

1 **IN THE SUPREME COURT OF THE STATE OF NEVADA**

2 * * * *

3 JAPONICA GLOVER-ARMONT,

4 APPELLANT,

5 VS.

6 JOHN CARGILE; CITY OF NORTH
7 LAS VEGAS, A MUNICIPAL
8 CORPORATION EXISTING UNDER
9 THE LAWS OF THE STATE OF
10 NEVADA IN THE COUNTY OF
11 CLARK;

12 RESPONDENTS.

 Electronically Filed
 May 23 2017 09:00 a.m.
CASE NO.: 70988 Elizabeth A. Brown
 Clerk of Supreme Court

13 APPEAL FROM ORDER GRANTING RECONSIDERATION OF DEFENDANTS'
14 MOTION FOR SUMMARY JUDGMENT

15 AND

16 APPEAL FROM ORDER GRANTING SUMMARY JUDGMENT
17 EIGHTH JUDICIAL DISTRICT COURT, CLARK COUNTY, NEVADA
18 HONORABLE WILLIAM KEPHART, DISTRICT JUDGE

19 **APPELLANT'S APPENDIX**

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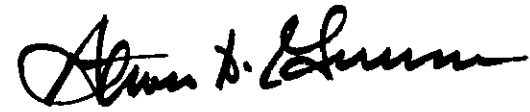
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33	Stipulation and Order to Stay Execution of the Judgment Pending the Appeal	October 27, 2016	5	1008-1009



CLERK OF THE COURT

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-13-683211-C

Dept. No. XIX

**DEFENDANTS' REPLY IN SUPPORT
OF MOTION FOR
RECONSIDERATION**

**Hearing date: May 31, 2016
Hearing time: 9:00 a.m.**

Defendants City of North Las Vegas ("City") and Sergeant John Cargile ("Cargile"), by and through their attorneys, hereby submit their Reply in Support of Motion for Reconsideration. This Reply is based upon the following Memorandum of Points and Authorities, the papers and pleadings on file, and any oral argument the Court may entertain.

DATED this 24th day of May, 2016.

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1 **REPLY**

2 **I.**

3 **THE MOTION FOR RECONSIDERATION IS PROPER AS IT RAISES**
4 **A NEW ISSUE OF LAW WHICH HAS BEEN OVERLOOKED.**

5 In her Opposition to the present Motion for Reconsideration, Plaintiff argues that the Motion
6 is improper as no new matters are raised. As Plaintiff states, “The primary purpose of a motion for
7 reconsideration is to inform the Court that it has overlooked an important argument or fact, or
8 misunderstood a statute.” Opposition at 3, citing In re: Ross, 99 Nev. 657, 659, 668 P.2d 1089
9 (1983).

10 The present Motion is appropriate because it addresses (1) a point of law which the Court
11 overlooked, and (2) a statute which the Court has not properly applied. As set forth in the Motion,
12 discretionary immunity bars negligence claims when a public officer is engaged in a discretionary act,
13 and his actions are related to a public policy. While the Court felt that such discretion cannot be
14 “unfettered,” the Court likely did not consider that the actual limits on such immunity are (1) bad faith
15 conduct and (2) intentional torts. The limits of discretionary immunity were discussed in Franchise
16 Tax Bd. of Cal. v. Hyatt, 130 Nev. Adv. Op. 71, 335 P.3d 125, 136 (Nev. 2014). As the Nevada
17 Supreme Court explained,

18 The Falline court expressly addressed NRS 41.032(2)'s language that there is immunity
19 “whether or not the discretion involved is abused.” Falline v. GNLV Corp., 107 Nev. 1004,
20 1009 n. 3, 823 P.2d at 892 n. 3. The court determined that **bad faith is different from an**
21 **abuse of discretion**, in that an **abuse of discretion occurs when a person acts within his**
22 **or her authority but the action lacks justification**, while bad faith “involves an
23 implemented attitude that **completely transcends the circumference of authority granted**”
24 to the actor. Id.

25 The Falline court also explained bad faith conduct in this context as follows:

26 Stated otherwise, **an abuse of discretion is characterized by an application of**
27 **unreasonable judgment to a decision that is within the actor's rightful prerogatives**,
28 whereas an act of **bad faith has no relationship to a rightful prerogative** even if the result
is ostensibly within the actor's ambit of authority.

Id. This explanation of the limits of discretionary immunity was not discussed in the prior hearing
of this matter, and as such is a new point of law which the Court likely did not consider. As applied
to the present case, it is undisputed that Cargile was a police officer responding to an emergency
when he entered the intersection where the accident occurred. As such, his actions were within his

1 authority. Even if Plaintiff is correct that his actions in doing so “lacked justification,” or involved
2 “unreasonable judgment,” such conduct would still only arise to an “abuse of discretion,” for which
3 Cargile and the City are immune from liability under NRS 41.032. While the Court expressed
4 concern that a jury should have a chance to determine “whether or not his discretion to enter the
5 intersection in the manner he did was proper or not,”¹ discretionary immunity still bars Plaintiff’s
6 claims, because NRS 41.032 applies “whether or not the discretion involved is abused.”

7 **II.**

8 **CARGILE DID NOT ACT IN BAD FAITH.**

9 Plaintiff next argues that Cargile acted in bad faith, with no argument at all other than stating,
10 “[H]ere, the City of North Las Vegas acted with actual ‘bad faith’ as defined by Franchise Tax Bd.
11 of Cal and Falline because the City’s misconduct is unrelated to any plausible policy objective and
12 should not be shielded from liability.” Opposition at 5. No explanation whatsoever is made as to
13 how Cargile’s actions in responding to an emergency call are unrelated to any public policy objective.
14 As discussed in the Motion for Summary Judgment, Cargile’s actions were absolutely in furtherance
15 of public policies such as preventing crime and protecting the public. For Plaintiff to argue “bad
16 faith” in this context, she would have to argue that Cargile’s actions in responding to the emergency
17 call “completely transcend the circumference of his authority, or that they bore “no relationship to
18 a rightful prerogative.” Franchise Tax Bd. of Cal., supra; Falline, supra. To the contrary, Cargile was
19 doing exactly what he was required to do in furtherance of his oath as a police officer: responding
20 to an emergency call of shots fired, enforcing the law, and protecting the public. Plaintiff’s assertion
21 that a police officer is acting outside his authority while doing precisely what he has been tasked with
22 doing is nonsense.

23 **III.**

24 **PLAINTIFF’S CASES REGARDING DUE CARE ARE INAPPLICABLE.**

25 Finally, Plaintiff argues that the City is not immune for failure to use due care. However, the
26 cases she cites are the same ones cited in her Opposition to the underlying Motion for Summary
27

28 ¹ See Transcript at 19:24 - 20:8, attached to the Motion for Reconsideration.

1 Judgment, which are easily distinguished.

2 In Williams v. City of North Las Vegas, 91 Nev. 622, 541 P.2d 652 (1975), a wrongful death
3 claim was brought against the City for its failure to inspect for a dangerous condition. The City was
4 liable because it had a *contractual* duty to inspect as part of its agreement with Nevada Power
5 Company, and the Nevada Supreme Court found that the decedent was a third-party beneficiary of
6 that contract. Id. at 625-627. The holding in Williams has absolutely nothing to do with
7 discretionary immunity.

8 Plaintiff also again relies on Johnson v. Brown, 75 Nev. 437, 345 P.2d 754 (1959), and Avery
9 v. Gilliam, 97 Nev. 181, 625 P.2d 1166 (1981), but these cases also do not involve discretionary
10 immunity. Johnson is of no instructive use to the court as it *predates* NRS 41.032, which was not
11 enacted until 1965. Discretionary immunity as we know it was not available as a defense. Avery is
12 no better, as the errant driver was not a public employee. Rather, he was employed by Mercy
13 Ambulance, and as such would not have discretionary immunity under NRS 41.032.² None of the
14 cases relied upon by Plaintiff address discretionary immunity, and therefore are of no use to the Court
15 in this matter.

16 The cases that *do* address discretionary immunity favor summary judgment in favor of the
17 City. It is undisputed that Cargile was engaged in a discretionary act, driving his vehicle to the scene
18 of a crime in response to an emergency call. It is undisputed that such conduct was in furtherance
19 of public policy, including the prevention of crime and protection of the public. When a public officer
20 is engaged in a discretionary act, and that act is related to or in furtherance of public policy, the public
21 officer is immune from liability. Martinez v. Maruszczak, 123 Nev. 433, 439, 446–47, 168 P.3d 720,
22 724, 729 (2007). Cargile would not be immune for intentional torts, which are not alleged in this
23 case. Cargile would also not be immune for actions taken in bad faith. However, Cargile was
24

25 ² Furthermore, the ruling in Avery hinged on the driver of the ambulance entering the
26 intersection without sirens. Doing so was a clear violation of NRS 484.261 as it existed at that
27 time, as the statute (eventually re-titled as NRS 484B.700) required both “audible and visual
28 signals.” NRS 484.261 was amended in 2001 to permit either (1) audible and visual signals, *or*
(2) visual signals only. In the present case, Plaintiff does not dispute that Cargile had his
emergency lights on, and therefore he was in compliance with NRS 484B.700.

1 absolutely acting within his authority when he drove through the intersection, as he was doing so as
2 part of his sworn duty to respond to the emergency call and enforce the law. Even if Plaintiff is
3 correct that he made a poor decision, or his actions “lacked justification,” or involved “unreasonable
4 judgment,” his actions would still only amount to an abuse of discretion, for which he remains
5 immune from liability under NRS 41.032. Franchise Tax Bd. of Cal., supra; Falline, supra.

6 **IV.**

7 **CONCLUSION.**

8 Cargile, and by extension the City, are immune from liability in this case because Cargile was
9 engaged in a discretionary act which required elements of judgment and choice, and his actions were
10 in furtherance of public policy. Because he was within his authority to respond to the emergency call,
11 which he is sworn to do as a police officer, any error in judgment would still only amount to an abuse
12 of discretion. As NRS 41.032 grants immunity even if his discretion is abused, Cargile and the City
13 are immune from liability even if Plaintiff could show negligence. Accordingly, the present Motion
14 for Reconsideration should be granted, and the underlying Motion for Summary Judgment should be
15 granted in favor of Cargile and the City on all claims against them.

16 DATED this 24th day of May, 2016.

17 NORTH LAS VEGAS CITY ATTORNEY

18
19 /s/ Christopher D. Craft
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28

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that service of a true and correct copy of the **DEFENDANTS'**
3 **REPLY IN SUPPORT OF MOTION FOR RECONSIDERATION** was made on the 24th day
4 of May, 2016, as indicated below:

- 5 √ By electronic service, pursuant to N.E.F.C.R. 9
6 By first class mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P.
7 5(b) addressed as follows
8 By facsimile, pursuant to EDCR 7.26 (as amended)
9 By hand delivery

10 To the parties listed below:

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20 /s/ Michelle T. Harrell
21 An Employee of North Las Vegas
22 City Attorney's Office
23
24
25
26
27
28

TRAN

DISTRICT COURT
CLARK COUNTY, NEVADA
* * * * *

JAPONICA GLOVER-ARMONT,	.	CASE NO. A-13-683211-C
	.	
Plaintiff,	.	DEPT. NO. XIX
	.	
vs.	.	TRANSCRIPT OF
	.	PROCEEDINGS
JOHN CARGILE, et al.,	.	
	.	
Defendants.	.	
.	

BEFORE THE HONORABLE WILLIAM D. KEPHART, DISTRICT COURT JUDGE

**PLAINTIFFS' MOTION IN LIMINE NOS. 1-8;
DEFENDANTS' OMNIBUS MOTION IN LIMINE;
DEFENDANTS' MOTION TO RECONSIDER**

TUESDAY, MAY 31, 2016

APPEARANCES:

FOR THE PLAINTIFF:	ADAM GANZ, ESQ.
FOR THE DEFENDANTS:	CHRISTOPHER D. CRAFT, ESQ.

COURT RECORDER:

CHRISTINE ERICKSON
District Court

TRANSCRIPTION BY:

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(303) 798-0890

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produced by transcription service.

1 LAS VEGAS, NEVADA, TUESDAY, MAY 31, 2016, 8:59 A.M.

2 THE COURT: Okay. Glover-Armont v. John Cargile.
3 This is A-683211. Okay.

4 MR. GANZ: Good morning, Your Honor. Adam Ganz on
5 behalf of plaintiff. I don't think the State of Nevada is
6 involved in it.

7 THE COURT: Did I say State of Nevada?

8 MR. CRAFT: Yes.

9 MR. GANZ: You did. That's okay. I haven't quite
10 -- coming off that criminal matter I just -- I'm sorry, John
11 Cargile. Okay.

12 MR. CRAFT: Good morning, Judge.

13 THE COURT: Good morning.

14 MR. CRAFT: Chris -- Chris Craft here for the City
15 of North Las Vegas and John Cargile.

16 THE COURT: Before I get to your Motions in Limine,
17 I want to address your Motion to Reconsider.

18 MR. CRAFT: Sure.

19 THE COURT: And I have one pending question that
20 just has been really sticking out to me.

21 What is the factual scenario with regards to when
22 the officer enters the intersection? I know that there --
23 that there's -- at some point in time the plaintiff seized the
24 car because there's the hundred and some feet of skid marks.

25 What is the -- what evidence is there with respect

1 to the lights and siren again?

2 MR. CRAFT: The evidence is that she saw the lights
3 at some point.

4 THE COURT: Okay.

5 MR. CRAFT: Whether she -- whether she hit her
6 brakes because she saw the front of the car, or saw he lights,
7 it doesn't really matter. At some point, we don't dispute
8 that he encroached into the intersection. That's the only way
9 he could see around the corner.

10 THE COURT: Um-hum.

11 MR. CRAFT: She says she did not hear his sirens, he
12 says his sirens were activated.

13 THE COURT: Okay.

14 MR. CRAFT: These are not --

15 THE COURT: So --

16 MR. CRAFT: -- necessarily exclusive. It's possible
17 that he had his sirens on and she didn't hear it.

18 THE COURT: But it's undisputed that she saw his
19 emergency lights on?

20 MR. CRAFT: Correct, Judge. But as we discussed,
21 that does not matter.

22 THE COURT: All right.

23 MR. CRAFT: What matters here is --

24 THE COURT: Here's where I was going with that, and
25 the reason I asked that is because of the standard under

1 41.032 which you've been citing about the immunity, talks
2 about at -- there's different levels and we, you know, there's
3 -- whether or not there's abuse of discretion and if the abuse
4 of discretion is bad faith then the -- then it would be an
5 issue that the jury would have to make the determination.

6 And my position here was that if the lights and
7 siren aren't on then there could be a question with the jury
8 would be it bad faith. Because arguably, even under your
9 argument, is that because even if it's abuse of discretion he
10 could have even probably entered without his lights and siren
11 on because that would have been his decision, his
12 discretionary movement.

13 And there's no -- there's no dispute here amongst
14 the parties that he was traveling to an emergency call.

15 MR. CRAFT: Correct.

16 THE COURT: No dispute?

17 MR. GANZ: Correct.

18 THE COURT: Okay.

19 MR. CRAFT: The question is -- I'm sorry to
20 interrupt.

21 THE COURT: That's okay.

22 MR. CRAFT: Is he acting within his authority --

23 THE COURT: Right.

24 MR. CRAFT: -- when he's responding to an emergency
25 call and going through a red light --

1 THE COURT: I know.

2 MR. CRAFT: -- and there's no question that he was.
3 That's what his job is --

4 THE COURT: Okay.

5 MR. CRAFT: -- to do.

6 THE COURT: Right. The issue that I had and what I
7 was trying to determine is whether or not it would get to a
8 level that a jury could make a determination of whether or not
9 they're allowed on the terms of whether or not there was some
10 type of bad faith act.

11 MR. CRAFT: That's correct, Judge. That's --

12 THE COURT: And --

13 MR. CRAFT: -- why -- that's why we brought this
14 motion, you know, I --

15 THE COURT: No, I know. No, I know what you're
16 saying. And I'll tell you, I've been belaboring over this. I
17 have. So I'll give plaintiff and opportunity -- I'll tell you
18 my inclination is I'm going to grant it. But go ahead, I'll
19 give you a chance --

20 MR. GANZ: Judge --

21 THE COURT: All right.

22 MR. GANZ: -- we've been down this dance before.

23 THE COURT: I know. But I've --

24 MR. GANZ: And you were originally --

25 THE COURT: -- had an opportunity --

1 MR. GANZ: -- were going to --

2 THE COURT: -- to -- I've went back through --

3 MR. GANZ: Let me -- let me --

4 THE COURT: -- let me finish --

5 MR. GANZ: Okay, let me make record then.

6 THE COURT: -- and then -- and then you're going to
7 have all the time you need --

8 MR. GANZ: Okay.

9 THE COURT: Okay?

10 MR. GANZ: Okay. So let's back up --

11 THE COURT: I went back through it. There was a lot
12 of case law on this I had to look at and look over. A lot of
13 case law that you cited with respect to whether or not there's
14 bad faith here, whether or not there -- there was a --

15 MR. GANZ: That was their case.

16 THE COURT: No. No, no, because you argued -- you
17 argued against it and you --

18 MR. GANZ: Yes.

19 THE COURT: -- cited a couple cases and then another
20 one talking about -- gees, now I've lost my train of thought
21 there.

22 MR. GANZ: I'm sorry, Judge.

23 THE COURT: It's -- it's okay. Let me see, failure
24 to use due care and where it would fit within that. So, I --
25 there was a lot of cases. I had to kind of get up to speed on

1 it. And I had some factual ideas that -- or questions that I
2 believe has been answered.

3 MR. GANZ: So --

4 THE COURT: And there's no doubt, I have a clear --
5 a clear understanding of where this happened, a clear
6 understanding of that nature of that dirt mound that's in the
7 way that the officer would have to pass behind and possibly
8 putting -- obstructing the view of your client. I understand
9 that. But I --

10 MR. GANZ: And the defendant.

11 THE COURT: What's that?

12 MR. GANZ: And of the defendant.

13 THE COURT: Right. But I still can't -- but then
14 I'm influenced by the fact that your client was adjudged
15 guilty of driving without her lights on.

16 MR. GANZ: Is that -- is that -- is that surprising
17 that the police officer who was in this wreck was found not at
18 fault --

19 THE COURT: Well, then you're just --

20 MR. GANZ: -- and that she was found to have --

21 THE COURT: -- but then you take the position or the
22 assumption that the officer is just making that allegation.

23 MR. GANZ: No. What I'm saying is, is that the
24 adjudged guilty was paying a fine. That's not coming in.
25 That's -- that's going down --

1 THE COURT: But adjudged guilty --

2 MR. GANZ: -- to pay a fine.

3 THE COURT: -- but there's adjudged guilty of
4 driving without her lights on.

5 MR. GANZ: She didn't have a trial. She didn't have
6 a trial on that issue.

7 THE COURT: She pled to it.

8 MR. GANZ: No.

9 THE COURT: Did she plead guilty to it?

10 MR. GANZ: She pled nolo contendere, just like
11 anybody -- Judge if we want to talk about that, that's a
12 Motion in Limine regarding the Frias case. Frias clearly says
13 that, hey, look, if I want to go pay a hundred bucks so I
14 don't have to actually go to a trial on a citation, that
15 doesn't come into a civil trial.

16 THE COURT: Yeah, but isn't --

17 MR. GANZ: That's clear.

18 THE COURT: -- it something -- isn't it a factual
19 scenario that the Court can consider when I'm making -- trying
20 to make a factual determination of what happened on this?

21 MR. GANZ: No, Judge. And the reason --

22 THE COURT: I can't?

23 MR. GANZ: Well --

24 THE COURT: So then why would I even be given the
25 position --

1 MR. GANZ: Can -- can I back up?

2 THE COURT: Okay.

3 MR. GANZ: Can I back up --

4 THE COURT: Um-hum.

5 MR. GANZ: -- and at least make a record, because
6 that's --

7 THE COURT: Okay.

8 MR. GANZ: -- where it seems that we're going. But
9 I want to at least make sure --

10 THE COURT: Okay.

11 MR. GANZ: -- that I make a record of this. Because
12 you've already -- first of all, this is a Motion to
13 Reconsider.

14 THE COURT: Right.

15 MR. GANZ: And the standard for a Motion to
16 Reconsider is that there has to be new evidence or some abuse
17 of discretion that you did, okay?

18 THE COURT: Okay.

19 MR. GANZ: Their argument is that you missed a case,
20 a 1991 case that you missed, apparently, and apparently they
21 missed, too. But I'm sure that it was already probably
22 referred to. But that's the standard for a Motion to
23 Reconsider.

24 You've already made this determination on this case
25 that there are facts that you believe to be at issue that need

1 to go to a jury. That's the first thing; okay?

2 The second thing is, as you well know, this is about
3 discretionary immunity. Discretionary immunity is, as we all
4 know, when the government agency makes a discretionary act,
5 for instance, they decide to build a bridge, that is a
6 discretionary act, to build a bridge. I'm not filing a
7 lawsuit about the bridge.

8 Then it goes to operational function, whether or not
9 that bridge was built correctly. And the question about
10 whether or not they're entitled to immunity is whether or not
11 they violated due care in operating those discretionary
12 functions that they were given immunity on, okay?

13 And you have to be -- the reason why you're
14 struggling is, Judge, because it doesn't make any sense.
15 You're sitting there going, how can they not be liable when a
16 police officer doesn't follow policies, doesn't do what he's
17 supposed be doing, and he goes and he drives in a situation
18 and causes a wreck. How can he not be liable for that?
19 That's what you're thinking.

20 And it's because they're pulling this out of a very
21 specific element.

22 THE COURT: Well, my -- just -- my thought process
23 is whether or not a jury makes the determination whether or
24 not, because based on the factual scenario I have, there's no
25 dispute that he was traveling --

1 MR. GANZ: I'll get to the facts.

2 THE COURT: -- to an emergency situation.

3 MR. GANZ: I'll get to the facts, Judge.

4 THE COURT: Okay.

5 MR. GANZ: I mean, if you really want to jump to
6 there we'll get to there. But the first point is, the
7 discretionary act in this case is a policy that allows police
8 officers to proceed through red lights.

9 THE COURT: Um-hum.

10 MR. GANZ: That's a discretionary function. A
11 government agency said there -- you can go ahead and go
12 through a red light in certain circumstances when you're on a
13 call. That's a discretionary function. That's what -- I'm
14 not suing the City for having a bad policy about the
15 discretionary function of going through a red light.

16 I'm suing the City because the operational function
17 of carrying out that discretionary act was not done with due
18 care. He didn't follow his own policies, it's our contention.
19 He didn't -- he didn't use due care when he went through this
20 intersection.

21 Let me tell you the facts that are in dispute just
22 so you understand. He claims that she ran into him as he was
23 already in the intersection. He claims that he was at the
24 edge of the curb. He -- you saw -- he couldn't see because of
25 the hill. He chose to go this direction, by the way. That's

1 also not a discretionary function. He chose to go this
2 direction. That's not the safest path. But that's beyond
3 what we're talking about here.

4 THE COURT: You're saying that the choice that he
5 made to travel in the direction he traveled is not a
6 discretionary function?

7 MR. GANZ: No, what I'm saying is there was other
8 alternatives. And the question for a jury should be whether
9 or not that was due care for him to go that direction or not.
10 He knew there was five other ways to get to where he
11 had to go. He chose to run through a red light where there is
12 a hill that you can't see until you're literally in the middle
13 of the intersection. You can't see beyond it.

14 THE COURT: Um-hum.

15 MR. GANZ: And he chose to run a red light to do
16 that. Now, the question for the jury is going to be whether
17 or not he actually did what he says he did, by the way, which
18 is he claims he stopped with his siren -- with his lights and
19 sirens on, which our client does not believe occurred. She
20 never heard the sirens, okay?

21 Claims that he had his lights and sirens on as he
22 entered -- as he stopped, inched forward, inched some more,
23 inched some more, looked, didn't see anybody coming, and then
24 proceeded. That's what he claims. Then he claims that my
25 client hit him as he went through this intersection in that

1 manner. Yet if you look at the actual pictures of the
2 vehicles, the side of my client's vehicle was hit. So how is
3 he inching forward --

4 THE COURT: Okay. I thought --

5 MR. GANZ: -- and not moving, he --

6 THE COURT: Now, that --

7 MR. GANZ: -- he claims --

8 THE COURT: I thought it was the other way.

9 MR. GANZ: He claims --

10 THE COURT: I thought your client struck the police
11 vehicle.

12 MR. GANZ: That's what he claims. But yet the
13 photographs, which is a part of a Motion in Limine regarding
14 their accident reconstruction, so clearly he had to be moving
15 at the time that this collision took place, because the front
16 of my client's vehicle wasn't hit, the side of my client's
17 vehicle was hit.

18 That's one of the Motions in Limine that they filed.
19 That's a factual dispute, whether or not he was moving through
20 the intersection or stopped at the time that my client
21 supposedly hit him. That's a factual dispute.

22 In addition, whether or not he should even have been
23 in that -- that particular intersection is also whether or not
24 he should have had -- using due care to go a different route
25 if you're running lights and siren.

1 Now, I'm not saying that you can't go that route.
2 But knowing -- and he knew this -- he knew that this area had
3 that mound there, he could have went another route that was
4 safer. The question is whether or not that was due care.

5 You don't get immunity by making those decisions.
6 That's like the bridge operator who decides -- or somebody --
7 let's say they decide to put up a light somewhere and the guy
8 who's installing the lights decides to make it green all the
9 time because he decided to use a certain type of wiring that
10 was wrong. He doesn't get discretionary immunity for that.
11 You may get discretionary immunity for actually building the
12 light and putting it in the right spot.

13 The purpose, Judge, of discretionary immunity is to
14 protect the government agency from making decisions that are
15 of public concern.

16 And I would like to also point your attention to
17 41.0336, okay? I don't think it was referenced anywhere. But
18 as I was doing my research on this, I'm reading this going,
19 well, this is an interesting -- interesting statute that
20 actually is right on point.

21 336 is, under the section, "Conditions and
22 Limitations on Actions". So, in other words, you can sue the
23 government, but here's a limitation that we're going to say.
24 And 336 says, it's very short, 336 says, "Acts or omissions of
25 firefighters and law enforcement officers." And 336 says --

1 I'll wait until you -- you're pulling it up, Judge?

2 THE COURT: Yeah.

3 MR. GANZ: I'll let you read it. It's pretty
4 obvious what it says.

5 MR. CRAFT: Judge --

6 MR. GANZ: But Section 2, clearly says, that they're
7 not entitled to immunity when they actually affirmatively
8 cause the harm. That's exactly where we're at in this
9 scenario.

10 MR. CRAFT: Judge, that's an exception --

11 MR. GANZ: I'll let you read it.

12 MR. CRAFT: -- to a different kind of immunity. It
13 doesn't apply here.

14 MR. GANZ: This is under the same statute, under the
15 same Chapter, 41, under liability of and actions against
16 state, its agencies and political subdivisions. I don't
17 understand how that doesn't apply.

18 MR. CRAFT: Because we're not claiming immunity
19 under that statute, Judge, we're claiming immunity under --

20 MR. GANZ: Well, my point is, though --

21 MR. CRAFT: -- 41.032.

22 MR. GANZ: -- if you look at the statute the
23 legislature clearly did not want you to think that everything
24 that a police officer and a firefighter did was immune. And
25 this one specifically says they're not immune. They are --

1 actually, it does -- it does contemplate that, except if
2 they've caused the harm. And that's exactly what 4.0336 (sic)
3 says.

4 It says, they are not entitled to immunity for their
5 individual conduct if the conduct of the officer affirmatively
6 caused the harm. That clearly says that they're entitled to
7 immunity otherwise but they're not entitled under this
8 section.

9 MR. CRAFT: I have to object, Judge.

10 MR. GANZ: So --

11 THE COURT: So, hold on, hold on. So your argument
12 is that if your client struck the side of the officer that
13 would be one issue, but because the officer struck your client
14 he --

15 MR. CRAFT: No.

16 THE COURT: -- affirmatively caused the harm. Is
17 that what --

18 MR. GANZ: What my --

19 THE COURT: -- your argument is?

20 MR. GANZ: -- argument is, there's a question of
21 fact as to --

22 THE COURT: Okay.

23 MR. GANZ: -- whether or not he --

24 THE COURT: Well, but is that -- is that --

25 MR. GANZ: -- used due --

1 THE COURT: -- the argument you're making --

2 MR. GANZ: My client --

3 THE COURT: -- is because --

4 MR. GANZ: -- believes that he struck her.

5 THE COURT: Okay.

6 MR. GANZ: Absolutely.

7 THE COURT: So that's your --

8 MR. GANZ: And that's a factual dispute.

9 THE COURT: -- that's what you're saying
10 affirmatively caused the harm. Is that what you mean?

11 MR. GANZ: Yes.

12 THE COURT: Okay. All right.

13 MR. GANZ: He failed to use due -- due care in a
14 variety of ways. That's one of the examples of it.

15 THE COURT: Okay.

16 MR. GANZ: That's one of the examples of it. And
17 it's a factual dispute that needs to get to a jury to
18 determine whether or not he used due care. If he used due
19 care, then he's entitled to immunity.

20 THE COURT: Okay. Well, the only time I've been
21 provided with a photograph of -- it was -- was in this actual
22 Motion in Limine by the -- by the defendants. And it shows
23 damage to the left side of her car.

24 That's what I was asking for is what -- I mean, I
25 imagine there would be a traffic, you know, diagram and all

1 that of how the -- how they struck each other.

2 MR. CRAFT: Um-hum.

3 THE COURT: And -- and that -- what's your position
4 on that? What -- I mean, what do you --

5 MR. CRAFT: My position is, even if you take
6 everything they say is true it doesn't get past our immunity.

7 THE COURT: Okay.

8 MR. CRAFT: Because what's he's talking about over
9 and over is he made a choice, oh, he made a bad choice, made a
10 bad call. He should have taken this route, he went through
11 the intersection, didn't enter correctly.

12 THE COURT: I have a real hard time accepting that
13 argument --

14 MR. CRAFT: Yeah.

15 THE COURT: -- that you -- that you can say the
16 officer made a bad choice so he -- it's a -- see, once again,
17 it gets to the -- whether or not -- I mean, the statute's
18 clear. It even talks about even if he abuses the discretion.

19 MR. CRAFT: Yeah.

20 THE COURT: But if it's bad faith how can you -- how
21 -- where do you get to bad faith because he chooses a
22 different route or, I mean --

23 MR. CRAFT: I can tell you what they're arguing,
24 it's a whole sentence in their opposition.

25 THE COURT: Um-hum.

1 MR. CRAFT: I'll read it for you. "Here the City of
2 North Las Vegas acted with actual bad faith as defined by
3 Franchise Tax Board of California and Falline --

4 THE COURT: Yeah, I -- I don't find that case to
5 be --

6 MR. CRAFT: -- because the City's misconduct is
7 unrelated to any plausible policy objective and shall not be
8 sheltered from liability."

9 Judge, the policy here is talking about big picture
10 policy, protect the public, prevent crime, in this case save a
11 life. He's responding to an emergency. Shots fired, a man
12 down. That is not disputed. That's the policy. And I don't
13 think the Court --

14 MR. GANZ: Judge, that case --

15 MR. CRAFT: -- had a problem with that.

16 MR. GANZ: -- that case was only cited to us because
17 that was supposedly the bases for this Motion to Reconsider.
18 This Falline v. Golden Nugget, by the way, that's not even a
19 -- that's not even a government agency in that particular
20 case.

21 And there's two paragraphs of dicta regarding the
22 SIAS program about whether or not an insurance carrier acted
23 in bad faith and whether or not a government agency can
24 actually be sued based upon that bad faith in an insurance
25 carrier situation. That's where that bad faith came from.

1 We didn't argue that case. That came from their --
2 we tried to focus on the fact that this is a Motion to
3 Reconsider. You've already made your ruling on this that
4 there is questions of fact. I don't know what facts could
5 have been resolved with them citing to a 1991 case that you
6 supposedly missed.

7 You said there were questions of fact that the jury
8 needs to hear in the last -- in your order. Then they filed
9 this motion and the basis is this 1991 case about a work comp
10 claim that has nothing to do with a government agency that has
11 some dicta in it.

12 And the question in front of you is whether or not
13 there's enough abuse of discretion to overrule that or whether
14 or not there was questions of fact that you found the first
15 time that needs to go to a jury.

16 MR. CRAFT: Judge, if I could just put in; what
17 they're talking about is an abuse of discretion at most. And
18 the Bethrum (phonetic) court has decided, and that's already
19 stated what the definition is, the difference between an abuse
20 of discretion versus bad faith.

21 An abuse of discretion is when a person acts within
22 his authority but his action lacks justification. An abuse of
23 discretion would be an application of unreasonable judgment to
24 a decision that is within his rightful prerogatives.

25 In other words, a bad judgment call while doing his

1 job. And that's exactly at most, if they're right about
2 everything they're saying, that's at most what we're talking
3 about what Cargile did. It was while he was doing his job,
4 while he was fighting for this public policy of fighting crime
5 from the public, he made a poor decision as regarding his
6 route, or how to go through the intersection and how to go
7 through the red light. And that's --

8 THE COURT: What about the argument that -- that
9 I've made a previous decision on and now --

10 MR. CRAFT: I guess --

11 THE COURT: -- I'm reconsidering it. And their
12 claim is that you have no grounds for me to reconsider it. I
13 mean, look, here's --

14 MR. CRAFT: Because --

15 THE COURT: -- the issue. If I made a mistake the
16 first time based on plaintiff's argument here today is that I
17 would never be able to correct that mistake.

18 MR. CRAFT: You absolutely can correct the mistake,
19 Judge.

20 THE COURT: Well, that's your -- that's his
21 argument. So, I'm just --

22 MR. CRAFT: I know.

23 THE COURT: -- I'm just asking you --

24 MR. CRAFT: But I'm just quoting from even his
25 brief.

1 MR. GANZ: There's got to be some basis for changing
2 it and not a 1991 case that has nothing to do with the
3 particular issue. And you yourself said, I don't find very --
4 you just said it; you don't find that very persuasive.

5 MR. CRAFT: Well --

6 MR. GANZ: You found questions of fact. Those facts
7 have not been resolved. Do they have new facts --

8 MR. CRAFT: If I can ask the Judge this question.

9 MR. GANZ: -- that they've given you?

10 MR. CRAFT: We're here for a Motion for
11 Reconsideration based on what I -- this is cited -- this is
12 from their brief. "The primary purpose of a Motion for
13 Reconsideration is to inform the Court that it has overlooked
14 an important argument or fact or misunderstood a statute."

15 I think what we didn't address appropriately the
16 first time around was NRS 41.032 --

17 THE COURT: Yeah.

18 MR. CRAFT: -- which discussed he's immune from
19 liability whether or not the discretion is abused. That's an
20 important fact that we needed to highlight.

21 And second, I didn't know where the Court was going
22 to the first time around. It seemed like you didn't have a
23 problem with the idea that he was engaged in a discretionary
24 act making a conscious decision as to what he was doing and it
25 was in furtherance of public policy.

1 THE COURT: Right.

2 MR. CRAFT: But you said that discretion cannot be
3 unfettered. There has to be limits, there has to be a point.
4 And that's why we explained to the Court, yes, you are
5 correct, there is a limit. But that limit is bad faith
6 conduct or intentional torts and that's why we're here. And I
7 think it's completely appropriate to reconsider.

8 THE COURT: Okay. I have reconsidered and I'm
9 granting your Motion to Reconsider. And I am also granting
10 your Motion for Summary Judgment based on that -- on your
11 Motion to Reconsider.

12 MR. CRAFT: Thank you, Judge. I'll prepare the
13 Order.

14 MR. GANZ: Will you therefore certify it, Judge?

15 THE COURT: What's that?

16 MR. GANZ: Will you certify it so I can do a Writ?

17 THE COURT: Yes.

18 (Proceeding concluded at 9:17 A.M.)

19 * * * *

20 ATTEST: I hereby certify that I have truly and correctly
21 transcribed the audio/visual proceedings in the above-entitled
22 case to the best of my ability.

23

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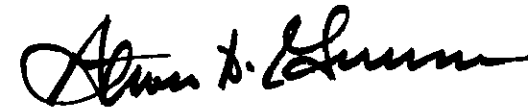
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26



JULIE LORD, INDEPENDENT TRANSCRIBER

ORIGINAL



CLERK OF THE COURT

OGM
NORTH LAS VEGAS CITY ATTORNEY
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City Attorney
Christopher D. Craft, Nev. Bar No. 7314
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North Las Vegas, Nevada 89030
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Facsimile: (702) 649-8879
Attorneys for Defendants
John Cargile and City of North Las Vegas

DISTRICT COURT
CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-13-683211-C

Dept. No. XIX

ORDER

Defendants City of North Las Vegas (the "City") and Sergeant John Cargile ("Sergeant Cargile") (collectively "Defendants") came before the Court for hearing on Defendants' Motion for Summary Judgment on February 2, 2016, and March 1, 2016, and on Defendants' Motion to Reconsider on May 31, 2016. Plaintiff Japonica Glover-Armont appeared by and through her counsel, Adam Ganz, Esq., and Marjorie Hauf, Esq., and Defendants appeared by and through their counsel, Christopher Craft, Esq. After consideration of the papers and pleadings on file, and argument of counsel, the Court issues the following Findings of Fact, Conclusions of Law, and Order:

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

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I.

FINDINGS OF FACT

1. On November 5, 2012, Defendant John Cargile ("Cargile"), a Sergeant with the North Las Vegas Police Department, was responding to an emergency call, specifically that shots had been fired and at least one person was injured. Cargile's actions in responding to the call, driving his police vehicle to the scene of the emergency, were within his authority as a police officer.

2. While responding to the call, Cargile made the decision to proceed through a red traffic signal at the intersection of 5th Street and Cheyenne Avenue in North Las Vegas, as he was turning left onto Cheyenne Avenue from northbound 5th Street.

3. When Cargile was in the process of clearing the intersection, a collision occurred between his vehicle and that of Plaintiff Japonica Glover-Armont, who was driving eastbound on Cheyenne Avenue at the time.

II.

CONCLUSIONS OF LAW

1. To receive discretionary-act immunity under NRS 41.032(2), a public employee's decision "must (1) involve an element of individual judgment or choice and (2) be based on considerations of social, economic, or political policy." Martinez v. Maruszczak, 123 Nev. 433, 446-47, 168 P.3d 720, 729 (2007). "[D]ecisions at all levels of government, including frequent or routine decisions, may be protected by discretionary-act immunity...." Id. at 447, 168 P.3d at 729.

2. While responding to the emergency call, Cargile used his individual judgment in deciding how to respond, including making decisions as to what route to take, and whether and how to proceed through the red traffic signal at 5th Street and Cheyenne Avenue.

3. Cargile's actions, undertaken while responding to an emergency call, were related to, and in furtherance of, public policies, such as protection of the public, enforcing the law, and apprehending criminals.

4. Cargile's actions do not constitute an intentional tort, and no intentional torts were pled in this matter. Furthermore, because Cargile was acting within the scope of his authority by responding to an emergency call, his actions were not undertaken in bad faith.

5. Because Cargile's actions involved his individual discretion, and were related to, and in furtherance of, public policy, Cargile and the City are entitled to discretionary immunity pursuant to NRS 41.032.

6. Furthermore, because Cargile is immune from Plaintiff's negligence claims as set forth above, there are no grounds for Plaintiff's claims against the City for negligent entrustment, negligent hiring, negligent training, negligent supervision, negligent retention, or vicarious liability.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that
Defendants' Motion for Reconsideration is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Defendants' Motion for Summary Judgment is GRANTED. Plaintiff's Complaint is dismissed with prejudice.

DATED this 30th day of June, 2016.

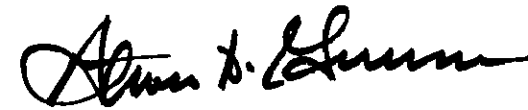
DISTRICT COURT JUDGE

Submitted by:

for Judge William Kephart

NORTH LAS VEGAS CITY ATTORNEY

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Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
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Attorneys for Defendants
John Cargile and City of North Las Vegas



CLERK OF THE COURT

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DISTRICT COURT
CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

Case No. A-13-683211-C

Dept. No. XIX

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

MEMORANDUM OF COSTS AND DISBURSEMENTS

<u>Expert Costs</u> <i>Collision Forensics & Engineering</i>	\$2,665.00
<u>Court Reporter Costs</u> <i>Western Reporting</i>	\$948.40
<u>Court Reporter Costs</u> <i>Manning Hall & Salisbury</i>	\$271.80
<u>Medical Records Copies</u> <i>Misc. Providers</i>	\$227.55
<u>Transcription Costs</u> <i>Verbatim Digital Reporting.</i>	\$120.24
<u>Transcription Costs</u> <i>Clark County Treasurer.</i>	\$40.00
<u>Runner Costs</u> <i>Legal Wings</i>	\$124.50
<u>Parking Costs</u>	\$6.00
TOTAL	\$4,403.49

1 STATE OF NEVADA)
2 COUNTY OF CLARK) ss:

3
4 CHRISTOPHER D. CRAFT, being duly sworn, states: that affiant is the attorney for
5 Defendants CITY OF NORTH LAS VEGAS and SERGEANT JOHN CARGILE, and has personal
6 knowledge of the above costs and disbursements expended; that the items contained in the above
7 memorandum are true and correct to the best of this affiant's knowledge and belief; and that the said
8 disbursements have been necessarily incurred and paid in this action.

9 DATED this 5 day of July, 2016.

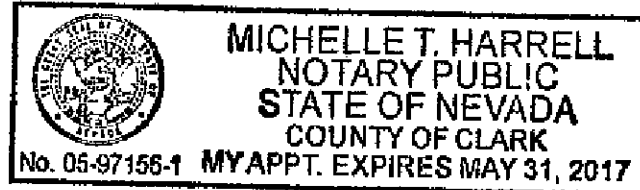
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11 

12 Christopher D. Craft
13 Deputy City Attorney

14 SIGNED and SWORN to before me this
15 5th day of July, 2016.

16 

17 NOTARY PUBLIC in and for said
18 County and State



1 CERTIFICATE OF SERVICE

2 I HEREBY CERTIFY that service of a true and correct copy of the MEMORANDUM OF
3 COSTS AND DISBURSEMENTS was made on the 6th day of July, 2016, as indicated below:

- 4 ☒ By electronic service, pursuant to N.E.F.C.R. 9
5 ☐ By first class mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P.
6 5(b) addressed as follows
7 ☐ By facsimile, pursuant to EDCR 7.26 (as amended)
8 ☐ By hand delivery

9 To the parties listed below:

10 Adam Ganz, Esq.
11 Marjorie Hauf, Esq.
12 Ida M. Ybarra, Esq.
13 GANZ & HAUF
8950 W. Tropicana Avenue, Ste. 1
Las Vegas, Nevada 89147

14 *Attorneys for Plaintiff*

15
16
17
18
19 /s/ Michelle T. Harrell
20 An Employee of North Las Vegas
21 City Attorney's Office
22
23
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28

EXPERT COSTS

Collision Forensics & Engineering, Inc.

2469 E Fort Union Blvd., Suite #114
Salt Lake City, UT 84121
(801)733-5458

PO 223668

Invoice

Date	Invoice #
4/7/2015	12277

Please reference
Invoice # on
check JHX

Bill To

Christopher Kraft
Deputy City Attorney
2250 Las Vegas Blvd North
North Las Vegas, NV 89030

		Terms	Project
		upon receipt	Glover-Armont v. Car...
Description	Quantity	Rate	Amount
Work performed by David M. Ingebretsen, M.S., M.E.	1	300.00	300.00
Initial evaluation, review and open file	1.1	275.00	302.50
Examine Cargile deposition	1.3	275.00	357.50
Examine opposing expert report(s) - Terry	0.2	275.00	55.00
Examine written discovery documents	1	275.00	275.00
Examine Byrne deposition	0.3	275.00	82.50
Examine police report and associated documents	0.2	275.00	55.00
Examine photographs, repair estimates, etc.	0.4	275.00	110.00
Examine Glover deposition	3.2	275.00	880.00
Calculations, analysis and preparation of report			
PD-1226 Glover-Armont v City Expert Witness fees			

EIN # 87-0683330

Annual interest rate of 18% applies to
all invoices past due after 90 days from
the invoice date.

Total \$2,417.50

Balance Due \$2,417.50

Please pay by July 15, 2015
to avoid the 18% late fee
of \$435.15. Thank you!

X *OK*
OK TO pay

Collision Forensics & Engineering, Inc.

2469 E Fort Union Blvd., Suite #114
Salt Lake City, UT 84121
(801)733-5458

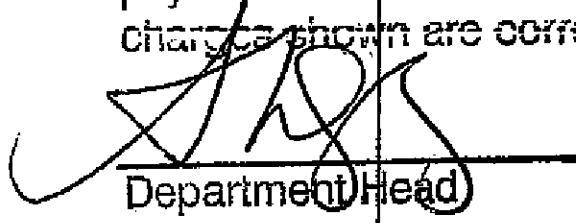
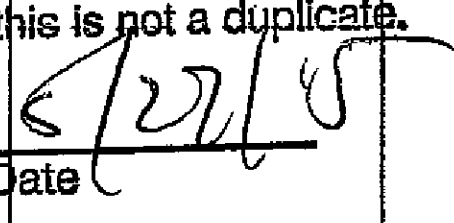
Invoice

Date	Invoice #
4/29/2015	12331

Bill To

Christopher Kraft
Deputy City Attorney
2250 Las Vegas Blvd North
North Las Vegas, NV 89030

PO 224355

		Terms	Project
		upon receipt	Glover-Armont v. Car...
Description	Quantity	Rate	Amount
Work performed by David M. Ingebretsen, M.S., M.E. Examine photographs, brief phone conference, preparation of supplemental report	0.9	275.00	247.50
ID-1226 Glover-Armont Expert Witness Fees APPROVED FOR PAYMENT I hereby certify the goods or services listed for payment have been received or performed; the charges shown are correct and this is not a duplicate.  Department Head Date 			

EIN # 87-0683330

Annual interest rate of 18% applies to all invoices past due
after 90 days from the invoice date.

Total

\$247.50

Balance Due

\$247.50

Please pay by August 5, 2015 to avoid the
18% late fee of \$ 44.55. Thank you!

COURT REPORTER COSTS



WESTERN REPORTING SERVICES, INC.

500 South Rancho Drive • Suite 8A • Las Vegas, NV 89106
702/474-6255 • fax 702/474-6257
www.westernreportingservices.com
Federal ID No. 88-0263740

TERMS: NET 30 DAYS - A Late Payment
Charge of 1 1/2% per month (18% per
annum) will be assessed on balances 30
days or more overdue.

P0219825

DATE

10/15/2014

INVOICE

48526

TO

IN RE

GLOVER-ARMONT V. CARGILE

Christopher D. Craft, Esq.

Deputy City Attorney

Civil - NLV

2250 Las Vegas Boulevard, N, Suite 810

North Las Vegas, Nevada 89030

APPROVED FOR PAYMENT

I hereby certify the goods or services listed for
payment have been received or performed; the
charges shown are correct and this is not a duplicate.

INVOICE

Department Head

Date

DEPOSITION OF OFFICER JIM BYRNE, 10/1/14

Transcript, Copy

224.10

(Indexed and Compressed)

Additional copy - NO CHARGE

0.00

Statutory administration of transcript subsequent to publication

19.50

Exhibits - Regular Photocopies

6.00

DEPOSITION OF SERGEANT JOHN CARGILE, 10/1/14

Transcript, Copy

254.60

(Indexed and Compressed)

Additional copy - NO CHARGE

0.00

Statutory administration of transcript subsequent to publication

19.50

10/16

PD-1226 Glover-Armont v City

Court reporter costs \$523.70

REPORTER

M. Goddard

BALANCE DUE

\$523.70

OK to pay

INVOICE

Please Remit to:

Manning, Hall & Salisbury, LLC

617 S. Eighth St., Suite A

Las Vegas, NV 89101

(702)382-2898

PO 218174

Christopher Craft, Esq.

City of North Las Vegas

2250 N. Las Vegas Blvd., Suite 810

North Las Vegas, NV 89030

Invoice No.	Invoice Date	Job No.
1401473	8/25/2014	141752
Job Date	Case No.	
8/7/2014	A-13-683211-C	
Case Name		
Glover-Armont vs. Cargile		
Payment Terms		
Net 30		

Original and one copy of the transcript(s) of:

Japonica Glover-Armont

Regular Transcript

Exhibits

Laser (color) Exhibits

Half Day Attendance Fee

Delivery

36.00 Pages

162.00

18.00 Pages

10.80

2.00 Pages

4.00

1.00

85.00

1.00

10.00

TOTAL DUE >>>

\$271.80

OK to pay

PD-1226 Glover armont v City
\$271.80 court reporter costs

APPROVED FOR PAYMENT

I hereby certify the goods or services listed for payment have been received or performed; the charges shown are correct and this is not a duplicate.

[Signature]
Department Head

8/27/14
Date

Thank you for your business.

TERMS:

Net 30 days. A late payment charge of 1½% per month (18% per annum) will be assessed on all balances 30 days overdue.



WESTERN REPORTING SERVICES, INC.

500 South Rancho Drive • Suite 8A • Las Vegas, NV 89106
702/474-6255 • fax 702/474-6257
www.westernreportingservices.com
Federal ID No. 88-0263740

TERMS: NET 30 DAYS - A Late Payment
Charge of 1 1/2% per month (18% per
annum) will be assessed on balances 30
days or more overdue.

DATE

9/23/2015

INVOICE

49579

TO

IN RE

GLOVER-ARMONT V. CARGILE

Christopher D. Craft, Esq.
Deputy City Attorney
Civil - NLV
2250 Las Vegas Boulevard North, Suite 810
North Las Vegas, Nevada 89030

PO 227784

INVOICE

DEPOSITION OF TIMOTHY BEDWELL, 8/31/15

Transcript, Copy	190.55
(Indexed and Compressed)	

Additional copy - NO CHARGE	0.00
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Statutory administration of transcript subsequent to publication	19.50
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Exhibits - Regular Photocopies	4.20
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DEPOSITION OF PETER FETTERLING, 8/31/15

Transcript, Copy	178.35
(Indexed and Compressed)	

Additional copy - NO CHARGE	0.00
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Statutory administration of transcript subsequent to publication	19.50
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Exhibits - Regular Photocopies	12.60
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PD-1226 Glover-Armont

\$424.70 court reporting costs

REPORTER

J. David

BALANCE DUE

\$424.70

de
cd

MEDICAL RECORD COSTS

mattsmith

PHYSICAL THERAPY

7301 Peak Drive, Suite 150
Las Vegas, NV 89128
Attn: Records Department
Phone: (702)804-0026
Fax: (702)243-4769

PO 213538

Date: 12/27/13

To: NLV City Attorney's Office Tax ID 88-0386672

Att: Michelle Harrell

Return Check
To Tanny Bonner

Re: Japonica Glover-Armont Acct: 87031

Please remit payment for Medical Records charge to the above address.
Payment is due within 30 days.

Number of pages: 87

\$.60 per page: \$52.20

Postage: \$5.05

TOTAL DUE: \$57.25

PAST DUE

PD-1226 Glover-Armont v City
\$57.25 Medical records

NRS 629.061 Health Care records: ... 2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.

T: 633-1051

**Advanced Pain Consultants**Raimundo F. Leon, M.D.
Michael A. Prater, M.D.2650 Crimson Canyon Dr.
Las Vegas, NV 89128
(702) 731-2642
(702) 791-2070

PO 212803

January 9, 2014

CITY OF NORTH
LAS VEGAS
SANDRA D. MORGAN
2250 LAS VEGAS BLVD N.
SUITE 810
N. LAS VEGAS NV 89030Return Check
to Tammy Bonner

CH# 535132

INVOICE**Re: GLOVER-ARMONT, JAPONICA/account #35587**

Date(s) of Service	Description	Amount
January 9, 2014	Copy fees	\$52.80
January 9, 2014	Postage fees	\$5.05
Balance Due		\$57.85

Please submit payment.*PAYMENT TO BE SENT TO
ADVANCED PAIN CONSULTANTS
2650 CRIMSON CANYON DRIVE
LAS VEGAS, NEVADA 89128****TAX ID# 77-0578691**PD-1226 Glover v CNLV
\$57.85 medical records



Doc Request

P.O. Box 530718

Henderson, NV 89053

Phone # (702) 629-5189

Fax # (888) 341-5040

customerservice@docrequest.com

Bill To:

City of North Las Vegas
2250 Las Vegas Blvd. N. Suite 810
North Las Vegas, NV 89030-6307

Pre-payment - INVOICE

Date	Invoice #
1/17/2014	14-01-19720

Attention to:

Attn. Michelle Harrell

We have received your request for records regarding your client/patient:

RECORDS FROM	Las Vegas Radiology	Date of Service	all records
PATIENT NAME	Japonica Glover	DOB	5/6/1968
Claim/Case #		Terms	Due on receipt

PAYMENT IS REQUIRED BEFORE RECORDS CAN BE MAILED OR FAX.

FIND OUT MORE ABOUT MONTHLY BILLING SERVICES. Records requested can be delivered right away. To set up an account, please contact Isis Johnson at 702-629-5189 or isis@docrequest.com

Description	Qty	Rate	Amount
Medical Records Copies - per page	2	0.60	1.20T
Billing Records Copies - per page	1	0.60	0.60T
CD - Films	1	35.00	35.00T
Notary - Custodian of Records Certificate	1	5.00	5.00T
Postage & Delivery (including faxing)	1	5.60	5.60T

Please make check payable to:

DOC REQUEST, LLC

PO Box 530718

Henderson, NV 89053

TAX ID#26-1335414

PLEASE CIRCLE THE WAY YOU WOULD PREFER TO RECEIVE THE RECORDS.

If nothing is circle, an electronic copy of the records will be send to you via USPS mail. Thank you.

- 1) By Fax
- 2) By Mail (hard copies)
- 3) By Mail (CD-electronic copy)
- 4) Other _____

Total \$47.40

Sales Tax (0.0%) \$0.00

Payments/Credits \$0.00

Balance Due \$47.40

PAYMENT OPTIONS:
Check / Credit Card



Confidentiality Note: This information contained in this document is legally privileged and confidential information intended only for the use of the individual or entity to which is addressed. If you are not the intended recipient, be aware that any distribution, disclosure, copying, or other use of the contents of this document is strictly prohibited. If you have received this document in error, please notify us immediately by telephone and return the original document to us at the above address by the U.S. Postal Service. Thank you.

mattsmith

PHYSICAL THERAPY

7301 Peak Drive, Suite 150

Las Vegas, NV 89128

Attn: Records Department

Phone: (702)804-0026

Fax: (702)243-4769

Fy 2013-2014

Return check to
Tammy Bonner

Date: 6-24-14

P0216721

To: City Attorney Office

Att: Michelle Harrell

Tax ID 88-0386672

Re: Japonica Glover-Armont Acct: 87031

Please remit payment for Medical Records charge to the above address.
Payment is due within 30 days.

APPROVED FOR PAYMENT

I hereby certify the goods or services listed for
payment have been received or performed; the
charges shown are correct and this is not a duplicate.

Number of pages: 87

\$.60 per page: 52.20

Postage: 5.05

TOTAL DUE: 57.25

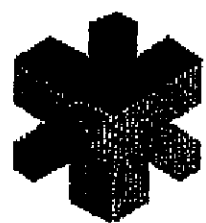
[Signature]
Department Head

7/1/14
Date

PD-1226 Glover-Armont v. City

\$57.25 medical records

NRS 629.061 Health Care records: ... 2. Except as otherwise provided in subsection 3, the provider of health care shall also furnish a copy of the records to each person described in subsection 1 who requests it and pays the actual cost of postage, if any, the costs of making the copy, not to exceed 60 cents per page for photocopies and a reasonable cost for copies of X-ray photographs and other health care records produced by similar processes. No administrative fee or additional service fee of any kind may be charged for furnishing such a copy.



Doc Request

P.O. Box 530718
Henderson, NV 89053

Phone # (702) 629-5189
Fax # (888) 341-5040
customerservice@docrequest.com

Bill To:

City of North Las Vegas
2250 Las Vegas Blvd. N
Suite 810
North Las Vegas, NV 89030-6307

Pre-payment - INVOICE

7/11/2014	14-07-26440
-----------	-------------

Attention to:

Attn. Michelle Harrell

PO 222200




~~317327~~

We have received your request for records regarding your client/patient:

RECORDS FROM	Las Vegas Radiology	DATE OF SERVICE	all records
PATIENT NAME	Japonica Glover	DATE	5/6/1968
CLAIM/DATE		DATE	Due on receipt

PAYMENT IS REQUIRED BEFORE RECORDS CAN BE MAILED OR FAX.

FIND OUT MORE ABOUT MONTHLY BILLING SERVICES. Records requested can be delivered right away. To set up an account, please contact Isis Johnson at 702-629-5189 or isis@docrequest.com

DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL
Medical Records Copies - per page	2	0.60	1.20T
Billing Records Copies - per page	1	0.60	0.60T
Notary - Custodian of Records Certificate	1	5.00	5.00T
Postage & Delivery (including faxing)	1	1.00	1.00T
PAYMENT OPTIONS: Check / Credit Card   			

Please make check payable to:
DOC REQUEST, LLC
PO Box 530718
Henderson, NV 89053
TAX ID#26-1335414

PLEASE CIRCLE THE WAY YOU WOULD PREFER TO RECEIVE THE RECORDS.

If nothing is circle, an electronic copy of the records will be sent to you via USPS mail. Thank you.

- 1) By Fax
- 2) By Mail (hard copies)
- 3) By Mail (CD-electronic copy)
- 4) Other _____

Total	\$7.80
Sales Tax (0.0%)	\$0.00
Payments/Credits	\$0.00
Balance Due	\$7.80

Doc Request PAYMENT, REFUND AND CANCELLATION POLICY

Please read it carefully as this is the official policy. The policy listed below supersedes any other written document you may have received prior to today's date.

ALL SALES FOR SERVICES, RECORDS AND GOODS ARE FINAL

Doc Request will not issue a refund for services purchased. Once you have requested records in writing or posted your transaction on our website, you have agreed to pay for the services, records, or goods. You cannot cancel or modify an invoice which is a bill for services rendered. The sale of the services, records and goods applies to the Doc Request service charge associated with all such requests as well as the copying cost for records and goods. All fees are in accordance with applicable state and federal law. Upon certain conditions, Doc Request may offer a refund, or credit for the copy cost of records requested, if the order is modified or cancelled in writing before an invoice is issued, but a \$45.00 processing and/or early cancellation fee will apply.

CURRENT PAYMENT POLICY

The following payment policy MUST be adhered to. THERE ARE NO EXCEPTIONS, ALL Doc Request clients MUST READ, UNDERSTAND AND ADHERE TO THIS POLICY except by other written arrangements approved by Doc Request. Any payments made without regard to this payment policy will be charged a service charge of \$50.00. Late charges may also apply (see below). Our policy is to collect payment on the date an invoice is issued. We accept payment by credit card including VISA, Mastercard and Discover. Doc Request also accepts payment by check. Returned checks are subject to a \$35.00 returned check fee as well as any bank charges for returned checks. All invoices for any services, records or goods are due, paid in full, within 30 business days of the invoice issue date, unless other Doc Request approved arrangements have been made ahead of time. Late charges apply (see below).

LATE CHARGES:

ALL payments such as invoices, service charges and returned check charges described in the above policy MUST BE RECEIVED BY Doc Request within 30 business days of the date the invoice was issued or late fees in the amount of 10% of the invoice total will be charged for every business day your payment is late. This applies to ALL clients, without exception. Non-payment may result in your account being sent to collections, your credit standing with us being downgraded and possible litigation to recover payment. If you have questions or concerns, or you feel that you have been charged incorrectly, please contact us IMMEDIATELY so that we can work together to find a solution. We prefer to work payment issues out in a positive way and we try not to resort to sending payments to collections or small-claims unless we have no recourse. We value you as a client and strive for your satisfaction.

TRANSCRIPTION COSTS

 **Verbatim Digital Reporting**
3317 West Layton Avenue
Englewood, CO 80110

Invoice

Date	Invoice #
3/11/2016	1839

Christopher D. Craft, Esq.
City of North Las Vegas
2250 Las Vegas Blvd., Ste. 810
North Las Vegas, NV 89030

Terms	Due Date
Due on receipt	3/11/2016

Description	Qty	Rate	Amount
Transcript of hearing held on 3/1/2016 Defendants' Motion for Summary Judgment	24	5.01	120.24

In Re Glover-Armont vs. Cargile, et al.
Case No. A-683211, Dept. 19
District Court, Clark County, Nevada

PD-1226 Glover-Armont
\$120.24 Transcript fees

Phone #

303-798-0890

Fax #

303-797-0432

E-mail

Julie@VerbatimDigitalReporting.Com

Total

\$120.24

Payments/Credits

\$0.00

Balance Due

\$120.24

COURT RECORDER'S BILLING INFORMATION
3/11/16

CASE #	A683211				
CASE NAME:	Glover-Armont v Cargile PD-1226				
HEARING DATE:	3/1/16				
DEPARTMENT #	19				
COURT RECORDER/EXT	CHRISTINE ERICKSON/671-4442				
ORDERED BY:	Christopher Craft, Esq.				
FIRM:	Deputy City Atty				
EMAIL:	702-633-2442				
PAYABLE TO:					
Make check payable to: Clark County Treasurer County Tax ID#: 88-6000028 Include case number on check A683211 FOR CREDIT CARD PAYMENT: (702) 671-4507					
BILL AMOUNT:		CDs @ \$25 each =			\$
	1	hours @ \$40 an hour recording fee =			\$40.00
		pages @	\$	per page of trans.	\$
	Total				\$40.00
PAYABLE TO OUTSIDE TRANSCRIBER:					
Make check payable to: Verbatim Digital Reporting 3317 West Layton Ave. Englewood, CO 80110					
BILL AMOUNT:	24	pages @	\$5.01	per page of trans	\$120.24
DATE PAID:					
TRANSCRIPTS WILL NOT BE FILED OR RELEASED UNTIL PAYMENT IS RECEIVED					

Please make payment at the RJC Cashier's office on the 3rd floor and bring the receipt to Dept 19 chambers, 3rd floor. Upon receipt of the receipt, the transcript will be e-filed with notification to you via Wiznet.

PD-1226 Glover-Armont
\$40.00 Transcript fees

RUNNER COSTS



415031e



Attention: MICHELLE 633-1051
NORTH LAS VEGAS CITY ATTORNEY
2250 LAS VEGAS BLVD. NO.* Ste. #810
NORTH LAS VEGAS NV 89030

I hereby certify the goods or services listed for
have been received or performed; the
shown are correct and this is not a duplicate.


Department Head

1/6/14
Date

Thursday December 19, 2013

INVOICE

6331050D.415031

Work Order #: P2004410

Case #: A13683211C

Court: DISTRICT COURT CLARK COUNTY NEVADA

Title: GLOVER-ARMONT vs. CARGILE

Documents: SUBPOENA DUCES TECUM; RULE 45; CERTIFICATE OF CUSTODIAN OF RECORDS;
NOTICE OF DEPOSITION OF CUSTODIAN OF RECORDS; LETTER

PD 1226

Date	Description	Amount
12/18/13	Substituted Service: PROGRESSIVE INSURANCE COMPANY, ATTN: 10:34AM KATHY, AT Home 400 N STEPHANIE ST, STE 400 Henderson, NV 89014, by serving: PARTY IN ITEM 2.A., by leaving a copy of the Documents with: D. BECKER, RECEPTIONIST, Served By: KEVIN R. SMITH.	
12/19/13	PROCESS SERVICE HENDERSON	49.50
TOTAL:		49.50

*PD-1226 Glover-Armont
\$49.50 runner fees*



481241t



NORTH LAS VEGAS CITY ATTORNEY
2250 LAS VEGAS BLVD. NO.* Ste. #810
NORTH LAS VEGAS NV 89030

Po 230748

Thursday January 28, 2016

INVOICE

6331050D.481241

Work Order #: 01621060

Attorney File #: **PD.1226**

Case #: A-13-683211-C

Court: DISTRICT COURT CLARK COUNTY, NEVADA

Title: JAPONICA GLOVER-ARMONT vs. JOHN CARGILE

Description: COURTESY COPY(s) of MOTION for SUMMARY JUDGMENT

Date	Description	Amount
------	-------------	--------

01/27/16 Miscellaneous Job: RUNNER

01/27/16 SERVICE FOR PICK UP on JANUARY 27, 2016

25.00

DELIVER TO DISTRICT COURT DEPARTMENT XIX

TOTAL:

25.00



4839128

NORTH LAS VEGAS CITY ATTORNEY
2250 LAS VEGAS BLVD. NO.* Ste. #810
NORTH LAS VEGAS NV 89030

PO 231955

Thursday February 25, 2016

INVOICE

6331050D.483912

Work Order #: 01621033

Attorney File #: **PD-1226**

Case #: A68378

Court: DISTRICT COURT CLARK COUNTY, NEVADA

Title: GLOVER vs. CARGILE

Description: COURTESY COPY(s) of SUPP BRIEF

Date	Description	Amount
------	-------------	--------

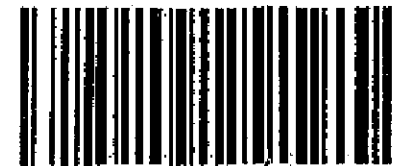
02/24/16	Miscellaneous Job: RUNNER	
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02/24/16	SERVICE FOR A.M. PICK UP on 02/24/16	25.00
----------	--------------------------------------	-------

DELIVER TO DISTRICT COURT DEPARTMENT XVIII

TOTAL:**25.00**

1118 FREMONT STREET, Las Vegas, NV 89101, Las Vegas, NV 89101
Telephone: (702) 384-0305, FAX: (702) 384-8638 Tax ID: 880223382



492858Y

NORTH LAS VEGAS CITY ATTORNEY
2250 LAS VEGAS BLVD. NO.* Ste. #810
NORTH LAS VEGAS NV 89030

PO 233646

Thursday May 26, 2016

INVOICE

6331050D.492858

Work Order #: 01621047
Attorney File #: **GLOVER-AMONT**
Client Matter #: None Given
Case #: A6833211
Court: DISTRICT COURT CLARK COUNTY, NEVADA
Title: GLOVER-ARMANTR vs. CITY of NORTH LAS VEGAS
Description: COURTESY COPY(s) of MOTION TO RECONSIDER and OMNIBUS MOTION in LIMINE

Date	Description	Amount
05/25/16	Miscellaneous Job: RUNNER	
05/25/16	SERVICE FOR PICK UP on MAY 25, 2016	25.00
	DELIVER TO DISTRICT COURT DEPARTMENT XIX	
TOTAL:		25.00

PD-1226 Glover, Armont

PARKING COSTS

LEWIS CENTER GARAGE
321 CASINO CENTER DR
LAS VEGAS, NV

Rcpt# 16001

05/31/16 09:52 LA 4 AM 4 Txn# 40111
05/31/16 09:20 In 05/31/16 09:52 Out

Tkt# 623765

MASTERCARD \$ 6.00-

XXXXXXXXXXXX1400

Approval No.: 035209

Reference No.: 0067

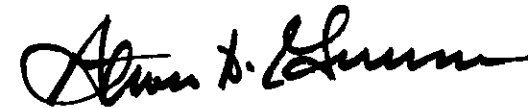
PLEASE CALL FOR MONTHLY RATES

DOUGLAS PARKING

(702) 382-7988

VALET SERVICES AVAILABLE

Glover. Armont
hearing 5/31/16
~~W/H/H~~ SANDRA
MORGAN



CLERK OF THE COURT

NEO
NORTH LAS VEGAS CITY ATTORNEY
Sandra Douglass Morgan, Nev. Bar No. 8582
City Attorney
Christopher D. Craft, Nev. Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Telephone: (702) 633-1050
Facsimile: (702) 649-8879
Attorneys for Defendants
John Cargile and City of North Las Vegas

**DISTRICT COURT
CLARK COUNTY, NEVADA**

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-13-683211-C

Dept. No. XIX

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an Order granting Defendants' Motion for Reconsideration
and granting Defendants' Motion for Summary Judgment was hereby entered on the 5th day of July,
2016, a copy of which is attached hereto.

DATED this 6th day of July, 2016.

NORTH LAS VEGAS CITY ATTORNEY

/s/ Christopher D. Craft
Sandra Douglass Morgan, Nev. Bar No. 8582
Christopher D. Craft, Nev. Bar No. 7314
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
(702) 633-1050
Attorneys for Defendants
John Cargile and City of North Las Vegas

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that service of a true and correct copy of the **NOTICE OF ENTRY**
3 **OF ORDER** was made on the 6th day of July, 2016, as indicated below:

- 4 √ By electronic service, pursuant to N.E.F.C.R. 9
5 — By first class mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P.
6 5(b) addressed as follows
7 — By facsimile, pursuant to EDCR 7.26 (as amended)
8 — By hand delivery

9 To the parties listed below:

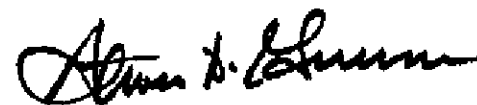
10 Marjorie Hauf, Esq.
11 Ida M. Ybarra, Esq.
12 GANZ & HAUF
13 8950 W. Tropicana Avenue, Ste. 1
Las Vegas, Nevada 89147
Facsimile (702) 598-3626

14 *Attorneys for Plaintiff*

15
16
17
18
19 /s/ Michelle T. Harrell
20 An Employee of North Las Vegas
City Attorney's Office
21
22
23
24
25
26
27
28

ORIGINAL

Electronically Filed
07/05/2016 10:30:11 AM



CLERK OF THE COURT

OGM
NORTH LAS VEGAS CITY ATTORNEY
Sandra Douglass Morgan, Nev. Bar No. 8582
City Attorney
Christopher D. Craft, Nev. Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Telephone: (702) 633-1050
Facsimile: (702) 649-8879
Attorneys for Defendants
John Cargile and City of North Las Vegas

DISTRICT COURT
CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-13-683211-C

Dept. No. XIX

ORDER

Defendants City of North Las Vegas (the "City") and Sergeant John Cargile ("Sergeant Cargile") (collectively "Defendants") came before the Court for hearing on Defendants' Motion for Summary Judgment on February 2, 2016, and March 1, 2016, and on Defendants' Motion to Reconsider on May 31, 2016. Plaintiff Japonica Glover-Armont appeared by and through her counsel, Adam Ganz, Esq., and Marjorie Hauf, Esq., and Defendants appeared by and through their counsel, Christopher Craft, Esq. After consideration of the papers and pleadings on file, and argument of counsel, the Court issues the following Findings of Fact, Conclusions of Law, and Order:

00039844.WPD; 1 PD-1226

-1-

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

I.

FINDINGS OF FACT

1. On November 5, 2012, Defendant John Cargile ("Cargile"), a Sergeant with the North Las Vegas Police Department, was responding to an emergency call, specifically that shots had been fired and at least one person was injured. Cargile's actions in responding to the call, driving his police vehicle to the scene of the emergency, were within his authority as a police officer.

2. While responding to the call, Cargile made the decision to proceed through a red traffic signal at the intersection of 5th Street and Cheyenne Avenue in North Las Vegas, as he was turning left onto Cheyenne Avenue from northbound 5th Street.

3. When Cargile was in the process of clearing the intersection, a collision occurred between his vehicle and that of Plaintiff Japonica Glover-Armont, who was driving eastbound on Cheyenne Avenue at the time.

II.

CONCLUSIONS OF LAW

1. To receive discretionary-act immunity under NRS 41.032(2), a public employee's decision "must (1) involve an element of individual judgment or choice and (2) be based on considerations of social, economic, or political policy." Martinez v. Maruszczak, 123 Nev. 433, 446-47, 168 P.3d 720, 729 (2007). "[D]ecisions at all levels of government, including frequent or routine decisions, may be protected by discretionary-act immunity...." Id. at 447, 168 P.3d at 729.

2. While responding to the emergency call, Cargile used his individual judgment in deciding how to respond, including making decisions as to what route to take, and whether and how to proceed through the red traffic signal at 5th Street and Cheyenne Avenue.

3. Cargile's actions, undertaken while responding to an emergency call, were related to, and in furtherance of, public policies, such as protection of the public, enforcing the law, and apprehending criminals.

4. Cargile's actions do not constitute an intentional tort, and no intentional torts were pled in this matter. Furthermore, because Cargile was acting within the scope of his authority by responding to an emergency call, his actions were not undertaken in bad faith.

1 5. Because Cargile's actions involved his individual discretion, and were related to, and
2 in furtherance of, public policy, Cargile and the City are entitled to discretionary immunity pursuant
3 to NRS 41.032.

4 6. Furthermore, because Cargile is immune from Plaintiff's negligence claims as set
5 forth above, there are no grounds for Plaintiff's claims against the City for negligent entrustment,
6 negligent hiring, negligent training, negligent supervision, negligent retention, or vicarious liability.

7
8 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED,** that
9 Defendants' Motion for Reconsideration is GRANTED.

10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED,** that Defendants' Motion
11 for Summary Judgment is GRANTED. Plaintiff's Complaint is dismissed with prejudice.


12 DATED this 30th day of June, 2016.

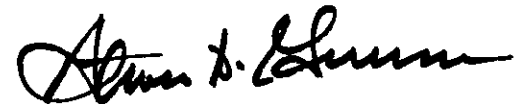
13
14
15 
DISTRICT COURT JUDGE

16 Submitted by:

for Judge William Kephart

17 NORTH LAS VEGAS CITY ATTORNEY

18 
19 Christopher D. Craft, Nev. Bar No. 7314
20 Deputy City Attorney
21 2250 Las Vegas Blvd. North, Suite 810
22 North Las Vegas, Nevada 89030
23 Telephone: (702) 633-1050
24 Attorneys for Defendants
25 John Cargile and City of North Las Vegas
26
27
28



CLERK OF THE COURT

0085
MARJORIE HAUF, ESQ.
Nevada Bar No. 8111
IDA M. YBARRA, ESQ.
Nevada Bar No. 11327
GANZ & HAUF
8950 W. Tropicana Ave., Ste. 1
Las Vegas, Nevada 89147
Tel: (702) 598-4529
Fax: (702) 598-3626

Attorneys for Plaintiff

-000-

DISTRICT COURT

CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO.: A-13-683211-C
DEPT NO.: XIX

**PLAINTIFF'S MOTION TO RETAX
COSTS**

COMES NOW, Plaintiff, JAPONICA GLOVER-ARMONT, by and through her attorney
of record, MARJORIE HAUF, ESQ., of the law firm of GANZ & HAUF and hereby moves this
Honorable court to retax Defendants' costs.

///

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///

///



1 This Motion is made and based on NRS 18.110, all pleadings and papers on file herein, and
2 the Points and Authorities attached hereto.

3 Dated this 8th day of July, 2016.

4 GANZ & HAUF

5 Ida Ybarra
6 MARJORIE HAUF, ESQ.
7 Nevada Bar No. 8111
8 IDA M. YBARRA, ESQ.
9 Nevada Bar No. 11327
10 8950 W. Tropicana Ave., Suite 1
11 Las Vegas, Nevada 89147
12 Attorney for Plaintiff

13 NOTICE OF MOTION

14 TO: ALL PARTIES

15 PLEASE TAKE NOTICE that Plaintiff will bring the foregoing Plaintiff's Motion to Retax
16 Costs before the above-entitled Court at the Clark County Courthouse, Las Vegas, Nevada, on the
17 11 day of August, 2016, at the hour of : .m., or as soon thereafter
18 as may be heard.

19 Dated this 8th day of July, 2016.

20 GANZ & HAUF

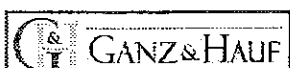
21 Ida Ybarra
22 MARJORIE HAUF, ESQ.
23 Nevada Bar No. 8111
24 IDA M. YBARRA, ESQ.
25 Nevada Bar No. 11327
26 8950 W. Tropicana Ave., Suite 1
27 Las Vegas, NV 89147

28 ///

///

///

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1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I. STATEMENT OF FACTS

3 This case involves a motor vehicle crash that occurred on November 5, 2012. Plaintiff,
4 Japonica Glover-Armont, was driving, eastbound on Cheyenne approaching the intersection of 5th
5 Street in North Las Vegas, Nevada. Defendant, John Cargile, while driving a vehicle owned by his
6 employer, Defendant, City of North Las Vegas, was driving northbound on 5th Street in North Las
7 Vegas, when Defendant John Cargile attempted to cross the intersection on a red light without his
8 siren causing an impact with Plaintiff's vehicle. As a result of the crash, Plaintiff sustained
9 \$23,711.69 in medical damages.
10

11 On December 22, 2015, Defendants filed a Motion for Summary Judgment alleging
12 discretionary immunity pursuant to NRS 41.032(2).
13

14 On March 1, 2016, a hearing was held on Defendants' Motion for Summary Judgment.
15 The Court appropriately denied Defendants' Motion for Summary Judgment.

16 On April 7, 2016, Defendants filed a Motion for Reconsideration and the Court granted
17 Defendants' Motion.

18 On July 6, 2016, Defendants filed and served its Memorandum of costs, claiming a total of
19 \$4,403.49 in costs. Plaintiff now seeks to retax those costs.
20

21 II. LEGAL ARGUMENT

22 A. The District Court, within its discretion, should deny all of Defendants' costs
23 because Plaintiff is indigent.

24 The decision on whether to award costs to a prevailing party is within the District Court's
25 discretion. Although costs may be recoverable, costs may be denied when an unsuccessful party is
26 an indigent. *McCabe v. City of Chicago, N.D. III.* 1984, 593 F. Sup. 665. In fact, "the power to
27 tax costs should be exercised in a manner that does not bar the door to the courthouse to indigent
28 plaintiffs." *Action Alliance for Senior Citizens of Greater Philadelphia, Inc. v. Shapp*, 74 F.R.D.

1 617, 620 (E.D. Pa. 1977). In the case of *Coulter v. Newmont Gold Co.*, 873 F. Supp. 394, 397 (D.
2 Nev. 1994), the Court evaluated the case of *Braxton v. United Parcel Service, Inc.*, 148 F.R.D.
3 527, 528-29 (E.D.Pa. 1993) which reasoned that the Court,

4
5 [N]eed not award costs if it finds that such an award would be
6 'inequitable.'.... Equitable factors in such cases do not readily lend
7 themselves to formulae, and thus courts can be forgiven for sometimes
8 lapsing into circular generalizations in deciding issues like this.... The
9 inequity we seek to avoid here stems from the disparity of resources.
10 Braxton is an individual plaintiff of modest means who has pursued a
11 legitimate claim in good faith, but who under the Clerk's order would
12 be required to shoulder not only his own substantial litigation expenses
13 but also the litigation costs of his large and wealthy adversaries....
14 Apart from our concern regarding the inherent injustice of taxing costs
15 to plaintiffs with few resources who have pursued claims in good faith,
16 we are also troubled by the distinct possibility that the 'fear of [our]
17 imposition of astronomical costs' will become 'a deterrent against the
18 assertion of legitimate disputes,' ... and will 'chill individual litigants
19 of modest means seeking to vindicate their ... rights.'

20 The Court in the *Coulter* case found that although Coulter was not indigent, the costs would be a
21 severe hardship. *Id.* Also, the Court determined that there was a great disparity in financial
22 resources between the parties and that the case was of significant public value since it was a Title
23 VII case. *Id.* Lastly, and more importantly, the *Coulter* case had substantial merit. *Id.*

24 Here, if Plaintiff is ordered to pay costs to Defendants, it would result in severe hardship.
25 Ms. Glover-Armont is a single female who does not earn much financially. Ms. Glover-Armont is
26 barely able to support herself and an order to require her to pay costs to Defendants would result in
27 severe hardship. Also, there is a great disparity in financial resources between Ms. Glover-Armont
28 and Defendants. Defendant is a City that is in a better financial condition than Ms. Glover-
Armont. The lawsuit brought forth by Ms. Glover-Armont is also of significant public value as she
was simply driving down the road, when she was crashed into by Defendants. Plaintiffs should not
be chilled from accessing the Court in fear of being forced to pay the Defendants costs. Lastly, Ms.
Glover-Armont's case has merit and is pending an appeal before Court of Appeals. Therefore, Ms.

1 Glover-Armont requests that the Court take Ms. Glover-Armont's economic situation into
2 consideration and deny Defendants' request for costs on equitable grounds.

3
4 **B. Defendants' Memorandum of Costs must be retaxed.**

5 NRS 18.005 defines costs to include:

- 6 1. Clerks' fees.
- 7 2. Reporters' fees for depositions, including a reporter's fee for one copy of each
8 deposition.
- 9 3. Jurors' fees and expenses, together with reasonable compensation of an officer
10 appointed to act in accordance with NRS 16.120.
- 11 4. Fees for witnesses at trial, pretrial hearings and deposing witnesses, unless the
12 court finds that the witness was called at the instance of the prevailing party
13 without reason or necessity.
- 14 5. Reasonable fees of not more than five expert witnesses in an amount of not
15 more than \$1,500 for each witness, unless the court allows a larger fee after
16 determining that the circumstances surrounding the expert's testimony were of
17 such necessity as to require the larger fee.
- 18 6. Reasonable fees of necessary interpreters.
- 19 7. The fee of any sheriff or licensed process server for the delivery or service of
20 any summons or subpoena used in the action, unless the court determines that the
21 service was not necessary.
- 22 8. Compensation for the official reporter or reporter pro tempore.
- 23 9. Reasonable costs for any bond or undertaking required as part of the action.
- 24 10. Fees of a court bailiff or deputy marshal who was required to work overtime.
- 25 11. Reasonable costs for telecopies.
- 26 12. Reasonable costs for photocopies.
- 27 13. Reasonable costs for long distance telephone calls.
- 28 14. Reasonable costs for postage.
15. Reasonable costs for travel and lodging incurred taking depositions and
conducting discovery.
16. Fees charged pursuant to NRS 19.0335.

1
2 17. Any other reasonable and necessary expense incurred in connection with the
3 action, including reasonable and necessary expenses for computerized services for
4 legal research.

5 According to NRS 18.110, the "memorandum of the items of the costs in the action or
6 proceeding" must be filed and served "within 5 days after the entry of judgment." The adverse
7 party may then move the Court to retax and settle the costs within 3 days of that service.

8 The determination of allowable costs is within the sound discretion of the trial court.
9 *Berosini v. PETA*, 114 Nev 1348, 1352, 971 P.2d 383, 385 (1998). However, "statutes permitting
10 the recovery of costs are to be strictly construed," and the costs must be the actual costs incurred,
11 reasonable, and supported by proper documentation and itemization. *Berosini*, 114 Nev. at 1352-
12 1353, 971 P.2d at 385-385. Defendants' costs do not meet the criteria set forth by the Nevada
13 Legislature in NRS 18.005, or by the Nevada Supreme Court in *Berosini*.

14 **a. Expert Costs**

15 Defendants seek costs for its expert in the amount of \$2,665.00. However, NRS 18.005(5)
16 only allows for \$1,500 for an expert witness. Defendants have not provided any evidence to
17 support that they are entitled to more than what is allowed under NRS 18.005(5). As such,
18 Defendants' cost for experts must be retaxed.

19 **b. Court Reporter Costs**

20 Defendants seek \$1,220.20 for court reporting. Defendants did not take the depositions of
21 all of the deponents that they are seeking reimbursement for. The only deposition that Defendants
22 took was Plaintiff's deposition which cost \$271.80. Therefore, Defendants' court reporter's costs
23 must be retaxed.

24 **c. Medical Records Copies**

25 Defendants seek costs for medical records in the amount of \$227.55. However, when
26 evaluating the invoices for these costs, it was discovered that Defendants are seeking
27
28

1 reimbursement for medical records from Matt Smith Physical therapy in the amount of \$57.25
2 under two different invoices. Since the invoice lists the same amount, there is no reason why
3 Defendants should have paid for the same records twice. As such, the total costs for the medical
4 records should be retaxed to \$170.30.

5
6 **d. Transcription Costs**

7 Defendants seek costs for transcripts in this case in the amount of \$160.24, but they do not
8 provide any explanation as to why they needed the transcripts. As such, this cost should be
9 disallowed.

10 **e. Runner Costs**

11 Defendants claimed \$124.50 for runner costs. A runner's cost is not a taxable cost under
12 NRS 18.005. Also, Defendants did not have to hire Legal Wings to deliver motions to the Court.
13 Therefore, this cost should be disallowed.

14
15 **f. Parking Costs**

16 Defendants claimed \$6.00 for parking. Parking is not a taxable cost under NRS 18.005.
17 Therefore, this cost should be disallowed.

18 **III. CONCLUSION**

19 Based on the foregoing, Plaintiff requests that Defendants' claimed costs of \$4,403.49 be
20 retaxed for the reasons explained above.

21
22 Dated this 8th day of July, 2016.

23 GANZ & HAUF

24 Ida Ybarra
25 MARJORIE HAUF, ESQ.
26 Nevada Bar No. 8111
27 IDA M. YBARRA, ESQ.
28 Nevada Bar No. 11327
8950 W. Tropicana Ave., Suite 1
Las Vegas, Nevada 89147
Attorney for Plaintiff




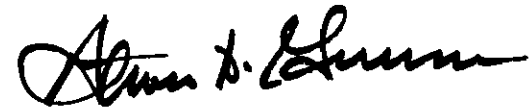
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on this date, I served the foregoing
PLAINTIFF'S MOTION TO RETAX on all parties to this action by Wiznet and U.S. Mail:

Christopher Craft, Esq.
Deputy City Attorney
2250 Las Vegas Blvd Ste 810
North Las Vegas, NV 89030

Dated this 11th day of July, 2016.


An employee of the law firm of GANZ & HAUF



CLERK OF THE COURT

1 OPP
2 NORTH LAS VEGAS CITY ATTORNEY
3 Sandra Douglass Morgan, Nev. Bar No. 8582
4 City Attorney
5 Christopher D. Craft, Nev. Bar No. 7314
6 Deputy City Attorney
7 2250 Las Vegas Blvd. North, Suite 810
8 North Las Vegas, Nevada 89030
9 Telephone: (702) 633-1050
10 Facsimile: (702) 649-8879
11 *Attorneys for Defendants*
12 *John Cargile and City of North Las Vegas*

13 **DISTRICT COURT**
14 **CLARK COUNTY, NEVADA**

15 JAPONICA GLOVER-ARMONT,

16 Plaintiff,

17 vs.

18 JOHN CARGILE; CITY OF NORTH LAS
19 VEGAS, a Municipal Corporation existing
20 under the laws of the State of Nevada in the
21 County of Clark; DOES I through X, inclusive;
22 and/or ROE CORPORATIONS I through X,
23 inclusive,

24 Defendants.

Case No. A-13-683211-C

Dept. No. XIX

25 **DEFENDANTS' OPPOSITION TO**
26 **PLAINTIFF'S MOTION TO RETAX**
27 **COSTS**

Hearing date: August 11, 2016

Hearing time: [In Chambers]

28 Defendants City of North Las Vegas (the "City") and Sergeant John Cargile ("Sergeant Cargile") (collectively "Defendants"), by and through their attorneys, hereby submit their Opposition to Plaintiff's Motion to Retax Costs. This Opposition is based on the pleadings on file herein, the following points and authorities, and any argument entertained by the Court at any hearing of this matter.

DATED this 20th day of July, 2016.

NORTH LAS VEGAS CITY ATTORNEY

/s/ Christopher D. Craft
Sandra Douglass Morgan, Nev. Bar No. 8582
Christopher D. Craft, Nev. Bar No. 7314
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
(702) 633-1050
Attorneys for Defendants
John Cargile and City of North Las Vegas

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I.

ARGUMENT

Plaintiff's Motion to Retax Costs is, for the most part, without substance and should be denied.

1. Plaintiff's financial condition. In her Motion, Plaintiff asserts that she is financially unable to pay Defendants' costs without suffering undue hardship. As no evidence whatsoever is offered to support this assertion, these representations of counsel simply cannot be accepted as the basis for a denial of costs. Furthermore, allowing Plaintiff to bring this suit against the City and Sergeant Cargile without any consequences in the event of its dismissal sets a dangerous precedent. The City was required to spend public funds to defend this litigation, and is absolutely accountable to the public to recover those funds. To permit plaintiffs to bring such suits without any risk of financial loss, simply because they claim poverty, would invite even more frivolous suits than the City already faces.

2. Expert costs. In order to rebut Plaintiff's expert, who issued a lengthy and detailed report regarding the accident in this case, the City had no choice but to retain its own expert, who in turn issued his own lengthy and detailed report. That his fee for this report amounted to \$2,665 is not surprising given the amount of work that was done. Because this expense was necessitated by Plaintiff's own expert, and the expense was reasonable, the entirety of his fee should be allowed, as contemplated by NRS 18.005(5).

3. Court reporter costs. Defendants should be permitted all court reporter costs, because all of the transcripts cost money, regardless of who took the depositions. Again, this cost was directly caused by Plaintiff, and all of it should be recovered by the City.

4. Medical records copies. The City agrees to a reduction of these costs by \$57.25, and will seek recovery of the duplicate amount from the medical provider at issue. The total costs for medical records should be \$170.30.

5. Transcription costs. Plaintiff also disputes the transcription charge of \$160.24. This charge was necessary because in order for Defendants to prepare their Motion for Reconsideration, it was important to review in detail the arguments that took place at the second hearing on their

1 Motion for Summary Judgment. As that hearing was rather extensive, ordering the transcript was
2 appropriate, and in some instances was necessary in order to avoid misquoting the Court. The
3 transcription charge should be allowed.

4 **6. Runner and parking costs.** Costs for runners and parking are costs which are
5 "reasonable and necessary expense incurred in connection with the action," and their recovery is
6 contemplated under NRS 18.005(17).

7 **II.**

8 **CONCLUSION**

9 All things considered, Defendants should be permitted costs in the total amount of \$4,346.24.

10 DATED this 20th day of July, 2016.

11 NORTH LAS VEGAS CITY ATTORNEY

12
13 /s/ Christopher D. Craft
14 Sandra Douglass Morgan, Nev. Bar No. 8582
15 Christopher D. Craft, Nev. Bar No. 7314
16 2250 Las Vegas Blvd. North, Suite 810
17 North Las Vegas, Nevada 89030
18 (702) 633-1050
19 *Attorneys for Defendants*
20 *John Cargile and City of North Las Vegas*
21
22
23
24
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that service of a true and correct copy of the **DEFENDANTS'**
3 **OPPOSITION TO PLAINTIFF'S MOTION TO RETAX COSTS** was made on the 20th day of
4 July, 2016, as indicated below:

- 5 √ By electronic service, pursuant to N.E.F.C.R. 9
6 — By first class mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P.
7 5(b) addressed as follows
8 — By facsimile, pursuant to EDCR 7.26 (as amended)
9 — By hand delivery

10 To the parties listed below:

11 Marjorie Hauf, Esq.
12 Ida M. Ybarra, Esq.
13 GANZ & HAUF
14 8950 W. Tropicana Avenue, Ste. 1
Las Vegas, Nevada 89147
Facsimile (702) 598-3626

15 *Attorneys for Plaintiff*

20 /s/ Michelle T. Harrell
21 An Employee of North Las Vegas
22 City Attorney's Office
23
24
25
26
27
28

1 NTC
2 MARJORIE HAUF, ESQ.
3 Nevada Bar No. 8111
4 IDA M. YBARRA, ESQ.
5 Nevada Bar No. 11327
6 GANZ & HAUF
7 8950 W. Tropicana Ave., Ste. 1
8 Las Vegas, Nevada 89147
9 Tel: (702) 598-4529
10 Fax: (702) 598-3626

11 Attorneys for Plaintiff

12 -000-

13 DISTRICT COURT
14 CLARK COUNTY, NEVADA

15 JAPONICA GLOVER-ARMONT,

16 Plaintiff,

17 vs.

18 JOHN CARGILE; CITY OF NORTH LAS
19 VEGAS, a Municipal Corporation existing
20 under the laws of the State of Nevada in the
21 County of Clark; DOES I through X, inclusive;
22 and/or ROE CORPORATIONS I through X,
23 inclusive,

24 Defendants.

CASE NO.: A-13-683211-C
DEPT NO.: XIX

PLAINTIFF'S NOTICE OF APPEAL

25 NOTICE OF APPEAL

26 ...
27 ...
28 ...
...

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08/03/2016 03:45:21 PM

Tracie K. Lindeman

CLERK OF THE COURT
Electronically Filed
Aug 08 2016 03:01 p.m.
Tracie K. Lindeman
Clerk of Supreme Court

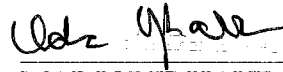


8950 W. Tropicana Ave., #1
Las Vegas, NV 89147
Phone: (702) 598-4529
Fax: (702) 598-3626

1 NOTICE IS HEREBY GIVEN that Plaintiff, JAPONICA GLOVER-ARMONT, hereby
2 appeals to the Nevada Supreme Court from the Order Granting Defendants' Motion for
3 Reconsideration dated April 7, 2016 (attached hereto as Exhibit 1). The Order was entered on
4 dated July 5, 2016. Plaintiff also appeals from all other rulings, orders, and judgments made final
5 and appealable by the foregoing.
6

7 Dated this 31st day of August, 2016.

8 Respectfully submitted,
9 GANZ & HAUF

10 
11 MARJORIE HAUF, ESQ.
12 Attorney for Plaintiff
13 Nevada Bar No. 8111
14 IDA M. YBARRA, ESQ.
15 Attorney for Plaintiff
16 Nevada Bar No. 11327
17 8950 W. Tropicana Ave., Ste. 1
18 Las Vegas, Nevada 89147
19
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CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on this date, I served the foregoing

NOTICE OF APPEAL on all parties to this action by:

☐ Facsimile

☒ Mail

☒ E-Service

addressed as follows:

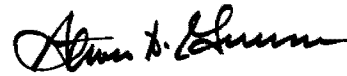
Christopher Craft, Esq.
Deputy City Attorney
2250 Las Vegas Blvd Ste 810
North Las Vegas, NV 89030

Dated this 3 day of August, 2016.



An employee of the law firm of GANZ & HAUF

EXHIBIT 1



CLERK OF THE COURT

1 NEO
2 NORTH LAS VEGAS CITY ATTORNEY
3 Sandra Douglass Morgan, Nev. Bar No. 8582
4 City Attorney
5 Christopher D. Craft, Nev. Bar No. 7314
6 Deputy City Attorney
7 2250 Las Vegas Blvd. North, Suite 810
8 North Las Vegas, Nevada 89030
9 Telephone: (702) 633-1050
10 Facsimile: (702) 649-8879
11 Attorneys for Defendants
12 John Cargile and City of North Las Vegas

**DISTRICT COURT
CLARK COUNTY, NEVADA**

9 JAPONICA GLOVER-ARMONT,

10 Plaintiff,

11 vs.

12 JOHN CARGILE; CITY OF NORTH LAS
13 VEGAS, a Municipal Corporation existing
14 under the laws of the State of Nevada in the
15 County of Clark; DOES I through X, inclusive;
16 and/or ROE CORPORATIONS I through X,
17 inclusive,

18 Defendants.

Case No. A-13-683211-C

Dept. No. XIX

NOTICE OF ENTRY OF ORDER

19 PLEASE TAKE NOTICE that an Order granting Defendants' Motion for Reconsideration
20 and granting Defendants' Motion for Summary Judgment was hereby entered on the 5th day of July,
21 2016, a copy of which is attached hereto.

22 DATED this 6th day of July, 2016.

23 NORTH LAS VEGAS CITY ATTORNEY

24 /s/ Christopher D. Craft
25 Sandra Douglass Morgan, Nev. Bar No. 8582
26 Christopher D. Craft, Nev. Bar No. 7314
27 2250 Las Vegas Blvd. North, Suite 810
28 North Las Vegas, Nevada 89030
(702) 633-1050
Attorneys for Defendants
John Cargile and City of North Las Vegas

1 **CERTIFICATE OF SERVICE**

2 I HEREBY CERTIFY that service of a true and correct copy of the **NOTICE OF ENTRY**
3 **OF ORDER** was made on the 6th day of July, 2016, as indicated below:

- 4 ☒ By electronic service, pursuant to N.E.F.C.R. 9
5 ☐ By first class mail, postage prepaid from Las Vegas, Nevada pursuant to N.R.C.P.
6 5(b) addressed as follows
7 ☐ By facsimile, pursuant to EDCR 7.26 (as amended)
8 ☐ By hand delivery

9 To the parties listed below:

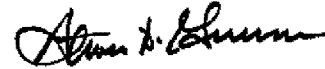
10 Marjorie Hauf, Esq.
11 Ida M. Ybarra, Esq.
12 GANZ & HAUF
13 8950 W. Tropicana Avenue, Ste. 1
Las Vegas, Nevada 89147
Facsimile (702) 598-3626

14 *Attorneys for Plaintiff*

15
16
17
18
19 /s/ Michelle T. Harrell
20 An Employee of North Las Vegas
21 City Attorney's Office
22
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28

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CLERK OF THE COURT

OGM
NORTH LAS VEGAS CITY ATTORNEY
Sandra Douglass Morgan, Nev. Bar No. 8582
City Attorney
Christopher D. Craft, Nev. Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Telephone: (702) 633-1050
Facsimile: (702) 649-8879
Attorneys for Defendants
John Cargile and City of North Las Vegas

DISTRICT COURT

CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

Case No. A-13-683211-C

Dept. No. XIX

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

ORDER

Defendants City of North Las Vegas (the "City") and Sergeant John Cargile ("Sergeant Cargile") (collectively "Defendants") came before the Court for hearing on Defendants' Motion for Summary Judgment on February 2, 2016, and March 1, 2016, and on Defendants' Motion to Reconsider on May 31, 2016. Plaintiff Japonica Glover-Armont appeared by and through her counsel, Adam Ganz, Esq., and Marjorie Hauf, Esq., and Defendants appeared by and through their counsel, Christopher Craft, Esq. After consideration of the papers and pleadings on file, and argument of counsel, the Court issues the following Findings of Fact, Conclusions of Law, and Order:

00039844.WPD; 1 PD-1226

-1-

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

0979

I.

FINDINGS OF FACT

1. On November 5, 2012, Defendant John Cargile ("Cargile"), a Sergeant with the North Las Vegas Police Department, was responding to an emergency call, specifically that shots had been fired and at least one person was injured. Cargile's actions in responding to the call, driving his police vehicle to the scene of the emergency, were within his authority as a police officer.

2. While responding to the call, Cargile made the decision to proceed through a red traffic signal at the intersection of 5th Street and Cheyenne Avenue in North Las Vegas, as he was turning left onto Cheyenne Avenue from northbound 5th Street.

3. When Cargile was in the process of clearing the intersection, a collision occurred between his vehicle and that of Plaintiff Japonica Glover-Armont, who was driving eastbound on Cheyenne Avenue at the time.

II.

CONCLUSIONS OF LAW

1. To receive discretionary-act immunity under NRS 41.032(2), a public employee's decision "must (1) involve an element of individual judgment or choice and (2) be based on considerations of social, economic, or political policy." Martinez v. Maruszczak, 123 Nev. 433, 446-47, 168 P.3d 720, 729 (2007). "[D]ecisions at all levels of government, including frequent or routine decisions, may be protected by discretionary-act immunity...." Id. at 447, 168 P.3d at 729.

2. While responding to the emergency call, Cargile used his individual judgment in deciding how to respond, including making decisions as to what route to take, and whether and how to proceed through the red traffic signal at 5th Street and Cheyenne Avenue.

3. Cargile's actions, undertaken while responding to an emergency call, were related to, and in furtherance of, public policies, such as protection of the public, enforcing the law, and apprehending criminals.

4. Cargile's actions do not constitute an intentional tort, and no intentional torts were pled in this matter. Furthermore, because Cargile was acting within the scope of his authority by responding to an emergency call, his actions were not undertaken in bad faith.

1 5. Because Cargile's actions involved his individual discretion, and were related to, and
2 in furtherance of, public policy, Cargile and the City are entitled to discretionary immunity pursuant
3 to NRS 41.032.

4 6. Furthermore, because Cargile is immune from Plaintiff's negligence claims as set
5 forth above, there are no grounds for Plaintiff's claims against the City for negligent entrustment,
6 negligent hiring, negligent training, negligent supervision, negligent retention, or vicarious liability.

7
8 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED,** that
9 Defendants' Motion for Reconsideration is GRANTED.

10 **IT IS FURTHER ORDERED, ADJUDGED AND DECREED,** that Defendants' Motion
11 for Summary Judgment is GRANTED. Plaintiff's Complaint is dismissed with prejudice.


12 DATED this 30th day of June, 2016.

13
14
15 
DISTRICT COURT JUDGE

16 Submitted by:

17 for Judge William Kephart

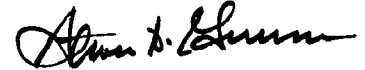
18 NORTH LAS VEGAS CITY ATTORNEY

19 
20 Christopher D. Craft, Nev. Bar No. 7314
21 Deputy City Attorney
22 2250 Las Vegas Blvd. North, Suite 810
23 North Las Vegas, Nevada 89030
24 Telephone: (702) 633-1050
25 Attorneys for Defendants
26 John Cargile and City of North Las Vegas
27
28

MARJORIE HAUF, ESQ.
Nevada Bar No. 8111
IDA M. YBARRA, ESQ.
Nevada Bar No. 11327
GANZ & HAUF
8950 W. Tropicana Ave., Ste. 1
Las Vegas, Nevada 89147
Tel: (702) 598-4529
Fax: (702) 598-3626

Attorneys for Plaintiff

Electronically Filed
08/03/2016 03:46:50 PM



CLERK OF THE COURT

-000-

DISTRICT COURT

CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

CASE NO.: A-13-683211-C
DEPT NO.: XIX

CASE APPEAL STATEMENT

1. Name of appellant filing this case appeal statement:

Japonica Glover-Armont

2. Identify the Judge issuing the decision, judgment, or order appealed from:

Honorable Judge William Kephart

...

...

...



1 **3. Identify each appellant and the name and address of counsel for each appellant:**

2 Japonica Glover-Armont
3 c/o GANZ & HAUF, CHTD
4 8950 W. Tropicana Ave, Suite 1
5 Las Vegas, Nevada 89147
6 Tel: (702) 598-4529

7 **4. Identify each respondent and the name and address of appellate counsel, if known,
8 for each respondent (if the name of a respondent's trial counsel:**

9 John Cargile; City of North Las Vegas
10 c/o Christopher D. Craft, Esq.
11 Deputy City Attorney
12 2250 Las Vegas Blvd Ste 810
13 Las Vegas, Nevada 89030
14 Tel: (702) 633-1050

15 **5. Indicate whether any attorney identified above in response to question 3 or 4 is not
16 licensed to practice law in Nevada, and if so, whether the district court granted that
17 attorney permission to appear under SCR 42:**

18 Both Attorneys involved are licensed to practice law in Nevada.

19 **6. Indicate whether appellant was represented by appointed or retained counsel in the
20 district court:**

21 Appellant was represented by retained counsel.

22 **7. Indicate whether appellant is represented by appointed or retained counsel on
23 appeal:**

24 Appellant is represented by retained counsel.

25 **8. Indicate whether Appellant was granted leave to proceed in forma pauperis:**

26 Appellant did not request to proceed in forma pauperis.

27 **9. Indicate the date the proceeding commenced in the District Court:**

28 The Complaint in this matter was filed on June, 10, 2013.

29 **10. Provide a brief description of the nature of the action and result in the district
30 court, including the type of judgment or order being appealed and the relief granted
31 by the district court:**

32 This claim involved a motor vehicle accident with a police vehicle. Defendants filed a
33 Motion for Summary Judgment on December 22, 2015. Plaintiff filed an Opposition

on January 11, 2016. Plaintiff prevailed in defeating the Defendants' Motion for Summary Judgment on March 1, 2016. Defendants filed a Motion to Reconsider the Motion for Summary Judgment on April 7, 2016. Plaintiff filed an Opposition to Defendants' Motion to Reconsider on April 27, 2016. The District Court entered an Order granting the Defendants' Motion for Reconsideration on June 30, 2016. Plaintiff seeks to appeal the Order granting Defendant's Motion for Reconsideration. Plaintiff also appeals from all other rulings, orders, and judgments made final and appealable by the foregoing.

11. Indicate whether the case has previously been the subject of an appeal to or original writ proceeding in the Supreme Court and, if so, the caption and Supreme court docket number of the prior proceeding:

Not applicable

12. Indicate whether this appeal involves child custody or visitation:

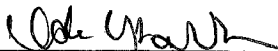
Not applicable.

13. If this is a civil case, indicate whether this appeal involves the possibility of settlement:

Yes.

DATED this 3rd day of August, 2016.

GANZ & HAUF


MARJORIE HAUF, ESQ
Nevada Bar No. 8111
IDA M. YBARRA, ESQ
Nevada Bar No. 11327
8950 W. Tropicana Ave., Ste. 1
Las Vegas, Nevada 89147

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b) and EDCR 7.26, I certify that on this date, I served the foregoing

CASE APPEAL STATEMENT on all parties to this action by:

☐ Facsimile

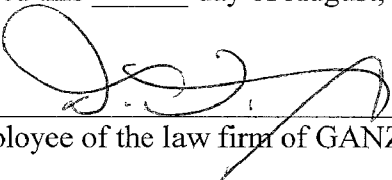
☒ Mail

☒ E-Service

addressed as follows:

Christopher Craft, Esq.
Deputy City Attorney
2250 Las Vegas Blvd Ste 810
North Las Vegas, NV 89030

Dated this 3 day of August, 2016.


An employee of the law firm of GANZ & HAUF

DEPARTMENT 19
CASE SUMMARY
CASE NO. A-13-683211-C

Japonica Glover-Armont, Plaintiff(s)
vs.
John Cargile, Defendant(s)

§
§
§
§
§

Location: **Department 19**
Judicial Officer: **Kephart, William D.**
Filed on: **06/10/2013**
Case Number History:
Cross-Reference Case Number: **A683211**

CASE INFORMATION

Statistical Closures

07/05/2016 Summary Judgment

Case Type: **Negligence - Auto**

Case Flags: **Appealed to Supreme Court**
Jury Demand Filed
Arbitration Exemption Granted

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number	A-13-683211-C
Court	Department 19
Date Assigned	01/05/2015
Judicial Officer	Kephart, William D.






PARTY INFORMATION

Plaintiff	Glover-Armont, Japonica	Hauf, Marjorie L. <i>Retained</i> 7025984529(W)
Defendant	Cargile, John North Las Vegas City Of Removed: 07/05/2016 Dismissed	
Short Trial Judge	Judge Pro Tempore	












DATE

EVENTS & ORDERS OF THE COURT









INDEX

06/10/2013	 Complaint Filed By: Plaintiff Glover-Armont, Japonica <i>Complaint</i>	
06/10/2013	 Initial Appearance Fee Disclosure Filed By: Plaintiff Glover-Armont, Japonica <i>Initial Appearance Fee Disclosure</i>	
06/10/2013	Case Opened	
09/05/2013	 Answer Filed By: Defendant Cargile, John <i>Answer</i>	
10/15/2013	 Commissioners Decision on Request for Exemption - Granted Party: Plaintiff Glover-Armont, Japonica <i>Commissioner's Decision on Request for Exemption - Granted</i>	
11/11/2013	 Demand for Jury Trial	

DEPARTMENT 19
CASE SUMMARY
CASE NO. A-13-683211-C








	Filed By: Plaintiff Glover-Armont, Japonica <i>Demand for Jury Trial</i>
12/10/2013	 Joint Case Conference Report Filed By: Plaintiff Glover-Armont, Japonica <i>Joint Case Conference Report</i>
12/24/2013	 Scheduling Order Filed By: Short Trial Judge Judge Pro Tempore <i>Scheduling Order</i>
09/03/2014	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Glover-Armont, Japonica <i>Stipulation and Order to Extend Discovery (First Request)</i>
09/08/2014	 Stipulation and Order to Extend Discovery Deadlines Filed By: Plaintiff Glover-Armont, Japonica <i>Stipulation and Order to Extend Discovery (First Request)</i>
10/28/2014	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
01/05/2015	Judicial Elections 2014 - Case Reassignment <i>District Court Judicial Officer Reassignment 2014</i>
02/18/2015	 Designation of Expert Witness Filed By: Defendant Cargile, John <i>Defendants' Designation of Expert Witnesses Pursuant to NRCP 16.1(a)(2)</i>
04/01/2015	 Designation of Expert Witness Filed By: Defendant Cargile, John <i>City of North Las Vegas's Designation of Rebuttal Expert Witnesses Pursuant to NRCP 16.1(a)(2)</i>
05/08/2015	 Stipulation and Order Filed by: Plaintiff Glover-Armont, Japonica <i>Stipulation and Order to Extend Discovery (Second Request)</i>
05/11/2015	 Notice of Entry of Stipulation and Order Filed By: Plaintiff Glover-Armont, Japonica <i>Notice of Entry of Order</i>
05/20/2015	 Order Setting Civil Jury Trial <i>Order Setting Civil Jury Trial</i>
08/13/2015	CANCELED Status Check (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Commissioner</i>
09/17/2015	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Commissioner</i>
09/29/2015	CANCELED Jury Trial (9:00 AM) (Judicial Officer: Earl, Allan R.) <i>Vacated - per Commissioner</i>
12/22/2015	 Motion for Summary Judgment

DEPARTMENT 19
CASE SUMMARY
CASE NO. A-13-683211-C







	Filed By: Defendant Cargile, John <i>Defendants' Motion for Summary Judgment</i>
01/06/2016	 Order Setting Civil Jury Trial <i>Amended Order Setting Civil Jury Trial</i>
01/11/2016	 Opposition to Motion Filed By: Plaintiff Glover-Armont, Japonica <i>Opposition to Motion</i>
01/26/2016	 Reply in Support Filed By: Defendant North Las Vegas City Of <i>Defendants' Reply in Support of Motion for Summary Judgment</i>
02/02/2016	 Motion for Summary Judgment (9:00 AM) (Judicial Officer: Kephart, William D.) 02/02/2016, 03/01/2016 <i>Defendants' Motion for Summary Judgment</i>
02/23/2016	 Supplemental Brief Filed By: Defendant North Las Vegas City Of <i>Defendants' Supplemental Brief in Support of Motion for Summary Judgment</i>
02/23/2016	 Opposition Filed By: Plaintiff Glover-Armont, Japonica <i>Supplemental Opposition to Defendants' Motion for Summary Judgment</i>
03/28/2016	 Recorders Transcript of Hearing <i>Transcript of Proceedings - Defendants' Motion for Summary Judgment March 1, 2016</i>
04/07/2016	 Motion to Reconsider Filed By: Defendant Cargile, John <i>Defendants' Motion to Reconsider</i>
04/11/2016	 Notice of Motion Filed By: Defendant Cargile, John <i>Notice of Motion</i>
04/14/2016	 Motion in Limine Filed By: Plaintiff Glover-Armont, Japonica <i>Plaintiff's Motion in Limine Nos. 1-8</i>
04/14/2016	 Omnibus Motion In Limine Filed by: Defendant North Las Vegas City Of <i>Defendants' Omnibus Motion in Limine</i>
04/19/2016	 Pre Trial Conference (9:00 AM) (Judicial Officer: Kephart, William D.)
04/27/2016	 Opposition Filed By: Plaintiff Glover-Armont, Japonica <i>Opposition to Defendants' Motion for Reconsideration</i>
04/28/2016	 Pre-Trial Disclosure Party: Plaintiff Glover-Armont, Japonica

DEPARTMENT 19
CASE SUMMARY
CASE NO. A-13-683211-C

Plaintiff's Pre-Trial Disclosure

05/10/2016	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
05/17/2016	 Opposition to Motion in Limine Filed By: Defendant North Las Vegas City Of <i>Defendants' Opposition to Plaintiff's Motion in Limine</i>
05/17/2016	 Opposition to Motion in Limine Filed By: Plaintiff Glover-Armont, Japonica <i>Plaintiff's Oppositions to Defendants' Omnibus Motion in Limine</i>
05/24/2016	 Reply in Support Filed By: Defendant Cargile, John <i>Defendants' Reply in Support of Omnibus Motion in Limine</i>
05/24/2016	 Reply in Support Filed By: Defendant Cargile, John <i>Defendants' Reply in Support of Motion for Reconsideration</i>
05/24/2016	 Reply Filed by: Plaintiff Glover-Armont, Japonica <i>Replies to Defendants' Oppositions to Plaintiff's Motions in Limine Nos. 1-8</i>
05/31/2016	Motion to Reconsider (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Defendants' Motion to Reconsider</i>
05/31/2016	Motion in Limine (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Plaintiff's Motion in Limine Nos. 1-8</i>
05/31/2016	Omnibus Motion in Limine (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Defendants' Omnibus Motion in Limine</i>
05/31/2016	 All Pending Motions (9:00 AM) (Judicial Officer: Kephart, William D.)
05/31/2016	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
06/21/2016	CANCELED Pre Trial Conference (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
07/05/2016	 Order Granting Motion Filed By: Defendant North Las Vegas City Of <i>Order</i>
07/05/2016	Summary Judgment (Judicial Officer: Kephart, William D.) Debtors: Japonica Glover-Armont (Plaintiff) Creditors: North Las Vegas City Of (Defendant), John Cargile (Defendant) Judgment: 07/05/2016, Docketed: 07/12/2016
07/05/2016	Order of Dismissal With Prejudice (Judicial Officer: Kephart, William D.) Debtors: Japonica Glover-Armont (Plaintiff) Creditors: North Las Vegas City Of (Defendant), John Cargile (Defendant) Judgment: 07/05/2016, Docketed: 07/12/2016

DEPARTMENT 19
CASE SUMMARY
CASE NO. A-13-683211-C

07/06/2016	 Notice of Entry of Order Filed By: Defendant North Las Vegas City Of <i>Notice of Entry of Order</i>
07/06/2016	 Memorandum of Costs and Disbursements Filed By: Defendant Cargile, John <i>Memorandum of Costs and Disbursements</i>
07/11/2016	 Motion to Retax Filed By: Plaintiff Glover-Armont, Japonica <i>Plaintiff's Motion to Retax Costs</i>
07/19/2016	CANCELED Calendar Call (9:00 AM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
07/20/2016	 Opposition to Motion Filed By: Defendant North Las Vegas City Of <i>Defendants' Opposition to Plaintiff's Motion to Retax Costs</i>
08/01/2016	CANCELED Jury Trial (1:00 PM) (Judicial Officer: Kephart, William D.) <i>Vacated - per Judge</i>
08/03/2016	 Notice of Appeal Filed By: Plaintiff Glover-Armont, Japonica <i>Plaintiff's Notice of Appeal</i>
08/03/2016	 Case Appeal Statement Filed By: Plaintiff Glover-Armont, Japonica <i>Case Appeal Statement</i>
08/11/2016	Motion to Retax (3:00 AM) (Judicial Officer: Kephart, William D.) <i>Plaintiff's Motion to Retax Costs</i>

DATE

FINANCIAL INFORMATION

Plaintiff Glover-Armont, Japonica
Total Charges
Total Payments and Credits
Balance Due as of 8/5/2016

294.00
294.00
0.00

Case No. _____
(Assigned by Clerk's Office)**I. Party Information**Plaintiff(s) (name/address/phone):
Japonica Glover-ArmontAttorney (name/address/phone): Adam Ganz, Esq.
8950 W. Tropicana Ave, Ste 1
Las Vegas, NV 89147 (702) 598-4529

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

City of North Las Vegas

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)**Arbitration Requested**

Civil Cases

Real Property**Landlord/Tenant**

Unlawful Detainer

Title to Property

Foreclosure

Liens

Quiet Title

Specific Performance

Condemnation/Eminent Domain**Other Real Property**

Partition

Planning/Zoning

Torts**Negligence****Negligence – Auto****Negligence – Medical/Dental****Negligence – Premises Liability**
(Slip/Fall)**Negligence – Other****Product Liability**Product Liability/Motor Vehicle
Other Torts/Product Liability**Intentional Misconduct**Torts/Defamation (Libel/Slander)
Interfere with Contract Rights**Employment Torts** (Wrongful termination)**Other Torts**Anti-trust
Fraud/Misrepresentation
Insurance
Legal Tort
Unfair Competition**Probate****Estimated Estate Value:****Summary Administration****General Administration****Special Administration****Set Aside Estates****Trust/Conservatorships**

Individual Trustee

Corporate Trustee

Other Probate**Other Civil Filing Types****Construction Defect**Chapter 40
General**Breach of Contract**Building & Construction
Insurance Carrier
Commercial Instrument
Other Contracts/Acct/Judgment
Collection of Actions
Employment Contract
Guarantee
Sale Contract
Uniform Commercial Code**Civil Petition for Judicial Review**Foreclosure Mediation
Other Administrative Law
Department of Motor Vehicles
Worker's Compensation Appeal**Appeal from Lower Court** (also check applicable civil case box)Transfer from Justice Court
Justice Court Civil Appeal**Civil Writ**

Other Special Proceeding

Other Civil FilingCompromise of Minor's Claim
Conversion of Property
Damage to Property
Employment Security
Enforcement of Judgment
Foreign Judgment – Civil
Other Personal Property
Recovery of Property
Stockholder Suit
Other Civil Matters**III. Business Court Requested** (Please check applicable category; for Clark or Washoe Counties only.)

NRS Chapters 78-88

Investments (NRS 104 Art. 8)

Enhanced Case Mgmt/Business

Commodities (NRS 90)

Deceptive Trade Practices (NRS 598)

Other Business Court Matters

Securities (NRS 90)

Trademarks (NRS 600A)

6/10/13

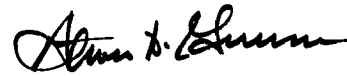
Date

Marjorie Hauf /s/

Signature of initiating party or representative

See other side for family-related case filings.

ORIGINAL



CLERK OF THE COURT

OGM
NORTH LAS VEGAS CITY ATTORNEY
Sandra Douglass Morgan, Nev. Bar No. 8582
City Attorney
Christopher D. Craft, Nev. Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Telephone: (702) 633-1050
Facsimile: (702) 649-8879
Attorneys for Defendants
John Cargile and City of North Las Vegas

DISTRICT COURT
CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-13-683211-C

Dept. No. XIX

ORDER

Defendants City of North Las Vegas (the "City") and Sergeant John Cargile ("Sergeant Cargile") (collectively "Defendants") came before the Court for hearing on Defendants' Motion for Summary Judgment on February 2, 2016, and March 1, 2016, and on Defendants' Motion to Reconsider on May 31, 2016. Plaintiff Japonica Glover-Armont appeared by and through her counsel, Adam Ganz, Esq., and Marjorie Hauf, Esq., and Defendants appeared by and through their counsel, Christopher Craft, Esq. After consideration of the papers and pleadings on file, and argument of counsel, the Court issues the following Findings of Fact, Conclusions of Law, and Order:

1 I.

2 FINDINGS OF FACT

3 1. On November 5, 2012, Defendant John Cargile ("Cargile"), a Sergeant with the North
4 Las Vegas Police Department, was responding to an emergency call, specifically that shots had been
5 fired and at least one person was injured. Cargile's actions in responding to the call, driving his
6 police vehicle to the scene of the emergency, were within his authority as a police officer.

7 2. While responding to the call, Cargile made the decision to proceed through a red
8 traffic signal at the intersection of 5th Street and Cheyenne Avenue in North Las Vegas, as he was
9 turning left onto Cheyenne Avenue from northbound 5th Street.

10 3. When Cargile was in the process of clearing the intersection, a collision occurred
11 between his vehicle and that of Plaintiff Japonica Glover-Armont, who was driving eastbound on
12 Cheyenne Avenue at the time.

13 II.

14 CONCLUSIONS OF LAW

15 1. To receive discretionary-act immunity under NRS 41.032(2), a public employee's
16 decision "must (1) involve an element of individual judgment or choice and (2) be based on
17 considerations of social, economic, or political policy." Martinez v. Maruszczak, 123 Nev. 433,
18 446-47, 168 P.3d 720, 729 (2007). "[D]ecisions at all levels of government, including frequent or
19 routine decisions, may be protected by discretionary-act immunity...." Id. at 447, 168 P.3d at 729.

20 2. While responding to the emergency call, Cargile used his individual judgment in
21 deciding how to respond, including making decisions as to what route to take, and whether and how
22 to proceed through the red traffic signal at 5th Street and Cheyenne Avenue.

23 3. Cargile's actions, undertaken while responding to an emergency call, were related to,
24 and in furtherance of, public policies, such as protection of the public, enforcing the law, and
25 apprehending criminals.

26 4. Cargile's actions do not constitute an intentional tort, and no intentional torts were
27 pled in this matter. Furthermore, because Cargile was acting within the scope of his authority by
28 responding to an emergency call, his actions were not undertaken in bad faith.

5. Because Cargile's actions involved his individual discretion, and were related to, and in furtherance of, public policy, Cargile and the City are entitled to discretionary immunity pursuant to NRS 41.032.

6. Furthermore, because Cargile is immune from Plaintiff's negligence claims as set forth above, there are no grounds for Plaintiff's claims against the City for negligent entrustment, negligent hiring, negligent training, negligent supervision, negligent retention, or vicarious liability.

THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that
Defendants' Motion for Reconsideration is GRANTED.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Defendants' Motion for Summary Judgment is GRANTED. Plaintiff's Complaint is dismissed with prejudice.

DATED this 30th day of June, 2016.

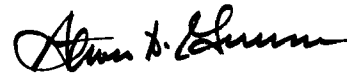
DISTRICT COURT JUDGE

Submitted by:

for Judge William Kephart

NORTH LAS VEGAS CITY ATTORNEY

Christopher D. Craft, Nev. Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Telephone: (702) 633-1050
Attorneys for Defendants
John Cargile and City of North Las Vegas



CLERK OF THE COURT

1 NEO
2 NORTH LAS VEGAS CITY ATTORNEY
3 Sandra Douglass Morgan, Nev. Bar No. 8582
4 City Attorney
5 Christopher D. Craft, Nev. Bar No. 7314
6 Deputy City Attorney
7 2250 Las Vegas Blvd. North, Suite 810
8 North Las Vegas, Nevada 89030
9 Telephone: (702) 633-1050
10 Facsimile: (702) 649-8879
11 Attorneys for Defendants
12 John Cargile and City of North Las Vegas

DISTRICT COURT
CLARK COUNTY, NEVADA

9 JAPONICA GLOVER-ARMONT,

10 Plaintiff,

11 vs.

12 JOHN CARGILE; CITY OF NORTH LAS
13 VEGAS, a Municipal Corporation existing
14 under the laws of the State of Nevada in the
15 County of Clark; DOES I through X, inclusive;
16 and/or ROE CORPORATIONS I through X,
17 inclusive,

18 Defendants.

Case No. A-13-683211-C

Dept. No. XIX

NOTICE OF ENTRY OF ORDER

19 PLEASE TAKE NOTICE that an Order granting Defendants' Motion for Reconsideration
20 and granting Defendants' Motion for Summary Judgment was hereby entered on the 5th day of July,
21 2016, a copy of which is attached hereto.

22 DATED this 6th day of July, 2016.

23 NORTH LAS VEGAS CITY ATTORNEY

24 /s/ Christopher D. Craft
25 Sandra Douglass Morgan, Nev. Bar No. 8582
26 Christopher D. Craft, Nev. Bar No. 7314
27 2250 Las Vegas Blvd. North, Suite 810
28 North Las Vegas, Nevada 89030
(702) 633-1050
Attorneys for Defendants
John Cargile and City of North Las Vegas

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☒ By electronic service, pursuant to N.E.F.C.R. 9

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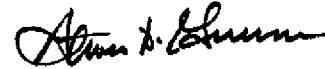
☐ By hand delivery

Marjorie Hauf, Esq.
Ida M. Ybarra, Esq.
GANZ & HAUF
8950 W. Tropicana Avenue, Ste. 1
Las Vegas, Nevada 89147
Facsimile (702) 598-3626

/s/ Michelle T. Harrell
An Employee of North Las Vegas
City Attorney's Office

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CLERK OF THE COURT

OGM
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Facsimile: (702) 649-8879
Attorneys for Defendants
John Cargile and City of North Las Vegas

DISTRICT COURT

CLARK COUNTY, NEVADA

JAPONICA GLOVER-ARMONT,

Plaintiff,

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS, a Municipal Corporation existing
under the laws of the State of Nevada in the
County of Clark; DOES I through X, inclusive;
and/or ROE CORPORATIONS I through X,
inclusive,

Defendants.

Case No. A-13-683211-C

Dept. No. XIX

ORDER

Defendants City of North Las Vegas (the "City") and Sergeant John Cargile ("Sergeant Cargile") (collectively "Defendants") came before the Court for hearing on Defendants' Motion for Summary Judgment on February 2, 2016, and March 1, 2016, and on Defendants' Motion to Reconsider on May 31, 2016. Plaintiff Japonica Glover-Armont appeared by and through her counsel, Adam Ganz, Esq., and Marjorie Hauf, Esq., and Defendants appeared by and through their counsel, Christopher Craft, Esq. After consideration of the papers and pleadings on file, and argument of counsel, the Court issues the following Findings of Fact, Conclusions of Law, and Order:

00039844.WPD; 1 PD-1226

-1-

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

0997

I.

FINDINGS OF FACT

1. On November 5, 2012, Defendant John Cargile ("Cargile"), a Sergeant with the North Las Vegas Police Department, was responding to an emergency call, specifically that shots had been fired and at least one person was injured. Cargile's actions in responding to the call, driving his police vehicle to the scene of the emergency, were within his authority as a police officer.

2. While responding to the call, Cargile made the decision to proceed through a red traffic signal at the intersection of 5th Street and Cheyenne Avenue in North Las Vegas, as he was turning left onto Cheyenne Avenue from northbound 5th Street.

3. When Cargile was in the process of clearing the intersection, a collision occurred between his vehicle and that of Plaintiff Japonica Glover-Armont, who was driving eastbound on Cheyenne Avenue at the time.

II.

CONCLUSIONS OF LAW

1. To receive discretionary-act immunity under NRS 41.032(2), a public employee's decision "must (1) involve an element of individual judgment or choice and (2) be based on considerations of social, economic, or political policy." Martinez v. Maruszczak, 123 Nev. 433, 446-47, 168 P.3d 720, 729 (2007). "[D]ecisions at all levels of government, including frequent or routine decisions, may be protected by discretionary-act immunity...." Id. at 447, 168 P.3d at 729.

2. While responding to the emergency call, Cargile used his individual judgment in deciding how to respond, including making decisions as to what route to take, and whether and how to proceed through the red traffic signal at 5th Street and Cheyenne Avenue.

3. Cargile's actions, undertaken while responding to an emergency call, were related to, and in furtherance of, public policies, such as protection of the public, enforcing the law, and apprehending criminals.

4. Cargile's actions do not constitute an intentional tort, and no intentional torts were pled in this matter. Furthermore, because Cargile was acting within the scope of his authority by responding to an emergency call, his actions were not undertaken in bad faith.

6. Furthermore, because Cargile is immune from Plaintiff's negligence claims as set forth above, there are no grounds for Plaintiff's claims against the City for negligent entrustment, negligent hiring, negligent training, negligent supervision, negligent retention, or vicarious liability.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that Defendants' Motion for Summary Judgment is GRANTED. Plaintiff's Complaint is dismissed with prejudice.

DISTRICT COURT JUDGE

for Judge William Kephart

Christopher D. Craft, Nev. Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Telephone: (702) 633-1050
Attorneys for Defendants
John Cargile and City of North Las Vegas

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

February 02, 2016

A-13-683211-C Japonica Glover-Armont, Plaintiff(s)
vs.
John Cargile, Defendant(s)

**February 02, 2016 9:00 AM Motion for Summary
Judgment**

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Craft, Christopher D. Attorney
Ganz, Adam Attorney

JOURNAL ENTRIES

- Mr. Craft argued in support of motion stating the Officer's lights and sirens were on and pursuant to the Martinez case the Officer was making split second decisions during the response to an emergency call and should be given immunity. Mr. Ganz argued in opposition stating there are factual issues in this case based on the discrepancies between the statements of the parties. Upon Court's inquiry, Mr. Craft advised there are competing experts in this case as to fault of the accident. Further argument by counsel. Court stated he wants parties to provide supplemental briefing to include description of the accident as well as police reports which shall be blind briefs due on or before 2/23/2016.

CONTINUED TO: 3/01/2016 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

March 01, 2016

A-13-683211-C Japonica Glover-Armont, Plaintiff(s)
vs.
John Cargile, Defendant(s)

**March 01, 2016 9:00 AM Motion for Summary
Judgment**

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Craft, Christopher D. Attorney
Hauf, Marjorie L. Attorney

JOURNAL ENTRIES

- Court stated he previously continued in order for counsel to provide supplemental briefing regarding the factual issues the Court had and the Court does not believe the briefs answered the Court's concerns; therefore COURT ORDERED, Motion DENIED WITHOUT PREJUDICE as the Court believes there are general issues of material fact that remain. Mr. Craft argued in support of motion stating discretionary immunity as the officer is responding to a call, and is required to make conscious decision. Further discussion regarding Mr. Craft's position. Ms. Hauf argued there is a dispute of facts which needs to be looked at in the light most favorable to the moving party and believes the motion should be denied. Court stated ruling stands.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

April 19, 2016

A-13-683211-C	Japonica Glover-Armont, Plaintiff(s)
	vs.
	John Cargile, Defendant(s)

April 19, 2016 9:00 AM Pre Trial Conference

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT:	Craft, Christopher D.	Attorney
	Ganz, Adam	Attorney

JOURNAL ENTRIES

- Mr. Craft advised he will be requesting the trial be continued due to scheduling conflicts. Mr. Ganz advised he cannot agree; however, he appreciates the request to continue. Colloquy regarding scheduling. COURT ORDERED, trial date VACATED and RESET; Defendant's pending motions in limine shall be CONTINUED to 5/31/2016 at 9:00 am.

7/05/2016 9:00 AM PRE TRIAL CONFERENCE

7/19/2016 9:00 AM CALENDAR CALL

8/01/2016 1:00 PM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Negligence - Auto

COURT MINUTES

May 31, 2016

A-13-683211-C Japonica Glover-Armont, Plaintiff(s)
vs.
John Cargile, Defendant(s)

May 31, 2016 9:00 AM All Pending Motions

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 03E

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Craft, Christopher D. Attorney
 Ganz, Adam Attorney

JOURNAL ENTRIES

- DEFENDANT'S MOTION TO RECONSIDER:

Upon Court's inquiry, Mr. Craft it is undisputed that Plaintiff saw the lights at some point. Colloquy regarding Defendant's motion. Mr. Ganz argued in opposition. COURT ORDERED, Motion GRANTED and Defendant's Motion for Summary Judgment GRANTED. Mr. Ganz requested 54 (b) certification in order to file a writ. COURT FURTHER ORDERED, 54 (b) certification GRANTED.

PLAINTIFF'S MOTIONS IN LIMINE 1 - 8 ... DEFENDANT'S OMNIBUS MOTION IN LIMINE:

COURT FURTHER ORDERED, motions OFF CALENDAR as MOOT; trial date VACATED.



EIGHTH JUDICIAL DISTRICT COURT CLERK'S OFFICE
NOTICE OF DEFICIENCY
ON APPEAL TO NEVADA SUPREME COURT

MARJORIE HAUF, ESQ.
8950 W. TROPICANA AVE., STE. 1
LAS VEGAS, NV 89147

DATE: August 5, 2016
CASE: A-13-683211-C

RE CASE: JAPONICA GLOVER-ARMONT vs. JOHN CARGILE; CITY OF NORTH LAS VEGAS

NOTICE OF APPEAL FILED: August 3, 2016

YOUR APPEAL HAS BEEN SENT TO THE SUPREME COURT.

PLEASE NOTE: DOCUMENTS NOT TRANSMITTED HAVE BEEN MARKED:

- ☒ \$250 – Supreme Court Filing Fee (Make Check Payable to the Supreme Court)**
 - If the \$250 Supreme Court Filing Fee was not submitted along with the original Notice of Appeal, it must be mailed directly to the Supreme Court. The Supreme Court Filing Fee will not be forwarded by this office if submitted after the Notice of Appeal has been filed.
- ☐ \$24 – District Court Filing Fee (Make Check Payable to the District Court)**
- ☒ \$500 – Cost Bond on Appeal (Make Check Payable to the District Court)**
 - NRAP 7: Bond For Costs On Appeal in Civil Cases
- ☐ Case Appeal Statement
 - NRAP 3 (a)(1), Form 2
- ☐ Order
- ☐ Notice of Entry of Order

NEVADA RULES OF APPELLATE PROCEDURE 3 (a) (3) states:

"The district court clerk must file appellant's notice of appeal despite perceived deficiencies in the notice, including the failure to pay the district court or Supreme Court filing fee. **The district court clerk shall apprise appellant of the deficiencies in writing**, and shall transmit the notice of appeal to the Supreme Court in accordance with subdivision (e) of this Rule with a notation to the clerk of the Supreme Court setting forth the deficiencies. Despite any deficiencies in the notice of appeal, the clerk of the Supreme Court shall docket the appeal in accordance with Rule 12."

Please refer to Rule 3 for an explanation of any possible deficiencies.

***Per District Court Administrative Order 2012-01, in regards to civil litigants, "...all Orders to Appear in Forma Pauperis expire one year from the date of issuance." You must reapply for in Forma Pauperis status.*

Certification of Copy

State of Nevada }
County of Clark } SS:

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

PLAINTIFF'S NOTICE OF APPEAL; CASE APPEAL STATEMENT;
DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER; NOTICE OF ENTRY OF
ORDER; DISTRICT COURT MINUTES; NOTICE OF DEFICIENCY

JAPONICA GLOVER-ARMONT,

Plaintiff(s),

vs.

JOHN CARGILE; CITY OF NORTH LAS
VEGAS,

Defendant(s),

Case No: A-13-683211-C

Dept No: XIX

now on file and of record in this office.

IN WITNESS THEREOF, I have hereunto
Set my hand and Affixed the seal of the
Court at my office, Las Vegas, Nevada
This 5 day of August 2016.

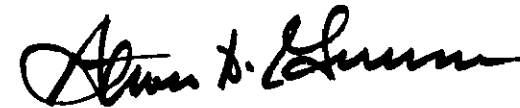
Steven D. Grierson, Clerk of the Court

Chaunte Pleasant

Chaunte Pleasant, Deputy Clerk

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CLERK OF THE COURT

1 ORDR
2 NORTH LAS VEGAS CITY ATTORNEY
3 Bethany Rudd Sanchez, Nev. Bar No. 9426
4 Acting City Attorney
5 Christopher D. Craft, Nev. Bar No. 7314
6 Deputy City Attorney
7 2250 Las Vegas Blvd. North, Suite 810
8 North Las Vegas, Nevada 89030
9 Telephone: (702) 633-1050
10 Facsimile: (702) 649-8879
11 *Attorneys for Defendants*
12 *John Cargile and City of North Las Vegas*

8 **DISTRICT COURT**
9 **CLARK COUNTY, NEVADA**

10 JAPONICA GLOVER-ARMONT,

11 Plaintiff,

12 vs.

13 JOHN CARGILE; CITY OF NORTH LAS
14 VEGAS, a Municipal Corporation existing
15 under the laws of the State of Nevada in the
16 County of Clark; DOES I through X, inclusive;
17 and/or ROE CORPORATIONS I through X,
18 inclusive,

19 Defendants.

Case No. A-13-683211-C

Dept. No. XIX

ORDER AND JUDGMENT

18 On September 20, 2016 at 9:00 a.m., Defendants City of North Las Vegas and Sergeant John
19 Cargile (collectively "City") came before the Court for hearing on Plaintiff JAPONICA GLOVER-
20 ARMONT's Motion to Retax Costs. Plaintiff appeared by and through her counsel, Dane Watson,
21 Esq., and the City appeared by and through its counsel, Christopher Craft, Esq. After consideration
22 of the papers and pleadings on file, and argument of counsel, the Court orders as follows:

23 **IT IS HEREBY ORDERED**, that Plaintiff's Motion to Retax Costs be GRANTED IN
24 PART, thereby reducing the City's costs from \$4,403.49 to \$4,055.50;

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IT IS FURTHER ORDERED AND ADJUDGED, that the City shall have judgment against Plaintiff JAPONICA GLOVER-ARMONT in the amount of \$4,055.50, plus interest at the statutory rate.

DATED this 3rd day of Oct, 2016.

With Kyrst
DISTRICT COURT JUDGE

Submitted by:

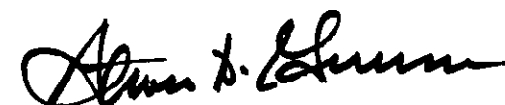
NORTH LAS VEGAS CITY ATTORNEY

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John Cargile and City of North Las Vegas

1 **SAO**
2 ADAM GANZ, ESQ.
3 Nevada Bar No. 6650
4 MARJORIE HAUF, ESQ.
5 Nevada Bar No. 8111
6 IDA M. YBARRA, ESQ.
7 Nevada Bar No. 11327
8 GANZ & HAUF
9 8950 W. Tropicana Ave., Ste. 1
10 Las Vegas, Nevada 89147
11 Tel: (702) 598-4529
12 Fax: (702) 598-3626

13 Attorneys for Plaintiff

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CLERK OF THE COURT

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DISTRICT COURT

CLARK COUNTY, NEVADA

13 JAPONICA GLOVER-ARMONT,

14 Plaintiff,

15 vs.

16 JOHN CARGILE; CITY OF NORTH LAS
17 VEGAS, a Municipal Corporation existing
18 under the laws of the State of Nevada in the
19 County of Clark; DOES I through X, inclusive;
20 and/or ROE CORPORATIONS I through X,
21 inclusive,

22 Defendants.

CASE NO.: A-13-683211-C
DEPT NO.: XIX

**STIPULATION AND ORDER TO STAY
EXECUTION OF THE JUDGMENT
PENDING APPEAL**

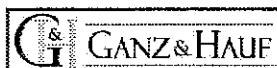
23 Plaintiff and Defendant, by and through their undersigned counsel, hereby submit this
24 Stipulation and Order to stay execution of the Judgment pending the decision from the

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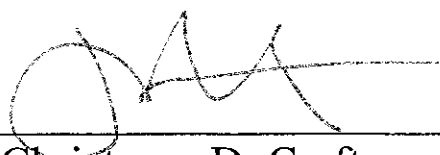


1 Nevada Supreme Court.

2 Dated this 18 day of October, 2016

3

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5 
Christopher D. Craft
Nevada Bar No. 7314
Deputy City Attorney
2250 Las Vegas Blvd. North, Suite 810
North Las Vegas, Nevada 89030
Attorneys for Defendants

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Dated this 19th day of October, 2016.

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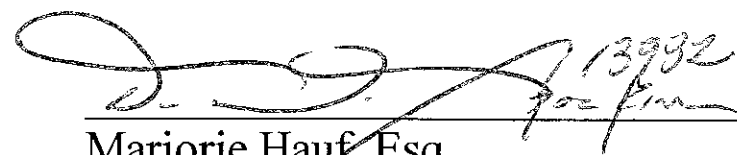
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Dated this 17 day of October, 2016

 13932
for firm

Marjorie Hauf, Esq.
Nevada Bar No. 8111
Ida Ybarra, Esq.
Nevada Bar No. 11327
Ganz & Hauf
8950 W. Tropicana Ave, Suite 1
Las Vegas, NV 89147
Attorneys for Plaintiff

ORDER

IT IS SO ORDERED



DISTRICT COURT JUDGE

DATED: 10-19-16