

Electronically Filed
Jul 23 2021 04:14 p.m.
Elizabeth A. Brown
Clerk of Supreme Court

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16 Attorneys for Petitioners
17 *Las Vegas Metropolitan Police*
18 *Department and Cannon Cochran*
19 *Management Services, Inc*
20
21
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**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; and CANNON COCHRAN
MANAGEMENT SERVICES, INC.,

Petitioners,

v.

STATE OF NEVADA BOARD FOR THE
ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED
EMPLOYERS,

Respondents

CASE NO.: A-20-821892-J

DEPT. NO.: 15

NOTICE OF APPEAL

TO: STATE OF NEVADA BOARD FOR THE ADMINISTRATION OF THE
SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS, Respondent

TO: DONALD J. BORDELOVE, ESQ., Respondent's Attorney

TO: DIVISION OF INDUSTRIAL RELATIONS, Respondent

TO: CHRISTOPHER A. ECCLES, ESQ, Respondent's Attorney

...

...

1 NOTICE IS HEREBY GIVEN that Petitioners, LAS VEGAS METROPOLITAN POLICE
2 DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICES, INC, (hereinafter
3 referred to as "Petitioners"), in the above-entitled action, hereby appeal to the Supreme Court of the
4 State of Nevada from the attached "Order" entered in this action on or about June 21, 2021 which
5 denied Petitioners' Petition for Judicial Review and the "Notice of Entry of Order" filed on or about
6 June 22, 2021.
7

8 DATED this 19 day of July 2021.

9 Respectfully submitted,

10 LEWIS BRISBOIS BISGAARD & SMITH LLP

11
12 By: 

13 DANIEL L. SCHWARTZ, ESQ.

14 KIM D. PRICE, ESQ.

15 JOEL P. REEVES, ESQ.

16 LEWIS BRISBOIS BISGAARD & SMITH, LLP

17 2300 West Sahara Avenue, Suite 900, Box 28

18 Las Vegas, Nevada 89102

19 Attorneys for Petitioners
20
21
22
23
24
25
26
27
28

CERTIFICATE OF MAILING

Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the 19 day of July 2021, 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:

LVMPD
Jeff Roch
Director of Risk Management
400 South MLK Blvd.
Las Vegas, Nevada 89106
Petitioner

State of Nevada
Attorney General Aaron Ford
100 North Carson Street
Carson City, Nevada 89701
Attorneys for Respondent

CCMSI
Dusty Marshall
Claims Supervisor
PO Box 35350
Las Vegas, Nevada 89133
Petitioner

Industrial Relations (DIR)
Christopher Eccles, Esq.
3360 West Sahara Avenue, Suite 250
Las Vegas, Nevada 89102

Donald J. Bordelove
Deputy Attorney General
Office of the Attorney General
555 East Washington Avenue, Suite 3900
Las Vegas, Nevada 89101
Attorneys for Respondent

Industrial Relations (DIR)
Division Headquarters
400 West King Street, Suite 400
Carson City, Nevada 89703

Department of Business and Industry
Director Terry Reynolds
1830 College Parkway, Suite 100
Carson City, Nevada 897064



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-20-821892-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 -

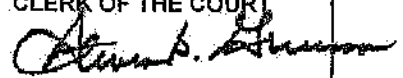
☐ Confidential Family Court Information Sheet
(NRS 125.130, NRS 125.230 and NRS 125B.055)

Date: 7/19/21


(Signature)

DANIEL L. SCHWARTZ, ESQ.
(Print Name)

PETITIONERS
(Attorney for)



1 **NEOJ**

2 Donald C. Smith, Esq.

3 Nevada Bar No.: 000413

4 Jennifer J. Leonescu

5 Nevada Bar No.: 006036

6 Christopher A. Eccles, Esq.

7 Nevada Bar No.: 009798

8 State of Nevada, Department of Business and Industry

9 Division of Industrial Relations

10 3360 W. Sahara Ave., Ste. 250

11 Las Vegas, NV 89102

12 Phone: (702) 486-9070

13 donaldcsmith@dir.nv.gov

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15 ceccles@dir.nv.gov

16 *Attorneys for Respondent Division of Industrial Relations*

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

13 LAS VEGAS METROPOLITAN POLICE)
14 DEPARTMENT, and CANNON)
15 COCHRAN MANAGEMENT SERVICES,)
16 INC.)

16 Petitioners,

17 vs.)

18 STATE OF NEVADA BOARD FOR THE)
19 ADMINISTRATION OF THE SUBSEQUENT)
20 INJURY ACCOUNT FOR SELF-INSURED)
21 EMPLOYERS,)

21 Respondents.)

Case No.: A-20-821892-J

Dept. No.: 15

NOTICE OF ENTRY OF ORDER

22 PLEASE TAKE NOTICE that an "Order" was entered in the above-captioned matter
23 on June 21, 2021, a true and correct copy of which is attached hereto.

24 DATED this 22nd day of June, 2021.

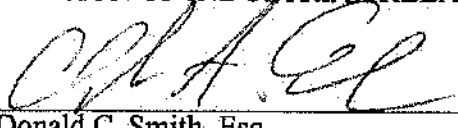
25 ///

27 ///

Respectfully submitted,

DIVISION OF INDUSTRIAL RELATIONS

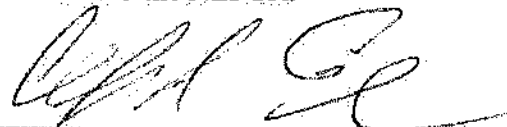
By:

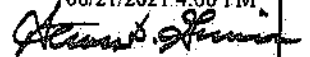

Donald C. Smith, Esq.
Jennifer J. Leonescu, Esq.
Christopher A. Eccles, Esq.
3360 W. Sahara Ave., Ste. 250
Las Vegas, NV 89102

Attorneys for Respondent Division of Industrial Relations

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada, Division of Industrial Relations, and that on this 22nd day of June, 2021, I caused the foregoing document entitled **Notice of Entry of Order** to be served upon those persons designated by the 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 14-02 and the NEFCR.


An employee of the State of Nevada
Division of Industrial Relations


 CLERK OF THE COURT
1 **ORDC**2 Donald C. Smith, Esq.
Nevada Bar No.: 0004133 Jennifer J. Leonescu
Nevada Bar No.: 0060364 Christopher A. Eccles, Esq.
Nevada Bar No.: 009798

5 State of Nevada, Department of Business and Industry

6 Division of Industrial Relations

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**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, and CANNON
COCHRAN MANAGEMENT SERVICES,
INC.

Petitioners,

vs.

STATE OF NEVADA BOARD FOR THE
ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED
EMPLOYERS,

Respondents.

Case No.: A-20-821892-J

Dept. No.: 15

**ORDER GRANTING
RESPONDENT DIVISION OF
INDUSTRIAL RELATIONS'
MOTION TO DISMISS
PETITIONERS' PETITION
FOR JUDICIAL REVIEW**

The matters before the Court are Respondent Nevada Division of Industrial Relations' ("Division") Motion to Dismiss Petitioners' Petition for Judicial Review, and Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers' ("Board") Joinder thereto. The Court, having reviewed the papers and pleadings on file in this matter and having heard the oral arguments of counsel on June 7, 2021, and good cause appearing, hereby rules as follows:

I. FINDINGS

1. Respondent Division moved to dismiss Petitioners' Petition for Judicial Review on two bases: first, Petitioners failed to transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency as required by NRS 233B.131(1)(a), and second, Petitioners failed to timely file their Memorandum of Points and Authorities as required by NRS 233B.133(1).

2. NRS 233B.131(1)(a) provides that "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: (a) The party who filed the petition for judicial review shall transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency." (Emphasis added).

3. NRS 233B.131(1)(b) provides that "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: (b) The agency that rendered the decision which is the subject of the petition shall transmit to the reviewing court the original or a certified copy of the remainder of the record of the proceeding under review." (Emphasis added).

4. Petitioners filed their Petition for Judicial Review on September 24, 2020. Thus, pursuant to the controlling statute, NRS 233B.131(1)(a), Petitioners' deadline to transmit the transcript to the Court was November 9, 2020.

5. It is undisputed that the Petitioners never transmitted the transcript to the Court.

6. It is undisputed that the Petitioners filed their Opening Brief 105 days late and that said Brief lacks citations to the transcript of the administrative proceeding under review.

7. The record of the underlying administrative proceeding is incomplete due to Petitioners' failure to transmit the transcript to the Court.

8. As a result of the incomplete record, and of Petitioners' failure to cite to the transcript in their late-filed Opening Brief, this Court cannot conduct a judicial review based upon the whole record as required by NRS 233B.135.

...

10. The requirements of NRS 233B.131(1)(a) and (b) are mandatory because the statute employs the word "shall." Thus, the Petitioners' failure to transmit the transcript to the court renders their Petition for Judicial Review subject to dismissal.

11. NRS 233B.131(1)(a) is plain and unambiguous, yet Petitioners failed to comply with their 45-day statutory deadline. Moreover, Petitioners position, in their written Opposition to the Division's Motion to Dismiss, and during the oral argument—that they are not required to transmit the transcript to the court—is contradicted by the plain and unambiguous language of the statute. As of June 7, 2021—the date of the hearing on the Division's Motion to Dismiss—Petitioners were 211 days past their statutory deadline to transmit the transcript to the Court.

12. Good cause for a delay in transmitting the transcript, however, may be shown pursuant to NRS 233B.131 because the statute allows the court to alter the 45-day deadline. Thus, the 45-day deadline is not jurisdictional.

13. Petitioners' argument that Respondents were statutorily required to file the *complete* record of the underlying administrative proceeding is contradicted by the structure and plain and unambiguous language of NRS 233B.131, the controlling statute. Petitioners' position is erroneous as a matter of law. Indeed, the legislative history of the 2015 amendment to NRS 233B.131 shows that the underlying policy for requiring petitioners to transmit the transcript to the court was to decrease the burden on taxpayers.

14. Petitioners have not met their burden to show good cause for their ongoing delay to transmit the transcript to the Court.

15. Mr. Price did not provide the Court with an affidavit or declaration specifying how his medical condition affected his ability to comply with statutory requirements during the intervening 211 days. The Court assumes that he had a serious medical condition but finds the effects of the condition vague.

STATE OF NEVADA
Division of Industrial Relations - Division Counsel
3360 West Sahara Ave., Suite 250
Las Vegas, Nevada 89102
(702) 486-9080

16. Moreover, two other attorneys from Mr. Price's law firm are listed on the Court's electronic service list for this case.

17. Petitioners bear the burden to show good cause, but they have not met their burden under the *Scrimmer* factors. *Scrimmer v. Eighth Judicial Dist. Court*, 116 Nev. 507, 516-17, 998 P.2d 1190, 1195-96 (2000).

18. Furthermore, Petitioners' extensive unexcused delay is mooted by their position that they are not statutorily required to transmit the transcript to the Court.

II. ORDER

IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. The Respondent Division's Motion to Dismiss Petitioners' Petition for Judicial Review and the Board's Joinder thereto are GRANTED.

DATED this ____ day of _____, 20____ Dated this 21st day of June, 2021

HON. JUDGE JOE HARDY, JR.

Respectfully submitted by:
DIVISION OF INDUSTRIAL RELATIONS

F18 060 65D6 31EC
Joe Hardy
District Court Judge

Donald C. Smith, Esq.

Jennifer J. Leonescu, Esq.

Christopher A. Eccles, Esq.

Division of Industrial Relations

3360 W. Sahara Ave., Ste. 250

Las Vegas, NV 89102

Attorneys for Respondent Division of Industrial Relations

Approved as to form and content by:
LEWIS BRISBOIS BISGAARD & SMITH

By:

Kim D. Price, Esq.

Nevada Bar No. 7873

2300 W. Sahara Ave., Ste. 300, Box 28

Las Vegas, NV 89102

Attorneys for Petitioners LVMPD and CCMSI

1 CSERV

2 DISTRICT COURT
3 CLARK COUNTY, NEVADA
4

5
6 Las Vegas Metropolitan Police
7 Department, Petitioner(s)

CASE NO: A-20-821892-J

8 vs.

DEPT. NO. Department 15

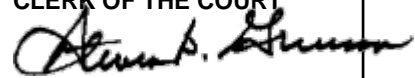
9 State of Nevada Department of
10 Business & Industry,
11 Respondent(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

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

16 Service Date: 6/21/2021

17 Michele Caro	mcaro@ag.nv.gov
18 Donald Bordelove	dbordelove@ag.nv.gov
19 Daniel Schwartz	daniel.schwartz@lewisbrisbois.com
20 Donald Smith	donaldsmith@dir.nv.gov
21 Christopher Eccles	ceccles@dir.nv.gov
22 Joel Reeves	joel.reeves@lewisbrisbois.com
23 Donald Bordelove	dbordelove@ag.nv.gov
24 Dawn Bateman	dawn.bateman@lewisbrisbois.com
25 Hilton Platt	hilton.platt@lewisbrisbois.com
26 Kim Price	kim.price@lewisbrisbois.com
27	
28	



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2 **DANIEL L. SCHWARTZ, ESQ.**
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8 **JOEL P. REEVES, ESQ.**
9 Nevada Bar No. 013231
10 Email: joel.reeves@lewisbrisbois.com
11 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
12 2300 W. Sahara Ave. Ste. 900
13 Las Vegas, Nevada 89102
14 Telephone: 702-893-3383
15 Facsimile: 702-366-9689
16 Attorneys for Petitioners
17 *Las Vegas Metropolitan Police*
18 *Department and Cannon Cochran*
19 *Management Services, Inc.*

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

13 **LAS VEGAS METROPOLITAN POLICE**
14 **DEPARTMENT; and CANNON COCHRAN**
15 **MANAGEMENT SERVICES, INC.,**

CASE NO.: A-20-821892-J

DEPT. NO.: 15

15 **Petitioners,**

16 **v.**

17 **STATE OF NEVADA BOARD FOR THE**
18 **ADMINISTRATION OF THE SUBSEQUENT**
19 **INJURY ACCOUNT FOR SELF-INSURED**
20 **EMPLOYERS,**

19 **Respondents.**

21 **CASE APPEAL STATEMENT**

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

23 **Las Vegas Metropolitan Police Department and Cannon Cochran Management**
24 **Services, Inc**

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

26 **Hon. Joe Hardy, District Court Judge**
27
28

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

3 **Las Vegas Metropolitan Police Department, Cannon Cochran Management Services,**
4 **Inc, Division of Industrial Relations, and State Of Nevada Board For The Administration Of**
5 **The Subsequent Injury Account For Self-Insured Employers**

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

8 **Las Vegas Metropolitan Police Department, Cannon Cochran Management**
9 **Services, Inc, Division of Industrial Relations, and State Of Nevada Board For The**
10 **Administration Of The Subsequent Injury Account For Self-Insured Employers**

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

13 **DANIEL L. SCHWARTZ, ESQ.**
14 **KIM D. PRICE, ESQ.**
15 **JOEL P. REEVES, ESQ.**
16 **LEWIS BRISBOIS BISGAARD & SMITH LLP**
17 **2300 W. Sahara Avenue, Suite 900, Box 28**
18 **Las Vegas, Nevada 89102-4375**
19 *Attorneys for Petitioners*

20 **DONALD C. SMITH, ESQ.**
21 **JENNIFER J. LEONESCU, ESQ.**
22 **CHRISTOPHER A. ECCLES, ESQ.**
23 **Division of Industrial Relations (DIR)**
24 **3360 West Sahara Avenue, Suite 250**
25 **Las Vegas, Nevada 89102**
26 *Attorneys for Respondent*
27 *Division of Industrial Relations (DIR)*

28 **AARON D. FORD, ESQ.**
29 **DONALD J. BORDELOVE, ESQ.**
30 **State of Nevada Officer of the Attorney General**
31 **555 E. Washington Ave., #3900**
32 **Las Vegas, Nevada 89101**
33 *Attorneys for Respondent*
34 *State Of Nevada Board For The Administration Of The Subsequent Injury Account For*
35 *Self-Insured Employers*

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **The Petition for Judicial Review of the Board for Administration of the Subsequent**
22 **Injury Account for Self-Insured Employers' (hereinafter referred to as "the Board") August**
23 **19, 2020, Findings of Fact, Conclusions of Law, and Determination for Claim Number**
24 **12D34C229979, was filed on September 24, 2020.**

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

3 This is a workers' compensation case. The present appeal stems from the Board for
4 Administration of the Subsequent Injury Account for Self-Insured Employers' (hereinafter
5 referred to as "the Board") August 19, 2020, Findings of Fact, Conclusions of Law, and
6 Determination for Claim Number 12D34C229979.

7 On September 21, 2020, the handling attorney for the subject case for Petitioners
8 underwent radical prostatectomy for prostate cancer. Follow-up care impeded counsel's
9 ability to practice law full-time for several weeks following the procedure.

10 On September 24, 2020, Petitioners timely filed the subject Petition for Judicial
11 Review contesting the August 19, 2020 Decision of the Board.

12 On November 9, 2020, the Record on Appeal was filed. On the front page of the
13 Record it states as follows:

14 Pursuant to NRS 233B.131, the STATE OF NEVADA BOARD
15 FOR THE ADMINISTRATION OF THE SUBSEQUENT
16 INJURY ACCOUNT FOR SELF INSURED EMPLOYERS
17 (SIA) now files the entire record of the proceedings under
18 review by this Court as a result of the Petition for Judicial
Review pursuant to NRS 233B.130 filed by LAS VEGAS
METROPOLITAN POLICE DEPARTMENT and CANNON
COCHRAN MANAGEMENT SERVICES, INC., Respondents

19 (emphasis added)

20 On April 5, 2021, Petitioners filed their Opening Brief. Petitioners' Brief contained
21 citations to relevant records in the Record on Appeal.

22 On May 5, 2021, Respondent Division of Industrial Relations filed a Motion to
23 Dismiss and Strike. Petitioners opposed the same.

24 On June 7, 2021, Respondent's Motion came on for hearing and the District Court
25 granted the same based on the assertion that *Petitioners* had failed to file the entire record on
26 appeal, Petitioners' Opening Brief was late, and Petitioners' Opening Brief did not contain
27 any citations to the Record on Appeal. On June 21, 2021, the Order commemorating this
28 Court's ruling was filed. The Notice of Entry was filed on June 22, 2021.

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

4 No.

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

6 No.

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

9 No.

10 DATED this 19 day of July 2021.

11 Respectfully submitted,

12 LEWIS BRISBOIS BISGAARD & SMITH LLP

13 By:

14 DANIEL L. SCHWARTZ, ESQ.

15 KIM D. PRICE, ESQ.

16 JOEL P. REEVES, ESQ.

17 LEWIS BRISBOIS BISGAARD & SMITH, LLP

18 2300 West Sahara Avenue, Suite 900, Box 28

19 Las Vegas, Nevada 89102

20 Attorneys for Petitioners

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-20-821892-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: 7/19/2021


(Signature)

DANIEL L. SCHWARTZ, ESQ.
(Print Name)

PETITIONERS
(Attorney for)

CASE SUMMARY**CASE NO. A-20-821892-J**

Las Vegas Metropolitan Police Department, Petitioner(s)
vs.
State of Nevada Department of Business & Industry,
Respondent(s)

§
§
§
§
§

Location: **Department 15**
 Judicial Officer: **Hardy, Joe**
 Filed on: **09/24/2020**
 Case Number History:
 Cross-Reference Case Number: **A821892**

CASE INFORMATION**Statistical Closures**

06/21/2021 Motion to Dismiss by the Defendant(s)

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

Case Status: **06/21/2021 Dismissed**

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

Case Number A-20-821892-J
 Court Department 15
 Date Assigned 09/30/2020
 Judicial Officer Hardy, Joe

PARTY INFORMATION

Petitioner	Cannon Cochran Management Services, Inc.	<i>Lead Attorneys</i> Schwartz, Daniel L <i>Retained</i> 702-893-3383(W)
	Las Vegas Metropolitan Police Department	Schwartz, Daniel L <i>Retained</i> 702-893-3383(W)
Respondent	Division of Industrial Relations Removed: 06/21/2021 Dismissed	Smith, Donald C. <i>Retained</i> 702-486-9070(W)
	Division of Industrial Relations Removed: 06/21/2021 Dismissed	Leonescu, Jennifer J <i>Retained</i> 702-486-9072(W)
	State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers Removed: 06/21/2021 Dismissed	Bordelove, Donald J. <i>Retained</i>
	State of Nevada Department of Business & Industry	Bordelove, Donald J. <i>Retained</i>

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

09/24/2020



Initial Appearance Fee Disclosure
 Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc.
[1] INITIAL APPEARANCE FEE DISCLOSURE











09/24/2020



Petition for Judicial Review

CASE SUMMARY

CASE NO. A-20-821892-J

	<p>Filed by: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[2] PETITION FOR JUDICIAL REVIEW</i></p>
09/30/2020	<p> Peremptory Challenge Filed by: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[3] Peremptory Challenge of Judge</i></p>
09/30/2020	<p> Initial Appearance Fee Disclosure Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[4] Peremptory Challenge Filing Fee Disclosure</i></p>
09/30/2020	<p> Notice of Department Reassignment <i>[5] Notice of Department Reassignment</i></p>
10/02/2020	<p> Filing Fee Remittance Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[6] Filing Fee Remittance</i></p>
10/13/2020	<p> Notice of Intent to Participate Filed By: Respondent Division of Industrial Relations <i>[7] Respondent Division of Industrial Relations' Notice and Statement of Intent to Participate</i></p>
10/14/2020	<p> Statement of Intent to Participate in Petition for Judicial Filed By: Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers <i>[8] Statement of Intent to Participate</i></p>
11/09/2020	<p> Transcript of Proceedings Party: Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers <i>[9] Transmittal of Record on Appeal</i></p>
11/10/2020	<p> Notice of Submission of Record Filed By: Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers <i>[10] Notice of Transmittal of Administrative Record on Appeal</i></p>
04/05/2021	<p> Brief Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[11] Petitioner's Opening Brief</i></p>
05/05/2021	<p> Motion to Dismiss Filed By: Respondent Division of Industrial Relations <i>[12] Respondent Division of Industrial Relations' Motion to Dismiss Petitioners' Petition for Judicial Review, or in the Alternative Motion to Strike "Petitioners Opening Brief" and Motion to Extend Time to File Reply Memorandum of Points and Authorities</i></p>
05/05/2021	<p> Clerk's Notice of Nonconforming Document <i>[13] Clerk's Notice of Nonconforming Document</i></p>
05/06/2021	

CASE SUMMARY

CASE NO. A-20-821892-J

	 Clerk's Notice of Nonconforming Document and Curative Action <i>[14] Clerk's Notice of Curative Action</i>
05/06/2021	 Clerk's Notice of Hearing <i>[15] Notice of Hearing</i>
05/11/2021	 Joinder Filed By: Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers <i>[16] Joinder to Motions to Dismiss and Strike</i>
05/19/2021	 Brief Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[17] Petitioners' Opposition to Motion to Dismiss Petitioners' Petition for Judicial Review, or in the Alternative, Motion to Strike "Petitioner's Opening Brief" and Motion to Extend Time to File Reply Memorandum of Points and Authorities</i>
05/25/2021	 Reply Filed by: Respondent Division of Industrial Relations <i>[18] Respondent Division of Industrial Relations Reply Memorandum of Points and Authorities In Support of Its Motion to Dismiss Petitioners Petition for Judicial Review, Or In The Alternative, Motion to Strike Petitioners Opening Brief and Motion to Extend Time to File Reply Memorandum of Points and Authorities</i>
06/01/2021	 Joinder Filed By: Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers <i>[19] Joinder to Reply in Support of Motions to Dismiss and Strike</i>
06/21/2021	 Order Granting <i>[20] Order Granting Respondent's Motion to Dismiss Petition for Judicial Review</i>
06/22/2021	 Notice of Entry of Order Filed By: Respondent State of Nevada Department of Business & Industry <i>[21] NOTICE OF ENTRY OF ORDER</i>
07/13/2021	 Order Shortening Time Filed By: Petitioner Las Vegas Metropolitan Police Department <i>[23] Motion for Reconsideration of Order Granting Motion to Dismiss on Order Shortening Time</i>
07/19/2021	 Notice of Appeal Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[24] Notice of Appeal</i>
07/19/2021	 Case Appeal Statement Filed By: Petitioner Las Vegas Metropolitan Police Department; Petitioner Cannon Cochran Management Services, Inc. <i>[25] Case Appeal Statement</i>
07/19/2021	 Motion to Dismiss Filed By: Respondent State of Nevada Department of Business & Industry <i>[26] Division's Motion to Dismiss, or in the Alternative, Opposition to Petitioners' Motion for Reconsideration on OST, 7.19.21</i>


CASE SUMMARY**CASE NO. A-20-821892-J****DISPOSITIONS**


06/21/2021 **Order of Dismissal** (Judicial Officer: Hardy, Joe)
 Debtors: Las Vegas Metropolitan Police Department (Petitioner), Cannon Cochran Management Services, Inc. (Petitioner)
 Creditors: State of Nevada Department of Business & Industry (Respondent), Division of Industrial Relations (Respondent), Division of Industrial Relations (Respondent)
 Judgment: 06/21/2021, Docketed: 06/22/2021

HEARINGS

06/07/2021 **Motion to Dismiss** (9:00 AM) (Judicial Officer: Hardy, Joe)
Respondent Division of Industrial Relations' Motion to Dismiss Petitioners' Petition for Judicial Review, or in the Alternative Motion to Strike "Petitioners Opening Brief" and Motion to Extend Time to File Reply Memorandum of Points and Authorities
 Granted;

06/07/2021 **Joinder** (9:00 AM) (Judicial Officer: Hardy, Joe)
Joinder to Motions to Dismiss and Strike
 Granted;

06/07/2021  **All Pending Motions** (9:00 AM) (Judicial Officer: Hardy, Joe)
 Matter Heard;
 Journal Entry Details:
RESPONDENT DIVISION OF INDUSTRIAL RELATIONS' MOTION TO DISMISS PETITIONER'S PETITION FOR JUDICIAL REVIEW, OR IN THE ALTERNATIVE MOTION TO STRIKE "PETITIONERS OPENING BRIEF" AND MOTION TO EXTEND TIME TO FILE REPLY MEMORANDUM OF POINTS AND AUTHORITIES . . . JOINDER TO MOTIONS TO DISMISS AND STRIKE Arguments by counsel regarding the compliance of submitting the transcript due by 11/09/2020 needed for the judicial review. COURT stated its FINDINGS and ORDERED, Motion GRANTED. Mr. Eccles to prepare the order, circulate it to opposing counsel and submit it to the department in box.;

07/13/2021  **Minute Order** (3:00 AM) (Judicial Officer: Hardy, Joe)
Minute Order: Striking the Motion for Reconsideration of Order Granting Respondent Division of Industrial Relations' Motion to Dismiss Petitioners' Petition for Judicial Review; and Request for Order Shortening Time
 Minute Order - No Hearing Held;
 Journal Entry Details:
FINDING that said document was erroneously filed, COURT ORDERED the Motion for Reconsideration of Order Granting Respondent Division of Industrial Relations' Motion to Dismiss Petitioners' Petition for Judicial Review; and Request for Order Shortening Time, filed on July 12, 2021, was hereby STRICKEN.;

07/28/2021 **Motion For Reconsideration** (3:00 AM) (Judicial Officer: Hardy, Joe)
Motion for Reconsideration of Order Granting Motion to Dismiss on Order Shortening Time

DATE**FINANCIAL INFORMATION****Petitioner** Cannon Cochran Management Services, Inc.

Total Charges 324.00

Total Payments and Credits 324.00

Balance Due as of 7/20/2021 0.00**Petitioner** Las Vegas Metropolitan Police Department

Total Charges 450.00

Total Payments and Credits 450.00

Balance Due as of 7/20/2021 0.00

CIVIL COVER SHEET

Clark County, Nevada

Case No. _____

(Assigned by Clerk's Office)

CASE NO: A-20-821892-J

Department 14

I. Party Information

Petitioner(s) (name/address/phone):
 LVMPD; 400 S. MARTIN L. KING BLVD.
 LAS VEGAS, NV 89106
 CCMIS; P.O. BOX 35350 LAS VEGAS, NV 89133
 Attorney (name/address/phone):
 DANIEL L. SCHWARTZ, ESQ. and JOEL P. REEVES, ESQ.
 Lewis Brisbois Bisgaard & Smith LLP
 2300 W. Sahara Avenue, Ste. 300, Box 28
 Las Vegas, NV 89102
 Tel.: (702) 893-3383 – Fax: (702) 366-9563

Respondent (s) (name/address/phone):
 STATE OF NEVADA BOARD FOR THE ADMINISTRATION
 OF THE SUBSEQUENT INJURY ACCOUNT FOR SELF-
 INSURED EMPLOYERS

Attorney (name/address/phone):
 DONALD J. BONDELOVE, ESQ.
 Deputy Attorney General
 555 E. Washington Ave., Suite 3900
 Las Vegas, NV 89101

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

Real Property	Torts	
<input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Unlawful Detainer <input type="checkbox"/> Title to Property <input type="checkbox"/> Foreclosure <input type="checkbox"/> Liens <input type="checkbox"/> Quiet Title <input type="checkbox"/> Specific Performance <input type="checkbox"/> Condemnation/Eminent Domain <input type="checkbox"/> Other Real Property <input type="checkbox"/> Partition <input type="checkbox"/> Planning/Zoning	<input type="checkbox"/> Negligence <input type="checkbox"/> Negligence – Auto <input type="checkbox"/> Negligence – Medical/Dental <input type="checkbox"/> Negligence – Premises Liability (Slip/Fall) <input type="checkbox"/> Negligence – Other	<input type="checkbox"/> Product Liability <input type="checkbox"/> Product Liability/Motor Vehicle <input type="checkbox"/> Other Torts/Product Liability <input type="checkbox"/> Intentional Misconduct <input type="checkbox"/> Torts/Defamation (Libel/Slander) <input type="checkbox"/> Interfere with Contract Rights <input type="checkbox"/> Employment Torts (Wrongful termination) <input type="checkbox"/> Other Torts <input type="checkbox"/> Anti-trust <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Insurance <input type="checkbox"/> Legal Tort <input type="checkbox"/> Unfair Competition
Probate	Other Civil Filing Types	
Estimated Estate Value: _____ <input type="checkbox"/> Summary Administration <input type="checkbox"/> General Administration <input type="checkbox"/> Special Administration <input type="checkbox"/> Set Aside Estates <input type="checkbox"/> Trust/Conservatorships <input type="checkbox"/> Individual Trustee <input type="checkbox"/> Corporate Trustee <input type="checkbox"/> Other Probate	<input type="checkbox"/> Construction Defect <input type="checkbox"/> Chapter 40 <input type="checkbox"/> General <input type="checkbox"/> Breach of Contract <input type="checkbox"/> Building & Construction <input type="checkbox"/> Insurance Carrier <input type="checkbox"/> Commercial Instrument <input type="checkbox"/> Other Contracts/Acct/Judgment <input type="checkbox"/> Collection of Actions <input type="checkbox"/> Employment Contract <input type="checkbox"/> Guarantee <input type="checkbox"/> Sale Contract <input type="checkbox"/> Uniform Commercial Code <input type="checkbox"/> Civil Petition for Judicial Review <input type="checkbox"/> Foreclosure Mediation <input type="checkbox"/> Other Administrative Law <input type="checkbox"/> Department of Motor Vehicles <input checked="" type="checkbox"/> Worker's Compensation Appeal	<input type="checkbox"/> Appeal from Lower Court (also check applicable civil case box) <input type="checkbox"/> Transfer from Justice Court <input type="checkbox"/> Justice Court Civil Appeal <input type="checkbox"/> Civil Writ <input type="checkbox"/> Other Special Proceeding <input type="checkbox"/> Other Civil Filing <input type="checkbox"/> Compromise of Minor's Claim <input type="checkbox"/> Conversion of Property <input type="checkbox"/> Damage to Property <input type="checkbox"/> Employment Security <input type="checkbox"/> Enforcement of Judgment <input type="checkbox"/> Foreign Judgment – Civil <input type="checkbox"/> Other Personal Property <input type="checkbox"/> Recovery of Property <input type="checkbox"/> Stockholder Suit <input type="checkbox"/> Other Civil Matters

III. Business Court Requested (Please check applicable category; for Clark or Washoe Counties only.)

- | | | |
|---|--|---|
| <input type="checkbox"/> NRS Chapters 78-88 | <input type="checkbox"/> Investments (NRS 104 Art. 8) | <input type="checkbox"/> Enhanced Case Mgmt/Business |
| <input type="checkbox"/> Commodities (NRS 90) | <input type="checkbox"/> Deceptive Trade Practices (NRS 598) | <input type="checkbox"/> Other Business Court Matters |
| <input type="checkbox"/> Securities (NRS 90) | <input type="checkbox"/> Trademarks (NRS 600A) | |

09/24/2020

Date

Signature of initiating party or representative

See other side for family-related case filings.

Heather S. Smith

CLERK OF THE COURT

ORDG

Donald C. Smith, Esq.
Nevada Bar No.: 000413
Jennifer J. Leonescu
Nevada Bar No.: 006036
Christopher A. Eccles, Esq.
Nevada Bar No.: 009798
State of Nevada, Department of Business and Industry
Division of Industrial Relations
3360 W. Sahara Ave., Ste. 250
Las Vegas, NV 89102
Phone: (702) 486-9070
donalddsmith@dir.nv.gov
jleonescu@dir.nv.gov
ceccles@dir.nv.gov
Attorneys for Respondent Division of Industrial Relations

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, and CANNON
COCHRAN MANAGEMENT SERVICES,
INC.

Petitioners,

vs.

STATE OF NEVADA BOARD FOR THE
ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED
EMPLOYERS,

Respondents.

Case No.: A-20-821892-J
Dept. No.: 15

**ORDER GRANTING
RESPONDENT DIVISION OF
INDUSTRIAL RELATIONS'
MOTION TO DISMISS
PETITIONERS' PETITION
FOR JUDICIAL REVIEW**

The matters before the Court are Respondent Nevada Division of Industrial Relations' ("Division") Motion to Dismiss Petitioners' Petition for Judicial Review, and Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers' ("Board") Joinder thereto. The Court, having reviewed the papers and pleadings on file in this matter and having heard the oral arguments of counsel on June 7, 2021, and good cause appearing, hereby rules as follows:

I. FINDINGS

1. Respondent Division moved to dismiss Petitioners' Petition for Judicial Review on two bases: first, Petitioners failed to transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency as required by NRS 233B.131(1)(a), and second, Petitioners failed to timely file their Memorandum of Points and Authorities as required by NRS 233B.133(1).

2. NRS 233B.131(1)(a) provides that "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: (a) The party who filed the petition for judicial review **shall** transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency." (Emphasis added).

3. NRS 233B.131(1)(b) provides that "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: (b) The agency that rendered the decision which is the subject of the petition shall transmit to the reviewing court the original or a certified copy of the **remainder** of the record of the proceeding under review." (Emphasis added).

4. Petitioners filed their Petition for Judicial Review on September 24, 2020. Thus, pursuant to the controlling statute, NRS 233B.131(1)(a), Petitioners' deadline to transmit the transcript to the Court was November 9, 2020.

5. It is undisputed that the Petitioners never transmitted the transcript to the Court.

6. It is undisputed that the Petitioners filed their Opening Brief 105 days late and that said Brief lacks citations to the transcript of the administrative proceeding under review.

7. The record of the underlying administrative proceeding is incomplete due to Petitioners' failure to transmit the transcript to the Court.

8. As a result of the incomplete record, and of Petitioners' failure to cite to the transcript in their late-filed Opening Brief, this Court cannot conduct a judicial review based upon the whole record as required by NRS 233B.135.

...

10. The requirements of NRS 233B.131(1)(a) and (b) are mandatory because the statute employs the word “shall.” Thus, the Petitioners’ failure to transmit the transcript to the court renders their Petition for Judicial Review subject to dismissal.

12. Good cause for a delay in transmitting the transcript, however, may be shown pursuant to NRS 233B.131 because the statute allows the court to alter the 45-day deadline. Thus, the 45-day deadline is not jurisdictional.

14. Petitioners have not met their burden to show good cause for their ongoing delay to transmit the transcript to the Court.

3

16. Moreover, two other attorneys from Mr. Price's law firm are listed on the Court's electronic service list for this case.

17. Petitioners bear the burden to show good cause, but they have not met their burden under the *Scrimmer* factors. *Scrimmer v. Eighth Judicial Dist. Court*, 116 Nev. 507, 516-17, 998 P.2d 1190, 1195-96 (2000).

18. Furthermore, Petitioners' extensive unexcused delay is mooted by their position that they are not statutorily required to transmit the transcript to the Court.

II. ORDER

IT IS HEREBY ORDERED AND ADJUDGED THAT:


1. The Respondent Division's Motion to Dismiss Petitioners' Petition for Judicial Review and the Board's Joinder thereto are GRANTED.

DATED this _____ day of _____, 20____ Dated this 21st day of June, 2021

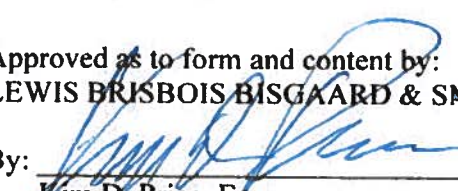

HON. JUDGE JOE HARDY, JR.

Respectfully submitted by:
DIVISION OF INDUSTRIAL RELATIONS

F18 060 65D6 31EC
Joe Hardy
District Court Judge


Donald C. Smith, Esq.
Jennifer J. Leonescu, Esq.
Christopher A. Eccles, Esq.
Division of Industrial Relations
3360 W. Sahara Ave., Ste. 250
Las Vegas, NV 89102
Attorneys for Respondent Division of Industrial Relations

Approved as to form and content by:
LEWIS BRISBOIS BISGAARD & SMITH

By: 
Kim D. Price, Esq.
Nevada Bar No. 7873
2300 W. Sahara Ave., Ste. 300, Box 28
Las Vegas, NV 89102
Attorneys for Petitioners LVMPD and CCMSI

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Las Vegas Metropolitan Police
7 Department, Petitioner(s)

CASE NO: A-20-821892-J

8 vs.

DEPT. NO. Department 15

9 State of Nevada Department of
10 Business & Industry,
11 Respondent(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

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

16 Service Date: 6/21/2021

17 Michele Caro

mcaro@ag.nv.gov

18 Donald Bordelove

dbordelove@ag.nv.gov

19 Daniel Schwartz

daniel.schwartz@lewisbrisbois.com

20 Donald Smith

donaldsmith@dir.nv.gov

21 Christopher Eccles

ceccles@dir.nv.gov

22 Joel Reeves

joel.reeves@lewisbrisbois.com

23 Donald Bordelove

dbordelove@ag.nv.gov

24 Dawn Bateman

dawn.bateman@lewisbrisbois.com

25 Hilton Platt

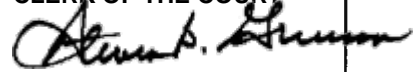
hilton.platt@lewisbrisbois.com

26 Kim Price

kim.price@lewisbrisbois.com

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NEOJ

Donald C. Smith, Esq.

Nevada Bar No.: 000413

Jennifer J. Leonescu

Nevada Bar No.: 006036

Christopher A. Eccles, Esq.

Nevada Bar No.: 009798

State of Nevada, Department of Business and Industry

Division of Industrial Relations

3360 W. Sahara Ave., Ste. 250

Las Vegas, NV 89102

Phone: (702) 486-9070

donalddsmith@dir.nv.gov

jleonescu@dir.nv.gov

ceccles@dir.nv.gov

Attorneys for Respondent Division of Industrial Relations

**DISTRICT COURT
CLARK COUNTY, NEVADA**

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, and CANNON
COCHRAN MANAGEMENT SERVICES,
INC.

Petitioners,

vs.

STATE OF NEVADA BOARD FOR THE
ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED
EMPLOYERS,

Respondents.

Case No.: A-20-821892-J

Dept. No.: 15

NOTICE OF ENTRY OF ORDER

PLEASE TAKE NOTICE that an "Order" was entered in the above-captioned matter
on June 21, 2021, a true and correct copy of which is attached hereto.

DATED this 22nd day of June, 2021.

///

///

Respectfully submitted,

DIVISION OF INDUSTRIAL RELATIONS

By: 

Donald C. Smith, Esq.
Jennifer J. Leonescu, Esq.
Christopher A. Eccles, Esq.
3360 W. Sahara Ave., Ste. 250
Las Vegas, NV 89102

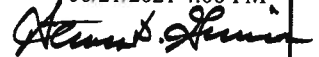
Attorneys for Respondent Division of Industrial Relations

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the State of Nevada, Division of Industrial Relations, and that on this 22nd day of June, 2021, I caused the foregoing document entitled **Notice of Entry of Order** to be served upon those persons designated by the 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 14-02 and the NEFCR.



An employee of the State of Nevada
Division of Industrial Relations



CLERK OF THE COURT

ORDG

Donald C. Smith, Esq.

Nevada Bar No.: 000413

Jennifer J. Leonescu

Nevada Bar No.: 006036

Christopher A. Eccles, Esq.

Nevada Bar No.: 009798

State of Nevada, Department of Business and Industry

Division of Industrial Relations

3360 W. Sahara Ave., Ste. 250

Las Vegas, NV 89102

Phone: (702) 486-9070

donalcdsmith@dir.nv.govjleonescu@dir.nv.govceccles@dir.nv.gov*Attorneys for Respondent Division of Industrial Relations***DISTRICT COURT
CLARK COUNTY, NEVADA**LAS VEGAS METROPOLITAN POLICE
DEPARTMENT, and CANNON
COCHRAN MANAGEMENT SERVICES,
INC.

Petitioners,

vs.

STATE OF NEVADA BOARD FOR THE
ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED
EMPLOYERS,

Respondents.

Case No.: A-20-821892-J

Dept. No.: 15

**ORDER GRANTING
RESPONDENT DIVISION OF
INDUSTRIAL RELATIONS'
MOTION TO DISMISS
PETITIONERS' PETITION
FOR JUDICIAL REVIEW**

The matters before the Court are Respondent Nevada Division of Industrial Relations' ("Division") Motion to Dismiss Petitioners' Petition for Judicial Review, and Respondent State of Nevada Board for the Administration of the Subsequent Injury Account for Self-Insured Employers' ("Board") Joinder thereto. The Court, having reviewed the papers and pleadings on file in this matter and having heard the oral arguments of counsel on June 7, 2021, and good cause appearing, hereby rules as follows:

I. FINDINGS

1. Respondent Division moved to dismiss Petitioners' Petition for Judicial Review on two bases: first, Petitioners failed to transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency as required by NRS 233B.131(1)(a), and second, Petitioners failed to timely file their Memorandum of Points and Authorities as required by NRS 233B.133(1).

2. NRS 233B.131(1)(a) provides that "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: (a) The party who filed the petition for judicial review **shall** transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency." (Emphasis added).

3. NRS 233B.131(1)(b) provides that "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: (b) The agency that rendered the decision which is the subject of the petition shall transmit to the reviewing court the original or a certified copy of the **remainder** of the record of the proceeding under review." (Emphasis added).

4. Petitioners filed their Petition for Judicial Review on September 24, 2020. Thus, pursuant to the controlling statute, NRS 233B.131(1)(a), Petitioners' deadline to transmit the transcript to the Court was November 9, 2020.

5. It is undisputed that the Petitioners never transmitted the transcript to the Court.

6. It is undisputed that the Petitioners filed their Opening Brief 105 days late and that said Brief lacks citations to the transcript of the administrative proceeding under review.

7. The record of the underlying administrative proceeding is incomplete due to Petitioners' failure to transmit the transcript to the Court.

8. As a result of the incomplete record, and of Petitioners' failure to cite to the transcript in their late-filed Opening Brief, this Court cannot conduct a judicial review based upon the whole record as required by NRS 233B.135.

...

15. Mr. Price did not provide the Court with an affidavit or declaration specifying how his medical condition affected his ability to comply with statutory requirements during the intervening 211 days. The Court assumes that he had a serious medical condition but finds the effects of the condition vague.

16. Moreover, two other attorneys from Mr. Price's law firm are listed on the Court's electronic service list for this case.

17. Petitioners bear the burden to show good cause, but they have not met their burden under the *Scrimmer* factors. *Scrimmer v. Eighth Judicial Dist. Court*, 116 Nev. 507, 516-17, 998 P.2d 1190, 1195-96 (2000).

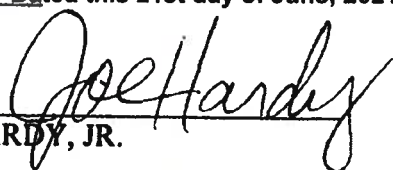
18. Furthermore, Petitioners' extensive unexcused delay is mooted by their position that they are not statutorily required to transmit the transcript to the Court.

II. ORDER

IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. The Respondent Division's Motion to Dismiss Petitioners' Petition for Judicial Review and the Board's Joinder thereto are GRANTED.

DATED this _____ day of _____, 20____ Dated this 21st day of June, 2021


HON. JUDGE JOE HARDY, JR.

Respectfully submitted by:
DIVISION OF INDUSTRIAL RELATIONS

F18 060 65D6 31EC
Joe Hardy
District Court Judge


Donald C. Smith, Esq.

Jennifer J. Leonescu, Esq.

Christopher A. Eccles, Esq.

Division of Industrial Relations

3360 W. Sahara Ave., Ste. 250

Las Vegas, NV 89102

Attorneys for Respondent Division of Industrial Relations

Approved as to form and content by:
LEWIS BRISBOIS BISGAARD & SMITH

By:


Kim D. Price, Esq.

Nevada Bar No. 7873

2300 W. Sahara Ave., Ste. 300, Box 28

Las Vegas, NV 89102

Attorneys for Petitioners LVMPD and CCMSI

1 **CSERV**

2
3 **DISTRICT COURT**
4 **CLARK COUNTY, NEVADA**

5
6 Las Vegas Metropolitan Police
7 Department, Petitioner(s)

CASE NO: A-20-821892-J

DEPT. NO. Department 15

8 vs.

9 State of Nevada Department of
10 Business & Industry,
11 Respondent(s)

12 **AUTOMATED CERTIFICATE OF SERVICE**

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

16 Service Date: 6/21/2021

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mcaro@ag.nv.gov

18 Donald Bordelove

dbordelove@ag.nv.gov

19 Daniel Schwartz

daniel.schwartz@lewisbrisbois.com

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23 Donald Bordelove

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24 Dawn Bateman

dawn.bateman@lewisbrisbois.com

25 Hilton Platt

hilton.platt@lewisbrisbois.com

26 Kim Price

kim.price@lewisbrisbois.com

27
28

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

June 07, 2021

A-20-821892-J Las Vegas Metropolitan Police Department, Petitioner(s)
vs.
State of Nevada Department of Business & Industry, Respondent(s)

June 07, 2021 9:00 AM All Pending Motions

HEARD BY: Hardy, Joe **COURTROOM:** RJC Courtroom 11D

COURT CLERK: Kathryn Hansen-McDowell

RECORDER: Matt Yarbrough

REPORTER:

PARTIES

PRESENT: Eccles, Christopher Attorney
Price, Kim D. Attorney

JOURNAL ENTRIES

- RESPONDENT DIVISION OF INDUSTRIAL RELATIONS' MOTION TO DISMISS PETITIONER'S PETITION FOR JUDICIAL REVIEW, OR IN THE ALTERNATIVE MOTION TO STRIKE "PETITIONERS OPENING BRIEF" AND MOTION TO EXTEND TIME TO FILE REPLY MEMORANDUM OF POINTS AND AUTHORITIES . . . JOINDER TO MOTIONS TO DISMISS AND STRIKE

Arguments by counsel regarding the compliance of submitting the transcript due by 11/09/2020 needed for the judicial review. COURT stated its FINDINGS and ORDERED, Motion GRANTED. Mr. Eccles to prepare the order, circulate it to opposing counsel and submit it to the department in box.

**DISTRICT COURT
CLARK COUNTY, NEVADA**

**Worker's Compensation
Appeal**

COURT MINUTES

July 13, 2021

A-20-821892-J Las Vegas Metropolitan Police Department, Petitioner(s)
vs.
State of Nevada Department of Business & Industry, Respondent(s)

July 13, 2021 3:00 AM Minute Order

HEARD BY: Hardy, Joe

COURTROOM: Chambers

COURT CLERK: Kristin Duncan

RECORDER:

REPORTER:

**PARTIES
PRESENT:**

JOURNAL ENTRIES

- FINDING that said document was erroneously filed, COURT ORDERED the Motion for Reconsideration of Order Granting Respondent Division of Industrial Relations' Motion to Dismiss Petitioners' Petition for Judicial Review; and Request for Order Shortening Time, filed on July 12, 2021, was hereby STRICKEN.

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 RESPONDENT DIVISION OF INDUSTRIAL RELATIONS' MOTION TO DISMISS PETITIONERS' PETITION FOR JUDICIAL REVIEW; NOTICE OF ENTRY OF ORDER; DISTRICT COURT MINUTES

LAS VEGAS METROPOLITAN POLICE
DEPARTMENT; CANNON COCHRAN
MANAGEMENT SERVICES, INC.,

Petitioner(s),

vs.

STATE OF NEVADA BOARD FOR THE
ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED
EMPLOYERS,

Respondent(s),

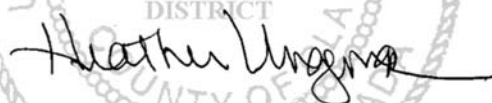
Case No: A-20-821892-J

Dept No: XV

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 20 day of July 2021.

Steven D. Grierson, Clerk of the Court



Heather Ungermann, Deputy Clerk