do whatever it takes to make this information public," Schlesinger said. That includes requesting the Nevada State Press Association to become involved, he said.

"I share with Commissioner (Karen) Haynes my outrage that this public discussion was cut off by the treasurer and any other member on the board," Schlesinger said.

Aston said business with Valley Bank and brokerage houses are listed in monthly reports available to commissioners. County Manager Pat Shalmy and Comptroller Guy Hobbs.

Schlesinger pressed the treasurer for information on other funds connected to McCarran Airport, the Sanitation District or the Water District.

"On what basis do you need that information?" Aston asked. A startled Schlesinger — his voice rising — responded: "We



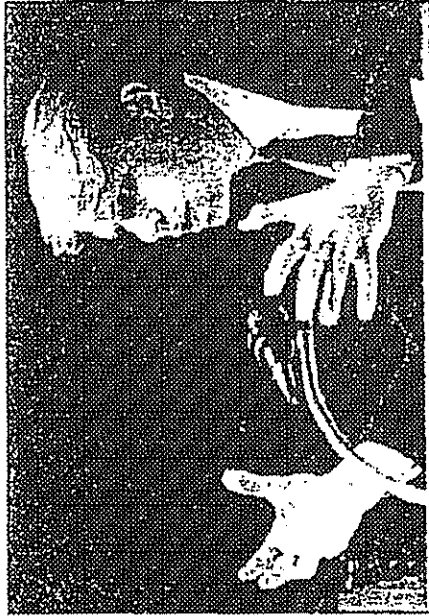
PAUL CHRISTENSEN calls for an end to the argument.

have the right to find out this information. ...

"I want to know all the banks. It is clear I do not have the information. It is clear the press does not have the information. It is clear the public does not have this information."

"Actually, Don, I don't have to give you the time of day," Aston responded.

"I'm not asking for the time of day," Schlesinger said. "I'm asking for the documents."



DON SCHLESINGER demands county banking records.

"For the benefit of the commissioner who does not understand his job ... and for the benefit of the chair, who is old enough to know better," Christensen said he would ask Deputy District Attorney Melton Edwards to explain tabling.

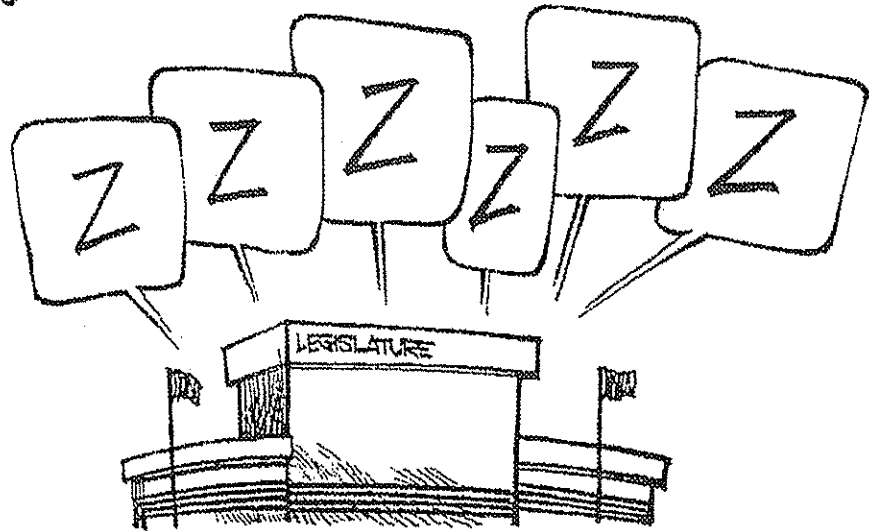
The motion to table was approved 5-2 with Commissioners William Pearson, Thalia Dondero and Christensen in the majority. Haynes and Schlesinger

voted against it. Commissioners Bruce Woodbury and Bingham were absent.

Schlesinger said the issue might wind up in court. He also asked County Manager Pat Shalmy to draft a disclosure law applying to county records.

Haynes said that the county's investment policy should be reviewed. The board examined it in October.

And if we had more open government, we might really find out what our government does...



Legislature should open the doors on government

The media have long been pushing for it. Now, the public agrees: State government must be open.

Legislators should pay attention to a survey released earlier this week, showing Nevadans strongly support an end to secrecy in government.

The survey, conducted by the Nevada Press Association, indicated 92 percent of Nevadans want their government agencies to provide their meeting agendas free of charge to the public.

The 500 residents in the survey believe the public's right to know outweighs a public servant's desire for privacy as it relates to job performance, qualifications or possible illegal actions.

Interestingly, even the majority of government workers polled favor open personnel records. That makes us wonder if most of the objections are coming from management positions in government.

Those polled prefer open government by wide margins. Ninety-five percent want records on government spending open, and more than 60 percent want public birth and death certificates. Support was strong for continuing the public notice requirements which newspapers regularly publish.

The association's survey shows what we've long suspected. People don't trust government agencies that operate behind closed doors or hide documents relating to their activities. Voters

know open government is more responsive.

A legislative subcommittee has recommended opening more public records and limiting government power to keep its affairs secret. If the Legislature approves, the recommendations would be the first major changes in a law that has survived basically intact since 1911.

The association survey adds ammunition to the subcommittee's recommendations. Government should be more open. Documents should be subject to public review. Agencies should not be permitted to operate in secret.

Historically, government secrecy has been advocated by special-interest groups or well-meaning bureaucrats who think the public should only know what others think it needs to be told.

There are undoubtedly those who will tell the Legislature they need secrecy to conduct business effectively. But, that's like telling your boss you work better when he isn't aware of what you're doing. Neither he, nor the public, will believe you.

The public must be able to review its government's workings. Without open government, the public cannot ascertain what it is doing. And if the public does not know what the government is doing, it can't make intelligent decisions at the ballot box.

Open government is the essential ingredient for democracies to work.

Research Report

Nevada Press Association, Inc.

1992-93 Statewide Survey
of Registered Voters





BARRY NEWTON
DIRECTOR

DR. ERNEST F. LARKIN
RESEARCH CONSULTANT

Consumer Data Service

3601 North Lincoln Blvd. • Oklahoma City, OK 73105 • 405/524-0021

TO WHOM IT MAY CONCERN:

The data in this report was generated through an extensive market research study conducted jointly by Consumer Data Service (CDS), a market research firm, and the Journalism Research Center at the University of Oklahoma.

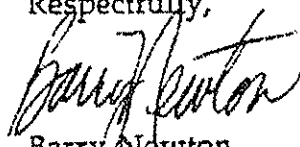
The study was commissioned by the Nevada Press Association, Inc. The purpose of the study was to determine attitudes towards government records and the publication of legal notices by registered voters in the state of Nevada.

In order to gain valid insights into citizen preferences and tendencies, a structured questionnaire was developed and tested.

The questionnaire, constructed by Dr. Ernest F. Larkin, director of the Journalism Research Center at OU, was designed to be administered via telephone interviews with a random sample of registered voters in the state of Nevada.

Consumer Data Service and the Journalism Research Center are responsible for the design and execution of the study. All data were processed by CDS and the Journalism Research Center, and the report was prepared by us. I can certify that the data in this report are, to the best of my knowledge, valid and correct.

Respectfully,


Barry Newton
CDS Director

Nevada Press Association, Inc.

1992-93 Statewide Survey of Registered Voters

Executive Summary

Nevada's registered voters are sensitive and alert to issues affecting them personally and to issues and records under the control of their state and local governments. By a substantial majority Nevada's registered voters believe most, if not all, records obtained by government agencies should be accessible by private citizens. Registered voters believe the public's right to know outweighs a public servant's or public employee's contention to privacy with matters relating to job performance, qualifications and illegal actions. Even a majority of government employees are in favor of openness with respect to personnel records.

While Nevada's voters are strongly in favor of open records, they are not insensitive to the cost to provide such records. A majority of Nevada's citizens believe individuals should pay for public records they request, however they do not believe the government should make a profit on public records provided.

A desire for openness in government was expressed by each public sector examined. No significant differences were demonstrated by respondent age group, income category, gender, or rural or metropolitan residence. The basic message received from the survey was that citizens deserve to know what actions their government takes and have a right to access records and information a government may keep and maintain.

The following summary highlights the results of questions asked to 500 registered voters in Nevada regarding their attitudes toward state government records and their usage and feelings toward the publication of legal and public notices. Comparisons by the respondents' residence or by having a government employee in the household are indicated in the text headings accompanying the specific questions asked.

Voter Access to Government Information

Registered voters to the statewide survey were asked if Nevada citizens should have access to specific types of information that were part of present day public records or information collected by public agencies. Of the 500 interviews, respondents were divided by metro and non-metro locations and by government and non-government employment status. By every measure examined, respondents were strongly in favor of openness to the following categories.

Q. <i>Should private citizens have access to information on</i>			
Response (N=500)	% of	Metro	Non-Metro
	total sample	respondents	respondents
Expenditure of taxpayer dollars			
by gov't agencies	95.8	95.6	96.0
Birth and death certificates	63.0	64.4	61.6
Work experience of public employees	76.2	73.2	79.2
Illegal actions by public employees	88.8	86.8	90.8
Job performance data on			
Dept of Welfare employees	75.2	74.8	75.6
Court information on			
hazardous products	93.4	91.6	95.2
Payment of settlements in suits against			
the government by private citizens	75.2	74.8	75.6
Job performance and job qualifications information on			
Gov't agency heads	90.0	90.0	90.0
Gov't department heads	90.8	89.6	92.0
Government or public			
agency administrators	90.4	89.6	91.2
All public employees	70.6	66.8	74.4
Teachers in public schools			
and colleges	77.0	78.4	75.6

	Households with public employee	Household without public employee
Expenditure of taxpayer dollars		
by gov't agencies	96.2	95.7
Birth and death certificates	63.2	62.4
Work experience of public employees	74.4	77.2
Illegal actions by public employees	86.5	89.9
Job performance data on		
Dept of Welfare employees	66.9	78.9
Court information on		
hazardous products	97.0	92.8
Payment of settlements in suits against		
the government by private citizens	73.7	76.6
Job performance and job qualifications information on		
Gov't agency heads	87.2	91.6
Gov't department heads	88.7	92.2
Government or public		
agency administrators	87.2	92.5
All public employees	64.7	73.1
Teachers in public schools and colleges	69.9	79.8

Other results from questions relating to government records and meetings revealed that...

- 94.2% believe government agencies should continue to provide agendas of open meetings free of charge to the public.
- 86.0% believe private citizens should have access to all information which government agencies may have about them.
- 58.2% believe private citizens should pay for copies of records they request from government agencies, but...
- 78.7% do not believe government should make a profit on public records they sell or provide to citizens.
- 80.2% do not believe government agencies should arbitrarily close records which presently are open to the public.

Q. *Should government agencies continue to provide agendas of open meetings free of charge to the public?*

Response (N=500)

	% of total sample	Metro respondents	Non-Metro respondents	Households with gov't employee	Households without gov't employee
Yes	94.2	94.0	94.4	96.2	93.1
No	3.2	3.6	2.8	2.3	3.8
DK/NR	2.6	2.4	2.8	1.5	3.2

Q. *Should private citizens have access to all information which government agencies may have about them?*

Response (N=500)

	% of total sample	Metro respondents	Non-Metro respondents	Households with gov't employee	Households without gov't employee
Yes	86.0	85.2	86.8	85.7	86.7
No	10.8	10.8	10.8	12.0	10.1
DK/NR	3.2	4.0	2.4	2.3	3.2

Q. *Should private citizens have to pay for copies of public records they request from government agencies?*

Response (N=500)

	% of total sample	Metro respondents	Non-Metro respondents	Households with gov't employee	Households without gov't employee
Yes	58.2	55.2	61.2	69.2	52.6
No	38.6	40.4	36.8	27.1	44.2
DK/NR	3.2	4.4	2.0	3.8	3.2

Q. *Should the government charge enough to make a profit on public records they sell to private citizens?*

Response (N=291)

	% of total sample	Metro respondents	Non-Metro respondents	Households with gov't employee	Households without gov't employee
Yes	20.3	23.2	17.6	17.4	20.3
No	78.7	75.4	81.7	82.6	78.0
DK/NR	1.0	1.4	.7	0.0	1.6

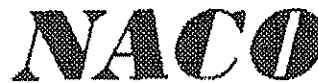
Q. *Should government agencies be able to close records to the public which are now open?*

Response (N=500)

	% of total sample	Metro respondents	Non-Metro respondents	Households with gov't employee	Households without gov't employee
Yes	12.2	10.0	14.4	9.8	11.8
No	80.2	81.2	79.2	82.0	80.9
DK/NR	7.6	8.8	6.4	8.3	7.2



P.O. BOX 2307
CARSON CITY, NV 89702
(702) 882-2121



NEVADA ASSOCIATION OF COUNTIES

308 N. CURRY ST., SUITE 205
CARSON CITY, NV 89703
(702) 883-7863

April 12, 1993

To: Val Garner, Chairman
Assembly Government Affairs
and Members of the Committee

Re: Assembly Bills 364 - 368

Dear Chairman Garner,

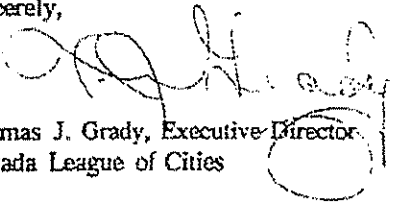
During the interim both the Nevada League of Cities and the Nevada Association of Counties participated in the discussions of the ACR 90 study of public records. Both memberships agreed for the need to clarify certain issues regarding public records. Following the introduction of Assembly Bills 364 - 368, our respective memberships reviewed these proposals and would like to provide you with our comments and suggested amendments to clarify our areas of concern.

Some of our major concerns regard proposed changes to confidential records which could be in conflict with existing federal statutes without further clarification. Many documents including sexual discrimination, disabilities and affirmative action records need to remain confidential to assure that we do not conflict with prior court decisions and state regulations.

We ask that you also consider the fiscal impact of implementing certain aspects of these proposals. It is imperative that local governments retain the right to recover costs associated with providing these services to the public. Keeping in mind that some of the searches and compilation of public records can be extremely time consuming, we are concerned that unrealistic time frames could add significantly to the cost of providing this service as staffing levels may have to be increased or additional overtime accrued to ensure that the agencies will be in compliance with any new statutes.

Attached is a copy of these and other areas of concern for which we would like to offer amended language for your consideration.

Sincerely,


Thomas J. Grady, Executive Director
Nevada League of Cities

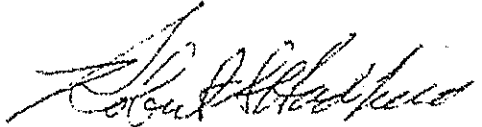

Robert S. Hadfield, Executive Director
Nevada Association of Counties

EXHIBIT F

1028

25

CCSD864

PROPOSED AMENDMENTS
Rev 4/9/93

A.B. 365

Section 2 (pg. 1 line 7)

Replace sentence beginning with "if the requester prevails,..." with the sentence "The court may allow the prevailing party to recover court fees and reasonable attorney fees from the losing party."

This section (1) clarifies costs, (2) gives the court discretion in the awarding of costs and (3) allows the prevailing party, whether governmental or private, the opportunity to recover fees.

Section 3 (pg. 1 line 10)

Replace Section 3 with "A public agency, public officer, or employee is immune from liability for damages, either to the requester or the person whom the information concerns, if the public officer or employee acts in good faith in disclosing or refusing to disclose information."

This clause extends to the public agency the immunity to liability if the employee acts in good faith.

TESTIMONY BEFORE
ASSEMBLY COMMITTEE ON GOVERNMENT AFFAIRS
AB 364, AB 365, AB 366

OFFICE OF THE ATTORNEY GENERAL

BROOKE NIELSEN, ASSISTANT ATTORNEY GENERAL

APRIL 13, 1993, 8:00 A.M.

A clear definition of what is a public record and clear guidance regarding access to records is welcomed by everyone who must deal with public records and the public who is entitled to have access.

While generally in support of this monumental effort to reform our public records law, I have concerns regarding eight areas in these bills and I have recommendations to amend or delete them.

Six items of concern are in today's three bills and two are in AB 368 to be heard tomorrow.

AB 364

FIRST: AB 364 Section 3., provides that records that are confidential by law are still subject to being opened if a judge can be convinced that public policy justifies opening the particular record. It is a novel approach for a legislature to make all confidential records potentially open by letting a judge decide if there is justification to do so. The legislature determined the public policy when it made the record confidential and the public has a right to rely on that.

This section will generate unnecessary litigation costs because the government will have to defend every attempt to open a confidential record, unless appropriate waivers of confidentiality can be obtained. Inmates with nothing else to do will have a field day with this section.

SECOND: It is of great concern that the words "state regulations" are omitted in Section 4(2)(a). This section restricts access to records that are presently made confidential by federal statute, federal regulation and state statute, but opens information that is currently made confidential by state regulation.

There is a companion resolution, ACR 29, to be considered in the Assembly Committee on Elections and Procedures April 20, which will authorize an interim study regarding exemptions to disclosure in public records to determine if they should be repealed, amended or added. You should not toss away regulations that restrict access until you have the benefit of ACR 29.

I recommend that Section 4(2)(a) be amended by adding "state regulations of this state or political subdivision" to the list.

THIRD: Section 4(2)(b), while appearing to restrict access to medical records, does so only to the extent that the information would reveal the person's identity. All other information in the record is public. Since AB 366 Section 3 requires that the presence of confidential information in a record is not a reason to withhold the public information, the medical record would have to be edited to eliminate identity information, a very labor intensive task. These are records that should be confidential, I urged you to delete the words at the end of the paragraph which state "but only to the extent that the information would reveal a persons's identity."

FOURTH: Section 4(2)(c) addresses records customarily in the personnel files. This section makes very personal information including home addresses, medical information and evaluations in a personnel file open to anyone if it is related to hiring, retention, promotion, demotion or termination of employment. Opening personnel records may subject employees to harassment or threats, and undermine the rehabilitative purpose of progressive discipline.

There are others in attendance today who will express in detail the concerns that we all share about having personnel files open to the world.

FIFTH: Section 4(2)(g) restricts access to an open investigation file but does not restrict access to that file once the investigation is closed. There are very strong reasons to keep an investigation file confidential even after the matter is closed. An investigation file contains a wide variety of information

which may be rumor, innuendo, untrue or unverified. In some cases release of information garnered in an investigation will risk lives or ruin reputations.

In addition, making an investigation file public once the investigation is closed will have a very detrimental effect on the ability of law enforcement or regulatory bodies to gather information. The Chief investigator for the Attorney General's office advised me that people talk freely to investigators only if they are assured that what they say will remain confidential. You must consider that governmental investigations include complaints against licensees and investigations preparatory to licensure in addition to criminal investigation. It is sobering to think that every inmate in our system will have access to investigation files simply because the investigation is closed.

Though the identity of a confidential informant and investigation techniques are protected elsewhere, there is cause for concern if any information in an investigation file becomes public information.

Subsection (g) must be amended to delete "unless the investigation has been closed."

SIXTH: Section 4(2)(i) & (j) of AB 364 appears to protect information prepared in anticipation of and during lawsuit to the extent it is privileged or not discoverable under the discovery rules. However, in order for the protection for information prepared in anticipation of a lawsuit to be applicable, the lawsuit must be filed. Prior to the lawsuit, access to information prepared in anticipation is not restricted by this language. This gives a great unfair advantage to a plaintiff who is anticipating suing the state or local government. While attorney-client privilege may protect some information, that privilege does not apply to all materials.

I recommend that Section 4(2)(i) be amended by deleting lines 40 and 41, and making line 42 be subsection (i).

Subsection (i) would then read: "It has been filed with a court and contains material which was prepared in anticipation of or during litigation."

Subsection (j) would remain the same.

Next. I would direct your attention to AB 365.

This bill sets forth procedures for appeal of the denial of access to a public record directly to district court. The attorney general opposes the provision which entitles the prevailing requester, but not the prevailing party, to recover attorney fees and costs. It does not permit the agency to recover fees if the agency was correct in the denial of access. Rather than mandatory fees for the requester, it is recommended that AB 365 be amended to provide that "the prevailing party may recover his court costs and reasonable attorney fees in the proceeding at the discretion of the court. The judge can decide on the facts of the case whether attorney fees and costs are appropriate.

AB 366

AB 366 Section 6 sets out procedure for requesting public records and statutory time limits to either deny the request or to fulfill it. While three working days may be sufficient time to produce the requested information or determine whether it is restricted, 13 working days may not be enough time to copy a large volume of records for an agency that does not have adequate copy equipment and enough staff to fill the request and still carry on the tasks of the agency. This is especially problematic if the large volume contains commingled confidential and public information. Sufficient time must be given to do the job with the resources available.

I recommend that, under unusual circumstance at least thirty working days be allowed.

One other correction is needed related to "unusual circumstances." Section 6(4) should be amended to state "unusual circumstances includes but is not limited to"

Section 6(3).

This section is redundant. Section 6(1) already provides that the book or record may be inspected unless the request has been denied.

This concludes my testimony. I am happy to answer any questions.

Press Association; William Isaef, Chief Deputy City Attorney, City of Reno; Carole Vilardo, Nevada Taxpayers Association; Nancy Carr, Lyon County Recorder; Joe Melcher, Washoe County Recorder; Margi Grein, Director of Finance, Nevada State Contractors Board; Melanie Crossley, Deputy Attorney General, Office of the Attorney General; Arlene Rablovsky, Director, Police Records Section, Las Vegas Metropolitan Police Department; Wally Lauzan, Assistant Chief of Administrative Services, Department of Motor Vehicles; Darcy Coss, Deputy Attorney General, Department of Motor Vehicles; Lucille Lusk, Nevada Coalition of Conservative Citizens; Anita LaRuy, City of North Las Vegas; and Eric Dabney, Director of Library, Parks & Recreation, City of North Las Vegas.

ASSEMBLY BILL 364 - Makes various changes regarding access to public books and records.

ASSEMBLY BILL 365 - Substitutes civil enforcement of access to public records for criminal penalty.

ASSEMBLY BILL 366 - Establishes procedures for public inspection of public records.

Chairman Garner opened the hearings on AB 364, AB 365 and AB 366 as there were those who had not had the opportunity to testify on April 13, 1993. Mr. Garner called the testifiers in order as they appeared on Exhibit B.

Jerry Zadny, Administrator, Division of Mental Health and Mental Retardation, was unable to appear but, for the record, submitted prepared testimony (Exhibit C) in opposition to AB 364.

Guy Rocha, Administrator, State Archives and Records, in opposition to AB 364, AB 365 and AB 366, read his opposing testimony (Exhibit D) into the record.

Pat Coward, Economic Development Authority of Western Nevada (EDAWN) and Nevada Development Authority (NDA), explained the purpose and mission of the development authorities, how competitive it had become with other states to draw new business, and how crucial it was to keep the confidentiality of information when dealing with potential businesses moving into the area. He said, "This is something that has a lot of the people concerned, maintaining that confidentiality....A business looking at making a move requires as much as two years work

before anything materializes and a firm decision is made." He gave the committee an example of a business which ultimately did not choose the Reno area due to information which had been leaked. He recognized the need to maintain open records for the public in many areas but not necessarily when dealing with potential clients coming into the area. Mr. Coward then proposed an amendment to AB 364 which would provide client confidentiality (Exhibit E).

Mrs. Lambert asked if the boards of EDAWN and NDA were covered by the open meeting law, the answer was no.

Mr. Garner again asked the audience to provide written amendments to the chair.

O.C. Lee, Nevada Conference of Police and Sheriffs, and representing Mark Balin, Professional Fire Fighters of Nevada, said, "We are opposed to the personnel section of the records in AB 364. That does not mean that we have any opinion of any other portion of the bills before you." Mr. Lee referenced the yearly physical examinations, required by law of all police officers and fire fighters, which went into the personnel records. He suggested health records would immediately become public information, therefore, he strongly opposed that section of the bill.

Mrs. Augustine asked if it was true police officers did not have home addresses and telephone numbers published for their own protection, Mr. Lee agreed.

Mike Johaneson, Service Employees International Union, said he too was speaking against the personnel section of AB 364. He continued, "Presently there is quite a body of law regarding the differences, the arguments between privacy and public record, and access to public files, personnel files, that have come about through the Freedom of Information Act. What this bill does is it goes far beyond the existing law and what is accessible by the media and the public record. There is a lot of stuff in personnel files that are very private and would create significant problems for a number of employees. We've gone through this with other bills and if the committee would like, I will provide some court background, some case law on this thing from the Freedom of Information Act. But I don't see anything this bill does but replace existing federal law and go beyond the Freedom of Information Act to allow media access to personnel files. Accordingly, we strongly oppose that section of the law. The other thing I would like to suggest, is if you are going to entertain amendments excluding certain employees

from this bill as was discussed yesterday, I would hope you would also add county and state employees."

Donald Klasic, General Counsel, University of Nevada, testified he too had served on the advisory committee. Additionally, he said the Board of Regents had authorized him to inform the committee the Board supported all five bills with two exceptions, both in AB 364. He identified one objection as being on Page 3, lines 24-29 saying the committee had heard enough testimony, specifically Mr. Dyer's, stating why the records ought to be closed and presented the committee with the document which had been generated out of the deliberations of the advisory committee (Exhibit F). He then pointed out the language which the University proposed as amendments and also the original language the advisory committee had recommended. The second objection was Section 3 of AB 364, the reverse balancing test. Again, he referenced previous testimony, specifically that of Mr. Isaef, and detailed how it would work. In further testimony, Mr. Klasic explained his understanding of the Bradshaw case, the correct rendering of the reverse balancing test, his desire to avoid litigation over what constituted public records, how criminal investigations worked, and mentioned a possible fiscal note.

Mrs. Augustine queried the date shown on the bill versus the date shown on the proposed amendment. Mr. Klasic explained the intent had not been to postpone the legislation to 1995, but to retain the 1994 date. The error had occurred in the drafting process.

Mr. Hettrick commented, "You just said files could be open on an investigation if it wasn't going to harm anyone." He then asked, "Is that the actual language? The question which was raised yesterday, as I recall, is we could have an investigative file with all kinds of allegations, and etc., and that releasing that file could harm people. If in fact the judge's ruling in Bradshaw says you can't release information that would be harmful, is that going to protect those kinds of files."

Mr. Klasic responded, "It might not. I agree that is going to be a problem." He described how the Bradshaw case applied and said, "The courts don't get down to the nitty gritty about the raw data which may actually contain defamatory and false information, and there is a true problem there."

Exhibit G was submitted to the committee secretary on behalf of James Penrose. It contained the amendments as suggested in the testimony of Mike Dyer on April 13, 1993.

Evan Wallach, General Counsel, Nevada Press Association, was given the opportunity to respond to the testimony of those in opposition to AB 364, AB 365 and AB 366.

Mrs. Lambert, in an effort to understand the balancing test, stated an example. Mr. Wallach replied the employee, as stated in the example, was exempt if the information was released in good faith. Mr. Wallach then gave his own examples of safety valves.

Mrs. Augustine wanted clarification on the statement "request for documents were always denied." Mr. Wallach clarified, "When it comes to me as counsel for the Press Association, and I get into it, my uniform experience has been when dealing with government officials applying the balancing test, they have always applied the balancing test against my clients. And that is true, every single time."

Ande Engleman, Nevada Press Association, added, "Mr. Wallach is not called in on an instance where the press has no problem obtaining documents. He is only called when a problem has evolved."

The hearings on AB 364, AB 365 and AB 366, were closed with no action taken.

ASSEMBLY BILL 367 - Defines "public record" to accommodate various forms in which records are maintained.

ASSEMBLY BILL 368 - Requires charges for copies of public records not to exceed cost.

Mr. Wallach explained the purpose of AB 367 and AB 368. He agreed with Mr. Isaeff's testimony of April 13, 1993, saying there definitely was a conflict with the definition of "governmental entity" in AB 367 which would have to be resolved. He said he preferred the broader of the two definitions. As for AB 368, he said it was the intent of the subcommittee to balance the cost of providing the service with the need to make the cost reasonable to the public, detailing the compromise which was reached.

Ande Engleman added she believed AB 368 set up reasonable costs for copies and hoped the copies would not run more than 25 cents per copy. She pointed out the Secretary of State's budget was largely supported by copying fees and, therefore, urged deleting

APRIL 14, 1993

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE, FOR THE RECORD, MY NAME IS GUY ROCHA, THE STATE ARCHIVES AND RECORDS ADMINISTRATOR. I AM REPRESENTING THE STATE LIBRARY AND ARCHIVES AND SERVED AS A MEMBER OF THE EXECUTIVE ADVISORY COMMITTEE. I WAS ALSO CLOSELY ASSOCIATED WITH THE INTERIM LEGISLATIVE STUDY IN 1982 STUDYING PUBLIC BOOKS AND RECORDS, WHICH AS ANDE ENGLEMAN POINTED OUT YESTERDAY, DID NOT RESULT IN UPDATING OUR BADLY OUTDATED PUBLIC RECORDS LAW.

NEVADA IS AMONG THE LAST STATES IN THE NATION TO TRY AND COMPREHENSIVELY ADDRESS THIS COMPLEX AND CONTROVERSIAL PUBLIC POLICY ISSUE WITH ALL ITS MYRIAD FISCAL AND TECHNOLOGICAL RAMIFICATIONS. I HOPE THE EXTENSIVE TESTIMONY WE HEARD YESTERDAY, AND I AM SURE WE WILL HERE AGAIN TODAY, WILL NOT RESULT IN THE TYPE OF PUBLIC POLICY PARALYSIS WE ENCOUNTERED SOME TEN YEARS AGO. LACK OF ACTION THEN HAS ONLY EXACERBATED PUBLIC DISCLOSURE ISSUES WHICH ARE NOW HEIGHTENED BY THE PROLIFERATION OF THE MICROCOMPUTER, ELECTRONIC MAIL, AND OPTICAL IMAGING SYSTEMS. OUR FAST-PACED TECHNOLOGICAL ADVANCEMENTS IN RECORD CREATING AND KEEPING ARE OUTSTRIPPING OUR ABILITY TO LEGISLATE ACCESS TO, AND CONFIDENTIALITY FOR, THESE GOVERNMENTAL RECORDS.

AND WE HAVE CERTAINLY LEARNED THERE ARE INHERENT AND SIZEABLE COSTS TO OPEN GOVERNMENT AND PUBLIC ACCESS IN THE ONGOING DEMOCRATIZATION OF OUR POLITICAL SYSTEM. THE ALARMING IRONY IN THIS ISSUE WE CONFRONT TODAY IN BALANCING RIGHTS OF PRIVACY VERSUS PUBLIC DISCLOSURE IS THE ONGOING REALITY OF CENSORSHIP THROUGH BUDGET

1069

EXHIBIT D

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CONSTRAINTS.

JOAN KERSCHNER, STATE LIBRARIAN, AND ALSO A MEMBER OF THE EXECUTIVE ADVISORY COMMITTEE COULD NOT BE HERE. THE STATE LIBRARY AND ARCHIVES HAVE NO PROPOSED AMENDMENTS, BUT I AM HERE TODAY TO ADDRESS ANY SPECIFIC QUESTIONS REGARDING THE PUBLIC RECORDS BILLS BEFORE YOU NOW, OR AT A LATER DAY.

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Chairman Garner named the subcommittee to hear AB 364, AB 365, AB 366, AB 367 and AB 368. It consisted of Mr. Bennett as chairman, Mr. Ernaut and Mrs. Freeman.

Chairman Garner requested committee introduction of the following Bill Draft Request 23-1960.

BILL DRAFT REQUEST 23-1960 - Allow employee to be represented at certain hearings before personnel commission by person of his own choosing.

ASSEMBLYMAN BENNETT MOVED FOR A COMMITTEE INTRODUCTION ON BDR 23-1960.

ASSEMBLYMAN BACHE SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ASSEMBLY BILL NO. 445 - Provides for creation of earthquake safety council.

Assemblyman Rick Bennett, District 16, testified he, along with Assemblyman Bernie Anderson, had represented the State Assembly on an advisory group looking at earthquake safety. He gave the various reasons why he supported the proposed legislation, more so since he had personally experienced the Lander earthquake which had convinced him earthquake safety was indeed needed. He then proceeded to give an in-depth explanation of AB 445.

Assemblyman Bernie Anderson, District 31, stated the bill was noteworthy as Nevada was the third most active earthquake state in the United States, but the state was without legislation regarding earthquake safety. He felt AB 445 would clearly send a message to the public the legislature was concerned about public safety in the state.

Chairman Garner referenced section 8, and asked if retrofitting was being discussed by the word "mitigating." Mr. Bennett replied there were many older buildings, particularly in northern Nevada, which needed to be looked at but it was not the purpose of the council to authorize changes, only to suggest to local government they review ordinances regarding earthquakes and buildings in the area. More discussion followed with Mr. Anderson joining in.

Mr. Garner then pointed to the membership of the council and said, "Under (i), you've included the Division of Emergency

Assembly Committee on Government Affairs
April 23, 1993
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ASSEMBLY BILL 357 - Directs librarian to establish pilot project to provide grants to certain public libraries for purchase of books and library materials.

Mrs. Augustine indicated an amendment had been proposed at the subcommittee meeting (Exhibit M) and stated everyone was satisfied with AB 357 with the amendment.

ASSEMBLYMAN ERNAUT MOVED TO AMEND AND DO PASS
A.B. 357.

ASSEMBLYMAN AUGUSTINE SECONDED THE MOTION.

THE MOTION CARRIED. Assemblymen McGaughey and Bennett were not present.

Chairman Garner indicated the bill would go to Ways and Means Committee.

ASSEMBLY BILL 359 - Makes various changes regarding administration of program of deferred compensation for public employees.

Mr. Bache introduced a proposed amendment to AB 359 and a letter from Mr. Will Keating (Exhibit N).

ASSEMBLYMAN BACHE MOVED TO AMEND AND DO PASS A.B. 359.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED. Assemblymen McGaughey and Bennett were not present.

Chairman Garner requested Mr. Bache handle AB 359 on the floor.

ASSEMBLY BILL 364 - 368 - Public Records Bills.

Chairman Garner indicated these bills were being handled in subcommittee and no action would be taken until they came out of subcommittee.

Chairman Garner announced the subcommittee would be expanded to include Mrs. Segerblom and Mrs. de Braga.

ASSEMBLY BILL 415 - Raises threshold for requiring advertisement of competitive bids for purchases by local government.

MINUTES OF THE
ASSEMBLY SUBCOMMITTEE ON GOVERNMENT AFFAIRS

Sixty-seventh Session
May 3, 1993

The Assembly Subcommittee on Government Affairs was called to order by Subcommittee Chairman Rick Bennett, at 9:07 a.m., on Monday, May 3, 1993, in Room 330 of the Legislative Building, Carson City, Nevada. Exhibit A is the Meeting Agenda. Exhibit B is the Attendance Roster.

SUBCOMMITTEE MEMBERS PRESENT:

Mr. Rick C. Bennett, Subcommittee Chairman
Ms. Marcia de Braga
Mr. Pete Ernaut
Ms. Vivian L. Freeman
Ms. Gene W. Segerblom

OTHERS PRESENT:

George Cotton, Clark County Affirmative Action Manager
David Reese, Nevada State Contractors' Board
Lucille Lusk, Nevada Coalition of Concerned Citizens
David Edwards, Clark County Geographic Information System
Ande Engleman, Nevada Press Association
Joe Melcher, Washoe County Recorder
Melanie Mehan-Crossley, Deputy Attorney General
Margaret Lowther, Storey County Recorder
Nile Carson, Reno Police Department
Suzanne Beaudreau, Douglas County Recorder

GUEST LEGISLATORS PRESENT:

Assemblyman Gene Porter, Clark County District 8

Following opening remarks, Subcommittee Chairman Rick Bennett opened the hearing on AB 364.

ASSEMBLY BILL 365 - Substitutes civil enforcement of access to public records for criminal penalty.

Ande Engleman, Nevada Press Association, observed except for one suggested amendment regarding public payment of court costs, AB

365 had probably gained the most support from public employees. She said the present law stated denial of access to a public record was a misdemeanor and a crime. Without a statutory definition of what constituted a "public record," it was sometimes difficult for public employees to make a decision as to what was public and what was not. She said her organization supported removing the misdemeanor charge for refusing access to public records for a public employee. She also supported language on page 1, lines 3-9 as a compromise since they could not agree on an administrative procedure for appeal on denial of public records. The favored procedure, Ms. Engleman stated, would have carried a large fiscal note, and this did not appear to be an opportune time to bring forward anything of that nature.

Ms. Engleman said some Legislators had come to her saying they would favor an out-of-pocket, personal civil penalty as usual in most other states. This would apply in instances where an individual had purposely denied access to public records because the information would have proven embarrassing. She said they opposed having the public pay for court costs and attorneys' fees if a case was lost. The taxpayer had already paid for the other side's attorneys and court costs, through tax dollars.

Taxpayers were also paying the fees for the agency, Mr. Bennett observed. The question was, should the taxpayers, in general, have to cover those costs when the suit might be rather frivolous. Ms. Engleman noted the bill did not grant court costs and attorneys' fees if a suit was over a record everyone had thought to be confidential. Court costs and attorneys' fees were granted only when it was a denial of what was clearly a public record. Therefore, she did not think there would be frivolous lawsuits.

Mr. Bennett questioned the aspect of the judge's discretion in determining who should be awarded costs. Ms. Engleman opined the courts were generally very conservative. If an agency had truly withheld a record which should have been public, Mr. Bennett said he hoped the court would penalize the agency in some way by making them pay the costs.

Drawing attention to Section 3, Mr. Bennett said he had received communication suggesting the possibility of including a public "agency" in the language on page 1, line 10. Ms. Engleman said they had tried to look at the issue from everyone's point of view, but she did not think there would be a problem adding "agency."

- Assembly Committee on Government Affairs

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Referring to Section 2, Mr. Ernaut asked if the language should specify "a reasonable request." In response, Ms. Engleman said she thought this was addressed in another bill and she did not see the need for additional language.

Representing the Attorney General's Office, Deputy Melanie Mehan-Crossley came forward to respond to Ms. Engleman's testimony. Ms. Crossley reported the Attorney General had asked that the court be given the discretion of granting attorneys' fees and costs when faced with this kind of lawsuit. She said she thought Ms. Engleman's testimony went to giving the court that discretion.

Mrs. Freeman questioned whether they preferred more flexible language than the language on page 1, line 8, "he is entitled to recover his costs. . .". Ms. Engleman said, "Yes," and they had submitted suggested language in earlier testimony.

Representing the State Contractors' Board and the City of Lovelock, David Reese asked the committee to consider loosening the language regarding attorneys' fees and costs to be awarded to the requester. He said there were many situations in which an existing confidentiality statute put the burden on the agency, commission or board, to make certain confidential records remained confidential. He felt there were good reasons why fees or costs awarded to the requester should be discretionary with the judge.

Addressing Mr. Reese's remarks, Ms. Engleman said where there was an exemption stating something was confidential, it should not be called into question as the material was clearly confidential. She said she thought the attitude of government, particularly over the past 10 years was, "when in doubt, keep it closed." She said they were trying to change this attitude to one of "where there is no exemption saying information is confidential, when in doubt it should be released."

Although Mr. Bennett acknowledged Ms. Engleman's remarks, he said he thought even though there had been a great deal of work done on AB 364 in trying to more clearly indicate what was open and what was closed, there would still be gray areas at least until people became more familiar with the new statutes.

Lucille Lusk, Nevada Coalition of Concerned Citizens, remarked from the individual citizen's point of view, the process for using the courts to resolve questions of confidentiality was extremely difficult, if not impossible. She asked if there

would be an internal agency appeal process. Ms. Lusk believed there should be a way for an individual (as opposed to an agency) to appeal to a higher authority if there was disagreement as to confidentiality. Mr. Bennett suggested Ms. Lusk should address this further when AB 366 was discussed.

ASSEMBLY BILL 366 - Establishes procedures for public inspection of public records.

Both Ande Engleman and Dennis Neilander, Legislative Research Analyst, came forward. Ms. Engleman noted this bill was a compromise. In Section 2, the words, "other electronic means," was intended to mean FAX machines and public electronic data bases such as NELIS -- information the courts had ruled should be equally accessible by the public. Ms. Engleman said they had no intention or thought of trying to tap into confidential data bases in state government. She said the Press Association would have no problem with clarifying this section.

Also clarifying, Dennis Neilander explained there was a provision in AB 364 which provided security systems (or hardware system) would be confidential. Referring to AB 366, Mr. Neilander said the bill was largely based on the federal Freedom of Information Act and a study done 10 years ago, which made a similar recommendation regarding procedures for access. He said the law was currently void of any procedures for access and did not provide any procedural mechanisms for someone to either request a record or for the custodian of a record to respond. Thus, in subsection (2) of Section 3, page 1, if a public record contained both confidential and nonconfidential information it would redact out the confidential information.

Referring to language on page 1, line 26 speaking of an exemption provided in NRS 481.063, Mr. Neilander said this dealt with existing law requiring the Department of Motor Vehicles (DMV) to make an inquiry when someone asked for information regarding motor vehicle registration. If the Department determined the information would be used for illegal purposes, it could not release the information. Therefore, except as it applied to the DMV, the language of AB 366 stipulated the agency could not ask why the information was required.

Speaking to the subject, Ms. Engleman noted there had been an earlier bill in the Senate in which a public agency wanted the same permission to determine whether information was going to be used illegally. The DMV statute was clearly unconstitutional,

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Acknowledging his support of public/private enterprise, Mr. Ernaut said nevertheless, as a contest between a list and the amendment on Exhibit D, he would be more comfortable with a list. Ms. Morgan said she would work with the Attorney General's Office to tighten the language.

Chairman Bennett invited Brooke Nielsen, Assistant Attorney General, to come forward to address the language of the amendment. Assistant Attorney General Nielsen agreed the language could and should probably be tightened up. The words "substantially" and "directly" were common legal terms which were generally understood and in this instance would refer to a direct connection to the public business. Obviously, she said, someone could not reach into the records of a private company on things that company was doing in another part of the world which had nothing to do with what was going on in Nevada. Assistant Attorney General Nielsen said she would be happy to work with Ms. Morgan in adopting tighter language.

Assistant Attorney General Nielsen said by the language in Exhibit D they were trying to say there was a right to privacy for the business interest; yet at the same time, the public had a right to access those things which directly affected what the company was doing for the public.

Chairman Bennett supported Mrs. Freeman's request for Assistant Attorney General Nielsen and Ms. Morgan to work together to develop more appropriate language.

Another amendment to page 3, lines 37 and 38, proposed by the Attorney General's Office, would delete the words, "unless the investigation had been closed."

Chairman Bennett indicated he had read and considered the case presented by the Attorney General's Office and Mr. Porter (who chaired the interim study committee), and he was not swayed to the extent he was prepared to support changing the language relating to investigation, court cases, etc.

ASSEMBLY BILL 365 - Substitutes civil enforcement of access to public records for criminal penalty.

Two sections had received comments, Chairman Bennett noted. In Section 2 there had been considerable discussion regarding the recovery of costs and attorneys' fees. As currently written, if the requester prevailed, he was entitled to recover his costs

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and attorneys' fees in the proceeding, from the agency whose officer had custody of the record.

Chairman Bennett also recalled there had been discussion regarding whether the agency should also be able to recover the costs and attorneys' fees associated with the action, if the agency prevailed. The primary argument against the agency recovery, was this would restrict people from going to court to try to gain access to certain closed records. As AB 364 was written, Chairman Bennett stated there was a large gray area presented which would lead to increased litigation. Limiting some of the gray areas in AB 364 would somewhat alleviate the number of suits which might be brought regarding access to records.

Chairman Bennett said he was of a mind to leave the language as it was written except to add the word "reasonable" before the words "attorney's fees."

ASSEMBLYMAN FREEMAN MOVED TO INSERT THE WORD REASONABLE ON PAGE 1, SECTION 2, LINE 8, MAKING THE LANGUAGE READ "... COSTS AND REASONABLE ATTORNEY'S FEES."

ASSEMBLYMAN ERNAUT SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Discussing Section 3, Chairman Bennett reminded the subcommittee there had been some testimony having to do with expanding the "public officer or employee" to also state, "governmental entity." After discussing this with the bill drafters, they believed the words "And his employer" could be inserted making the language read, "A public officer or employee and his employer who act in good faith in disclosing or refusing to disclose information is immune from liability for damages either to the requester or to the person whom the information concerns."

ASSEMBLYMAN SEGERBLOM MOVED TO INCLUDE THE WORDS "AND HIS EMPLOYER" ON PAGE 1, SECTION 3, LINE 11.

ASSEMBLYMAN FREEMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Mrs. Freeman asked to have the word "malfeasance" defined. She said earlier testimony had suggested when a person was unable to

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get information, there needed to be some definition given to the word "malfeasance." Dennis Neilander, Legislative Counsel Bureau Research Analyst, came forward to clarify. Mr. Neilander said a number of options had been put forward and one was related to the notion of malfeasance. This was for a civil penalty to be imposed on a public employee who acted in bad faith. Although some states had taken this approach, Mr. Neilander said the Nevada subcommittee had rejected the approach, deciding a civil penalty would not be appropriate. Additionally, the misdemeanor penalty would possibly prove unconstitutional because there was no definition of public record. The subcommittee had finally approved the allowance for expedited process.

Mr. Neilander told the committee the operative language in Section 3 was a "good faith" standard. If, indeed, there was a lack of good faith shown on the part of a public employee, NRS 41, which addressed discretionary acts, would take force.

Recapping, Chairman Bennett indicated the rest of AB 365 would remain as written.

ASSEMBLY BILL 366 - Establishes procedures for public inspection of public records.

Chairman Bennett drew attention to Section 2. Concerns had been expressed regarding the language on line 5 regarding the words, "or other electronic means." Primarily, the interim study had assumed this to mean a FAX machine. If this, indeed, was the intent, Chairman Bennett suggested deleting the words, "other electronic means," and stating, "facsimile machine, if available." (See Exhibit E.)

Mr. Ernaut thought the Chairman's language was too narrow and the present language of the bill was too broad. Discussion followed.

ASSEMBLYMAN SEGERBLOM MOVED TO ADOPT THE AMENDMENT PROPOSED IN EXHIBIT E.

ASSEMBLYMAN FREEMAN SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

Following a short break, Chairman Bennett resumed discussion on AB 366, Section 3. Reviewing, the Chairman said he had heard concerns regarding the problems for state or local offices in

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ASSEMBLY BILL 314 - Makes various changes to application process for permit for appropriation of public waters and to fees assessed by state engineer.

Mr. Bennett indicated proposed amendments for AB 314 had been taken down to be drafted but had not been received back. Mr. Bennett and Mrs. Lambert reviewed the proposed changes (Exhibit H).

Discussion among committee members ensued.

Chairman Garner indicated there would be no action taken until the amendments had been returned.

ASSEMBLY BILL 352 - Authorizes unincorporated towns to impose impact fees.

Mr. McGaughey briefly reviewed AB 352 stating it had to do with Fernley water impact fees and indicated he had attended a meeting with the city attorney and representatives of the town board and the district trying to find a better way to solve the problem other than using impact fees.

ASSEMBLY BILL 364 - 368 - Public records.

Mr. Bennett indicated several subcommittee meetings and a work session had been held which considered all five bills. He stated there were several proposed amendments approved by the subcommittee being drafted and as soon as the amendments were received back he would give a full report to the committee. Mr. Bennett noted there had been some amendments put forth which had not been accepted by the subcommittee and those would be presented with the report.

ASSEMBLY BILL 378 - Imposes temporary moratorium on adoption of state regulations and creates advisory committee to study such regulations.

Chairman Garner stated he had not heard back from Mr. Humke and it seemed the only viable solution was to look at a study of the subject. He indicated he would not be taking action on AB 378 unless Mr. Humke came forward with a proposal to move the bill.

ASSEMBLY BILL 397 - Provides procedure to verify preference claimed by bidders on public contracts on account of taxes paid.

Mr. Hettrick stated he held a meeting with the north and south AGCs and it appeared to him those at the meeting did not think

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Mr. Bennett asked if her amendment dealt with page 2, line 38 regarding the amount of annual and sick leave. Mrs. Segerblom agreed.

Mr. Bennett stated that had been discussed as well as various other information which would be included in subsection 2, defining employment information. He said many concerns had been voiced that this would somehow provide access to reasons for taking sick leave and otherwise open medical information. Mr. Bennett remarked it was his feeling the information regarding annual and sick leave accumulated and number of hours or days taken would be easily handled through payroll records and would in no way divulge reasons for taking leave or medical information. He was not supportive of the amendment.

Mrs. Segerblom stressed she felt a public employee had a right to the sick leave accrued, and if an employee used an excessive amount at any given time, it should be up to the supervisor to handle. She did not feel anyone else should have the right to the knowledge of how much time was taken.

Discussion ensued.

ASSEMBLYMAN SEGERBLOM MADE A MOTION TO AMEND A.B. 364
TO DELETE LINE 38 ON PAGE 2, SECTION 2.

ASSEMBLYMAN WILLIAMS SECONDED THE MOTION.

THE MOTION FAILED.

Chairman Garner stated all amendments to AB 364 had been considered and he would accept a motion to amend and do pass AB 364.

ASSEMBLYMAN BENNETT MOVED TO AMEND AND DO PASS
A.B. 364.

ASSEMBLYMAN MCGAUGHEY SECONDED THE MOTION.

THE MOTION CARRIED. Assemblymen Lambert, Ernaut and
Williams opposed.

Chairman Garner requested Mr. Bennett handle AB 364 on the floor.

ASSEMBLY BILL 365 - Substitutes civil enforcement of access to
public records for criminal penalty.

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Mr. Bennett reviewed minor amendments to AB 365 (Exhibit H).

Discussion ensued.

ASSEMBLYMAN BENNETT MOVED TO AMEND AND DO PASS
A.B. 365.

ASSEMBLYMAN HETTRICK SECONDED THE MOTION.

THE MOTION CARRIED UNANIMOUSLY.

ASSEMBLY BILL 366 - Establishes procedures for public
inspection of public records.

Mr. Bennett reviewed minor amendments to AB 366 (Exhibit I)
including the language, "other electronic means."

Mr. Ernaut referenced Section 5 and asked if there had been
discussion about the word "custody" in line 3, as there was a
problem with archives actually having custody of records. Mr.
Bennett indicated he recalled the discussion but did not think
any action was taken in subcommittee to amend.

Further discussion ensued.

Mrs. Augustine indicated she had a notation regarding Section 3,
line 3 to allow facilities for making paper copies, abstracts or
memoranda as there was a concern that microfiche copies could
not be duplicated.

Mr. Bennett stated the subcommittee held extensive discussion on
Section 3, both relating to paper copies and defining "readily
available" and the subcommittee chose to leave the language as
written.

ASSEMBLYMAN BENNETT MOVED TO AMEND AND DO PASS
A.B. 366.

ASSEMBLYMAN DE BRAGA SECONDED THE MOTION.

Mrs. Augustine proposed to amend the motion to add facilities
for making paper copies, abstracts or memorandum of the book or
record.

ASSEMBLYMAN AUGUSTINE MOVED TO AMEND THE AMENDMENT TO
A.B. 366 TO ADD THE WORD "PAPER" IN SECTION 3,
LINE 10.

1993 REGULAR SESSION (67th)

ASSEMBLY ACTION		SENATE ACTION		Assembly Amendment to Assembly Bill No. 365 BDR 19-393 Proposed by Committee on Government Affairs
Adopted	<input type="checkbox"/>	Adopted	<input type="checkbox"/>	
Lost	<input type="checkbox"/>	Lost	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		
Concurred in	<input type="checkbox"/>	Concurred in	<input type="checkbox"/>	
Not Concurred in	<input type="checkbox"/>	Not Concurred in	<input type="checkbox"/>	
Date:		Date:		
Initial:		Initial:		
Amendment No. 510		Replaces Amendment No. 497. Resolves conflict in section 5 with A.B. No. 146. Makes substantive changes.		

Amend sec. 2, page 1, line 8, after "*costs and*" by inserting "*reasonable*".

Amend sec. 3, page 1, line 11, by deleting "*is*" and inserting:

"and his employer are".

Amend sec. 5, page 2, by deleting lines 7 and 8 and inserting:

"obtained for that purpose from the county clerk of any county in the state. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat."

Amend the bill as a whole by adding a new section designated sec. 6, following sec. 5, to read as follows:

"Sec. 6. Section 5 of this act becomes effective at 12:01 a.m. on October 1, 1993."

Drafted by: DC:cm

Date: 5/12/93

A.B. No. 365--Substitutes civil enforcement of access to public records for criminal penalty.

EXHIBIT H

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ASSEMBLY DAILY JOURNAL

6-2-93

— 5 —

upon the completion of the project; and providing other matters properly relating thereto.

Assemblyman Porter moved that the bill be referred to the Committee on Commerce.

Motion carried.

By the Committee on Commerce:

Assembly Bill No. 716—An Act relating to architects; requiring a person who claims any of certain exemptions from the provisions relating to architects to file an affidavit asserting the basis for the exemption when obtaining a building permit; providing a penalty; and providing other matters properly relating thereto.

Assemblyman Porter moved that the bill be referred to the Committee on Commerce.

Motion carried.

SECOND READING AND AMENDMENT

Assembly Bill No. 365.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 510.

Amend sec. 2, page 1, line 8, after "costs and" by inserting "reasonable".

Amend sec. 3, page 1, line 11, by deleting "is" and inserting: "and his employer are".

Amend sec. 5, page 2, by deleting lines 7 and 8 and inserting: "obtained for that purpose from the county clerk of any county in the state. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch office is established in a county office building which is located outside of the county seat."

Amend the bill as a whole by adding a new section designated sec. 6, following sec. 5, to read as follows:

"Sec. 6. Section 5 of this act becomes effective at 12:01 a.m. on October 1, 1993."

Assemblyman Bennett moved the adoption of the amendment.

Remarks by Assemblyman Bennett.

Amendment adopted.

Bill ordered reprinted, engrossed and to third reading.

Assembly Bill No. 368.

Bill read second time.

The following amendment was proposed by the Committee on Government Affairs:

Amendment No. 626.

Amend the bill as a whole by deleting sections 5 through 7 and renumbering sec. 8 as sec. 5.

6-2

(REPRINTED WITH ADOPTED AMENDMENTS)

FIRST REPRINT

A.B. 365

ASSEMBLY BILL NO. 365—COMMITTEE ON COMMERCE

MARCH 16, 1993

Referred to Committee on Government Affairs

SUMMARY—Substitutes civil enforcement of access to public records for criminal penalty.
(BDR 19-393)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State or on Industrial Insurance: No

EXPLANATION—Matter in *italics* is new; matter in brackets [] is material to be omitted

AN ACT relating to public information; substituting civil enforcement of access to public books and records for a criminal penalty for denial of access; conferring immunity upon public officers and employees for certain actions in good faith; and providing other matters properly relating thereto.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Chapter 239 of NRS is hereby amended by adding thereto the
2 provisions set forth as sections 2 and 3 of this act.

3 Sec. 2. *If a request for inspection or copying of a public book or record*
4 *open to inspection and copying is denied, the requester may apply to the*
5 *district court in the county in which the book or record is located for an order*
6 *permitting him to inspect or copy it. The court shall give this matter priority*
7 *over other civil matters to which priority is not given by other statutes. If the*
8 *requester prevails, he is entitled to recover his costs and reasonable attor-*
9 *ney's fees in the proceeding from the agency whose officer has custody of the*
10 *book or record.*

11 Sec. 3. *A public officer or employee who acts in good faith in disclosing or*
12 *refusing to disclose information and his employer are immune from liability*
13 *for damages, either to the requester or to the person whom the information*
14 *concerns.*

15 Sec. 4. NRS 239.010 is hereby amended to read as follows:

16 239.010 [1.] All public books and public records of state, county, city,
17 district, governmental subdivision and quasi-municipal corporation officers
18 and offices of this state (and all departments thereof), the contents of which
19 are not otherwise declared by law to be confidential, [shall] *must* be open at
20 all times during office hours to inspection by any person, and the [same]
21 *books and records* may be fully copied or an abstract or memorandum
22 prepared therefrom, and any copies, abstracts or memoranda taken therefrom
23 may be utilized to supply the general public with copies, abstracts or memo-
24 *randa* of the records or in any other way in which the [same] *books and*

1 records may be used to the advantage of the owner thereof or of the general
2 public.

3 [2. Any officer having the custody of any of the public books and public
4 records described in subsection 1 who refuses any person the right to inspect
5 such books and records as provided in subsection 1 is guilty of a
6 misdemeanor.]

7 Sec. 5. NRS 122.040 is hereby amended to read as follows:

8 122.040 1. Before persons may be joined in marriage, a license must be
9 obtained for that purpose from the county clerk of any county in the state.
10 Except as otherwise provided in this subsection, the license must be issued at
11 the county seat of that county. The board of county commissioners may, at
12 the request of the county clerk, designate one branch office of the county
13 clerk at which marriage licenses may be issued, if the designated branch
14 office is established in a county office building which is located outside of the
15 county seat.

16 2. Before issuing a marriage license, the county clerk may require evi-
17 dence that the applicant for the license is of age. The county clerk shall accept
18 a statement under oath by the applicant and the applicant's parent, if availa-
19 ble, that the applicant is of age.

20 3. The county clerk issuing the license shall require the applicant to
21 answer under oath each of the questions contained in the form of license, and,
22 if the applicant cannot answer positively any questions with reference to the
23 other person named in the license, the clerk shall require both persons named
24 in the license to appear before him and to answer, under oath, the questions
25 contained in the form of license. If any of the information required is
26 unknown to the person responding to the question, he must state that the
27 answer is unknown.

28 4. If any of the persons intending to marry is under age and has not been
29 previously married, and if the authorization of a district court is not required,
30 the clerk shall issue the license if the consent of the parent or guardian is:

31 (a) Personally given before the clerk;

32 (b) Certified under the hand of the parent or guardian, attested by two
33 witnesses, one of whom must appear before the clerk and make oath that he
34 saw the parent or guardian subscribe his name to the annexed certificate, or
35 heard him or her acknowledge it; or

36 (c) In writing, subscribed to and acknowledged before a person authorized
37 by law to administer oaths. A facsimile of the acknowledged writing must be
38 accepted if the original is not available

39 5. If the authorization of a district court is required, the county clerk shall
40 issue the license if that authorization is given to him in writing.

41 6. All records pertaining to marriage licenses are public records and open
42 to inspection pursuant to the provisions of NRS 239.010. [Any county clerk
43 who refuses to permit an inspection is guilty of a misdemeanor.]

44 7. A marriage license issued on or after July 1, 1987, expires 1 year after
45 its date of issuance.



-- 3 --

1 Sec. 6. Section 5 of this act becomes effective at 12:01 a.m. on October 1,
2 1993.

Ⓣ



ASSEMBLY DAILY JOURNAL

6-4-93

-- 5 --

Assemblyman Arberry moved that the bill be referred to the Committee on Ways and Means.
Motion carried.

GENERAL FILE AND THIRD READING

Assembly Bill No. 365.

Bill read third time.

Remarks by Assemblyman Bennett.

Roll call on Assembly Bill No. 365:

YEAS--41

NAYS--None.

Absent--Toomin.

Assembly Bill No. 365 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 368.

Bill read third time.

Remarks by Assemblyman Bennett.

Roll call on Assembly Bill No. 368:

YEAS--38

NAYS--Carpenter, Collins, Haller--3.

Absent--Toomin.

Assembly Bill No. 368 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Assembly Bill No. 655.

Bill read third time.

Remarks by Assemblyman Gibbons.

Roll call on Assembly Bill No. 655:

YEAS--41.

NAYS--None.

Absent--Toomin.

Assembly Bill No. 655 having received a constitutional majority, Mr. Speaker declared it passed, as amended.

Bill ordered transmitted to the Senate.

Senate Bill No. 210.

Bill read third time.

The following amendment was proposed by the Committee on Labor and Management:

Amendment No. 730.

Amend sec. 2, page 2, lines 1 and 2, by deleting: "of Nevada System; and" and inserting: "and Community College System of Nevada;"

Amend sec. 2, page 2, line 5, by deleting the period and inserting "and".

Assemblyman Porter moved the adoption of the amendment.

Remarks by Assemblyman Porter

6-4

54

CCSD893

Senate Committee on Government Affairs
June 18, 1993
Page 5

erection of a structure within the national recreation area with the exception, or other than a structure developed at the request of the Nevada Division of Wildlife."

Mr. Sukimoto stated that would be acceptable to his division.

Doug Busselman, Executive Director, Nevada Farm Bureau, testified on S.B. 544. He stated his division has a problem with the generic identification of a national conservation area. He explained some of the trends his division is seeing coming out of Washington, D.C. from a federal policy perspective leaves them worrying with regard to establishing this wording in state law. He further explained as future conservation areas come upon them, they will be put under this bill although the intention now is not to do that. He told the committee he has shared with Senator Callister their concerns on this bill and hope they can make a language change. He suggests they specifically mention in the bill the intended area right now so there is not a problem in the future when additional conservation areas are created with more restrictions than they are seeing now. He urged the committee to add the specific designation of Red Rock National Conservation Area into the language of the bill with the amendment and then they will be in agreement with this bill.

Senator Callister stated he spoke earlier with Mr. Busselman and he agrees the amendment should be specific as to the Red Rock National Conservation Area. He told the committee he feels this is appropriate.

Stephanie Lyte, Lobbyist, Nevada Wool Grower's Association, testified on S.B. 544. She told the committee her concerns are the same as Mr. Busselman's regarding the specific designation. She explained they would not have any objection to the bill if they had it designated as the Red Rock Conservation Area.

Joe Johnson, Sierra Club, told the committee his organization supports S.B. 544 with the amendments proposed.

Chairman O'Connell closed the hearing on S.B. 544 and opened the hearing on Assembly Bill (A.B.) 365, Assembly Bill (A.B.) 366 and Assembly Bill (A.B.) 368.

ASSEMBLY BILL 365: Substitutes civil enforcement of access to public records for criminal penalty.

ASSEMBLY BILL 366: Establishes procedures for public inspection of public records.

ASSEMBLY BILL 368: Requires charges for copies of public records not to exceed cost.

Dennis Nielander, Senior Research Analyst, Legislative Counsel Bureau, spoke to the committee on these bills. He told the committee these bills were the result of the study of laws governing public books and records. He started by explaining A.B. 365. He told the committee this bill addresses enforcement. He stated the existing public records law has not been amended significantly since 1911 and in the current provisions for enforcement it contains a criminal penalty which is a misdemeanor for an individual to release a public record in violation of the statute. He stated what this bill does is it removes the criminal penalty and replaces it with an expedited process procedure whereby if a person has been denied access to a public record, they have the opportunity to file in district court and the court is required to give that matter priority on the calendar. He explained if the requestor prevails they are entitled to reasonable attorney fees and costs. Mr. Nielander stated in section 3 it grants immunity for good faith disclosure or nondisclosure and as long as it is done in good faith the public employee is then immune from civil liability.

Chairman O'Connell asked in which one of these bills they should incorporate the definition of a public record.

Mr. Nielander stated the definition is in another bill which has not left the assembly, but they could amend that into A.B. 366 because this bill amends Nevada Revised Statutes (NRS) Chapter 239 which is where the definition has to go and A.B. 366 establishes a procedure for access and currently the law is void of any procedure for getting access. He stated in addition it is void of having a definition.

Mr. Nielander stated A.B. 366 is the bill which establishes procedures for either granting or denying access to records. He explained the law is currently void of any procedural mechanisms to either allow a person to make a record public or to keep it closed. He pointed out this is based in part on the Federal Freedom of Information Act, at least the fundamental concepts are based on that law and also a study which was done 10 years ago on this issue. He explained at that time the subcommittee recommended a procedure similar to this and that bill did not surface from the legislature in 1982. He told the committee this bill says an individual may request a public record in person, by telephone or by FAX machine. He further explained this bill sets forth the duties of the person who is the custodian of the record and what they must do once they have received a request. He stated subsection 2 of section 3 makes it clear that a custodian of a public record cannot release the confidential information with the public information. He explained subsection 3 of that section states they do not have to compile a summary unless it is readily available. Mr. Nielander stated subsection 4 is something that is put in because of first amendment concerns and the fact that the argument is the government should not have a right to know why an individual is requesting that information unless it is to clarify what the

Senate Committee on Government Affairs
June 18, 1993
Page 7

information is they are after. He stated section 5 begins to specify what the custodians must do once they receive a request. He told the committee the procedural mechanism is addressed in lines 17 through 25 and they are the four things that the custodian has to do within a reasonable amount of time, but no later than 3 days after receiving the written appeal. He mentioned they could inform the individuals that unusual circumstances have delayed the request, in which case they have 15 days to comply and inform the requester they do not have the record or deny the appeal. He stated the next section defines what is unusual circumstances which will trigger that 15-day window. He pointed out subsection 3 of section 7 which is another immunity clause for the employee who permits inspection unless they have actual knowledge that the record is not a public record.

Senator Hickey interrupted the testimony by Mr. Nielander to ask the chairman for a bill draft request. He told the committee he wanted to draft a bill which would limit terms in office including federal offices down through county offices.

SENATOR HICKEY MOVED FOR COMMITTEE INTRODUCTION FOR A
BILL DRAFT REQUEST REGARDING TERM LIMITATIONS.

SENATOR LOWDEN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR CALLISTER VOTED NO.
SENATOR RAGGIO AND SENATOR NEVIN WERE ABSENT FOR THE
VOTE.)

* * * * *

Mr. Nielander explained A.B. 368 to the committee. He stated this bill addresses cost. He pointed out subsection 1 of section 1 provides that the fees shall not exceed the cost to the agency and that takes into account the cost of supplies and material, but not time spent by personnel. He explained this is adopted from an Idaho law which essentially reads the same as A.B. 368. He pointed out there is a formula they use to come to the right amount to charge for photocopying and he added the bottom line is they arrive at a total cost per copy. He told the committee each agency in Idaho is required to use this formula to arrive at a per copy cost.

Chairman O'Connell asked if this formula would apply to every agency and an individual could ask for a cost from any division or agency and the cost would not exceed the actual cost.

Mr. Nielander stated that is correct and the provision provides that unless free copies are required by statute. He explained if there is not some other statute that establishes a cost then it must not exceed the actual cost. He continued to explain A.B. 368 to the committee. He stated subsection 2 of the bill provides that an agency may search

Senate Committee on Government Affairs
June 18, 1993
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Mr. Wright stated if they lose that \$62,000 of revenue they will have to ask for more money from the county. He explained the money will have to come from somewhere and if not from copy fees it will be from the taxpayers.

Joe Melcher, Recorder, Washoe County, testified against these bills. He told the committee they should be paying for the service they get and uniformity and standardization of fees is vital to these organizations. He gave the committee some written testimony and statistics on copy fees (Exhibit K).

Ms. Beaudreau stated the Storey County Recorder, Margaret Lowther, had to leave, but wanted it on the record that she opposes these bills.

Melanie Meehan Crossley, Deputy Attorney General, Attorney General's Office, spoke in opposition of these bills. She stated she served on the interim study committee and had not planned to speak today, but felt she must make a few comments regarding adopting an amendment into these bills with the definition of public records. She told the committee what they are trying to do here is a piece of legislation that addresses a vast range of records that are both confidential and not confidential. She gave the committee some suggestions on the language for the amendment.

Mary Henderson, Lobbyist, Washoe County, stated for the record that in Washoe County for their agenda items and backup materials, if people go to the county manager's office they are provided a copy free. If they go to the clerk's office the standard procedure is to send them to the county manager's office so they are not caught up with the fees that the clerk charges for court proceedings. She stated they feel it is essential and it is the public's right to have access to this. She told the committee the only thing they would request is if they do put this into statute in terms of agendas, ordinances, backup materials that it be restricted to one free copy and some nominal fee. She explained her office is not staffed to be a copy service for attorneys and the court system within Washoe County. She feels no county in the state can absorb that type of burden. She stated it is very important to take into consideration the fact that recorder fees have not been increased for over 10 years.

Michell Bero, Lobbyist, Nevada Association of Counties (NACO), stated the previous testimony pretty well explains their position.

Nancy Howard, Lobbyist, Nevada League of Cities, spoke in opposition to these bills. She stated one of their concerns is in A.B. 366 it requires them to provide facilities for making copies and she stated many of her cities do not have these facilities. She explained some of them have a copy room which is also the mailroom and it would be expensive for them to create these facilities.

Sam McMullen, Lobbyist, Nevada Broadcaster's Association, stated they are very strongly in favor of these bills. He told the committee the policy decision clearly put forth by this bill is should the individuals pay a fair approximation of the actual search time related to copying a particular document or should they pay a flat fee.

Ms. Engleman told the committee these bills attempt to address a myriad of problems both bringing Nevada into the 20th Century and trying to prepare Nevada for the 21st Century. She explained some of the problems heard during the interim study were from agencies who had put all of their information on a computer. She further explained if an individual came into this agency requesting some information they were told the information they needed was on the computer and it could not be accessed at that time so the individual wanting the information would have to return the next day. She emphasized individuals need to have access to information and the ability to make copies or even write down notes. She reiterated the proponents of these bills are simply trying to get the cost of copies down to actual costs, not just a simple across-the-board charge since some of the agencies may have a higher charge than others.

Ms. Henderson stated she feels the system in her agency is very simple and straight forward. She explained if they are in a situation where they must identify documents which are simple to pull and copy versus documents which are sitting in a bound volume or sitting in a computer or microfiche she feels they will get into a very difficult and cumbersome bill. She emphasized to the committee they cannot imagine the types of documents county government offices handle. She explained some of the documents are readily accessible and some are not. She told the committee the system they use now is very effective and has worked for several decades. Ms. Henderson pointed out to the committee many of the individuals who request documents do not pay taxes in the state of Nevada. She explained they are individuals who got married in Nevada or individuals in real estate transactions who live out-of-state and therefore do not pay state taxes. She stated these are user fees which have been in place for at least 20 years which help offset some of those costs, so she feels it is wrong to state the taxpayers have also paid for this service, because she feels it is also a service being used by individuals who are not taxpayers.

Senator Hickey asked if part of the storage and copying problem is due to lack of space.

Ms. Henderson stated there is an issue of the lack of space and also an issue of how the documents are stored. She explained some of the documents are stored electronically, some in filing cabinets and other documents are stored in bound volumes.

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Chairman O'Connell closed the hearing on Assembly Bill (A.B.) 365, Assembly Bill (A.B.) 366 and Assembly Bill (A.B.) 368 and opened the hearing on Senate Bill (S.B.) 536.

SENATE BILL 536: Requires certain licenses to engage in business to be granted in certain circumstances.

SENATOR NEVIN MOVED TO DO PASS S.B. 536.

SENATOR HICKEY SECONDED THE MOTION.

THE MOTION CARRIED. (SENATOR RAGGIO AND SENATOR CALLISTER WERE ABSENT FOR THE VOTE.)

* * * * *

There being no further business, Chairman O'Connell adjourned the hearing at 5:30 p.m.

RESPECTFULLY SUBMITTED:



Tanya Morrison,
Committee Secretary

APPROVED BY:


Senator Ann O'Connell, Chairman

DATE: _____

THE MOTION CARRIED. (SENATORS RAGGIO, HICKEY AND CALLISTER WERE ABSENT FOR THE VOTE.)

* * * * *

The next measure brought for discussion was A.B. 365.

ASSEMBLY BILL 365: Substitutes civil enforcement of access to public records for criminal penalty.
(BDR 19-393)

Ande Engleman, Lobbyist, Nevada Press Association, testified the purpose of A.B. 365 is to remove the criminal penalty for violation of the public records law and provides that court costs and attorney fees can be collected. Ms. Engleman reminded the committee there was no opposition to the measure.

SENATOR RHOADS MOVED TO DO PASS A.B. 365.

SENATOR NEVIN SECONDED THE MOTION.

THE MOTION CARRIED. (SENATORS RAGGIO, HICKEY AND CALLISTER WERE ABSENT FOR THE VOTE.)

* * * * *

ASSEMBLY BILL 366: Establishes procedures for public inspection of public records. (BDR 19-397)

Ms. Engleman explained there was no opposition to A.B. 366; however, there was concern with the other two public records bills. She indicated she was proposing the definition of a public record taken from A.B. 364, and an additional new section be amended into A.B. 366. The proposed new section requested by Ms. Engleman is referenced as Exhibit G.

ASSEMBLY BILL 364: Makes various changes regarding access to public books and records. (BDR 19-399)

Chairman O'Connell requested Ms. Engleman to read the proposed definition of a public record. Ms. Engleman read the definition from section 2, paragraphs (a) and (b), lines 3-14 of A.B. 364. It was explained that A.B. 364 was not likely to be passed out of the assembly.

Senator Nevin questioned if that language would open the personnel records of city, county or state employees. He expressed concern since those records were not considered confidential in what was outlined by Ms. Engleman.

6-26-93

- 36 -

GENERAL FILE AND THIRD READING

NAYS--None.

NAYS--None.

NAYS-None.

Remarks by Senators Brown and O'Connell.

Roll call on Assembly Bill No. 365:

YEAS—21.

NAYS—None.

Assembly Bill No. 365 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 435.

Bill read third time.

Remarks by Senator Glomb.

Senator Glomb moved that Assembly Bill No. 435 be taken from the General File and placed on the General File for the next legislative day.

Remarks by Senators Glomb and Neal.

Motion carried.

Assembly Bill No. 535.

Bill read third time.

Remarks by Senators Coffin, Rhoads and Adler.

Roll call on Assembly Bill No. 535:

YEAS—20.

NAYS—Coffin.

Assembly Bill No. 535 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 589.

Bill read third time.

Roll call on Assembly Bill No. 589:

YEAS—21.

NAYS—None.

Assembly Bill No. 589 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 643.

Bill read third time.

Remarks by Senators Raggio, O'Donnell and Rawson.

Roll call on Assembly Bill No. 643:

YEAS—19.

NAYS—McGinness, O'Connell—2.

Assembly Bill No. 643 having received a constitutional majority, Madam President declared it passed.

Bill ordered transmitted to the Assembly.

Assembly Bill No. 644.

Bill read third time.

Roll call on Assembly Bill No. 644:

YEAS—21.

NAYS—None.

6-26

Assembly Bill No. 365—Committee on Commerce

CHAPTER 393

AN ACT relating to public information; substituting civil enforcement of access to public books and records for a criminal penalty for denial of access; conferring immunity upon public officers and employees for certain actions in good faith; and providing other matters properly relating thereto.

[Approved July 2, 1993]

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE
AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 239 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. *If a request for inspection or copying of a public book or record open to inspection and copying is denied, the requester may apply to the district court in the county in which the book or record is located for an order permitting him to inspect or copy it. The court shall give this matter priority over other civil matters to which priority is not given by other statutes. If the requester prevails, he is entitled to recover his costs and reasonable attorney's fees in the proceeding from the agency whose officer has custody of the book or record.*

Sec. 3. *A public officer or employee who acts in good faith in disclosing or refusing to disclose information and his employer are immune from liability for damages, either to the requester or to the person whom the information concerns.*

Sec. 4. NRS 239.010 is hereby amended to read as follows:

239.010 [1.] All public books and public records of state, county, city, district, governmental subdivision and quasi-municipal corporation officers and offices of this state (and all departments thereof), the contents of which are not otherwise declared by law to be confidential, [shall] *must* be open at all times during office hours to inspection by any person, and the [same] *books and records* may be fully copied or an abstract or memorandum prepared therefrom, and any copies, abstracts or memoranda taken therefrom may be utilized to supply the general public with copies, abstracts or memoranda of the records or in any other way in which the [same] *books and records* may be used to the advantage of the owner thereof or of the general public.

[2. Any officer having the custody of any of the public books and public records described in subsection 1 who refuses any person the right to inspect such books and records as provided in subsection 1 is guilty of a misdemeanor.]

Sec. 5. NRS 122.040 is hereby amended to read as follows:

122.040 1 Before persons may be joined in marriage, a license must be obtained for that purpose from the county clerk of any county in the state. Except as otherwise provided in this subsection, the license must be issued at the county seat of that county. The board of county commissioners may, at the request of the county clerk, designate one branch office of the county clerk at which marriage licenses may be issued, if the designated branch

office is established in a county office building which is located outside of the county seat.

2. Before issuing a marriage license, the county clerk may require evidence that the applicant for the license is of age. The county clerk shall accept a statement under oath by the applicant and the applicant's parent, if available, that the applicant is of age.

3. The county clerk issuing the license shall require the applicant to answer under oath each of the questions contained in the form of license, and, if the applicant cannot answer positively any questions with reference to the other person named in the license, the clerk shall require both persons named in the license to appear before him and to answer, under oath, the questions contained in the form of license. If any of the information required is unknown to the person responding to the question, he must state that the answer is unknown.

4. If any of the persons intending to marry is under age and has not been previously married, and if the authorization of a district court is not required, the clerk shall issue the license if the consent of the parent or guardian is:

(a) Personally given before the clerk;

(b) Certified under the hand of the parent or guardian, attested by two witnesses, one of whom must appear before the clerk and make oath that he saw the parent or guardian subscribe his name to the annexed certificate, or heard him or her acknowledge it; or

(c) In writing, subscribed to and acknowledged before a person authorized by law to administer oaths. A facsimile of the acknowledged writing must be accepted if the original is not available.

5. If the authorization of a district court is required, the county clerk shall issue the license if that authorization is given to him in writing.

6. All records pertaining to marriage licenses are public records and open to inspection pursuant to the provisions of NRS 239.010. [Any county clerk who refuses to permit an inspection is guilty of a misdemeanor.]

7. A marriage license issued on or after July 1, 1987, expires 1 year after its date of issuance.

Sec. 6. Section 5 of this act becomes effective at 12:01 a.m. on October 1, 1993.

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Vol IN THE SUPREME COURT OF THE STATE OF NEVADA

CLARK COUNTY SCHOOL
DISTRICT,

Appellant.

vs.

LAS VEGAS REVIEW-JOURNAL,

Respondent.

Supreme Court No. 75534

District Court No. A750151

District Court Dept. No. XVI

Electronically Filed
Sep 07 2018 12:02 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

APELLANT’S APPENDIX
VOLUME IV

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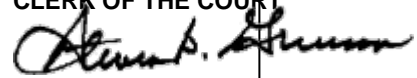
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5



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10 **EIGHTH JUDICIAL DISTRICT COURT**

11 **CLARK COUNTY, NEVADA**

12 LAS VEGAS REVIEW-JOURNAL,

Case No.: A-17-750151-W

13 Petitioner,

Dept. No.: XVI

14 vs.

**PETITIONER LAS VEGAS
REVIEW-JOURNAL'S MOTION
FOR ATTORNEY'S FEES AND
COSTS AND MOTION TO FIND
CCSD IN BAD FAITH**

15 CLARK COUNTY SCHOOL DISTRICT,
16 Respondent.

17 COMES NOW Petitioner the Las Vegas Review-Journal (the "Review-Journal"),
18 by and through its undersigned counsel, hereby moves this Court to award the Review-
19 Journal its reasonable costs and attorneys' fees as the prevailing party in the above-
20 captioned action. The Review-Journal is entitled to its fees and costs pursuant to Nev. Rev.
21 Stat. §§ 18.010(2)(b) and 239.011(2). The Review-Journal further moves this Court for an
22 order finding that Respondent Clark County School District ("CCSD") acted in bad faith in
23 refusing to disclose records the Review-Journal requested pursuant to the Nevada Public
24 Records Act ("NPR"), Nev. Rev. Stat. § 239.001 *et seq.*

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This Motion is made pursuant to Nev. Rev. Stat. Chapter 239 and Nev. R. Civ. P. 54(d)(2)(B), and is based on the following Memorandum of Points and Authorities, any attached exhibits, the attached Declaration of Margaret A. McLetchie, the papers and pleadings already on file herein, and any oral argument the Court may permit at the hearing of this Motion.

DATED this 19th day of September, 2017.

/s/ Margaret A. McLetchie

MARGARET A. MCLETSCHIE, Nevada Bar No. 10931

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Counsel for Petitioner

NOTICE OF MOTION

TO: ALL INTERESTED PARTIES.

YOU WILL TAKE NOTICE that the undersigned will bring on for hearing the above-noted PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS AND MOTION TO FIND CCSD IN BAD FAITH and to be heard the 24th day of October 2017, at the hour of 9:00 a.m., in the above-entitled Court or as soon thereafter as counsel may be heard.

DATED this 19th day of September, 2017.

/s/ Margaret A. McLetchie

MARGARET A. MCLETSHELL, Nevada Bar No. 10931

ALINA M. SHELL, Nevada Bar No. 11711

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Counsel for Petitioner

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MEMORANDUM OF POINTS AND AUTHORITIES

Because the Review-Journal is the prevailing party in this action, it is entitled to recover fees and costs pursuant to Nev. Rev. Stat. § 18.010(2)(b). The total requested fees are \$101,367.50, and the final requested costs are \$4,330.87. The billable time and costs for the Review-Journal’s attorneys’ fees are more particularly set forth in the attached declaration of Ms. McLetchie and supporting exhibits.

Additionally, for the reasons set forth below, the Review-Journal requests this Court enter an order finding that CCSD acted in bad faith in refusing to disclose public records in this matter.

I. PROCEDURAL HISTORY AND STATEMENT OF RELEVANT FACTS

Although the Court is already very familiar with the complex factual and procedural history of the Review-Journal’s public records request and the instant litigation, a review of the history and facts of this case is necessary to establish that the Review-Journal was the prevailing party in this matter, and to establish that CCSD acted in bad faith by refusing to disclose public records requested by the Review-Journal.

Starting in December 2016, the Las Vegas Review-Journal made several requests to CCSD pursuant to the Nevada Public Records Act (“NPRa”) targeting documents pertaining to the alleged misbehavior of School Board Trustee Kevin Child (the “Requests”). Since that time, the Review-Journal has also been doggedly working to obtain both access to the records sought by the Requests and information about the extent to which CCSD complied with the Requests. The convoluted procedural history of this case demonstrates that CCSD’s refusal to comply with the NPRa and the situation it now finds itself in—having to seek an emergency stay to avoid disclosing public records pertaining to its investigation of Trustee Child’s alleged misbehavior—is a bed of its own making.

As has been discussed in several pleadings on file with this Court, the litigation over this matter was precipitated by CCSD’s failure to comply with the NPRa and efforts to delay and hide information. As discussed in the Amended Petition submitted to this Court, on or around December 5, 2016, Review-Journal reporter Amelia Pak-Harvey sent CCSD a

request pursuant to the NPRA for certain public records pertaining to Trustee Kevin Child's alleged misbehavior. (See March 1, 2017 Amended Petition at ¶¶ 11-13.) According to Cynthia Smith-Johnson, the Public Records Officer for CCSD, when she received the December 5 request, she "sent it to [CCSD's] legal department for a heads up" and set up a file for the request. (Exh. 4 (8/17/17 Deposition of Cynthia Smith-Johnson), pp. 12:17-13:5.)

Ms. Pak-Harvey made multiple efforts over the course of seven weeks to get information about the status of the December Request and to resolve any possible concerns. (See generally Amended Petition at pp. 4-5, ¶¶ 15-31.) CCSD repeatedly told the Review-Journal that it need additional time to produce the requested records (see Amended Petition at ¶¶ 16, 20, 23-24, 26.) Ms. Smith-Johnson testified at her deposition in this matter that her failure to provide a meaningful response to the Review-Journal's records request was attributable to CCSD general counsel. According to Ms. Smith-Johnson, she could not provide a response to the Reporter's request without permission from CCSD general counsel. (See, e.g., Exh. 4, pp. 14:2-14 (testimony that she could not proceed with the request because she was "waiting [on] legal for direction what to do"); 18:16-19:2;¹ 20:20-22; p. 23:1-7, 17-19; 23:12-19.)

CCSD never indicated in its correspondence with the Reporter that it limited the request, which custodians it was limiting their records search to, how they were conducting the search, or whether it anticipated withholding or redacting any of the records. (See generally Exhibits 1-15 to January 26, 2017 Petition on file in this matter (communications between the Review-Journal and CCSD regarding the December requests).) It also appears

¹ Q. Do you remember [the Reporter] following up about [the December Request] a couple of times in December?

A. Yes.

Q. When she did that, did you do anything additional?

A. I forwarded that to legal.

Q. So essentially, was everything in legal's hands?

A. Yes.

Q. Whether or not to provide responsive documents was up to legal?

A. Yes.

that CCSD counsel did not provide search information to its Public Records Officer. Ms. Smith-Johnson testified that the first responsive documents she reviewed were provided to her by CCSD legal counsel, and she was not aware of how legal counsel searched for responsive documents. (Exh. 4, pp. 19:3-13; 23:3-7 (testifying that legal counsel was responsible for the search for responsive documents).)

CCSD's compliance with the NPRA did not improve as this litigation needlessly dragged on—even in the face of multiple orders from this Court directing CCSD to search for and produce responsive records. Eight weeks after the December Request—and only after the Review-Journal filed suit—CCSD produced one batch of responsive records on February 3, 2017. It did not, however, provide a privilege log indicating what documents it was keeping secret or why. CCSD also did not indicate it had limited its search in any way.

On February 8, 2017, the Court ordered CCSD to either fully produce all the records it was withholding in unredacted form by 12:00 p.m. on Friday, February 10, 2017, or that the matter would proceed to hearing. (Amended Petition at ¶ 33.) CCSD did not do so. However, CCSD made various partial productions of the Redacted Records with changed and various redactions between February 8, 2017 and February 13, and then again after Court order with fewer redactions on February 24 and February 27, 2017. (Amended Petition at ¶¶ 34-40; 52-55.)

CCSD did not voluntarily indicate that it had limited the December Requests, whose records it had searched, what terms it used in searching for responsive records, or which records it was withholding. Indeed, its counsel contended that even search information was a state secret. It took extensive (and expensive) litigation just to get information CCSD should have provided in December.

CCSD did, however, produce its first log on February 13, 2017 listing the following purported bases for the redactions: Nev. Rev. Stat. § 386.230, and CCSD Regulations 1212 and 4110. 1 (Amended Petition at ¶ 37.) CCSD did not disclose that it was withholding responsive records and had only searched for records in a limited selection of email in-boxes.

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On February 14, 2017, the Court heard oral argument on the Review-Journal's Petition. Following that hearing, on February 22, 2017, the Court entered an Order granting the Review-Journal's Petition ("February Order"). (*See* February 22, 2017 Order, *see also* February 23, 2017 Notice of Entry of Order.) In the Order, this Court found that, regarding CCSD's proposed broad redactions of the names of schools, teachers, administrators, and program administrators, CCSD had failed to meet its burden of demonstrating the existence of any applicable privilege. (Order at ¶ 28.) The Court ordered CCSD to provide the Review-Journal with new versions of the Redacted Records and Additional Redacted Records with only "the names of direct victims of sexual harassment or alleged sexual harassment, students, and support staff" redacted. (*Id.* at ¶ 34.) The Court further specified that "CCSD may not make any other redactions" and must unredact the names of schools, teachers, and all administrative-level employees. (*Id.* at ¶ 35) (emphasis in original). The Court directed CCSD to comply with the Order within two days. (*Id.* at ¶ 36.)

Meanwhile, on February 10, 2017, the Review-Journal submitted a supplemental request for public records to CCSD. (Amended Petition at ¶¶ 56-82.) The Review-Journal was forced to amend its petition on March 1, 2017 after CCSD refused to produce records in response to this supplemental request. Twelve days after the Review-Journal filed its Amended Petition, CCSD revealed for the first time that it had unilaterally limited its searches for responsive records. (Exh. V to March 29, 2017 Opening Brief, at CCSD-COM 38-39.)

In addition, after the entry of the Court's February Order, the Review-Journal repeatedly requested that CCSD provide it with a privilege log of the documents it was withholding. (Exh. N to Opening Brief at CCSD-COM 018; Exh. P at CCSD-COM 028; CCSD-COM 035.) CCSD did not respond to these repeated requests until March 13, 2017, when counsel for CCSD stated via email that CCSD was withholding "a single document. An investigative report concerning allegations of harassment and discrimination by Trustee Child prepared by Cedric Cole of [the] Diversity and Affirmative Action Programs. It consists of 15 pages, which includes an 8 page report and 7 pages of notes." (Exh. W to

Opening Brief at CCSD-COM 045.) Of course, that turned out not to be true. (*See* July 12, 2017 Order, ¶ 59 (finding that CCSD is withholding 102 pages of documents).)

The Court heard argument on the Review-Journal’s Amended Petition on May 9, 2017. During the hearing in this matter conducted on May 9, 2017, this Court ordered CCSD to conduct additional searches for responsive documents. It also ordered CCSD to produce all documents it had withheld to date, and any additional documents the searches yielded that CCSD contended should not be produced to the Review-Journal, for an *in camera* review by May 30, 2017.

Following this hearing, the parties could not agree on the scope of the order. Most markedly, CCSD contended that the Order should not require it to provide the Review-Journal with a copy of either the required certification or the privilege log. The parties submitted competing orders, and on June 6, 2017, the Court entered an order directing CCSD to produce all documents it had withheld to date, and any additional documents the searches yielded that CCSD contended should not be produced to the Review-Journal, for an *in camera* review. It also required CCSD to produce a privilege log, as well as certifications pertaining to the searches it had conducted. (June 5, 2017 Order Granting Writ of Mandamus, ¶¶ 45-48.)

On May 30, 2017, CCSD provided documents for an *in camera* review. It additionally provided the Court with two certifications and a privilege log. Unbeknownst to the Court, CCSD counsel did not provide a copy of either of these documents to the Review-Journal at that time.² On June 5, 2017 CCSD provided an additional thirty-eight pages of documents that it located after conducting the additional searches ordered by this Court. At a hearing held on June 6, 2017 the Court made clear that it expected CCSD to engage in the routine practice of providing privilege logs and certifications to opposing counsel in conjunction with *in camera* submissions. At that hearing, CCSD counsel finally provided the

² This reflects CCSD’s ongoing efforts to refuse to provide information to the Review-Journal, which has had to fight extensively for things like copies of these documents that CCSD should have provided voluntarily, and as a matter of course.

Review-Journal a copy of the final log and, later that day, provided copies of the certifications it had provided to the Court a week earlier. CCSD's actions served to delay this matter, and created unnecessarily expedited work by the Review-Journal, which submitted a memorandum addressing the log and certifications on June 13, 2017.

The Court then held a hearing on CCSD's final privilege log on June 27, 2017. At that hearing, the Court found the privileges cited by CCSD did not justify withholding the records in their entirety, and that CCSD had failed to prove by a preponderance of the evidence that any interest in nondisclosure outweighed the strong presumption in favor of public access. (*See generally* July 11, 2017 Order at ¶¶ 69-88.) The Court also found the certifications submitted by CCSD regarding its renewed searches for responsive documents were inadequate, and ordered CCSD to make the two CCSD employees who authored the certifications available to be deposed by the Review-Journal as to their efforts to search for, collect, and produce the requested records. (*Id.* at ¶¶ 89-96.) At the hearing, CCSD offered to produce the records to the Court by June 30, 2017. (June 27, 2017 Transcript, p. 78:4-5.)

On July 12, 2017, CCSD filed a notice of appeal from the Court's July 11 Order. Specifically, CCSD's appeal centered on the Court's order that it produce the withheld records; CCSD did not contest the Court's order that the two employees who had provided certifications—Ms. Smith-Johnson and CCSD Chief Technology Officer Dan Wray—be available for depositions. At the same time, CCSD filed a motion for a stay of the Court's July 11 Order pending appeal; the Review-Journal filed a response opposing the request for a stay on July 19, 2017. The Court conducted a hearing on CCSD's motion on July 27, 2017. At that hearing, the Court denied CCSD's request for a stay; the Court subsequently entered a written order on July 31, 2017.

CCSD filed an emergency motion with the Nevada Supreme Court on July 27, 2017, again requesting a stay of the Court's July 11 Order. (*See* Nevada Supreme Court Case No. 73525.) The Review-Journal submitted a response opposing the emergency request for a stay on August 4, 2017. On August 28, 2017, the Court of Appeals—to which the Supreme Court had assigned the matter solely for the purposes of ruling on the emergency motion for

1 a stay—entered an order granting CCSD’s motion. Thus, the Court’s July 11 Order has been
2 stayed pending appeal.

3 In the interim, the Review-Journal deposed Ms. Smith-Johnson on August 17, 2017
4 (*see* Exh.4), and deposed Mr. Wray on August 18, 2017. (*see* Exh. 5.) Both Ms. Smith-
5 Johnson and Mr. Wray testified that CCSD general counsel dictated the terms and nature of
6 the searches they conducted. (*See* Exh. 4, pp. 14:9-14; 18:19-19:13; 22:22-23:7; 25; 25:19-
7 26:7; Exh. 5, pp. 36:16-39:3; 45:9-46:14; 48:12-23; 58:6-25.)

8 In addition to his testimony that CCSD general counsel dictated the terms and
9 nature of the searches he conducted, Mr. Wray also provided testimony regarding CCSD’s
10 retention of e-mails sent and received on its internal email service, and—of particular
11 concern here—general counsel’s failure to direct him to potentially responsive emails outside
12 CCSD’s default retention period. Mr. Wray testified that emails sent and received using
13 CCSD’s email service “have a default expiration by the system of 90 days,” but that email
14 users have the ability to extend that expiration date. (Exh. 5 p. 65:7-9.) Although CCSD does
15 retain backups “for the purpose of disaster recovery,” CCSD only retains those backups for
16 21 days, and they are not searchable. (*Id.* pp. 65:12-66:24.)

17 Mr. Wray testified that CCSD general counsel did not request he preserve any email
18 accounts to maintain potentially responsive communications. (*Id.* p. 71:7-21.) This is
19 particularly disturbing given that, as Mr. Wray testified, CCSD general counsel had directed
20 him to preserve communications in other public records disputes. Specifically, Mr. Wray
21 testified that in 2007, CCSD general counsel directed him to make copies of the e-mail boxes
22 of CCSD Trustees to preserve records responsive to a records request from an activist named
23 Karen Gray. (*Id.* pp. 67:15-69:19; 70:21-71:5; *see also* Exh 6 (transcript of January 23, 2009
24 hearing in *Gray v. Clark County School District*, Case No. A-543861).) During an
25 evidentiary hearing which took place in the resulting litigation over Ms. Gray’s records
26 request, Mr. Wray testified as follows:

27 I was notified in February of 2007 when -- it was my understanding that
28 Ms. Gray went to the school board and said that she wanted to get this
information. It's my understanding that Shirley Barber then made that
request and at that point [then-CCSD general counsel Bill] Hoffman said

you need to make sure you preserve the mailboxes at that point. So we did, we took a snapshot as the system existed that day. We believe the date was February 23, 2007 and preserved that, okay?

(Exh. 6, p. 12:6-11; Exh. 5, p. 69:6-15.) Mr. Wray explained at the deposition in this matter that CCSD general counsel in the *Gray* matter inquired whether the trustees' email boxes could be copied. (Exh. 5, p. 70:7-8.) Because the email boxes were too large, Mr. Wray explained that he "took a backup snapshot" of the email boxes as they existed at the time of general counsel's inquiry, and thus preserved potentially responsive records. (*Id.*, pp. 70:11-71:2.) Again, in this case, CCSD general counsel provided no such direction to Mr. Wray. (*Id.*, pp. 71:11-72:2.)

II. LEGAL ARGUMENT

A. Legal Standard for Reasonable Attorneys' Fees.

Recovery of attorney 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). In this case, recovery of attorneys' fees is authorized by statute. Nevada's Public Records Act [NPRa] provides that "...[i]f the requester prevails, 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). As the Nevada Supreme Court has explained, "...by its plain meaning, this statute 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). The Court went on to explain that a party need only prevail on "any significant issue":

A party prevails "if it succeeds on *any significant issue* in litigation which CCSD general counsel 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). 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) (observing that "a plaintiff [can be] deemed 'prevailing' even though he succeeded on only some of his claims for relief").

1 *Id.* at 615; *see also* *DR Partners v. Bd. of Cty. Comm'rs of Clark Cty.*, 116 Nev. 616, 628–
2 29, 6 P.3d 465, 473 (2000) (reversing an order denying access and remanding to district court
3 to award fees).³

4 **B. The Review-Journal is the Prevailing Party.**

5 As noted above, the Nevada Supreme Court has held that a party is the prevailing
6 party if it “succeeds on any significant issue in litigation which achieves some of the benefit
7 it sought in bringing suit.” *Valley Elec. Ass’n v. Overfield*, 121 Nev. 7, 10, 106 P.3d 1198,
8 1200 (2005) (quotations omitted); *accord* *Blackjack Bonding*, 131 Nev. Adv. Op. 10, 343
9 P.3d 608, 615. The Review-Journal is the prevailing party in this matter. When CCSD
10 refused to produce public records in response to a request from Review-Journal reporter
11 Amelia Pak-Harvey, the Review-Journal was forced to initiate the instant litigation. As a
12 result of the litigation, this Court has issued multiple orders directing CCSD to search for
13 responsive records, produce responsive records, produce records in less-redacted forms,
14 produce certifications regarding its efforts to search for responsive records, and make CCSD
15 administrators available for depositions. Although a portion of this Court’s July 11 Order has
16 been stayed pending appeal, that stay does not obviate the fact that the Review-Journal has
17 prevailed in this litigation, and is therefore entitled to attorney’s fees and costs.

18 As the United States Supreme Court explained in *Hensley v. Eckerhart*, 461 U.S.
19 424, 440 (1983), “[w]here a lawsuit consists of related claims, a plaintiff who has won
20 substantial relief should not have his attorney’s fee reduced simply because the district court
21 did not adopt each contention raised.” *Accord Cinevision Corp. v. City of Burbank*, 745 F.2d
22 560, 581 (9th Cir. 1984). In the context of a Lanham Act case, United States District Court
23 Judge Phillip M. Pro explained:

24 In evaluating the results obtained, the Court should be mindful that while in
25 some cases the claims upon which the plaintiff prevailed may be discrete

26 ³ Other Nevada Supreme Court cases likewise make clear that a party who substantially
27 prevailed is entitled to recoup all attorney’s fees and costs, even if they did not ultimately
28 succeed on all claims. *See, e.g., University of Nevada v. Tarkanian*, 110 Nev. 581, 595-598,
879 P.2d 1180, 1189-90 (1994).

from those on which the plaintiff did not prevail, “[i]n other cases the plaintiff’s claims for relief will involve a common core of facts or will be based on related legal theories.” *Hensley*, 461 U.S. at 435, 103 S.Ct. 1933. In cases where the claims for relief are related, “[m]uch of counsel’s time will be devoted generally to the litigation as a whole, making it difficult to divide the hours expended on a claim-by-claim basis.” *Id.*

Fifty-Six Hope Rd. Music, Ltd. v. A.V.E.L.A., Inc., 915 F. Supp. 2d 1179, 1188 (D. Nev. 2013), *aff’d*, 778 F.3d 1059 (9th Cir. 2015).

In the Ninth Circuit, courts apply a two-part analysis to determine whether fees can be recovered for issues on which a party was unsuccessful. *Thorne v. City of El Segundo*, 802 F.2d 1131, 1141 (9th Cir.1986). “First, the court asks whether the claims upon which the [party] failed to prevail were related to the [party’s] successful claims. If unrelated, the final fee award may not include time expended on the unsuccessful claims.” *Id.* (citing *Hensley*, 461 U.S. at 434–35). If the claims are related, then the court considers the “significance of the overall relief obtained by the [party] in relation to the hours reasonably expended on the litigation.” *Id.* If the party “obtained ‘excellent results,’ full compensation may be appropriate, but if only ‘partial or limited success’ was obtained, full compensation may be excessive.” *Id.*

In this instance, all the Review-Journal’s claims centered on a common core of facts and law: attempting to obtain access to public records pertaining to CCSD Trustee Kevin Child. Notwithstanding the order from the Court of Appeals staying a portion of this Court’s July 11 Order pending appeal, the fact remains that the Review-Journal was forced to petition the Court for extraordinary relief to get CCSD to comply with its obligations under the NPRA to produce the requested public records, and that the Court entered multiple orders directing CCSD to produce records. Thus, the Review-Journal is the prevailing party in this matter.

C. The Review-Journal’s Attorney Fees Are Reasonable and Fully Documented

1. The Review-Journal’s Attorneys’ Fees Are Reasonable.

Any fee-setting inquiry begins with the calculation of the “lodestar:” the number of hours reasonably expended multiplied by a reasonable hourly rate. *See, e.g., Blum v. Stenson*, 465 U.S. 886, 896-97 (1984); *accord Herbst v. Humana Health Ins. of Nevada*, 105 Nev.

586, 590, 781 P.2d 762, 764 (1989). Relevant factors include the preclusion of other employment by the attorney due to acceptance of the case; time limitations imposed by the client or the circumstances; the amount involved and results obtained; the undesirability of the case; the nature and length of the professional relationship with the client; and awards in similar cases. *Kerr v. Screen Extras Guild, Inc.*, 526 F.2d 67, 69–70 (9th Cir.1975). In most cases, the lodestar figure is a presumptively reasonable fee award. *Camacho v. Bridgeport Financial, Inc.*, 523 F.3d 973, 978 (9th Cir. 2008).

2. *The Review-Journal is Entitled to a Full Award of Attorneys’ Fees for All the Work Performed by Its Attorneys.*

The Review-Journal anticipates CCSD may assert that any fees awarded in this case should be reduced to reflect that the Court’s July 11 Order is pending appellate review. However, where, as here, the claims asserted by the Review-Journal in its petition for a writ of mandamus—and the work done to obtain full disclosure of the records regarding Trustee Child as directed in the July 11 Order—are so interrelated, this Court should not separate those claims for the purposes of awarding attorneys’ fees. The Review-Journal obtained access to many of the records only after filing suit, and only after this Court issued multiple orders granting the Review-Journal’s requests for public records CCSD was withholding.

As the Ninth Circuit has explained in the context of § 1983 cases, “where a plaintiff in a § 1983 action alleges multiple interrelated claims based on the same underlying facts, and some of those claims are frivolous and some are not, a court may award defendants attorney’s fees with respect to the frivolous claims only when those claims are not ‘intertwined.’” *Harris v. Maricopa Cnty. Superior Court*, 631 F.3d 963, 971 (9th Cir.2011); accord *Fox v. Vice*, 563 U.S. 826, 839-40 (2011) (discussing the “interrelated[ness]” of plaintiffs’ frivolous and non-frivolous claims); see also *McCown v. City of Fontana*, 711 F. Supp. 2d 1067, 1070 (C.D. Cal. 2010), aff’d, 464 F. App’x 577 (9th Cir. 2011) (holding that although the plaintiff’s claims involved “different legal theories against different defendants,” the court “should not attempt to divide the request for attorney’s fees on a claim by claim basis” because each of claims “arose from a common core of facts”); cf. *Cain v.*

1 *J.P. Prods.*, 11 F. App'x 714, 716 (9th Cir. 2001) (holding that, in the context of a Lanham
2 Act case, “no apportionment was needed because the claims are so inextricably intertwined
3 that even an estimated adjustment would be meaningless”) (citing *Gracie v. Gracie*, 217 F.3d
4 1060, 1068, (9th Cir.2000); other citation omitted).

5 The Review-Journal is the prevailing party in this litigation. Furthermore, the issues
6 raised by the Review-Journal were not frivolous, and the work was all interrelated. *See, e.g.*,
7 *Braunstein v. Arizona Dep't of Transp.*, 683 F.3d 1177, 1187 (9th Cir. 2012). Accordingly,
8 the Review-Journal is entitled to an award of attorneys' fees for all the work performed in
9 this case.

10 **3. The Brunzell Factors**

11 In addition to calculating the lodestar, a court must also consider the requested
12 amount in light of the factors enumerated by the Nevada Supreme Court in *Brunzell v.*
13 *Golden Gate Nat. Bank*, 85 Nev. 345, 455 P.2d 31 (1969). Pursuant to *Brunzell*, a court must
14 consider four elements in determining the reasonable value of attorneys' services:

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

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

25 **a. The Review-Journal Seeks Fees for a Reasonable Number of** 26 **Hours, and Exercised Appropriate Billing Judgment.**

27 Pursuant to Nev. R. Civ. P. 54(d)(2)(B), statements “swearing that the fees were
28 actually and necessarily incurred and were reasonable” are set forth in the attached
declaration of Margaret A. McLetchie (“McLetchie Decl.”) attached hereto as Exhibit 1 and
supported by the billings for the Review-Journal's attorney fees and costs attached hereto as
Exhibits 2 and 3.

As detailed above, the litigation in this matter was complex and time-consuming. The Review-Journal’s counsel exercised appropriate billing judgment and structured work on this case to maximize efficiencies, and the hours listed in the fee request are neither duplicative, unnecessary nor excessive. (McLetchie Decl., ¶ 11); *see also Hensley v. Eckerhart*, 461 U.S. 424, 434 (1983) (“Counsel for the prevailing party should make a good faith effort to exclude from a fee request hours that are excessive redundant, or otherwise unnecessary, just as a lawyer in private practice ethically is obligated to exclude such hours from his fee submission.”).

To keep billing as low as possible, Ms. Shell conducted work where appropriate. Further, counsel utilized a student law clerk and a paraprofessional to perform tasks such as research and organization to assure that attorneys with higher billing rates were not billing for tasks that lower billers could perform. (McLetchie Decl. at ¶ 12.) Potentially duplicative or unnecessary time has not been included. (*Id.* at ¶ 7.) In all these ways, counsel for the Review-Journal has charged a reasonable and reduced rate for the attorneys’ time. (*Id.* at ¶¶ 14.) Counsel also exercised appropriate billing judgment by *not* including in this application certain time, even time which would likely be compensable. (*Id.* at ¶ 15.) The description of costs and fees in this case also excludes the majority of the time spent working on this Motion, or as will be necessary to Reply to any Opposition to this Motion. (*Id.* at ¶ 16.)

b. An Analysis of the *Brunzell* Factors Supports the Award of the Fees the Review-Journal Seeks.

As discussed above, the Nevada Supreme Court’s opinion in *Brunzell* sets forth a number of factors that should be used to determine whether a requested amount of attorney fees is reasonable. *See Brunzell*, 85 Nev. 345, 349, 455 P.2d 31, 33. Each of these factors supports the amount sought.

i) The Advocates

To be considered in determining the reasonable value of an attorney’s services are the qualities of the advocate, including ability, training, education, experience, professional standing, and skill. *Id.* The Review-Journal’s attorneys include attorneys, law clerks, and

paraprofessionals from McLetchie Shell LLC. Student law clerks, and paraprofessionals were utilized whenever possible and appropriate to keep fees low.

Ms. McLetchie, as an outside attorney who handles the Review-Journal's public records, FOIA, and court access matters, has extensive experience handling NPRA litigation and similar matters. Indeed, she frequently represents the Review-Journal and other clients in pursuing NPRA matters and overcoming objections to NPRA requests without having to litigate. From 2007 through 2009, while working at the ACLU of Nevada, Ms. McLetchie helped litigate issues pertaining to the Clark County School District's refusal to provide certain records in *Karen Gray v. Clark County School District et al.*, Eighth Judicial Dist. Ct. Case No. 07A543861. In that case, over seven years ago, the ACLU of Nevada was awarded \$46,118.00. Ms. McLetchie's time on this case was billed at the rate of \$450.00 per hour, for a total billed of \$62,190.00.

Alina M. Shell, working a total of 88.2 hours on this case, is a Partner at McLetchie Shell with almost eight years of legal experience. Prior to transitioning into private practice, Ms. Shell was an attorney with the Federal Public Defender (FPD) for the District of Nevada. While employed by the FPD, Ms. Shell represented numerous defendants in a variety of criminal cases which ran the gamut from revocations of supervised release to complex mortgage fraud cases. She also wrote and argued several complex criminal appeals in before the United States Court of Appeals for the Ninth Circuit. Since moving into private practice in June 2015, Ms. Shell has represented plaintiffs in state and federal court in civil matters, including several civil rights cases. Ms. Shell has also represented the Review-Journal in both state and federal court in public records matters. Ms. Shell's time on this case was billed at the rate of \$350.00 per hour with some time entries reduced (McLetchie Decl., ¶ 8), resulting in a total of \$30,065.00.

Leo Wolpert, working a total of 24 hours, is a research and writing attorney for McLetchie Shell. Mr. Wolpert is 2011 graduate of the University of Virginia School of Law and has experience with public records matters. Mr. Wolpert's time on this case was billed at a rate of \$175.00 per hour, for a total billed of \$4,200.00.

Pharan Burchfield, working a total of 26.8 credited hours on this case, is a paraprofessional at McLetchie Shell. Ms. Burchfield has an associate's degree in paralegal studies, and has been a paralegal for three years. Ms. Burchfield's time on this case was billed at the rate of \$150.00 per hour, for a total billed of \$4,020.00.

In sum, the attorneys and employees at McLetchie Shell worked a total of 280 hours on this case. With reduced entries as described above and in the declaration of Ms. McLetchie, the combined total of \$101,367.50 for that work is well under market for the experience brought to bear on this action. Reasonable costs for documents, filing fees, and the like were calculated for a total billed of \$4,330.87. With costs, the total billed for McLetchie Shell is \$105,698.37. Further qualification and qualities, including a declaration from Kathleen J. England, Esq. in support of counsel's rates (Exh. 7), and an itemization of these bills are included in the attached declaration of Ms. McLetchie and Exhibits 2 and 3.

ii) **The Work Performed, Including Skill, Time, and Attention.**

The work actually performed by the lawyer is relevant to the reasonableness of attorneys' fees, including the skill, time, and attention given to the work. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As demonstrated by the billing statement attached in Exhibit 2 and the attached declaration of Ms. Shell, a substantial portion of the work in this case was done by attorneys and staff with lower billing rates. Even though some of the work was done by lower billing attorneys and staff, Ms. McLetchie was still required to analyze the research and apply it strategically to the various arguments posed by CCSD. As discussed above, counsel for the Review-Journal fully briefed this matter, including filing a petition and amending that petition. Counsel was also required to file a memorandum in support of the petition and a reply brief. In addition, counsel was required to submit a memorandum regarding CCSD's certifications regarding its searches for responsive records, and to conduct depositions of the CCSD administrators who authored those certifications. Additionally, there were multiple hearings in this case counsel which expended significant time preparing for and attending to effectively represent the Review-Journal in this matter.

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iii) The Result.

Lastly, “the result: whether the attorney was successful and what benefits were derived” is relevant to this inquiry. *Brunzell*, 85 Nev. at 349, 455 P.2d at 33. As noted above, the Review-Journal is the prevailing party in this matter. Because each of these factors weighs in the Review-Journal’s favor, this Court should exercise its discretion and award the Review-Journal reasonable attorneys’ fees and costs in the sum of \$105,698.37.

D. CCSD Acted in Bad Faith in This Matter.

Pursuant to Nev. Rev. Stat. § 239.012, “[a] public officer or employee who acts in good faith in disclosing or refusing to disclose information and the employer of the public officer or employee are immune from liability for damages.” In this case, CCSD acted in bad faith in refusing to produce the requested public records pertaining to Trustee Child. As discussed in the procedural and factual history above, the litigation in this matter has been marked by CCSD’s obstinate refusal to comply with its obligations under the NPRA, its refusal to provide information about its search for responsive records, and—as Mr. Wray’s testimony illustrates—its failure to preserve potentially responsive records. Although any one of CCSD’s actions in this case could merit a finding of bad faith, its entire course of conduct demonstrates that CCSD—through its general counsel—acted in bad faith in refusing to disclose the requested records.

The NPRA mandates that, within five (5) days, CCSD either provide responsive records or provide specific reasons why documents should be withheld. Nev. Rev. Stat. § 239.0107(1). It also mandates that a governmental establish why the presumption of openness does not apply when it is withholding documents. Nev. Rev. Stat. § 239.0107(1)(d). CCSD has consistently failed to comply with these obligations, both before and after the petition was filed. The Review-Journal first sought records in December of 2016. CCSD failed to respond timely to the December requests. As discussed above, the Review-Journal learned during its deposition of Ms. Smith-Johnson that CCSD general counsel was responsible for CCSD’s failure to respond to the Review-Journal’s records request. As Ms. Smith-Johnson testified, she could not respond to the Review-Journal’s records request

without direction from CCSD general counsel (*see, e.g.*, Exh. 4, pp. 14:10-14; 18:16-24; 23:25-24:12; 25:19-25), and relied on general counsel to provide her with documents responsive to the Review-Journal's records request. (*Id.* pp. 19:3-10; 22:22-23:7; 26:1-7.)

CCSD general counsel also failed to preserve email boxes that contained potentially responsive records. As Mr. Wray testified, CCSD's email system automatically expire after 90 days. (Exh. 5, p. 65:5-7.) In other cases involving requests for records pursuant to the NPRA, CCSD general counsel took necessary steps to circumvent this default destruction of responsive emails by directing Mr. Wray to preserve the email boxes of CCSD trustees. (*Id.*, pp. 69:6-70:24.) In this case, however, CCSD general counsel failed to similarly instruct Mr. Wray to preserve potentially responsive emails. (*Id.*, p. 71:7-10.)

This is particularly egregious given the protracted nature of this case, and CCSD's obstinate and repeated refusals to provide responsive records. As discussed above, the Review-Journal first requested public records pertaining to Trustee Child on December 5, 2016. According to Mr. Wray's certification (Exh. HH to June 13, 2017 Memorandum, LVRJ025-041), Mr. Wray conducted an initial search of only two email boxes (belonging to Superintendent Pat Skorkowsky and Chief Academic Officer Mike Barton) on December 9, 2016. (Exh. HH, ¶ 3, LVRJ025.) Although Mr. Wray did conduct come additional searches in February and March of 2017, he did not conduct the bulk of his searches for responsive records until May 12, 2017—***158 days after the Review-Journal's December 5, 2016 request.*** (Exh. HH, LVRJ029-041.) Thus, the Review-Journal and this Court will never know if there were potentially responsive public records that were destroyed. Indeed, even in the case of Mr. Wray's February and March 2017 searches, it is impossible to determine if any records were destroyed prior to those searches simply because CCSD general counsel failed to take the necessary steps to prevent their automatic destruction.

This is textbook spoliation. In a typical civil case, a court could impose many different kinds of sanctions for spoliated evidence, including instructing a jury that it may infer a fact based on lost or destroyed evidence, dismissing a case, or granting summary judgment. *Adkins v. Wolever*, 554 F.3d 650, 652-53 (6th Cir. 2009) (citation omitted); *accord*

May v. F/V LORENA MARIE, No. 3:09-CV-00114-JWS, 2011 WL 5244345, at *6 (D. Alaska Nov. 2, 2011); *see also Silvestri v. Gen. Motors Corp.*, 271 F.3d 583, 591—92 (4th Cir. 2001) (upholding dismissal as spoliation sanction for plaintiff who anticipated filing suit, knew evidence was relevant to potential claims, and preserved evidence for only three months, but did not file suit until three years later). Here, the appropriate sanction at this stage in the litigation is a finding from this Court that CCSD’s failure to preserve potentially responsive records—combined with all the other acts described above—evidences bad faith.

III. CONCLUSION

Based on the foregoing, the Review-Journal respectfully requests that this Court, award the Review-Journal all its attorneys’ fees and costs, pursuant to Nev. Rev. Stat. § 239.011(2), in the total amount of \$105,698.37. The Review-Journal hereby reserves the right to supplement its request for fees with additional fees and costs incurred by counsel in preparing and defending the instant motion for fees and costs, and further reserves the right to supplement this request for fees should it prevail in the appeal filed by CCSD.

The Review-Journal further requests that this Court enter an order finding that CCSD acted in bad faith in refusing to disclose public records, and allow further relief in accordance as appropriate.

Respectfully submitted this 19th day of September, 2017.

/s/ Margaret A. McLetchie

MARGARET A. MCLETCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
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701 East Bridger Ave., Suite 520
Las Vegas, Nevada 89101
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Email: maggie@nvlitigation.com
Counsel for Petitioner

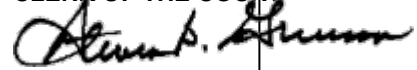
CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 19th day of September, 2017, I did cause a true copy of the foregoing PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS AND MOTION TO FIND CCSD IN BAD FAITH in *Las Vegas Review-Journal v. Clark County School District*, Clark County District Court Case No. A-17-750151-W, to be served electronically using the Odyssey File&Serve system, to all parties with an email address on record.

Pursuant to NRCP 5(b)(2)(B) I hereby further certify that on the 19th day of September, 2017, I mailed a true and correct copy of the foregoing PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS AND MOTION TO FIND CCSD IN BAD FAITH by depositing the same in the United States mail, first-class postage pre-paid, to the following:

Carlos McDade, General Counsel
Adam Honey, Asst. General Counsel
Clark County School District
5100 W. Sahara Ave.
Las Vegas, NV 89146
Counsel for Respondent, Clark County School District

/s/ Pharan Burchfield
An Employee of MCLETCHE SHELL LLC



ERR

MARGARET A. MCLEATCHIE, Nevada Bar No. 10931
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Email: maggie@nvlitigation.com
Counsel for Petitioner

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

Case No.: A-17-750151-W

Dept. No.: XVI

**ERRATA TO PETITIONER LAS
VEGAS REVIEW-JOURNAL'S
MOTION FOR ATTORNEY'S FEES
AND COSTS**

Due to a scrivener's error, the Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs that was filed on September 19, 2017 was improperly captioned, as it failed to reflect that the Las Vegas Review-Journal is also moving this Court for a finding that Respondent Clark County School District acted in bad faith in refusing to disclose public records.

The undersigned apologizes for the error, and respectfully submits the attached Corrected Petitioner Las Vegas Review-Journal's Motion for Attorney's Fees and Costs and Motion to Find CCSD in Bad Faith.

DATED this 3rd day of October, 2017.

/s/ Margaret A. McLetchie

MARGARET A MCLEATCHIE, Nevada Bar No. 10931
ALINA M. SHELL, Nevada Bar No. 11711
MCLEATCHIE SHELL LLC
Counsel for Petitioner

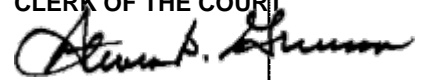
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CERTIFICATE OF SERVICE

Pursuant to Administrative Order 14-2 and N.E.F.C.R. 9, I hereby certify that on this 3rd day of October, 2017, I did cause a true copy of the foregoing ERRATA TO APPENDIX OF EXHIBITS IN SUPPORT OF PETITIONER LAS VEGAS REVIEW-JOURNAL'S MOTION FOR ATTORNEY'S FEES AND COSTS in *Las Vegas Review-Journal v. Clark County School District*, Clark County District Court Case No. A-17-750151-W, to be served electronically using the Odyssey File&Serve system, to all parties with an email address on record.

/s/ Pharan Burchfield

An Employee of MCLETSCHIE SHELL LLC



1 CARLOS MCDADE, Nevada Bar No. 11205
2 ADAM D. HONEY, Nevada Bar No. 9588
3 CLARK COUNTY SCHOOL DISTRICT
4 OFFICE OF THE GENERAL COUNSEL
5 5100 W. Sahara Avenue
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7 Telephone: (702) 799-5373
8 *Counsel for Respondent*

9 **EIGHTH JUDICIAL DISTRICT COURT**

10 **CLARK COUNTY, NEVADA**

11 LAS VEGAS REVIEW-JOURNAL,

Case No.: A-17-750151-W

12 Petitioner,

Dept. No.: XVI

13 vs.

14 CLARK COUNTY SCHOOL DISTRICT,

**CCSD'S OPPOSITION TO
LVRJ'S MOTION TO FIND BAD
FAITH**

15 Respondent.

16 Clark County School District ("CCSD"), by and through its undersigned
17 counsel of record, hereby opposes the motion to find CCSD in bad faith filed by
18 Petitioner LAS VEGAS REVIEW-JOURNAL, ("LVRJ").

19 This opposition is made and based on the pleadings on file herein, the
20 attached points and authorities, and any oral argument on this matter.
21

22 **I. Introduction**

23 LVRJ's motion to find CCSD in bad faith must be denied because there is
24 no evidence CCSD acted fraudulently, maliciously or dishonestly in complying
25 with LVRJ's records requests or the orders of the Court in this case. To the
26 contrary the evidence demonstrates, CCSD has produced 174 pages of
27 documents, preserved the investigagive file at issue on appeal, reviewed in
28

1 excess of 12,000 emails and has timely complied with every order issued by this
2 Court.

3 Additionally, there are issues with the timeliness of the current motion
4 given the fact that a final order was issued in regard to this matter on or about July
5 12, 2017, and the matter has since been stayed pending outcome of CCSD's
6 appeal.
7

8 **II. Statement of Relevant Facts**

9 The facts are well known to this court. For this reason CCSD is focusing
10 on facts relevant to CCSD's conduct in regard to the Order's of this court and filing
11 and issuing of the stay currently in place in this case.
12

13 The court issued its first order in this matter on or about February 8,
14 2017. CCSD fully complied by February 10, 2017.

15 The court issued its second order in this matter on or about February 23,
16 2017. CCSD fully complied by February 27, 2017.
17

18 The court issued its third order on or about March 27, 2017, which was a
19 briefing scheduled. CCSD fully complied with the briefing schedule order as
20 directed.
21

22 The court issued its fourth order pertaining to Jurisdiction and Search
23 Parameters on or about June 6, 2017. CCSD complied with this order on the
24 same date, June 6, 2017.

25 The court entered its fifth order on July 12, 2017.

26 CCSD filed its Motion to Stay Enforcement Pending Appeal of the July
27 12, 2017, Order on the same day.
28

1 The has been no question of whether CCSD was complying with the
2 Court's orders in this case as CCSD has been compliant at all times.

3 CCSD filed its Emergency Motion for Stay Pending Appeal in the Nevada
4 Supreme Court on July 27, 2017.

5 The district court denied the motion for stay on August 4, 2017.

6 On August 23, 2017, the Court of Appeals of the State of Nevada granted
7 CCSD's emergency motion for stay in this matter. The stay remains in effect at
8 this time.
9

10 LVRJ filed its Motion to Find CCSD in Bad Faith on September 19, 2017.

11 On October 3, 2017, LVRJ filed an Errata to their motion of September
12 19, 2017, to clarify that LVRJ was in fact filing two (2) distinct motions: one for
13 attorney's fees and costs and a separate motion to find CCSD in bad faith.
14

15 This opposition serves to address the motion to find CCSD in bad faith.

16 **III. Legal Argument**

17 **A. CCSD has not acted in bad faith in this matter.**

18 Obviously, the motion at bar is LVRJ's motion. Hence, it is LVRJ's
19 burden to provide a cognizable legal standard and apply the fact of this case to
20 the same. LVRJ has failed in both regards and should not be allowed to attempt
21 to remedy their error in reply as it would effectively deny CCSD the opportunity to
22 oppose whatever position LVRJ argued in reply, only. If the preceding scenario
23 occurs it would be in violation of CCSD's rights to notice and due process.
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1 Additionally, "bad faith" is nowhere to be found in NRS Chapter 239 and
2 specifically, NRS 230.012, which LVRJ relies upon as the basis of their request
3 that CCSD be found to be in bad faith.

4 Even if this court were to consider bad faith and whether CCSD acted in
5 bad faith, LVRJ has failed to demonstrate the same. Bad faith is defined as
6 follows:
7

8 Bad faith: *The fraudulent deception of another person; the*
9 *intentional or malicious refusal to perform some duty or contractual*
10 *obligation.*

11 Bad faith is not the same as prior judgment or Negligence. One
12 can make an honest mistake about one's own rights and duties,
13 but when the rights of someone else are intentionally or
14 maliciously infringed upon, such conduct demonstrates bad faith.

15
16 <https://legal-dictionary.thefreedictionary.com/Bad+faith>

17
18 Bad faith noun:

19 Intentional deception, dishonesty, or failure to meet an obligation
20 or duty [no evidence of *bad faith*] compare good faith

21 <http://dictionary.findlaw.com/definition/bad-faith.html>

22 Under either of the preceding definitions of bad faith, LVRJ has not
23 demonstrated CCSD has acted fraudulently, with intentional deception or
24 dishonesty.
25

26 LVRJ attempts to convince this Court that the alleged bad faith is based on
27 information learned during the depositions of Dan Wray and Cynthia Johnson-
28

1 Smith in August 2017. Yet, counsel for LVRJ has known since the *Gray* case
2 from 2007, which opposing counsel cites to in LVRJ's current motion, that the
3 default setting in the Interact email system used by CCSD is 90 days. Pet. Motion
4 to find CCSD in bad faith at Ex. 5 MACF 248-249. Opposing counsel's feigning
5 surprise at purportedly learning this at deposition in August 2017 is disingenuous.
6 LVRJ also argues that general counsel in the *Gray* case directed Dan Wray to
7 take steps to circumvent destruction of responsive emails, but the general counsel
8 failed to do the same here. Mot. at 20: 10. What LVRJ does not tell the court is
9 that the only other case she identifies, *Gray*, involved entirely different general
10 counsel and the same was done at the request of a board member. Pet. Motion
11 to find CCSD in bad faith at Ex. 5. Furthermore, CCSD is under no standing
12 order or otherwise obligated to take a "snap-shot" of its email system every time a
13 public record request involves emails. Additionally, unlike the *Gray* case,
14 searching of emails in this case began immediately upon each request or Order of
15 the court. Upon receiving the December 2016, record requests, the emails of Pat
16 Skorkowsky and Mike Barton were searched within 4 days. Ex. "A", Dan Wray
17 Cert. at Ex. "A". Pat Skorkowsky's email is set at an expiration of "never" meaning
18 his emails are never auto deleted. Ex. "B", Dec. of Dan Wray dated 120/31/17.
19 Upon receiving the February 10, 2017, records request, approximately 78
20 administrators email accounts were searched on February 21st and 22, 2017. *Id.*
21 The same responsiveness is found in regard to the June 6, 2017, Order (hearing
22 conducted on May 9, 2017) where Dan Wray searched the email boxes as
23 directed by the court between May 10-12. *Id.* & Ex. "B", Dec. of D. Wray dated
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1 10/31/17. Furthermore, as Mr. Wray's declaration states, Mr. Wray flew back to
2 Las Vegas from a business trip in Washington D.C. on May 10, 2017, to
3 immediately conduct those searches. Ex. "B". Mr. Wray learned of the additional
4 searches on the morning of May 10th, flew cross country the same day and began
5 searching the same evening. Id. Additionally,, all of the emails in this case have
6 been preserved at the time they were searched.
7

8 Also, unlike the *Gray* case that involved the email accounts of only the
9 seven (7) trustees, the case at bar involves hundreds of email accounts as LVRJ
10 has insisted upon extensive email searches that to date has revealed little
11 noteworthy information when compared to what had already been produced prior
12 to the extensive additional searches in May 2017 and the investigative file on
13 appeal.
14

15 As to to Ms. Smith-Johnson's involvement, LVRJ seems to be of the
16 position that CCSD's legal counsel should not be involved in responding to record
17 requests. This implication is absurd given the nature of the information involved in
18 the requests and CCSD's legal obligations thereto. Furthermore, nowhere in NRS
19 Chapter 239 or Nevada case law does it imply let alone state that counsel for a
20 local government may not involve itself in public records requests.
21

22 Finally, this is not a classic case of spoliation as declared by opposing
23 counsel. CCSD has searched in excess of 12,000 emails and produced
24 approximately 174 responsive pages to date. Additionally, CCSD has preserved
25 the investigatory file of the Office of Diversity and Affirmative Action. LVRJ's
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1 ability to obtain information about the events they seek has not been
2 compromised similar to the cases cited by opposing counsel.

3 CCSD has performed the searches it believes would lead to information
4 responsive to the requests. When the Court has seen fit to order less redactions
5 and more searches throughout this litigation, CCSD has promptly complied.
6

7 **B. LVRJ's motion for a finding of bad faith against CCSD**
8 **is untimely as a final order was entered almost three (3)**
9 **months prior to LVRJ seeking relief.**

10 LVRJ had its day(s) in court in this matter including a final hearing on the
11 merits of LVRJ's writ on June 27, 2017. The final order was entered on July 12,
12 2017, at the direction of LVRJ. Though LVRJ has not styled its motion as a one
13 for reconsideration, the instant motion is more akin to reconsideration. If this were
14 a motion for reconsideration, the motion would be untimely under EJDOR 2.24 as
15 such a motion would be required to have been filed within 10 days of entry of
16 order. Further troubling is the fact that LVRJ drafted the order and filed the notice
17 of entry of order in this matter but nonetheless waited months to file the same.
18

19 As argued above in Section III(A), none of the information Dan Wray
20 testified to at deposition regarding the default 90 day expiration on Interact or how
21 a "snap-shot" works is new to LVRJ's counsel. Pet. Motion at Ex. 5. Furthermore,
22 opposing counsel's comparison of the *Gray* case to the case at hand is
23 disingenuous due to the difference in those matters, also discussed herein at
24 Section III(A).
25

26 The Court has had the benefit of reviewing emails and the investigative
27 file in this matter. Cedric Cole and his staffs email accounts have been previously
28

1 searched and no emails were located. Ex. "A". Cedric Cole's email is set with an
2 expiration of "Never", which means none of his emails have been auto deleted as
3 opposing counsel appears to be concerned with. See Ex. "B". The real issue here
4 is the investigative file and that file has been preserved and that issue is currently
5 on appeal and those records preserved.
6

7 **C. LVRJ's motion should be denied because LVRJ has**
8 **already previously argued for this relief at the hearings**
9 **on May 9, 2017 and June 27, 2017, and no such relief**
10 **was granted.**

11 LVRJ should not be allowed to argue for the same relief over and over.
12 On May 9, 2017, extensive argument was heard at hearing on whether or not
13 CCSD had acted in good faith to date. At that time, this court stated: "Now, I
14 would anticipate as long as my orders are complied with, that specific individual
15 would be complying in good faith." Ex. "C", Trans. Hrg. 5/9/17 at 96:8-10. The
16 record is clear in regard to the fact CCSD has complied with every order in a
17 timely manner both prior to and after May 9, 2017. There was no ruling as to bad
18 faith or good faith at the May 9, 2017, hearing despite LVRJ's seeking of the
19 same.
20

21 On June 27, 2017, LVRJ again raised the issue of good faith with the
22 court. Ex. "D", Trans. Hrg. 6/27/17, at 6:14-24. It appeared the court was not
23 swayed as the issue of good faith was not raised or expounded upon by any party
24 or the Court beyond LVRJ's initial assertion.
25

26 **D. LVRJ's motion for a finding of bad faith against CCSD**
27 **must be denied because the motion is untimely as this**
28 **matter is currently stayed.**

1 It is axiomatic that this court must not rule on a motion involving merits
2 such as a finding that a party acted in bad faith throughout the course of litigation
3 while the matter has been stayed. Here, the matter was stayed by the Nevada
4 Court of Appeals on August 23, 2017. Despite this fact, LVRJ has moved for a
5 motion to find CCSD acted in bad faith on September 19, 2017 (Errata filed on
6 October 3, 2017). This court does not currently have jurisdiction to rule on the
7 motion to find CCSD in bad faith at this time.
8

9 Additionally, if this court were to rule CCSD acted in bad faith, the ruling
10 may be contradicted by the Nevada Supreme Court if that court ruled the
11 investigative file is in fact privileged.
12

13 IV. Conclusion

14 In addition to the procedural issues with LVRJ's motion in regard to the
15 delay in filing the current motion, which amounts to a motion for reconsideration
16 and the stay currently in place, CCSD's conduct in this case including: timely
17 adherence to each and every order, searching over 12,000 emails and preserving
18 the investigative file of the Office of Diversity and Affirmative Action and producing
19 174 pages of records does not amount to bad faith.
20

21 LVRJ's motion to find CCSD in bad faith should be denied.

22 DATED this 31st day of October, 2017.
23

24 CLARK COUNTY SCHOOL DISTRICT

25 

26 Carlos McDade, Nevada State Bar No. 11205

27 Adam Honey, Nevada State Bar No. 9588

28 Office of the General Counsel

Counsel for Respondent, Clark County School District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of October, 2017, I served a true and correct copy of the foregoing **OPPOSITION TO MOTION TO FIND BAD FAITH** via electronic filing and electronic service through the EFP Vendor System to all registered parties pursuant to the order for electronic filing and service.

Margaret A. McLetchie, Esq.
MCLETCHIE SHELL LLC
701 East Bridger Avenue, Suite 520
Las Vegas, NV 89101

/s/Christina M. Reeves
AN EMPLOYEE OF THE OFFICE OF THE
GENERAL COUNSEL-CCSD

EXHIBIT “A”

STATE OF NEVADA)) ss:
COUNTY OF CLARK)

1. I am currently employed by the Clark County School District as the Chief Technology Officer. I have been employed in this position for approximately 3 years.

3. Between December 9, 2016 and May 15, 2017, I have conducted the searches identified on the attached Exhibit "A". In total 1,242 searches of email boxes were conducted on 621 user mailboxes (each user was searched once for "Kevin Child" and a second time for "Trustee Child. Some individuals mailboxes were searched on more than one occasion.

5. I searched for emails diligently and to the best of my training and ability to ensure the accuracy of my searches.

Further your affiant sayeth naught.



DAN WRAY

Exhibit “A”

Name	Terms	Date
Mike Barton	"Trustee Child", "Kevin Child", "Guidelines for Trustee Visit", "trustee visit", "school visit"	12/9/2016
Pat Skorkowsky	"Trustee Child", "Kevin Child", "Guidelines for Trustee Visit", "trustee visit", "school visit"	12/9/2016
A.J. Adams	"Kevin Child", "Trustee Child"	2/21/2017
Andrea Klafter-Rakita	"Kevin Child", "Trustee Child"	2/21/2017
Antonio Rael	"Kevin Child", "Trustee Child"	2/21/2017
April Key	"Kevin Child", "Trustee Child"	2/21/2017
Bob Mars	"Kevin Child", "Trustee Child"	2/21/2017
Brenda Larsen-Mitchell	"Kevin Child", "Trustee Child"	2/21/2017
Celese Rayford	"Kevin Child", "Trustee Child"	2/21/2017
Deanne Jaskoiski	"Kevin Child", "Trustee Child"	2/21/2017
Felicia Gonzales	"Kevin Child", "Trustee Child"	2/21/2017
Grant Hanevold	"Kevin Child", "Trustee Child"	2/21/2017
Jeff Geihs	"Kevin Child", "Trustee Child"	2/21/2017
Jeff Horn	"Kevin Child", "Trustee Child"	2/21/2017
Jefferey Hybarger	"Kevin Child", "Trustee Child"	2/21/2017
Karen West	"Kevin Child", "Trustee Child"	2/21/2017
Kaweeda Adams	"Kevin Child", "Trustee Child"	2/21/2017
Kim Mangino	"Kevin Child", "Trustee Child"	2/21/2017
Kristy Keller	"Kevin Child", "Trustee Child"	2/21/2017
Lorma James-Cervantes	"Kevin Child", "Trustee Child"	2/21/2017
Rebecca Kaatz	"Kevin Child", "Trustee Child"	2/21/2017
Ronnie Guerzon	"Kevin Child", "Trustee Child"	2/21/2017
Susan Smith	"Kevin Child", "Trustee Child"	2/21/2017
Ariel Villalobos	"Kevin Child", "Trustee Child"	2/22/2017
Barry Bosacker	"Kevin Child", "Trustee Child"	2/22/2017
Belinda Jones	"Kevin Child", "Trustee Child"	2/22/2017
Belinda Marentic	"Kevin Child", "Trustee Child"	2/22/2017
Bob Mars	"Kevin Child", "Trustee Child"	2/22/2017
Cheryl Butera	"Kevin Child", "Trustee Child"	2/22/2017
Chris Popek	"Kevin Child", "Trustee Child"	2/22/2017
Christina Miani	"Kevin Child", "Trustee Child"	2/22/2017
Diane Lewis	"Kevin Child", "Trustee Child"	2/22/2017
Gerald Bustamante	"Kevin Child", "Trustee Child"	2/22/2017
Gina Piccolo	"Kevin Child", "Trustee Child"	2/22/2017
Gina R. Harvey	"Kevin Child", "Trustee Child"	2/22/2017
Heather Lenz	"Kevin Child", "Trustee Child"	2/22/2017

Henry Rodda	"Kevin Child", "Trustee Child"	2/22/2017
Immer Liza Ravallo	"Kevin Child", "Trustee Child"	2/22/2017
Isaac Stein	"Kevin Child", "Trustee Child"	2/22/2017
Jacqueline Richardson	"Kevin Child", "Trustee Child"	2/22/2017
Jaime Ditto	"Kevin Child", "Trustee Child"	2/22/2017
James Kuzma	"Kevin Child", "Trustee Child"	2/22/2017
Jaymes Aimetti	"Kevin Child", "Trustee Child"	2/22/2017
Jennifer French	"Kevin Child", "Trustee Child"	2/22/2017
Jillyn Pendleton	"Kevin Child", "Trustee Child"	2/22/2017
Joanne Vattiato	"Kevin Child", "Trustee Child"	2/22/2017
John Haynal	"Kevin Child", "Trustee Child"	2/22/2017
John Haynal	"Kevin Child", "Trustee Child"	2/22/2017
Judy Jordahl	"Kevin Child", "Trustee Child"	2/22/2017
Kamille Bryne	"Kevin Child", "Trustee Child"	2/22/2017
Kathleen Decker	"Kevin Child", "Trustee Child"	2/22/2017
Kathleen Decker	"Kevin Child", "Trustee Child"	2/22/2017
Krista Yarberry	"Kevin Child", "Trustee Child"	2/22/2017
Kristie Cole	"Kevin Child", "Trustee Child"	2/22/2017
Larry McHargue	"Kevin Child", "Trustee Child"	2/22/2017
Lea Chua	"Kevin Child", "Trustee Child"	2/22/2017
Lene Muth	"Kevin Child", "Trustee Child"	2/22/2017
Lezlie Koepp	"Kevin Child", "Trustee Child"	2/22/2017
Lisa Medina	"Kevin Child", "Trustee Child"	2/22/2017
Lucia Valenzuela	"Kevin Child", "Trustee Child"	2/22/2017
M. Olivia Egemba	"Kevin Child", "Trustee Child"	2/22/2017
Margarita Gamboa	"Kevin Child", "Trustee Child"	2/22/2017
Mary Hafner	"Kevin Child", "Trustee Child"	2/22/2017
Michael Blume	"Kevin Child", "Trustee Child"	2/22/2017
Misti Taton	"Kevin Child", "Trustee Child"	2/22/2017
Pamela S. Simone	"Kevin Child", "Trustee Child"	2/22/2017
Ramona Esparza	"Kevin Child", "Trustee Child"	2/22/2017
Rebecca Tschinkel	"Kevin Child", "Trustee Child"	2/22/2017
Robert Henry	"Kevin Child", "Trustee Child"	2/22/2017
Robert T. Tarter	"Kevin Child", "Trustee Child"	2/22/2017
Sarah Popek	"Kevin Child", "Trustee Child"	2/22/2017
Sonya Holdsworth	"Kevin Child", "Trustee Child"	2/22/2017
Stacey White	"Kevin Child", "Trustee Child"	2/22/2017
Stephanie Morgan	"Kevin Child", "Trustee Child"	2/22/2017
Susan Karout	"Kevin Child", "Trustee Child"	2/22/2017
Terri Knepp	"Kevin Child", "Trustee Child"	2/22/2017
Thelma Davis	"Kevin Child", "Trustee Child"	2/22/2017
Carolyn Edwards	"Kevin Child", "Trustee Child"	3/28/2017
Chris Garvey	"Kevin Child", "Trustee Child"	3/28/2017

Deanna Wright	"Kevin Child", "Trustee Child"	3/28/2017
Erin Cranor	"Kevin Child", "Trustee Child"	3/28/2017
Kevin Child	"Kevin Child", "Trustee Child"	3/28/2017
Linda Young	"Kevin Child", "Trustee Child"	3/28/2017
Lola Brooks	"Kevin Child", "Trustee Child"	3/28/2017
Brianna D. Mills	"Kevin Child", "Trustee Child"	4/5/2017
Deborah Bunse	"Kevin Child", "Trustee Child"	4/5/2017
Diana McAllister.	"Kevin Child", "Trustee Child"	4/5/2017
Katie Hougland	"Kevin Child", "Trustee Child"	4/5/2017
Rosanne Richards	"Kevin Child", "Trustee Child"	4/5/2017
Susan Unaite,	"Kevin Child", "Trustee Child"	4/5/2017
A.J. Adams	"Kevin Child", "Trustee Child"	5/12/2017
Aalya Page	"Kevin Child", "Trustee Child"	5/12/2017
Alaina Criner	"Kevin Child", "Trustee Child"	5/12/2017
Alasha Woods	"Kevin Child", "Trustee Child"	5/12/2017
Alfred Pasquarelli	"Kevin Child", "Trustee Child"	5/12/2017
Alice Roybal Benson	"Kevin Child", "Trustee Child"	5/12/2017
Alyson Jones	"Kevin Child", "Trustee Child"	5/12/2017
Amanda L. Ruth	"Kevin Child", "Trustee Child"	5/12/2017
Amber Cross	"Kevin Child", "Trustee Child"	5/12/2017
Amy Herring Smith	"Kevin Child", "Trustee Child"	5/12/2017
Amy K. Adams	"Kevin Child", "Trustee Child"	5/12/2017
Amy Negrete	"Kevin Child", "Trustee Child"	5/12/2017
Amy Siembida	"Kevin Child", "Trustee Child"	5/12/2017
Amy Wagner	"Kevin Child", "Trustee Child"	5/12/2017
Amy Yacobovsky	"Kevin Child", "Trustee Child"	5/12/2017
Amy Dockter-Rozar	"Kevin Child", "Trustee Child"	5/12/2017
Ana De Beauvernet	"Kevin Child", "Trustee Child"	5/12/2017
Andre D. Yates	"Kevin Child", "Trustee Child"	5/12/2017
Andre Long	"Kevin Child", "Trustee Child"	5/12/2017
Andre Long	"Kevin Child", "Trustee Child"	5/12/2017
Andrea Connolly	"Kevin Child", "Trustee Child"	5/12/2017
Andrea J. Clarke	"Kevin Child", "Trustee Child"	5/12/2017
Andrea Katona	"Kevin Child", "Trustee Child"	5/12/2017
Andrea Klafter-Rakita	"Kevin Child", "Trustee Child"	5/12/2017
Angela Jacobs	"Kevin Child", "Trustee Child"	5/12/2017
Anita Williams	"Kevin Child", "Trustee Child"	5/12/2017
Ann Angulo	"Kevin Child", "Trustee Child"	5/12/2017
Ann Schiller	"Kevin Child", "Trustee Child"	5/12/2017
Anna Bautista	"Kevin Child", "Trustee Child"	5/12/2017
Anna Belknap	"Kevin Child", "Trustee Child"	5/12/2017
Anna Hurst	"Kevin Child", "Trustee Child"	5/12/2017
Anne Grisham	"Kevin Child", "Trustee Child"	5/12/2017

AnneMarie Clark Stover	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Gelsone	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Hylton	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Lato jr	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Nunez	"Kevin Child", "Trustee Child"	5/12/2017
Antionette (Brewer) Irby	"Kevin Child", "Trustee Child"	5/12/2017
Antonio Rael	"Kevin Child", "Trustee Child"	5/12/2017
April Key	"Kevin Child", "Trustee Child"	5/12/2017
April Key	"Kevin Child", "Trustee Child"	5/12/2017
April L. Valenzuela	"Kevin Child", "Trustee Child"	5/12/2017
Ariel Villalobos	"Kevin Child", "Trustee Child"	5/12/2017
Audrey Carroll	"Kevin Child", "Trustee Child"	5/12/2017
Ayoka Snipes	"Kevin Child", "Trustee Child"	5/12/2017
Barbara Collins	"Kevin Child", "Trustee Child"	5/12/2017
Barbara K. Lindsay	"Kevin Child", "Trustee Child"	5/12/2017
Barbara Perez	"Kevin Child", "Trustee Child"	5/12/2017
Barry Ackerman	"Kevin Child", "Trustee Child"	5/12/2017
Belinda Jones	"Kevin Child", "Trustee Child"	5/12/2017
Belinda Marentic	"Kevin Child", "Trustee Child"	5/12/2017
Belinda Schauer	"Kevin Child", "Trustee Child"	5/12/2017
Bency Manglicmot	"Kevin Child", "Trustee Child"	5/12/2017
Benjamin Day	"Kevin Child", "Trustee Child"	5/12/2017
Bevelyn Smothers	"Kevin Child", "Trustee Child"	5/12/2017
Beverly Huntsman	"Kevin Child", "Trustee Child"	5/12/2017
Billie Rayford	"Kevin Child", "Trustee Child"	5/12/2017
Brenda Swann	"Kevin Child", "Trustee Child"	5/12/2017
Brent Fujino	"Kevin Child", "Trustee Child"	5/12/2017
Brenton Lago	"Kevin Child", "Trustee Child"	5/12/2017
Brian Wiseman	"Kevin Child", "Trustee Child"	5/12/2017
Bridget Leatherman	"Kevin Child", "Trustee Child"	5/12/2017
Brodie Christian	"Kevin Child", "Trustee Child"	5/12/2017
Cailin Ellis	"Kevin Child", "Trustee Child"	5/12/2017
Carmen West	"Kevin Child", "Trustee Child"	5/12/2017
Carol Allred	"Kevin Child", "Trustee Child"	5/12/2017
Carol Erbach	"Kevin Child", "Trustee Child"	5/12/2017
Carol Foster	"Kevin Child", "Trustee Child"	5/12/2017
Carol L. Leonard	"Kevin Child", "Trustee Child"	5/12/2017
Carol Meltzer	"Kevin Child", "Trustee Child"	5/12/2017
Carolyn King	"Kevin Child", "Trustee Child"	5/12/2017
Caryl Suzuki	"Kevin Child", "Trustee Child"	5/12/2017
Cathleen Furtado	"Kevin Child", "Trustee Child"	5/12/2017
Cathy Conger	"Kevin Child", "Trustee Child"	5/12/2017
Cathy Maggione	"Kevin Child", "Trustee Child"	5/12/2017

Cedric Cole	"Kevin Child", "Trustee Child"	5/12/2017
Ceese Rayford	"Kevin Child", "Trustee Child"	5/12/2017
Celeste Oaks	"Kevin Child", "Trustee Child"	5/12/2017
Celia Isbell	"Kevin Child", "Trustee Child"	5/12/2017
Charles Tribuli	"Kevin Child", "Trustee Child"	5/12/2017
Chelsea Gibson	"Kevin Child", "Trustee Child"	5/12/2017
Cheryl joyce	"Kevin Child", "Trustee Child"	5/12/2017
Chris Gonzales	"Kevin Child", "Trustee Child"	5/12/2017
Chris Popek	"Kevin Child", "Trustee Child"	5/12/2017
Christina L. Saheb	"Kevin Child", "Trustee Child"	5/12/2017
Christine Miani	"Kevin Child", "Trustee Child"	5/12/2017
Christine Prosen	"Kevin Child", "Trustee Child"	5/12/2017
Christine Weiss	"Kevin Child", "Trustee Child"	5/12/2017
Christopher Lounsdbery	"Kevin Child", "Trustee Child"	5/12/2017
Christopher Sparrow	"Kevin Child", "Trustee Child"	5/12/2017
Christy Beaird	"Kevin Child", "Trustee Child"	5/12/2017
Cindy Krohn	"Kevin Child", "Trustee Child"	5/12/2017
Clarence Ehler	"Kevin Child", "Trustee Child"	5/12/2017
Clifford Hughes	"Kevin Child", "Trustee Child"	5/12/2017
Corean Mayorga	"Kevin Child", "Trustee Child"	5/12/2017
Cynthia Marlowe	"Kevin Child", "Trustee Child"	5/12/2017
Dana Roseman	"Kevin Child", "Trustee Child"	5/12/2017
Daniel Hungerford	"Kevin Child", "Trustee Child"	5/12/2017
Daniel Ward	"Kevin Child", "Trustee Child"	5/12/2017
Danielle Miller	"Kevin Child", "Trustee Child"	5/12/2017
Danny Eichelberger	"Kevin Child", "Trustee Child"	5/12/2017
Darlin Delgado	"Kevin Child", "Trustee Child"	5/12/2017
Darren Hall	"Kevin Child", "Trustee Child"	5/12/2017
Darren Sweikert	"Kevin Child", "Trustee Child"	5/12/2017
Darryl Wyatt	"Kevin Child", "Trustee Child"	5/12/2017
David Bechtel	"Kevin Child", "Trustee Child"	5/12/2017
David C. Wines	"Kevin Child", "Trustee Child"	5/12/2017
David Cortez	"Kevin Child", "Trustee Child"	5/12/2017
David Erbach	"Kevin Child", "Trustee Child"	5/12/2017
David Frydman	"Kevin Child", "Trustee Child"	5/12/2017
David Hudzick	"Kevin Child", "Trustee Child"	5/12/2017
David Rose	"Kevin Child", "Trustee Child"	5/12/2017
David W. McElwain	"Kevin Child", "Trustee Child"	5/12/2017
David Wilson	"Kevin Child", "Trustee Child"	5/12/2017
Dawn A. Burns	"Kevin Child", "Trustee Child"	5/12/2017
Dawn Estes	"Kevin Child", "Trustee Child"	5/12/2017
Deanna Kowal Jaskolski	"Kevin Child", "Trustee Child"	5/12/2017
Debbie Kral	"Kevin Child", "Trustee Child"	5/12/2017

Deborah Harbin	"Kevin Child", "Trustee Child"	5/12/2017
Deborah Palermo	"Kevin Child", "Trustee Child"	5/12/2017
Debra Jones	"Kevin Child", "Trustee Child"	5/12/2017
Del Bean	"Kevin Child", "Trustee Child"	5/12/2017
Demitrius Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Denise Murray	"Kevin Child", "Trustee Child"	5/12/2017
Dennis Kubala	"Kevin Child", "Trustee Child"	5/12/2017
Derek Bellow	"Kevin Child", "Trustee Child"	5/12/2017
Derek Stevens	"Kevin Child", "Trustee Child"	5/12/2017
Devan Jones	"Kevin Child", "Trustee Child"	5/12/2017
Devin P. Heintz	"Kevin Child", "Trustee Child"	5/12/2017
Diana Cockrell Albiston	"Kevin Child", "Trustee Child"	5/12/2017
Diane Lewis	"Kevin Child", "Trustee Child"	5/12/2017
Domenic Russo	"Kevin Child", "Trustee Child"	5/12/2017
Donald Kramer	"Kevin Child", "Trustee Child"	5/12/2017
Donna Levy	"Kevin Child", "Trustee Child"	5/12/2017
Dustin Mandl	"Kevin Child", "Trustee Child"	5/12/2017
Edward Maylock	"Kevin Child", "Trustee Child"	5/12/2017
Edward O'Connell	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth Carrero	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth Chandler	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth Katten	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth L Smith	"Kevin Child", "Trustee Child"	5/12/2017
Ellen Stayman	"Kevin Child", "Trustee Child"	5/12/2017
Elmer Mamzanares	"Kevin Child", "Trustee Child"	5/12/2017
Emil Wozniak	"Kevin Child", "Trustee Child"	5/12/2017
Eric P. Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Erica Etienne	"Kevin Child", "Trustee Child"	5/12/2017
Eugene Scavetta	"Kevin Child", "Trustee Child"	5/12/2017
Felice Kadlub	"Kevin Child", "Trustee Child"	5/12/2017
Felicia Gonzales	"Kevin Child", "Trustee Child"	5/12/2017
Florence Barker	"Kevin Child", "Trustee Child"	5/12/2017
Francis Hall	"Kevin Child", "Trustee Child"	5/12/2017
Frank Cooper	"Kevin Child", "Trustee Child"	5/12/2017
Frank Pesce III	"Kevin Child", "Trustee Child"	5/12/2017
Frederick Watson	"Kevin Child", "Trustee Child"	5/12/2017
Gary Prince	"Kevin Child", "Trustee Child"	5/12/2017
Georgia Taton	"Kevin Child", "Trustee Child"	5/12/2017
George Anas	"Kevin Child", "Trustee Child"	5/12/2017
George Leavans	"Kevin Child", "Trustee Child"	5/12/2017
Gia Moore	"Kevin Child", "Trustee Child"	5/12/2017
Gina Piccolo	"Kevin Child", "Trustee Child"	5/12/2017
Gina R. Harvey	"Kevin Child", "Trustee Child"	5/12/2017

Glen Hickey	"Kevin Child", "Trustee Child"	5/12/2017
Glenda Goetting	"Kevin Child", "Trustee Child"	5/12/2017
Glenn Manansala	"Kevin Child", "Trustee Child"	5/12/2017
Grant Hanevold	"Kevin Child", "Trustee Child"	5/12/2017
Greg Mingo	"Kevin Child", "Trustee Child"	5/12/2017
Greg Sneling	"Kevin Child", "Trustee Child"	5/12/2017
Greg Snelling	"Kevin Child", "Trustee Child"	5/12/2017
Gregory Cole	"Kevin Child", "Trustee Child"	5/12/2017
Gregory Jacobs	"Kevin Child", "Trustee Child"	5/12/2017
Gregory Misel	"Kevin Child", "Trustee Child"	5/12/2017
Greta A. Peay	"Kevin Child", "Trustee Child"	5/12/2017
Gwen Gibson	"Kevin Child", "Trustee Child"	5/12/2017
Heather Skramstad	"Kevin Child", "Trustee Child"	5/12/2017
Heidi M. Hoshibata	"Kevin Child", "Trustee Child"	5/12/2017
Henry Rodda	"Kevin Child", "Trustee Child"	5/12/2017
Hilary Jones	"Kevin Child", "Trustee Child"	5/12/2017
Holly Jaaks	"Kevin Child", "Trustee Child"	5/12/2017
Howard Gerrard	"Kevin Child", "Trustee Child"	5/12/2017
Ian Holmes	"Kevin Child", "Trustee Child"	5/12/2017
Isaac Stein	"Kevin Child", "Trustee Child"	5/12/2017
Jackie Richardson	"Kevin Child", "Trustee Child"	5/12/2017
Jackie Walker	"Kevin Child", "Trustee Child"	5/12/2017
Jaclynn L. Rasnick	"Kevin Child", "Trustee Child"	5/12/2017
Jacqueline Carducci	"Kevin Child", "Trustee Child"	5/12/2017
Jacqueline Gillespie	"Kevin Child", "Trustee Child"	5/12/2017
Jaime Ditto	"Kevin Child", "Trustee Child"	5/12/2017
Jaime Mckee	"Kevin Child", "Trustee Child"	5/12/2017
James Cavin	"Kevin Child", "Trustee Child"	5/12/2017
James Ertman	"Kevin Child", "Trustee Child"	5/12/2017
James Kuzma	"Kevin Child", "Trustee Child"	5/12/2017
Jamey Hood	"Kevin Child", "Trustee Child"	5/12/2017
Jamie Agresti	"Kevin Child", "Trustee Child"	5/12/2017
Jamie L. Gunderson	"Kevin Child", "Trustee Child"	5/12/2017
Jamie M. Brown	"Kevin Child", "Trustee Child"	5/12/2017
Janet Dobry	"Kevin Child", "Trustee Child"	5/12/2017
Janice Augente	"Kevin Child", "Trustee Child"	5/12/2017
Janice Messinger	"Kevin Child", "Trustee Child"	5/12/2017
Jason Fico	"Kevin Child", "Trustee Child"	5/12/2017
Jaymes Aimetti	"Kevin Child", "Trustee Child"	5/12/2017
Jayne G. Malorni	"Kevin Child", "Trustee Child"	5/12/2017
Jean King	"Kevin Child", "Trustee Child"	5/12/2017
Jean Reynolds	"Kevin Child", "Trustee Child"	5/12/2017
Jeanna Lefave	"Kevin Child", "Trustee Child"	5/12/2017

Jeanne M. Donadio	"Kevin Child", "Trustee Child"	5/12/2017
Jeanne Plese	"Kevin Child", "Trustee Child"	5/12/2017
Jefferey Hybarger	"Kevin Child", "Trustee Child"	5/12/2017
Jeffery Cooley	"Kevin Child", "Trustee Child"	5/12/2017
Jeffrey Geihs	"Kevin Child", "Trustee Child"	5/12/2017
Jeffrey Horn	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Boccia	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer French	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Furman-Born	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Hamby	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer J. Varrato	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Lile	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer M. Mayon	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Newton	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer T. Coleman Vobis	"Kevin Child", "Trustee Child"	5/12/2017
Jesse Welsh	"Kevin Child", "Trustee Child"	5/12/2017
Jessica R. Bouchte	"Kevin Child", "Trustee Child"	5/12/2017
Jessica R. Sifuentes	"Kevin Child", "Trustee Child"	5/12/2017
Jillyn Pendleton	"Kevin Child", "Trustee Child"	5/12/2017
Joan Lombard	"Kevin Child", "Trustee Child"	5/12/2017
Joanna Gerali-Schwartz	"Kevin Child", "Trustee Child"	5/12/2017
Joanne Donadio	"Kevin Child", "Trustee Child"	5/12/2017
Joanne N. Luttrell	"Kevin Child", "Trustee Child"	5/12/2017
Joanne Vattiato	"Kevin Child", "Trustee Child"	5/12/2017
Jody K. Myers	"Kevin Child", "Trustee Child"	5/12/2017
Joe Caruso	"Kevin Child", "Trustee Child"	5/12/2017
Joe Caruso	"Kevin Child", "Trustee Child"	5/12/2017
Joe Murphy	"Kevin Child", "Trustee Child"	5/12/2017
John Anzalone	"Kevin Child", "Trustee Child"	5/12/2017
John Haynal	"Kevin Child", "Trustee Child"	5/12/2017
John Heidron	"Kevin Child", "Trustee Child"	5/12/2017
John Lynch	"Kevin Child", "Trustee Child"	5/12/2017
John Pecce	"Kevin Child", "Trustee Child"	5/12/2017
John W. Lockhart	"Kevin Child", "Trustee Child"	5/12/2017
Jolene R. Markwith	"Kevin Child", "Trustee Child"	5/12/2017
Jon Herring	"Kevin Child", "Trustee Child"	5/12/2017
Jorge Delgado-Ortiz	"Kevin Child", "Trustee Child"	5/12/2017
Joseph Dusenbery Jr	"Kevin Child", "Trustee Child"	5/12/2017
Joseph Rekrut	"Kevin Child", "Trustee Child"	5/12/2017
Joseph Uy	"Kevin Child", "Trustee Child"	5/12/2017
Joshua Hager	"Kevin Child", "Trustee Child"	5/12/2017
Joshua Miller	"Kevin Child", "Trustee Child"	5/12/2017
Joy Lea	"Kevin Child", "Trustee Child"	5/12/2017

Joyce Herrera	"Kevin Child", "Trustee Child"	5/12/2017
Juanita Frasier	"Kevin Child", "Trustee Child"	5/12/2017
Juareen Castillo	"Kevin Child", "Trustee Child"	5/12/2017
Judy Jordahl	"Kevin Child", "Trustee Child"	5/12/2017
Kalandra Sheppard	"Kevin Child", "Trustee Child"	5/12/2017
Karen A. Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Karen Diamond	"Kevin Child", "Trustee Child"	5/12/2017
Karen Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Karen Smallwood	"Kevin Child", "Trustee Child"	5/12/2017
Karen West	"Kevin Child", "Trustee Child"	5/12/2017
Kathy Konowalow	"Kevin Child", "Trustee Child"	5/12/2017
Kathy Kulas	"Kevin Child", "Trustee Child"	5/12/2017
Kathy L. Mead	"Kevin Child", "Trustee Child"	5/12/2017
Kathy Mead	"Kevin Child", "Trustee Child"	5/12/2017
Katie Decker	"Kevin Child", "Trustee Child"	5/12/2017
Keith France	"Kevin Child", "Trustee Child"	5/12/2017
Keith Wipperman	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Bucherie	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Grondahl	"Kevin Child", "Trustee Child"	5/12/2017
Kelly O'Rourke	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Rafalski	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Reed	"Kevin Child", "Trustee Child"	5/12/2017
Kemala Washington	"Kevin Child", "Trustee Child"	5/12/2017
Kenneth Paul	"Kevin Child", "Trustee Child"	5/12/2017
Kenneth Sobaszek	"Kevin Child", "Trustee Child"	5/12/2017
Kenneth Wronski	"Kevin Child", "Trustee Child"	5/12/2017
Kent Roberts	"Kevin Child", "Trustee Child"	5/12/2017
Kerry Pope	"Kevin Child", "Trustee Child"	5/12/2017
Kevin McPartlin	"Kevin Child", "Trustee Child"	5/12/2017
Kim Grytdahl	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Bass	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Cunningham	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Daniels	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly F. Moody	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Loomis	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Mangino	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly S. Wooden	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Swoboda	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Hammond	"Kevin Child", "Trustee Child"	5/12/2017
Kip Krzmarzick	"Kevin Child", "Trustee Child"	5/12/2017
Kody Barto	"Kevin Child", "Trustee Child"	5/12/2017
Kori Deal	"Kevin Child", "Trustee Child"	5/12/2017
Kris Huffman	"Kevin Child", "Trustee Child"	5/12/2017

Krista Yarberry	"Kevin Child", "Trustee Child"	5/12/2017
Kristen L. Patrick	"Kevin Child", "Trustee Child"	5/12/2017
Kristian Ryerson	"Kevin Child", "Trustee Child"	5/12/2017
Kristie Cole	"Kevin Child", "Trustee Child"	5/12/2017
Kristy Keller	"Kevin Child", "Trustee Child"	5/12/2017
Kristy Keller	"Kevin Child", "Trustee Child"	5/12/2017
Kurt Arnold	"Kevin Child", "Trustee Child"	5/12/2017
Larraine Blume	"Kevin Child", "Trustee Child"	5/12/2017
Larry McHargue	"Kevin Child", "Trustee Child"	5/12/2017
Laura Denué	"Kevin Child", "Trustee Child"	5/12/2017
Laura Dickensheets	"Kevin Child", "Trustee Child"	5/12/2017
Laure Forsberg	"Kevin Child", "Trustee Child"	5/12/2017
Lea Chua	"Kevin Child", "Trustee Child"	5/12/2017
Lee Douglass	"Kevin Child", "Trustee Child"	5/12/2017
Lee Esplin	"Kevin Child", "Trustee Child"	5/12/2017
Lee Koelliker	"Kevin Child", "Trustee Child"	5/12/2017
Lewis H. Layton	"Kevin Child", "Trustee Child"	5/12/2017
Lewis Layton	"Kevin Child", "Trustee Child"	5/12/2017
Lezlie Funchess	"Kevin Child", "Trustee Child"	5/12/2017
Lezlie Koepf	"Kevin Child", "Trustee Child"	5/12/2017
Linda Burns	"Kevin Child", "Trustee Child"	5/12/2017
Linda M. Bostic	"Kevin Child", "Trustee Child"	5/12/2017
Lindsay Tomlinson	"Kevin Child", "Trustee Child"	5/12/2017
Linnea Westwood	"Kevin Child", "Trustee Child"	5/12/2017
Lisa Cano Burkhead	"Kevin Child", "Trustee Child"	5/12/2017
Lisa M. Jackson	"Kevin Child", "Trustee Child"	5/12/2017
Lisa McKenrick	"Kevin Child", "Trustee Child"	5/12/2017
Lisa Medina	"Kevin Child", "Trustee Child"	5/12/2017
Lisa Rustand	"Kevin Child", "Trustee Child"	5/12/2017
Lolo James	"Kevin Child", "Trustee Child"	5/12/2017
Loretta D. Asay	"Kevin Child", "Trustee Child"	5/12/2017
Lori Andrews	"Kevin Child", "Trustee Child"	5/12/2017
Lori Desiderato	"Kevin Child", "Trustee Child"	5/12/2017
Lori Lawson Sarabyn	"Kevin Child", "Trustee Child"	5/12/2017
Lorna James-Cervantes	"Kevin Child", "Trustee Child"	5/12/2017
Lory A. Hayon	"Kevin Child", "Trustee Child"	5/12/2017
Lucy Keaton	"Kevin Child", "Trustee Child"	5/12/2017
Lynda Pearson	"Kevin Child", "Trustee Child"	5/12/2017
Lynn E. Trell	"Kevin Child", "Trustee Child"	5/12/2017
Lynne Ruegamer	"Kevin Child", "Trustee Child"	5/12/2017
Marbella Alfonzo	"Kevin Child", "Trustee Child"	5/12/2017
Marcell Farnsworth	"Kevin Child", "Trustee Child"	5/12/2017
Marcus Mason	"Kevin Child", "Trustee Child"	5/12/2017

Margaret Froby	"Kevin Child", "Trustee Child"	5/12/2017
Margaret Harmon	"Kevin Child", "Trustee Child"	5/12/2017
Margarita Gamboa	"Kevin Child", "Trustee Child"	5/12/2017
Maribel Mcadory	"Kevin Child", "Trustee Child"	5/12/2017
Mario Quinonez	"Kevin Child", "Trustee Child"	5/12/2017
Mark Dominguez	"Kevin Child", "Trustee Child"	5/12/2017
Mark Jones	"Kevin Child", "Trustee Child"	5/12/2017
Mark Oakden	"Kevin Child", "Trustee Child"	5/12/2017
Mark Ralston	"Kevin Child", "Trustee Child"	5/12/2017
Mark Schumm	"Kevin Child", "Trustee Child"	5/12/2017
Martha Slack	"Kevin Child", "Trustee Child"	5/12/2017
Martin Rasmussen	"Kevin Child", "Trustee Child"	5/12/2017
Mary E. Pike	"Kevin Child", "Trustee Child"	5/12/2017
Mary Hafner	"Kevin Child", "Trustee Child"	5/12/2017
Mary Scialabba	"Kevin Child", "Trustee Child"	5/12/2017
MaryAnn Mueller	"Kevin Child", "Trustee Child"	5/12/2017
Maureen Langenbach	"Kevin Child", "Trustee Child"	5/12/2017
Maureen Stout	"Kevin Child", "Trustee Child"	5/12/2017
Maurice Perkins	"Kevin Child", "Trustee Child"	5/12/2017
Meg Nigro	"Kevin Child", "Trustee Child"	5/12/2017
Melanie kakalo	"Kevin Child", "Trustee Child"	5/12/2017
Melonie Poster	"Kevin Child", "Trustee Child"	5/12/2017
Merry Sillitoe	"Kevin Child", "Trustee Child"	5/12/2017
Michael D. Gentry	"Kevin Child", "Trustee Child"	5/12/2017
Michael Darby	"Kevin Child", "Trustee Child"	5/12/2017
Michael Englert	"Kevin Child", "Trustee Child"	5/12/2017
Michael Kennedy	"Kevin Child", "Trustee Child"	5/12/2017
Michael O'Dowd	"Kevin Child", "Trustee Child"	5/12/2017
Michael Piccininni	"Kevin Child", "Trustee Child"	5/12/2017
Michael Sharpan	"Kevin Child", "Trustee Child"	5/12/2017
Michael W. Malich	"Kevin Child", "Trustee Child"	5/12/2017
Michael Wilson	"Kevin Child", "Trustee Child"	5/12/2017
Michele Wooldridge	"Kevin Child", "Trustee Child"	5/12/2017
Michelle Adams	"Kevin Child", "Trustee Child"	5/12/2017
Michelle Booth	"Kevin Child", "Trustee Child"	5/12/2017
Michelle Case	"Kevin Child", "Trustee Child"	5/12/2017
Mike Barton	"Kevin Child", "Trustee Child"	5/12/2017
Mike Houle	"Kevin Child", "Trustee Child"	5/12/2017
Mikie Young	"Kevin Child", "Trustee Child"	5/12/2017
Mindi Martinez	"Kevin Child", "Trustee Child"	5/12/2017
Miriam Benitez	"Kevin Child", "Trustee Child"	5/12/2017
Misti Taton	"Kevin Child", "Trustee Child"	5/12/2017
Monica Cortez	"Kevin Child", "Trustee Child"	5/12/2017

Monica Lang	"Kevin Child", "Trustee Child"	5/12/2017
Mork Connors	"Kevin Child", "Trustee Child"	5/12/2017
Naji Mehanna	"Kevin Child", "Trustee Child"	5/12/2017
Nancy Heavey	"Kevin Child", "Trustee Child"	5/12/2017
Nathan Miller	"Kevin Child", "Trustee Child"	5/12/2017
Nathaniel Whitney Jr	"Kevin Child", "Trustee Child"	5/12/2017
Neddy Alvarez	"Kevin Child", "Trustee Child"	5/12/2017
Nicole Coloma	"Kevin Child", "Trustee Child"	5/12/2017
Nicole Lehman-Donadio	"Kevin Child", "Trustee Child"	5/12/2017
Nicole Rourke	"Kevin Child", "Trustee Child"	5/12/2017
Nikki Thorn	"Kevin Child", "Trustee Child"	5/12/2017
Nina M. Papazis	"Kevin Child", "Trustee Child"	5/12/2017
Norberta Anderson	"Kevin Child", "Trustee Child"	5/12/2017
Norma Herrera	"Kevin Child", "Trustee Child"	5/12/2017
Northey Henderson	"Kevin Child", "Trustee Child"	5/12/2017
Oscar Winchester Jr	"Kevin Child", "Trustee Child"	5/12/2017
Pamela Hays	"Kevin Child", "Trustee Child"	5/12/2017
Pamela Simone	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Blomstrom	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Cobb	"Kevin Child", "Trustee Child"	5/12/2017
Patricia DeClercq	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Garcia	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Harris	"Kevin Child", "Trustee Child"	5/12/2017
Patricia McKeegan	"Kevin Child", "Trustee Child"	5/12/2017
Patti Schultz	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Schepers	"Kevin Child", "Trustee Child"	5/12/2017
Patty Rosales	"Kevin Child", "Trustee Child"	5/12/2017
Patty Rosales	"Kevin Child", "Trustee Child"	5/12/2017
Paul Catania	"Kevin Child", "Trustee Child"	5/12/2017
Paul E. Shelley	"Kevin Child", "Trustee Child"	5/12/2017
Paul Fagone	"Kevin Child", "Trustee Child"	5/12/2017
Paula Naegle	"Kevin Child", "Trustee Child"	5/12/2017
Pauline Mills	"Kevin Child", "Trustee Child"	5/12/2017
R Leyva	"Kevin Child", "Trustee Child"	5/12/2017
Rachelle L. Nearn-Mooreh	"Kevin Child", "Trustee Child"	5/12/2017
Ramona Esparza	"Kevin Child", "Trustee Child"	5/12/2017
Randal Adams	"Kevin Child", "Trustee Child"	5/12/2017
Randy Cheung	"Kevin Child", "Trustee Child"	5/12/2017
Ray Mathis	"Kevin Child", "Trustee Child"	5/12/2017
Raymond Negrete	"Kevin Child", "Trustee Child"	5/12/2017
Rebecca A. Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Rebecca Tschinkel	"Kevin Child", "Trustee Child"	5/12/2017
Reece Oswalt	"Kevin Child", "Trustee Child"	5/12/2017

Reid Kimoto	"Kevin Child", "Trustee Child"	5/12/2017
Rene Cazier	"Kevin Child", "Trustee Child"	5/12/2017
Rhonda R. Aviles	"Kevin Child", "Trustee Child"	5/12/2017
Ricardo Meza	"Kevin Child", "Trustee Child"	5/12/2017
Rich Muraco	"Kevin Child", "Trustee Child"	5/12/2017
Richard Blanchard	"Kevin Child", "Trustee Child"	5/12/2017
Rick Ditondo	"Kevin Child", "Trustee Child"	5/12/2017
Rick McEnaney	"Kevin Child", "Trustee Child"	5/12/2017
Rick Neal	"Kevin Child", "Trustee Child"	5/12/2017
Rick Winget	"Kevin Child", "Trustee Child"	5/12/2017
RoAnn Triana	"Kevin Child", "Trustee Child"	5/12/2017
Robert Gerye	"Kevin Child", "Trustee Child"	5/12/2017
Robert Henry	"Kevin Child", "Trustee Child"	5/12/2017
Robert Hinchliffe	"Kevin Child", "Trustee Child"	5/12/2017
Robert Jones	"Kevin Child", "Trustee Child"	5/12/2017
Robert Mars	"Kevin Child", "Trustee Child"	5/12/2017
Robert Park	"Kevin Child", "Trustee Child"	5/12/2017
Robert Solomon	"Kevin Child", "Trustee Child"	5/12/2017
Robert Tarter	"Kevin Child", "Trustee Child"	5/12/2017
Robinrenee Wilson	"Kevin Child", "Trustee Child"	5/12/2017
Rod Adams	"Kevin Child", "Trustee Child"	5/12/2017
Rod Knowles	"Kevin Child", "Trustee Child"	5/12/2017
Rodericks Fobbs	"Kevin Child", "Trustee Child"	5/12/2017
Rodney Saunders	"Kevin Child", "Trustee Child"	5/12/2017
Ron Mader	"Kevin Child", "Trustee Child"	5/12/2017
Ron Schroeder	"Kevin Child", "Trustee Child"	5/12/2017
Ronnie Guerzon	"Kevin Child", "Trustee Child"	5/12/2017
Roxanne Kelley	"Kevin Child", "Trustee Child"	5/12/2017
Ryan Lewis	"Kevin Child", "Trustee Child"	5/12/2017
Ryan Merritt	"Kevin Child", "Trustee Child"	5/12/2017
Samuel Rado	"Kevin Child", "Trustee Child"	5/12/2017
Sandra Ransel	"Kevin Child", "Trustee Child"	5/12/2017
Sandy Ginger	"Kevin Child", "Trustee Child"	5/12/2017
Sara S. Swanson	"Kevin Child", "Trustee Child"	5/12/2017
Sarah Popek	"Kevin Child", "Trustee Child"	5/12/2017
Scarlett Perryman	"Kevin Child", "Trustee Child"	5/12/2017
Scott Du Chateau	"Kevin Child", "Trustee Child"	5/12/2017
Scott Fligor	"Kevin Child", "Trustee Child"	5/12/2017
Scott Walker	"Kevin Child", "Trustee Child"	5/12/2017
Sean Davis	"Kevin Child", "Trustee Child"	5/12/2017
Seth Singer	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Donlin	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Evans	"Kevin Child", "Trustee Child"	5/12/2017

Shannon LaNeve	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Schumm	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Williamson	"Kevin Child", "Trustee Child"	5/12/2017
ShannonKelly Smith	"Kevin Child", "Trustee Child"	5/12/2017
Sharlette Redick	"Kevin Child", "Trustee Child"	5/12/2017
Sharon Popolo	"Kevin Child", "Trustee Child"	5/12/2017
Shaun Cochran-Hall	"Kevin Child", "Trustee Child"	5/12/2017
Shawn Halland	"Kevin Child", "Trustee Child"	5/12/2017
Shawn Nielsen	"Kevin Child", "Trustee Child"	5/12/2017
Shawn Paquette	"Kevin Child", "Trustee Child"	5/12/2017
Shawna Jessen	"Kevin Child", "Trustee Child"	5/12/2017
Sheila Fredi Cooper	"Kevin Child", "Trustee Child"	5/12/2017
Sherian McGlothen	"Kevin Child", "Trustee Child"	5/12/2017
Sherrie Gahn	"Kevin Child", "Trustee Child"	5/12/2017
Sheryl Colgan	"Kevin Child", "Trustee Child"	5/12/2017
Sommano Singharath	"Kevin Child", "Trustee Child"	5/12/2017
Sonya Holdsworth	"Kevin Child", "Trustee Child"	5/12/2017
Spencer Beals	"Kevin Child", "Trustee Child"	5/12/2017
Stacey Scott	"Kevin Child", "Trustee Child"	5/12/2017
Stacey White	"Kevin Child", "Trustee Child"	5/12/2017
Stanley Madison	"Kevin Child", "Trustee Child"	5/12/2017
Stefanie Machin	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie C. Landeros	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie Hirsch Morgan	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie Taylor	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie Wong	"Kevin Child", "Trustee Child"	5/12/2017
Steve Piccininni	"Kevin Child", "Trustee Child"	5/12/2017
Susan Echols	"Kevin Child", "Trustee Child"	5/12/2017
Susan Harrison	"Kevin Child", "Trustee Child"	5/12/2017
Susan M. DeHart	"Kevin Child", "Trustee Child"	5/12/2017
Susan M. Smith	"Kevin Child", "Trustee Child"	5/12/2017
Susan M. Smith	"Kevin Child", "Trustee Child"	5/12/2017
Susan Tully Karout	"Kevin Child", "Trustee Child"	5/12/2017
Tam Larnerd	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Cullum Boffelli	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Malich	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Malich	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Villareal-Crabb	"Kevin Child", "Trustee Child"	5/12/2017
Tara Imboden	"Kevin Child", "Trustee Child"	5/12/2017
Tedone Phengrasamee	"Kevin Child", "Trustee Child"	5/12/2017
Teresa Holden	"Kevin Child", "Trustee Child"	5/12/2017
Terri Knepp	"Kevin Child", "Trustee Child"	5/12/2017
Thomas Gerbracht	"Kevin Child", "Trustee Child"	5/12/2017

Tim Stephens	"Kevin Child", "Trustee Child"	5/12/2017
Timothy Adams	"Kevin Child", "Trustee Child"	5/12/2017
Timothy J. Jackson	"Kevin Child", "Trustee Child"	5/12/2017
Tina Statucki	"Kevin Child", "Trustee Child"	5/12/2017
Toby Babina	"Kevin Child", "Trustee Child"	5/12/2017
Todd Lindberg	"Kevin Child", "Trustee Child"	5/12/2017
Tony Davis	"Kevin Child", "Trustee Child"	5/12/2017
Traci Holloway	"Kevin Child", "Trustee Child"	5/12/2017
Travis Warnick	"Kevin Child", "Trustee Child"	5/12/2017
Trent Day	"Kevin Child", "Trustee Child"	5/12/2017
Tya R. Mathis	"Kevin Child", "Trustee Child"	5/12/2017
Tyler Hall	"Kevin Child", "Trustee Child"	5/12/2017
Virginia Ratliff	"Kevin Child", "Trustee Child"	5/12/2017
Wanda Renfrow	"Kevin Child", "Trustee Child"	5/12/2017
Warren Mckay	"Kevin Child", "Trustee Child"	5/12/2017
Wendy DeMille	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Garrett	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Phelps	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Phelps	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Roselinsky	"Kevin Child", "Trustee Child"	5/12/2017
William Silva	"Kevin Child", "Trustee Child"	5/12/2017
Zachary M. Stork	"Kevin Child", "Trustee Child"	5/12/2017
Zachary Robbins	"Kevin Child", "Trustee Child"	5/12/2017
Angelica Montalvo	"Kevin Child", "Trustee Child"	5/15/2017
Linda Mellies	"Kevin Child", "Trustee Child"	5/15/2017

EXHIBIT “B”

STATE OF NEVADA)) ss:
COUNTY OF CLARK)

1. I am currently employed by the Clark County School District as the Chief Technology Officer. I have been employed in this position for approximately 3 years.
2. In total I have been employed by CCSD in the information technology division for approximately 20 years.
3. I have reviewed the setting on Superintendent Pat Skorkowsky's email and it is set at no expiration or "never", which means Mr. Skorkowsky's emails are not auto deleted.
4. I have reviewed the setting on Superintendent Cedric Cole's email and it is set at no expiration or "never", which means Mr. Cole's emails are not auto deleted.
5. On May 10, 2017, I was informed that the court had ordered additional searches. As I result, I was directed to return from a work related business trip in Washington D.C. to return to Las Vegas to conduct additional searches, which I began on May 10, 2017 and completed on May 12, 2017.

Further your affiant sayeth naught.

Dated 10/31/17


DAN WRAY

EXHIBIT “C”

1 CASE NO. A-17-750151-W

2 DOCKET U

3 DEPT. 16

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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* * * * *

9 LAS VEGAS REVIEW JOURNAL,)

10 Plaintiff,)

11 vs.)

12 CLARK COUNTY SCHOOL DISTRICT,)

13 Defendant.)

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REPORTER'S TRANSCRIPT
OF

16

HEARING: SEARCH PARAMETERS

17

18 BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

19

DISTRICT COURT JUDGE

20

21

DATED TUESDAY, MAY 9, 2017

22

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24 REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

11:04:01 1 refusal to disclose information. Somebody -- a public
2 officer employer has to act in good faith. This is
3 where it meets -- the rubber meets the road. We have
4 to have that. And that's all I'm saying.

11:04:13 5 MS. McLEITCHIE: Understood, your Honor.

6 THE COURT: Somebody has to do that.

7 MS. McLEITCHIE: Understood.

8 THE COURT: Now, I would anticipate as long as
9 my orders are complied with, that specific individual
11:04:24 10 would be complying in good faith. No. 1.

11 No. 2, refusing to disclose information as
12 long as it's logged, and a specific privilege is
13 asserted, probably good faith is met too, right?

14 MR. HONEY: Correct.

11:04:39 15 THE COURT: But you got to disclose it. And
16 then at the end of the day, I'll make a determination
17 as to whether or not that information should be
18 given -- right? -- pursuant to the request. That's
19 all.

11:04:49 20 It's just -- and that's all the democratic
21 principles we focus on that are the basis for this
22 statute, and that's why they have to be followed.

23 MS. McLEITCHIE: Your Honor, I would actually
24 argue that there's already evidence of a lack of good
11:05:02 25 faith. Not because the way he conducted searches was

11:05:04 1 unreasonable. But because Mr. Honey opted to do it in
2 a vacuum. And this is after the delays and responses
3 to the December request.

4 Whether or not his approach was reasonable, I
11:05:13 5 work with public entities all the time and have them
6 structured like, hey, let's start with certain
7 custodians, then we'll follow up with as needed.

8 The problem here --

9 THE COURT: But it's not reasonable. It's
11:05:22 10 good faith. That's a different animal.

11 MR. HONEY: Correct.

12 THE COURT: But go ahead, ma'am.

13 MS. McLETCHE: I don't think it was good
14 faith because I think NRS 239.0107 requires them to
11:05:30 15 identify what they're withholding and why. And by
16 making his decisions about where and when and how to
17 search without consultation without us and without
18 disclosing that he was not searching, for example, a
19 hot bed of responsive documents Cedric Cole in the
11:05:47 20 diversity office in my opinion is not good faith.

21 It may be a reasonable way to approach
22 staggering searches. We can agree right now that
23 we're -- that we're going to fight about those
24 documents later. Let's do other searches. But it was
11:05:55 25 not good faith, your Honor.

11:05:57 1 MR. HONEY: Your Honor.

2 MS. McLEITCHIE: Thank you.

3 MR. HONEY: Your Honor.

4 THE COURT: Mr. Honey, I'm not making that
11:06:01 5 decision today.

6 MR. HONEY: I know. I know. But I just
7 wanted to point one thing out.

8 THE COURT: Yes.

9 MR. HONEY: Is because I'm not sure where
11:06:07 10 you -- where you're standing on the point of --

11 THE COURT: I never stand. I always make a
12 decision. That's all.

13 MR. HONEY: Thank you. Thank you. Of where
14 you -- where you are on the idea that the December
11:06:16 15 request requested investigative materials and
16 investigative report. Because this is such a
17 after-the-fact position --

18 THE COURT: Well, it asks for all complaints;
19 right?

11:06:27 20 MR. HONEY: If petitioner --

21 THE COURT: This was very broad. It asked for
22 all complaints, right?

23 MR. HONEY: If petitioner believed that her
24 December requests were for the investigative report and
11:06:37 25 investigative materials, she would have raised it in

11:06:40 1 the order she prepared in regards to the writ in
2 January.

3 Her order that she prepared didn't say
4 anything about, And, your Honor, order them to provide
11:06:51 5 the Cole report, and provide all the investigative
6 materials, and all of the notes because I requested
7 that in December. She didn't say that. She didn't ask
8 for that because she never asked for it.

9 And this is all after the fact now saying,
11:07:02 10 like, oh, yeah, yeah. Those December requests, oh,
11 yeah, they meant the investigative report. There's
12 nothing in there that says the investigative report.
13 And it's not the district playing coy. It's they chose
14 the words that they wrote.

11:07:14 15 THE COURT: I'm not making the -- what did I
16 say a little earlier?

17 MR. HONEY: I know. I know. Thank you, your
18 Honor.

19 THE COURT: Okay.

11:07:19 20 MS. McLEITCHIE: Your Honor, in the interests
21 of speeding this along, I'm going to let Mr. Honey have
22 the last word. Otherwise, we might be here all day.

23 THE COURT: All right.

24 MR. HONEY: I think, your Honor, you have all
11:07:26 25 the information you need.

EXHIBIT “D”

1 CASE NO. A-17-750151-W

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DISTRICT COURT

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CLARK COUNTY, NEVADA

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LAS VEGAS REVIEW JOURNAL,

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Plaintiff,

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vs.

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CLARK COUNTY SCHOOL DISTRICT,

)

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Defendant.

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REPORTER'S TRANSCRIPT

16

OF

HEARING: SEARCH PARAMETERS

17

18

BEFORE THE HONORABLE JUDGE TIMOTHY C. WILLIAMS

19

DISTRICT COURT JUDGE

20

21

DATED TUESDAY, JUNE 27, 2017

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REPORTED BY: PEGGY ISOM, RMR, NV CCR #541,

25

Peggy Isom, CCR 541, RMR

(702) 671-4402 - CROERT48@GMAIL.COM

Pursuant to NRS 239.053, illegal to copy without payment.

CCSD745

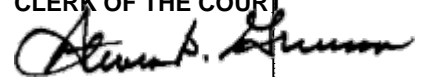
10:37:22 1 Court had previously ordered.

2 The other issues that the certification raised
3 are that not only are we not detailed the information
4 about the February and December searches, but there's
10:37:37 5 nothing in there whatsoever that addresses the hard
6 copy searches that this Court ordered. In paragraph 5
7 of this -- 45 of this Court's last order, I believe
8 it's paragraph 45, we -- it was detailed what this
9 Court -- what -- I'm sorry, what CCSD was required to
10:37:57 10 further do and to certify. And the certification
11 requirement said they needed to certify everything in
12 paragraph 45 which included as well as in the December
13 and February searches.

14 So I think the issue is that we -- we don't
10:38:13 15 have a full certification in short, your Honor. And we
16 briefed this at length in our memorandum.

17 In addition, Exhibit HH to our memorandum
18 included those certifications as well as the attached
19 printout that explains what searches were conducted
10:38:33 20 when. And as this Court recalls, we ended up here
21 because we were -- the Las Vegas Review Journal was
22 delayed in receiving documents and was concerned that
23 it never received full production, and that CCSD was
24 not acting in good faith.

10:38:51 25 At the first page of their search records, it



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EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

LAS VEGAS REVIEW-JOURNAL,

Petitioner,

vs.

CLARK COUNTY SCHOOL DISTRICT,

Respondent.

Case No.: A-17-750151-W

Dept. No.: XVI

**RESPONDENT'S OPPOSITION
TO LVRJ'S MOTION FOR
ATTORNEY FEES AND COSTS**

Clark County School District ("CCSD"), by and through its undersigned counsel of record, hereby opposes the motion for fees and costs filed by Petitioner LAS VEGAS REVIEW-JOURNAL, ("LVRJ"). CCSD is not liable for fees because it acted in good faith, pursuant to NRS 239.012. Additionally, if this Court were to find NRS 239.012 does not apply, the LVRJ's fees should be reduced to a reasonable amount based on the narrow issues involved and that LVRJ did not prevail on all matters in their entirety as the Court allowed some important redactions that CCSD argued serve to protect CCSD employees and students from public exposure resulting in a chilling effect on future reporting of misconduct and retaliation or other negative effects of being publically identified. As such, any award of fees and costs must be reduced by taking into account the redactions to the previously produced emails **and** redactions that would be made in the event the Nevada Supreme Court upholds the District Court's Order of July

1 5, 2017, to turn over the investigation file of the Office of Diversity and Affirmative
2 Action. As this Court has had the opportunity to review the investigative file in
3 camera, the Court is aware that the investigative file contains additional
4 numerous redactions that without the Court's guidance LVRJ would not have
5 accepted but for this Court's Orders including redaction of the names of support
6 staff employees, students and direct victims of sexual harassment.¹

7 This opposition is made and based on the attached points and authorities
8 the pleadings on file herein, the attached following points and authorities, and
9 any oral argument on this matter.

10 **Memorandum of Points and Authorities**

11 **I. Introduction**

12 CCSD's primary function as mandated by the NRS is the education of our
13 communities' approximately 350,000 school aged children. In doing so, CCSD
14 employs approximately 40,000 people and is accountable under state and
15 federal law for protecting these employees from discrimination in all of its forms
16 including harassment, sexual harassment, gender, race, national origin, age,
17 disability, equal pay, genetic information, pregnancy, religion and retaliation²
18 whether the perpetrator is a co-worker, student, a member of the general public
19 or in this case a trustee of the school board. Failure to enforce state and federal
20 anti-discrimination laws exposes CCSD to litigation involving violation of civil
21 rights.

22 Protecting employees from further discrimination and retaliation includes,
23 among other things, keeping information confidential where required unless
24 absolutely necessary to disclose. Traditionally, information regarding
25

26
27 ¹ LVRJ only agreed to redactions of victims of sexual harassment once the Court
28 expressed it was inclined to order as such at the February 14, 2017, hearing.
Petitioner's original writ did not provide for any redactions.

² <https://www.eeoc.gov/laws/types/>

1 discrimination has been kept confidential unless needed as part of a criminal
2 investigation or as discovery in a lawsuit where confidentiality agreements can be
3 applied and enforced. Keeping information confidential when alleged
4 discrimination is reported serves to protect employees from retaliation and
5 encourages reporting of discriminatory behavior. CCSD's ability to protect its
6 employees from the alleged discrimination in this case was complicated by the
7 fact that the alleged wrongdoer was not a CCSD employee but instead a member
8 to the School Board of Trustees. As a result CCSD was limited in the actions it
9 could take in order to protect its employees from ongoing and future
10 discriminatory acts. This limitation on CCSD's ability to protect its employees
11 using traditional steps increased the importance of confidentiality as it was
12 CCSD's best means to protect its employees. This fact is highlighted by the fact
13 that regardless of CCSD's multiple directives and steps taken within facilities to
14 curb the trustee's behavior Superintendent Pat Skorkowsky felt compelled to
15 trespass Trustee Child on October 24, 2017, in a further attempt to protect CCSD
16 employees from the trustee. The preceding steps taken by CCSD including the
17 trespassing of the trustee has been reported by LVRJ. There is no indication that
18 the lack of any names of employees was a detriment to the reporting or that
19 publishing their names served any purpose that would exceed the employees
20 interest in privacy.³

21
22 ³ In a case involving the Freedom of Information Act, the Ninth Circuit
23 found that the authors of communications sent to a federal agency complaining
24 about violations of law had a cognizable personal privacy interest under 5 U.S.C. §
25 552(b)(6) (relevant factors included the agency's confidentiality policy). *Prudential*
26 *Locations LLC v. United States Dep't of Housing and Urban Dev.*, 739 F.3d 424,
27 429-34 (9th Cir. 2013). The court also found the authors faced a significant risk of
28 harassment, retaliation, stigma, or embarrassment if their identities were revealed.
There was no cognizable public policy interest served by revealing their identities,
so it would have constituted a clearly unwarranted invasion of personal privacy
under Exemption 6. *Id.*; *Cameranesi v. United States Dep't of Defense*, 839 F.3d
751 (9th Cir. 2016) (names of foreign students and instructors were exempt under
FOIA Exemption 6, because disclosure would constitute a clearly unwarranted

1 As a local governmental agency, CCSD also has a duty to produce
2 information under the Nevada Public Records Act. In this case the competing
3 duties are clearly in conflict. On the one hand, CCSD has the duty to protect
4 employees and to encourage their timely reporting of discriminatory conduct
5 without an employee fearing of being viewed in a negative light or labeled "thin
6 skinned", a "troublemaker" or "hard to get along with" or otherwise retaliated
7 against. On the other hand, CCSD has a duty to produce information that is not
8 specifically or otherwise declared confidential by statute or law.

9 In this case, LVRJ sought highly sensitive information and demanded
10 CCSD disregard federal anti-discrimination guidelines and CCSD regulations
11 regarding the protecting of employees who report discriminatory conduct. Quite
12 frankly, LVRJ has demonstrated that without the court's guidance it could care
13 less if employees are harmed by LVRJ's publication of information that directly or
14 indirectly identifies employees to the public. The issue of employees being
15 publically identified for doing right by reporting the allegedly imprudent, improper
16 and sometimes discriminatory behavior of an elected official to their employer is
17 a reasonably disputed matter. It took courage for CCSD employees to report the
18 alleged misconduct of Trustee Child as the trustees are the highest level
19 individuals in the legislative setup of CCSD. CCSD needs employees to be
20 empowered to report allegedly bad conduct regardless of the perpetrator so that
21 the conduct can be addressed in order to protect CCSD's students and
22 employees from facing similar conduct in the future and in order to allow CCSD
23 perform its main directive from the legislature, the educating of Nevada's kids, in
24 a safe and healthy environment conducive to student achievement.

25 CCSD responded to the records requests to the best of its ability under
26 the competing interests. The federal guidelines indicate that the individuals who

27 invasion of personal privacy; disclosure could cause harassment, stigma, or
28 violence which is exactly the type of risk that courts have recognized as nontrivial).

1 report alleged discrimination should remain confidential on a need to know basis.
2 Resp. Ans. Brf. At 13:22-26 citing EEOC Notice No. 915.002, at § V(C)(1) re:
3 Confidentiality. Nevada case law regarding disclosure of investigative files has
4 previously been in reference to law enforcement investigations. In this case
5 there was no law enforcement investigation. No crimes have been alleged
6 against the trustee. Neither NRS Chapter 239 nor the federal government's
7 guidance state when the non-employee alleged discriminator is an elected official
8 to whom the governmental agency has little or no control that information should
9 be released with narrow protections to those who reported or were witnesses to
10 the discrimination. Therefore, CCSD had no reason to believe the preceding fact
11 would be of utmost importance to this Court. Because the parties reasonably
12 disagreed as to the interpretation of NRS Chapter 239 and the federal guidelines
13 regarding reports of discrimination, CCSD acted in good faith in its refusal to
14 break its employees' expectation of confidentiality.

15 Additionally, CCSD Regulation 4110 states that investigations of
16 discrimination must remain confidential but for two exceptions. Reasonable
17 minds can disagree. The disagreement does not mean CCSD failed to act in
18 good faith. Here, LVRJ was originally of the position that CCSD regulations are
19 not even enforceable laws which of course is ridiculous given the fact that the
20 legislature empowered CCSD to create regulations and the Nevada Supreme
21 Court has ruled on cases regarding the application of CCSD regulations. In the
22 Nevada Supreme Court cases, there was never a dispute whether CCSD can
23 create regulations or whether they are laws. NRS 386.350; *see also CCSD et al*
24 *v. Beebe*, 91 Nev. 165, 533 P.2d 161 (1975) and *Bartlett et al. v. Board of*
25 *Trustees of the White Pine County School District*, 92 Nev. 347, 349, 550 P.2d
26 416 (1976) each citing NRS 386.350. Nonetheless, LVRJ took the
27 unsupportable position that CCSD regulations are not laws. Therefore, as far as
28 the reasonable minds disagreeing, it was understandable the enforcement of

1 Regulation 4110 needed the guidance of the Court when LVRJ failed to
2 recognize CCSD regulations are even enforceable laws. CCSD's position of
3 following its regulations was again done in good faith.

4 5 **II. Statement of Relevant Facts**

6 This Court is well informed as to the facts of this matter despite the fact
7 Petitioner attempts to stretch those facts in its motion for fees and costs.
8 Nonetheless, this matter is a case of first impression. A public records request
9 which requests information regarding alleged discrimination by an elected official
10 directed at employees of a local governmental agency has never been litigated in
11 Nevada. As such, CCSD had no case law as to these unique set of facts that
12 would serve to be instructive as to how this Court might rule.

13 LVRJ requested records on December 5th and 9th 2016. LVRJ Op. Br. at
14 Ex. G & H. These requests came from Ms. Pak-Harvey in the form of emails that
15 were limited in scope. On December 5th, LVRJ sought "all incident reports" that
16 "involve grief counselors and Trustee Kevin Child", all emails from CCSD staff,
17 police or CCSD officials regarding school visits conducted by Kevin Child and
18 emails and correspondence relating to the guidelines issued to CCSD staff on
19 December 5, 2016, regarding Kevin Child's visits to schools and interactions with
20 staff. LVRJ Op. Br. at Ex. G. On December 9th, LVRJ added to its original
21 request any written complaints CCSD has received regarding Trustee Child. Ex.
22 H.

23 In preparing to respond to LVRJ's requests, CCSD began gathering
24 documents immediately including searching for emails in the email accounts of
25 Superintendent Pat Skorkowsky and Instructional Unit head Mike Barton on
26 December 9, 2017. Ex. "A", Cert. of Dan Wray at Ex. ¶ 3 and Ex. A, attached
27 hereto. Mr. Skorkowsky's email account is set to never expire, which means his
28 emails are not automatically deleted at any time. Ex. "B", Decl. of Dan Wray

1 dated 10/31/17, attached hereto. The requests in December were specific as
2 they sought information regarding Kevin Child as related to grief counselors,
3 school visits and emails and correspondence pertaining to the guidelines for Mr.
4 Child issued by the superintendent on December 5, 2016, and written complaints
5 regarding Mr. Child received by CCSD. The statutory framework of school
6 districts is that the school board hires the superintendent. Thereafter, the
7 superintendent is the conduit between the district and the board. As such, any
8 issues regarding the board of trustees or one of its members goes through the
9 superintendent. Given the preceding, CCSD reasonably expected that any of the
10 specific requests in December 2016, would necessarily go through the
11 superintendent and that is where they searched for records on December 9,
12 2016.

13 In response to the December requests, CCSD responded in writing within
14 5 business days as required by NRS 239. 0107(1) when Cynthia Smith-Johnson
15 emailed Ms. Pak-Harvey on December 13, 2016, indicating records would be
16 produced on December 16th. It was at this time that CCSD began experiencing
17 conflicts between its duties to their employees and NRS Chapter 239. CCSD
18 was not only attempting to timely gather and review documents responsive to the
19 record requests but also determining its employees' confidentiality rights under
20 federal law and CCSD regulations.

21 LVRJ argues in its pending motion CCSD never informed Ms. Pak-Harvey
22 that CCSD limited the request, which custodians were being searched, how
23 CCSD was searching and whether CCSD was redacting or withholding records.
24 Mot. for Fees and Costs at 5:17-19. LVRJ appears to be implying CCSD's not
25 providing the aforementioned information was improper. Not only does CCSD
26 reject the preceding implied characterization, NRS Chapter 239 nor any relevant
27 case law require any such information be provided to LVRJ, Ms. Pak-Harvey or
28 anyone else for that matter simply as a matter of course. LVRJ cites no statute

1 or case law requiring any of the information be provided to a requestor. CCSD
2 had no reason to believe any of the information was required. The only thing
3 possibly required would be a privilege log based on Nevada Supreme Court case
4 law, which CCSD has provided. To the extent this Court later ruled that LVRJ
5 was entitled to any information related to how, who or when CCSD searched,
6 CCSD immediately complied when ordered to do so. The point being CCSD had
7 no reason to be aware of requirements in responding to records request that
8 were not part of NRS Chapter 239 or Nevada case law. LVRJ's implying CCSD
9 acted improperly because CCSD was not prescient as to this court's future
10 orders is unreasonable and certainly not demonstrative of a lack good faith.

11 On January 29, 2017, LVRJ filed its first writ seeking production of the
12 records requested in December 2016. On February 3, 2017, CCSD produced
13 records in response to the December 2016, requests. Some of the original
14 redactions were removed by CCSD leading up the hearing on LVRJ's writ. The
15 hearing on LVRJ's writ was conducted on February 14, 2017, at which time the
16 Court allowed some redactions to include the names of support staff members,
17 students and direct victims of alleged sexual harassment. Following the original
18 Order on or about February 23, 2017, CCSD un-redacted additional information
19 as ordered. It should be noted that some of CCSD's redactions were deemed
20 acceptable by the Court as where LVRJ originally wanted all the records with
21 zero redactions. As such, in regard to the original Writ and resulting Order LVRJ
22 did not prevail on all issues in their entirety.

23 On February 10, 2017, LVRJ issued the comprehensive record request in this
24 matter. In response, CCSD timely informed LVRJ in writing that a response
25 would not be possible within 5 business days. Dan Wray's certification indicates
26 approximately 78 additional administrative email accounts were searched on
27 February 21st and 22, 2017. Cert. of Dan Wray at Ex. 1. The undersigned
28 counsel informed LVRJ counsel that a response was anticipated on or by March

1 3, 2017. Nonetheless, LVRJ filed its Amended Writ on March 1, 2017. On
2 March 3, 2017, CCSD provided its response to the February 10, 2017, records
3 request.

4 Regardless of the meritorious disputes between the parties as to whether
5 federal guidelines or CCSD regulations render information confidential, the fact of
6 the matter is that CCSD has adhered to every Order entered by the Court in a
7 timely manner. LVRJ cannot point out a single Order to which CCSD failed to
8 timely comply with but for the final order which CCSD has timely appealed to the
9 Nevada Supreme Court. Furthermore, Cynthia Smith-Johnson previously
10 certified she has reviewed nearly 12,000 emails in this matter in the month of
11 May alone. Ex. "C", Cert. of Cynthia Smith-Johnson. Those 12,000 emails
12 resulted in approximately 38 responsive emails being located. But of those 38
13 several were redundant of prior production and 12 others were new in the sense
14 that they were so recent in their date they did not exist at the time of the prior
15 searches in response to the February 10, 2017, record request. The 12,000
16 emails searched in May 2017 did not result in any news reporting from the LVRJ.

17 18 **III. Legal Argument**

19 **A. CCSD is immune to damages because it Acted in Good Faith.**

20 1. CCSD is entitled to immunity because it acted in good faith 21 Under the Rules of Statutory Construction.

22 "[T]he construction of a statute is a question of law." *Edgington v.*
23 *Edgington*, 119 Nev. 577, 582-83, 80 P.3d 1282, 186-87 (2003) (citation omitted).
24 "In interpreting a statute, 'words . . . should be given their plain meaning unless
25 this violates the spirit of the act.'" *Id.* (citation omitted). "Thus, when a statute's
26 language is clear and unambiguous, the apparent intent must be given effect, as
27 there is no room for construction." *Id.* (citations omitted). "If, however, a statute
28 is susceptible to more than one reasonable meaning, it is ambiguous, and the

1 plain meaning rule does not apply. *Id.* (citation omitted). "Instead, the legislative
2 intent must be ascertained from the statute's terms, the objectives and purpose,
3 'in line with what reason and public policy' dictate." *Id.* (citations omitted).

4 Furthermore, "[s]tatutory interpretation should avoid meaningless or
5 unreasonable results, and 'statutes with a protective purpose should be liberally
6 construed in order to effectuate the benefits intended to be obtained.'" *Id.*
7 (citations omitted). "Additionally, 'when construing a specific portion of a statute,
8 the statute should be read as a whole, and, where possible, the statute should be
9 read to give meaning to all of its parts.'" *Id.* (citation omitted).

10 "[S]tatutes permitting the recovery of costs are to be strictly construed
11 because they are in derogation of the common law." *Bobby Berosini, Ltd. V.*
12 *People for the Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383,
13 385-86 (1998). Awarding fees is also a derogation of the common law, under
14 the American Rule. Thus, it follows that any statutory scheme awarding fees
15 must be construed narrowly, against fees. *Hardisty v. Astrue*, 592 F.3d 1072,
16 1077 (9th Cir. 2010). At the same time, "[w]aivers of immunity,' of course, 'must
17 be construed strictly in favor of the sovereign, and not enlarge[d] . . . beyond
18 what the language requires." *Id.*, quoting *Ruckelshaus v. Sierra Club*, 463 U.S.
19 680, 685-86 (1983).

20 Here, Nevada's public records act does indeed provide for fees. NRS
21 239.011(2). However, the statutory scheme also provides:

22 **Immunity for good faith disclosure or refusal to disclose**
23 **information.**

24 A public officer or employee who acts in good faith in disclosing or
25 refusing to disclose information and the employer of the public
26 officer or employee are immune from liability for damages, either to
27 the requester or to the person whom the information concerns.

28 **NRS 239.012 (emphasis added).**

1 Thus, the question presented here is whether the term "damages" is
2 meant to include attorneys' fees and costs. The word "damages" is defined as
3 "[m]oney claimed by, or ordered to be paid to, a person as compensation for loss
4 or injury." BLACKS'S LAW DICTIONARY 97th ed. Abr.) at 320.

5 "Damages' is a broad term and includes special as well as general
6 damages." *Taylor v. Neill*, 326 P.2d 391, 393 (Idaho 1958), citing 25 C.J.S.
7 *Damages* § 2. Given its Latin and French roots, the term "damage" is
8 synonymous with "loss," and "signifies the thing taken away, -- the lost thing,
9 which a party is entitled to have restored to him so that he may be made whole
10 again." *Nordahl v. Dep't of Real Estate*, 48 Cal. App. 3d 657, 664, 121 Cal. Rptr.
11 794, 798 (1975), quoting *Fay v. Parker*, 53 N.H. 342 (1874).

12 Courts have found that the term "damages" must include "fees." For
13 instance, under a statute that permitted a mortgagor to recover "damages" from a
14 mortgagee who refused to discharge a mortgage, the Supreme Court of Utah
15 considered the law of several other states then concluded that "damages" must
16 include attorney's fees. *Swaner v. Union Mortg. Co*, 105 P.2d 342, 345-46 (Utah
17 1940). In *State ex rel. O'Sullivan v. District Court*, 256 P.2d 1076, 1078 (Mont.
18 1953), the Montana Supreme Court held that with regard to a petition for a writ of
19 mandamus, a statute entitling the petitioner to damages necessarily included the
20 fees incurred.
21

22 Indeed, Nevada law recognizes that "damages" may specifically
23 encompass attorney's fees in certain circumstances, even though the American
24 Rule generally requires each party to pay his own fees, unless a statute, rule, or
25 contract provides otherwise. *Sandy Valley Assocs. V. Sky Ranch Estates Owners*
26 *Ass'n*, 117 Nev. 948, 957-58, 35 P.3d 964, 970 (2001), clarified by *Horgan v.*
27
28

1 *Felton*, 123 Nev. 577, 584, 170 P.3d 982, 986 (2007). Thus, it simply cannot be
2 said that the term “damages” can never include “fees.”

3 In common parlance, the term “damages” encompasses the concept of
4 fees. For instance, every civil lawyer is familiar with the phrase “...damages,
5 including attorney’s fees.” The term “include” means “[t]o contain as a part of
6 something.” BLACK’S LAW DICTIONARY (7th ed. abr.) at 611. “The particle
7 *including* typically indicates a partial list....” *Id.* In other words, “fees” are but one
8 of many possible subsets of “damages.” If there was a different common
9 understanding, then lawyers would not say “damages, *including* fees,” but rather
10 would say “damages *and* fees.”

11
12
13 If “damages” do not include “fees,” then NRS 239.012 is rendered
14 meaningless in a case like this because there are *no* damages, *other than* fees.
15 The only “money” the LVRJ incurred as a “loss” caused by CCSD’s assertion of
16 privileges is its fees.

17
18 In sum, because the plain meaning of “damages” is very broad, and
19 because the rules of construction (a) disfavor the imposition of fees, (b) favor a
20 broad application of immunity, and (c) require that no statute be rendered
21 meaningless, the Court must construe “damages” to include “fees.”

22
23 2. If the Statutory Scheme is Ambiguous, the Legislative History
24 Makes is Abundantly Clear that “Damages” Include “Fees”

25 “When interpreting a statute, legislative intent ‘is the controlling factor.’”
26 *State v. Lucero* 127 Nev. 92, 95 249 P.3d 1226, 1228 (2011), *quoting Robert E. v.*
27 *Justice Court*, 99 Nev. 443, 445, 664 P.2d 957, 959 (1983). “The starting point for
28 determining legislative intent is the statute’s plain meaning; when a statute “is

1 clear on its face, a court cannot go beyond the statute in determining legislative
2 intent." *Id.* "But when 'the statutory language lends itself to two or more
3 reasonable interpretations,' the statute is ambiguous, and we may then look
4 beyond the statute in determining legislative intent." *Lucero* at 95, 249 P.3d at
5 1228, *quoting State v. Catanio*, 120 Nev. 1030, 1033, 102 P.3d 588, 590 (2004).
6 "To interpret an ambiguous statute, we look to the legislative history and construe
7 the statute in a manner that is consistent with reason and public policy." *Lucero* at
8 95, 249 P.3d at 1228.

10 Here, the legislative history is perfectly clear. Requestors of public
11 records are entitled to their fees, but only if the government actor failed to act in
12 good faith in denying the records.

14 Fees are part of a total overhaul of the NPRA which occurred in 1993.
15 Prior thereto, the only way to enforce the public's right to access public records
16 was through criminal penalties. In 1993, the Legislative made it easier on the
17 requestor by enacting AB 365.⁴ Once the government entity receives a request, it
18 must respond within five days. NRS 239.0107. If any privileges are asserted they
19 must be included in the response with "[a] citation to the specific statute or other
20 legal authority that makes the public book or record, or a part thereof,
21 confidential." NRS 239.0107(1)(d)(2). If the requestor does not like the response,
22 the procedure is now an expedited writ instead of criminal penalties.

25 Moreover, the new procedure contemplates fees and costs. In fact, the
26 very statute that provides for fees, provides for this writ process. NRS 239.011.

28 ⁴ Several other bills were enacted that also changed the NPRA, including AB
364, 365, 366, 367, and 368.

1 However, the statutory scheme curtails the ability to recover fees and costs by
2 requiring the Court to find that the public entity did not act in good faith pursuant to
3 NRS 239.012.

4 This intent is clear in the legislative history. First, prior to the legislative
5 session, the Legislative Counsel Bureau published a bulletin that explained the
6 overhaul of the NPRA. The bulletin fully explained the benefits of the writ process,
7 the purposed of the fee and cost-shifting provision, and the purpose of the
8 immunity provision:
9

10 **VII. DISCUSION OF RECOMMENDATIONS RELATED TO**
11 **THE ENFORCEMENT OF PUBLIC RECORDS LAWS**

12 Testimony before the subcommittee and discussions in
13 the advisory committee meetings raised the issue of
14 whether criminal penalties are appropriate in public
records cases. ...

15 One option suggested during the course of the
16 hearings was that the criminal penalties should be
17 replaced with civil penalties. As discussed in the
18 section on access to records, the subcommittee
19 elected to establish an expedited procedure in court
20 that grants attorneys fees and court costs to a
21 requesting party that prevails. Because of this
provision, the subcommittee determined not to
recommend civil penalties, and to repeal the criminal
penalties. Therefore, the subcommittee recommended
that the Legislature:

22 **Repeal the existing criminal penalty relative**
23 **to the failure to disclose a public record.**
24 **(BDR 19-393)**

25 **Enact legislation that prescribes the**
26 **procedures for direct appeal to a court of**
27 **law seeking an order compelling access and**
28 **giving such proceedings priority on the**
court' calendar. Provide for court costs and
attorney's fees if the requestor prevails.

1 (BDR 19-393) (Also discussed in Section
2 IV regarding access.)

3 Because of the complexity associate with modern
4 public records and the sensitive information that is
5 contained in some records, the subcommittee
6 determined a need for a liability standard that could be
7 applied to the actions of government employees. The
8 subcommittee elected to base the standard on "good
9 faith." Therefore, the subcommittee recommended the
10 following:

11 **Enact legislation provided the governmental**
12 **entities and employees are immune from**
13 **suit and liability if they act in good faith in**
14 **disclosing or refusing to disclose**
15 **information. (BDR 19-393).**

16 Exh. D (bold in original, underline added).

17 Second, the preamble only mentions two issues, civil remedies and
18 immunity. It reads:

19 AN ACT relating to public information; substituting
20 civil enforcement of access to public books and
21 records for a criminal penalty for denial of access;
22 conferring immunity upon public officers and
23 employees for certain actions in good faith; and
24 providing other matters properly relating thereto.

25 Exh. E at p. 3.

26 Third, the portion of the bill that provides for the civil writ process and for
27 fees is *immediately* followed by the portion of the bill that provides immunity:

28 **Sec. 2.** If a request for inspection or copying of
a public book or record open to inspection and
copying is denied, the requestor may apply to the
district court in the county in which the book or record
is located for an order permitting him to inspect or
copy it. The court shall give this matter priority over
other civil matters to which priority is not given by
other statutes. If the requestor prevails, he is entitled
to recover his costs and reasonable attorney's fees in

1 the proceeding from the agency whose officer has
2 custody of the book or record.

[Now codified at NRS 239.011.]

3 **Sec. 3.** A public officer or employee who acts in
4 good faith in disclosing or refusing to disclose
5 information and his employer are immune from liability
6 for damages, either to the requestor or to the person
7 whom the information concerns.

[Now codified at NRS 239.012.] *Id.*

8 Finally, the committee notes directly link immunity with fees. Ande
9 Englemen of the Nevada Press Association essentially told the legislators that
10 public entities need not worry about fees if they have a good faith argument that
11 the records are confidential. Ms. Englemen stated to the Assembly Committee on
12 Government Affairs:

13 Taxpayers were also paying the fees for the agency,
14 Mr. Bennett observed. The question was, should the
15 taxpayers, in general, have to cover the costs when
16 the suit might be rather frivolous. Ms. Englemen noted
17 the bill did not grant court costs and attorneys' fees if
18 a suit was over a record everyone had thought to be
19 confidential. Court costs and attorneys' fees were
granted **only** when it was a denial of what was
clearly a public record. Therefore, she did not think
there would be frivolous lawsuits.

20 *Id.* at p. 40 (emphasis added).

21 If this is not clear enough, later in that same hearing, the AG's office
22 asked that that the bill's language make it clear that the district courts would
23 merely have *discretion* to award fees. "Ms. Crossley . . . said she thought Ms.
24 Englemen's testimony went to giving the court that discretion." *Id.* at p. 41. Still
25 later in the minutes, the following explanation of the AB 365 again links fees with
26 good faith immunity:
27
28

1 Dennis Nielander, Senior Research Analyst,
2 Legislative Counsel Bureau, . . . stated the existing
3 public records law has not been amended significantly
4 since 1911 and in the current provisions for
5 enforcement it contains a criminal penalty which is a
6 misdemeanor for an individual to release a public
7 records in violation of the statute. He stated what this
8 bill does is it removes the criminal penalty and
9 replaces it with an expedited process procedure
10 whereby if a person has been denied access to a
11 public record, they have the opportunity to file in
12 district court and the court is required to give that
13 matter priority on the calendar. He explained if the
14 requestor prevails they are entitled to reasonable
15 attorney fees and costs. Mr. Nielander stated in
16 section 3 it grants immunity for good faith disclosure
17 or nondisclosure as long as it is done in good faith the
18 public employee is then immune from civil liability.

19 *Id.* at p. 56.

20 Thus, the history is very clear that the *new* "penalty" of fees, which
21 replaced the draconian penalty of a criminal misdemeanor charge, was
22 specifically exempted in cases of good faith. Fees can only be granted if the public
23 entity does not act in good faith.

24 This approach is very fair, and it is very consistent with other fee-shifting
25 provisions in the law. A major exception under the American Rule is bad faith.
26 See, e.g., NRS 7.085 (permitting award of fees when attorney acts in bad faith);
27 NRS 18.010(2)(b) (permitting award of fees when litigant acts in bad faith); see
28 also NRCP 68 and *Beattie v. Thomas*, 99 Nev. 579, 668 P.2d 268 (1983)
(granting courts the discretion to award fees when a party rejects an offer of
judgment, but only after balancing the relative good faith of the parties).

1 This approach is also consistent with public policy. Records are public in
2 order to foster democratic principles, and a process is in place to permit
3 newspapers (and others) to obtain public records. However, that process
4 specifically recognizes that many records are confidential, and that different
5 people may arrive at different opinions as to confidentiality. The process also
6 recognizes that public servants usually do their best to balance competing
7 interests fairly. A rule that automatically *requires* fees whenever a court happens
8 to disagree with a public servant will encourage public servants to err on the side
9 of disclosure, even when doing so may injure some third party, as here. Such a
10 rule would also encourage requestors to overreach, because even if part of what
11 is sought is deemed non-confidential, then the requestor would get fees. These
12 fees, of course, are coming out of the public treasury, and if used to pay the LVRJ
13 \$100,000.00, even though CCSD acted in good faith, that money cannot be used
14 for other services. Thus, there is simply no way to read the statute as *mandating*
15 fees in every case. Rather, this Court has *discretion*, and that discretion is based
16 on whether the public servant has acted in good faith.
17
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19

20 In sum, there is no escaping the conclusion that the Legislature intended
21 that immunity for action in good faith under NRS 239.012 is an exception to the
22 fees and costs provision of NRS 239.011. Thus, in order to grant the present
23 motion, the Court would have to find that CCSD did not act in good faith in
24 responding to LVRJ's records requests.
25

26 ///

27 ///

1 3. CCSD Acted in Good Faith in this Case

2 Good faith is generally defined as honesty and dealing with others fairly
3 without malice or any intent to defraud.

4 Good faith: *Honesty; a sincere intention to deal fairly with others.*

5 *Good faith* is an abstract and comprehensive term that
6 encompasses a sincere belief or motive without any malice or the
7 desire to defraud others. It derives from the translation of the Latin
8 term *bona fide*, and courts use the two terms interchangeably.
9 <https://legal-dictionary.thefreedictionary.com/good+faith>

10 good faith noun

11 [translation of Latin *bona fides*]: honesty, fairness, and lawfulness
12 of purpose: absence of any intent to defraud, act maliciously, or
13 take unfair advantage [filed the suit in *good faith*]
14 <http://dictionary.findlaw.com/definition/good-faith.html>

15 LVRJ's requests required CCSD to balance important competing interests.
16 This case is not about mundane records but instead involve alleged misconduct
17 and at times discriminatory conduct of an elected official and, most importantly to
18 CCSD, the protection of the brave employees who brought a trustee's alleged
19 misconduct to light. As stated previously, this case involves unique facts and is a
20 matter of first impression.

21 CCSD's duty to LVRJ under NRS Chapter 239 must be assessed in light
22 of the competing interests to produce records and also to adhere to Equal
23 Employment Opportunity Commissions anti-discrimination guidelines and CCSD
24 regulations regarding confidentiality.

25 The fact the Court disagreed with CCSD's application of CCSD Regulation
26 4110 does not in itself demonstrate a lack of good faith on part of CCSD. The
27 dispute regarding the application of CCSD regulations and EEOC guidelines
28 were legitimate and the fact the parties disagreed and the Court ruled in favor of
one party or the other does not constitute lack of good faith.

1 CCSD has produced all emails and all records responsive to the record
2 requests but for the investigative file of the Office of Diversity and Affirmative
3 Action, which they promptly notified LVRJ of via CCSD's privilege log provided
4 when CCSD responded to the February 10, 2017, record request. Furthermore,
5 CCSD has promptly complied with each of the Court's Orders or alternatively,
6 timely appealed. Even this court has previously stated that if an individual
7 complied with all of its orders good faith would be met. Ex. "F", Hrg. Trans dated
8 5/9/17 at 96:8-10.

9 Finally, CCSD has limited its appeal to only the most important issue,
10 production of the investigative file of the Office of Diversity and Affirmative Action.
11 As throughout this case, CCSD has attempted to limit the dispute to those
12 matters that involve the confidentiality of employees' names when they had
13 reported or witnessed alleged misconduct of the trustee.

14
15 **B. In the Alternative, the Fees Sought Must be Apportioned and
16 Reduced.**

17 1. Fees and Costs Incurred Pre-Litigation are Not Recoverable

18 NRS 239.011(2) specifically limits the fees and costs that can be
19 recovered to those incurred "in the proceeding." Here, LVRJ audaciously seeks
20 fees and costs incurred before it filed its writ petition. Exhibit "G" accounts for this.

21 2. The Rates Sought is Not Reasonable

22 A reasonable hourly rate should reflect the prevailing market rates of
23 attorneys practicing in the forum community. *Webb v. Ada County*, 285 F.3d 829,
24 840, n.6 (9th Cir. 2002); *Blum v. Stenson*, 465 U.S. 886, 895-96 n.11 (1984);
25 applied in fraud and breach of contract case, *Archway Ins. Servs., LLC v. Harris*,
26 2014 U.S. Dist. LEXIS 107472, 10, 2014 WL 3845302 (D. Nev. Aug. 5, 2014). In
27
28

1 Archway, decided in late 2014, the Court held an hourly rate of \$275 was
2 reasonable. *Archway Ins. Servs., LLC v. Harris*, 2014 U.S. Dist. LEXIS 107472, 10
3 (D. Nev. Aug. 5, 2014). In another 2014 District Court case, the court stated,
4 "Based on the court's knowledge and experience, it finds that the requested hourly
5 rates of \$225.00 for partners, \$200.00 for associates, and \$70.00 for paralegals
6 are reasonable." *Convoy v. Wynn Las Vegas, LLV*, 2014 U.S. Dist. LEXIS
7 114330, 7 (D. Nev. Aug. 18, 2014). In *Banks v. Robinson*, a case related to failure
8 to pay overtime with fees paid related to an offer of judgment, the court found the
9 requested fees were excessive, where senior counsel requested \$450 per hour,
10 and the associate requested \$350 per hour. One of the senior counsel generally
11 worked on a contingency fee basis but, in a declaration, stated he charges hourly
12 between \$75-350 on billable matters. The court reduced the senior counsel bills to
13 \$300 per hour, and reduced the fees of the associate to rates of \$250 "based on
14 similar work billed by Defendant counsels' associate attorneys" [from Lionel
15 Sawyer]. *Banks v. Robinson*, 2012 U.S. Dist. LEXIS 39688, 3-5 (D. Nev. Mar. 21,
16 2012).

17
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19
20 Here, the Court is as familiar as the LVRJ's counsel and/or its declarants
21 as to prevailing reasonable rates. Ms. McLetchie has been practicing law for no
22 more than 14 years. The law surrounding the NPRA is not particularly
23 sophisticated or specialized. Any lawyer can read the entire NPRA, and every
24 case ever published on the NPRA, in an afternoon. There was no trial work in this
25 case, nor would it ever be needed. A rate of \$300 per hour is far more reasonable
26 than \$450 for this particular matter. Moreover, the rate of \$350 per hour for a six-
27
28

1 year attorney (Ms. Shell), and \$150 per hour for a paralegal with two years of
2 experience and "support staff" is patently unreasonable. In fact, support staff is
3 neither lawyers nor paralegals and cannot be considered "attorneys" at all.
4 Reasonable rates would be \$300, \$250, and \$0, respectively. Exhibit "G" accounts
5 for reduced rates.

6
7 3. The Fees Should be Reduced as Indicated in CCSD's Exhibit "G"

8 Again, Exhibit "G" hereto accounts for fees that must be reduced and
9 apportioned. Ex. "G" is LVRJ's Exhibits 2 and 3 to the motion for fees and costs,
10 with notations accounting for a reduction to reasonable rates, removing pre-
11 litigation fees, reducing attorney billing rates to a reasonable fee and eliminating
12 non-attorney fees and non-taxable costs. The following chart outlines the codes
13 used:
14

15

A	Pre-litigation
B	Maggie McLetchie fee at \$300.00 per hour
C	Alina Shell fee at \$250.00 per hours
D	Striking of billing of attorney fees under "Admin Admin" as this does not identify who the biller was or that it was attorney work
E	E-filing fees not taxable under NRS 18.005(1)
F	Unspecified copying costs billed on a monthly basis in contravention of case law
G	Non-attorney
H	Duplicative expense of mailing filings after same had already been e-served via Wiznet
I	Bulk WestLaw billing that is unspecified
L	Block-billing

23

24
25 4. LVRJ's Counsel's Block-Billing Cuts Against a Finding of Reasonableness and those amounts should be further reduced.

26 When services are "lumped" together, also known as "block-billing," a
27 court is prevented from determining the necessity of each service and from fairly
28

1 evaluating whether individual tasks were expeditiously performed within a
2 reasonable period of time. See *Welch v. Metropolitan Life Ins. Co.*, 480 F.3d
3 942, 948 (9th Cir. 2007) (citation omitted). Courts have consistently found that
4 the practice of "lumping together multiple tasks, mak[es] it impossible to evaluate
5 their reasonableness." *Role Models Am., Inc. v. Brownlee*, 353 F.3d 962, 971
6 (D.C.Cir.2004); *Berryman v. Metcalf*, 177 Wash.App. 644, 312 P.3d 745, 756
7 (2013) ("The block billing entries tend to be obscure."). Accordingly, lower courts
8 have the "authority to reduce hours that are billed in block format." *Welch*, 480
9 F.3d at 948; *Lahiri v. Universal Music & Video Distrib. Corp.*, 606 F.3d 1216,
10 1223 (9th Cir.2010) (ruling district court did not abuse its discretion by **reducing**
11 **80% of attorney's billable hours by 30% for block billing**). Emphasis added.

12
13
14 Here, it is reasonable for this Court to strike or alternatively reduce LVRJ's
15 block-billed entries as they do not contain sufficient information to permit the
16 Court to assess the reasonableness of the hours billed, and are therefore
17 improper. For example, LVRJ's counsel maintains that is billed: (1) 3.1 hours on
18 January 25, 2017 for "Email to team re strategy in case. Follow up with reporter
19 re communications with PIO officers. Attention to research/drafting of petition; (2)
20 3.4 hours on February 3, 2017 to "Call/email Carlos. Take call from Scott
21 Greenberg. Email memorializing same. Further calls and emails. Review first
22 batch of documents received via email; confer with client. Address call from
23 Kevin Child. Meeting at CCSD to review redactions. Email communications with
24 clients." and (3) 5.3 hours on February 8, 2017, for "Review court order /
25 amended court order; attention to service and filing of same / work with paralegal
26
27
28

1 to accomplish immediate service; review letter from Mr. McDade; draft letter to
2 court re redacted set and errors in McDade letter; emails to and calls with Mr.
3 McDade and his office; review redacted finally received; provide updates to client
4 throughout and plan strategy for 2/14/17 hearing. The billing record
5 demonstrates a regular practice of block-billing by lumping discrete tasks
6 together. On Ex. "G", LVRJ's block-billing entries are designated with the letter
7 "L" next to each such entry. The practice of lumping discrete tasks together in a
8 single time entry is disfavored because it makes the task of evaluating the
9 reasonableness of the time spent burdensome and impractical. *Welch*, 480 F.3d
10 at 948. A cursory review of LVRJ's counsel's time entries illustrates that they
11 systemically engaged in block-billing. For all the above reasons, should the
12 Court be inclined to award any legal fees, CCSD asks this court to reduce
13 LVRJ's request in accordance with the holding in *Lahiri*, or at least utilize *Lahiri*
14 as guidance as to the amount of the reduction.

15 Without any reduction for block-billing, LVRJ is entitled to no more than
16 \$62,935.00, assuming the Court rejects CCSD's good faith defense.⁵ This
17 amount is over \$228 *per page including the pages from the investigatory file* and
18 thus patently reasonable under the circumstances. CCSD seeks a further
19 reduction of 20% due to the block-billing bringing total attorney fees to an amount
20 not to exceed \$50,348.00 which still amounts to over \$182.00 per page.

21
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25 **C. The Costs are Not Supported and/or Not Taxable**

26
27 ⁵ This amount was calculated using Ms. McLetchie's Declarations paragraph 7
28 and 8 indicating hours worked multiplied by \$300 per hour for Ms. McLetchie and
\$250 per hour for Ms. Shell.

1 "[C]osts must be reasonable." *Bobby Berosini, Ltd. V. People for the*
2 *Ethical Treatment of Animals*, 114 Nev. 1348, 1352, 971 P.2d 383, 385-386
3 (1998). "[R]easonable costs' must be actual and reasonable, 'rather than a
4 reasonable estimate or calculation of such costs" *Id.*, citing *Gibelline v.*
5 *Klindt*, 110 Nev. 1201, 1206, 885 P.2d 540, 543 (1994). The costs must also have
6 been "necessarily incurred in the action or proceeding." NRS 18.110(1) (requiring
7 affidavit of party or counsel).
8

9 In *Bobby Berosini*, the Court reversed portions of a cost judgment where
10 the plaintiff had failed to proceed sufficient itemization. For example, when
11 seeking approximately \$11,000.00 in photocopy and long distance costs, the
12 plaintiff "failed to provide sufficient justifying documentation beyond the cost of
13 each photocopy and the total photocopying charge." *Id.* At 1353, 971 P.2d at 386
14 (1998).
15

16 Here, the LVRJ seeks copying costs, but provides CCSD no information
17 beyond the month and the amount. Nothing is provided to demonstrate what was
18 copied or why. Under *Bobby Berosini*, LVRJ has not met its burden. LVRJ takes
19 the same monthly bulk building to legal research costs, as well.
20

21 Two more items are not taxable. First, there was no reason to mail
22 anything in this case. CCSD received all filings via Wiznet. Thus, postage charges
23 were not necessary. Second, "clerks' fees" are taxable under NRS 18.005(1), but
24 not "e-filing fees." It costs \$270.00 to file a complaint, which the clerk receives. E-
25 filing fees, upon information and belief, are paid to the vendor who operates the
26
27
28

1 court's mandatory e-filing system. Thus, the multiple \$3.50 "e-filing fees" are
2 merely overhead, like a computer, and not taxable.

3 In sum, assuming, CCSD is not immune, the maximum amount in costs is
4 \$3,343.55. See Ex. "G".

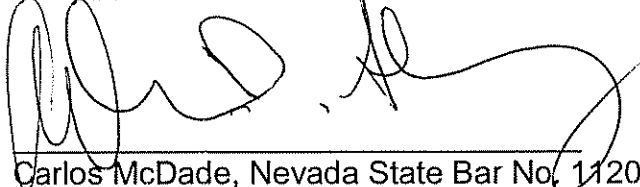
5 **IV. CONCLUSION**

6 CCSD responded in good faith to the LVRJ's public records requests.
7 Every court order has been timely complied with. Where information or
8 documents have been withheld, there have been legal privileges that have been
9 asserted, most of which concern employees' rights to work in a safe environment
10 void of discrimination and retaliation. LVRJ cannot recover fees or costs pursuant
11 to NRS 239.012 because CCSD is immune from all liability, including any money
12 judgment, where its employees act in good faith.
13

14
15 Moreover, even if the Court rejects CCSD's good faith immunity, the fees
16 asserted here have been overstated and improperly block-billed to deny CCSD its
17 right to meaningful review. Therefore, at most, and assuming CCSD is not
18 immune, the LVRJ is entitled to no more than \$50,348.00 in attorney's fees, which
19 still amounts to over \$182.00 per page in fees and \$3,343.55 in costs.
20

21 DATED this 31st day of October, 2017.

22 CLARK COUNTY SCHOOL DISTRICT

23 
24
25

26 Carlos McDade, Nevada State Bar No. 11205
27 Adam Honey, Nevada State Bar No. 9588
28 Office of the General Counsel
Counsel for Respondent, Clark County School District

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 31st day of October, 2017, I served a true and correct copy of the foregoing **RESPONDENT'S OPPOSITION TO LVRJ'S MOTION FOR ATTORNEY FEES AND_COSTS** via electronic filing and electronic service through the EFP Vendor System to all registered parties pursuant to the order for electronic filing and service.

Margaret A. McLetchie, Esq.
MCLETCHIE SHELL LLC
701 East Bridger Avenue, Suite 520
Las Vegas, NV 89101

/s/Christina M. Reeves
AN EMPLOYEE OF THE OFFICE OF THE
GENERAL COUNSEL-CCSD

EXHIBIT “A”


STATE OF NEVADA)) ss:
COUNTY OF CLARK)

1. I am currently employed by the Clark County School District as the Chief Technology Officer. I have been employed in this position for approximately 3 years.

3. Between December 9, 2016 and May 15, 2017, I have conducted the searches identified on the attached Exhibit "A". In total 1,242 searches of email boxes were conducted on 621 user mailboxes (each user was searched once for "Kevin Child" and a second time for "Trustee Child. Some individuals mailboxes were searched on more than one occasion.

5. I searched for emails diligently and to the best of my training and ability to ensure the accuracy of my searches.

Further your affiant sayeth naught.



DAN WRAY

Exhibit “A”

Name	Terms	Date
Mike Barton	"Trustee Child", "Kevin Child", "Guidelines for Trustee Visit", "trustee visit", "school visit"	12/9/2016
Pat Skorkowsky	"Trustee Child", "Kevin Child", "Guidelines for Trustee Visit", "trustee visit", "school visit"	12/9/2016
A.J. Adams	"Kevin Child", "Trustee Child"	2/21/2017
Andrea Klafter-Rakita	"Kevin Child", "Trustee Child"	2/21/2017
Antonio Rael	"Kevin Child", "Trustee Child"	2/21/2017
April Key	"Kevin Child", "Trustee Child"	2/21/2017
Bob Mars	"Kevin Child", "Trustee Child"	2/21/2017
Brenda Larsen-Mitchell	"Kevin Child", "Trustee Child"	2/21/2017
Celese Rayford	"Kevin Child", "Trustee Child"	2/21/2017
Deanne Jaskoiski	"Kevin Child", "Trustee Child"	2/21/2017
Felicia Gonzales	"Kevin Child", "Trustee Child"	2/21/2017
Grant Hanevold	"Kevin Child", "Trustee Child"	2/21/2017
Jeff Geihs	"Kevin Child", "Trustee Child"	2/21/2017
Jeff Horn	"Kevin Child", "Trustee Child"	2/21/2017
Jefferey Hybarger	"Kevin Child", "Trustee Child"	2/21/2017
Karen West	"Kevin Child", "Trustee Child"	2/21/2017
Kaweeda Adams	"Kevin Child", "Trustee Child"	2/21/2017
Kim Mangino	"Kevin Child", "Trustee Child"	2/21/2017
Kristy Keller	"Kevin Child", "Trustee Child"	2/21/2017
Lorma James-Cervantes	"Kevin Child", "Trustee Child"	2/21/2017
Rebecca Kaatz	"Kevin Child", "Trustee Child"	2/21/2017
Ronnie Guerzon	"Kevin Child", "Trustee Child"	2/21/2017
Susan Smith	"Kevin Child", "Trustee Child"	2/21/2017
Ariel Villalobos	"Kevin Child", "Trustee Child"	2/22/2017
Barry Bosacker	"Kevin Child", "Trustee Child"	2/22/2017
Belinda Jones	"Kevin Child", "Trustee Child"	2/22/2017
Belinda Marentic	"Kevin Child", "Trustee Child"	2/22/2017
Bob Mars	"Kevin Child", "Trustee Child"	2/22/2017
Cheryl Butera	"Kevin Child", "Trustee Child"	2/22/2017
Chris Popek	"Kevin Child", "Trustee Child"	2/22/2017
Christina Miani	"Kevin Child", "Trustee Child"	2/22/2017
Diane Lewis	"Kevin Child", "Trustee Child"	2/22/2017
Gerald Bustamante	"Kevin Child", "Trustee Child"	2/22/2017
Gina Piccolo	"Kevin Child", "Trustee Child"	2/22/2017
Gina R. Harvey	"Kevin Child", "Trustee Child"	2/22/2017
Heather Lenz	"Kevin Child", "Trustee Child"	2/22/2017

Henry Rodda	"Kevin Child", "Trustee Child"	2/22/2017
Immer Liza Ravallo	"Kevin Child", "Trustee Child"	2/22/2017
Isaac Stein	"Kevin Child", "Trustee Child"	2/22/2017
Jacqueline Richardson	"Kevin Child", "Trustee Child"	2/22/2017
Jaime Ditto	"Kevin Child", "Trustee Child"	2/22/2017
James Kuzma	"Kevin Child", "Trustee Child"	2/22/2017
Jaymes Aimetti	"Kevin Child", "Trustee Child"	2/22/2017
Jennifer French	"Kevin Child", "Trustee Child"	2/22/2017
Jillyn Pendleton	"Kevin Child", "Trustee Child"	2/22/2017
Joanne Vattiato	"Kevin Child", "Trustee Child"	2/22/2017
John Haynal	"Kevin Child", "Trustee Child"	2/22/2017
John Haynal	"Kevin Child", "Trustee Child"	2/22/2017
Judy Jordahl	"Kevin Child", "Trustee Child"	2/22/2017
Kamille Bryne	"Kevin Child", "Trustee Child"	2/22/2017
Kathleen Decker	"Kevin Child", "Trustee Child"	2/22/2017
Kathleen Decker	"Kevin Child", "Trustee Child"	2/22/2017
Krista Yarberry	"Kevin Child", "Trustee Child"	2/22/2017
Kristie Cole	"Kevin Child", "Trustee Child"	2/22/2017
Larry McHargue	"Kevin Child", "Trustee Child"	2/22/2017
Lea Chua	"Kevin Child", "Trustee Child"	2/22/2017
Lene Muth	"Kevin Child", "Trustee Child"	2/22/2017
Lezlie Koepp	"Kevin Child", "Trustee Child"	2/22/2017
Lisa Medina	"Kevin Child", "Trustee Child"	2/22/2017
Lucia Valenzuela	"Kevin Child", "Trustee Child"	2/22/2017
M. Olivia Egemba	"Kevin Child", "Trustee Child"	2/22/2017
Margarita Gamboa	"Kevin Child", "Trustee Child"	2/22/2017
Mary Hafner	"Kevin Child", "Trustee Child"	2/22/2017
Michael Blume	"Kevin Child", "Trustee Child"	2/22/2017
Misti Taton	"Kevin Child", "Trustee Child"	2/22/2017
Pamela S. Simone	"Kevin Child", "Trustee Child"	2/22/2017
Ramona Esparza	"Kevin Child", "Trustee Child"	2/22/2017
Rebecca Tschinkel	"Kevin Child", "Trustee Child"	2/22/2017
Robert Henry	"Kevin Child", "Trustee Child"	2/22/2017
Robert T Tarter	"Kevin Child", "Trustee Child"	2/22/2017
Sarah Popek	"Kevin Child", "Trustee Child"	2/22/2017
Sonya Holdsworth	"Kevin Child", "Trustee Child"	2/22/2017
Stacey White	"Kevin Child", "Trustee Child"	2/22/2017
Stephanie Morgan	"Kevin Child", "Trustee Child"	2/22/2017
Susan Karout	"Kevin Child", "Trustee Child"	2/22/2017
Terri Knepp	"Kevin Child", "Trustee Child"	2/22/2017
Thelma Davis	"Kevin Child", "Trustee Child"	2/22/2017
Carolyn Edwards	"Kevin Child", "Trustee Child"	3/28/2017
Chris Garvey	"Kevin Child", "Trustee Child"	3/28/2017

Deanna Wright	"Kevin Child", "Trustee Child"	3/28/2017
Erin Cranor	"Kevin Child", "Trustee Child"	3/28/2017
Kevin Child	"Kevin Child", "Trustee Child"	3/28/2017
Linda Young	"Kevin Child", "Trustee Child"	3/28/2017
Lola Brooks	"Kevin Child", "Trustee Child"	3/28/2017
Brianna D. Mills	"Kevin Child", "Trustee Child"	4/5/2017
Deborah Bunse	"Kevin Child", "Trustee Child"	4/5/2017
Diana McAllister	"Kevin Child", "Trustee Child"	4/5/2017
Katie Hougland	"Kevin Child", "Trustee Child"	4/5/2017
Rosanne Richards	"Kevin Child", "Trustee Child"	4/5/2017
Susan Unaite,	"Kevin Child", "Trustee Child"	4/5/2017
A.J. Adams	"Kevin Child", "Trustee Child"	5/12/2017
Aalya Page	"Kevin Child", "Trustee Child"	5/12/2017
Alaina Criner	"Kevin Child", "Trustee Child"	5/12/2017
Alasha Woods	"Kevin Child", "Trustee Child"	5/12/2017
Alfred Pasquarelli	"Kevin Child", "Trustee Child"	5/12/2017
Alice Roybal Benson	"Kevin Child", "Trustee Child"	5/12/2017
Alyson Jones	"Kevin Child", "Trustee Child"	5/12/2017
Amanda L. Ruth	"Kevin Child", "Trustee Child"	5/12/2017
Amber Cross	"Kevin Child", "Trustee Child"	5/12/2017
Amy Herring Smith	"Kevin Child", "Trustee Child"	5/12/2017
Amy K. Adams	"Kevin Child", "Trustee Child"	5/12/2017
Amy Negrete	"Kevin Child", "Trustee Child"	5/12/2017
Amy Siembida	"Kevin Child", "Trustee Child"	5/12/2017
Amy Wagner	"Kevin Child", "Trustee Child"	5/12/2017
Amy Yacobovsky	"Kevin Child", "Trustee Child"	5/12/2017
AmyDockter-Rozar	"Kevin Child", "Trustee Child"	5/12/2017
Ana De Beauvernet	"Kevin Child", "Trustee Child"	5/12/2017
Andre D. Yates	"Kevin Child", "Trustee Child"	5/12/2017
Andre Long	"Kevin Child", "Trustee Child"	5/12/2017
Andre Long	"Kevin Child", "Trustee Child"	5/12/2017
Andrea Connolly	"Kevin Child", "Trustee Child"	5/12/2017
Andrea J. Clarke	"Kevin Child", "Trustee Child"	5/12/2017
Andrea Katona	"Kevin Child", "Trustee Child"	5/12/2017
Andrea Klafter-Rakita	"Kevin Child", "Trustee Child"	5/12/2017
Angela Jacobs	"Kevin Child", "Trustee Child"	5/12/2017
Anita Williams	"Kevin Child", "Trustee Child"	5/12/2017
Ann Angulo	"Kevin Child", "Trustee Child"	5/12/2017
Ann Schiller	"Kevin Child", "Trustee Child"	5/12/2017
Anna Bautista	"Kevin Child", "Trustee Child"	5/12/2017
Anna Belknap	"Kevin Child", "Trustee Child"	5/12/2017
Anna Hurst	"Kevin Child", "Trustee Child"	5/12/2017
Anne Grisham	"Kevin Child", "Trustee Child"	5/12/2017

AnneMarie Clark Stover	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Gelsone	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Hylton	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Lato Jr	"Kevin Child", "Trustee Child"	5/12/2017
Anthony Nunez	"Kevin Child", "Trustee Child"	5/12/2017
Antioniette (Brewer) Irby	"Kevin Child", "Trustee Child"	5/12/2017
Antonio Rael	"Kevin Child", "Trustee Child"	5/12/2017
April Key	"Kevin Child", "Trustee Child"	5/12/2017
April Key	"Kevin Child", "Trustee Child"	5/12/2017
April L. Valenzuela	"Kevin Child", "Trustee Child"	5/12/2017
Ariel Villalobos	"Kevin Child", "Trustee Child"	5/12/2017
Audrey Carroll	"Kevin Child", "Trustee Child"	5/12/2017
Ayoka Snipes	"Kevin Child", "Trustee Child"	5/12/2017
Barbara Collins	"Kevin Child", "Trustee Child"	5/12/2017
Barbara K. Lindsay	"Kevin Child", "Trustee Child"	5/12/2017
Barbara Perez	"Kevin Child", "Trustee Child"	5/12/2017
Barry Ackerman	"Kevin Child", "Trustee Child"	5/12/2017
Belinda Jones	"Kevin Child", "Trustee Child"	5/12/2017
Belinda Marentic	"Kevin Child", "Trustee Child"	5/12/2017
Belinda Schauer	"Kevin Child", "Trustee Child"	5/12/2017
Bency Manglicmot	"Kevin Child", "Trustee Child"	5/12/2017
Benjamin Day	"Kevin Child", "Trustee Child"	5/12/2017
Bevelyn Smothers	"Kevin Child", "Trustee Child"	5/12/2017
Beverly Huntsman	"Kevin Child", "Trustee Child"	5/12/2017
Billie Rayford	"Kevin Child", "Trustee Child"	5/12/2017
Brenda Swann	"Kevin Child", "Trustee Child"	5/12/2017
Brent Fujino	"Kevin Child", "Trustee Child"	5/12/2017
Brenton Lago	"Kevin Child", "Trustee Child"	5/12/2017
Brian Wiseman	"Kevin Child", "Trustee Child"	5/12/2017
Bridget Leatherman	"Kevin Child", "Trustee Child"	5/12/2017
Brodie Christian	"Kevin Child", "Trustee Child"	5/12/2017
Cailin Ellis	"Kevin Child", "Trustee Child"	5/12/2017
Carmen West	"Kevin Child", "Trustee Child"	5/12/2017
Carol Allred	"Kevin Child", "Trustee Child"	5/12/2017
Carol Erbach	"Kevin Child", "Trustee Child"	5/12/2017
Carol Foster	"Kevin Child", "Trustee Child"	5/12/2017
Carol L. Leonard	"Kevin Child", "Trustee Child"	5/12/2017
Carol Meltzer	"Kevin Child", "Trustee Child"	5/12/2017
Carolyn King	"Kevin Child", "Trustee Child"	5/12/2017
Caryl Suzuki	"Kevin Child", "Trustee Child"	5/12/2017
Cathleen Furtado	"Kevin Child", "Trustee Child"	5/12/2017
Cathy Conger	"Kevin Child", "Trustee Child"	5/12/2017
Cathy Maggiore	"Kevin Child", "Trustee Child"	5/12/2017

Cedric Cole	"Kevin Child", "Trustee Child"	5/12/2017
Celese Rayford	"Kevin Child", "Trustee Child"	5/12/2017
Celeste Oaks	"Kevin Child", "Trustee Child"	5/12/2017
Celia Isbell	"Kevin Child", "Trustee Child"	5/12/2017
Charles Tribuli	"Kevin Child", "Trustee Child"	5/12/2017
Chelsea Gibson	"Kevin Child", "Trustee Child"	5/12/2017
Cheryl joyce	"Kevin Child", "Trustee Child"	5/12/2017
Chris Gonzales	"Kevin Child", "Trustee Child"	5/12/2017
Chris Popek	"Kevin Child", "Trustee Child"	5/12/2017
Christina L. Saheb	"Kevin Child", "Trustee Child"	5/12/2017
Christine Miani	"Kevin Child", "Trustee Child"	5/12/2017
Christine Prosen	"Kevin Child", "Trustee Child"	5/12/2017
Christine Weiss	"Kevin Child", "Trustee Child"	5/12/2017
Christopher Lounsdbery	"Kevin Child", "Trustee Child"	5/12/2017
Christopher Sparrow	"Kevin Child", "Trustee Child"	5/12/2017
Christy Beaird	"Kevin Child", "Trustee Child"	5/12/2017
Cindy Krohn	"Kevin Child", "Trustee Child"	5/12/2017
Clarence Ehler	"Kevin Child", "Trustee Child"	5/12/2017
Clifford Hughes	"Kevin Child", "Trustee Child"	5/12/2017
Corean Mayorga	"Kevin Child", "Trustee Child"	5/12/2017
Cynthia Marlowe	"Kevin Child", "Trustee Child"	5/12/2017
Dana Roseman	"Kevin Child", "Trustee Child"	5/12/2017
Daniel Hungerford	"Kevin Child", "Trustee Child"	5/12/2017
Daniel Ward	"Kevin Child", "Trustee Child"	5/12/2017
Danielle Miller	"Kevin Child", "Trustee Child"	5/12/2017
Danny Eichelberger	"Kevin Child", "Trustee Child"	5/12/2017
Darlin Delgado	"Kevin Child", "Trustee Child"	5/12/2017
Darren Hall	"Kevin Child", "Trustee Child"	5/12/2017
Darren Sweikert	"Kevin Child", "Trustee Child"	5/12/2017
Darryl Wyatt	"Kevin Child", "Trustee Child"	5/12/2017
David Bechtel	"Kevin Child", "Trustee Child"	5/12/2017
David C. Wines	"Kevin Child", "Trustee Child"	5/12/2017
David Cortez	"Kevin Child", "Trustee Child"	5/12/2017
David Erbach	"Kevin Child", "Trustee Child"	5/12/2017
David Frydman	"Kevin Child", "Trustee Child"	5/12/2017
David Hudzick	"Kevin Child", "Trustee Child"	5/12/2017
David Rose	"Kevin Child", "Trustee Child"	5/12/2017
David W. McElwain	"Kevin Child", "Trustee Child"	5/12/2017
David Wilson	"Kevin Child", "Trustee Child"	5/12/2017
Dawn A. Burns	"Kevin Child", "Trustee Child"	5/12/2017
Dawn Estes	"Kevin Child", "Trustee Child"	5/12/2017
Deanna Kowal Jaskolski	"Kevin Child", "Trustee Child"	5/12/2017
Debbie Kral	"Kevin Child", "Trustee Child"	5/12/2017

Deborah Harbin	"Kevin Child", "Trustee Child"	5/12/2017
Deborah Palermo	"Kevin Child", "Trustee Child"	5/12/2017
Debra Jones	"Kevin Child", "Trustee Child"	5/12/2017
Del Bean	"Kevin Child", "Trustee Child"	5/12/2017
Demitrius Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Denise Murray	"Kevin Child", "Trustee Child"	5/12/2017
Dennis Kubala	"Kevin Child", "Trustee Child"	5/12/2017
Derek Bellow	"Kevin Child", "Trustee Child"	5/12/2017
Derek Stevens	"Kevin Child", "Trustee Child"	5/12/2017
Devan Jones	"Kevin Child", "Trustee Child"	5/12/2017
Devin P. Heintz	"Kevin Child", "Trustee Child"	5/12/2017
Diana Cockrell Albiston	"Kevin Child", "Trustee Child"	5/12/2017
Diane Lewis	"Kevin Child", "Trustee Child"	5/12/2017
Domenic Russo	"Kevin Child", "Trustee Child"	5/12/2017
Donald Kramer	"Kevin Child", "Trustee Child"	5/12/2017
Donna Levy	"Kevin Child", "Trustee Child"	5/12/2017
Dustin Mancl	"Kevin Child", "Trustee Child"	5/12/2017
Edward Maylock	"Kevin Child", "Trustee Child"	5/12/2017
Edward O'Connell	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth Carrero	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth Chandler	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth Katten	"Kevin Child", "Trustee Child"	5/12/2017
Elizabeth L Smith	"Kevin Child", "Trustee Child"	5/12/2017
Ellen Stayman	"Kevin Child", "Trustee Child"	5/12/2017
Elmer Mamzanares	"Kevin Child", "Trustee Child"	5/12/2017
Emil Wozniak	"Kevin Child", "Trustee Child"	5/12/2017
Eric P. Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Erica Etienne	"Kevin Child", "Trustee Child"	5/12/2017
Eugene Scavetta	"Kevin Child", "Trustee Child"	5/12/2017
Felice Kadlub	"Kevin Child", "Trustee Child"	5/12/2017
Felicia Gonzales	"Kevin Child", "Trustee Child"	5/12/2017
Florence Barker	"Kevin Child", "Trustee Child"	5/12/2017
Francis Hall	"Kevin Child", "Trustee Child"	5/12/2017
Frank Cooper	"Kevin Child", "Trustee Child"	5/12/2017
Frank Pesce III	"Kevin Child", "Trustee Child"	5/12/2017
Frederick Watson	"Kevin Child", "Trustee Child"	5/12/2017
Gary Prince	"Kevin Child", "Trustee Child"	5/12/2017
Georgia Taton	"Kevin Child", "Trustee Child"	5/12/2017
George Anas	"Kevin Child", "Trustee Child"	5/12/2017
George Leavans	"Kevin Child", "Trustee Child"	5/12/2017
Gia Moore	"Kevin Child", "Trustee Child"	5/12/2017
Gina Piccolo	"Kevin Child", "Trustee Child"	5/12/2017
Gina R. Harvey	"Kevin Child", "Trustee Child"	5/12/2017

Glen Hickey	"Kevin Child", "Trustee Child"	5/12/2017
Glenda Goetting	"Kevin Child", "Trustee Child"	5/12/2017
Glenn Manansala	"Kevin Child", "Trustee Child"	5/12/2017
Grant Hanevold	"Kevin Child", "Trustee Child"	5/12/2017
Greg Mingo	"Kevin Child", "Trustee Child"	5/12/2017
Greg Sneling	"Kevin Child", "Trustee Child"	5/12/2017
Greg Snelling	"Kevin Child", "Trustee Child"	5/12/2017
Gregory Cole	"Kevin Child", "Trustee Child"	5/12/2017
Gregory Jacobs	"Kevin Child", "Trustee Child"	5/12/2017
Gregory Misel	"Kevin Child", "Trustee Child"	5/12/2017
Greta A. Peay	"Kevin Child", "Trustee Child"	5/12/2017
Gwen Gibson	"Kevin Child", "Trustee Child"	5/12/2017
Heather Skramstad	"Kevin Child", "Trustee Child"	5/12/2017
Heidi M. Hoshibata	"Kevin Child", "Trustee Child"	5/12/2017
Henry Rodda	"Kevin Child", "Trustee Child"	5/12/2017
Hilary Jones	"Kevin Child", "Trustee Child"	5/12/2017
Holly Jaaks	"Kevin Child", "Trustee Child"	5/12/2017
Howard Gerrard	"Kevin Child", "Trustee Child"	5/12/2017
Ian Holmes	"Kevin Child", "Trustee Child"	5/12/2017
Isaac Stein	"Kevin Child", "Trustee Child"	5/12/2017
Jackie Richardson	"Kevin Child", "Trustee Child"	5/12/2017
Jackie Walker	"Kevin Child", "Trustee Child"	5/12/2017
Jaclynn L. Rasnick	"Kevin Child", "Trustee Child"	5/12/2017
Jacqueline Carducci	"Kevin Child", "Trustee Child"	5/12/2017
Jacqueline Gillespie	"Kevin Child", "Trustee Child"	5/12/2017
Jaime Ditto	"Kevin Child", "Trustee Child"	5/12/2017
Jaime Mckee	"Kevin Child", "Trustee Child"	5/12/2017
James Cavin	"Kevin Child", "Trustee Child"	5/12/2017
James Ertman	"Kevin Child", "Trustee Child"	5/12/2017
James Kuzma	"Kevin Child", "Trustee Child"	5/12/2017
Jamey Hood	"Kevin Child", "Trustee Child"	5/12/2017
Jamie Agresti	"Kevin Child", "Trustee Child"	5/12/2017
Jamie L. Gunderson	"Kevin Child", "Trustee Child"	5/12/2017
Jamie M. Brown	"Kevin Child", "Trustee Child"	5/12/2017
Janet Dobry	"Kevin Child", "Trustee Child"	5/12/2017
Janice Augente	"Kevin Child", "Trustee Child"	5/12/2017
Janice Messinger	"Kevin Child", "Trustee Child"	5/12/2017
Jason Fico	"Kevin Child", "Trustee Child"	5/12/2017
Jaymes Aimetti	"Kevin Child", "Trustee Child"	5/12/2017
Jayne G. Malorni	"Kevin Child", "Trustee Child"	5/12/2017
Jean King	"Kevin Child", "Trustee Child"	5/12/2017
Jean Reynolds	"Kevin Child", "Trustee Child"	5/12/2017
Jeanna Lefave	"Kevin Child", "Trustee Child"	5/12/2017

Jeanne M. Donadio	"Kevin Child", "Trustee Child"	5/12/2017
Jeanne Plese	"Kevin Child", "Trustee Child"	5/12/2017
Jefferey Hybarger	"Kevin Child", "Trustee Child"	5/12/2017
Jeffery Cooley	"Kevin Child", "Trustee Child"	5/12/2017
Jeffrey Geihs	"Kevin Child", "Trustee Child"	5/12/2017
Jeffrey Horn	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Boccia	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer French	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Furman-Born	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Hamby	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer J. Varrato	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Lile	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer M. Mayon	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer Newton	"Kevin Child", "Trustee Child"	5/12/2017
Jennifer T. Coleman Vobis	"Kevin Child", "Trustee Child"	5/12/2017
Jesse Welsh	"Kevin Child", "Trustee Child"	5/12/2017
Jessica R. Bouchte	"Kevin Child", "Trustee Child"	5/12/2017
Jessica R. Sifuentes	"Kevin Child", "Trustee Child"	5/12/2017
Jillyn Pendleton	"Kevin Child", "Trustee Child"	5/12/2017
Joan Lombard	"Kevin Child", "Trustee Child"	5/12/2017
Joanna Gerali-Schwartz	"Kevin Child", "Trustee Child"	5/12/2017
Joanne Donadio	"Kevin Child", "Trustee Child"	5/12/2017
Joanne N. Luttrell	"Kevin Child", "Trustee Child"	5/12/2017
Joanne Vattiato	"Kevin Child", "Trustee Child"	5/12/2017
Jody K. Myers	"Kevin Child", "Trustee Child"	5/12/2017
Joe Caruso	"Kevin Child", "Trustee Child"	5/12/2017
Joe Caruso	"Kevin Child", "Trustee Child"	5/12/2017
Joe Murphy	"Kevin Child", "Trustee Child"	5/12/2017
John Anzalone	"Kevin Child", "Trustee Child"	5/12/2017
John Haynal	"Kevin Child", "Trustee Child"	5/12/2017
John Heidron	"Kevin Child", "Trustee Child"	5/12/2017
John Lynch	"Kevin Child", "Trustee Child"	5/12/2017
John Pecce	"Kevin Child", "Trustee Child"	5/12/2017
John W. Lockhart	"Kevin Child", "Trustee Child"	5/12/2017
Jolene R. Markwith	"Kevin Child", "Trustee Child"	5/12/2017
Jon Herring	"Kevin Child", "Trustee Child"	5/12/2017
Jorge Delgado-Ortiz	"Kevin Child", "Trustee Child"	5/12/2017
Joseph Dusenbery Jr	"Kevin Child", "Trustee Child"	5/12/2017
Joseph Rekrut	"Kevin Child", "Trustee Child"	5/12/2017
Joseph Uy	"Kevin Child", "Trustee Child"	5/12/2017
Joshua Hager	"Kevin Child", "Trustee Child"	5/12/2017
Joshua Miller	"Kevin Child", "Trustee Child"	5/12/2017
Joy Lea	"Kevin Child", "Trustee Child"	5/12/2017

Joyce Herreria	"Kevin Child", "Trustee Child"	5/12/2017
Juanita Frasier	"Kevin Child", "Trustee Child"	5/12/2017
Juareen Castillo	"Kevin Child", "Trustee Child"	5/12/2017
Judy Jordahl	"Kevin Child", "Trustee Child"	5/12/2017
Kalandra Sheppard	"Kevin Child", "Trustee Child"	5/12/2017
Karen A. Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Karen Diamond	"Kevin Child", "Trustee Child"	5/12/2017
Karen Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Karen Smallwood	"Kevin Child", "Trustee Child"	5/12/2017
Karen West	"Kevin Child", "Trustee Child"	5/12/2017
Kathy Konowalow	"Kevin Child", "Trustee Child"	5/12/2017
Kathy Kulas	"Kevin Child", "Trustee Child"	5/12/2017
Kathy L. Mead	"Kevin Child", "Trustee Child"	5/12/2017
Kathy Mead	"Kevin Child", "Trustee Child"	5/12/2017
Katie Decker	"Kevin Child", "Trustee Child"	5/12/2017
Keith France	"Kevin Child", "Trustee Child"	5/12/2017
Keith Wipperman	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Bucherie	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Grondahl	"Kevin Child", "Trustee Child"	5/12/2017
Kelly O'Rourke	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Rafalski	"Kevin Child", "Trustee Child"	5/12/2017
Kelly Reed	"Kevin Child", "Trustee Child"	5/12/2017
Kemala Washington	"Kevin Child", "Trustee Child"	5/12/2017
Kenneth Paul	"Kevin Child", "Trustee Child"	5/12/2017
Kenneth Sobaszek	"Kevin Child", "Trustee Child"	5/12/2017
Kenneth Wronski	"Kevin Child", "Trustee Child"	5/12/2017
Kent Roberts	"Kevin Child", "Trustee Child"	5/12/2017
Kerry Pope	"Kevin Child", "Trustee Child"	5/12/2017
Kevin McPartlin	"Kevin Child", "Trustee Child"	5/12/2017
Kim Grytdahl	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Bass	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Cunningham	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Daniels	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly F. Moody	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Loomis	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Mangino	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly S. Wooden	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Swoboda	"Kevin Child", "Trustee Child"	5/12/2017
Kimberly Hammond	"Kevin Child", "Trustee Child"	5/12/2017
Kip Krzmarzick	"Kevin Child", "Trustee Child"	5/12/2017
Kody Barto	"Kevin Child", "Trustee Child"	5/12/2017
Kori Deal	"Kevin Child", "Trustee Child"	5/12/2017
Kris Huffman	"Kevin Child", "Trustee Child"	5/12/2017

Krista Yarberry	"Kevin Child", "Trustee Child"	5/12/2017
Kristen L. Patrick	"Kevin Child", "Trustee Child"	5/12/2017
Kristian Ryerson	"Kevin Child", "Trustee Child"	5/12/2017
Kristie Cole	"Kevin Child", "Trustee Child"	5/12/2017
Kristy Keller	"Kevin Child", "Trustee Child"	5/12/2017
Kristy Keller	"Kevin Child", "Trustee Child"	5/12/2017
Kurt Arnold	"Kevin Child", "Trustee Child"	5/12/2017
Larraine Blume	"Kevin Child", "Trustee Child"	5/12/2017
Larry McHargue	"Kevin Child", "Trustee Child"	5/12/2017
Laura Denué	"Kevin Child", "Trustee Child"	5/12/2017
Laura Dickensheets	"Kevin Child", "Trustee Child"	5/12/2017
Laure Forsberg	"Kevin Child", "Trustee Child"	5/12/2017
Lea Chua	"Kevin Child", "Trustee Child"	5/12/2017
Lee Douglass	"Kevin Child", "Trustee Child"	5/12/2017
Lee Esplin	"Kevin Child", "Trustee Child"	5/12/2017
Lee Koelliker	"Kevin Child", "Trustee Child"	5/12/2017
Lewis H. Layton	"Kevin Child", "Trustee Child"	5/12/2017
Lewis Layton	"Kevin Child", "Trustee Child"	5/12/2017
Lezlie Funchess	"Kevin Child", "Trustee Child"	5/12/2017
Lezlie Koepp	"Kevin Child", "Trustee Child"	5/12/2017
Linda Burns	"Kevin Child", "Trustee Child"	5/12/2017
Linda M. Bostic	"Kevin Child", "Trustee Child"	5/12/2017
Lindsay Tomlinson	"Kevin Child", "Trustee Child"	5/12/2017
Linnea Westwood	"Kevin Child", "Trustee Child"	5/12/2017
Lisa Cano Burkhead	"Kevin Child", "Trustee Child"	5/12/2017
Lisa M. Jackson	"Kevin Child", "Trustee Child"	5/12/2017
Lisa McKenrick	"Kevin Child", "Trustee Child"	5/12/2017
Lisa Medina	"Kevin Child", "Trustee Child"	5/12/2017
Lisa Rustand	"Kevin Child", "Trustee Child"	5/12/2017
Lolo James	"Kevin Child", "Trustee Child"	5/12/2017
Loretta D. Asay	"Kevin Child", "Trustee Child"	5/12/2017
Lori Andrews	"Kevin Child", "Trustee Child"	5/12/2017
Lori Desiderato	"Kevin Child", "Trustee Child"	5/12/2017
Lori Lawson Sarabyn	"Kevin Child", "Trustee Child"	5/12/2017
Lorna James-Cervantes	"Kevin Child", "Trustee Child"	5/12/2017
Lory A. Hayon	"Kevin Child", "Trustee Child"	5/12/2017
Lucy Keaton	"Kevin Child", "Trustee Child"	5/12/2017
Lynda Pearson	"Kevin Child", "Trustee Child"	5/12/2017
Lynn E. Trell	"Kevin Child", "Trustee Child"	5/12/2017
Lynne Ruegamer	"Kevin Child", "Trustee Child"	5/12/2017
Marbella Alfonzo	"Kevin Child", "Trustee Child"	5/12/2017
Marcell Farnsworth	"Kevin Child", "Trustee Child"	5/12/2017
Marcus Mason	"Kevin Child", "Trustee Child"	5/12/2017

Margaret Froby	"Kevin Child", "Trustee Child"	5/12/2017
Margaret Harmon	"Kevin Child", "Trustee Child"	5/12/2017
Margarita Gamboa	"Kevin Child", "Trustee Child"	5/12/2017
Maribel Mcadory	"Kevin Child", "Trustee Child"	5/12/2017
Mario Quinonez	"Kevin Child", "Trustee Child"	5/12/2017
Mark Dominguez	"Kevin Child", "Trustee Child"	5/12/2017
Mark Jones	"Kevin Child", "Trustee Child"	5/12/2017
Mark Oakden	"Kevin Child", "Trustee Child"	5/12/2017
Mark Ralston	"Kevin Child", "Trustee Child"	5/12/2017
Mark Schumm	"Kevin Child", "Trustee Child"	5/12/2017
Martha Slack	"Kevin Child", "Trustee Child"	5/12/2017
Martin Rasmussen	"Kevin Child", "Trustee Child"	5/12/2017
Mary E. Pike	"Kevin Child", "Trustee Child"	5/12/2017
Mary Hafner	"Kevin Child", "Trustee Child"	5/12/2017
Mary Scialabba	"Kevin Child", "Trustee Child"	5/12/2017
MaryAnn Mueller	"Kevin Child", "Trustee Child"	5/12/2017
Maureen Langenbach	"Kevin Child", "Trustee Child"	5/12/2017
Maureen Stout	"Kevin Child", "Trustee Child"	5/12/2017
Maurice Perkins	"Kevin Child", "Trustee Child"	5/12/2017
Meg Nigro	"Kevin Child", "Trustee Child"	5/12/2017
Melanie kakalo	"Kevin Child", "Trustee Child"	5/12/2017
Melonie Poster	"Kevin Child", "Trustee Child"	5/12/2017
Merry Sillitoe	"Kevin Child", "Trustee Child"	5/12/2017
Michael D. Gentry	"Kevin Child", "Trustee Child"	5/12/2017
Michael Darby	"Kevin Child", "Trustee Child"	5/12/2017
Michael Englert	"Kevin Child", "Trustee Child"	5/12/2017
Michael Kennedy	"Kevin Child", "Trustee Child"	5/12/2017
Michael O'Dowd	"Kevin Child", "Trustee Child"	5/12/2017
Michael Piccininni	"Kevin Child", "Trustee Child"	5/12/2017
Michael Sharpan	"Kevin Child", "Trustee Child"	5/12/2017
Michael W. Malich	"Kevin Child", "Trustee Child"	5/12/2017
Michael Wilson	"Kevin Child", "Trustee Child"	5/12/2017
Michele Wooldridge	"Kevin Child", "Trustee Child"	5/12/2017
Michelle Adams	"Kevin Child", "Trustee Child"	5/12/2017
Michelle Booth	"Kevin Child", "Trustee Child"	5/12/2017
Michelle Case	"Kevin Child", "Trustee Child"	5/12/2017
Mike Barton	"Kevin Child", "Trustee Child"	5/12/2017
Mike Houle	"Kevin Child", "Trustee Child"	5/12/2017
Mikie Young	"Kevin Child", "Trustee Child"	5/12/2017
Mindi Martinez	"Kevin Child", "Trustee Child"	5/12/2017
Miriam Benitez	"Kevin Child", "Trustee Child"	5/12/2017
Misti Taton	"Kevin Child", "Trustee Child"	5/12/2017
Monica Cortez	"Kevin Child", "Trustee Child"	5/12/2017

Monica Lang	"Kevin Child", "Trustee Child"	5/12/2017
Mork Connors	"Kevin Child", "Trustee Child"	5/12/2017
Naji Mehanna	"Kevin Child", "Trustee Child"	5/12/2017
Nancy Heavey	"Kevin Child", "Trustee Child"	5/12/2017
Nathan Miller	"Kevin Child", "Trustee Child"	5/12/2017
Nathaniel Whitney Jr	"Kevin Child", "Trustee Child"	5/12/2017
Neddy Alvarez	"Kevin Child", "Trustee Child"	5/12/2017
Nicole Coloma	"Kevin Child", "Trustee Child"	5/12/2017
Nicole Lehman-Donadio	"Kevin Child", "Trustee Child"	5/12/2017
Nicole Rourke	"Kevin Child", "Trustee Child"	5/12/2017
Nikki Thorn	"Kevin Child", "Trustee Child"	5/12/2017
Nina M. Papazis	"Kevin Child", "Trustee Child"	5/12/2017
Norberta Anderson	"Kevin Child", "Trustee Child"	5/12/2017
Norma Herrera	"Kevin Child", "Trustee Child"	5/12/2017
Northey Henderson	"Kevin Child", "Trustee Child"	5/12/2017
Oscar Winchester Jr	"Kevin Child", "Trustee Child"	5/12/2017
Pamela Hays	"Kevin Child", "Trustee Child"	5/12/2017
Pamela Simone	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Blomstrom	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Cobb	"Kevin Child", "Trustee Child"	5/12/2017
Patricia DeClercq	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Garcia	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Harris	"Kevin Child", "Trustee Child"	5/12/2017
Patricia McKeegan	"Kevin Child", "Trustee Child"	5/12/2017
Patti Schultz	"Kevin Child", "Trustee Child"	5/12/2017
Patricia Schepers	"Kevin Child", "Trustee Child"	5/12/2017
Patty Rosales	"Kevin Child", "Trustee Child"	5/12/2017
Patty Rosales	"Kevin Child", "Trustee Child"	5/12/2017
Paul Catania	"Kevin Child", "Trustee Child"	5/12/2017
Paul E. Shelley	"Kevin Child", "Trustee Child"	5/12/2017
Paul Fagone	"Kevin Child", "Trustee Child"	5/12/2017
Paula Naegle	"Kevin Child", "Trustee Child"	5/12/2017
Pauline Mills	"Kevin Child", "Trustee Child"	5/12/2017
R Leyva	"Kevin Child", "Trustee Child"	5/12/2017
Rachelle L. Nearn-Mooreh	"Kevin Child", "Trustee Child"	5/12/2017
Ramona Esparza	"Kevin Child", "Trustee Child"	5/12/2017
Randal Adams	"Kevin Child", "Trustee Child"	5/12/2017
Randy Cheung	"Kevin Child", "Trustee Child"	5/12/2017
Ray Mathis	"Kevin Child", "Trustee Child"	5/12/2017
Raymond Negrete	"Kevin Child", "Trustee Child"	5/12/2017
Rebecca A. Johnson	"Kevin Child", "Trustee Child"	5/12/2017
Rebecca Tschinkel	"Kevin Child", "Trustee Child"	5/12/2017
Reece Oswalt	"Kevin Child", "Trustee Child"	5/12/2017

Reid Kimoto	"Kevin Child", "Trustee Child"	5/12/2017
Rene Cazier	"Kevin Child", "Trustee Child"	5/12/2017
Rhonda R. Aviles	"Kevin Child", "Trustee Child"	5/12/2017
Ricardo Meza	"Kevin Child", "Trustee Child"	5/12/2017
Rich Muraco	"Kevin Child", "Trustee Child"	5/12/2017
Richard Blanchard	"Kevin Child", "Trustee Child"	5/12/2017
Rick Ditondo	"Kevin Child", "Trustee Child"	5/12/2017
Rick McEnaney	"Kevin Child", "Trustee Child"	5/12/2017
Rick Neal	"Kevin Child", "Trustee Child"	5/12/2017
Rick Winget	"Kevin Child", "Trustee Child"	5/12/2017
RoAnn Triana	"Kevin Child", "Trustee Child"	5/12/2017
Robert Gerye	"Kevin Child", "Trustee Child"	5/12/2017
Robert Henry	"Kevin Child", "Trustee Child"	5/12/2017
Robert Hinchliffe	"Kevin Child", "Trustee Child"	5/12/2017
Robert Jones	"Kevin Child", "Trustee Child"	5/12/2017
Robert Mars	"Kevin Child", "Trustee Child"	5/12/2017
Robert Park	"Kevin Child", "Trustee Child"	5/12/2017
Robert Solomon	"Kevin Child", "Trustee Child"	5/12/2017
Robert Tarter	"Kevin Child", "Trustee Child"	5/12/2017
Robinrenee Wilson	"Kevin Child", "Trustee Child"	5/12/2017
Rod Adams	"Kevin Child", "Trustee Child"	5/12/2017
Rod Knowles	"Kevin Child", "Trustee Child"	5/12/2017
Rodericks Fobbs	"Kevin Child", "Trustee Child"	5/12/2017
Rodney Saunders	"Kevin Child", "Trustee Child"	5/12/2017
Ron Mader	"Kevin Child", "Trustee Child"	5/12/2017
Ron Schroeder	"Kevin Child", "Trustee Child"	5/12/2017
Ronnie Guerzon	"Kevin Child", "Trustee Child"	5/12/2017
Roxanne Kelley	"Kevin Child", "Trustee Child"	5/12/2017
Ryan Lewis	"Kevin Child", "Trustee Child"	5/12/2017
Ryan Merritt	"Kevin Child", "Trustee Child"	5/12/2017
Samuel Rado	"Kevin Child", "Trustee Child"	5/12/2017
Sandra Ransel	"Kevin Child", "Trustee Child"	5/12/2017
Sandy Ginger	"Kevin Child", "Trustee Child"	5/12/2017
Sara S. Swanson	"Kevin Child", "Trustee Child"	5/12/2017
Sarah Popek	"Kevin Child", "Trustee Child"	5/12/2017
Scarlett Perryman	"Kevin Child", "Trustee Child"	5/12/2017
Scott Du Chateau	"Kevin Child", "Trustee Child"	5/12/2017
Scott Fligor	"Kevin Child", "Trustee Child"	5/12/2017
Scott Walker	"Kevin Child", "Trustee Child"	5/12/2017
Sean Davis	"Kevin Child", "Trustee Child"	5/12/2017
Seth Singer	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Donlin	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Evans	"Kevin Child", "Trustee Child"	5/12/2017

Shannon LaNeve	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Schumm	"Kevin Child", "Trustee Child"	5/12/2017
Shannon Williamson	"Kevin Child", "Trustee Child"	5/12/2017
ShannonKelly Smith	"Kevin Child", "Trustee Child"	5/12/2017
Sharlette Redick	"Kevin Child", "Trustee Child"	5/12/2017
Sharon Popolo	"Kevin Child", "Trustee Child"	5/12/2017
Shaun Cochran-Hall	"Kevin Child", "Trustee Child"	5/12/2017
Shawn Halland	"Kevin Child", "Trustee Child"	5/12/2017
Shawn Nielsen	"Kevin Child", "Trustee Child"	5/12/2017
Shawn Paquette	"Kevin Child", "Trustee Child"	5/12/2017
Shawna Jessen	"Kevin Child", "Trustee Child"	5/12/2017
Sheila Fredi Cooper	"Kevin Child", "Trustee Child"	5/12/2017
Sherian McGlothen	"Kevin Child", "Trustee Child"	5/12/2017
Sherrie Gahn	"Kevin Child", "Trustee Child"	5/12/2017
Sheryl Colgan	"Kevin Child", "Trustee Child"	5/12/2017
Sommano Singharath	"Kevin Child", "Trustee Child"	5/12/2017
Sonya Holdsworth	"Kevin Child", "Trustee Child"	5/12/2017
Spencer Beals	"Kevin Child", "Trustee Child"	5/12/2017
Stacey Scott	"Kevin Child", "Trustee Child"	5/12/2017
Stacey White	"Kevin Child", "Trustee Child"	5/12/2017
Stanley Madison	"Kevin Child", "Trustee Child"	5/12/2017
Stefanie Machin	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie C. Landeros	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie Hirsch Morgan	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie Taylor	"Kevin Child", "Trustee Child"	5/12/2017
Stephanie Wong	"Kevin Child", "Trustee Child"	5/12/2017
Steve Piccininni	"Kevin Child", "Trustee Child"	5/12/2017
Susan Echols	"Kevin Child", "Trustee Child"	5/12/2017
Susan Harrison	"Kevin Child", "Trustee Child"	5/12/2017
Susan M. DeHart	"Kevin Child", "Trustee Child"	5/12/2017
Susan M. Smith	"Kevin Child", "Trustee Child"	5/12/2017
Susan M. Smith	"Kevin Child", "Trustee Child"	5/12/2017
Susan Tully Karout	"Kevin Child", "Trustee Child"	5/12/2017
Tam Larnerd	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Cullum Boffelli	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Malich	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Malich	"Kevin Child", "Trustee Child"	5/12/2017
Tammy Villareal-Crabb	"Kevin Child", "Trustee Child"	5/12/2017
Tara Imboden	"Kevin Child", "Trustee Child"	5/12/2017
Tedone Phengrasamee	"Kevin Child", "Trustee Child"	5/12/2017
Teresa Holden	"Kevin Child", "Trustee Child"	5/12/2017
Terri Knepp	"Kevin Child", "Trustee Child"	5/12/2017
Thomas Gerbracht	"Kevin Child", "Trustee Child"	5/12/2017

Tim Stephens	"Kevin Child", "Trustee Child"	5/12/2017
Timothy Adams	"Kevin Child", "Trustee Child"	5/12/2017
Timothy J. Jackson	"Kevin Child", "Trustee Child"	5/12/2017
Tina Statucki	"Kevin Child", "Trustee Child"	5/12/2017
Toby Babina	"Kevin Child", "Trustee Child"	5/12/2017
Todd Lindberg	"Kevin Child", "Trustee Child"	5/12/2017
Tony Davis	"Kevin Child", "Trustee Child"	5/12/2017
Traci Holloway	"Kevin Child", "Trustee Child"	5/12/2017
Travis Warnick	"Kevin Child", "Trustee Child"	5/12/2017
Trent Day	"Kevin Child", "Trustee Child"	5/12/2017
Tya R. Mathis	"Kevin Child", "Trustee Child"	5/12/2017
Tyler Hall	"Kevin Child", "Trustee Child"	5/12/2017
Virginia Ratliff	"Kevin Child", "Trustee Child"	5/12/2017
Wanda Renfrow	"Kevin Child", "Trustee Child"	5/12/2017
Warren Mckay	"Kevin Child", "Trustee Child"	5/12/2017
Wendy DeMille	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Garrett	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Phelps	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Phelps	"Kevin Child", "Trustee Child"	5/12/2017
Wendy Roselinsky	"Kevin Child", "Trustee Child"	5/12/2017
William Silva	"Kevin Child", "Trustee Child"	5/12/2017
Zachary M. Stork	"Kevin Child", "Trustee Child"	5/12/2017
Zachary Robbins	"Kevin Child", "Trustee Child"	5/12/2017
Angelica Montalvo	"Kevin Child", "Trustee Child"	5/15/2017
Linda Mellies	"Kevin Child", "Trustee Child"	5/15/2017

EXHIBIT “B”

STATE OF NEVADA)) ss:
COUNTY OF CLARK)

1. I am currently employed by the Clark County School District as the Chief Technology Officer. I have been employed in this position for approximately 3 years.

3. I have reviewed the setting on Superintendent Pat Skorkowsky's email and it is set at no expiration or "never", which means Mr. Skorkowsky's emails are not auto deleted.

5. On May 10, 2017, I was informed that the court had ordered additional searches. As I result, I was directed to return from a work related business trip in Washington D.C. to return to Las Vegas to conduct additional searches, which I began on May 10, 2017 and completed on May 12, 2017.

Dated 10/31/17



DAN WRAY

EXHIBIT “C”

CERTIFICATION OF CYNTHIA SMITH-JOHNSON

I, CYNTHIA SMITH-JOHNSON, certify as follows:

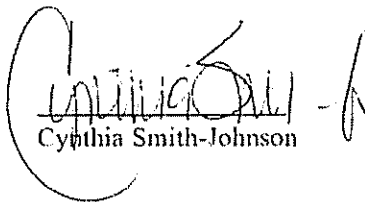
1. I am employed by Clark County School District ("CCSD" or "the District") in the Office of Community and Government Relations and work full time processing and responding to public records requests. I make this certification based on my personal knowledge and experience. If called as a witness, I could and would competently testify to the facts set forth herein.
2. I have been in my current position for approximately 6 years. Prior to my current position processing public records requests, I was a Document Control Specialist for CCSD's Process Management department for 6 years. I have a Bachelor's of Science Degree in Psychology from the University of Nevada, Las Vegas.
3. As of the executing of this Certification, I have personally reviewed 11,907 emails provided by Dan Wray, Executive Director of Technology Information Systems Department, between the dates of May 10, 2017 and May 15, 2017, to identify emails responsive to the December and February records requests by the Las Vegas Review Journal.
4. My review included emails of all principals in the District, which I reviewed on 5/10/17 and 5/11/17; all persons identified as a person who sent, received or were cc'd on any of the emails produced responsive to the December requests including persons in group emails (Cedric Cole was among persons searched based on his email address being in the group emails) (5/11/17, 5/12/17 and 5/15/17); and the support staff of the Office of Diversity (5/15/17).
5. As a result of my review of the 11,907 emails, I identified 43 pages that I believed may be responsive to the records requests notwithstanding federal student privacy laws and privileges under NRS Ch. 239.

6 I provided those 43 pages to the CCSD legal office wherein it is my understanding they make final determinations regarding whether a document is responsive to a given request(s) and ultimately produced, redacted or withheld.

7 I reviewed all emails diligently and to the best of my ability to ensure the accuracy of my review

I certify under penalty of perjury that the foregoing is true and correct.

Dated 5/25/17


Cynthia Smith-Johnson