

Electronically Filed
May 03 2021 01:41 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

1 NOAS
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3 Nevada Bar No. 013231
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Las Vegas, Nevada 89102
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Facsimile: 702-366-9689
6 Email: daniel.schwartz@lewisbrisbois.com
Attorneys for Respondent
7 Las Vegas Metropolitan Police Department and
Cannon Cochran Management Services, Inc.

10 DISTRICT COURT
11 CLARK COUNTY, NEVADA

12 ROBERT HOLLAND,

13 Petitioner,

14 v.

Case No.: A-20-818754-J

Dept. No.: 21

15 LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, CANNON COCHRAN
16 MANAGEMENT SERVICES, INC., and THE
DEPARTMENT OF ADMINISTRATION,
17 HEARINGS DIVISION, APPEALS OFFICE, an
Agency of the State of Nevada,
18

19 Respondents

20 NOTICE OF APPEAL

21 TO: ROBERT HOLLAND, Petitioner

22 TO: LISA ANDERSON, ESQ., Petitioner's Attorney

23 NOTICE IS HEREBY GIVEN that Respondents, LAS VEGAS METROPOLITAN POLICE
24 DEPARTMENT and CANNON COCHRAN MANAGEMENT SERVICES, INC. (hereinafter
25 referred to as "Respondents"), in the above-entitled action, hereby appeal to the Supreme Court of the
26 State of Nevada from the attached "Order" entered in this action on or about April 5, 2021 which
27

28
LEWIS
BRISBOIS
BISGAARD
& SMITH LLP
ATTORNEYS AT LAW

4852-1749-5783, 1 / 33307-610

1 denied Petitioners' Petition for Judicial Review and the "Notice of Entry of Order" filed on or about
2 April 6, 2021.

3 DATED this 27 day of April 2021.

4 Respectfully submitted,

5 LEWIS BRISBOIS BISGAARD & SMITH LLP

6
7
8 By:

DANIEL L. SCHWARTZ, ESQ.

JOEL P. REEVES, ESQ.

LEWIS BRISBOIS BISGAARD & SMITH, LLP

2300 West Sahara Avenue, Suite 900, Box 28

Las Vegas, Nevada 89102

Attorneys for Respondents


1 **CERTIFICATE OF MAILING**

2 Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 27 day of
3 April 2021, service of the foregoing **NOTICE OF APPEAL** was made this date by depositing a true
4 copy of the same for mailing, first class mail, as follows:

5 LISA M. ANDERSON
6 GREENMAN, GOLDBERG, RABY & MARTINEZ
2770 S MARYLAND PKWY SUITE 100
7 LAS VEGAS, NV 89109

8 LVMPD- HEALTH DETAIL
ATTN: BERNADINE WELSH
9 400 S. MARTIN LUTHER KING BLVD. BUILDING B
LAS VEGAS, NV 89106

10 CCMSI
11 ATTN: STEPHANIE MACY
P.O. BOX 35350
12 LAS VEGAS, NV 89133

13
14 
15 An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP
16
17
18
19
20
21
22
23
24
25
26
27
28

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-20-818754-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: 4/27/2021

(Signature)

JOEL P. REEVES, ESQ.
(Print Name)

RESPONDENTS
(Attorney for)

Steven D. Grierson

1 NEOJ
2 LISA M. ANDERSON, ESQ.
3 Nevada Bar No. 4907
4 **GREENMAN GOLDBERG RABY & MARTINEZ**
5 2270 South Maryland Parkway
6 Suite 100
7 Las Vegas, NV 89109
8 Phone: 702.384.1616 ~ Fax: 702.384.2990
9 Email: landerson@ggrmlawfirm.com
10 *Attorneys for Petitioner*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

11 ROBERT HOLLAND,

12 Petitioner,

13 vs.

CASE NO.: A-20-818754-J
DEPT. NO.: XXI

14 LAS VEGAS METROPOLITAN POLICE
15 DEPARTMENT, CCMSI, and THE
16 DEPARTMENT OF ADMINISTRATION,
17 HEARINGS DIVISION,

18 Respondents.

NOTICE OF ENTRY OF ORDER

19 TO: All parties of interest.

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order was
21 entered in the above-entitled matter on the 5th day of April, 2021, a copy of which is attached.

22 DATED this 6th day of April, 2021.

23 **GREENMAN GOLDBERG RABY & MARTINEZ**

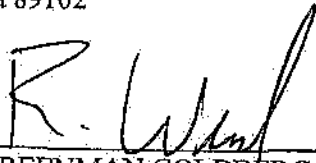
24 By: *[Signature]*
25 LISA M. ANDERSON, ESQ.

26 Nevada Bar No. 4907
27 2770 South Maryland Parkway, #100
28 Las Vegas, Nevada 89109
Attorneys for Petitioner

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of GREENMAN GOLDBERG RABY & MARTINEZ, and that on the 14th day of April, 2021, I caused the foregoing document entitled NOTICE OF ENTRY OF ORDER to be served upon those persons designated by parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules and depositing a true and correct copy in a sealed envelope, postage fully prepaid, addressed as follows:

Daniel L. Schwartz, Esq.
LEWIS BRISBOIS BISGAARD & SMITH
2300 West Sahara Avenue
Suite 900 Box 28
Las Vegas, Nevada 89102



An Employee of GREENMAN GOLDBERG RABY & MARTINEZ

Heather J. Simon
CLERK OF THE COURT

1 **ORDG**
2 LISA M. ANDERSON, ESQ.
3 Nevada Bar No. 004907
4 GREENMAN GOLDBERG RABY & MARTINEZ
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7 Las Vegas, Nevada 89109
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9 Facsimile: (702) 384-2990
10 Email: landerson@ggrrmlawfirm.com
11 *Attorneys for Petitioner*

DISTRICT COURT

CLARK COUNTY, NEVADA

11 ROBERT HOLLAND,)

12 Petitioner)

13 vs.)

CASE NO. : A-20-818754-J

DEPT. NO. : XXI

14 LAS VEGAS METROPOLLITAN POLICE)
15 DEPARTMENT, CCMSI, and THE)
16 DEPARTMENT OF ADMINISTRATION,)
17 HEARINGS DIVISION,)

18 Respondents.)

19 **ORDER GRANTING PETITION FOR JUDICIAL REVIEW**

20 This matter came before this Court on the Petition for Judicial Review filed by the
21 Petitioner, ROBERT HOLLAND. Petitioner was represented by LISA M. ANDERSON, ESQ.
22 of the law firm of GREENMAN GOLDBERG RABY & MARTINEZ. Respondents, LAS
23 VEGAS METROPOLITAN POLICE DEPARTMENT and CCMSI, were represented by
24 DANIAL L. SCHWARTZ, ESQ. and JOEL P. REEVES, ESQ. of the law firm LEWIS
25 BRISBOIS BISGAARD & SMITH. No other parties were present or represented. After
26 reviewing the record and considering the briefs, this matter is decided as follows:
27
28

1 This matter came before this Court on March 10, 2021 for hearing on the July 29, 2020
2 Petition for Judicial Review. The Court has re-reviewed the December 29, 2020 Petitioner's
3 Opening Brief, the February 1, 2021 Respondent's Answering Brief, and the March 2, 2021
4 Petitioner's Reply Brief, and the entirety of the record, including the November 20, 2021⁰
5 Transmittal of Record on Appeal, which contains the Record on Appeal, and hereby FINDS that
6 pursuant to NRS 233B.135, the Appeals Officer's July 27, 2020 Decision and Order is not
7 supported by substantial evidence in the Record on Appeal.
8

9 Here, the parties agree that, pursuant to NRS 617.457(1), Petitioner meets the two (2)
10 qualifications for the conclusive presumption that Petitioner's related heart condition has arisen
11 out of and in the course of the employment: (1) Petitioner has related heart disease; and (2)
12 Petitioner is a retired twenty-five (24)⁵ year veteran of Las Vegas Metropolitan Police
13 Department. However, the parties are in disagreement of whether or not pursuant to NRS
14 617.457(11), Petitioner failed to correct predisposing conditions after ordered to do so in writing,
15 and that the correction was within the ability of Petitioner, such that Petitioner would no longer
16 be entitled to the NRS 617.457(1) conclusive presumption.
17

18 Although the Appeals Officer's July 27, 2020 Decision and Order recite Petitioner's
19 related medical history and that Petitioner did not correct the predisposing conditions of which
20 he was warned, i.e. cholesterol, triglycerides, LDL, all of which contribute to heart disease, the
21 Decision and Order does so summarily.
22

23 First, the Court FINDS that the medical records did contain written instructions to
24 Petitioner to correct predisposing conditions. However, the Court notes that these written
25 instructions were much too general in nature to effect change to Petitioner's cholesterol,
26 triglycerides, LDL Levels, and not at all specific and pointed. Rather, specific and pointed
27
28

1 advice would have included recommendations that Petitioner adopt a given regimented
2 diet plan and/or given regimented exercise routine, both programs of which would have
3 laid out diet specific instructions as to what Petitioner could and could not eat, and specific
4 exercise instructions as to what exercises Petitioner needed to complete, frequency,
5 duration, etc.
6

7 Second, with regard to the NRS 617.457(11) requirement that correction of the
8 predisposed conditions be within Petitioner's ability, the Court FINDS that Petitioner's
9 medical records do not contain sufficient documentation that correcting the predisposing
10 conditions was within Petitioner's ability as contemplated by NRS 617.457(11).
11 Specifically, the physician's recommendations of diet change and exercise programs, i.e.
12 low fat diet, cardio, and 4 mg/day omega 2, etc., coupled with recurring testing of
13 cholesterol, triglycerides, LDL, which primarily yielded unchanging results, is an
14 insufficient basis to support the NRS 617.457(11) requirement that correcting Petitioner's
15 predisposed conditions: cholesterol, triglycerides, LDL, was within the ability of the
16 employee to control.
17
18

19 Third, for the relevant period 2008 to 2012, the reviewing physicians that conducted
20 Petitioner's annual physical examination concluded: 2008 - In conclusion with all the
21 information that has been provided to me, it appears you are in good health and remain
22 acceptable for employment; and for 2009 2012 - In conclusion with all the information that has
23 been provided to me, it appears that the employee is in good health and remains acceptable for
24 employment.
25

26 ///

27 ///

28 ///

1 The physician's minimal recommendations of a low fat diet, cardio, and 4 mg/day
2 omega 2, combined with a finding that Petitioner was in good health suggest to this Court
3 that Petitioner exercised good faith in adhering to the physician's recommendations.
4 Additionally, there was no indication in the Record to the contrary. This, in fact, resulted
5 in Petitioner receiving consecutive bills of good health from 2008 to 2012.
6

7 Lastly, the physicians did not prescribe any cholesterol, triglycerides, or LDL medication
8 to further control Petitioner's cholesterol, triglycerides, LDL levels. This illustrates to this Court
9 that Petitioner, in good faith, was doing what he was supposed to be doing, and despite following
10 his physician's recommendations, Petitioner's inability to alter his cholesterol, triglycerides, or
11 LDL levels suggests that Petitioner may have been incapable of correcting his predisposing
12 conditions through diet and exercise alone. This negates the NRS 617.457(11) requirement that
13 correction of the predisposed conditions be within Petitioner's ability.
14

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Greenman Goldberg Raby Martinez & Associates
ACCIDENT INJURY ATTORNEYS

1 Therefore, this Court FINDS that the Appeals Officer's July 27, 2020 Decision and
2 Order is not supported by substantial evidence and necessarily GRANTS Petitioner, Robert
3 Holland's, Petition for Judicial Review.
4

5 Dated this _____ day of _____, 2021.

Dated this 5th day of April, 2021

7
8 
TARA CLARK NEWBERRY
DISTRICT COURT JUDGE

238 42F 3A34 07EE
Tara Clark Newberry
District Court Judge

9
10 Submitted by:

11 GREENMAN GOLDBERG RABY & MARTINEZ

12 
13 LISA M. ANDERSON, ESQ.

14 Nevada Bar No. 004907

15 GREENMAN GOLDBERG RABY & MARTINEZ

16 2770 South Maryland Parkway

17 Suite 100

18 Las Vegas, Nevada 89109

Attorneys for Petitioner

19 Approved as to form and content:

20 LEWIS BRISBOIS BISGAARD & SMITH

21 
22 DANIEL L. SCHWARTZ, ESQ.

23 Nevada Bar No. 005125

24 JOEL REEVES, ESQ.

25 Nevada Bar No. 013231

26 2300 West Sahara Avenue

Suite 900, Box 28

Las Vegas, Nevada 89102

Attorneys for Respondents

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Robert Holland, Petitioner(s)

CASE NO: A-20-818754-J

7 vs.

DEPT. NO. Department 21

8 Las Vegas Metropolitan Police
9 Department, Respondent(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 Granting was served via the court's electronic eFile system to all
14 recipients registered for e-Service on the above entitled case as listed below:

Service Date: 4/5/2021

15 Daniel Schwartz daniel.schwartz@lewisbrisbois.com

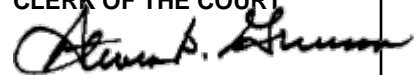
16 Joel Reeves joel.reeves@lewisbrisbois.com

17 robert windrem rwindrem@ggrmlawfirm.com

18 lisa anderson landerson@ggrmlawfirm.com

19 Alejandra Garcia agarcia@ggrmlawfirm.com

20 Stephanie Jensen stephanie.jensen@lewisbrisbois.com
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27
28



1 **ASTA**
2 DANIEL L. SCHWARTZ, ESQ.
3 Nevada Bar No. 005125
4 JOEL P. REEVES, ESQ.
5 Nevada Bar No. 013231
6 LEWIS BRISBOIS BISGAARD & SMITH LLP
7 2300 W. Sahara Ave. Ste. 900
8 Las Vegas, Nevada 89102
9 Telephone: 702-893-3383
10 Facsimile: 702-366-9689
11 Email: daniel.schwartz@lewisbrisbois.com
12 Attorneys for Respondent
13 *Las Vegas Metropolitan Police Department and*
14 *Cannon Cochran Management Services, Inc.*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

10 ROBERT HOLLAND,

11 Petitioner,

12 v.

13 LAS VEGAS METROPOLITAN POLICE
14 DEPARTMENT, CANNON COCHRAN
15 MANAGEMENT SERVICES, INC., and THE
16 DEPARTMENT OF ADMINISTRATION,
17 HEARINGS DIVISION, APPEALS OFFICE, an
18 Agency of the State of Nevada,

17 Respondents.

Case No.: A-20-818754-J

Dept. No.: 21

CASE APPEAL STATEMENT

19 1. Name of Petitioners filing this case appeal statement:

20 **Las Vegas Metropolitan Police Department and Cannon Cochran Management**
21 **Services, Inc.**

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

23 **Hon. Tara Clark Newberry, District Court Judge**

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

26 **Las Vegas Metropolitan Police Department, Cannon Cochran Management Services,**
27 **Inc., and Robert Holland**

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

3 **Las Vegas Metropolitan Police Department, Cannon Cochran Management Services,**
4 **Inc., and Robert Holland**

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

7 **DANIEL L. SCHWARTZ, ESQ.**
8 **JOEL P. REEVES, ESQ.**
9 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
10 **2300 W. Sahara Avenue, Suite 900, Box 28**
11 **Las Vegas, Nevada 89102-4375**
12 *Attorneys for Respondents*
13 *Las Vegas Metropolitan Police Department and*
14 *Cannon Cochran Management Services, Inc*

15 **LISA M. ANDERSON, ESQ.**
16 **GREENMAN GOLDBERG RABY & MARTINEZ**
17 **2770 S. Maryland Parkway, Suite 100**
18 **Las Vegas, Nv 89109**
19 *Attorney for Petitioner*
20 *Robert Holland*

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

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

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

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

27 8. Indicate whether Petitioners are represented by appointed or retained counsel on
28 appeal:

Petitioners are represented by retained counsel on appeal.

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

Respondent is represented by retained counsel on appeal.

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

3 **Petitioners were not granted leave to proceed in forma pauperis.**

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

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

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

9 **The Petition for Judicial Review of the Appeals Officer's Decision of July 27, 2020,**
10 **was filed on July 29, 2020.**

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

13 **This is a workers' compensation case. On June 7, 2019, claimant ROBERT**
14 **HOLLAND, (hereinafter referred to as "claimant"), a retired police officer, filed a claim for**
15 **workers' compensation benefits based on two heart attacks that claimant suffered on May**
16 **26 and 27, 2019. However, prior to his retirement, claimant was warned for several years**
17 **that he was predisposed to heart disease based on elevated triglycerides and that if he did**
18 **not correct the same he would be excluded from benefits. At his last physical in 2012,**
19 **claimant's triglycerides were 181. When he presented to the hospital for the subject heart**
20 **attacks, his triglycerides were 348.**

21 **Administrator denied this claim. Claimant appealed.**

22 **On September 17, 2019, the Hearing Officer affirmed claim denial. Claimant**
23 **appealed.**

24 **On July 27, 2020, the Appeals Officer for Appeal Number 2004526-DM affirmed**

1 claim denial based on claimant's failure to correct conditions which were predisposing him
2 to heart disease.

3 Claimant filed this Petition for Judicial Review, alleging that the Appeals Officer's
4 July 27, 2020 Decision was erroneous.

5 On April 5, 2021, the District Court improperly reversed the Appeals Officer after
6 improperly reweighing the evidence. Respondents therefore filed this appeal.

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

11 No.

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

13 No.

14
15 16. If this is a civil case, indicate whether this appeal involves the possibility of
16 settlement:

17 No.

18 DATED this 27 day of April 2021.

19 Respectfully submitted,

20 LEWIS BRISBOIS BISGAARD & SMITH LLP

21
22
23 By:

DANIEL L. SCHWARTZ, ESQ.

JOEL P. REEVES, ESQ.

LEWIS BRISBOIS BISGAARD & SMITH, LLP

2300 West Sahara Avenue, Suite 900, Box 28

Las Vegas, Nevada 89102

Attorneys for Respondents

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-20-818754-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: 4/27/2021

(Signature)

JOEL P. REEVES, ESQ.

(Print Name)

RESPONDENTS

(Attorney for)

CASE SUMMARY**CASE NO. A-20-818754-J**

Robert Holland, Petitioner(s)
vs.
Las Vegas Metropolitan Police Department, Respondent
(s)

§
§
§
§
§

Location: **Department 21**
 Judicial Officer: **Clark Newberry, Tara**
 Filed on: **07/29/2020**
 Case Number History:
 Cross-Reference Case Number: **A818754**

CASE INFORMATION**Statistical Closures**

04/05/2021 Summary Judgment

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

Case Status: **04/05/2021 Closed**

DATE**CASE ASSIGNMENT****Current Case Assignment**

Case Number A-20-818754-J
 Court Department 21
 Date Assigned 01/04/2021
 Judicial Officer Clark Newberry, Tara

PARTY INFORMATION

Petitioner Holland, Robert

Lead Attorneys

Anderson, Lisa M
Retained
 7023841616(W)

Respondent CCMSI

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

Department of Administration

Las Vegas Metropolitan Police Department

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

DATE**EVENTS & ORDERS OF THE COURT****INDEX****EVENTS**

07/29/2020



Petition for Judicial Review
 Filed by: Petitioner Holland, Robert
Petition for Judicial Review

08/25/2020



Notice of Intent to Participate
 Filed By: Respondent Las Vegas Metropolitan Police Department; Respondent CCMSI
Notice of Intent to Participate

09/02/2020



Peremptory Challenge
 Filed by: Respondent Las Vegas Metropolitan Police Department
Peremptory Challenge

09/02/2020



Notice of Department Reassignment
Notice of Department Reassignment

CASE SUMMARY
CASE NO. A-20-818754-J

11/20/2020	 Transmittal of Record on Appeal <i>Transmittal of Record on Appeal</i>
11/20/2020	 Affidavit Filed By: Respondent Department of Administration <i>Affidavit & Certification</i>
11/20/2020	 Certification of Transmittal Party: Respondent Department of Administration <i>Certification of Transmittal</i>
12/29/2020	 Brief Filed By: Petitioner Holland, Robert <i>Petitioner's Opening Brief</i>
01/04/2021	Case Reassigned to Department 21 <i>Judicial Reassignment to Judge Tara Clark Newberry</i>
02/01/2021	 Brief Filed By: Respondent Las Vegas Metropolitan Police Department; Respondent CCMSI <i>Respondents' Answering Brief</i>
02/02/2021	 Order <i>ORDER SETTING BRIEFING SCHEDULE AND HEARING DATE</i>
03/02/2021	 Brief Filed By: Petitioner Holland, Robert <i>Petitioner's Reply Brief</i>
04/05/2021	 Order Granting <i>Order Granting Petition for Judicial Review</i>
04/06/2021	 Notice of Entry of Order Filed By: Petitioner Holland, Robert <i>Notice of entry of order</i>
04/20/2021	 Opposition to Motion Filed By: Petitioner Holland, Robert <i>Opposition to Respondent's Motion for Stay Pending Supreme Court Appeal</i>
04/20/2021	 Order Shortening Time <i>RESPONDENTS' MOTION FOR STAY PENDING SUPREME COURT APPEAL AND MOTION FOR ORDER SHORTENING TIME</i>
04/27/2021	 Notice of Appeal Filed By: Respondent Las Vegas Metropolitan Police Department; Respondent CCMSI <i>Notice of Appeal</i>
04/27/2021	 Case Appeal Statement <i>Case Appeal Statement</i>
	<u>DISPOSITIONS</u>
04/05/2021	Order Granting Judicial Review (Judicial Officer: Clark Newberry, Tara) Debtors: Las Vegas Metropolitan Police Department (Respondent), CCMSI (Respondent),

CASE SUMMARY**CASE NO. A-20-818754-J**

Department of Administration (Respondent)
 Creditors: Robert Holland (Petitioner)
 Judgment: 04/05/2021, Docketed: 04/06/2021

HEARINGS

03/10/2021

**Petition for Judicial Review (2:00 PM)** (Judicial Officer: Clark Newberry, Tara)

Decision Made;

Journal Entry Details:

Arguments by counsel regarding whether or not Mr. Holland failed to correct predisposing conditions. COURT ORDERED, matter UNDER ADVISEMENT. ;

03/19/2021

**Decision (3:30 PM)** (Judicial Officer: Clark Newberry, Tara)*Decision: Petition for Judicial Review*

Minute Order - No Hearing Held;

Journal Entry Details:

This matter came before this Court on 3/10/21 for Hearing on the 7/29/20 Petitioner Mr. Holland s Petition for Judicial Review. The Court has re-reviewed the 12/29/20 Petitioner s Opening Brief, 2/1/21 Respondent s Answering Brief, and 3/2/21 Petitioner s Reply Brief, and the entirety of the Record, including the 11/20/21 Transmittal of Record on Appeal, which contains the Record on Appeal, and hereby FINDS that pursuant to NRS 233B.135, the Appeals Officer s 7/27/20 Decision and Order is not supported by substantial evidence in the Record on Appeal. Here, the Parties agree that pursuant to NRS 617.457(1), Mr. Holland meets the two (2) qualifications for the conclusive presumption that Mr. Holland s related heart condition has arisen out of and in the course of the employment: (1) Mr. Holland has related heart disease; and (2) Mr. Holland is a retired twenty-five year veteran of LVMPD. However, Parties are in disagreement of whether or not pursuant to NRS 617.457(11), Mr. Holland failed to correct predisposing conditions after ordered to do so in writing, and that the correction was within the ability of Mr. Holland, such that Mr. Holland would no longer be entitled to the NRS 617.457(1) conclusive presumption. Although the Appeals Officer s 7/27/20 Decision and Order recite Mr. Holland s related Medical History and that Mr. Holland did not correct the predisposing conditions of which he was warned, i.e. Cholesterol, Triglycerides, LDL, all of which contribute to heart disease, the Decision and Order does so summarily. First, the Court FINDS that the Medical Records did contain written instructions to Mr. Holland to correct predisposing conditions. However, the Court notes that these written instructions were much too general in nature to effect change to Mr. Holland s Cholesterol, Triglycerides, LDL Levels, and not at all specific and pointed. Rather, specific and pointed advice would have included recommendations that Mr. Holland adopt a given regimented diet plan and/or given regimented exercise routine, both programs of which would have laid out diet specific instructions as to what Mr. Holland could and could not eat, and specific exercise instructions as to what exercises Mr. Holland needed to complete, frequency, duration, etc. Second, with regard to the NRS 617.457(11) requirement that correction of the predisposed conditions be within Mr. Holland s ability, the Court FINDS that Mr. Holland s Medical Records do not contain sufficient documentation that correcting the predisposing conditions was within Mr. Holland s ability as contemplated by NRS 617.457(11). Specifically, the Physicians recommendations of diet change and exercise programs, i.e. low fat diet, cardio, and 4 gm/day omega 2, etc., coupled with recurring testing of Cholesterol, Triglycerides, LDL, which primarily yielded unchanging results, is an insufficient basis to support the NRS 617.457(11) requirement that correcting Mr. Holland s predisposed conditions: Cholesterol, Triglycerides, LDL, was within the ability of the employee to control. Third, for the relevant period 2008 to 2012, the reviewing Physicians that conducted Mr. Holland s Annual Physical Examination concluded: 2008 - In conclusion with all the information that has been provided to me, it appears you are in good health and remain acceptable for employment; and for 2009 2012 - In conclusion with all the information that has been provided to me, it appears that the employee is in good health and remains acceptable for employment The Physicians minimal recommendations of a low fat diet, cardio, and 4 gm/day omega 2, combined with a finding that Mr. Holland was in good health suggest to this Court that Mr. Holland exercised good faith in adhering to the Physicians recommendations. Additionally, there was no indication in the Record to the contrary. This, in fact, resulted in Mr. Holland receiving consecutive bills of good health from 2008 to 2012. Lastly, the Physicians did not prescribe any Cholesterol, Triglycerides, or LDL medication to further control Mr. Holland s Cholesterol, Triglycerides, LDL Levels. This illustrates to this Court that Mr. Holland, in good faith, was doing what he was supposed to be doing, and despite following his Physicians recommendations, Mr. Holland s inability to alter his Cholesterol, Triglycerides, or LDL levels suggests that Mr. Holland may

EIGHTH JUDICIAL DISTRICT COURT

CASE SUMMARY

CASE NO. A-20-818754-J

have been incapable of correcting his predisposing conditions through diet and exercise alone. This negates the NRS 617.457(11) requirement that correction of the predisposed conditions be within Mr. Holland's ability. Therefore, this Court FINDS that the Appeals Officer's 7/27/20 Decision and Order is not supported by substantial evidence and necessarily GRANTS Petitioner Mr. Holland's Petition for Judicial Review. Per EDCR 7.21, Counsel for Petitioner to prepare the Proposed Order, circulate for signature as to Form and Content, and submit to dc21inbox@clarkcountycourts.us within 14 days per EDCR 7.21. CLERK'S NOTE: A copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (3/19/21 kb).;

04/23/2021



Motion (11:00 AM) (Judicial Officer: Clark Newberry, Tara)

Denied;

Journal Entry Details:

Court noted it reviewed the Motion and the Opposition. Colloquy regarding whether the Respondent was seeking a reconsideration of the Court's decision granting the petition for judicial review and a stay. Mr. Reeves stated they had not specifically filed a motion for reconsideration but for a stay. Following arguments by counsel regarding the a stay pending an appeal; COURT stated its FINDINGS and ORDERED, Respondent's Motion for a Stay DENIED. Ms. Anderson to prepare the order, run it by opposing counsel and submit it to the Court.;

DATE

FINANCIAL INFORMATION

Respondent CCMSI

Total Charges

24.00

Total Payments and Credits

24.00

Balance Due as of 4/28/2021

0.00

Respondent Las Vegas Metropolitan Police Department

Total Charges

703.00

Total Payments and Credits

703.00

Balance Due as of 4/28/2021

0.00

DISTRICT COURT CIVIL COVER SHEET

CASE NO: A-20-818754-J

County, Nevada

Department 14

Case No. _____

(Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone): Robert Holland	Defendant(s) (name/address/phone): Las Vegas Metropolitan Police Department, CCMSI and the Department of Administration Hearings Division
Attorney (name/address/phone): Lisa M. Anderson, Esq. Greenman Goldberg Ray & Martinez 2770 South Maryland Parkway, #100 Las Vegas, Nevada 89109 702-384-1616	Attorney (name/address/phone): Daniel L. Schwartz, Esq. Lewis Brisbois Bisgaard & Smith 2300 West Sahara Avenue, #300, Box 28 Las Vegas, Nevada 89102 702-893-3383

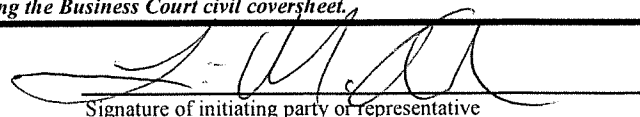
II. Nature of Controversy (please select the one most applicable filing type below)**Civil Case Filing Types**

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.

July 29, 2020

Date


 Signature of initiating party or representative

See other side for family-related case filings.

Statistically closed: USJR - CV - Summary Judgment (USSUJ)

Greenman Goldberg Raby Martinez/
ACCIDENT INJURY ATTORNEYS

1 This matter came before this Court on March 10, 2021 for hearing on the July 29, 2020
2 Petition for Judicial Review. The Court has re-reviewed the December 29, 2020 Petitioner's
3 Opening Brief, the February 1, 2021 Respondent's Answering Brief, and the March 2, 2021
4 Petitioner's Reply Brief, and the entirety of the record, including the November 20, 2020⁰
5 Transmittal of Record on Appeal, which contains the Record on Appeal, and hereby FINDS that
6 pursuant to NRS 233B.135, the Appeals Officer's July 27, 2020 Decision and Order is not
7 supported by substantial evidence in the Record on Appeal.
8

9 Here, the parties agree that, pursuant to NRS 617.457(1), Petitioner meets the two (2)
10 qualifications for the conclusive presumption that Petitioner's related heart condition has arisen
11 out of and in the course of the employment: (1) Petitioner has related heart disease; and (2)
12 Petitioner is a retired twenty-five (24)⁵ year veteran of Las Vegas Metropolitan Police
13 Department. However, the parties are in disagreement of whether or not pursuant to NRS
14 617.457(11), Petitioner failed to correct predisposing conditions after ordered to do so in writing,
15 and that the correction was within the ability of Petitioner, such that Petitioner would no longer
16 be entitled to the NRS 617.457(1) conclusive presumption.
17

18 Although the Appeals Officer's July 27, 2020 Decision and Order recite Petitioner's
19 related medical history and that Petitioner did not correct the predisposing conditions of which
20 he was warned, i.e. cholesterol, triglycerides, LDL, all of which contribute to heart disease, the
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4 exercise instructions as to what exercises Petitioner needed to complete, frequency,
5 duration, etc.
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8 predisposed conditions be within Petitioner's ability, the Court FINDS that Petitioner's
9 medical records do not contain sufficient documentation that correcting the predisposing
10 conditions was within Petitioner's ability as contemplated by NRS 617.457(11).
11 Specifically, the physician's recommendations of diet change and exercise programs, i.e.
12 low fat diet, cardio, and 4 mg/day omega 2, etc., coupled with recurring testing of
13 cholesterol, triglycerides, LDL, which primarily yielded unchanging results, is an
14 insufficient basis to support the NRS 617.457(11) requirement that correcting Petitioner's
15 predisposed conditions: cholesterol, triglycerides, LDL, was within the ability of the
16 employee to control.
17

18
19 Third, for the relevant period 2008 to 2012, the reviewing physicians that conducted
20 Petitioner's annual physical examination concluded: 2008 - In conclusion with all the
21 information that has been provided to me, it appears you are in good health and remain
22 acceptable for employment; and for 2009 2012 - In conclusion with all the information that has
23 been provided to me, it appears that the employee is in good health and remains acceptable for
24 employment.
25

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27 ///

1 The physician's minimal recommendations of a low fat diet, cardio, and 4 mg/day
2 omega 2, combined with a finding that Petitioner was in good health suggest to this Court
3 that Petitioner exercised good faith in adhering to the physician's recommendations.
4
5 Additionally, there was no indication in the Record to the contrary. This, in fact, resulted
6 in Petitioner receiving consecutive bills of good health from 2008 to 2012.

7 Lastly, the physicians did not prescribe any cholesterol, triglycerides, or LDL medication
8 to further control Petitioner's cholesterol, triglycerides, LDL levels. This illustrates to this Court
9 that Petitioner, in good faith, was doing what he was supposed to be doing, and despite following
10 his physician's recommendations, Petitioner's inability to alter his cholesterol, triglycerides, or
11 LDL levels suggests that Petitioner may have been incapable of correcting his predisposing
12 conditions through diet and exercise alone. This negates the NRS 617.457(11) requirement that
13 correction of the predisposed conditions be within Petitioner's ability.
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1 Therefore, this Court FINDS that the Appeals Officer's July 27, 2020 Decision and
2 Order is not supported by substantial evidence and necessarily GRANTS Petitioner, Robert
3 Holland's, Petition for Judicial Review.
4

5 Dated this ____ day of _____, 2021.

6 Dated this 5th day of April, 2021

7
8 
TARA CLARK NEWBERRY
DISTRICT COURT JUDGE

238 42F 3A34 07EE
Tara Clark Newberry
District Court Judge

9
10 Submitted by:

11 GREENMAN GOLDBERG RABY & MARTINEZ

12 
13 LISA M. ANDERSON, ESQ.

14 Nevada Bar No. 004907

15 GREENMAN GOLDBERG RABY & MARTINEZ

16 2770 South Maryland Parkway

17 Suite 100

Las Vegas, Nevada 89109

Attorneys for Petitioner

18
19 Approved as to form and content:

20 LEWIS BRISBOIS BISGAARD & SMITH

21 
22 DANIEL L. SCHWARTZ, ESQ.

23 Nevada Bar No. 005125

24 JOEL REEVES, ESQ.

25 Nevada Bar No. 013231

26 2300 West Sahara Avenue

Suite 900, Box 28

Las Vegas, Nevada 89102

Attorneys for Respondents

1 **CSERV**

2
3 DISTRICT COURT
CLARK COUNTY, NEVADA

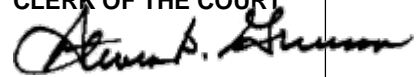
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5		
6	Robert Holland, Petitioner(s)	CASE NO: A-20-818754-J
7	vs.	DEPT. NO. Department 21
8	Las Vegas Metropolitan Police	
9	Department, Respondent(s)	

10
11 **AUTOMATED CERTIFICATE OF SERVICE**

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

14 Service Date: 4/5/2021

15	Daniel Schwartz	daniel.schwartz@lewisbrisbois.com
16	Joel Reeves	joel.reeves@lewisbrisbois.com
17	robert windrem	rwindrem@ggrmlawfirm.com
18	lisa anderson	landerson@ggrmlawfirm.com
19	Alejandra Garcia	agarcia@ggrmlawfirm.com
20	Stephanie Jensen	stephanie.jensen@lewisbrisbois.com
21		
22		
23		
24		
25		
26		
27		
28		



1 NEOJ
2 LISA M. ANDERSON, ESQ.
3 Nevada Bar No. 4907
4 **GREENMAN GOLDBERG RABY & MARTINEZ**
5 2270 South Maryland Parkway
6 Suite 100
7 Las Vegas, NV 89109
8 Phone: 702.384.1616 ~ Fax: 702.384.2990
9 Email: landerson@ggrmlawfirm.com
10 *Attorneys for Petitioner*

**DISTRICT COURT
CLARK COUNTY, NEVADA**

9 ROBERT HOLLAND,)

10 Petitioner,)

11 vs.)

CASE NO.: A-20-818754-J
DEPT. NO.: XXI

12 LAS VEGAS METROPOLITAN POLICE)
13 DEPARTMENT, CCMSI, and THE)
14 DEPARTMENT OF ADMINISTRATION,)
15 HEARINGS DIVISION,)

16 Respondents.)
17)

NOTICE OF ENTRY OF ORDER

18
19 TO: All parties of interest.

20 YOU, AND EACH OF YOU, WILL PLEASE TAKE NOTICE that an Order was
21 entered in the above-entitled matter on the 5th day of April, 2021, a copy of which is attached.

22 DATED this 6th day of April, 2021.

23
24 **GREENMAN GOLDBERG RABY & MARTINEZ**

25 By: 
26 LISA M. ANDERSON, ESQ.

27 Nevada Bar No. 4907
28 2770 South Maryland Parkway, #100
Las Vegas, Nevada 89109
Attorneys for Petitioner

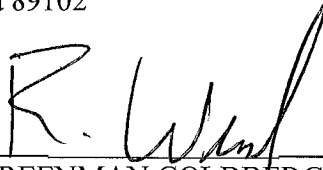


LAW FIRM
INJURY ATTORNEYS

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of GREENMAN GOLDBERG RABY & MARTINEZ, and that on the 14th day of April, 2021, I caused the foregoing document entitled NOTICE OF ENTRY OF ORDER to be served upon those persons designated by parties in the E-Service Master List for the above-referenced matter in the Eighth Judicial District Court eFiling System in accordance with the mandatory electronic service requirements of Administrative Order 14-2 and the Nevada Electronic Filing and Conversion Rules and depositing a true and correct copy in a sealed envelope, postage fully prepaid, addressed as follows:

Daniel L. Schwartz, Esq.
LEWIS BRISBOIS BISGAARD & SMITH
2300 West Sahara Avenue
Suite 900 Box 28
Las Vegas, Nevada 89102



An Employee of GREENMAN GOLDBERG RABY & MARTINEZ



LAW FIRM
INJURY ATTORNEYS

Heather L. Smith
CLERK OF THE COURT

1 **ORDG**

2 LISA M. ANDERSON, ESQ.

3 Nevada Bar No. 004907

4 GREENMAN GOLDBERG RABY & MARTINEZ

5 2770 South Maryland Parkway

6 Suite 100

7 Las Vegas, Nevada 89109

8 Phone: (702) 384-1616

9 Facsimile: (702) 384-2990

10 Email: landerson@ggrmlawfirm.com

11 *Attorneys for Petitioner*

DISTRICT COURT

CLARK COUNTY, NEVADA

12 ROBERT HOLLAND,

13 Petitioner

14 vs.

CASE NO. : A-20-818754-J
DEPT. NO. : XXI

15 LAS VEGAS METROPOLLITAN POLICE)

16 DEPARTMENT, CCMSI, and THE)

17 DEPARTMENT OF ADMINISTRATION,)

18 HEARINGS DIVISION,)

19 Respondents.)

ORDER GRANTING PETITION FOR JUDICIAL REVIEW

20 This matter came before this Court on the Petition for Judicial Review filed by the
21 Petitioner, ROBERT HOLLAND. Petitioner was represented by LISA M. ANDERSON, ESQ.
22 of the law firm of GREENMAN GOLDBERG RABY & MARTINEZ. Respondents, LAS
23 VEGAS METROPOLITAN POLICE DEPARTMENT and CCMSI, were represented by
24 DANIAL L. SCHWARTZ, ESQ. and JOEL P. REEVES, ESQ. of the law firm LEWIS
25 BRISBOIS BISGAARD & SMITH. No other parties were present or represented. After
26 reviewing the record and considering the briefs, this matter is decided as follows:
27
28

Greenman Goldberg Raby Martinez
ACCIDENT INJURY ATTORNEYS

1 This matter came before this Court on March 10, 2021 for hearing on the July 29, 2020
2 Petition for Judicial Review. The Court has re-reviewed the December 29, 2020 Petitioner's
3 Opening Brief, the February 1, 2021 Respondent's Answering Brief, and the March 2, 2021
4 Petitioner's Reply Brief, and the entirety of the record, including the November 20, 2021⁰
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9 Here, the parties agree that, pursuant to NRS 617.457(1), Petitioner meets the two (2)
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13 Department. However, the parties are in disagreement of whether or not pursuant to NRS
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2 Order is not supported by substantial evidence and necessarily GRANTS Petitioner, Robert
3 Holland's, Petition for Judicial Review.

4 Dated this _____ day of _____, 2021.

5
6 Dated this 5th day of April, 2021

7
8 
TARA CLARK NEWBERRY
DISTRICT COURT JUDGE

9 238 42F 3A34 07EE
Tara Clark Newberry
District Court Judge

10 Submitted by:

11 GREENMAN GOLDBERG RABY & MARTINEZ

12
13 
14 LISA M. ANDERSON, ESQ.

15 Nevada Bar No. 004907

16 GREENMAN GOLDBERG RABY & MARTINEZ

17 2770 South Maryland Parkway

18 Suite 100

19 Las Vegas, Nevada 89109

20 *Attorneys for Petitioner*

21 Approved as to form and content:

22 LEWIS BRISBOIS BISGAARD & SMITH

23 
DANIEL L. SCHWARTZ, ESQ.

24 Nevada Bar No. 005125

25 JOEL REEVES, ESQ.

26 Nevada Bar No. 013231

27 2300 West Sahara Avenue

28 Suite 900, Box 28

Las Vegas, Nevada 89102

Attorneys for Respondents

Greenman Goldberg Raby Martinez
ACCIDENT INJURY ATTORNEYS

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5 Robert Holland, Petitioner(s)	CASE NO: A-20-818754-J
6 vs.	DEPT. NO. Department 21
7 Las Vegas Metropolitan Police	
8 Department, Respondent(s)	

9

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15 Service Date: 4/5/2021

16 Daniel Schwartz	daniel.schwartz@lewisbrisbois.com
17 Joel Reeves	joel.reeves@lewisbrisbois.com
18 robert windrem	rwindrem@ggrmlawfirm.com
19 lisa anderson	landerson@ggrmlawfirm.com
20 Alejandra Garcia	agarcia@ggrmlawfirm.com
21 Stephanie Jensen	stephanie.jensen@lewisbrisbois.com

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

March 10, 2021

A-20-818754-J Robert Holland, Petitioner(s)
vs.
Las Vegas Metropolitan Police Department, Respondent(s)

March 10, 2021 2:00 PM Petition for Judicial Review

HEARD BY: Clark Newberry, Tara **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Grecia Snow

RECORDER: Robin Page

REPORTER:

PARTIES

PRESENT: Anderson, Lisa M Attorney
Reeves, Joel Attorney

JOURNAL ENTRIES

- Arguments by counsel regarding whether or not Mr. Holland failed to correct predisposing conditions. COURT ORDERED, matter UNDER ADVISEMENT.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

Worker's Compensation Appeal

COURT MINUTES

March 19, 2021

A-20-818754-J Robert Holland, Petitioner(s)
vs.
Las Vegas Metropolitan Police Department, Respondent(s)

March 19, 2021 3:30 PM Decision

HEARD BY: Clark Newberry, Tara

COURTROOM: RJC Courtroom 16C

COURT CLERK: Athena Trujillo

RECORDER: Robin Page

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- This matter came before this Court on 3/10/21 for Hearing on the 7/29/20 Petitioner Mr. Holland s Petition for Judicial Review. The Court has re-reviewed the 12/29/20 Petitioner s Opening Brief, 2/1/21 Respondent s Answering Brief, and 3/2/21 Petitioner s Reply Brief, and the entirety of the Record, including the 11/20/21 Transmittal of Record on Appeal, which contains the Record on Appeal, and hereby FINDS that pursuant to NRS 233B.135, the Appeals Officer s 7/27/20 Decision and Order is not supported by substantial evidence in the Record on Appeal.

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Although the Appeals Officer's 7/27/20 Decision and Order recite Mr. Holland's related Medical History and that Mr. Holland did not correct the predisposing conditions of which he was warned,

i.e. Cholesterol, Triglycerides, LDL, all of which contribute to heart disease, the Decision and Order does so summarily.

First, the Court FINDS that the Medical Records did contain written instructions to Mr. Holland to correct predisposing conditions. However, the Court notes that these written instructions were much too general in nature to effect change to Mr. Holland's Cholesterol, Triglycerides, LDL Levels, and not at all specific and pointed. Rather, specific and pointed advice would have included recommendations that Mr. Holland adopt a given regimented diet plan and/or given regimented exercise routine, both programs of which would have laid out diet specific instructions as to what Mr. Holland could and could not eat, and specific exercise instructions as to what exercises Mr. Holland needed to complete, frequency, duration, etc.

Second, with regard to the NRS 617.457(11) requirement that correction of the predisposed conditions be within Mr. Holland's ability, the Court FINDS that Mr. Holland's Medical Records do not contain sufficient documentation that correcting the predisposing conditions was within Mr. Holland's ability as contemplated by NRS 617.457(11). Specifically, the Physicians' recommendations of diet change and exercise programs, i.e. low fat diet, cardio, and 4 gm/day omega 2, etc., coupled with recurring testing of Cholesterol, Triglycerides, LDL, which primarily yielded unchanging results, is an insufficient basis to support the NRS 617.457(11) requirement that correcting Mr. Holland's predisposed conditions: Cholesterol, Triglycerides, LDL, was within the ability of the employee to control.

Third, for the relevant period 2008 to 2012, the reviewing Physicians that conducted Mr. Holland's Annual Physical Examination concluded: 2008 - In conclusion with all the information that has been provided to me, it appears you are in good health and remain acceptable for employment; and for 2009 - 2012 - In conclusion with all the information that has been provided to me, it appears that the employee is in good health and remains acceptable for employment

The Physicians' minimal recommendations of a low fat diet, cardio, and 4 gm/day omega 2, combined with a finding that Mr. Holland was in good health suggest to this Court that Mr. Holland exercised good faith in adhering to the Physicians' recommendations. Additionally, there was no indication in the Record to the contrary. This, in fact, resulted in Mr. Holland receiving consecutive bills of good health from 2008 to 2012.

Lastly, the Physicians did not prescribe any Cholesterol, Triglycerides, or LDL medication to further control Mr. Holland's Cholesterol, Triglycerides, LDL Levels. This illustrates to this Court that Mr. Holland, in good faith, was doing what he was supposed to be doing, and despite following his Physicians' recommendations, Mr. Holland's inability to alter his Cholesterol, Triglycerides, or LDL levels suggests that Mr. Holland may have been incapable of correcting his predisposing conditions through diet and exercise alone. This negates the NRS 617.457(11) requirement that correction of the predisposed conditions be within Mr. Holland's ability.

Therefore, this Court FINDS that the Appeals Officer's 7/27/20 Decision and Order is not supported

by substantial evidence and necessarily GRANTS Petitioner Mr. Holland s Petition for Judicial Review.

Per EDCR 7.21, Counsel for Petitioner to prepare the Proposed Order, circulate for signature as to Form and Content, and submit to dc21inbox@clarkcountycourts.us within 14 days per EDCR 7.21.

CLERK S NOTE: A copy of the foregoing minute order was distributed to the registered service recipients via Odyssey eFileNV E-Service (3/19/21 kb).

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

April 23, 2021

A-20-818754-J	Robert Holland, Petitioner(s)
	vs.
	Las Vegas Metropolitan Police Department, Respondent(s)

April 23, 2021 11:00 AM Motion

HEARD BY: Clark Newberry, Tara **COURTROOM:** RJC Courtroom 16C

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Robin Page

REPORTER:

PARTIES

PRESENT:	Anderson, Lisa M	Attorney
	Reeves, Joel	Attorney

JOURNAL ENTRIES

- Court noted it reviewed the Motion and the Opposition. Colloquy regarding whether the Respondent was seeking a reconsideration of the Court's decision granting the petition for judicial review and a stay. Mr. Reeves stated they had not specifically filed a motion for reconsideration but for a stay. Following arguments by counsel regarding the a stay pending an appeal; COURT stated its FINDINGS and ORDERED, Respondent's Motion for a Stay DENIED. Ms. Anderson to prepare the order, run it by opposing counsel and submit it to the Court.

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; DISTRICT COURT
DOCKET ENTRIES; CIVIL COVER SHEET; ORDER GRANTING PETITION FOR JUDICIAL
REVIEW; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

ROBERT HOLLAND,

Plaintiff(s),

vs.

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; CCMSI; THE DEPARTMENT
OF ADMINISTRATION, HEARINGS
DIVISION,

Defendant(s),

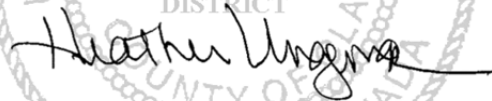
Case No: A-20-818754-J

Dept No: XXI

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 28 day of April 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk