

Electronically Filed
Apr 14 2020 11:02 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

NOAS
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
City of Henderson and
CCMSI

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CITY OF HENDERSON, and CCMSI,

Petitioners,

v.

BRIAN WOLFGRAM and THE
DEPARTMENT OF ADMINISTRATION,
HEARINGS DIVISION, APPEALS OFFICE,
an Agency of the State of Nevada,

Respondents

CASE NO.: A-18-782711-J

DEPT. NO.: 19

NOTICE OF APPEAL

TO: BRIAN WOLFGRAM, Respondent

TO: JASON MILLS, ESQ., Respondent's Attorney

NOTICE IS HEREBY GIVEN that Petitioners, CITY OF HENDERSON and CCMSI,
(hereinafter referred to as "Petitioners"), in the above-entitled action, hereby appeal to the Supreme
Court of the State of Nevada from the attached "Order" entered in this action on or

...

...

...

1 about March 11, 2020 which denied Petitioners' Petition for Judicial Review and the "Notice of Entry
2 of Order" filed on or about March 11, 2020.

3 DATED this 3 day of April, 2020.

4 Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6
7
8 By: /s/ Joel P. Reeves
9 DANIEL L. SCHWARTZ, ESQ.
10 JOEL P. REEVES, ESQ.
11 LEWIS BRISBOIS BISGAARD & SMITH, LLP
12 2300 West Sahara Avenue, Suite 300, Box 28
13 Las Vegas, Nevada 89102
14 Attorneys for Petitioners
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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 3rd day of April, 2020, service of the foregoing **NOTICE OF APPEAL** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Jason Mills, Esq.
JASON D. MILLS & ASSOCIATES LTD
2200 South Rancho Drive, Ste. 140
Las Vegas, NV 89102

Attn: Sally Ihmels
City of Henderson
240 South Water Street MSC 122
Henderson, NV 89015

Attn: Susan Riccio
CCMSI
P.O. Box 35350
Las Vegas, NV 89133

/s/ Stephanie Jensen
An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

DISTRICT COURT
CLARK COUNTY, NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

NOTICE OF APPEAL

filed in case number: A-18-782711-J

☐ Document does not contain the Social Security number of any person.

- OR -

☐ Document contains the Social Security number of a person as required by:

☐ A specific state or federal law, to wit:

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

- or -

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 4/3/2020

/s/ Joel P. Reeves, Esq/
(Signature)

DANIEL L. SCHWARTZ, ESQ.
(Print Name)

PETITIONERS
(Attorney for)

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EXHIBIT 1



1 NOE

2 JASON D. MILLS, ESQ.

Nevada Bar Number 7447

3 JASON D. MILLS & ASSOCIATES, LTD.

4 2200 S. Rancho Dr., Ste 140

Las Vegas, Nevada 89102

5 Telephone (702) 822-4444

6 Facsimile (702) 822-4440

7 jdm@jasondmills.com

Counsel for Respondent

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

11 CITY OF HENDERSON, and CCMSI,

Case No.: A-18-782711-J

Dept. No: 19

12 Petitioners,

13 vs.

14 BRIAN WOLFGAM, an individual,
15 DEPARTMENT OF ADMINISTRATION,
16 HEARINGS DIVISION, APPEALS OFFICE,
17 an agency of the State of Nevada,

18 Respondents.
19

20
21 **NOTICE OF ENTRY OF ORDER**

22 TO: ALL INTERESTED PERSONS AND PARTIES

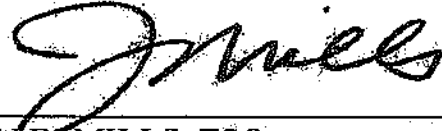
23
24 PLEASE TAKE NOTICE that the attached ORDER DENYING PETITION

25 ///

26 ///

1 FOR JUDICIAL REVIEW was entered on 3/11/2020.

2 Dated this 11th day of March, 2020.

3
4 

5
6 JASON D. MILLS, ESQ.
7 Nevada Bar No. 7447
8 JASON D. MILLS & ASSOCIATES, LTD.
9 2200 S. Rancho Dr., Ste. 140
10 Las Vegas, NV 89102
11 Attorney for Respondent,
12 BRIAN WOLFGRAM
13
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CERTIFICATE OF MAILING

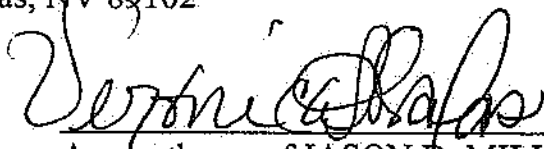
Pursuant to NRCP 5(b), I hereby certify that on the 11 day of March, 2020, I duly deposited for mailing, first class mail, postage prepaid thereon, in the United States Mail at Las Vegas, Nevada, a true and correct copy of the above Notice of Entry of Order, in the above-entitled matter, addressed to the following:

City of Henderson
Sally Ihmels
240 S. Water Str., MSC 122
Henderson, NV 89015

CCMSI
Susan Riccio
P.O. Box 35350
Las Vegas, NV 89133

Daniel L. Schwartz, Esq.
Joel P. Reeves, Esq.
Lewis Brisbois Bisgaard & Smith, LLP
2300 W. Sahara Ave., Ste. 300 Box 28
Las Vegas, NV 89102

Department of Administration
Charles J. York, Esq.
Appeals Division
2200 S. Rancho Dr., Ste. 220
Las Vegas, NV 89102



An employee of JASON D. MILLS & ASSOCIATES, LTD.

Steven D. Grierson

1 **ORD**
2 **JASON D. MILLS, ESQ.**
3 Nevada Bar Number 7447
4 **JASON D. MILLS & ASSOCIATES, LTD.**
5 2200 S. Rancho Dr., Ste 140
6 Las Vegas, Nevada 89102
7 Telephone (702) 822-4444
8 Facsimile (702) 822-4440
9 jdm@jasondmills.com
10 *Counsel for Respondent*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 **CITY OF HENDERSON, and CCMSI,**
14 **Petitioners,**
15 **vs.**

Case No.: A-18-782711-J
Dept. No: 19

16 **BRIAN WOLFGRAM, an individual,**
17 **DEPARTMENT OF ADMINISTRATION,**
18 **HEARINGS DIVISION, APPEALS OFFICE,**
19 **an agency of the State of Nevada,**

Respondents.

<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

20 **ORDER DENYING PETITION FOR JUDICIAL REVIEW**

21 This matter being duly noticed came on for hearing on February 2, 2020 at
22 09:00 a.m. regarding Petitioner's PETITION FOR JUDICIAL REVIEW in the
23 above-entitled Court. Petitioners, CITY OF HENDERSON and CCMSI,
24 (hereinafter "Petitioners") represented by DANIEL L. SCHWARTZ, ESQ., and
25 JOEL P. REEVES, ESQ., of the law firm LEWIS BRISBOIS BISGAARD &
26 SMITH, LLP., and Respondent, BRIAN WOLFGRAM (hereinafter
27
28

1 "Respondent") represented by his attorney of record, JASON D. MILLS, ESQ., of
2 the law firm JASON D. MILLS & ASSOCIATES, LTD., and the Court having
3 considered the arguments of counsel in the briefs and being fully advised in the
4 premises, and the substantial evidence in the record on appeal supporting the
5 Appeals Officer's findings, good cause appearing the Court hereby finds;
6
7

8 Here, the primary issue presented in the underlying Petition it is whether the
9 administrative Appeals Officer acted within his legal authority when he analyzed
10 the facts of the underlying case and applied the plain meaning to "full wages" and
11 in determining whether Respondent Brian Wolfgram was incapacitated from
12 earning such "full wages" for a period of five (5) or more days allowing
13 Respondent the ability to seek industrial claim reopening rights for life pursuant to
14 NRS 616C.390.
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18 The Court's roll in reviewing an administrative agency's decision is to
19 review the agency's decision for clear error or an arbitrary and capricious abuse of
20 discretion and will overturn the agency's factual findings only if they are not
21 supported by substantial evidence. *Original Roofing Company, LLC v. Chief*
22 *Administrative Officer of Occupational Safety and Health Administration*, 135
23 Nev. Adv. Op. 18 (June 6, 2019) (citing *Elizondo v. Hood Mach., Inc.*, 129 Nev.
24 780, 784, 312 P.3d 479, 482 (2013). An agency's fact-based conclusions of law are
25 entitled to deference when supported by substantial evidence; however, purely
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1 legal questions are reviewed de novo. *Law Offices of Barry Levinson, P.C. v.*
2 *Milko*, 124 Nev. 355, 362, 184 P.3d 378, 383-84 (2008). "Substantial evidence is
3 that which a reasonable mind might accept as adequate to support a conclusion."
4 *City Plan Dev., Inc. v. State, Office of Labor Comm'r*, 121 Nev. 419, 426, 117 P.3d
5 182, 187 (2005). Finally, the court's review is confined to the record before the
6 agency. *Levinson* at 362 citing *SIIS v. Christensen*, 106 Nev. 85, 87-88, 787 P.2d
7 408, 409 (1990). Furthermore, under the Nevada Administrative Procedures Act, a
8 court shall not substitute its judgment for that of the agency as to the weight of
9 evidence on a question of fact. NRS 233B.135(3). "[S]hall not" is expressly
10 defined by Nevada law as creating a "prohibition against acting". NRS 0.025(1)(f).

11 In reviewing the Nevada Industrial Insurance Act NRS 616A-616D
12 ("NILA"), and the supporting regulations found in NAC 616A-616D, it is noted the
13 term "full wages" is not specifically defined. Accordingly, the Appeals Officer was
14 tasked with determining that phrase's plain meaning.

15 Noteworthy is that "average monthly wage" is defined in reviewing the
16 regulations in force at the time of the Appeals Officer's decision,

17 Specifically, NAC 616C.423 states:

18 *NAC 616C.423 Items in average monthly wage. (NRS 616A.400,*
19 *616C.420)*

20 1. Money, goods and service which are paid within the period
21 used to calculate the average monthly wage include, but are
22 not limited to:

23 (a) Wages:

- 1 (b) Commissions which are prorated over the period used to
2 calculate the average monthly wage;
3 (c) Incentive pay;
4 (d) Payment for sick leave;
5 (e) Bonuses which are prorated over the period used to calculate the
6 average monthly wage;
7 (f) Termination pay;
8 (g) Tips which are collected and disbursed by the employer which are
9 not paid at the discretion of the customer;
10 (h) Tips reported by the employee pursuant to NRS 616B.227;
11 (i) Allowance for tools or for the rental of hand and power tools
12 not normally provided by the employee;
13 (j) Salary;
14 (k) Payment for piecework;
15 (l) Payment for vacation;
16 (m) Payment for holidays;
17 (n) Payment for overtime;
18 (o) Payment for travel when it is paid to compensate the employee
19 for the time spent in travel; and
20 (p) The reasonable market value of either board or room, or both.
21 At least \$150 per month will be allowed for board and room, \$5 per
22 day or \$1.50 per meal for board, and \$50 per month for a room.

23 2. Notwithstanding paragraph (p) of subsection 1, the reasonable
24 value of a meal furnished by an employer to an employee is the value,
25 if any, specified in the collective bargaining agreement between the
26 employee and employer.

27 3. The following payments may not be included in the calculation
28 of an average monthly wage:

- (a) Reimbursement to the employee for expenses to enable the
employee to perform his or her job, including, without limitation, a
per diem allowance and reimbursement for travel expenses;
(b) Payment for employment which is not subject to coverage
pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;
(c) Payment for employment for which coverage is elective, but
has not been elected; and
(d) Allowances for laundry or uniforms.

Thus, overtime is clearly part of the average monthly wage calculation. And as the
record demonstrated overtime pay was more than 15% of the Respondent's income

1 in the 12-week period prior to the industrial accident, and as such was not
2 speculative in nature. Further, NRS 616C.390(11)(c), the specific reopening statute
3 the Appeals Officer was tasked with applying when ruling on reopening states
4 “wages” is:
5

6
7 *... any remuneration paid by an employee for the*
8 *personal services of the employee, including, without limitation:*
9 *(1) Commissions and bonuses; and*
10 *(2) Remuneration payable in any medium other than cash.*

11 Additionally, whether such overtime pay is “voluntary” as argued by the
12 Petitioners is of absolutely no legal moment. Petitioners openly concede that
13 Respondent, while on modified duty is expressly precluded from earning any
14 overtime at all, even if he so desired. Thus, in agreement with the Appeals Officer
15 this Court finds that “full wages” must contemplate at the very least the definition
16 of “wages” as set forth by the NILA which is certainly something more than “base
17 pay” or “regular pay” as advanced by the Petitioner.
18

19
20 The Appeals Officer’s ruling that Respondent’s claim was subject to lifetime
21 reopening rights (NRS 616C.390) because he was incapacitated from earning “full
22 wages” for a period of more than five (5) days (NRS 616C.400) is overwhelmingly
23 supported by the record before this Honorable Court and existing Nevada Law.
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26 ///

1 Case No.: A-18-782711-J

2 Dept. No: 19

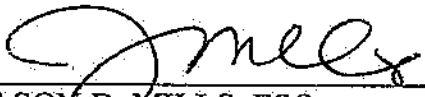
3 **ORDER**

4 **THE COURT HEREBY ORDERS** that the Petition for Judicial Review
5
6 is **DENIED**.

7 Dated this 24th day of February, 2020.

8
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10 
11 DISTRICT COURT JUDGE
12 

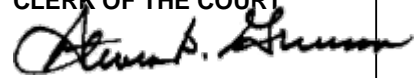
13 RESPECTFULLY SUBMITTED BY:

14 
15
16 JASON D. MILLS, ESQ.
17 JASON D. MILLS & ASSOCIATES, LTD.
18 Nevada Bar No: 7447
19 2200 S. Rancho Dr., Ste. 140
20 Las Vegas, NV 89102
21 Attorney for Respondent,
22 BRIAN WOLFGRAM
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ASTA
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
City of Henderson and
CCMSI

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CITY OF HENDERSON, and CCMSI,

Petitioners,

v.

CASE NO.: A-18-782711-J
DEPT. NO.: 19

BRIAN WOLFGRAM and THE
DEPARTMENT OF ADMINISTRATION,
HEARINGS DIVISION, APPEALS OFFICE,
an Agency of the State of Nevada,

Respondents.

CASE APPEAL STATEMENT

1. Name of Petitioners filing this case appeal statement:

City of Henderson and CCMSI

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

Hon. Bill Kephart, District Court Judge

3. Identify all parties to the proceedings in the district court (the use of et al. to denote parties is prohibited):

City of Henderson, CCMSI, and Brian Wolfgram

4. Identify all parties involved in this appeal (the use of et al. to denote parties is prohibited):

City of Henderson, CCMSI, and Brian Wolfgram

1 5. Set forth the name, law firm, address, and telephone number of all counsel on
2 appeal and identify the party or parties whom they represent:

3 **DANIEL L. SCHWARTZ, ESQ.**
4 **JOEL P. REEVES, ESQ.**
5 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
6 **2300 W. Sahara Avenue, Suite 300, Box 28**
7 **Las Vegas, Nevada 89102-4375**
8 *Attorneys for Petitioners*
9 *City of Henderson and*
10 *CCMSI*

11 **JASON MILLS, ESQ.**
12 **JASON D. MILLS & ASSOCIATES LTD**
13 **2200 South Rancho Drive, Ste. 140**
14 **Las Vegas, NV 89102**
15 **Attorney for Respondent**
16 *Brian Wolfgram*

17 6. Indicate whether Petitioners were represented by appointed or retained counsel in
18 the district court:

19 **Petitioners were represented by retained counsel in the District Court.**

20 7. Indicate whether Respondent was represented by appointed or retained counsel in
21 the district court:

22 **Respondent was represented by retained counsel in the District Court.**

23 8. Indicate whether Petitioners are represented by appointed or retained counsel on
24 appeal:

25 **Petitioners are represented by retained counsel on appeal.**

26 9. Indicate whether Respondent is represented by appointed or retained counsel on
27 appeal:

28 **Respondent is represented by retained counsel on appeal.**

 10. Indicate whether Petitioners were granted leave to proceed in forma pauperis, and
the date of entry of the district court order granting such leave:

Petitioners were not granted leave to proceed in forma pauperis.

1 11. Indicate whether Respondent was granted leave to proceed in forma pauperis, and
2 the date of entry of the district court order granting such leave:

3 **Respondent was not granted leave to proceed in forma pauperis.**

4 12. Indicate the date the proceedings commenced in the district court (e.g., date
5 complaint, indictment, information, or petition was filed):

6 **The Petition for Judicial Review of the Appeals Officer's Decision of September 16,**
7 **2018, was filed on October 12, 2018.**

8 13. Provide a brief description of the nature of the action and result in the district court,
9 including the type of judgment or order being appealed and the relief granted by the district court:

10 **This is a workers' compensation case. On January 26, 2015, Respondent BRIAN**
11 **WOLFGRAM's (hereinafter "Respondent") workers' compensation claim closed without a**
12 **permanent partial disability ("PPD") rating. On February 6, 2017, Respondent requested**
13 **that his claim be reopened for further care. Petitioner CCMSI (hereinafter**
14 **"Administrator") denied his request under NRS 616C.390(5) as Respondent had never been**
15 **incapacitated from earning his full wages over the course of his claim and because he did not**
16 **receive a PPD award. Respondent appealed.**

17 **On September 12, 2018, the Appeals Officer reversed the Administrator, holding as**
18 **follows:**

19 **Claimant has met the statutory requirement of minimum**
20 **duration of incapacity because he was placed on light duty work**
21 **restrictions from October 20, 2014 to November 3, 2014, due to**
22 **an industrial injury for a period of more than 5 days in 20 and**
23 **was unable to earn "full wages" during the light duty time**
24 **period. Claimant earned only base salary for the period of**
 October 20, 2014 to November 3, 2014 and was therefore
 incapacitated pursuant to NRS 616C.400.

25 **However, the Appeals Officer also concluded that Respondent had not submitted**
26 **sufficient evidence to support reopening. Therefore, the Appeals Officer ordered that the**
27 **claim remain closed, but that Respondent should be afforded lifetime reopening rights given**
28 **that the Appeals Officer concluded that Respondent had proven the minimum duration of**

1 incapacity for entitlement to the same.

2 Petitioners filed a Petition for Judicial Review with the District Court based on the
3 Appeals Officer's arbitrary interpretation of statutory terms ("full wages" and
4 "incapacitated") which constituted legal error. The District Court affirmed the Appeals
5 Officer. Petitioners now seek review with the Supreme Court.

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

9 **No.**

10 15. Indicate whether this appeal involves child custody or visitation:

11 **No.**

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

14 **No.**

15 DATED this 3 day of April, 2020.

16 Respectfully submitted,

17 LEWIS BRISBOIS BISGAARD & SMITH LLP

18
19
20
21 By: /s/ Joel P. Reeves
22 DANIEL L. SCHWARTZ, ESQ.
23 JOEL P. REEVES, ESQ.
24 LEWIS BRISBOIS BISGAARD & SMITH, LLP
25 2300 West Sahara Avenue, Suite 300, Box 28
26 Las Vegas, Nevada 89102
27 Attorneys for Petitioners

28

DISTRICT COURT
CLARK COUNTY, NEVADA

AFFIRMATION
Pursuant to NRS 239B.030

The undersigned does hereby affirm that the preceding document, _____

CASE APPEAL STATEMENT

filed in case number: A-18-782711-J :

☐ Document does not contain the Social Security number of any person.

- OR -

☐ Document contains the Social Security number of a person as required by:

☐ A specific state or federal law, to wit:

- or -

☐ For the administration of a public program

- or -

☐ For an application for a federal or state grant

- or -

☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 4/3/2020

/s/ Joel P. Reeves for
(Signature)

DANIEL L. SCHWARTZ, ESQ.
(Print Name)

PETITIONERS
(Attorney for)

1 **CERTIFICATION PURSUANT TO COURT GUIDELINES**

2 Counsel submitting this document certifies as follows (check one):

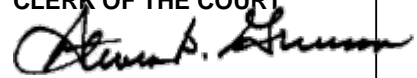
3
4 _____ The court has waived the requirements set forth in the Guidelines;

5
6
7 _____ No party appeared at the hearing or filed an objection to the motion;

8
9 X I have delivered a copy of this proposed order to all counsel who appeared
10 at the hearing, and each has approved or disapproved the order, or failed to respond
11 as indicated below:

12 [] Approved [] Disapproved X Failed to Respond
13

14
15 _____
16 DANIEL L. SCHWARTZ, ESQ., Attorney for Petitioners,
17 CITY OF HENDERSON and CCMSI
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NOCB
DANIEL L. SCHWARTZ, ESQ.
Nevada Bar No. 005125
JOEL P. REEVES, ESQ.
Nevada Bar No. 013231
LEWIS BRISBOIS BISGAARD & SMITH LLP
2300 W. Sahara Ave. Ste. 300
Las Vegas, Nevada 89102
Telephone: 702-893-3383
Facsimile: 702-366-9689
Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Petitioners
City of Henderson and
CCMSI

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CITY OF HENDERSON, and CCMSI,

Petitioners,

v.

BRIAN WOLFGRAM and THE
DEPARTMENT OF ADMINISTRATION,
HEARINGS DIVISION, APPEALS OFFICE,
an Agency of the State of Nevada,

Respondents

CASE NO.: A-18-782711-J

DEPT. NO.: 19

NOTICE OF FILING BOND

NOTICE IS HEREBY GIVEN that Petitioners, CITY OF HENDERSON, and CCMSI, by
and through their attorneys, DANIEL L. SCHWARTZ, ESQ. of LEWIS BRISBOIS BISGAARD
& SMITH LLP, deposited with the Clerk of this Court, in compliance with the NRAP Rule 7, a

...

...

...

1 check in the amount of \$500.00 for security, which was hand delivered to the Eight Judicial
2 District Court.

3 DATED this 3 day of April, 2020.

4 Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP
6
7

8 By: /s/ Joel P. Reeves, Esq.
9 DANIEL L. SCHWARTZ, ESQ.
10 JOEL P. REEVES, ESQ.
11 LEWIS BRISBOIS BISGAARD & SMITH, LLP
12 2300 West Sahara Avenue, Suite 300, Box 28
13 Las Vegas, Nevada 89102
14 Attorneys for Petitioners
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CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 3 day of April, 2020, service of the foregoing **NOTICE OF FILING BOND** was made this date by depositing a true copy of the same for mailing, first class mail, as follows:

Jason Mills, Esq.
JASON D. MILLS & ASSOCIATES LTD
2200 South Rancho Drive, Ste. 140
Las Vegas, NV 89102

Attn: Sally Ihmels
City of Henderson
240 South Water Street MSC 122
Henderson, NV 89015

Attn: Susan Riccio
CCMSI
P.O. Box 35350
Las Vegas, NV 89133

/s/ Stephanie Jensen
An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY
CASE NO. A-18-782711-J

City of Henderson, Petitioner(s)
vs.
Brian Wolfgram, Respondent(s)

§
§
§
§
§
§

Location: **Department 19**
Judicial Officer: **Kephart, William D.**
Filed on: **10/12/2018**
Cross-Reference Case Number: **A782711**
A782711

CASE INFORMATION

Statistical Closures

03/11/2020 Summary Judgment

Case Type: **Worker's Compensation Appeal**

Case Status: **03/11/2020 Closed**

DATE

CASE ASSIGNMENT

Current Case Assignment

Case Number A-18-782711-J
Court Department 19
Date Assigned 10/12/2018
Judicial Officer Kephart, William D.

PARTY INFORMATION

Petitioner

Cannon Cochran Management Services Inc

Lead Attorneys

Schwartz, Daniel L
Retained
702-893-3383(W)

City of Henderson

Schwartz, Daniel L
Retained
702-893-3383(W)

Respondent

Department of Administration
Wolfgram, Brian

Mills, Jason D.
Retained
7028224444(W)

DATE

EVENTS & ORDERS OF THE COURT

INDEX

EVENTS

10/12/2018



Initial Appearance Fee Disclosure
Filed By: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc
Initial Appearance Fee Disclosure

10/12/2018



Petition for Judicial Review
Filed by: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc
Petition for Judicial Review

10/16/2018



Notice of Intent to Participate
Filed By: Respondent Wolfgram, Brian
Respondent's Brian Wolfgram's Notice of Intent to Participate














11/27/2018



Transmittal of Record on Appeal

CASE SUMMARY

CASE NO. A-18-782711-J

	<p>Party: Respondent Department of Administration <i>Transmittal of Record on Appeal</i></p>
11/27/2018	 Affidavit <i>AFFIDAVIT AND CERTIFICATION</i>
11/27/2018	 Certification of Transmittal Party: Respondent Department of Administration <i>CERTIFICATION OF TRANSMITTAL</i>
01/10/2019	 Brief Filed By: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc <i>Petitioner's Opening Brief</i>
02/13/2019	 Respondent's Answering Brief Filed by: Respondent Wolfgram, Brian <i>Respondent Brian Wolfgram's Reply Brief and Memorandum of Points and Authorities</i>
03/21/2019	 Stipulation and Order <i>Stipulation and Order Extending Briefing Schedule</i>
03/22/2019	 Brief Filed By: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc <i>Petitioners' Reply Brief</i>
07/16/2019	 Request Filed by: Respondent Wolfgram, Brian <i>Respondent's, Brian Wolfgram, Request for Decision</i>
11/01/2019	 Notice of Hearing Filed By: Respondent Wolfgram, Brian <i>Notice of Hearing</i>
11/04/2019	 Clerk's Notice of Hearing <i>Notice of Hearing</i>
03/11/2020	 Order Denying Judicial Review of Administrative Decision Filed by: Respondent Wolfgram, Brian <i>Order Denying Petition for Judicial Review</i>
03/11/2020	 Notice of Entry of Order Filed By: Respondent Wolfgram, Brian <i>Notice of Entry of Order</i>
04/03/2020	 Case Appeal Statement Filed By: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc <i>Case Appeal Statement</i>
04/03/2020	 Notice of Appeal Filed By: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc

CASE SUMMARY**CASE NO. A-18-782711-J***Notice of Appeal*

04/03/2020

**Notice of Filing Cost Bond**

Filed By: Petitioner City of Henderson; Petitioner Cannon Cochran Management Services Inc

Notice of Filing Bond

03/11/2020

DISPOSITIONS**Order Denying Judicial Review** (Judicial Officer: Kephart, William D.)

Debtors: City of Henderson (Petitioner), Cannon Cochran Management Services Inc (Petitioner)

Creditors: Brian Wolfram (Respondent), Department of Administration (Respondent)

Judgment: 03/11/2020, Docketed: 03/12/2020

12/05/2019

**Petition for Judicial Review** (3:00 AM) (Judicial Officer: Kephart, William D.)**12/05/2019, 01/28/2020, 02/04/2020***Petitioner's Notice of Hearing*

Matter Continued;

Matter Continued;

Denied;

Journal Entry Details:

Following arguments by counsel, COURT ORDERED, Petition for Judicial Review DENIED and the Appeal Officer's Decision shall STAND.;

Matter Continued;

Matter Continued;

Denied;

Journal Entry Details:

*Prior to hearing, Mr. Reeves informed the Court that counsel for Respondent had the incorrect date and requested to continue the matter. COURT ORDERED, matter CONTINUED.**CONTINUED TO: 2/04/2020 9:00 AM;*

Matter Continued;

Matter Continued;

Denied;

Journal Entry Details:

*COURT ORDERED, Petitioner's Notice of Hearing on Petition for Judicial Review is CONTINUED to 1/28/2020 at 9:00 AM. CLERK'S NOTE: The above minute order has been distributed to: Jennifer Hiatt-Bryan jennifer.hiatt-bryan@lewisbrisbois.com Joel P. Reeves joel.reeves@lewisbrisbois.com Daniel L. Schwartz daniel.schwartz@lewisbrisbois.com Jason D Mills jdm@jasondmills.com Veronica A Salas vas@jasondmills.com ;***DATE****FINANCIAL INFORMATION****Petitioner** Cannon Cochran Management Services Inc

Total Charges

270.00

Total Payments and Credits

270.00

Balance Due as of 4/6/2020**0.00****Petitioner** City of Henderson

Total Charges

24.00

Total Payments and Credits

24.00

Balance Due as of 4/6/2020**0.00**

DISTRICT COURT CIVIL COVER SHEET

A-18-782711-J

CLARK

County, Nevada

Department 19

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): City of Henderson and CCMSI	Defendant(s) (name/address/phone): Brian Wolfram
Attorney (name/address/phone): Daniel L. Schwartz, Esq./Joel P. Reeves, Esq. Lewis Brisbois Bisgaard & Smith, LLP 2300 W. Sahara, Ste. 300, Box 28 Las Vegas, NV 89102 / 702-893-3383	Attorney (name/address/phone): Jason D. Mills, Esq. Jason D. Mills & Associates 2200 S. Rancho Drive, Ste. 140 Las Vegas, NV 89102 / 702-822-4444

II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

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

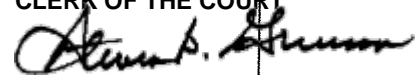
Business Court filings should be filed using the Business Court civil coversheet.

10/12/2018

Date

Signature of initiating party or representative

See other side for family-related case filings.



ORD
JASON D. MILLS, ESQ.
Nevada Bar Number 7447
JASON D. MILLS & ASSOCIATES, LTD.
2200 S. Rancho Dr., Ste 140
Las Vegas, Nevada 89102
Telephone (702) 822-4444
Facsimile (702) 822-4440
jdm@jasondmills.com
Counsel for Respondent

**DISTRICT COURT
CLARK COUNTY, NEVADA**

CITY OF HENDERSON, and CCMSI,

Petitioners,

vs.

BRIAN WOLFGRAM, an individual,
DEPARTMENT OF ADMINISTRATION,
HEARINGS DIVISION, APPEALS OFFICE,
an agency of the State of Nevada,

Respondents.

Case No.: A-18-782711-J
Dept. No: 19

<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

ORDER DENYING PETITION FOR JUDICIAL REVIEW

This matter being duly noticed came on for hearing on February 2, 2020 at 09:00 a.m. regarding Petitioner's PETITION FOR JUDICIAL REVIEW in the above-entitled Court. Petitioners, CITY OF HENDERSON and CCMSI, (hereinafter "Petitioners") represented by DANIEL L. SCHWARTZ, ESQ., and JOEL P. REEVES, ESQ., of the law firm LEWIS BRISBOIS BISGAARD & SMITH, LLP., and Respondent, BRIAN WOLFGRAM (hereinafter

1 “Respondent”) represented by his attorney of record, JASON D. MILLS, ESQ., of
2 the law firm JASON D. MILLS & ASSOCIATES, LTD., and the Court having
3 considered the arguments of counsel in the briefs and being fully advised in the
4 premises, and the substantial evidence in the record on appeal supporting the
5 Appeals Officer’s findings, good cause appearing the Court hereby finds;
6

7
8 Here, the primary issue presented in the underlying Petition it is whether the
9 administrative Appeals Officer acted within his legal authority when he analyzed
10 the facts of the underlying case and applied the plain meaning to “full wages” and
11 in determining whether Respondent Brian Wolfgram was incapacitated from
12 earning such “full wages” for a period of five (5) or more days allowing
13 Respondent the ability to seek industrial claim reopening rights for life pursuant to
14 NRS 616C.390.
15
16
17

18 The Court’s roll in reviewing an administrative agency’s decision is to
19 review the agency’s decision for clear error or an arbitrary and capricious abuse of
20 discretion and will overturn the agency’s factual findings only if they are not
21 supported by substantial evidence. *Original Roofing Company, LLC v. Chief*
22 *Administrative Officer of Occupational Safety and Health Administration*, 135
23 Nev. Adv. Op. 18 (June 6, 2019) (citing *Elizondo v. Hood Mach., Inc.*, 129 Nev.
24 780, 784, 312 P.3d 479, 482 (2013). An agency’s fact-based conclusions of law are
25 entitled to deference when supported by substantial evidence; however, purely
26
27
28

1 legal questions are reviewed de novo. *Law Offices of Barry Levinson, P.C. v.*
2 *Milko*, 124 Nev. 355, 362, 184 P.3d 378, 383-84 (2008). “Substantial evidence is
3 that which a reasonable mind might accept as adequate to support a conclusion.”
4 *City Plan Dev., Inc. v. State, Office of Labor Comm’r*, 121 Nev. 419, 426, 117 P.3d
5 182, 187 (2005). Finally, the court’s review is confined to the record before the
6 agency. *Levinson* at 362 citing *SIIS v. Christensen*, 106 Nev. 85, 87-88, 787 P.2d
7 408, 409 (1990). Furthermore, under the Nevada Administrative Procedures Act, a
8 court shall not substitute its judgment for that of the agency as to the weight of
9 evidence on a question of fact. NRS 233B.135(3). “[S]hall not” is expressly
10 defined by Nevada law as creating a “prohibition against acting”. NRS 0.025(1)(f).

11 In reviewing the Nevada Industrial Insurance Act NRS 616A-616D
12 (“NIIA”), and the supporting regulations found in NAC 616A-616D, it is noted the
13 term “full wages” is not specifically defined. Accordingly, the Appeals Officer was
14 tasked with determining that phrase’s plain meaning.

15 Noteworthy is that “average monthly wage” is defined in reviewing the
16 regulations in force at the time of the Appeals Officer’s decision,
17

18 Specifically, NAC 616C.423 states:

19 *NAC 616C.423 Items in average monthly wage. (NRS 616A.400,*
20 *616C.420)*

21 *1. Money, goods and service which are paid within the period*
22 *used to calculate the average monthly wage include, but are*
23 *not limited to:*

24 *(a) Wages:*

- (b) Commissions which are prorated over the period used to calculate the average monthly wage;
- (c) Incentive pay;
- (d) Payment for sick leave;
- (e) Bonuses which are prorated over the period used to calculate the average monthly wage;
- (f) Termination pay;
- (g) Tips which are collected and disbursed by the employer which are not paid at the discretion of the customer;
- (h) Tips reported by the employee pursuant to NRS 616B.227;
- (i) Allowance for tools or for the rental of hand and power tools not normally provided by the employee;
- (j) Salary;
- (k) Payment for piecework;
- (l) Payment for vacation;
- (m) Payment for holidays;
- (n) Payment for overtime;
- (o) Payment for travel when it is paid to compensate the employee for the time spent in travel; and
- (p) The reasonable market value of either board or room, or both. At least \$150 per month will be allowed for board and room, \$5 per day or \$1.50 per meal for board, and \$50 per month for a room.
2. Notwithstanding paragraph (p) of subsection 1, the reasonable value of a meal furnished by an employer to an employee is the value, if any, specified in the collective bargaining agreement between the employee and employer.
3. The following payments may not be included in the calculation of an average monthly wage:
- (a) Reimbursement to the employee for expenses to enable the employee to perform his or her job, including, without limitation, a per diem allowance and reimbursement for travel expenses;
- (b) Payment for employment which is not subject to coverage pursuant to chapters 616A to 616D, inclusive, or chapter 617 of NRS;
- (c) Payment for employment for which coverage is elective, but has not been elected; and
- (d) Allowances for laundry or uniforms.

Thus, overtime is clearly part of the average monthly wage calculation. And as the record demonstrated overtime pay was more than 15% of the Respondent's income

1 in the 12-week period prior to the industrial accident, and as such was not
2 speculative in nature. Further, NRS 616C.390(11)(c), the specific reopening statute
3 the Appeals Officer was tasked with applying when ruling on reopening states
4 “wages” is:
5

6
7 . . . any remuneration paid by an employee for the
8 personal services of the employee, including, without limitation:
9 (1) Commissions and bonuses; and
10 (2) Remuneration payable in any medium other than cash.

11 Additionally, whether such overtime pay is “voluntary” as argued by the
12 Petitioners is of absolutely no legal moment. Petitioners openly concede that
13 Respondent, while on modified duty is expressly precluded from earning any
14 overtime at all, even if he so desired. Thus, in agreement with the Appeals Officer
15 this Court finds that “full wages” must contemplate at the very least the definition
16 of “wages” as set forth by the NIIA which is certainly something more than “base
17 pay” or “regular pay” as advanced by the Petitioner.
18
19

20 The Appeals Officer’s ruling that Respondent’s claim was subject to lifetime
21 reopening rights (NRS 616C.390) because he was incapacitated from earning “full
22 wages” for a period of more than five (5) days (NRS 616C.400) is overwhelmingly
23 supported by the record before this Honorable Court and existing Nevada Law.
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26 ///
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Case No.: A-18-782711-J
Dept. No: 19

ORDER

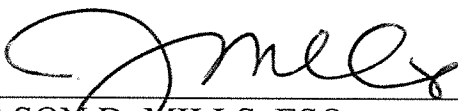
THE COURT HEREBY ORDERS that the Petition for Judicial Review
is **DENIED**.

Dated this 24th day of February, 2020.


DISTRICT COURT JUDGE



RESPECTFULLY SUBMITTED BY:


JASON D. MILLS, ESQ.
JASON D. MILLS & ASSOCIATES, LTD.
Nevada Bar No: 7447
2200 S. Rancho Dr., Ste. 140
Las Vegas, NV 89102
Attorney for Respondent,
BRIAN WOLFGRAM

///

///

///

1 **CERTIFICATION PURSUANT TO COURT GUIDELINES**

2 Counsel submitting this document certifies as follows (check one):

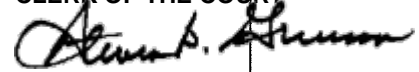
3
4 _____ The court has waived the requirements set forth in the Guidelines;

5
6 _____ No party appeared at the hearing or filed an objection to the motion;

7
8
9 X I have delivered a copy of this proposed order to all counsel who appeared
10 at the hearing, and each has approved or disapproved the order, or failed to respond
11 as indicated below:

12 [] Approved [] Disapproved ~~[]~~ Failed to Respond
13
14

15 _____
16 DANIEL L. SCHWARTZ, ESQ., Attorney for Petitioners,
17 CITY OF HENDERSON and CCMSI
18
19
20
21
22
23
24
25
26
27
28



1 **NOE**

2 **JASON D. MILLS, ESQ.**

3 Nevada Bar Number 7447

4 **JASON D. MILLS & ASSOCIATES, LTD.**

5 2200 S. Rancho Dr., Ste 140

6 Las Vegas, Nevada 89102

7 Telephone (702) 822-4444

8 Facsimile (702) 822-4440

9 jdm@jasondmills.com

10 *Counsel for Respondent*

11 **DISTRICT COURT**
12 **CLARK COUNTY, NEVADA**

13 CITY OF HENDERSON, and CCMSI,

14 Petitioners,

15 vs.

16 BRIAN WOLFGRAM, an individual,
17 DEPARTMENT OF ADMINISTRATION,
18 HEARINGS DIVISION, APPEALS OFFICE,
19 an agency of the State of Nevada,

20 Respondents.

Case No.: A-18-782711-J

Dept. No: 19

21 **NOTICE OF ENTRY OF ORDER**

22 TO: ALL INTERESTED PERSONS AND PARTIES

23 PLEASE TAKE NOTICE that the attached ORDER DENYING PETITION

24 ///

25 ///

1 FOR JUDICIAL REVIEW was entered on 3/11/2020.

2 Dated this 11th day of March, 2020.

3
4 

5
6 JASON D. MILLS, ESQ.

7 Nevada Bar No. 7447

8 JASON D. MILLS & ASSOCIATES, LTD.

9 2200 S. Rancho Dr., Ste. 140

10 Las Vegas, NV 89102

11 Attorney for Respondent,

12 BRIAN WOLFGRAM

1 **CERTIFICATE OF MAILING**

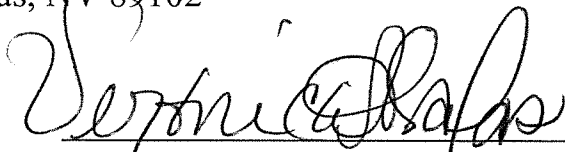
2 Pursuant to NRCF 5(b), I hereby certify that on the 11 day of March,
3
4 2020, I duly deposited for mailing, first class mail, postage prepaid thereon, in the
5 United States Mail at Las Vegas, Nevada, a true and correct copy of the above
6
7 Notice of Entry of Order, in the above-entitled matter, addressed to the following:

8 City of Henderson
9 Sally Ihmels
10 240 S. Water Str., MSC 122
11 Henderson, NV 89015

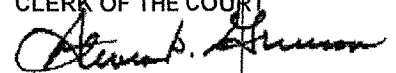
12 CCMSI
13 Susan Riccio
14 P.O. Box 35350
Las Vegas, NV 89133

15 Daniel L. Schwartz, Esq.
16 Joel P. Reeves, Esq.
17 Lewis Brisbois Bisgaard & Smith, LLP
18 2300 W. Sahara Ave., Ste. 300 Box 28
Las Vegas, NV 89102

19 Department of Administration
20 Charles J. York, Esq.
21 Appeals Division
22 2200 S. Rancho Dr., Ste. 220
Las Vegas, NV 89102

23 
24

25 An employee of JASON D. MILLS & ASSOCIATES, LTD.
26
27
28



1 **ORD**
2 **JASON D. MILLS, ESQ.**
Nevada Bar Number 7447
3 **JASON D. MILLS & ASSOCIATES, LTD.**
4 2200 S. Rancho Dr., Ste 140
Las Vegas, Nevada 89102
5 Telephone (702) 822-4444
6 Facsimile (702) 822-4440
7 jdm@jasondmills.com
8 *Counsel for Respondent*

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

11 CITY OF HENDERSON, and CCMSI,
12
13 Petitioners,
14 vs.

Case No.: A-18-782711-J
Dept. No: 19

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16 DEPARTMENT OF ADMINISTRATION,
17 HEARINGS DIVISION, APPEALS OFFICE,
an agency of the State of Nevada,

18 Respondents.

<input type="checkbox"/> Voluntary Dismissal	<input checked="" type="checkbox"/> Summary Judgment
<input type="checkbox"/> Involuntary Dismissal	<input type="checkbox"/> Stipulated Judgment
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- 20 (p) The reasonable market value of either board or room, or both.
21 At least \$150 per month will be allowed for board and room, \$5 per
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- 23 2. Notwithstanding paragraph (p) of subsection 1, the reasonable
24 value of a meal furnished by an employer to an employee is the value,
25 if any, specified in the collective bargaining agreement between the
26 employee and employer.
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28 of an average monthly wage:
- (a) Reimbursement to the employee for expenses to enable the
employee to perform his or her job, including, without limitation, a
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Thus, overtime is clearly part of the average monthly wage calculation. And as the
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15 this Court finds that “full wages” must contemplate at the very least the definition
16 of “wages” as set forth by the NIIA which is certainly something more than “base
17 pay” or “regular pay” as advanced by the Petitioner.
18
19

20 The Appeals Officer’s ruling that Respondent’s claim was subject to lifetime
21 reopening rights (NRS 616C.390) because he was incapacitated from earning “full
22 wages” for a period of more than five (5) days (NRS 616C.400) is overwhelmingly
23 supported by the record before this Honorable Court and existing Nevada Law.
24
25

26 ///

1 Case No.: A-18-782711-J

2 Dept. No: 19


3 **ORDER**

4
5 **THE COURT HEREBY ORDERS** that the Petition for Judicial Review
6 is **DENIED**.

7 Dated this 24th day of February, 2020.

10 
11 DISTRICT COURT JUDGE

12
13 RESPECTFULLY SUBMITTED BY:

14 
15
16 JASON D. MILLS, ESQ.
17 JASON D. MILLS & ASSOCIATES, LTD.
18 Nevada Bar No: 7447
19 2200 S. Rancho Dr., Ste. 140
20 Las Vegas, NV 89102
21 Attorney for Respondent,
22 BRIAN WOLFGRAM

23 ///

24 ///

25 ///

1 **CERTIFICATION PURSUANT TO COURT GUIDELINES**

2 Counsel submitting this document certifies as follows (check one):

3
4 _____ The court has waived the requirements set forth in the Guidelines;

5
6 _____ No party appeared at the hearing or filed an objection to the motion;

7
8
9 X I have delivered a copy of this proposed order to all counsel who appeared
10 at the hearing, and each has approved or disapproved the order, or failed to respond
11 as indicated below:

12 [] Approved [] Disapproved ☒ Failed to Respond
13
14

15 _____
16 DANIEL L. SCHWARTZ, ESQ., Attorney for Petitioners,
17 CITY OF HENDERSON and CCMSI
18
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20
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28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

December 05, 2019

A-18-782711-J City of Henderson, Petitioner(s)
vs.
Brian Wolfgram, Respondent(s)

December 05, 2019 3:00 AM Petition for Judicial Review

HEARD BY: Kephart, William D. **COURTROOM:** No Location

COURT CLERK: Tia Everett

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- COURT ORDERED, Petitioner s Notice of Hearing on Petition for Judicial Review is CONTINUED to 1/28/2020 at 9:00 AM.

CLERK'S NOTE: The above minute order has been distributed to:

Jennifer Hiatt-Bryan jennifer.hiatt-bryan@lewisbrisbois.com
Joel P. Reeves joel.reeves@lewisbrisbois.com
Daniel L. Schwartz daniel.schwartz@lewisbrisbois.com
Jason D Mills jdm@jasondmills.com
Veronica A Salas vas@jasondmills.com

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

January 28, 2020

A-18-782711-J City of Henderson, Petitioner(s)
vs.
Brian Wolfgram, Respondent(s)

January 28, 2020 9:00 AM Petition for Judicial Review

HEARD BY: Kephart, William D.

COURTROOM: RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Reeves, Joel

Attorney

JOURNAL ENTRIES

- Prior to hearing, Mr. Reeves informed the Court that counsel for Respondent had the incorrect date and requested to continue the matter. COURT ORDERED, matter CONTINUED.

CONTINUED TO: 2/04/2020 9:00 AM

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

February 04, 2020

A-18-782711-J City of Henderson, Petitioner(s)
vs.
Brian Wolfgram, Respondent(s)

February 04, 2020 9:00 AM Petition for Judicial Review

HEARD BY: Kephart, William D. **COURTROOM:** RJC Courtroom 16B

COURT CLERK: Tia Everett

RECORDER: Christine Erickson

REPORTER:

PARTIES

PRESENT: Mills, Jason D. Attorney
Reeves, Joel Attorney

JOURNAL ENTRIES

- Following arguments by counsel, COURT ORDERED, Petition for Judicial Review DENIED and the Appeal Officer's Decision shall STAND.

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):

NOTICE OF APPEAL; CASE APPEAL STATEMENT; NOTICE OF FILING BOND; DISTRICT COURT DOCKET ENTRIES; CIVIL COVER SHEET; ORDER DENYING PETITION FOR JUDICIAL REVIEW; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

CITY OF HENDERSON; CANNON
COCHRAN MANAGEMENT SERVICES, INC.
(CCMSI),

Petitioner(s),

vs.

BRIAN WOLFGRAM; THE DEPARTMENT
OF ADMINISTRATION HEARINGS
DIVISION, APPEALS OFFICE,

Respondent(s),

Case No: A-18-782711-J

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 6 day of April 2020.

Steven D. Grierson, Clerk of the Court



Amanda Hampton, Deputy Clerk