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Nevada Bar No. 12264
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5 *Attorney for Plaintiff, Curtis Wilson*

Electronically Filed
Jan 15 2021 11:45 a.m.
Elizabeth A. Brown
Clerk of Supreme Court

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

7
8 CURTIS WILSON, an individual,
9 Plaintiff,

SC No.: 81940
DC No.: A-19-805368-C

10 vs.

11 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a governmental agency,
12 POLICE OFFICER E. VONJAGAN, Badge
No. 16098, an employee of the Metropolitan
13 Police Department; POLICE OFFICER
TENNANT, Badge No. 9817, an employee
14 of the Metropolitan Police Department, and
DOES I through X inclusive,
15 Defendant(s).
16

17 **DOCKETING STATEMENT – CIVIL APPEALS**

18 1. Procedural History:

- 19 (a) Eighth Judicial District Court;
20 (b) Department 26
21 (c) County of Clark;
22 (d) The Honorable Gloria Sturman
23 (e) District Court Case No. A-19-805368-C

24 2. Attorney filing this docketing statement:

- 25 (a) Attorney: Brandon L. Phillips, Esq.
26 (b) Phone: 702-795-0097
27 (c) Firm: Brandon L. Phillips, Attorney at Law, PLLC
28 (d) Address: 1455 E. Tropicana Ave., Suite 750, Las Vegas, Nevada 89119
(e) Client: CURTIS WILSON

1 3. Attorney(s) representing respondent(s):
2 (a) Attorney: Ryan W. Daniels
3 (b) Telephone: 702-952-5200
4 (c) Firm: SYLVESTER POLEDNAK
5 (d) Address: 1731 Village Center Cir., Las Vegas, Nevada 89134
6 (e) Respondent: LAS VEGAS METROPOLITAN POLICE DEPARTMENT,
7 TENANT, AND VOJAGAN
8 4. Nature of disposition:
9 (a) Dismissal: Final Order – Defendants’ Motion to Dismiss GRANTED.
10 5. This appeal does not raise issues concerning any of the following:
11 (a) child custody, (b) venue, and (c) termination of parental rights.
12 6. Pending and prior proceedings in the Eighth Judicial District Court.
13 (a) None.
14 7. Pending and prior proceedings in other courts.
15 (a) None.
16 8. Nature of Action. This action stems from the Complaint of the Plaintiff alleging
17 wrongful and discriminatory conduct by the Defendants in their stop and detainment of the
18 Plaintiff.
19 9. Issues on appeal. Appellant argues the following issues on appeal:
20 a. Whether the statute of limitations should have been tolled while the Plaintiff
21 first pursued all administrative remedies.
22 b. And if tolling was appropriate then did Plaintiff timely file his Complaint.
23 10. Appellant is not aware of any pending proceedings in this Court raising the same or
24 similar issues.
25 11. This appeal does not raise constitutional issues.
26 12. This appeal does not raise any issues addressing the following: (a) reversal of well-
27 settled Nevada law; (b) issues arising under the United States and/or Nevada Constitution; (d) an
28 issue of public policy; (e) an issue where en banc consideration is necessary to maintain
 uniformity of this court’s decisions; or (f) a ballot question.

1 a. However, this case does raise (c) a substantial issue of first impression
2 regarding whether the administrative process involving regarding the Defendants/Respondents
3 should allow for a time of tolling while said process is first resolved.

4 13. Assignment to the Court of Appeal or retention in the Court of Appeal. It is
5 Appellant's position that this case should be assigned to the Supreme Court under NRAP 17
6 (b)(13).

7 14. The instant litigation was resolved by final order GRANTING Defendants' Motion to
8 Dismiss.

9 15. Judicial Disqualification. Appellant does not believe judicial disqualification will be
10 necessary.

11 16. Date of entry of written judgment or order appealed: September 13, 2020, e-service.

12 17. The Respondents filed a Notice of Entry of Order on September 14, 2020, e-service.

13 18. There was no tolling by any post-judgment motion.

14 19. The Appeal was filed and e-served on October 12, 2020

15 20. NRAP 4(a) sets forth the time limits for filing of the notice of appeal.

16 21. This Court has authority to hear this matter under NRAP 3A(b)(1) and (3). This
17 appeal timely follows the final order entered by the District Court.

18 22. The parties involved in this matter and on appeal are as follows:

19 (a) Plaintiff/Appellant – Curtis Wilson

20 (b) Defendant/Respondent – Las Vegas Metropolitan Police Department,
21 Vojagan, and Tennant.

22 23. The Appellant filed Complaint with the District Court asserting multiple causes of
23 action surrounding the wrongful arrest of the Plaintiff/Appellant, those claims are (a) battery, (b)
24 false arrest/false imprisonment, and (c) negligence. All claims were dismissed by the Order that
25 was entered by the Court on September 14, 2020.

26 24. The Judgment entered by the District Court adjudicated ALL claims raised in the
27 Complaint.

28 25. The following exhibits are attached hereto:

(a) First Amended Complaint;

1 (b) Order and Notice of Entry of Order Granting Defendants' Motion to Dismiss.
2 Dated this 15th day of January, 2021.

3 BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC

4 /s/ Brandon L. Phillips

5 BRANDON L. PHILLIPS, ESQ

6 Nevada Bar No. 12264

7 1455 E. Tropicana Ave., Suite 750

8 Las Vegas, NV 89119

9 (702) 795-0097, (702) 795-0098 fax

10 blp@abetterlegalpractice.com

11 *Attorney for Appellant*

VERIFICATION

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

Curtis Wilson
Name of appellant

Brandon L. Phillips, Esq.
Name of counsel of record

January 15, 2021
Date


Signature of counsel of record

Nevada - Clark County
State and county where signed

CERTIFICATE OF SERVICE

I certify that on the 15 day of January, 2021, I served a copy of this completed docketing statement upon all counsel of record:

☐ By personally serving it upon him/her; or

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

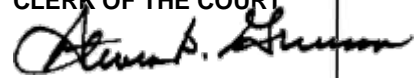
LU SSA Anderson No. 5781
Kaempfer Crowell
1980 Festival Plaza Dr. Ste 650
Las Vegas, NV 89135

Dated this 15th day of January, 2021


Signature

EXHIBIT A

EXHIBIT A



1 **ACOM**

2 Brandon L. Phillips, Esq.

3 **BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC**

4 Nevada Bar No. 12264

5 1455 E Tropicana Ave Suite 750

6 Las Vegas, NV 89119

7 Telephone: 702-795-0097

8 Facsimile: 702-795-0098

9 Email: blp@abetterlegalpractice.com

10 *Attorney for Plaintiffs: Curtis Wilson*

11 **DISTRICT COURT**

12 **CLARK COUNTY, NEVADA**

13 CURTIS WILSON, as an individual,

14 PLAINTIFF,

15 v.

16 LAS VEGAS METROPOLITAN
17 POLICE DEPARTMENT, a
18 governmental agency, POLICE
19 OFFICER E. VONJAGAN, Badge No.
20 16098, an employee of the Metropolitan
21 Police Department, POLICE OFFICER
22 TENNANT, Badge No. 9817, an
23 employee of the Metropolitan Police
24 Department, and Does I through X,

25 DEFENDANTS.

CASE NO. A-19-805368-C

DEPT. NO. 26

FIRST AMENDED COMPLAINT

Jury Trial Requested

Exemption from Arbitration; Damages in
Excess of \$50,000.

26 PLAINTIFF, CURTIS WILSON, by and through his attorney, Brandon L. Phillips, Esq., of
27 the law firm BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC., and for his causes of action
28 against Defendant, alleges as follows:

I. JURISDICTION

1. All of the acts complained of herein occurred in or arose from Clark County, Nevada.
All of the parties reside in or do business in the County of Clark, State of Nevada. Therefore,
this Court has jurisdiction over the parties, and concurrent jurisdiction over the subject matter
and all claims for relief pertaining hereto.

2. Venue in Clark County is proper pursuant to NRS 13.010.

II. THE PARTIES

3. At all times relevant hereto, Plaintiff, CURTIS WILSON, (hereinafter WILSON) was, and now is, a resident of the County of Clark, State of Nevada.

4. At all times relevant to this action, Defendant LAS VEGAS METROPOLITAN POLICE DEPARTMENT, (hereinafter, METRO) was, and now is, a governmental agency located in Clark County, Nevada

5. At all times relevant to this action, Defendant E. VONJAGEN, Badge No. 16098, (hereinafter, VONJAGEN) was a police officer employed by METRO.

6. At all times relevant to this action, Defendant TENNANT, Badge No. 9817, (hereinafter, TENNANT) was a police officer employed by METRO.

7. That the true name and capacity, whether individual, corporate, associate, or otherwise, of Defendant Does I through X are unknown to WILSON, who therefore sues any of the said Defendants by such fictitious names. WILSON is informed and believes and thereon alleges that each of the Defendants designated hereon as a Doe and/or a Roe owes a non-delegable duty to WILSON and is negligently responsible in some manner for the events and happenings hereon referred to and negligently caused injury and damages proximately thereby to the WILSON as hereon alleged; that this individual or entity may have been responsible for the design, construction, maintenance, care and upkeep of the Premises, which will be described more particularly in this Complaint, and which is located in Las Vegas, Nevada; that WILSON will ask leave of this Court to amend this Complaint to insert the true names and capacities of said Defendant, Does when same have been ascertained by WILSON, together with appropriate charging allegations, and to join such Defendant in this action.

1 8. Further, WILSON alleges that Does 1 - 5 are police officers (hereinafter, the Doe
2 Officers), and Does 6 - 10 are managerial, supervisory, and/or policymaking employees of
3 METRO, (hereinafter Doe Managers). VONJAGEN, TENNANT, and the Doe Officers are sued
4 in their individual capacity for damages only.
5

6 9. At all relevant times, Defendants VONJAGEN, TENNANT and the Doe Officers were
7 duly appointed officers and/or employees of METRO, subject to oversight and supervision by
8 METRO'S elected and non-elected officials, including the Doe Managers.
9

10 10. At the time of the incident complained of herein, VONJAGEN was an officer in
11 training.
12

13 11. At the time of the incident complained of herein, TENNANT was training
14 VONJAGEN.
15

16 12. In doing the acts and, failing and omitting to act as hereinafter described, Defendants
17 VONJAGEN, TENNANT and the Doe Officers were acting on the implied and actual permission
18 and consent of METRO.
19

20 13. At all times herein, each and every METRO defendant was the agent of each and
21 every other METRO defendant and had the legal duty to oversee and supervise the hiring,
22 conduct and employment of each and every METRO defendant.
23

24 14. WILSON is informed and believes and thereon alleges that the Defendants
25 designated herein owe a non-delegable duty to WILSON and are negligently responsible for the
26 events and happenings herein referred to and negligently caused injury and damages proximately
27 thereby to the WILSON as hereon alleged.
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1 27. WILSON was then forced to stand in the sun in front of the METRO police vehicle
2 for an unreasonable amount of time.

3 28. There were no questions or interrogation of WILSON.

4 29. WILSON never posed any threat to Defendant.

5 30. After VANJAGEN and TENNANT ran a background check it was affirmed
6 WILSON had no warrant or criminal history.

7 31. WILSON posed no threat of death or injury to any METRO Defendant at any time,
8 nor did WILSON ever attempt to flee the area or to strike or otherwise harm any METRO
9 Defendant.
10

11 32. Several presently unknown Metro Officers arrived at the scene and were involved in
12 the investigation of WILSON. Since he posed no threat and had no criminal background, it is
13 clear that this investigation was racially motivated.
14

15 33. Eventually, upon the questioning of WILSON by the DOE officers it was revealed
16 that WILSON was retired Las Vegas fireman.

17 34. Immediately thereafter, WILSON was released from the handcuffs. Visibly it was
18 clear that his wrists had lost blood circulation from the tightness of the handcuffs.
19

20 35. WILSON was given a citation for unsafe lane change.

21 36. Following the altercation, WILSON went to his home. Shortly after walking in the
22 door a Metro Chief called WILSON regarding the incident.

23 37. WILSON was asked to come to Metro headquarters where he spoke with the Chief
24 and pictures of his hands and wrists were taken.
25

26 38. WILSON suffered severe injuries to his hands and wrists.
27
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1 39. WILSON sought medical treatment for his injuries whereupon he was diagnosed
2 with bilateral medial neuropathy consistent with carpal tunnel syndrome, and other injuries
3 consistent with the abuse WILSON received at the hands of the METRO Defendants.
4

5 40. On or about October 5, 2017, WILSON filed a Complaint with the Las Vegas
6 Metropolitan Police Department as required. This date is well within the time requirement
7 imposed by NRS 41.036(2), requiring complainants to give notice of their complaints within two
8 years of the incident.
9

10 41. On December 21, 2017, The Citizen Review Board issued a Finding that Referred the
11 Complaint to a Hearing Panel. "This complaint should be referred to a Hearing Panel of the
12 Citizen Review Board for further review."

13 42. There after Internal Affairs reviewed the matter and upon information and belief their
14 ruling did not see any misconduct.

15 43. On January 11, 2018, the Citizen Review Board, following a hearing, entered a
16 Findings and Recommendations: "The Hearing Panel disagrees with the findings of Internal
17 Affairs and this complaint will be scheduled for an evidentiary hearing with all subject officers,
18 the complainant and any witnesses to be subpoenaed.
19

20 44. On February 12, 2018, a letter was drafted by Lieutenant of Internal Affairs Ted
21 Glaude and approved by Sheriff Joseph Lombardo, was delivered to WILSON which stated,
22 "After a thorough and impartial review the investigation failed to produce sufficient evidence to
23 clearly prove or disprove the allegation(s), or it was determined the actions taken by the
24 employee(s) did not rise to the level of misconduct, or was not a policy violation(s). The
25 preliminary investigation and this finding were approved through two levels of review, including
26 the Lieutenant of the Internal Affairs Bureau."
27
28

1 45. On March 14, 2018, the Citizen Review Board held a hearing and issued the
2 following Findings and Recommendations:

3 a. "On December 21, 2017 a screening panel of the Citizen Review Board referred a
4 complaint filed by Curt Wilson to this hearing panel. The function of this hearing panel is review
5 of the allegations of the complaint as well as review of the findings and integrity of the
6 investigation conducted by the Internal Affairs Bureau of the Las Vegas Metropolitan Police
7 Department hereinafter referred to as IAB.

8
9 b. "Based on the allegations of the complaint, IAB investigated whether Officer Tennant
10 and Officer VonTagen violated LVMPD Rules and regulations 6/006.00 Arrest Procedures and
11 4/102.12 Interaction with the Public. IAB findings as to both allegations were no policy
12 violation.

13
14 c. "In making its findings and conclusions this panel reviewed the complaint, the
15 investigative report of IAB, the body cam and all other documents provided by IAB. The
16 standard of proof used by IAB as well as this panel is whether the moving party has satisfied the
17 burden of proof by clear and convincing evidence that the act complained of occurred.

18
19 d. "On March 14, 2018 the panel heard testimony from the subject officers as well as
20 from the complainant and investigating officers including IAB Lieutenants and Sergeants.
21 Officers Tennant and VonTagen made a traffic stop on the complainant for an improper lane
22 change wherein Officer Tennant was the FTO and Officer VonTagen was an officer in training.
23 The complainant exited his vehicle and Officer Tennant explained to WILSON why he was
24 stopped and the situation appeared to be under control when Officer VonTagen stepped in and
25 ordered Wilson to the front of her vehicle. VonTagen gave Wilson multiple commands to put his
26 things on the hood of the car and when Wilson put his hands in his pockets to empty them
27
28

1 VonTagen gave him inconsistent commands to take his hands out of his pockets. When Wilson
2 did not comply VonTagen decided to go hands on and placed Wilson in handcuffs. Officer
3 Tenant stood by and watched as this situation escalated and did not step in until VonTagen
4 needed assistance putting two sets of handcuffs around WILSON. VonTagen conducted a pat-
5 down of WILSON for weapons. The complainant did not complain of injuries and no use of
6 force report was filed.

8 "FINDINGS:

9 e. "6/006.00 Arrest Procedures

10 "The hearing panel unanimously agrees with the conclusion of no policy violation
11 reached by IAB. In making this finding the panel considered the testimony as well as statements
12 to IAB by all parties and witnesses and finds the standard of proof of clear and convincing
13 evidence was not met and the evidence failed to prove or disprove the alleged act occurred.

14 f. "4/102.12 Interaction with the Public

15 "The hearing panel agrees that as a matter of law there were no policy violations.
16 However the actions of the officers unnecessarily escalated the situation and could have
17 reasonably been construed as being discourteous thereby leaving the citizen feeling he was not
18 treated with proper respect.

19 "In making this finding the panel considered the testimony as well as statements to IAB
20 by all parties and witnesses and finds the standard of proof of clear and convincing evidence was
21 not met and the evidence failed to prove or disprove the alleged act occurred.

22 g. "RECOMMENDATIONS:

23 "Upon completion of the second investigation by Internal Affairs, the Citizen Review
24 Board agrees in part with their findings as follows:
25
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1 **THIRD CLAIM FOR RELIEF**

2 **Negligence**

3 68. WILSON repeats and realleges each and every allegation of every preceding
4 paragraph as if fully set forth herein.
5

6 69. The actions and inactions of the Defendants were negligent and reckless, including
7 but not limited to:

8 a. the failure to properly and adequately assess the need to detain, arrest, and use force
9 causing injury against WILSON;
10

11 b. the negligent tactics and handling of the situation with WILSON;

12 c. the negligent detention, arrest, and use of force, including force causing injury against
13 WILSON;

14 d. the negligent use of force, including force causing injury against WILSON;

15 e. the failure to provide prompt medical care to WILSON;

16 f. the failure to properly train and supervise employees, both professional and non-
17 professional, including VONJAGEN, TENNANT, and DOES 1 - 10;
18

19 g. the failure to ensure that adequate numbers of employees with appropriate education
20 and training were available to meet the needs of and protect the rights of WILSON.

21 70. As a direct and proximate result of Defendants' conduct as alleged above, and other
22 undiscovered negligent conduct, WILSON was caused to suffer severe pain and loss of freedom.
23

24 71. METRO is vicariously liable for the wrongful acts of VONJAGEN, TENNANT, and
25 DOES 1 - 5 because their acts affirmatively caused the harm to WILSON.

26 72. The negligent acts of VONJAGEN, TENNANT, and DOES 1 - 5 resulted in bodily
27 harm to WILSON.
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1 51. WILSON remained in handcuffs for approximately thirty (30) minutes.

2 52. When WILSON was finally released from the handcuffs, visible marks on his wrists
3 were apparent from the handcuffs. WILSON's hands and wrists had lost circulation resulting in
4 discoloration to his hands and permanent damage to his wrists.
5

6 53. The following day, WILSON's hands and wrists remained visibly damaged when he
7 appeared at the Metro headquarters.

8 54. As a direct and proximate result of said of VONJAGEN and TENNANT, and
9 DOES1 - 5's conduct, WILSON suffered serious injury resulting in both severe bodily pain and
10 serious mental suffering.
11

12 55. METRO and DOE Defendants 6 - 10 are vicariously liable for the acts of
13 VONJAGEN, TENNANT, and DOES 1 - 5 because their acts were done in the course and scope
14 of their employment, maliciously, in bad faith, with hostility and with willful or deliberate
15 disregard for the rights of WILSON.
16

17 56. The conduct of VONJAGEN, TENNANT, and DOES 1 - 5 was malicious, wanton,
18 oppressive, and accomplished with ia conscious disregard for the rights of WILSON, entitling
19 WILSON to an award of exemplary and punitive damages.

20 57. As a direct and proximate result of the excessive use of force by the Defendants,
21 WILSON has suffered great physical and mental pain and anxiety, and will continue to do so in
22 the future, all to his damages in excess of \$50,000.
23

24 58. WILSON has been required to obtain the services of an attorney in order
25 to prosecute this action and is entitled to recover reasonable attorney's fees and cost of suit.

26 ///

27 ///

28

- There were deficiencies pertaining to de-escalation techniques.
- If de-escalation practices were followed properly during the vehicle stop, it could have had a much higher likelihood of officers not being required to go “hands-on”.
- Improve FTO and Trainee “Contact and Cover” principles should have been implemented.

The panel recommends Metro adopt the findings for additional training as made by IAB.”

46. Pursuant to *Dep't of Human Res. v. Shively*, 110 Nev. 316, 318, 871 P.2d 355, 356 (1994), a timely filed administrative claim tolls limitations period.

FIRST CLAIM FOR RELIEF

Battery

47. WILSON repeats and re-alleges each and every allegation of every preceding paragraph as if fully set forth herein.

48. VONJAGEN, TENNANT, and DOES 1 - 5, while working as police officers for METRO, and acting within the course and scope of their duties, intentionally took WILSON into custody by, slamming WILSON into the hood of a car, twisting WILSON’S hands behind his back, tightly handcuffing WILSON and placing him in their METRO police vehicle. The tightly placed handcuffs cut off circulation to WILSON’S wrists and hands.

49. More specifically, VONJAGEN gave conflicting commands to WILSON, which prevented his ability to comply with her orders.

50. The Officers claimed that WILSON’s conduct was aggressive and he refused to listen to their commands, both of which were false

73. As a direct and proximate result of the excessive use of force by the Defendants, WILSON has suffered great physical and mental pain and anxiety, and will continue to do so in the future, all to his damages in excess of \$50,000.

74. WILSON has been required to obtain the services of an attorney in order to prosecute this action and is entitled to recover reasonable attorney's fees and cost of suit.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for relief against Defendant, and each of them, as follows:

1. For general damages in the amount of \$100,000 pursuant to NRS 41.035 per cause of action for a total amount of \$300,000;
2. For special damages for past and future medical treatment;
3. For compensatory damages;
4. For punitive damages against the individual defendants;
5. For pre-judgment interest;
6. For reasonable attorney's fees and cost of suit; and
7. For such other and further relief as the Court may deem just and proper.

DATED this 30 day of April, 2019.

BRANDON L. PHILLIPS, ATTORNEY AT LAW, PLLC



BRANDON L. PHILLIPS, ESQ.
Nevada Bar No. 12264
1455 East Tropicana Avenue, Suite 750
Las Vegas, Nevada 89119
Attorney for Plaintiff, Curtis Wilson

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Attorney for Plaintiff, Curtis Wilson

EIGHTH JUDICIAL DISTRICT COURT

CLARK COUNTY, NEVADA

CURTIS WILSON, as an individual;
PLAINTIFF,

v.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, Does I through X

DEFENDANT.

CASE NO. A-19-805368-C

DEPT. NO. 26

AFFIDAVIT OF CURTIS WILSON IN SUPPORT OF THE COMPLAINT

STATE OF NEVADA)
)ss.
COUNTY OF CLARK)

CURTIS WILSON, being first duly sworn, deposes and says;

1. I am older than eighteen years of age and am a resident of Clark County, Nevada.

2. I am the Plaintiff in this matter.

3. I have personal knowledge of the facts set forth herein; and I make this Affidavit in support of the attached Complaint.

4. I have read the Complaint filed in this case and can testify that the allegations in that document are true and correct to the best of my knowledge.

///

///

///

1 I declare under penalty of perjury of the laws of the State of Nevada that the foregoing is true
2 and correct.

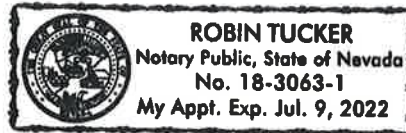
3 FURTHER AFFIANT SAYETH NAUGHT.

4 
5 _____
6 CURTIS WILSON

7 SUBSCRIBED and SWORN to before
8 me this 30th day of April 2020.

9 NOTARY PUBLIC in and for said
10 County and State

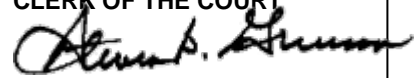
11 Clark State of Nevada
12 County



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EXHIBIT B

EXHIBIT B



NODP

LYSSA S. ANDERSON

Nevada Bar No. 5781

RYAN W. DANIELS

Nevada Bar No. 13094

KAEMPFER CROWELL

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Attorneys for Defendants

Las Vegas Metropolitan Police Department,

Officer E. Vojagan and Officer Tennant

DISTRICT COURT

CLARK COUNTY, NEVADA

CURTIS WILSON, an individual,

Plaintiff,

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, a governmental agency,
POLICE OFFICER E. VONJAGAN, Badge No.
16098, an employee of the Metropolitan Police
Department; POLICE OFFICER TENNANT,
Badge No. 9817, an employee of the
Metropolitan Police Department, and DOES I
through X,

Defendant.

Case No.: A-19-805368-C

Dept. No.: 26

**NOTICE OF ENTRY OF ORDER
GRANTING DEFENDANTS MOTION
TO DISMISS [WITH PREJUDICE]**

PLEASE TAKE NOTICE that an **ORDER GRANTING DEFENDANTS' MOTION
TO DISMISS [WITH PREJUDICE]** was entered by the Court in the above-referenced matter

///

///

///

1 on September 13, 2020, a true and correct copy of which is attached hereto.

2 DATED this 14th day of September, 2020.

3 KAEMPFER CROWELL

4
5 BY: /s/ Lyssa S. Anderson

6 LYSSA S. ANDERSON (Nevada Bar No. 5781)

7 RYAN W. DANIELS (Nevada Bar No. 13094)

8 1980 Festival Plaza Drive, Suite 650

9 Las Vegas, Nevada 89135

10 *Attorneys for Defendants*

11 *Las Vegas Metropolitan Police Department,*

12 *Officer E. Vojagan, and Officer Tennant*

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DATED this 14th day of September, 2020.

an employee of Kaempfer Crowell

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14 *Las Vegas Metropolitan Police Department,*

15 *Officer E. Vojagan and Officer Tennant*

DISTRICT COURT

CLARK COUNTY, NEVADA

16 CURTIS WILSON, an individual,

17 Plaintiff,

18 vs.

19 LAS VEGAS METROPOLITAN POLICE

20 DEPARTMENT, a governmental agency,

21 POLICE OFFICER E. VONJAGAN, Badge No.
16098, an employee of the Metropolitan Police

22 Department; POLICE OFFICER TENNANT,
Badge No. 9817, an employee of the

23 Metropolitan Police Department, and DOES I
through X,

24 Defendant.

Case No.: A-19-805368-C

Dept. No.: 26

**ORDER GRANTING DEFENDANTS'
MOTION TO DISMISS**

Hrg date: August 4, 2020

Hrg time: 9:30 a.m.

25 The Court heard oral arguments on Defendants' motion to dismiss under NRCP 12(b)(5)
26 and NRS 11.190 on August 4, 2020 at 9:30 a.m. Ryan Daniels argued on behalf of the LVMPD
27 Defendants and Brandon Phillips argued on behalf of the Plaintiff. Having reviewed the papers
28 and pleadings on file, the various points and authorities in support of the motion, and oral
29 argument by counsel for Defendants and Plaintiff, the Court makes the following Findings of

Fact and Conclusions of Law:

FINDINGS OF FACT

1. Plaintiff Curtis Wilson’s First Amended Complaint (“FAC”) is based upon an August 22, 2017 interaction with LVMPD Officers Vonjagen and Tennant following Wilson’s improper lane change. FAC at ¶¶ 15-16.

2. The FAC states that after his interaction with Officers Vonjagen and Tennant, Wilson “filed a Complaint with the Las Vegas Metropolitan Police Department” on October 5, 2017. FAC at ¶40.

3. Wilson filed his initial complaint on November 13, 2019.

CONCLUSIONS OF LAW

1. Each of Wilson’s three claims against the LVMPD defendants—battery, false imprisonment, and negligence—are subject to a two year statute of limitations period. *See* NRS 11.190(4)(c)&(e).

2. “Statutes of limitation foreclose suits after a fixed period of time following occurrence or discovery of an injury.” *Allstate Ins. Co. v. Furgerson*, 104 Nev. 772, 766 P.2d 904 at FN. 2 (1988).

3. Wilson’s claims accrued on August 22, 2017 and the statute of limitations began to run on that date.

4. Since Wilson did not file his initial complaint until November 13, 2019—several months after the two year statute of limitations had run—his claims are barred by the statute of limitations.

5. Wilson argues that the statute of limitations was tolled while Wilson pursued the complaint process with the Citizen’s Review Board (CRB). However, the statute was not tolled for the following reasons:

1 6. First, tolling does not apply where administrative action is not required.

2 7. In *Siragusa v. Brown*, 114 Nev. 1384, 971 P.2d 801 (1998), the Nevada Supreme Court
3 stated that “cases tolling the statutes of limitations during the pendency of other proceedings are
4 limited to their facts and have no broader application in the instant case.” *Id.* at 808 n.7.
5 Important to this case, the Supreme Court specifically referenced *State Department of Human*
6 *Resources v. Shively*, 110 Nev. 316, 871 P.2d 355 (1994) and stated that the decision in *Shively*
7 to toll the statute of limitations relied upon the fact that the state was “*required* to pursue
8 administrative action” and the “*law favored* resolution in that forum.” *Siragusa*, 971 P. 2d at 808.

9 8. The CRB is neither an administrative agency nor an administrative court. Instead, it
10 “act[s] as an advisory body to [the police department], and to inform the public of [the citizen
11 review board’s] recommendations to the extent permitted by law.” *Las Vegas Police Protective*
12 *Ass’n Metro, Inc. v. Eighth Judicial Dist. Court ex rel. Cty. of Clark*, 122 Nev. 230, 234, 130
13 P.3d 182, 186 (2006).

14 9. The CRB’s review only pertains to whether an LVMPD employee engaged in a violation
15 of a LVMPD policy. If such a policy violation is found, the CRB can make recommendations to
16 LVMPD about potential discipline, additional training, or potential policy changes.

17 10. The CRB does not and cannot make a determination that the law was violated, that a
18 complainant is entitled to legal damages, or provide any type of legal remedy to a complainant.
19 In other words, nothing the CRB could do would be a legal resolution or remedy which could
20 have any bearing on a civil law suit.

21 11. Second, tolling in this case is inconsistent with the legislative intent for the CRB.

22 12. NRS 289 governs the creation of advisory review boards in the State of Nevada. *See e.g.*,
23 NRS 298.380; NRS 298.383. Advisory review boards, such as the Citizen Review Board, cannot
24 “abridge the rights of a peace officer, school police officer, constable or deputy of a constable

1 that are granted pursuant to a collective bargaining agreement, a contract or any federal or state
2 statute or regulation.” NRS 289.385(2).

3 13. The advisory boards of this state may not abridge the rights of LVMPD (or its officers) to
4 assert the applicable statute of limitation nor does it modify, toll, or otherwise impact the
5 application of the statute of limitations.

6 14. Further, nothing in the Clark County Code of Ordinances Chapter 2.62 indicates that
7 tolling of the statute of limitations was contemplated. *See* Clark County Code of Ordinances
8 Chapter 2.62.

9 15. In addition, Las Vegas Municipal Code Chapter 2.64 likewise fails to include any
10 indication that the statute of limitations for a civil action against LVMPD or an officer be tolled.
11 *See* Las Vegas Municipal Code Chapter 2.64.

12 16. Allowing tolling of the statute of limitations while an advisory board considers possible
13 policy violations would abridge the rights of LVMPD and its police officers.

14 17. Third, Wilson did not act reasonably when he delayed filing his lawsuit.

15 18. The CRB website has information concerning its operations, its jurisdiction, and other
16 resources to explain what it does¹. The website contains a link to a video which describes its
17 complaint process.

18 19. In the video, the CRB specifically advises potential complainants that pursuing a
19 complaint with the CRB is not the same as exercising their legal rights in a court of law and that
20 the legal process is not affected by the filing at the CRB.

21 ///

22 ///

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24 ¹ <https://citizenreviewboard.com>

1 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that the
2 LVMPD Defendants' Motion to Dismiss is **GRANTED** in its entirety and all claims against the
3 LVMPD Defendants are dismissed with prejudice.

4 **IT IS SO ORDERED.**

5 DATED this ____ day of _____, 2020.

Dated this 13th day of September, 2020



DISTRICT COURT JUDGE
C4A 8A4 F7BB 26D5
Gloria Sturman
District Court Judge

7 Respectfully Submitted,
8
9 KAEMPFER CROWELL

/s/ Ryan Daniels

10 _____
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18 *Officer E. Vojagan and Officer Tennant*

15 Approved as to form and content,

16 /s/ Brandon L. Phillips

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21 Las Vegas, Nevada 89119

Attorneys for Plaintiff

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

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6 Curtis Wilson, Plaintiff(s)

CASE NO: A-19-805368-C

7 vs.

DEPT. NO. Department 26

8 Las Vegas Metropolitan Police
9 Department, Defendant(s)

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

12 This automated certificate of service was generated by the Eighth Judicial District
13 Court. The foregoing Order of Dismissal and Order Closing Case was served via the court's
14 electronic eFile system to all recipients registered for e-Service on the above entitled case as
listed below:

15 Service Date: 9/13/2020

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