1	IN THE SUPREME COURT O	F THE STATE OF NEVADA
2	LAS VEGAS METROPOLITAN	
3	POLICE DEPARTMENT; AND	Supreme Court Case No.: 83262 Electronically Filed
4	CANNON COCHRAN MANAGEMENT SERVICES, INC.,	Jan 06 2022 06:35 p.m.
5		Elizabeth A. Brown District Court Case Clerk of Supreme Court
6	Appellants,	•
7	V.	
8	STATE OF NEVADA DEPARTMENT	
9	OF BUSINESS AND INDUSTRY,	
10	DIVISION OF INDUSTRIAL RELATIONS; AND STATE OF	
11	NEVADA BOARD FOR THE	
12	ADMINISTRATION OF THE	
13	SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS,	
14	Desmondents	
15	Respondents.	
16		
17	APPELLANTS' APP	ENDIX VOLUME I
18		
19		
20		
21		
22		
23		
24		
25		
26		
27		
LEWIS ⁸ BRISBOIS		
BISGAARD & SMITH LLP ATTORNEYS AT LAW	4869-0821-8376.1	Docket 83262 Document 2022-00650

Ш

INDEX TO APPELLANT'S APPENDIX

2			
3	PLEADING, MOTION, ORDER, TRANSCRIPT, Exhibit	VOLUME	PAGE NUMBER
4	Administrator's Amended Recommendation,	Ι	00043-00049
5	dated April 25, 2018	T	00001 00042
6	Administrator's Recommendation, dated April 18, 2018	Ι	00001-00042
7	Board Counsel Letter to Kim Price, Esq.,	Ι	00071-00072
	dated July 11, 2018	1	00071 00072
8	Board Counsel Letter to Kim Price, Esq.,	Ι	00073-00074
9	dated October 8, 2018		
10	Case Appeal Statement, filed July 19, 2021	II	00346-00351
	Court minutes from July 28, 2021	II	00381
11	Court Minutes from June 7, 2021	I	00237
12	E-mail enclosing additional documents for	Ι	00091-00106
	review (Exhibit 5), dated September 24, 2018	T	00124 00120
13	Findings of Fact, Conclusions of Law, and	Ι	00124-00130
14	Determination of the Board, dated August 19, 2020		
15	Joinder to Motion to Dismiss and Strike, filed	Ι	00209-00211
16	May 11, 2021		
10	Joinder to Motion to Dismiss, or in the	II	00378-00380
17	Alternative, Opposition to Petitioners'		
18	Motion for Reconsideration, filed July 22,		
10	2021		000004 00000 (
19	Joinder to Reply in Support of Motion to	Ι	00234-00236
20	Dismiss and Strike, filed June 1, 2021	т	00075
21	Kim Price, Esq., Letter to Board Counsel, dated August 10, 2018	Ι	00075
22	Meeting minutes from June 27, 2018	Ι	00063-00070
	Minute Order, dated July 13, 2021	II	00334
23	Motion for Reconsideration of Order	II	00250-00333
24	Granting Motion to Dismiss on Order		
	Shortening Time, filed July 13, 2021		
25	Motion to Dismiss and Strike by Division of	Ι	00183-00208
26	Industrial Relations, filed May 5, 2021		



1	PLEADING, MOTION, ORDER, TRANSCRIPT,	VOLUME	PAGE NUMBER
2	Ехнівіт		
2	Motion to Dismiss, or in the Alternative,	II	00352-00377
3	Opposition to Petitioners' Motion for		
4	Reconsideration by Division of Industrial		
	Relations, filed July 19, 2021		
5	Notice of Appeal, filed July 19, 2021	II	00335-00345
6	Notice of Decision, dated September 1, 2020	Ι	00131-00132
	Notice of Entry of Order Denying Motion for	II	00388-00398
7	Reconsideration, filed August 17, 2021		
8	Notice of Entry of Order Granting	II	00244-00249
	Respondent's Motion to Dismiss Petition for		
9	Judicial Review, filed June 22, 2021		
10	Notice of Intent to Participate by Division of	Ι	00147-00150
11	Industrial Relations, filed October 13, 2020		
11	Notice of Meeting for June 27, 2018	Ι	00053-00055
12	(Amended), dated June 18, 2018		
13	Notice of Meeting for June 27, 2018, dated	Ι	00050-00052
	June 6, 2018		
14	Notice of Transmittal of Administrative	Ι	00158-00160
15	Record on Appeal, filed November 10, 2020		
	Notices, certifications and waivers for August	Ι	00107-00123
16	19, 2020, meeting, dated August 19, 2020		
17	Notices, certifications and waivers for June	Ι	00056-00062
	27, 2018, meeting, dated June 18, 2018		
18	Notices, certifications and waivers for	Ι	00076-00090
19	September 26, 2018, meeting, dated		
20	September 18, 2018		
20	Order Denying Motion for Reconsideration,	II	00382-00387
21	filed August 16, 2021	•	000000000000
22	Order Granting Respondent's Motion to	Ι	00238-00243
	Dismiss Petition for Judicial Review, filed		
23	June 21, 2021	T	00122 00146
24	Petition for Judicial Review, filed September	Ι	00133-00146
	24, 2020	т	00161 00102
25	Petitioners' Opening Brief, filed April 5,	Ι	00161-00182
26	2021 Detition and Opposition to Mation to Dispute	т	00212 00220
	Petitioners' Opposition to Motion to Dismiss	Ι	00212-00220
27	and Strike by Petitioners, filed May 19, 2021		



1	PLEADING, MOTION, ORDER, TRANSCRIPT, Exhibit	VOLUME	PAGE NUMBER
2	Reply in Support of Motion to Dismiss and	Ι	00221-00233
3	Strike by Division of Industrial Relations,		
4	filed May 25, 2021		
	Statement of Intent to Participate in Petition	Ι	00151-00153
5	for Judicial Review by Board for the		
6	Administration of the Subsequent Injury		
7	Account for Self-Insured Employers, filed October 14, 2020		
	Transmittal of Administrative Record on	Ι	00154-00157
8	Appeal, filed November 9, 2020 ¹	1	00134-00137
9			<u> </u>
10			
11			
12			
13			
14			
14			
15 16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26	¹ The documents contained in the Record on Appeal are in		
27	order. The documents, however, were arranged chronolog is how they are presented attached hereto.	gically in the Reco	rd on Appeal which



BRIAN SANDOVAL

WCS Contact Information Main: 702-486-9080 Fax: 702-980-0364 http://wcs.nv.gov

STATE OF NEVADA



CJ MANTHE

JOSEPH "JD" DECKER Administrator

CHARLES J. VERRE Chief Administrative Officer

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF INDUSTRIAL RELATIONS WORKERS' COMPENSATION SECTION 1301 N. Green Valley Parkway, Suite 200 Henderson, Nevada 89074

MEMORANDUM

- TO: The Board for Administration of Subsequent Injury Account for Self-Insured Employers
- FROM: Charles J. Verre, Chief Administrative Officer, Workers' Compensation Section
- SUBJECT: Administrator's Recommendation on Request for Reimbursement from the Subsequent Injury Account Pursuant to NRS 616B.557

Claim No:	12D34C229979
Date of Injury:	06-22-12
Insurer:	Las Vegas Metropolitan Police Department
Employer:	Las Vegas Metropolitan Police Department
Third-Party Administrator:	CCMS18
Submitted By:	Kim Price with Lewis Brisbois Bisgaard & Smith
	LLP

DATE: April 18, 2018

ADMINISTRATOR'S RECOMMENDATION:

It is the Administrator's recommendation to accept this request pursuant to NRS 616B.557 for the right shoulder only. The cervical and lumbar spine do not qualify for consideration and were not requested by the insurer.

AMOUNT OF REIMBURSEMENT:

The total amount requested for reimbursement is \$14,008.47. This amount was under by \$13,952.14 in medical expenses. There were amounts listed on the Paid Transaction sheets that were not included on the calculator tapes and some amounts that were, however, the amounts that were not requested were not crossed out so all amounts had to be considered. The amount that should have been requested for reimbursement is \$27,960.61. This claim had subrogation recovery that was included in the request. The amount of verified costs is \$<69,630.88>. Since there was subrogation recovery the amount to be considered is less than the actual amount spent on the claim. Disallowances under this claim are considered against all expenses prior to the reduction of the subrogation recovery, therefore, allowing no reimbursement at this time. An explanation of the disallowance is attached to this letter.

ROA0001

Page 2Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 18, 2018 Recommendation Memorandum

BACKGROUND:

This request was received from Kim Price with Lewis Brisbois Bisgaard & Smith LLP on April 10, 2018.

PRIOR HISTORY:

This employee was hired by the Las Vegas Metropolitan Police Department (LVMPD) on July 18, 2006.

On September 29, 2006, while he was in the academy, this gentleman injured his right knee. The C-3 Form listed a right knee strain. The C-4 Form, dated September 29, 2006, listed sprain/strain of the right knee (pp.1-2).

The insurer submitted several documents to be considered for the requirement of employer knowledge of the pre-existing permanent physical impairment and they are as follows:

- Occupational Injury/Illness/Exposure Report from the LVMPD dated October 3, 2006 and signed by a supervisor. This report listed the right knee as the injured body part and was received by the employer on October 3, 2006 (pp.3);
- A LVMPD Officer's Report, dated September 29, 2006, that described the nature of the injury to the right knee. This form was received by the employer on October 3, 2006 (pp.4); and
- A LVMPD Medical Evaluation Form, dated October 3, 2006 and received by the employer on October 3, 2006 that noted a meniscal tear to the right knee (pp.5).

This is the extent of the employer's documents concerning this date of injury. The injured employee sought treatment at UMC and was diagnosed with sprain/strain of the right knee and x-rays were normal. He was taken off work through October 3, 2006 and then released to modified duty (pp.6-7).

The patient saw Dr. Higgins on October 3, 2006. His impression was a bucket handle tear, medial semilunar cartilage and he requested surgery. The patient had partial debridement of the anterior cruciate ligament (ACL) with partial synovectomy and medial meniscorrhesis on October 4, 2006 (pp.8-9).

In follow up reports, Dr. Higgins released the patient to full duty on October 23, 2006 and noted he was still working through the academy and an ACL repair after he was finished would be considered. The patient attended physical therapy and was given a knee brace. As of February 13, 2007, the patient had an ACL deficient knee. He was working in the field and could continue as long as he protected the knee. He was released from care (pp.10-11). This is the extent of the

SI-136

Page 3Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 18, 2018 Recommendation Memorandum

medical records for this date of injury. It should be noted the injured employee was not rated.

On January 6, 2008, during a foot pursuit, this employee fell into a hole and twisted his right knee. The C-3 Form indicated right knee strain and the January 7, 2008 C-4 Form also noted right knee strain. The C-4 Form was received by the employer on January 14, 2008 (pp.12-13).

The insurer submitted several documents to be considered for the requirement of employer knowledge of the pre-existing permanent physical impairment and they are as follows:

- A LVMPD Occupational Injury/Illness/Exposure Report, dated January 6, 2008 and signed by a supervisor. The form noted right knee pain with meniscus tear in Oct 2006 and surgery. This form was received by the employer on January 7, 2008 (pp.14);
- A February 25, 2008 Application for Leave for the right knee and off work status from February 2, 2008 through February 25, 2008. This was sent to the payroll department from a senior LEST with the employer. The form was also copied to the Risk Management Section for the employee's file (pp.15). Please note this form coincides with a surgical procedure;
- A June 30, 2008 Application for Leave for the right knee and off work status from June 16, 2008 through June 25, 2008. This form was sent to the payroll department from a senior LEST with the employer and also copied to the employee's file. This time frame also coincides with a surgery date (pp.16);
- A November 24, 2008 PPD evaluation penned by Dr. Perry. The report does not show that it was received by the employer (pp.18-21); and
- A January 11, 2010 PPD offer letter for 7% WPI for the 2008 right knee injury. This letter was copied to the employer however, there is no indication it was received by the employer (pp.17).

History for this injury was taken from the November 24, 2009 PPD evaluation penned by Dr. Perry. The injured employee had three additional surgeries under this claim and treated with Drs. Patti, Miao and Tingey. The last surgery was done in December 2008 with follow up under Dr. Tingey. Reporting under the PPD only goes through September 21, 2009 and the patient continued to follow up. He had been released to full duty and as of October 27, 2009, the patient had reached MMI and was stable and ratable (pp.22).

Dr. Perry evaluated this injured employee for permanent impairment and found 7% WPI and did not apportion for the prior injury or surgery. Please note that the rater was not furnished with any medical reporting prior to the 2008 date of injury and the patient denied any previous injuries to the right knee.

ROA0003

00003

Page 4Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 18, 2018 Recommendation Memorandum

PRESENT CLAIM:

This gentleman continued to work for the LVMPD and, on June 22, 2012, he was involved in a motor vehicle accident and injured his cervical and lumbar spine and right knee. The C-4 Form noted central cord syndrome (pp.23-24).

Medical reporting was taken from the November 8, 2012 PPD evaluation penned by Dr. Perry. The patient was taken to the hospital via ambulance, treated and released to follow up with Dr. Tingey for his knee and Dr. Flangas for the spine. MRI of the knee was done and the impression was sprain/strain with a history of ACL reconstruction and microfracture.

On September 5, 2012, the patient was taken to surgery for the right knee and underwent arthroscopic chondroplasty, medial femoral condyle with compartment synovectomy. He attended physical therapy and as of October 18, 2012, Dr. Tingey released him to full duty and he had reached MMI and was stable and ratable (pp.).

The injured employee was rated for the cervical and lumbar spine as well as the right knee. He was found to have 12% WPI, combined, for the cervical and lumbar spine and no additional impairment for the right knee (pp.25-29).

The claim was successfully subrogated and the insurer received reimbursement in the amount of \$83,325.00 to be applied to the claim.

FINDINGS:

A. NRS 616B.557 (1) states that if an employee of a self-insured employer has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the pre-existing impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for Self-Insured Employers in accordance with regulations adopted by the Board.

Medical reporting supports a substantial increase in the costs of this claim for the right knee due to testing, evaluations and additional surgery.

Therefore, NRS 616B.557 (1) has been satisfied.

Page 5Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 18, 2018 Recommendation Memorandum

B. NRS 616B.557 (3) states that as used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

This gentleman was rated at 7% WPI under his 2008 claim for the right knee.

Therefore, NRS 616B.557 (3) has been satisfied.

C. NRS 616B.557 (4) states that to qualify under this section for reimbursement from the Subsequent Injury Account for Self-Insured Employers, the self-insured employer must establish by written records that the self-insured employer had knowledge of the "permanent physical impairment" at the time the employee was hired or that the employee was retained in employment after the self-insured employer acquired such knowledge.

The file contained a LVMPD Medical Evaluation Form, dated October 3, 2006 and received by the employer on October 3, 2006 that noted a meniscal tear to the right knee.

Under the 2008 date of injury the employer submitted a LVMPD Occupational Injury/illness/Exposure Report, dated January 6, 2008 and signed by a supervisor. The form noted right knee pain with meniscus tear in Oct 2006 and surgery. This form was received by the employer on January 7, 2008.

There were also two applications for leave submitted by a senior LEST from the employer to the payroll department for leave time for the February and June 2008 surgery dates.

Therefore, NRS 616B.557(4) has been satisfied.

D. NRS 616B.557(5) states a self-insured employer shall notify the Board of any possible claim against the Subsequent Injury Account for Self-Insured Employers as soon as practicable, but not later than 100 weeks after the injury or death.

Subsection five does not need to be satisfied in order for this claim to be considered for reimbursement since the date of injury is after the October 1, 2007 change in the requirements of the statute.

Page 6Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 18, 2018 Recommendation Memorandum

WITNESSES:

List of witnesses who may be called to testify on behalf of the DIR and a brief summary of the proposed testimony of each.

Jacque Everhart, Compliance/Audit Investigator, Workers' Compensation Section who may testify as to the basis of the Administrator's recommendation.

The Administrator reserves the right to call rebuttal and impeachment witnesses.

NOTIFICATION TO APPLICANT:

Applicants are advised that they should not take for granted a recommendation of the Administrator to the Board, whether positive or adverse to the self-insured employer. The Administrator's role is to make recommendations, only. The Board is the body which decides the application on the merits. Its authority is plenary. Consequently, the applicant should be fully advised that the Board is free to accept or reject in whole or in part, the recommendation of the Administrator. In addition, the Board may agree with the Administrator's recommendation to accept or reject the claim, but make its decision based upon grounds totally different than the basis for the Administrator's recommendation, provided the decision is supported by substantial evidence in the record before the Board and the Board is correct in its disposition as a matter of law. Applicants are advised, then, to appear and represent their position to the Board. Applicants are also further advised to review the pertinent statutes and regulations found at NAC 616B.770 *et. seq.*, and NRS 616B.545 *et. seq.*, and any other statutes, regulations and case law that might apply, to make their own assessment of what might be required of them.

SUBROGATION RECOVERY NOTICE:

Please note that pursuant to NRS 616C.215, if an insurer receives reimbursement from the Subsequent Injury Account, the Nevada Division of Industrial Relations (DIR) has a statutory lien upon the total amount paid by the employer or upon the total proceeds of any recovery from a third party. Additionally, NRS 616C.215(8) makes the injured worker, claimant's counsel and third-party insurer jointly and severally liable for any amount to which the Subsequent Injury Account is entitled if the party has knowledge of the lien and does not notify the Administrator, DIR, for the Subsequent Injury Account within 15 days after the date of recovery by way of actual receipt of the proceeds of the judgment or settlement.

Page 7Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 18, 2018 Recommendation Memorandum

CERTIFICATE OF SERVICE

Kim Price Lewis Brisbois Bisgaard & Smith LLP 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 89102

I certify that I am an employee of the Division of Industrial Relations, Workers' Compensation Section, and on $\underline{\underline{U-1}}$, 20 16 I served the attached Administrator's Recommendation Memorandum on the person(s) listed above:

By placing an original or true copy thereof in a sealed envelope, postage prepaid, placed for collection and mailing in the United States Mail, at Henderson, Nevada
By personal delivery
By Federal Express or other overnight delivery
By Certified Mail/Return Receipt Requested

Dated this 18 day of 1000 20

Division of Industrial Relations Workers' Compensation Section

SI-136

Geoglaway's Maa	C	RECEIPT			/ITHIN ORM		Please Type or Prin					PATIONA	L DI		SV SV
Employer's Nan	-					1	re of Business ()	FEIN		OSHA	Log #	i	
Las Vegas Ollice Mail Addre		Poli	.ce I	Dept.			v Enforce	and the second state of the second second	lina ar	88-6000	028 T	Telephone	V YCLANNIC SAN		ation for the first of the firs
						988	So W. Che	eyenne	₹.Av	7e			705.		
Cily	rewarr			Zip					1145	1		Contractory and a second second	Balance Continues	a sector and the sector of the	
Las Vegas	. NV 85	9101		•		LV	IPD					CCMSI			
First Name	And the state of t	******	www.co.co.co.co.co.co.co.co.co.co.co.co.co.	Last Na	me	Socia	I Security					Age	· · Pri	imary.Language Sp	oken
4		-		Airean and a second								30/53/E		iem//er	
Home Address (N	umber and \$	Streel)				Sex	Mate I	C Female	Ma	rital Status	Single	6 Married	ΰc	Divorced D Widow	ied
		Augeneright	and on the state of the			<u> </u>				an a					
	NR7 Q		e	Zip			•••					How long na: In Nevada?			ived by you
and the second			Em	ployee's	occup	1		Contract of the second s			Departn	neht in which			1
NV	• •		PC	DLICE	REC	RUT	י. די				Trai	ming	Sec	- MALERIC) (
Concernance of the second s)2) Is the	injured	empkoy	ee a con			sote proprie	lor?pa	iner?	and the second secon	Was err	ployee in you	ur emp	ploy when injured o	disabled
		Company of the second	CULTURA DA CONTRACTOR DA CONTR	WWW.Dellowerth.Com								ك الماجه الثاني بي من يستستحس	and the second		
	· · · · · ·			•		PM) (it		•		injury or O/D	•		• •	or O/D reported	
Prot Construction of the Protocol States			or many statements	CONTRACTOR OF THE OWNER		le) (if an				-,	and the second se	Contraction of the Contract of	an and the second s	's premises? (il aud	licable)
														• • • •	-•
What was this em	soloyee doing	when th	ne accid	lent occu	rred (l	bading I	ruck, walking d	own stairs	, etc.)	? (if applicable)		er-4493665555555555555555555555555555555555		<u> </u>	
Physical	rainin	g			•										
How did this injury	or occupatio	onal dise	ase occ	cur? Incl	ude lin	пө етр	loyee began wo	rk. Be sp	ecilic	and answer in	delail. U	se additional	sheet	l îl necessary.	***************************************
Time began	work:	•	Dur	ing 1	phys	sica.	l trainin	ng I v	was	doing k	nee t	to stom	ach	drills.	
			Avy Mountair year						14/14				1		
applicable)	tool, substat	nce, or c	oblect w	iosi ciose	ely con	necteo	with the accide			•••	b]			person injured in	lhis
Pad of body joint	n or atlacta					1110	lo atch avia te			and have an exception of the second	BIar	10	-	accident? (il appl	icable)
		U				11.141	ai, give vale of	ucam	44(1)10	:50					
Construction of the second sec	Cucilion control out on the control.	al Disea	se (sci	alch cut	bruise	strain	eić)		Witne			ana managana na fata ang mang		🖸 Yes 🕅	No 🗌
1							,,				ko				
								Ľ	And 1.1	the second s		scheduled shi	in	Will you have ligh	duly
									after a	accident? (if ap	plicable)	res 🗖 No		work available il r	necessary? No
If validity of claim	is doubted, :	state rea	son	• • • • • • • • • • • • • • • • • • •		Possible Constitution	Alt of the second se		Local	ion of Initial Tre	alment	MC-RAN	сно		
no	TO DESCRIPTION OF THE OWNER	0,0%								21	10110-11-11-11-11-11-11-11-11-11-11-11-1	Manual and a second second			ann
Higgins, C	vchiropracio lerald	r name							Emer	gency Room	D Yes	62iNo	Hos	spitalized CI Yes	M No
	low many d		week de	oes	T		an a					an a	Las	il day wages were e	earned
IMPORTANT	mployee wo		4			From	07:00	Sam C	l pm	To 05:	00 🗆 a	m ⊠ipm			
		T	W	T	F	S	Rotating	Γ						4	
days off 🖸	53	52	p	۵	۵	D		Are yo	u paya	ng injured or di	sadled e	mployee's wa	iges c	Junng disability:	Yesu No
		t	Lasi	t day of v	vork af	ter injur	y or disability	1	(Dale of return t	o work		١	Number of work day	is lost
07/18/2006			09/	29/20	06			10/0	3/2	006		anne ann an ann an an ann an an ann an an an	1		and a subscription of the
Was the employee	hired to		11												ne last 12
	نوا ار سره بسر _{است}ن و زار دهمه محمد م			<u> </u>		-		1			*******				
but will not includ	e reimburser	ment for	expens	es. If the	empl	oyee wa	is employed by	you lor le	ss than	n 12 weeks, pro	ovide gro	ss earnings f	rom th	he date of hire to the	e date of
Ingury of Olsaoimy					سيبيد المراجع		i ja jaan meteri kata kangana perangan			and the second					
Pay period SUI		тнияС	J SAT	Employ	yeeQ	WEEKL			ER						m
	100 C 100 C	anto a succession of the succe	CONTRACTOR OF THE OWNER	Concernant Property lines				COLUMN TRACK		Construction of the World States of the States	Austriananan				en on held (Milling a sure a Million)
For assistanc	e with W	orker	's' Ca	mpen	sati	on Iss	ues you m	ay con	tact	the Office	ofth	e Govern	or C	Consumer He	alth
Assistance To	u Free:	1-98	8-333	5-1597	We	D site	e: nttp://go	ovcha.	state	.ny.us <u>E-1</u>	nail c	na@govo	pq.s	state.nv.us	
I allim that the infom	alion provided	i above re	nancina	the accide	int and	lniyrv or	occupational dise	ase is corre	ict to T	Empiover's S		and Title	1 Da		
the best of my knowle	dge. I further	attirm the	wage in	Iomation	blowde	d is true :	and correct as tak	an from the		C)	al f		"interta	7.
Nevada law			, a:su un			Australia	and the second statement of th			(All)	2-2	NAMIL	<u>لا</u> نے	10/3/0	φ
Claim is: 🛛 Accer	led 🛛 Deni	ed 🗂 D	elerred	D 3rd F	Party	Deer	ned wage			Account No/				ass Code *	
مربع میں انہ			a faith an	anexenserve etter	•	+	an a	****		Pintur Of-1	and the second				
Vianna examinaera	ាពិរមាណធ					Uale	!			status Clerk			Da	I(¢	
1997-1994-1994-1994-1994-1994-1994-1994-					- Antonio anto	ł								anna an	
(rev.11/05)	Ċ	DRIGIN	IAL - E	EMPLO	YER	~	P))) 14/2				_	i	PAG	E 3 - EMPLOYE	E
	Ann E S Cily Las Vegas First Name Home Address (N City LAS VEGAS In which stale was NV Telephone (70) Date of Injury (1 e) 09/29/2000 Address or location PT Field H Clark, NV What was this emp Physical C How did this injury Time begar Specily machine, applicable) Part of body injure Right KNEE Nature of Injury or STRAIN If validity of claim no Treating physician Higgins, G MPORTANT Scheduled S days off E Date employee work 40 hours per v For the purpose o injured employee work 40 hours per v For the purpose o injured employee Was the employee Was the employee Work 40 hours per v For the purpose o Injury or disability. Pay period SUM For assistance To Claims Examiner's	A∩∩ E Stewart City Las Vegas, NV 8! First Name M. Home Address (Number and 3) City LAS VEGAS, NV 8! LAS VEGAS, NV 8! In which stale was employee to NV Telephone (702) Is the Date of Injury (Lappicable) PT Field behind Clark, NV 89129 What was this employee doing Physical Crainin How did this injury or occupation Time began work: Specity machine, tool, substa applicable) Part of body injured or affecte Right KNEE(S) Nature of Injury or Occupation STRAIN It validity of claim is doubted, store of injury or occupation STRAIN It validity of claim is doubted, store of injury or occupation Stread of the more of the purpose of calculation Ino Treating physician/chiropractor Higgins , Gerald MPORTANT How many de moloyee was hired O7/18/2006 Was the employee hired to work 40 hours per week? Stored <tr< td=""><td>A∩∩ E. Stewart Streect City State Lass Vegas, NV 89101 First Name Home Address (Number and Streel) </td><td>Ann E. Stewart Street Cily State Las Vegas, NV. 89101 First Name M. Home Address (Number and Street) </td><td>ADD E. Stewart Street City State Zip Las Veras, NV 89101 First Name M.I. Last Name Home Address (Number and Street) </td><td>Ann E State Zip City State Zip Las Vegas, NV 89101 First Name M.L Last Name Home Address (Number and Street) STREET City State Zip LAS VEGAS, NV 89135 In which stale was employee hired? Employee's occup NV POLICE REC Telephone (702) Is the injury (Hours; Minute AM Q9/29/2006 applicable) O7:45 Address or location of accident (Also provide city, county, state) PT PT Field Definition daccident (Also provide city, county, state) Q1ack, NP<29/2006</td> SPBCUM Minute AM Address or location of accident (Also provide city, county, state) PT PT Field Definition daccident (Also provide city, county, state) PT Field Definition daccident (Also provide city, county, state) PT Field Definition daccident (Accademy, '9880' W. G1ack, NEE (S) Nature of Injury or occupational disease occur? Include lin Nature of Injury or occupational Disease (scratch, cut, bruise)</tr<>	A∩∩ E. Stewart Streect City State Lass Vegas, NV 89101 First Name Home Address (Number and Streel)	Ann E. Stewart Street Cily State Las Vegas, NV. 89101 First Name M. Home Address (Number and Street)	ADD E. Stewart Street City State Zip Las Veras, NV 89101 First Name M.I. Last Name Home Address (Number and Street)	Ann E State Zip City State Zip Las Vegas, NV 89101 First Name M.L Last Name Home Address (Number and Street) STREET City State Zip LAS VEGAS, NV 89135 In which stale was employee hired? Employee's occup NV POLICE REC Telephone (702) Is the injury (Hours; Minute AM Q9/29/2006 applicable) O7:45 Address or location of accident (Also provide city, county, state) PT PT Field Definition daccident (Also provide city, county, state) Q1ack, NP<29/2006	Ann E. Strewart Street 987 City State Zip INSU Las Veras, NV.89101 LVN First Name M.I. Last Name Social Home Address (Number and Street) Sex Sex Social City State Zip Was LAS VEGAS, NV 89135 If sex Sex In which stale was employee hired? Employee's occupation (if epricate) Time of injury (Hours; Minute AWPM) (if 09/29/2006 POLICE RECRUT? Telephone (702) Is the injury demokes a corporate officer Or a to office the officer PT Field behind Accedemy, 9880 W. Cha Or a to office the officer Or a to office the officer What was this employee dop dop when the accident occurred (loading the pricable) Or a to bage office the officer If an the office the off	4∩0 E. Stewart Street 980.W. Chi Las Vergas. Civ State Zp First Name M. Lest Name Home Address (Number and Street) Social Security Home Address (Number and Street) Sex & Mate City State Zp Home Address (Number and Street) Sex & Mate Sex & Mate City State Zp Was the employee of the drives (Number and Street) NV State Zp Was the employee occupation (do thills) which hill which hills was employee hired? Problem (702) Is the injunct employee a corporate officer? Sole oppoint Op/29/2006 Implicable) Or estal Mo Dite of popint Op/29/2006 Implicable) Or estal Mo Dite officer Par Field Deshind Academy, '9880 W. Chreyernic And Phale as his employee began were that the accident applicable Dite officer Dite officer Par field Deshind Academy, '9880 W. Chreyernic And Phale Academy, '9880 W	And E. Stewart. Street 9680 W. Chevening City State Zip Las. Vectas. NV 89101 LVMPD First Name M.I. Last Name Social Security Home Address (Number and Street) Sex Maste D Female City State Zip Was the employee add for the first Name In which stale was employee hired? Employee's occupation (gbb life) which hired or difference D'res The property of the proceed of the proproperent the property of the proceed of the propert	Ann F. Strewart Street 134 Vegas NV 89121 City State 2ip INSURE NV 89101 LVMPD Finst Name M.I. Lest Name Point Stame M.I. Lest Name Finst Name Scal Security Insure Home Address (Number and Street) Sex & Mate Demotype City State Zip Was the employee paid for the day to parket to the day to the day to parket to the day to the d	ADD E. Stewart Street 9880 W. Chevenne Ave City State 2ip Las. Vegas. NV. 89101 LivMPD First Name Mail Last Name Home Actiess (Number and Street) Sex & Male Female City State Zip LAS. VEGAS. NV. 89135 Sex & Male Female In which tale was employee hied? Employee's accopation (ab Illie) which hired or disable NV POLICE RECRUIT Telephone (702) Is the injuge exponential (abus provide city, compt, state) (Lappricable) 09/29/2006 resplicable) 07:45 AM Date of lappr (abus provide city, compt, state) (Lappricable) 07:45 AM Og/29/2006 resplicable) 07:45 AM Og/29/2006 Instrement the accident occur? Include time employee began work. Be specie and answer in Time began work : During physical training I was doing k Find table injugy or occupational disease occur? Include time employee began work. Be specie and answer in Time began work : During physical training I was doing k Specity machine, tool, substance, or object most closely connected with the accident (if Winess Right K KNEE (s) Nature of injury or Occupational Disease (scraich, cut, buike, strain, etc) <td>A00 E. Strewart. Strevet 9880 W. Chevenne yve City Sale 2p Las. Verdas., NV. 8301 LNMPD Home Address (Number and Street) Sex. Bit Male Penale Home Address (Number and Street) Sex. Bit Male Penale Home Address (Number and Street) Sex. Bit Male Penale Home Address (Number and Street) Sex. Bit Male Penale Marinal Status Chy State 2p LAS. VEGAS., NV 891.35 Usesteetwoi Bit Ves No In Initio Hallew semployee hilder Employee's occupation (dib Willey with Not Male Male Not Male Checker) Penale NM POLICE RECRUIT Train Not Male Not Male Not Not Not Not Not Not Not Not Not Not</td> <td>ADD E. Strewart State 20 City State 20 NotWIER The CAS Las Vegras, NV 8910 LVMDD CCMST First Mane M.I. Last Name First Mane Marital Status Disrder Home Äddess (Namber and Steel) ScruEPET Sex Marital Status Disrder Age I'm Mich state was employee hied? Employee concession (Go Nills) with inteed or disabled Department (CMP) The ain the state was employee hied? The ain the state was employee h</td> <td>ADD E. Strewart 980 W. Chevense 1702 795 City State Zp Instance 1702 795 City State Zp Instance Trippond Party A Full Name Mil Last Vegras, NV 8910 CCNST Full Name Mil Last Name State Zp Full Name Mil Last Name State State Zp Full Name Mil Last Name State State State Zp City State Zp Waste To environment of the provide state of the state state state of the state state state of the state state state of the s</td> <td>ADD. P. Stream PT Stream 9880 W. Chevenne & Permit Mark Bale 1702 1925 3111 Chevenne & M. Bale 10000 M. Chevenne & Permit Mark Bale 1702 1925 3111 Frank Mane M. Last Name Bale 10000 M. Stream Frank Mane M. Last Name Bale 10000 M. Stream Frank Mane M. Last Name Bale 10000 M. Stream 10000 M. Stream Chy Stream Stream Bale 10000 M. Stream 10000 M. Stream Chy Stream Bale De Marke Description 10000 M. Stream Chy Stream Employee's accounts of color Marke Description 10000 M. Stream More Frank Mane Employee's accounts of color 10000 M. Stream 10000 M. Stream 10000 M. Stream MV DOI ICE RECORDIT Employee's accounts of color 10000 M. Stream 10000 M. Stream 10000 M. Stream Data chapter stream Trank Stream Stream 10000 M. Stream 10000 M. Stream 10000 M. Stream Chy Stream Trank Stream Stream 10000 M. Stream 10000 M. Stream Data chapter stream Trank Stream Stream 10000 M. Stream 10000 M. Stream Data chapter stream Trank Stream Stream 1000</td>	A00 E. Strewart. Strevet 9880 W. Chevenne yve City Sale 2p Las. Verdas., NV. 8301 LNMPD Home Address (Number and Street) Sex. Bit Male Penale Home Address (Number and Street) Sex. Bit Male Penale Home Address (Number and Street) Sex. Bit Male Penale Home Address (Number and Street) Sex. Bit Male Penale Marinal Status Chy State 2p LAS. VEGAS., NV 891.35 Usesteetwoi Bit Ves No In Initio Hallew semployee hilder Employee's occupation (dib Willey with Not Male Male Not Male Checker) Penale NM POLICE RECRUIT Train Not Male Not Male Not	ADD E. Strewart State 20 City State 20 NotWIER The CAS Las Vegras, NV 8910 LVMDD CCMST First Mane M.I. Last Name First Mane Marital Status Disrder Home Äddess (Namber and Steel) ScruEPET Sex Marital Status Disrder Age I'm Mich state was employee hied? Employee concession (Go Nills) with inteed or disabled Department (CMP) The ain the state was employee hied? The ain the state was employee h	ADD E. Strewart 980 W. Chevense 1702 795 City State Zp Instance 1702 795 City State Zp Instance Trippond Party A Full Name Mil Last Vegras, NV 8910 CCNST Full Name Mil Last Name State Zp Full Name Mil Last Name State State Zp Full Name Mil Last Name State State State Zp City State Zp Waste To environment of the provide state of the state state state of the state state state of the state state state of the s	ADD. P. Stream PT Stream 9880 W. Chevenne & Permit Mark Bale 1702 1925 3111 Chevenne & M. Bale 10000 M. Chevenne & Permit Mark Bale 1702 1925 3111 Frank Mane M. Last Name Bale 10000 M. Stream Frank Mane M. Last Name Bale 10000 M. Stream Frank Mane M. Last Name Bale 10000 M. Stream 10000 M. Stream Chy Stream Stream Bale 10000 M. Stream 10000 M. Stream Chy Stream Bale De Marke Description 10000 M. Stream Chy Stream Employee's accounts of color Marke Description 10000 M. Stream More Frank Mane Employee's accounts of color 10000 M. Stream 10000 M. Stream 10000 M. Stream MV DOI ICE RECORDIT Employee's accounts of color 10000 M. Stream 10000 M. Stream 10000 M. Stream Data chapter stream Trank Stream Stream 10000 M. Stream 10000 M. Stream 10000 M. Stream Chy Stream Trank Stream Stream 10000 M. Stream 10000 M. Stream Data chapter stream Trank Stream Stream 10000 M. Stream 10000 M. Stream Data chapter stream Trank Stream Stream 1000

ROA0008 00008

		3/ 83/ 2000	06.03	78222972	292		LVMPE	TRAINI	NG		j.	PAGE (04/05 N
PARTIE PARTIE<	Plant Plant Plant Plant Address Plant Plant <td< th=""><th></th><th>00:03</th><th></th><th></th><th>)</th><th><i>.</i>,</th><th>, •. </th><th>P , ?</th><th>, F</th><th>)</th><th>ч. Р</th><th>щå</th></td<>		00:03)	<i>.</i> ,	, •. 	P , ?	, F)	ч. Р	щå
Name Address Provide State Carlor and Address Provide State Carlor and Address Name Address Addres Addres Addres	Product Product <t< td=""><td></td><td></td><td>1 4 4 mm 1 - 44, 5 4 mm 101 5 v5.</td><td></td><td>and all in a first life to the</td><td></td><td></td><td></td><td></td><td></td><td></td><td></td></t<>			1 4 4 mm 1 - 44, 5 4 mm 101 5 v5.		and all in a first life to the							
Andres Billing and	Address District and address District address District address District address Address District address District address District address District address District address Address District address District address District address District address District address Address District address District address District address District address Address District address District address District address District address Address District address District address District address District address VPFIND # District address District address District address District address District address VPFIND # District address District address District address District address District address VPFIND # District address District address District address District address District address VPFIND # District address District address District address District address District address VPFIND # Distris address Distris address Dis		E	MPLOYEE'S	1	FOF	RM.C-4			eatmen	r		
a Addrose All Status St	Address					~ PROVIDE	E ALL INF		N REQUES				
10 <	AU				▲ [®] ,	11			8M OF	1			(V)
Area State Printing Lating and State Printing Lating and State Big Area State Printing Lating and State Printing Lating and State Big Area Lating Parket Advance Printing Lating Advance Printing Lating Advance Big Area Lating Parket Lating Parket Printing Lating Parket Big Area Lating Parket Lating Parket Printing Lating Parket Big Area Lating Parket Lating Parket Development Big Area Lating Parket Development Development Construction Lating Parket Development Development Construction Lating Parket Development Development Construction Development Development Development Construction Development Development Development PP 28 Development Parket Development Development Minuted on Advance Development Parket Development Development Minuted on Advance Development Development Development PP 28 Development Parket Development Development Minuted on Advance Development Development Development Minuted on Advance Development Devel	Main Plan	Addçəsə	1			7	nge .	Height		endini C	eresides.No	nities)
Stell Display Display Philing Unglage Spoken 19/947 Name (Company Name 1 14/14/23/14 Indicate Spourge 19/947 State 10/14/24/14 14/14/24 14/14/24 Indicate Spourge 12/14/24/14 11/14 14/14/14 14/14/14 14/14/14 14/14/14 12/14/24/14 11/14 14/14/14 14/14/14 14/14/14 14/14 12/14/24/14 11/14 14/14 14/14 14/14 14/14 14/14 12/14/24/14 11/14 14/14 14/14 14/14 14/14 14/14 14/14 12/14/24/24 11/14 14/14 14/14 14/14 14/14 14/14 14/14 14/14/24/24 11/14 14/14 14/14 14/14 14/14 <t< td=""><td>State State Plinitary Updates Spoken System State State State System State State State State System State State State State State System State State</td><td></td><td>.1</td><td></td><td></td><td>210</td><td></td><td></td><td>Telenhonie</td><td></td><td></td><td></td><td></td></t<>	State State Plinitary Updates Spoken System State State State System State State State State System State State State State State System State		.1			210			Telenhonie				
Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementation Implementatin Implementation Implementation <td>Image: Animal/Company Name Image: Animal/Company Name System Numo/Company Name L/M.P.D. Image: Animal Company Name Image: Animal Company Name System Number and Street L/M.P.D. Image: Animal Company Name Image: Animal Company Name Image: Animal Company Name L/M.P.D. Image: Animal Company Name Image: Animal Company Name Image: Animal Company Name Image: Animal Company Name</td> <td>A dealer</td> <td>and the second second</td> <td></td> <td></td> <td></td> <td></td> <td>21</td> <td></td> <td>Pliniary</td> <td>Language</td> <td>Spoken</td> <td></td>	Image: Animal/Company Name Image: Animal/Company Name System Numo/Company Name L/M.P.D. Image: Animal Company Name Image: Animal Company Name System Number and Street L/M.P.D. Image: Animal Company Name Image: Animal Company Name Image: Animal Company Name L/M.P.D. Image: Animal Company Name Image: Animal Company Name	A dealer	and the second					21		Pliniary	Language	Spoken	
wide/address (Number and Street) W. M.V. B 14.27 Wide/Address (Number and Street) Date Employer Notified 12:45:000 Triding registered) 14:40:000 Triding registered) 14:40:0000 Triding registered) 14:40:00000 Triding registered) 14:40:000000000000000000000000000000000	Mail Address (trumber and Street) W NV B 1/27 Diffusion approximation of the product of the				THIRD-PAR	TY ADMINIST	RATOR			100:4005.31	ip) When inj	ity or. Occup	ational
a Mail Address (Number allo Street) W. N.V. B 14.27 BSD W.C.H.WASK AND Constrained Street) Joint Name (a galeway) The Employer Notified Joint Name (a galeway) Supervisor is Number allows Joint Name (a galeway) Supervisor is Number allows Joint Name (a galeway) Def 26 (0 Cmmmonly of the Supervisor is Number allows Joint Name (a galeway) Def 26 (0 Cmmmonly of the Supervisor is Number allows State (a supervisor is Number allows) Def 26 (0 Cmmmonly of the Supervisor is Number allows) State (a supervisor is Number allows) Def 26 (0 Cmmmonly of the Supervisor is Number allows) State (a supervisor is Number allows) Def 26 (0 Cmmmonly of the Supervisor is Number allows) State (a supervisor is Number allows) Def 26 (0 Cmmmonly of the Supervisor is Number allows) State (a supervisor is Number allows) State (a supervisor is Number allows) P2 30 P3 (0 Cmmmonly of the Supervisor is Number allows) P3 (0 Cmmmonly of the Supervisor is Number allows) No Supervisor is Number allows) P3 (0 Cmmmonly of the Supervisor is Number allows) P3 (0 Cmmmonly of the Supervisor is Number allows) No Supervisor is Number allows) P3 (0 Cmmmonly of the Supervisor is Number allows) P3 (0 Cmmmonly of the Supervisor is Number allows) No Supervisor is Nu	Mail Address (trumber and Street) W NV B 1/27 Diffusion approximation of the product of the	yer's Name/Co	ompany Nam	" LVMP	D	: 1				Telepho	ne - 3695		ha ara ang tika contago dita organg
/2 9/06 7:45 cmill author: D9/28/06 cmill 05/28/00 cmill T/0 32 LAN D sea of Location of Accident (If applicable) PLV SICAL LV NU S1/2 9 I verse you doing at the time of the accident (If applicable) PLV SICAL TZ AVING PLV SICAL TZ AVING With sease occur? (Be apecific and answer th delia). Use additional disease occur? (Be apecific and answer th delia). Use additional disease occur? (Be apecific and answer th delia). Use additional disease occur? (Be apecific and answer th delia). Use additional disease occur? (Be apecific and answer th delia). Use additional disease occur? (Be apecific and answer th delia). Use additional disease occur? (Be apecific and answer the N if a continue of the accident (If applicable) PSB. Distribute that you have an accupational disease occur? (Be apecific and answer the N if a continue the disability and its applicable) With cesase to the accident (If applicable) If influence of the accident of the applicable) Print(B) of Body influence or Affected RIC R UT BOILON If influence of the accident of the applicable) Print(B) of Body influence or Affected RIC R UT BOILON If influence of the accident of the applicable) Print(B) of Body influence or Affected RIC R UT BOILON If influence of the accident of the applicable of the accident of the applicable) Print(B) accident date: applicable) RIC R UT BOILON If influence of	29/06 7:45 am D9/28/06 T/b BLAND as of coastion of Accident (if applicable) LUNUS \$1/29 where you doing at two time of this accident? (if applicable) LUNUS \$1/29 214 VS ICCAL T2 No TONG 244 VS ICCAL T2 No TONG 2550 W: Conceptibility and entry the second and nower in detail. Use additional sheet. If necessary As DO INFO PH KSIGAL TAAZMEN & SKEE STOCK. WH EN I BENT DOWN AND MY RT RNEL PSD . Belleve that you have an occupational disease, when disyou diret have simovedge of the disability and its applicable). If the second of the second stock of the Accident (if applicable). Y Infury of Occupational Classary Print(e) of Body Infured or Affected RIC R UIT BOLKD Yinth Time second is thue we constrain to the BEST OF AN INNOVED as and that How Print on State BEST of the Accident (if applicable). T/D BLAND Yinth Time second is thue we constrain the BEST OF AN INNOVED as and that How Print on State BEST of the Accident (if applicable). T/D BLAND Yinth Time second is thue we constrain the BEST OF AN INNOVED as and the Accident (if applicable). T/D BLAND Yinth Time second is thue we constrain the second that How Print on State BEST of An INNOVED as an	80 W.C	HEYNEL	AVE					i.	· .			
pass of Location of Action (If applicable) (I	ses of coateners of Acclerent (If appreciable). Y A Y SICAL TIZATION (If applicable) Y A Y SICAL ADV	· · · ·	1	• • • •	1		3	Occupation	ork Altar injur a) Disease	y Supe	1.8.		Reported
Intersection of the accident of the applicable) PHYSICAL TRAINED Of this injury or accupational disease accur? (Be operific and answer in delisit. Use additional sheeld inaccessary) AS DO SING PHYSICAL TRAFFISH SEEPSET WHEN I BENT DOWN AND MY RT RNEL PPSD, OS SING PHYSICAL TRAFFISH SEEPSET WHEN I BENT DOWN AND MY RT RNEL Provide a read coupsilonal disease accur? (Be operific and answer in delisit. Use additional sheeld inaccessary) If Not coupsilonal disease accur? (Be operific and answer in delisit. Use additional sheeld inaccessary) If Not coupsilonal disease accur? (Be operific and answer in delisit. Use additional sheeld in accurate it were innoved as a coupsilonal sheeld in a coupsilonal disease accurate it were innoved as the fact and the applicable) If Not coupsilonal disease accurate accurate investment on answer in a coupsilonal disease accurate investment on a coupsilonal disease accurate investment on answer in a coupsilonal disease accurate investment on a coupsilonal disease accurate investment on a coupsilonal disease accurate investment on answer in a section of an answer in a section of a coupsilonal disease accurate investment on a coupsilonal disease accurate investment on a coupsilonal disease accurate investment and answer investment on answer investment on a couc	were you compare to bit the of the accdent? (If applicable) MY SICAL TZE ATAING MY SICAL TZE ATAING MS ITERAL TZE ATAING MS DO INCT PHYSICAL TAASHING SKEESERGE MS ITERAL TZE ATAING	ss of Location.	of Accident (if applicable).				017-0	1700		2126		
ddf with Jhury or occupational disease accur? (de specific and answer in delai). Use additional streak into a AND MY RT KNEL PPED, Journey PH KSTCAL TAAPPING SKEP DCG. WHEN I BENT DOWN AND MY RT KNEL PPED, Journey PH KSTCAL TAAPPING SKEP DCG. WHEN I BENT DOWN AND MY RT KNEL PPED, Journey PH KSTCAL TAAPPING SKEP DCG. WHEN I BENT DOWN AND MY RT KNEL If Now an occupational disease accur? (de specific and answer in delai). Use additional streak of the Accident (de applicable) If Now a no occupational disease accur? (de specific and answer in delai). Use additional streak of the Accident (de applicable) If Now a no occupational disease accur? (de specific and answer in delai). Use additional streak of the Accident (de applicable) If Now a no occupational disease accur? (de specific and answer in delai). Use additional streak of the Accident (de applicable) If Now a no occupation of the Bent of the View wow store action the Accident (de applicable). The Accord is the Accident and the Accident (de applicable). Accord is the Accident accord action the Accident (de applicable). The Accord is the Accident accord action the Accident accord action the Accident accord action the Accident (de applicable). The Accord is the Accident accord action the Accident (de applicable). Accord action the Accident accord action the Accident accord action the Accident accord action the Accident (de applicable). Accord action the Accident (de applicable). Accord action accord action the Accident accord action accord acting accord accord action accord actide accord action accord	Mill this flags and occupational disease occur? (dis specific and answer in delibit. Use additional street. Unlock additional street. S	were you doing	gal the time	of the accident?	(il applicable)		اندان		·	÷			<u>. در دان سر اینان در مینان .</u>
PPS9. Stellove that you have an occupational disease, when did you first have inoundedge of the disability and its applicable. Wintessee to the Accident (if applicable.) In how on accupational disease, when did you first have inoundedge of the disability and its applicable. Wintessee to the Accident (if applicable.) If how or accupational disease, when did you first have inoundedge of the disability and its applicable. Part(6 of Body Inluted or Affected REC RUIT BOILD OF READ States and the sevence of the Accident (if applicable.) If how or accupational disease. Part(6 of Body Inluted or Affected REC RUIT BOILD OF READ States and the sevence of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If how or accupation of the best of the Accident (if applicable.) Part of the Accident (if applicable.) If accident (if applicable.) Part o	PSD, believe that you have an occupational divease, when did you first have incovedge of the disability and its applicable; Witnessee to the Accident (if applicable; reship to your employment? Witnessee to the Accident (if applicable; reship to your employment? Praticle of Body Injured or Affectiod reship to your employment? Praticle of Body Injured or Affectiod reship to your employment? Praticle of Body Injured or Affectiod reship to your employment? Praticle of Body Injured or Affectiod reship to your employment? Praticle of Body Injured or Affectiod reship to your employment? Praticle of Body Injured or Affectiod reship to your employment? Praticle of Body Injured or Affectiod reship to your employment in burst employment employment employment in burst employment employment in burst employment in burst employment employment employment employment employment in burst employment employment employment in bu	d this injury of	r occupationa	i) disease accut	7:(Be-specific a	ind answer in	délali. Use	additional	sheet.If naces	eety)			Frances (1997)
idefleve that you have an accupational direase, when did you first have innowledge of the disability and its polariability and its polariability in the direct and its polariability in the direct and its polariability in the direct and its polariability and polariability and polariability polariability of polariability polariabilit	Befiliary Binal You have an accupational divease, when did you first have sinovidedge of the disability and its Whresses to the Accident (if applicable) Setting to your employment? If Notice and the accident of the setting of Body Infured or Affecting RECRUIT BOLKO If Notice and the accident of the setting of Body Infured or Affecting RECRUIT BOLKO RECRUIT BOLKO If Notice and the accident of the setting of Body Infured or Affecting RECRUIT BOLKO RECRUIT BOLKO If Notice and the accident of the setting of Body Infured or Affecting RECRUIT BOLKO RECRUIT BOLKO If Notice and the accident of the setting of Body Infured or Affecting RECRUIT BOLKO RECRUIT BOLKO If Notice and the accident of the setting of Body Infured or Affecting RECRUIT BOLKO RECRUIT BOLKO If The Information of the setting of Body Infured or Affecting RECRUIT BOLKO RECRUIT BOLKO If The Information of the setting of Body Information of Informatin Informatin Information of Informatin Information of I	-	ig phys	SCALTRAD	INING SK	ek aree.	WHEN	I OZN	1 DOWN	AND	my le	\ / <n8< td=""><td>2</td></n8<>	2
If Injury of Oacupalional Gaesse/ If and the second and the secon	If Injury or Oocupational Cleansed If an UAL If an UAL If a UAL If a UAL If Injury or Oocupational Cleansed If a UAL If a UAL Rick RUT BOLKO If Injury or Oocupational Cleansed If a UAL If a UAL Rick RUT BOLKO If Injury or Oocupational Cleansed If a UAL If a UAL Rick RUT BOLKO If Injury or Oocupational Develop Area Mark and Rut RUS Injury or Observe or One Rut RUS Injury or Observe or Order And Russian Cleansed Order And Russia	Belleve that yo			ase, when did y	ou first have	linowledge	of the disat	illity and its	Wine	sses to th	Accident	u
If Injury or Occupational Openasy Part(a) of Body Injured or Affected RECRUIT BOLKO If Injury or Occupational Openasy If Injury or Occupational Decases If Injury or Occupational Decases RECRUIT BOLKO If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases RECRUIT BOLKO If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases If Injury or Occupational Decases econtrin If Injury or Occupational Decas	If Injury of Occupational Cleanses If and the initial of Body Injured or Affected RIC RUIT BOLKO AT MALE RIC RUINE <t< td=""><td>iship to your e</td><td>mployment?</td><td></td><td>11/</td><td>A-</td><td></td><td></td><td></td><td></td><td></td><td>AND</td><td></td></t<>	iship to your e	mployment?		11/	A-						AND	
Internet internet in the provider in the provider in the internet and the internet intern	PY TAT THE ABOVE IS TALE AND COARECT TO THE BERT OF MY NOWLEDGE AND THAT I HAVE PROVIDED THIS INFORMATION IN ORDER TO CREATE AND THE BENEFITS OF NEWADASS OF AND THAT I HAVE PROVIDED THIS INFORMATION IN ORDER TO CREATE AND	of Injury or Or	ocupational C	Sease /	Al-	· . / 18	art(s) of Bo	dy injured	or Affected				to
09/29/04 Place QUICK CARE-RANCERO Employee's Signature THIS REPORT MUST BE COMPLETED AND MAILED WITHING AMORALING DAYS OF TREATMENT Addres of Facility RANCHOQUICK CARE Addres of Facility ODSGnosif and Occomption of Injury or Occupational Disease THE ATMENT ODSGnosif and Occomption of Injury or Occupational Disease THE ATMENT ODSGnosif and Occomption of Injury or Occupational Disease The ATMENT ODSGnosif and Occomption of Injury or Occupational Disease The ATMENT ODSGnosif and Occomption of Injury or Occupational Disease The ATM / Strom (B) Hone. Interval Interval Interval Advice Care by a physician indicated colspan="2">Interval Interval Interval OD MYN. TLD Interval Interval Interval Interval Interval Interval	09/29/04 Place QUICK CARE-RANCHO Employee's Signature THIS REPORT MUST BE COMPLETED AND MALES WITHIN A MUGRATING DAYS OF TREATMENT RANCHOQUICK CARE FIND COLSCIPTION OF MUST BE COMPLETED AND MALES WITHIN A MUGRATING DAYS OF TREATMENT RANCHOQUICK CARE 9-29-0L Disgnast and Description of Injury or DEsupational Disease 9-29-0L Disgnast and Description of Injury or DEsupational Disease 17:4D Spray / Strew 17:4D Finder avidance that the time of the time of the days or more? 17:4D Was filler NSALDS Findings: Findings: NG Vis If was avidance the time of the days or more? District District with models avidance, can you directly Intel fully or occupational disease as to be incurred? District and the second of the days or more? District fill was avidant disease as the bindured? District and was avidant disease? Intel fully or occupational disease contributing to this condition or baccupational disease? District fill was Intel fully or occupational disease contributing to this condition or baccupational disease? District fill was Intel fully or occupational filestad? Previ anditer files form was	· · · ·	/	M	<u></u>		XT K	NEL		1			
09/29/04 Place QUICK CARE-RANCHO Employee's Signature THIS REPORT MUST BE COMPLETED AND MAILED AND MAILED WITHING AMORALING DAYS OF TREATMENT Addres of Facility THIS REPORT MUST BE COMPLETED AND MAILED WITHING AMORALING DAYS OF TREATMENT Addres of Facility UNIVERSITY MEDICAL CENTER OCI 0.3 2005 9-29-01 Obstances and Occomption of Injury or Occupational Disease In there evidence it is in injured employee with under the influence of the certain of the geodesing. 17:40 Of Satural Stram (B) KMD2. In there evidence it is in injured employee with under the influence of the certain of the geodesing. 17:40 Intermediate and occomption of Injury or Occupational Disease If there evidence it is in injured employee with under the influence of the certain of the cerain of the certain of the certain of the cerain of the certain of	09/29/04 Place QUICK CARE-RANCHO Employee's Signature THIS REPORT MUST BE COMPLETED AND MALES WITHIN A MUGRATING DAYS OF TREATMENT RANCHOQUICK CARE FIND COLSCIPTION OF MUST BE COMPLETED AND MALES WITHIN A MUGRATING DAYS OF TREATMENT RANCHOQUICK CARE 9-29-0L Disgnast and Description of Injury or DEsupational Disease 9-29-0L Disgnast and Description of Injury or DEsupational Disease 17:4D Spray / Strew 17:4D Finder avidance that the time of the time of the days or more? 17:4D Was filler NSALDS Findings: Findings: NG Vis If was avidance the time of the days or more? District District with models avidance, can you directly Intel fully or occupational disease as to be incurred? District and the second of the days or more? District fill was avidant disease as the bindured? District and was avidant disease? Intel fully or occupational disease contributing to this condition or baccupational disease? District fill was Intel fully or occupational disease contributing to this condition or baccupational disease? District fill was Intel fully or occupational filestad? Previ anditer files form was			A #4655667 76 9-1				2000000 700				Acuto-	
Entrative and construction of figure of social sectors and construction of the sectors and consectors and construction of the sectors and	Indee Encloyed Signadue THIS INPORT MUST BE COMPLETED AND MAILED AND WAILED AND ORVINGEDAYS OF INFAMILENT STATEMENT INTER OCT 0.3 2005 INDEMIST A COMPLETED AND MAILED AND MAILED AND ORVINGEDAYS OF INFAMILENT INDEMIST A COMPLETED AND MAILED AND MAILED AND ORVINGEDAYS OF INFAMILENT INDEMIST A COMPLETED AND MAILED AND MAILED AND AND STORE AND STOR	-1 Inat the ABC PIAL INSURANCE IN, PRACTITIONE ICE COMPANY, C	In or other inst Dr other inst	d Coarent to Thi Nonal Diseases a Person, any Nosi Itution or organ	ie best of my kni NCTS (NAS 610A TO PITAL, INCLUDING NIZATION TO BELG	DWLEDGE AND T D 8160, INCLUSIS VETERANS ADM EASE TO EACH O	HAT I HAVE P VE OR CHAPT INISTRATION	PAOVIDED THI IER 817 DF NI OR GOVERNI VEDICAL OR C	S INFORMATION II IS), I HEREBY AU IENTAL HOSPITA THEE INFORMAT	N ORDER TO THORIZE ANY L ANY MEDIC	OBTAIN THE FHYSICIAN SAL REAVICE NG BENEFIT	BENEFITS OF CHIROPAAC ORGANIZATI	NEVADA'S TOR, ON, ANY
9-29-06 Disgnanic and Description of Injury or Occupational Diseased If there evidence that the Injurited Conderge web under the influence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the providence of alcohol and/or phonehor controllow abustance at the time of the phonehor control and abustance at the time of the phonehor control and abustance at the time of the phonehor control and abustance at the time of the phonehor control and abustance at the time of the phonehor control and abustance at the time of the phonehor control and abustance at the time of t	9-29-06 Obspace is and Obscription of Injury or Occupational Disease In the re-exitence that the Injured employee why under the infiltence of alcehol 17:40 Sprawn/Stram B KNOc. Indiversition controllog aubustance at the time of the exitence that the solden intermediate ecodentiation and/or and/o			d Correct to thi Nonal Dibeases a Person, any Nosi Itution or Organ B. Excupt Inform H I Must Give Spi	IS BEBY OF MY KNI ICTS (NRS 610A TC PITAL, INGLUDING NIZATION TO ABLO AATION RELATIVE ICIFIC AUTHORIZA	DWLEDGE AND T D 6100, INCLUBIS VETERANS NOM GABE TO EACH C TO DIAGNOSIS, 1 TION, A PHOTOS DIAGNOSIS, 1 TION, A PHOTOS	CHO -			N ORDER TO THORIZE ANY L ANY MEDIK ION, INCLUDI 5, PSYCHOLO VALID AS TH			
9-29-06 Obsanants and Description of Injury or Occupational Diseased In there evidence that the Injured employee way under the influence of alcohol 17:40 Spran/Stram (B) KAPe. Intere evidence that the Injured employee way under the influence of alcohol nent: RICE x 3D MM. TLD Intere evidence that the patient to remain off work five days or more? NSAMDS I Yes Indicate dates: fromio Io *Findings: Nig. No I no, is the injured employee applied of ion of social dates; fromio *Findings: Nig. In models evidence; can you directly If models evidence is the employee capable of: I full duty Gradefff *Findings: Nig. No If no, is the injured employee capable of: I full duty Gradefff *Findings: Nig. No If no, is the injured employee capable of: I full duty Gradefff *Findings: Nig. No If no, is the injured employee capable of: I full duty Gradefff *Findings: Nig. No If no, is the injured employee capable of: I full duty Gradefff *Findings: Nig. No If no, is the injured employee capable of: I full duty Gradefff *Findings: Nig. No No If no, is the injured employee capable of: I full duty Gradefff <td< td=""><td>9-29-06 Obspace is and Obscription of Injury or Occupational Disease In the re-exitence that the Injured employee why under the infiltence of alcehol 17:40 Sprawn/Stram B KNOc. Indiversition controllog aubustance at the time of the exitence that the solden intermediate ecodentiation and/or and/o</td><td>29/29/0</td><td>Y</td><td>Place</td><td>QUICK C</td><td>D AND MAI</td><td>SHO En</td><td>ndiovee'e S Hini 3 Mico</td><td>RHING-DAY</td><td>S-OF-TRI</td><td>ATMEN</td><td></td><td></td></td<>	9-29-06 Obspace is and Obscription of Injury or Occupational Disease In the re-exitence that the Injured employee why under the infiltence of alcehol 17:40 Sprawn/Stram B KNOc. Indiversition controllog aubustance at the time of the exitence that the solden intermediate ecodentiation and/or and/o	29/29/0	Y	Place	QUICK C	D AND MAI	SHO En	ndiovee'e S Hini 3 Mico	RHING-DAY	S-OF-TRI	ATMEN		
17:40 Internit: R(CE × 30 MM. TLD NSANDS Havi: you advised the patient to remain off work five days or more? V.Findings: Nig. If Yos Indicate dates: fromioioioio	17:40 Intervite RICE x 3D MM. TLD NSALDS Have you advaded the patient to remain off work five days or more? Findings: N.g. Findings: N.g. Findings: N.g. formation given by five omplayod, togother with modelesi evidence, can you directly If modified duily, apocify any limitations/resultchons: NON: West MT formation given by five omplayod, togother with modelesi evidence, can you directly If modified duily, apocify any limitations/resultchons: NON: West MT formation given by five omplayod, togother with modelesi evidence, can you directly If modified duily, apocify any limitations/resultchons: NON: West MT formation given by five oncompliant disease as job incurred? Dres D No Dres D No Dres D No inthis injury or occupational disease as job incurred? Dres D No Dres D No inthis injury or disease contributing to this condition or baccupational disease? Yes D No Dres D No 9: Oncord Print Dactor a fixer D. Norther a fixer D. Northe	09/29/0	THIS REPO	Place ORT MUST BE	QUICK C	D AND MAI	SHO En	ndiovee'e S Hini 3 Mico	RHING-DAY	S-OF-TRI	ATMEN		ren
Imanif: RICE × 30 MM. TLD NSALDS Have you advised the pavent to remain off work five days or more? y.Findings: N1g. Information given by the employee, togother with modical evidence, can you directly If nodified duty, specify any limitations/resultations: NOT: WERN'S Information given by the employee, togother with modical evidence, can you directly If modified duty, apacity any limitations/resultations: NOT: WERN'S Information given by the employee, togother with modical evidence, can you directly If modified duty, apacity any limitations/resultations: NOT: WERN'S Information given by the employee, togother with modical evidence, can you directly If modified duty, apacity any limitations/resultations: NOT: WERN'S Information given by the employee, togother with modical evidence, can you directly If modified duty, apacity any limitations/resultations: NOT: WERN'S Information given by the physician indicated? If Yes I NO NO Out know of any previous injury or disease contributing to this condition or becaupallonal disease? Yes I Mot (Explain if yes) 9-29-01 Print Doctoria Many A, MSN, FNP, APRN, PC clentify that the employer's copy of MARY BETTA, MSN, FNP, APRN, PC clentify that the employer's copy of MARY BETTA, MSN, FNP, APRN, PC clentify that she employer of the structure of the st	tent: RICE x 20 MM. TLD NSMDS Have you advised the patient to remain off work five days or more? Findings: N1g. Findings: N1g. formation given by the omployoe, together with modifiest evidence, can you directly If modified duty, apocity any limitations/real/cluons: NON Wrop, is the indicate dates; from to formation given by the omployoe, together with modifiest evidence, can you directly If modified duty, apocity any limitations/real/cluons: NON WERNET this injury or occupational disease as to b incurred? Pres I No No No No it in logither with modifiest evidence, can you directly If the club induces induces: NON WERNET the notified duty, apocity any limitations/real/cluons: NON WERNET it in logither with modifiest evidence, can you directly If the club induces are as to b incurred? Pres I No thonbit modified club, approximation of becupational disease as to b incurred? Pres I No NON WERNET it in the induces induces induces a contributing to this condition or becupationed disease? Yes I No (Explain if yea) q-2q-of Print Decare Manner, MSN, FNP, APRN, ES certify that the employer's copy of NIC (Explain if yea) NISURE Explanation of the employer concerted and the induces are store of the employer conconcerted and the induces are store of the e	99/29/0 RANCHOO	UICK CA	Place PRT MUST BE RE	QUICK C COMPLETE	ARE-RANG	SHO En LIED WIT of Facility I f facility	nployee'e S HIN 3 WO JNIVERSI INE evidence I	ignalure RHING-DAY TY MEDIC has the injured o irolice eubstanc	STOF TIRE AL CEN mplayee wa o at the time	ATMEN		//ED 005
y.Findings: Nig. Information given by 8ts employed, together with modical evidence, can you directly If modified duty, specify any Emitations/rewritchons: Non: Werk Nt Information given by 8ts employed, together with modical evidence, can you directly If modified duty, specify any Emitations/rewritchons: Non: Werk Nt Information given by 8ts employed, together with modical evidence, can you directly If modified duty, specify any Emitations/rewritchons: Non: Werk Nt Information given by 8ts employed, together with modical evidence, can you directly If modified duty, specify any Emitations/rewritchons: Non: Werk Nt Information given by 8ts employed, together with modical evidence, can you directly If modified duty, specify any Emitations/rewritchons: Non: Werk Nt Information given by 8ts employed, together with modical evidence, can you directly If modified duty, specify any Emitations/rewritchons: Non: Werk Nt Iditional modical care by a physician indicated? If Yes No No If werk in the employer's copy of the employer's copy of this form was mailed to the employer.com, control if this form was mailed to the employer.com, control if this form was mailed to the employer.com, control if this Information State Zip Provider's Tax 1.D. Number Telephone State Zip Provider's Tax 1.D. Number Telephone State S	Findings: Nig. formation given by the employed, together with modified buildence, can you directly If modified duily, specify any limitations/real/cluons: NON Workstown induced can be a physician indicated? formation given by the employed canable of: It in a figure of any previous injury or disease contributing to this condition or becaupational disease? If the employed canable of: It in duity for modified duily, specify any limitations/real/cluons: NON WORKST Month modified duily, apacify any previous injury or disease contributing to this condition or becaupational disease? If yes NO If no, is the injured employed canable of: If with duity for modified duily, apacify any limitations/real/cluons: NON WORKST If none is the injured employed canable of: If nodified duily, apacify any limitations/real/cluons: NON WORKST If none is the injured employed canable of: If nodified duily, apacify any limitations/real/cluons: NON WORKST If none is the injured employed canable of: If none is the injured employed canable o	RANCHOC 9-29-06	UICK CA	Place PRT MUST BE RE	QUICK C COMPLETE	ARE-RANG	SHO En LIED WIT of Facility I f facility	nployee'e S HIN 3 WO JNIVERSI INE evidence I	ignalure RHING-DAY TY MEDIC has the injured o irolice eubstanc	STOF TIRE AL CEN mplayee wa o at the time	ATMEN		//ED 005
Armonings. N/4g. Information given by the employed, together with modifiel evidence, can you directly of completional disease as job incurred? If modified duty, specify any limitations/resultations: Non Weath back of this injury or completional disease as job incurred? Information given by the employed, together with modifiel evidence, can you directly that in injury or completional disease as job incurred? If modified duty, specify any limitations/resultations: Non Weath back of the injury or completional disease as job incurred? It know of any previous injury or disease contributing to this condition or backupational disease? If Yes I No If now of any previous injury or disease contributing to this condition or backupational disease? If Yes I No If now of any previous injury or disease contributing to this condition or backupational disease? If Yes I No If N. RANCH RD. If N. RANCH RD. If N. RANCH RD. If VEGAS, NEVADA 89130 80-5000436 If Yes Data Provider's Text I.D. Number Telephone 383-3800 If Yes Data Big State If Yes Data If Yes Data Provider's Text I.D. Number Telephone 383-3800 If Yes Data Bell for the second of the second	Intra formation given by the employed, togother with modified evidence, can you directly intra formation given by the employed, togother with modified evidence, can you directly intra formation given by the employed, togother with modified evidence, can you directly intra formation given by the employed and the employed of the evidence of the employed of the employ	RANCHOC 9-29-06 17:40	UICK CA	Place ORT MUST BE RE Inte and Ocsertation Drown / State	QUICK C COMPLETE TOTAJUTY OF OZEUP 2M	ARE-RANG	CFO WIT of Facility In the and/o	npioyes's S HIN 3 W/O JNIVERSJ Ire syldence I y another cor 0 Q' Yes (Ignature RIGING DAY TY MEDIC Iroliod substance I yes, please ex	S-OF-TR AL CEN mployee wa o at the time nipin)	ATMEN TER 0(Under the of the scol		//ED 005
nformation given by \$45 employed, together with modical avidence, can you directly at this injury or occupational disease as job incurred? Pres No it it is injury or occupational disease as job incurred? Pres No it it on any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to this condition or becaupational disease? Yes No (a know of any previous injury or disease contributing to the provider's Text I.D. Number (b) N. RANCH RD. (c) (c) (c) (c) (c) (c) (c) (c) (c) (c)	formation given by the employed, together with modified evidence, can you directly I this injury or occupational disease as job incurred? Difes D No Nonal modical care by a physician indicated? Difes D No Nonal modical care by a physician indicated? Difes D No I know of any previous injury or disease contributing to this condition or becupational disease? Difes D No (Explain if yea) 9-20-04 Print Decision America, MSN, FNP, APRN, Decision and the employer's copy of MARY BETTA, MSN, FNP, APRN, Decision and the employer's copy of NSURER State ONLY I N. RANCH RD. VEGAS, NEVADA 89130 Provider's Tex 1.0. Number Telephone 383-3800 P's Signalue Marky better the state of the employer's copy of the text of text o	RANCHOC 9-2-9-06 17:40 ent: R(CE	UICK CA	Place ORT MUST BE RE Inte and Ocsertation Drown / State	QUICK C COMPLETE TOTAJUTY OF OZEUP 2M	ARE-RANG	IFO WIT of Facility In the and/o	nployee's S HIN 3 W/O JNIVERSJ Ire syldence (y snother cor 0 C Yes (you advised you advised	Ignature RKING DAY TY MEDIC Institute Injured o Irollod substance I yes, please ex the patient to re-	SOF TR AL CEN mployee wa o at the time nlain) main off work	A TIMEN IER 0(Under the of the scol CC	CT 0 3 2 Influence of a Influence of a Influence of a Influence of a	
ditional modical care by a physician indicated? Pres D No Su know of any previous injury or disease contributing to this condition or occupational disease? D Yes D No (Explain if yes) 9-29-04 Print Darth Mary BETTA, MSN, FNP, APRN, Bet certify that the employer's copy of MARY BETTA, MSN, FNP, APRN, Bet certify that the employer's copy of MARY BETTA, MSN, FNP, APRN, Bet certify that the employer's copy of 1N. RANCH RD. State 5 VEGAS, NEVADA 89130 89-5000436 Degree Company Degree Company D D D D D D D D D D D D D D D D D D D	Nonal modical care by a physician indicated? Pres D No I know of any previous injury or disease contributing to this condition or becupalional disease? Yes D No (Explain if yes) 9-29-04 Print Decipite Name MARY BETTA, MSN, FNP, APRN, ES certify that the employer's copy of MARY BETTA, MSN, FNP, APRN, ES certify that the employer's copy of MARY BETTA, MSN, FNP, APRN, ES certify that the employer's copy of MARY BETTA, MSN, FNP, APRN, ES certify that the employer's copy of MARY BETTA, MSN, FNP, APRN, ES certify that the employer's copy of INSURERSTREE ONLY I N. RANCH RD. INSURERSTREE ONLY VEGAS, NEVADA 89130 88-6000436 702: Defines State Pressignature Gara	-RANCHOC 9-29-06 17:40 ent: RICE NSA	DUICK CA DISANO SALE ADS	Place ORT MUST BE RE Inte and Ocsertation Drown / State	QUICK C COMPLETE TOTAJUTY OF OZEUP 2M	ARE-RANG	IFD WIT of Facility of Facility In the and/o Hisvé El Yo FJ No	nployee'e S HIN 3 WO JNIVERSJ Ire evidence I y another cor O C' Yes (You advised you advised b Iroo, is the	Ignature RKING DAY TY MEDIC Insisting Injuratio Inside autostance I yes, please ex the patient to re- ales; from o Injurad employ	SOFTR AL CEN mployee wa o at the time nlain) main off work incore capable	ATMEN TER O(of the ecol CC	TO32 Influence of i ingl? 	
9-29-04 Print Pochage and Print Pochage Contributing to this condition or becaupallonal disease? 9 9 100 km b 100 km	IN. RANCH RD. Provider's Tax 1.0. Number Telephone 383-3800 VEGAS, NEVADA 89130 Provider's Tax 1.0. Number Telephone 383-3800 Vegas State 0.00000000000000000000000000000000000	RANCHOC 9-29-06 17:40 ent: R(CE NSA Findings: N	THIS REPO THIS REPO Disgno Disgno Syn Syn NDS Vig. by the omployo	Place PRT MUST BE RE all and Ocserbition Drawy / State MYL. The Do. Logother with 17	QUICK C COMPLETS	ARE-RANG	IFO En IFO WIT of Facility In the and/o I Have E Yo FF No I Have	nployee's S HIN 3 W/O INIVERSI its evidence i y another cor o Q'Yes (you advised you advised is inclusted b If no, is the dillod duty, ap	Ignature RKING DAY TY MEDIC Institute Injuration Institute Injuration Institute Injuration Institute Information International Information	SOFTR AL CEN mployee wa o at the time nlain) main off work incore capable	ATMEN TER O(of the ecol CC	TO32 Influence of i ingl? 	
3] N. RANCH RD. State VEGAS, NEVADA 89130 88-5000436 Degree State OF State Degree State State Degree State State Degree State Degree State Degree State Degree State Degree State State Degree State State Degree State State State Degree State	I N. RANCH RD. State VEGAS, NEVADA 89130 Providers Tex 1.D. Number Telephone 383-3800 Te Signalude only to Providers Tex 1.D. Number Telephone 383-3800 Define 283-3800 Office State Office State Office State State Office State Sta	PANCHOO P-29-06 17:40 ent: R(CE NSA Findings: N formation given 1 this injury or occ	UICK CA Disgno ST 2 x 2D ADS Vig. by the omployce cupational disc	Place PRT IMUSTABLE RE INTERM / STATE MM. TLA Do. logother with m pase as job incurro	QUICK C COMPLETE of Injury or Occup 2N	ARE-RANG Name Name Name National Disease Profile C.	IFO En IFO WIT of Facility In the and/o I Have E Yo FF No I Have	nployee's S HIN 3 W/O INIVERSI its evidence i y another cor o Q'Yes (you advised you advised is inclusted b If no, is the dillod duty, ap	Ignature RKING DAY TY MEDIC Institute Injuration Institute Injuration Institute Injuration Institute Information International Information	SOFTR AL CEN mployee wa o at the time nlain) main off work incore capable	ATMEN TER O(of the ecol CC	TO32 Influence of i ingl? 	
State	I N. RANCH RD. State VEGAS, NEVADA 89130 Providers Tex 1.D. Number Telephone 383-3800 Te Signalude only to Providers Tex 1.D. Number Telephone 383-3800 Define 283-3800 Office State Office State Office State State Office State Sta	PANCHOQ P-29-06 17:40 ent: R(CE NSA Findings: N formation given to this injury or our longit modical	UICK CA Disgno Sy 201CK CA Disgno Sy 201 Sy 201 201 201 201 201 201 201 201 201 201	Place PRT MUST BE RE Inte and Description DTWN / Stree MM. The Do. togother with m make as job incurror ysician indicated	QUICK C COMPLETE Of Injuity or Occup 2N D D D D D D D D D D D D D D D D D D	ARE-RANG D AND MAI Name Name Norel Sallonel Disease MP C. Cash you directly No D No	IFO MIN of Facility In the and/o I Have I Have I Have I Have I Have	nployee'e S HIN SAWO JNIVERSJ Ire evidence i y another cor 0 C Yes (you advised you advised o Iron, is th alliad duty, ap	Ignature RK(ING:DAY TY MEDIC hat the Injured o Irollod substance I yes, please ex the patient to rece blea; from o knjured employ ocity any limitati 12.45	SOFTR ALCEN mployee wa o at the time nlain) main of(work in constraints of the tions/remitcule	ATMEN TER O(of the ecol of the ecol CC	TO32 Influence of i ingl? 	
31 N. RANCH RD. Off 0 3 1000 State State S VEGAS, NEVADA 89130 80-5000436 Degree Degree Gar.	1 N. RANCH RD. State Zip Provider's Tex 1.D. Number Telephone 383-3800 00.1 0 3 Ubv VEGAS, NEVADA 89130 89-6000436 Delinee 383-3800 00.1 0 3 Ubv Fs Signalute Number Telephone 383-3800 00.1 0 3 Ubv	RANCHOC RANCHOC 9-29-06 17:40 ent: R(CE NSA Findings: N findings: N findings: N findings: N this injury or con tormation given to this injury or con tormation given to this injury or con	UICK CA Diagno Diagno Sy Diagno Sy Diagno Care by a phy Drevious injur	Place PRT MUST BE RE Inte and Description DTWN / Stree MM. The Do, togother with m mass as job incurror ysician indicated y or disease con	QUICK C COMPLETE Of Injuity or Occup 27 D Complete 29 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	ARE-RANG	in the and/o of Facility of Facility in the and/o of the	nployee's S HINS W/C INIVERSI ine syldence I y another cor O 'Yes (you sdwlsed as Incluste d D II no, is th alflod duty, ar O II al disease the employ	Ignature RKING DAY TY MEDIC Institute Injuration Institute Injuration Institute Injuration Institute Injuration Institute Information Inform	SOF TR AL CEN mployee wa o at the time nieln of work meln of work no capable ions/resulctions/ Mb (Exp	ATMEN IER O(Punder the of the scol CCI c five days (at: C) full c ms: NO	TO32 Influence of i influence of i i	
S VEGAS, NEVADA 89130 80-6000436 702 383-3200	VEGAS, NEVADA 89130 80-5000436 702 383-5800 Ps Signature on Lug Lug	RANCHOC RANCHOC 9-29-06 17:40 ent: R(CE NSA Findings: N findings: N findings: N findings: N this injury or con tormation given to this injury or con tormation given to this injury or con	UICK CA Diagno Diagno Sy Diagno Sy Diagno Care by a phy Drevious injur	Place PRT MUST BE RE Inte and Description DTWN / Stree MM. The Do, togother with m mass as job incurror ysician indicated y or disease con	QUICK C COMPLETE Of Injuity or Occup 27 D Complete 29 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0 0	ARE-RANG	in the and/o of Facility of Facility in the and/o of the	nployee's S HINS W/C INIVERSI ine syldence I y another cor O 'Yes (you sdwlsed as Incluste d D II no, is th alflod duty, ar O II al disease the employ	Ignature RKING DAY TY MEDIC Institute Injuration Institute Injuration Institute Injuration Institute Injuration Institute Information Inform	SOLUR AL CEN mployee wa o at the time nlain) main off work in constraint tons/reautotic	ATIMEN TER O(of the ecol of the ecol CC five days of of: O full c ons: NO lain if yeal	TO32 Influence of i influence of i i	
Ior's Signaludy	rs signalude Ni	PANCHOQ RANCHOQ 9-29-06 17:40 ent: R(CE NSA Findings: N tormation given t this injury or occ longi modical know of any p 9-29-06	UICK CA Diagno Diagno Sy Diagno Sy Diagno Compositional dise care by a phy orevious injur Print H RD.	Place PRT MUST BE RE all and Ocserbition Drawy / State MARY BENTA	QUICK C COMPLETE FOT Injury or Occup 27 P C C C C C C C C C C C C C C C C C C C	ARE-RANG D AND MAI Name Name No Salionel Disease ANP C. Constant No Salionel Disease ANP C. Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Salionel Disease Salionel Disease Constant No Salionel Disease Constant No Salionel Disease Salionel Disease Constant No Salionel Disease Salionel Disease Salionel Disease Constant No Salionel Disease Salionel Disease S	FIO En ISO AWIN of Facility In the end/o I have I have	nployee's S HIN SAWO JNIVERSJ INIVERSJ In evidence i y phother cor 0 C Yes (you advised o I no, is the dillod duty, ap 0 C Yes (0 C Ye	Ignature RKING DAY TY MEDIC Institute Injuration Institute Injuration Institute Injuration Institute Injuration Institute Information Inform	SOFTR AL CEN mployee wa o at the time niain main off worth for capable to cons/resulcitor Mo (Exp D) or casa (SEE ONL	ATIMEN IER O(punder the of the ecol CCI at: C full at: C full at: N of hain if yeal clipton the cons: N of hain if yeal	TO32 Influence of i influence of i i	
Could Ru		PANCHOC RANCHOC 9-29-06 17:40 ent: R(CE NSA Findings: N formation given 1 this injury or con tonal modical know of any p 9-29-06 N. RANC Stat	UICK CA Disgno Sy Sy ADS V1g. V1g. V1g. Care by 8 phy previous injur Print ADS Care by 8 phy Care by	Place PRT MUST BE RE all and Ocserbition Drawy / State MARY BENTA	QUICK C COMPLETE COMP	ARE-RANC D AND MAI Name Name No Salional Disease ANP C. Salional Disease ANP C. Saliona	FIO En ISO AWIN of Facility In the end/o I have I have	nployee's S HIN SAWO JNIVERSJ INIVERSJ In evidence i y phother cor 0 C Yes (you advised o I no, is the dillod duty, ap 0 C Yes (0 C Ye	Ignature RKING DAY TY MEDIC Institute Injuration Institute Injuration Institute Injuration Institute Injuration Institute Information Inform	SOFTR AL CEN mployee wa o at the time niain main off worth for capable to cons/resulcitor Mo (Exp D) or casa (SEE ONL	ATIMEN IER O(punder the of the ecol CCI at: C full at: C full at: N of hain if yeal clipton the cons: N of hain if yeal	TO32 Influence of i influence of i i	

10/03/2005 06:03	7022297292	LVMPD TRAINING	PAGE 02/05	i
LAŞ VEGAS METROPOLITA		· ·	1. Event #:	
OCCUPATIONAL IN PART ONE ESTATEMENT O	NJURY/ILLNESS/EX	POSURE REPORT	0 Ce 10 0 3 -	07:
WHOES	3. P#1		ATE OF BIRTH: 0. SOCIAL BECURITY NUMBER:	
HOME MAILING ADDRESS (#, Simo	1. @ktg/Api. W. Cay, Sisiś & Zpj:	M 07-18-06	· IO, HOME PHONE NUMBER	
11. BUREAU OF ASSIGNMENT:	12. CLASSIFICATION:	13. MARITAL STATUS; 14.	REGULAR WORK HOURS 15. RDO'S	
		Married Single		
WHEN Date: 07-27-		REPORTED TO SUPERVISOR: Dalo: 07-29-06 Time: 0745	TO LEFT SMIFT: Date: N/A Tume: N/A	
WHERE 9880 W.C	CURRENCE: (Give Sufficient Detail):	DT FILLD BEHIND	20. WAS FIRST AND PROVIDED?	 0
21. ACTION:	129 ACA	DEMY 22 BODY PART INJURED	If yes, by whom?	
	المعربي من يون الماري المحمد الماري المحمد الماري المحمد الماري المحمد الماري المحمد الماري المحمد الماري الم	NO ACTION TAKEN RIGHT KN	182	
23. NATURE OF INJURVIEXPOBURE S	USTAINED: 24. LOST T	il yes, isst day worked arier ryu	ry: If yes, disability allo from physician attached?	_
and the second sec		אום פא אולא ואין פאראינער אויד אין	Land Land Land Land Land Land Land Land	1
OURTNE T	HYSICAL TRAINI	ING I WAS DOING KNEE TO	STOMACH PRILES	-
28. DID THE ACCIDENT HAPPEN IN TH	e normal course of work? (opplicable)	, [· 27. HAS EMPLOYES RETURNED TO	work? 9, what date? <u>179-29-06</u>	
	EXPOSURE TO BODY PART MENTION	ED? (Explain)	۲۰۰۰ - ۲۰۰۰	•
20. HOW MIGHT THIS INJURYALLNESS	EXPOSURE HAVE BEEN PREVENTED		RECEIVED	B ear
NA TENDERING SPECIFY WHAT FO	INPMENT ORJECTS OR SUBSTANCES	WERE INVOLVED (INCLUDE PERSONAL PROTECTM	FOURPMENT WEDDOCT A 9 2000	<u> </u>
WHAT NONE	a an		E EQUIPMENT USEDOCT 03 2006	·
VAS ANYONE ELSE INVOLVED?		. list natines il atters involved:	CCMSI-METROL	-
T.A.C. OFFICER H	LAND /RECE	UTTIBOIKO /		-
			h & Bately 01,732-3848 and cell Health 8 safety at 228-289 Date:	5.
Entropy Control of the Second Demonstration of the Second State of the Second Second Second PART TWO • REPORT OF INV			07/29/04	
MAN DID INJURYAL	LNESS/EXPOSURE OCCUR?	4		
ALC SE WHAT UNSAFE CONDITION OR AC	CAUSED OR CONTRIBUTED TO INJUR	TACIALIS :	RECENTED;	
ALONE 36. CORRECTIVE ACTION TAKEN OR F	ECOMMENDED TO PREVENT RECURR	ENCE:		<u></u>
MONE	• • • • • • • • • • • • • • • • • • •		OCT () S	
ST. IS THERE ANY REASON TO DOUBT	Period	Yes WNo II yes, what reason?	In the second se	1000 h
38. IF TRAFFIC ACCIDENT, WAS THE OT YES, ATTACH COPY OF THE TRAFFIC		No San Experience of Generated	AD FACACOPY OF INKED DU TO MENT HE CAPETY INNED AT COMPANY OF A SERIES	
SUPERVISOR'S NAME (Please print): SHELLIE	LIL SUPERVISOR'S	BIGNATURIE:	10.3-01	
PART THREE · BUREAU COM		REVIEWICOMMENTS		
BUREAU COMMANDER'S SIGNATURE	in a	TE DEPUTY CHIEF'S SIGNATURE	. DATE	-
Tor assistance	Min Worker's Componently Sau roll Fiele and SISI Date: Web's in	e you may contact the Office of the Orvernor I moving of the Wedny us in E-mail: charge of	Aconsolution Haddin Angles and States and State	
syme should sign, date and re ∴ RIPTION OR RIGHTS AND B	itain a copy. Original to Employer, ENEFITS, SECTION ENTITLED. CL	Copy to Employee. TO FILE CLAIM FOR COMI AIM FOR COMPENSATION (FORM C-6)	PENSATION, PLEASE SEE NEXT PAGE, BRIEF	
LVMPD 26 (Rav. 12/05) . AUTOMATEDM		· · · · · · · · · · · · · · · · · · ·	OCT OB ZOOR	
	· · ·		~~~~	
			98: 1 <i>44</i>	DIR3
			DO 40010	and strategy what for a submodely a financial strategy of the
	a se a companya a comp Na companya a		ROA0010 -	

LAS VEGAS METROPOLITAN POLICE DEPARTMENT OFFICER'S REPORT

EVENT #: 061003-075.

ROA0011

00011

ON-DUTY INJURY

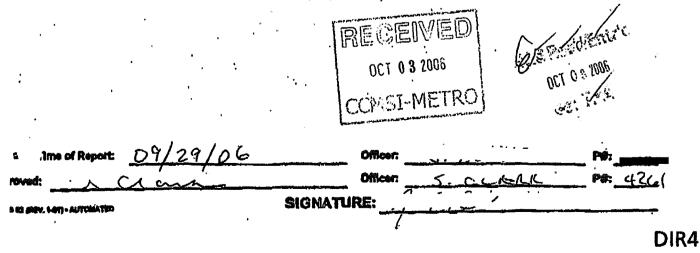
ISION REPORTING: <u>HUMAN RESOURCES</u> DIVISION OF OCCURRENCE: <u>HUMAN RESOURCES</u> THE AND TIME OCCURRED: <u>09-29-06 @ 0745</u> LOCATION OF OCCURRENCE: <u>9880 W. CHEYENN</u>: WITNESS : T/O BLAND & RECRUIT BOIKO

ON 09-29-06, I WAS INJUE & DURING ACADEMY PHYSICAL TRAINING,

NHILE DOING KNEE TO STOMACH DRILLS I BENT MY RIGHT KNEE DOWN TO RECENT BOIKO'S STOMACH AS DID MY KNEE POPPED AND I FELT PAIN. THIS WAS ALSO WITNESSED BY T.A.C. OFFICER BLAND.

I ICED MY KNEE THROUGHOUT THE DAY AND WENT TO UMC QUICE CARE FOR FOLLOW -UP.

IFILLED OUT AN OCCUPATIONAL INJURY REPORT AND GAVE IT TO T.A.C OFFICER CLARK.



ATTN. PHYSICIAN: The Las Vegas Metropolitan Police Department of during their medical recovery. Numerous tasks have been identified accommodate most injuries. Based on the detailed work restriction offered to the employee. If you have questions or concerns, please 732-3848. Thank you for your cooperation.	I (Temporary Work Assignm provided below, a descripti	ents) which are avai on of the Temporary	lable and are designed to Work Assignments will be
700 2040 Thenk up for your appromises		IA Selvicea 2000000 9	at 229-3696. Fax Number:
732-3846. Thank you for your cooperation.			
	COMPLETED BY PHYSIC	CIAN	
	lity Type 📋 Occupational	Work Status-	FullDuty_ [] Modifled Duty
	A 🗌 Non-Occupation	not R	Noghe to tervin 19 work
Physician's Objective Findings (Do not complete If for FMLA)	AD ROW		
MENISCAL TE	HE CEL	NEE	007 0 3 2005
Treatment/Prognosis (Do not complete If for FMLA) SURG. SCLLA	uled 10,	14/0600	MSI-METRO
Permanent & Stationary?			
Yes No		1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1. 1	
Time off work: 10-14106 Through 10 19	106	Condition	101130121111200-00101012020777777777777
Return to Full Duty:	,	Condition	というないというとうというためのないないないです。
	ndilled duly:		
* May return to modified duty with following rostrictions:			·····································
10 No lifting over 10 120 50 pounds 10 No combal/altere	allon activities		
	alical motor vehicle in the line o	of duty in Link Company	
DAd Tepetilive motion to injured part D No reaching/white body part: D No climbing states	-		intenticialutive required.
DND climbing ladders D Mugt wear splink			
	and dispatch life threatening	emorgency calls	
Keep injury clean Other:			
Unable to carry or use weapon	/		
redication prescribed; (List)	lu		
medication is proscribed could the modication impair the employees ability	16:	 	
Operate a motor vehicle safety in normal and emergency situations: Ye		Ω	COLUMN L
Carry and use assigned weapon: Yes No		(1)	Chan the second s
. Maintain mental capacity which allows the capability of making sound d	cisions; Yes No	\mathcal{N}	1 2 1006
equired Training: Can employee perform the following job function?		Ŋ.	(032
Drivers Training:		/.	0: 13:31
		/``	
Defensivo Tacilos/LVNR; 🔲 Yes 🖾 No Remarks:	······································	+·~~e	
Aange Qualification: 🗌 Yes • as long as employee follo	vs restrictions listed above.		
D No Remarks:		<u> </u>	
THE AVER	ATION P.T./Q.T		
DTE FOR PT APPOINTMENTS: Therapists may complete and sign only (te portions below.		
	Improving D Maintaining	Regressing	
Ime In Time Out Next Appointme			
.clan or Clinician Signature	12 ý 670.6	Date	0-3-06
hysician or Clinician Print Nember		Phone 25	5 45 77
		State	Zip
Address City			
ddress City		, j	DIR!

LAS VEGAS METROPOLITAN POLICE DEPARTMENT MEDICAL EVALUATION FORM

Social Security

10/03/2005 10:47

ployce's Name

7022297292

LVMPD TRAINING

Job Classification

PAGE 02/02

Date of Injury

PH

10/03/2005 05:03	7022297292	LVMP	DTRAINING		PAGE 03/05
		AS METROFOLITAN PO		t	
Employee's Name		Sacial Count	Job Classification	CRUIT P#	Date of Injury 09/27/06
ATTN. PHYSICIAN: The Les Vi during their medical recovery, accommodate most injuries. E offered to the employee. If you 732-3848. Thank you for your	Numerous tasks have based on the detailed v I have questions or co cooperation.	been idehilited (Tempora work restrictions provided ncerna, please contact the ORTION TO THE COMPLE	olured Return-To-V ry Work Assignmen below, a description beloth and safety s RED BY PHYSICIA	Vork Program for Injured (s) which are available of the Temporary Work Services Section at 229	Vdisabled employees and are designed to Assignments will be -3696. Fax Number:
Today's Date First Roport] Interim Report 🗋 Final	11190011	Occupational Non-Occupational	Work Status 🗍 Full D	Jly D Modified Duty to return to work
Physician's Objective Findings			by to bear	a a a a a a a a a a a a a a a a a a a	ho pan @ per
Treatment/Prognos)s (Do not co Stram / Spitam	omplete If for FMLA)	<u> </u>	<i>U</i>		
Pormanent & Stationary?		•	······		
Rolute to Full Duty:	ny with following real 150 pounds IN pan IN M M M M M M M M M M M M M	ated length of Inodilied duty:	s vahicla in the line of du houlder h life threatening ema	rgency calls	neo anneo White Weitzing Issilanes vegales ED
modication is prescribed could the -Operate a motor vahicle safety i	in normal and emergeno		, v glaan an ooren een een een seelen se		or and the second s
. Carry and uso assigned weapo Maintain montal capacity which		mekina sound dacisions: Ye:	No	CCMSI-ME	1 KC
equired Training: Can employee p		•	·	US ST	Sold Contraction
Drivers Training:	Vos 🛛 No Re	emerke;			3 2006
Defensive Tactice/I_VNR:	🗌 Yes 🛄 No Fil	emarks:			
Range Qualification:	Yes - as long as D-No Remarks:	s amployee folibws restriction	na liated abova.	S\$:	16A
		REHABILITATION P.T.	/0.1		
DTE FOR PT APPOINTMENTS:		and sign only the portions i	delow.		anna an tha ann an tha an t
D Description Provided: 🔲 Yes Ime In Time		Employee is: Dimproving Yoxt Appointment Date	Time	4991828:00	
the trian or Clinician Signature	harylos	a de la calega de la La calega de la caleg	ang tangga dia ang ang ang ang ang ang ang ang ang an	Date 9-2	99-02
hysician or Cilnician Print Name		MSN, FNP, APRN, ÉC	UMCI	Phone RANCHO QUICK C	ARE
ddress		City	493	VEGAS, NV 89	
			TEL. 3	3-3800 / FAX 64	

		RTMENT OF RADIOLOGY LESTON BLVD. LAS VEGAS, NV. 89102 (702) 383-2241
Name: Sex: M Location: PCR	Age: Medical - Medical Record Number:	Date of Birth:
	ian: RANDOLPH SHIRAISHI M.D 00002). Order Date: 09/29/2006
		Final Report
	te: Sep 29 2006 6:12PM QRN 0044 - RN KNEE 4 VIEW	VS OR MORE (RIGHT) 4249339
CLINICAL HEST	RY: Pan	
FECH (1)		
COMPLEX IS	TUDIES: \	
FINDINGE. F and joint syntes i	our views of the knee show no frac re well preserved. Minoralization is	ture, dislocation or other bone or joint injury. The articular surfaces s normal. No soft tissue abnormalities are evident.
MPRESSION		
10		
		MARY BETITA MSN, FNP, APRN, BC
		To and some base of an internal source of the source of
		RECEIVED
		NOV 2 9 2006
		CCMSI-METRO

2006 6:15P Final F. ; ; . tat: Sep 20 2008 6:15P

Patient:

DOB:

Account Number, 008506407613 Prder NumLyr: 90002 RN KNEE 4 VIEWS OR MORE (RIGHT)

Medical Record Number: 001-808-671 Exam Charge Date: Sep 29 2006 6:12PM

The information contained in this document is priveledged and confidential. If you are not the intended recipient, reproduction, dissemination, or distribution of this document is prohibited. If you have received this document by fax in error, please notify the UMC Radiology Department at (702) 343-2, 41.

Page 1

ROA0014

DIR7

00014

ه دمې د



GERALD L. HIGGINS, M.D., FAAOS Diplomate, American Board of Orthopaedic Surgery

General Ortbopaedics Atbletic Injuries Atbroscopic Surgery Joint Replacement Sports Medicine

October 3, 2006

RE: DOI: 09-29-06 EMP: LVMPD Academy

To Whom It May Concern:

s a series of the states of th

Examination of the right knee reveals absence of the last 7^{*} of extension. Passively this can lock in but there is pain in the medial joint line. There is medial joint line pain and a positive McMurray. Collaterals and cruciates appear to be intact clinically.

IMPRESSION: Buckethandle tear, medial semilunar cartilage

We will get permission for surgery. We will try to repair this if at all possible. This will knock him out of the academy for a while. Before he is running it will be certainly 90 days. If we do just partial meniscectomy we may be able to get him back. He is in the middle of the academy at this time. He is scheduled per approval for surgery on 10-04-06 at Southern Hills.

Thank you for allowing me to participate in the care and evaluation of

Sincerely,

Gerald L. Higgins, M.D. GH/eb



8551 West Lake Mead Boulevard #251 Las Vegas, Nevada 89128 (702) 255-4577 (Pueblo Medical)

DIR8

-ROA0015

DATE OF SURGERY: 10/04/2006

PREOPERATIVE DIAGNOSIS: Internal derangement of right knee with meniscal tear, possible bucket handle.

POSTOPERATIVE DIAGNOSIS: Anterior cruciate ligament deficient, right knee with stable posterior horn meniscal tear.

OPERATIVE PROCEDURE:

Arthroscopy, partial debridement of remaining fibers of anterior cruciate ligament, partial synovectomy and medial meniscorrhesis.

SURGEON: Gerald L Higgins, MD

ASSISTANT: Jay Byrd, RN

ANESTHESIOLOGIST: Dr. Young.

OPERATIVE PROCEDURE:

After adequate general anesthesia, the right leg was examined showing an interesting grade 1+ Lachman. I could not pivot shift. Collaterals intact. The knee was prepped and draped. Ancef 1 gram was given by IV push, prior to exsanguination of the leg with an Esmarch bandage, elevation of tourniquet to 350 mmHg. Medial and lateral portals were made adjacent to the patellar tendon joint line. Through a lateral port, a Stryker 30-degree diagnostic arthroscope was introduced. Examination of the suprapatellar pouch revealed thickening of the synovium. A suprapatellar synovectomy was carried out with a synovial shaver, neuro-patellofemoral tracking. Lateral gutter was pristine, lateral femoral guide and tibial plateau smooth, lateral cartilage probed and found to be intact. The intercondylar notch showed an interesting thickening of the ligament _____, which was dbrided, and then an absolute void of an anterior cruciate ligament. Posterior cruciate ligament was certainly intact. There were some mild fibers there but certainly nothing of a more recent in nature. The medial joint was examined. Femoral cut and tibial plateau was smoothed grossly. A probe passed under the medial horn of the cartilage showing a stable tear along the junction of the meniscal femoral junction of the posterior horn of the medial meniscus. Using a rasp, this was rasped to cause some bleeding but the cartilage left alone. The wound was irrigated with copious amounts of saline solution. The arthroscopic instrumentation was removed and 20 milliliters of 0.5% Marcaine with 2 milligrams of Duramorph were injected intrasynovially. The port

SOUTHERN HILLS HOSPITAL AND MEDICAL CENTER 9300 WEST SUNSET LAS VEGAS, NV 89148

H000054144 / H89670819897 HIGGINS,GERALD L ADMITTED: 10/04/06 ROOM:

OPERATIVE REPORT

Nevada Market - PCI *LIVE* (PCI: OE Database COCSNV)

DRAFT COPY

Run: 11/08/06-10:20 by KOERSCHNER, TERESA L

Page 1 of 2 DIR9

Patier _			
Account #_	40809	-/	
Body Part_	Right	Knee	_

Gerald L. Higgins, M.D. Orthopedic Surgery 8551 W. Lake Mead Blvd. Ste. 251 Las Vegas, NV 89128 (702) 255-4577

OCT - 3 2006 - Setler

0/10/06

comes in. He is post-op A&A of the knee.

We will get him on some outpatient physical therapy. Basically he has an ACL lax knee. No running or physical activity. We will try to get him an ACL derotational brace. We will call **there** to set this up. He will buy this on his own if it is not approved. We will check him in 2 weeks. I would like to get him through the academy if at all possible.

OCT 2 4 2006

is getting some muscle back. With the brace that he has received, he may increase activities with running. He can try contact activities but I'm not sure how he will get through them. We will consider ACL repair after the academy.

NOV 2 1 2006

; is doing well. He is back to full activities and is doing well.

His muscle strength has returned. Range of motion is excellent. Patellofemoral tracking is excellent. He is actually more stable than before.

We will see him back in 6 wee Fep 13,200 - 6 2006

s is in the field now and is doing very well. He has an ACL deficient knee. He is back in the field work and as long as he can do everything with protection we will let him go.

I will check him again in the office in a couple of months. He may do the field work as he feels comfortable.

ROA0017

DIR10

S VEGAS METROPOLITAN POLICE DEPAR.

.

٠

.•

Employee's Name		Social Require	Job Classification	P#	Date of Injury
uting their medical re- ccommodate most ini	covery. Numerous tasks uries. Based on the det a. If you have questions	have been identified (Ter alled work restrictions prov	a Structured Return-ToW nporary Work Assignment vided below, a description act the Health and safety S	s) which are availab of the Temporary We	le and are designed to ork Assignments will be
		/ Disphility D	MPLETED BY PHYSICIA /pe Occupational Non-Occupational	Work Status 🔲 Ful	Duty D Modified Duty
Physician's Objective F	Indings (Do not complet				able to return to work
۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰			۲۰۰۰ په دې کې	۲۵۵۵ پر ۲۹۵۵ پر ۲۹۵۵ پر ۲۹۵۵ پر ۲۹۹۵ پر	
freatment/Prognosis (E	To not complete if for FM	unless la	best funther	problem	2
			8	V	
Permanent & Stationary	13			Discharged	
Time off work:				Dicondition S	
Return to Full Duty:	10 23 106			i⊟iCondition.im	2、1.1.6777至3GA10327427661431
* Return to Modified D		Estimated length of modifie	d duly:	Condition W	CONTRACTOR OF A
	tified duty with followi		i		17 2
	0 [] 20 [] 50 pounds	No combat/altercation	activities motor vehicle in the line of d		
No pulling, pushing c No repetitive motion		No reaching/working a			osticistudies required.
body part:		No climbing stairs		NEW SALES	
No climbing ladders		Must wear splint/sling			
Eye patch must be v	nov	Unable to answer and	dispatch life threatening emi	argency calls	
🗌 Keep injury clean		Other:			۵۰٬۰۰۰ میں مربق میں معامل و ۵۰٬۰۰۰ میں معامل میں معامل میں معامل کر دور میں معامل میں معامل میں معامل کا معامل
Unable to carry or u	se weapon				2. (per-10.100) 3
edication prescribed: (Li	lsi)		······································	PETVE	
•	•	air the employees ability to:			
		nergency situations: Yes	No	- 1	
	od weapon: Yes No_		Mar Voe	AR - 6 2 3	
•	•				1
	nployee perform the follow			MSI-	
Drivers Training	: C Yes C	No Remarks:			· · · · · · · · · · · · · · · · · · ·
Delensive Taction		No Remarks:			
Pange Qualifica		long as employee follows r	estrictions listed above.		
	No Rei	and the second		Charge the two with	
		REHABILITATI	ortians belaw.	an a	
b Description Provided			proving Maintaining	Regressing	
ime in	Time Out	Next Appointment	Date Time		
hysician or Clinician Sig	inature	レ !	<u>محک سی می در بال اور اور اور اور اور اور اور اور اور اور</u>	Date	1
hysician or Clinician Bri	Genela He	Anice		<u>\$_//3</u>	2/67
	ERALD H	IGGINS		Phone	5-4577
ddress	- NAME IL	City		State	Zip
8551 W	- Sake mas	Q #251 das	Vague	NU	89128
NPD 74 (REV. 5-03)	DISTRIBUT	ION: WHITE . HEALTH & SAFET	Y SERVICES YELLOW . EMPLOY	EE PINK • PHYSICIAN	DIRI
	a successive designed for the two that you was the wave successive design of the subscription of the subsc			R	OA0018

_			COMPLETED	NHO	ALTY, THIS WET MAILED TO THI S OF RECEIPT (e insuri	ER WITHIN		Please Type or Prin	t	TMPLOYER	'S REPORT OCCUPAT		TRIAL INJURY OR EASE	
dinin	E		Employers Name Las Vegas Metro Polic	ж D	epartment				H Business (mlg., etc.) SiC Code				Insured Acct. Number		
	P L O Y E		1 1						it from mailing Ac yenne Ave.,)as		Telephone (702) 828-3426		
B arrié	R		City State Zip Las Vegas, Nevada 89132-0450				INSURER Las Ve	k Igas Metro F	olice De	partment		rty admin JR Risk M	strator anagement		
		,	First Name M.I. La	st Na	me			Social Se	cuáli.	Birth date		Age 31		Primary Language Spoken English	
	e H		Home Address (Number and S	veel)				Sex Male		Marital Si Marrier		nellano'n sebiaer		den men en de la constante de l Internet de la constante de la c	
	P L O		City State Las Vegas, NV 89135	Zip	ana ana amin'ny fifikana amin'ny fisiana amin'ny fisiana amin'ny fisiana amin'ny fisiana amin'ny fisiana amin'n	90091034-0001-0904009 ⁰		Was the e	employee paid to ble) 🔯 Y	•	Injury?		ng has this p ada? 07/18	erson been employed by you /2006	
	Ý E E		In which stale was employee hi Nevada	red?		Employee - PO ('s occupation (job			COM	Department in whic NW23	h regularly en	iployed:	an a	
								sole proprie	elor?	nhisq; ' 🔲	er7 Yes 🖾 No			ur employ when injured or onal disease (OD)? Yes DNo	
A	D	D	Dale of Injury (if applicable) Time of Injury (Hours; Minute AMAPM) (if Applicable) 01/06/2008 12:15						vale employer no) 1/06/2008	liĥed ol (nju		Supervisor lo STEVE S		x O/D reported	
C I D	•	S E A	Address or location of accident (Also provide city, county, state) (if applicable) 2833 Stirling Silver Las VEgas, NV 89128									Accide No	ni on emptoy	er's premises? (il applicable)	
E N T		S E	What was this employee doing t Foot pursuit	when	the accident occur	red (loadin	g buck, walking d	lown slairs, eld	c.)? (il applicable)					
•			How did this injury or occupation During a foot pursuit of								additional sheel if n	ecessary			
			Specify machine, tool, substanc (if applicable)	******	object most closely	connected	d with the acciden	lt	injured in this					han one person iden[? (if applicable)	
			Part of body injured or affected: KNEE, RIGHT		and the second secon		lf fatal, give date	of death	Witness	ىمەتى <u>ن بۇر بەر</u> اسانى	and the second secon			Yes 🖾 No	
1		D	Nature of Injury or Occupational STRAIN	Disea	ase (scratch, cut, b	ruise, svai	n, etc.)		Wilness						
N J U		S E	ang parta di sua da		99. august 1997. 2004 august 1998 august 199	the distance of the second			accident? (if a	pplicable)		NO nece	you have ligt 235ary? 🛛 🕅	it duty work available if Yes No	
R Y		A S E	II validity of claim is doubted, sta NONE	(PrZintana		11.			Location of Initial Treatment Doctor's Care					والمراجع وا	
			Treating Physician/chiropractor		in the state of the	and a state	<u> </u>					and the second se	Accenter No		
			IMPORTANT How many da does employed			in and the second s	From 6:30) am 🛛 👔	pm □ To 4:30 am □ pm ⊠ Last day wages wi 01/06/2008					0 2014 S	
1000 kom	*	4	Scheduled days off S□M□T□W⊠T⊠F⊠S□ Rotaling□					ng[]	Are you paying injured or disabled employee's wages dugendinately 1923 IV es					nations And	
	1	o s T	Date employee was hired 07/18/2006		Last day of wor 01/06/2008					e return to		0		n y de grege en grege fan de kenter fan de skrie de skrie fan de skrie fan de skrie fan de skrie fan de skrie f	
	0	, !	Was the employee hired to work 40 hours per week?		فالمتبارية ويرجع حافظت والمتحد والمراجع المائين	employ	or how many hou ee hired? dirate the arrole		12 mon	Uhs?	eceive unemploym Ves	DNo D	Do Not Ki	WW	
	T A	E I	is expected to be off work 5 date expenses. If the employee wa	IVS OF	more, attach wa	ae venhce	tion form (D-8).	Gross eamin	ios will include	overtime, t	onuses, and othe	r remuneratio	n, but will n	of Include reimbursement for	
finalization (N F D	Pay period S I T I T ends on: M I W I F 23		\$	Employ is paid:			HLY C OT	HER	On the date of i \$ 32.06 per			byee's wage was:] Wk 🔲 Mo.	
_	★		I affurn that the information provided a my knowledge. I further affirm the way employee in quastion. I also understa	te info	imation provided is th	ue and cons	ct as taken from the	Davroll records of	he best of Em	ployer's Sig	nature and Tille 1 M.C.	4110	LF57	Date 0/.09.08	
	2000		Claim is: Accepted Do	nied	Deferred	[] 3rt Parl		aemed Wage:	and the second sector	atten ten ten ten de	Account No	<u>.</u>		Class Code	
	0 7 7		Claima Examiners' Signature Barbara Zink				Date January	9, 2008	Siatus Cle Morenc	rk , Gabrie	la la		an a	Date January 9, 2008	
Fo	rm Ç	3 (re	v. 11/05) OF	NGI	NAL - EMPL	OYER		PAGE 2	- INSURER	/ТРА		P	AGE 3 - E	EMPLOYEE	

DIR12

-ROA0019 00019

A LONG THE STREET		0)/2000 H45H7AM	ASE TYPE OF	A Rearry and a second se	REQUESTE		41-785 6930
First Nanie	M.L	Last Name	Birthdate	s hav y	Sex MMCIF	Claim Number (Insuror	i use only)
Home Stations		••••••••••••••••••••••••••••••••••••••	Age	Height, H	Veight	Ravial Basendar Hamba	
			51	<u>L le le</u>	255	L.	
			NU.			- Link for the second	Lungarian de constantino de constanti
Physical Address 2407 CONTLNE	ATE HALL		City	~	State	24 89155	
leisphone			Contract of the second second second second	injury or Occupational (Hisease Occurred	Primary Longuage Spo	(\$N
70 C		POL	annan a fairth an an ann an		ana an ta	ENG Telephone	}
LIMPD	L. M. m. d	and a second	a		NEED - AND ALL THE CONTRACTOR	828-3111)
Mice Mail Address (Number a	-		Cky			Zip 89101	i
HOD STYLIA	Hour of Injury (Il applicable)	Date Employer Notifi		by of Work Aller Living	T TAKEN THE PARTY OF THE PARTY	Witern Injury Reported	han inici
1 06 08	AM 12 (M)	Wo Day	Or 000	upational Discoso		STUBBS	3
ddress of Location of Acciden	l (il Applicable)	101 106	08 101	106 108	1 2011	OINNDY	
2833 STERL	Crich STLUK SL	LJ, NJ 891	08				
FOOT PURSUT	T OF A FRONY				and the second	Statistic Contraction of the Statistic Contraction	
ow did this injury or occupation	nal disease occur?(Re specific a ; DUCSUIT I STEP	nd answer in detail. Uso	oddibonul sheetil n	ecessery.)	T it dec .		
VHILL 200 4 4001		LED TIS IN HALL	C MININ 1000				3
You believe that you have an o	coupational disease, when did)	/ou first have knowledge	of the disability and	its relationship to your	Witnesses to l	he Accident (I applicative)	
uployment?	•	· • •	• • • •	•		••••	
NO						NONE	, }
ahire of Injury or Occupational	Oisesse	Pert	») of Body Injured at			NUNC	, ,
<u>^</u>	1/A.		RT KNS		L		and the second
reates that the above is table i Seases acts (firs usua to used, i ON OR GOVPRIMENTAL MOMPITAL	IND CORRECT TO THE REAT OF MY AN MILVOWE OR LHAPTEN DIT OF ANSI ANY MEGICAL REPLYCE ORCANIZATIO ENT TO THIS INJURY OR ORZEASE FRO C SPECIFIC AUTHORIZATION A MHUT	IOMLEOGE AND THAT I HAVE I RERART AUTHORIZE ANY P H. ANY INSULANCE CUMPAN	. Provided Internotoco Hybican, chirofylict IV, or olara invitudio	iation in order to obtain or, surgeon, practition in de chronization to ru	I THE BENZAITA OF N IN UH OTHER PERSI LEASE TO EACH OTH	ievada & industrial insurad DN ANY HOSPITAL INSURAD IER, ANY NEDISAL OR OTHER (nerang ann Maturia Véterang ann Maturi Nernation (Acluding
NLHIY PAD OX PAYABLE, PERTIN ISSTANCES, FOR WISCHINDST GIV	ent to this injury or disease fix: IC specific Authorization (A Mau)	EPT INFORMATION RELATIVE USIAT OF JHES AUTHORIZAT	F TO OVACUOCIS, TREAT	AS THE CRICOLAS	FUR AND PRYCHOLI	DIGICAL COXDITIONS, ALCOHO	or control (Fr
* <u>]0 -06-05</u>	to data a second s	UMC PECCOL	and the second	a communication of a firm and a			-
	REPORTMUST BE		NORMAILED NAME OF FEEDLY	and the second	A REAL PROPERTY AND A REAL	A REAL PROPERTY OF A REAL PROPER	A DECEMBER OF THE
	with the state of	and the second	Anni (Crowy			and the second	í
sto 7 8 2	is and Description of highly or Occup F KALL SV			other controllari subsi	ance at the timo of i		i 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1
"G30Ar	J. J.				s (Ilyas, Massae	- draw	<u>.</u>
sidements 11	101	and a second	an a	Hime you advised the	privent to remain	If what five days or more?	
Vola_/	uem	•		Ca Yos Indicatod	ries: from		<u>.</u>
Lay Findings			in a summittee of the second state of the second	ET Ho Hoo, is the	injunce engenoog e	atolovit O Mildury D	modified duty
<u>NY</u>	an a			I modified duby, space	ty one limitations	With MA Root	e/Entr'd
	eë, logelher with modical evidence, occupstional disease as job incurred	1 .5 5*1	Yes 🗆 No	· · · · · · · · · · · · · · · · · · ·	3EUN	B MAN	4 2000
Stephen in the constant in the second	an indicoted?	Pa.	es UNO		JAIN	AHRISHING IT	i dia
and the second	disease contributing in this countries	w eccupational discusse?	D YOJ O NO (CI	plain (i yes)	THE PARTY	Short Care	<u>A.h.r.s</u>
A Z J T PRATOS	Finds Manager Por Weiner	MADA					•
7-7 (28 1 "Mat Do	clore Name DR. J. L	.eaky		t the employer's cop as mailed to the emp		110/08	ł
9320 WEST	SAHARA					RSURE AS USE ONLY	
LAS VEGAS	marking aller Pr	oviders Tar I.D. Numbe	r I Te	lepimne			
Clars Spontane	EVADA 89117 Pr	eviders Tax 10 Numbe 88-6000436	<u> i</u>	102) 383-38	50		•
	1 AS			Degroe	[

ROA0020 00020

LAS VEGAS METROPOLITAN						1. Eve			
OCCUPATIONAL IN.	and in such that the second	The second s	RE REF	PORT			080106-147	71	
PART ONE + STATEMENT OF I	Indured Employ	3. Pe: 4. AGE:	S. SEX:	6. DATE OF HIRE 07-18-06	7. DATE O	F BIRTH: 8. SOCI	L SECURITINATE	850-	
8 HOME MAILING ADDRESS (#, Street, B	IldgiAci. #, City, State & Zy		سير من مرسل				ito. Home phone	NUMBEA:	
11. BUREAU OF ASSIGNMENT:	12. CLASSIFICATION	and the second	V, NV 89	······································	14. REGU	AR WORK HOURS	15. RDO's		
NW23	1	101	× Marrie		1	30-1630	WTF	:	
WHEN Oata: 01-06-0		17, REPORTED	TO SUPERVIS	ion: Time: 122(LEFT SHIFT: 1010: 01-06-0)A Time:	1630	
19 LOCATION OF OCCU						WAS FIRST AID PRO			3 .
WHERE 2833 Stirling Silv	ver LV, NV 8912	8				Yes Hy	es, by whom?	X No	
21. ACTION: DOCTOR'S CARE ER. CAR				22. BODY PART INJU	RED/EXPOS				
ZJ DOCTOR'S CARE LIER. CAR 23. NATURE OF INJURY/EXPOSURE SUS		AUZED NO ACTIC				Right Knee			
Right Knee Pi		Yes X No		, last day worked after	r injury:	I yes, disability si	ip from physician at as No	NACH807	
25. HOW DID THE INAUR		CCUR?	مىرىن بىلىنىڭ بىلىك ئىلىرىن ئىلىكى بىلىكى بىلىكى تىكى بىلىكى	ist became aware of the	0000000	between the condition	and employment.)	************	
Duri	ing a loot pursuit	t of a felony sus	spect I ste	pped in to a ho	le and i	wisted my rig			
26 DID THE ACCIDENT HAPPEN IN THE N	NORMAL COURSE OF WO	DAK?	27. HAS	EMPLOYEE RETURNED	o to work				
28. HAVE YOU HAD PREVIOUS INJURY/ED		T MENTIONED7 (Explain		<u>'</u> ليا '					
	Yes, Me	iniscus tear in C	•	Surgery in Oct	2006.				
29. HOW MIGHT THIS INJURY/ILLNESS/EX		REVENTED? ok at the ground	d for hole	e when running	. <u></u>				
WHATEOUP						PRENT USED):	neC.	EIVE	D
	<u> </u>	Unifor	med Polic	ce Equipment			HEV	0 9 2008	•
II. WAS ANYONE ELSE INVOLVED?	Yes X No	ll yes, list names c	of others involve	ed:	_		<u>10N</u>	092000)
						<u>سور شرقاناتانی را جلیمور – توفی^{ور برا}ندین</u>			m
WITNESSES TO INJURYALLINESSÆXP	OSURE:			1		₩₩₩ [₩] \$₩₩ <u>\$</u> ₩₩ <u>₩</u> ₩₩₩₩	14151	HAN HUSHMO	(D)
None	this form closs not need t	o be signed by your chain	n ar supervisor	r. Please fax directly to H Signature:	lealin & Safe	ny at 828-3509 and c	L88	Vegns-man	io
None	this form closs not need t	o be signed by your chain o new your chain o new your source of the sour	n or supentsor	r. Please fax directly to H Signature:	lealin & Safi	ny at 828-1509 and c	LAB ali Hualin & Selety a Date:	V8005-With	(0) (0)
None None	the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not read to the form does not	PERVISOR	n or supentsor (Employee's S	. Please fax directly to H Signature:	leolun & Szfe	ny at 828-1309 and c	LPB all Health & Salety a	V8005-With	(O
None 3. # His is due to abnormal physical result. Physical a physical design of the second	We form does not need to be used to be the second to be a second t	PERVISOR	Employee's	Signature:			LAB ali Hualin & Selety a Date:	V8005-With	(D)
None None	UNS form does not need to be under the theory of the second second STIGATION BY SUI ESS/EXPOSURE OCCUR Th AUSEO OR CONTRIBUTE	ALENALESANDE UMARTINA STRUM PERVISOR P IN Officer Was In To To INJURYALLINESSA	Employee's S	Signature:	y suspe		LAB ali Hualin & Selety a Date:	V8005-With	
None 3. If this is due to abnormal physical result. This is due to abn	UNS form does not need to be under a first that the provide a first that the string and the the string at the the string at the tess exposure occurs The AUSEO OR CONTRIBUTE Running	PERVISOR PER	Employee's S	Signature:	y suspe		LAB ali Hualin & Selety a Date:	V8005-With	
None 3. If this is due to abnormal physical result. The second	We form does not need to be used it that they have be a first of the they have be a first of the they have be a first of the they have the they have be seen a first of the Auseo on contraining oursended to preven	PERVISOR PERVISOR P Te officer was in to to INJURYALLNESSA over unfamiliar IT RECURRENCE: Be more carefu	a foot pu exposurer terrain a ul of when	Signature: ursuit of a felon fter a felony su:	y suspe		LAB ali Hualin & Selety a Date:	V8005-With	
None 3. If this is due to abnormal physical result. This is due to abnormal physical result. This is due to abnormal physical result. This is a second to a second the due to the due tothe due to the	UNS form does not need to be under a first that the second second second STIGATION BY SUI ESSEXPOSURE OCCUR Th AUSEO OR CONTRIBUTE Running OLMENDED TO PREVEN E VALIDITY OF THE CLAU	PERVISOR PER	a foot pure received to the foot of the fo	Signature: ursuit of a felony fler a felony su: re you step	y suspe spect	ct	<u>L RB</u> all Health & Salety a Date: 01-00-4	VGQUS-MIGH 1020-3698 0%	
None 3. If this is due to abnormal physical result. The second	INS form does not need to be used in the theory of the control of the theory of the control of the essex posure occurs The AUSED OR CONTRIBUTE Running OMMENDED TO PREVEN E VALIDITY OF THE CLAI A PARTY CITEOR IF	PERVISOR PER	a foot pure received to the foot of the fo	Signature: ursuit of a felony fler a felony su re you step	y suspe spect		<u>L RB</u> all Health & Salety a Date: 01-00-4	VGQUS-MIGH 1020-3698 0%	
None 3. Kihis is due to abnormal physical result. This is due to abnormal physical result. AND INVO & REPORT OF INVES AND INVO & REPORT OF INVES 34. WHY DID INJURYALINI S. WHAT UNSAFE CONDITION OR ACT C/ 5. CORRECTIVE ACTION TAKEN OR RECO 7. IS THERE ANY REASON TO DOUBT THIS B. IF TRAFFIC ACCIDENT, WAS THE OTHE S. ATTACH COPY OF THE TRAFFIC ACC UPERVISOR'S NAME (Please prioril):	Nes form does not need to be used in the theory of the control of the theory of the control of the control of the control of the control of the Running OLMENDED TO PREVEN E VALIDITY OF THE CLAI A PARTY CITEOR IF	PERVISOR PER	a foot pu exposure terrain a ul of when No the terrain a	Signature: Ursuit of a felony fler a felony su re you step lyes, what reason? The proposition of the point rate operations the proposition of the point of the proposition of the point of the point of the point of the point of the point of the point of the point o	y suspe spect		L RB all Health & Saley a Date: 01-00-4 01-00-4 Tree Forn form Fills Attroves	VGQUS-MIGH 1020-3698 0%	
None 3. If this is due to abnormal physical result. This is due to abnormal physical result. AND THE Physical Condition of the theory of S. WHAT UNSAFE CONDITION OR ACT C. 5. CORRECTIVE ACTION TAKEN OR RECO 7. IS THERE ANY REASON TO DOUBT THIS IS THERE ANY REASON TO DOUBT THIS IS TRAFFIC ACCIDENT, WAS THE OTHER S. ATTACH COPY OF THE TRAFFIC ACC UPERVISOR'S NAME (Please prini): Sgt. Sleve Stubb	I Was form does not need to be used in the theory to be a first the theory to be a first to the theory to be a first to the theory to be a first to the theory to a first to the theory to a first to the theory to a first to the theory to be valuation of the claim a party cireon if the theory to the claim a party cireon if the theory to be set to the theory to be the theory to the the theory to the theory	PERVISOR PER	a foot pu terrain al ul of when No 11 so 25555 E: Hut	Signature: ursuit of a felony fler a felony sub re you step lyes, what reason? Her day of the next that upprofile that	y suspe spect	.ct	L RB all Health & Saley a Date: 01-00-4 01-00-4 Tree Forn form Fills Attroves	VGQUS-MIGH 1020-3698 0%	
None 3. If this is due to abnormal physical result. This is due to abnormal physical result. AND THE Physical Condition of the theory of S. WHAT UNSAFE CONDITION OR ACT C. 5. CORRECTIVE ACTION TAKEN OR RECO 7. IS THERE ANY REASON TO DOUBT THIS IS THERE ANY REASON TO DOUBT THIS IS TRAFFIC ACCIDENT, WAS THE OTHER S. ATTACH COPY OF THE TRAFFIC ACC UPERVISOR'S NAME (Please prini): Sgt. Sleve Stubb	I Was form does not need to be used in the theory to be a first the theory to be a first to the theory to be a first to the theory to be a first to the theory to a first to the theory to a first to the theory to a first to the theory to be valuation of the claim a party cireon if the theory to the claim a party cireon if the theory to be set to the theory to be the theory to the the theory to the theory	PERVISOR PER	a foot pu terrain al ul of when No 11 so 25555 E: Hut	Signature: ursuit of a felony fler a felony sub re you step lyes, what reason? Her day of the next that upprofile that	y suspe spect		L RB all Health & Saley a Date: 01-00-4 01-00-4 Tree Forn form Fills Attroves	VGQUS-MIGH 1020-3698 0%	
None 3. A His is due to abnormal physical result. The second se	I Was form does not need to be used in the theory to be a first the theory to be a first to be the second of the theory to be the theory of the theory to a first to be a contraining of mendeed to preven the valuation of the claim a party citreon if the theory of the claim a party citreon if the claim a party	PERVISOR PER	E E C C C C C C C C C C C C C	Signature: ursuit of a felony fler a felony sub re you step lyes, what reason? Her day of the next that upprofile that	y suspe spect		L RB all Health & Saley a Date: 01-00-4 01-00-4 Tree Forn form Fills Attroves	VGQUS-MIGH 1 828-3698 0 %	
None 3. A His is due to abnormal physical result. The second se	Ne form does not not doed the subscription of	PERVISOR PERVISOR Cover unfamiliar In RECURRENCE: Be more careful Mar Yes X No Pervisor's signature Pervisor's signature HILLE'S RECVIEWOO	E E E E E E E E E E E E E E	Signature: ursuit of a felony fler a felony sub re you step iyes, what reason? inter for the source of the so	y suspe spect	oct	LRB all Health & Balety a Date: 01-cco-4 01-cco-4 1-cco-4 1-cco-4 01-	VGQUS-MIGH 1 828-3698 0 %	
None 13. X INS Is due to abnormal physical result. The second s	I Was form does not need to be used in the theory to be a first the theory to be a first to be the second of the theory to be the theory of the theory to a first to be a contraining of mendeed to preven the valuation of the claim a party citreon if the theory of the claim a party citreon if the claim a party	PERVISOR PERVISOR Cover unfamiliar In RECURRENCE: Be more careful Mar Yes X No Pervisor's signature Pervisor's signature HILLE'S RECVIEWOO	E E E E E E E E E E E E E E	Signature: ursuit of a felony fler a felony sub re you step iyes, what reason? inter for the source of the so	y suspe spect	oct	LRB all Health & Balety a Date: 01-cco-4 01-cco-4 1-cco-4 1-cco-4 01-	VGQUS-MIGH 1 828-3698 0 %	
None None None	Was form does not not old the series of the theory of the theory of the theory of the series of	ALE INVESSION OF A CONTENT OF	E E C C C C C C C C C C C C C C C C C C	Signature: ursuit of a felony fler a felony sus re you step lyes, what reason? the driver of a felony the driver of a felony the driver of a felony the driver of a felony the driver of a felony chiler's signature of the claim for a felony of the claim for a felony	y suspe spect mark content of the second	Ct Ct C 1-Of C 1-Of	<u>L RB</u> all Health & Saley a Date: <i>O1-CO-4</i> <i>O1-CO-4</i> THE FORM TO MA THE		
None 3. If this is due to abnormal physical result. The second of the se	Way of the second	ALE INVESTIGATION OF COMPARENT OF COMPARENT OF COMPARENCE: CONTRACTOR OF COMPARENCE: CONTRACT	Enployee's S a foot pu receposure terrain al ul of when No II So F 5555 Enclose Comment terrain al terrain al terra	Signature: ursuit of a felony fler a felony sub re you step lyes, what reason? He day for the felony the day of the felony file of the felo	y suspe spect Arte: Date:	Ct Ct C 1-Of C 1-Of	LRB all Husbin & Balety a Date: 01 - CCo - 1 1 - CCo	VggLS-MidH 11 828-3698 0 % 11 828-3698 0 % 11 828-3698 0 % 11 828-3698 11 8598 11 85	
None 13. X INS Is due to abnormal physical result. The second s	Way of the second	ALE INVESSION OF THE ANALYSIS	Enployee's S a foot pu receposure terrain al ul of when No II So F 5555 Enclose Comment terrain al terrain al terra	Signature: ursuit of a felony fler a felony sub re you step lyes, what reason? He day for the felony the day of the felony file of the felo	y suspe spect Arte: Date:	Ct Ct C 1-Of C 1-Of	<u>L RB</u> all Health & Saley a Date: <i>O1-CO-4</i> <i>O1-CO-4</i> THE FORM TO MA THE	VggLS-MidH 11 828-3698 0 % 11 828-3698 0 % 11 828-3698 0 % 11 828-3698 11 8598 11 85	
None 3. If this is due to abnormal physical result. The second of the se	Way of the second	ALE INVESTIGATION OF COMPARENT OF COMPARENT OF COMPARENCE: CONTRACTOR OF COMPARENCE: CONTRACT	Enployee's S a foot pu recepsures terrain al ul of when No II So F 5555 E COMMENT DEPUTY O Tantas Us Some Salar Compensation	Signature: ursuit of a felony fler a felony sub re you step lyes, what reason? He day for the felony the day of the felony file of the felo	y suspe spect Arte: Date:	Ct Ct C 1-Of C 1-Of	LRB an Health & Baley a Date: 01-00-1 1-00	VggLS-MidH 11 828-3698 0 % 11 828-3698 0 % 11 828-3698 0 % 11 828-3698 11 8598 11 85	

LAS VEGAS METROPOLITAN POLICE DELARTMENT Memorandum

Date: February 25, 2008

To: PAYROLL

Subject: APPLICATION FOR LEAVE "Corrected"

Employee: SSN: Claim No: 08209074 Date of Injury: 01/06/2008 Body Part(s): KNEE, RIGHT

Please change the Type of Leave/Number of Hours/Dates as follows:

D Do NOT charge to Workers' Compensation

DATES:

Charge to Workers' Compensation – Portion Non-Taxable

DATES: 02/06/08 thru 02/25/08

Charge to Workers' Compensation – 100% Taxable

DATES:

Sincerely,

Evelyn Martina, Sr. LEST (702)828-8170

CC:

Health Detail/Risk Management Section (Employee's File) Trister Risk Management Group (Claims Examiner)

DIR15

00022

-ROA0022



LAS VEGAS METROPOLITAN POLICE DEPARTMENT Memorandum

Date: June 30, 2008

To: PAYROLL

Subject: APPLICATION FOR LEAVE

Employee: SSN: Claim No: Date of Injury: Body Part(s):

08209074 01/06/2008 KNEE, RIGHT

Please change the Type of Leave/Number of Hours/Dates as follows:

Do NOT charge to Workers' Compensation

DATES:

Charge to Workers' Compensation – Portion Non-Taxable

DATES: 06/16/08 thru 06/25/08

Charge to Workers' Compensation – 100% Taxable

DATES:

Sincerely

Evelyn Martina, Sr. LEST 828-8170

cc: Health Detail (Employee's File) Tristar Risk Management Grp (Claim's Adjuster)

Memo to Payroll-LVMPD (4-07)

P.O. Box 19450 • Las Vegas, NV 89132-0450

DIR16

00023



January 11, 2010

Las Vegas, NV 89135

Re: Employee: Employer: Las Vegas Metro Police Department Claim No: 08209074 Accident Date: 01/06/2008

y •

Dear Mr

As a result of the evaluation with Rodney Perry, D.C. on 11/24/09, it has been determined that you suffered a permanent partial disability impairment of 7 percent on a whole body basis as a result of your 01/06/2008 right knee injury.

This award entitles you to installment payments beginning 01/01/10. Under the installment election, you will receive monthly installment payments of \$ 204.23. Total installment payments are estimated at \$ 90,213.05. In lieu of installment payments, you may elect to receive a lump sum settlement in the amount \$ 37,016.98.

The Election of Payment forms are enclosed for your review. If you accept this award, sign and date the appropriate form where indicated and return to my attention at the address listed below. You may wish to keep a copy for your records. A copy of the rating report is also enclosed for your review, as well as an explanation of your reopening rights. Please be advised, that your claim is now closed. If you qualify, rehabilitation benefits are still available to you.

Should you disagree with this determination, you may file the enclosed Request for Hearing (Form D-12a) with the Department of Administration, Hearings Division within seventy (70) days from the date of this letter.

If you should have any questions, please do not hesitate to contact me at (702)693-5923.

Sincerely,

Barbara Zínk CLAIMS EXAMINER

CC:

Las Vegas Metro Police Department

Enclosure(s): PD Award Calculation Worksheet Election of Method of Payment of Compensation Reaffirmation of Lump Sum Request Request for Hearing PPD Evaluation Report of Dr. Brief Description of Your Rights

PPD Offer to EE-LVMPD (Rev. 5-07)

P.O. Box 19450 • Las Vegas, NV 89132-0450

DIR17

ADVANCED CHIROPRACTIC ORTHOPEDICS

6837 W. Charleston Bivd. Las Vegas, Nevada 89117 Telephone (702) 240-0520 Fax (702) 240-2072

Rod Perry, D.C. F.A.C.O, C.I.C.E Board Certified Chiropractic Orthopedist

November 24, 2009

TriStar Risk Management P.O. Box 19450 Las Vegas, NV 89132-0450 Attn: Dusty Marshall – Senior Claims Examiner

IMPAIRMENT RATING EVALUATION

CLAIMANT: CLAIM #: 08209074 DOI: 01/06/08 EMPLOYER: LVMPD BODY PART TO BE EVALUATED: Right kncc.

INTRODUCTION:

The above mentioned claimant entered the office today for the purpose of obtaining an impairment rating of his right kncc. He was identified today by a Nevada driver's license and a copy is maintained for the chart.

HISTORY OF INJURY:

On 01/06/08 this gentleman was in a foot pursuit and stepped in a three foot hole and injured his right knee. He denies any other previous injuries to the right knee.

CHRONOLOGY OF TREATMENT:

01/06/08:	Pecole Quick Care. Right knee strain. Antiinflammatory, Ultram and
	Morphine given to the patient,
01/10/08:	Seen by Dr. Patti. Acute internal derangement of the knee, medial and
	lateral meniscal suspected tears, possible ligamentous problems, possible
	tibial plateau fracture and infarction.
01/17/08:	MRI at Nevada Imaging. Proximal patella tendinosis suggestive of
	possible jumper's knee. The anterior and posterior cruciate, medial and
	collateral and quadriceps appear grossly intact. No discrete tears.
01/24/08;	Seen by Dr. Patti. High grade partial tear of the patella tendon and patella
	associated edema. Therapy would be appropriate.

化的组织的

DEC 2 9 2009

Handred All Street and All Street an

DIR18

ROA0025

00025

÷

(CONT.) PAGE 2

۰.,

.....

а — Ф. . Ф

01/31/08:	Follow-up with Dr. Patti. I have asked him if he has had previous trouble with his knee pain. Doing any athletic injuries. The injury is legitimate and is high grade. We have not improved him despite this therapy.
02/06/08:	Taken to the Parkway Surgical Center by Dr. Patti where he underwent a partial patellar tendon evulsion central, ACL proximal incomplete anterior medial meniscal superior anterior lateral meniscal tear and underwent partial lateral meniscectomy, partial medial meniscectomy, chondroplasty, central patella, lateral patella with radial frequency, shrinkage of the ACL, open repair of the patella tendon with patellar anohoring.
02/07/08:	Follow-up postoperatively. No signs of infection, doing better.
03/03/08:	Follow-up with Dr. Patti. Continued complaints. He has significant extensor lag, considerable pain from non-absorbable fibers in the sutures. Right now he is in better control. He is still on crutches.
03/24/08:	Seen by Dr. Patti. Postoperatively. Good progress, good strength.
04/14/08:	Follow-up postoperatively. Sensitivity over the patellar tendon. Examination reveals 50 degrees of erectus tightness, 45 degrees of quadriceps. I believe that he is having issues with this.
05/20/08:	Seen by Dr. Miao. Continued complaints. Suggests further MRI to ascertain the prior repair.
06/06/08:	Follow-up. MRI was reviewed. Demonstrates some color changes on the chondral surface of the patella. This is intermediate and specific. ACL has altered signals, but demonstrates fibers intact. Right knee post- arthroscopic debridement.
06/13/08:	Continued complaints. Preoperative appointments will be made.
06/16/08:	Underwent surgical intervention where he underwent an arthroscopic major synovectomy.
06/25/08;	Follow-up. Went over issues with respect to his synovectomy and ACL repair. Basically his ACL is not functioning properly as well as signs of abnormalities in the chondral surfaces.
09/10/08:	Follow-up. Continued complaints. First of all injection anterior lateral without difficulty. Patient just had a big of pain with the last injection. Continue therapy.
09/17/08:	Had a second synovectomy anterior and lateral without difficulty. Range of motion still has extension lag.
09/24/08:	Examination- No effusion. Sensitivity 0-130 with no restrictions. At this point he hopefully continues to not have any problems.
10/09 /08 :	Seen by Dr. Tingy. Patient has complicated course of knee surgery. His current issues are primarily instability and pain. ACL reconstruction may be considered to treat the instability, treatment of the chondral injuries as well as femoral chondral defects may be appropriate.
10/22/08:	Follow-up with Dr. Miao. He is functioning and doing better. At this time chondroplasty issues would probably get worse.
11/10/08:	Follow-up with Dr. Tingy. Discussed the issue of reconstruction with allograft with or without microfracture of the patella and possibly medial femoral condyle. The patient would like to schedule for this.

*°

• *

DEC 2 9 2009

There are an

DIR19

:

Ĩ

ROA0026

(CONT.) PAGE 3

01/09/09:	Follow-up. Seen status post ACL reconstruction, microfracture. He reports that with physical therapy his primary complaints are the
	suprapatellar region with contracture of the quadriceps.
01/22/09:	Follow-up with Dr. Tingy. Examination-Large effusion of the joint knee, wounds are healed, negative antorior Drawer's sign, Lachman test, range of motion is 0-110 degrees.
03/06/09:	Follow-up, status post ACL. He is unable to climb stairs. We had a conversation regarding his complex history and the prognosis. He may have some osteonecrosis. MRI would be appropriate.
03/13/09:	Underwent MRI which shows intact ACL, free truncation edges of the medial meniscus, marked chondromalacia.
03/26/09:	Follow-up with Dr. Tingy. At this time follow-up MRI is completed. No evidence of ostconecrosis of the patella.
04/20/09:	Follow-up. Examination- 0-120 degrees. He has mild effusion.
05/22/09:	Follow-up. Right ACL microfractures. Continued complaints. 0-125 degrees. No effusion.
06/19/09:	Continued complaints. Multiple procedures. He was doing much better. There is not significant effusion. 0-125 degrees. Tinel's is positive in the knee.
09/21/09:	Follow-up for his knee. Notes some occasional weakness. Significant atrophy of his quadriceps.
This is the e	stent of the medical records which have been provided

PAST SURGERIES/MEDICAL HISTORY;

As indicated.

CURRENT MEDICATIONS:

None.

PHYSICAL EXAMINATION:

This is a year-old LVMPD police officer who has continued complaints of the right knee with inability to jump, walk, go up and down stairs and fast twisting, jogging and kneeling all bother this gentleman. He has significant pain in the right knee.

Height: 6'6". Weight: 250 lb. Right hand dominant male.

Examination shows normal portals of entry with four portals and a 6 cm well healed nuidline incision. He measures 46.5 cm for his left quadriceps and 43 cm for his right. He measures 41 cm bilaterally for his calves. His range of motion of his right knee is +5-118. Left knee is 0-135. He is +4/S for his quadriceps and has decrease in sensory in the lateral aspect of his leg. Anterior and posterior Drawer signs with a trace of an anterior Drawer sign as well as a trace of a pivot shift. McIntosh and McMurray were found to be negative. His neurovascular response of the lower extremities was found to be within normal limits.

DEC 2 9 2009

When the

DIR20

(CONT.) PAGE 4

SUMMARY OF IMPAIRMENT:

This gentleman underwent a partial medial and lateral meniscectomy which is equivalent to a 4% whole person impairment according to Table 17-33. He also has 3.5 mm of atrophy, which is considered severe atrophy according to Table 17-6, page 530, which is equivalent to 5% whole person impairment. He has an ACL repair which he has a considered a mild laxity for a 3% whole person impairment according to Table 17-33 and he has range of motion from +5 degrees to 118 degrees which is equivalent to 4% according to Table 17-10. This gentleman has a flexion contracture of 5 degrees.

.....

The DRE's can be combined together, but they cannot be combined with atrophy and they cannot be combined with the range of motion. The range of motion cannot be combined with the atrophy. Therefore the only two that can be combined is the partial medial and lateral meniscectomy for a 4% and the ACL repair for 3%, which is equivalent to 7% whole person impairment. The atrophy for 5% as well as the range of motion for 4% cannot be combined, although this is a higher impairment if these were able to be combined.

The patient should be awarded 7% whole person impairment and I ask that this claim be closed and adjudicated.

Today's impairment rating was performed in accordance with the AMA Guides of Evaluation of Permanent Impairments, Fifth Edition, Third Printing. All measurements were taken today were taken with a direct goniometer as indicated in the Fifth Edition, Third Printing.

If you have any further questions or concerns, please feel free to contact my office.

Sincerely,

w/kit

Rod Perry, D.G., F.A.C.O., C.I.C.E. Board Certified Chiropractic Orthopedist Certified Medical Impairment Rater Certified Independent Chiropractic Bvaluator American Boatd of Independent Medical Examiners RP: deg Distated but not edited

(T(#2)))

DEC 2 9 2009

1998 - Alfred Barnessen National States and Stat

DIR21

Uct. 27. 2009 3:52PM

No. 5060 P. 1



Oclober 27, 2009

Sent Via Fax: (702) 386-1219

DESERT ORTHOPAEDIC CENTER 2800 E. Desert Inn Rd #100 Las Vegas, NV 89121 Attn: Dr Craig Tingey

Re:	Employee: Employer: Claim #:	Les Vegas Metro Police Department 08209074
	Date of Injury:	01/06/2008

Dear Dr Tingey,

We are requesting information regarding the current medical status of the above referenced injured worker. Please address the following:

1. Is the patient stable and has he/she reached maximum medical improvement?

2. If not, what is the enticipated time frame for maximum medical improvement?

3. Has this patient been released to full duty? K YES NO

4. If not, what are the current work restrictions?

5. Are these restrictions permanent? _____YES _____NO

Does he/she have a permanent residual impairment as a result of this industrial injury?
 YES
 NO

Dr.'s Signalure

10/28/09 Date

1. 1

Sincerely,

Dusty Marshall/ tn SENIOR CLAIMS EXAMINER

cc: LVMPD

PO BOX 19450 Las Vegas, Nevada 89132 - Bhones 702.607.5923 - Fax: 702.602.4458

2001200.4

(XA-1)

6121-98E-204 SI:1 6002/82/DIR22

ROA0029

Mariana and Angeland	TO AVOID PENALTY, THIS REPORT COMPLETED AND MAILED TO THE INSU 6 WORKING DAYS OF RECEIPT OF THI	RER WITHING	finn ta Nysunn Artek		但这方里的	REPORT	IONAL D	ISEA	
•:	Las Vegas Metropolitan Police Dep		Natore of Business (mig Law Enforcement	-	FEIN 886000028		OSHA L	bg #	
• }	OTCE MALANGROSS 400B S MARTIN LUTTHER KING		Location If dillerent i	ron mailes	g address	4	options 2-828-3-	406	and an open of the second s
13	Cey State 2	φ	INSURER		and a subscription of the	THI	RD-PART	YADN	IINISTRATOR
			LVMPD	T.	Bighdate		CMSL II	-	ary Language Spoken
	Home Address (Number and Street)		19977 1899 - 212 202					-	lish
	f								orced 2 Wido ved
, t	Cay State 1 NV	<u> </u>	tilling the employee prio Illing catter (rofinjury? C2 No		w long has Nevada? (Arson been employed by 300 \$12006
÷			on (sub trile) when hired		J				ly employed: IVISION
	Tele Is the spiral couplines	a seriesate offen	1991 – J. O.Landon and Anna and Mark Old Providence of the second statement of the	manual in the Albert Manual of	,		oyee in you monal dise		oy when injuration disabled
ren tairissien	Date of Injury (Corelacity of Finite of Import Hours 06/22-2012 22:10			er coal od	of injury or O/D	Supervisor SGT. JO		njury o	r O/D reported
,	A Hoss of Scotton of per gow in an ormela c	ily. Commy, state		ingine and the state of the sta		Neckle	nt an emp	•	prunises? (1 n: tecture)
	LAS VEGAS What was this employee doing when the accid			rk nistavisi eti	C.P. (il applicable)] Yes V	/: NO	anna a militeirishi hirisin a 1990 gana masir - 62 - 600 (600 anna 200 ann
	SITTING IN MY WHILL CONDU	CTING A S	1(Ob	and the second secon		-			
1) 1	BACK/SPINE AND NECK. TRAI OFFICERS WERE SUTING INST		SION. SUSPECT	REAR	ENDED STA	TIONAI	RY POL	ICE '	VEHICLE WHILE
	Space/machine, table, substance on object to (rapplicable) \/[[[[(]].]]	est cipo any Comp	ected with the accident		ness NK. :	Sansard Chan			Was there more than alse person injured in this
	Par at bothy injustration afterter		If fainly g so date of a		Iness	n nguna gang di Kanaden nangra di Sed	4/8444444 *** ********		accident? (if oppicable)
4 : ; ;	MULTIPLE BODY PARTS - MUL Mail re of the party or Deceman Disease (son	A-13	1		(«IPSS	eren a histoisiainaine	ulana ang Kabupatén K		🗆 Yes 🛛 No
	SPECIFIC INJURY - SPRAIN/STI			De	l employeo retero t cizent? I l'arplicabl	o nuxl schau	alai shii a	1/2016	Wal you have light duly week waantik il secassary?
τ.	। मिं भाषतिह of द्वेत्रसाम्बद्ध विजयेक्षेत्रमा अत्रतन स्टक्ष्यक्रके	2000 (1997) - 1998) - 1988) -	ala ala ala ana seren comencia da la constante de la constante en esta a co		calion of laba' Te	¥. Y.	es IJ N	<u> </u>	V. Yes C No
	LINK Treating physician chiropractor marine	agan di tami si ka sa	an a	UN	К	analasia, tari regione general		r	vi N 197-ra kanana katalari katalari katalari katalari ya 10 katalari katalari katalari katalari katalari katal
	UNK How many days per week d	ces T	alan dalah yang di Karala da sina karang menjadi karang sebagai karang sebagai karang sebagai karang sebagai ka L	En	engency Room	W Yes 1) No		pitalized 1°. Yes 16 No
	IMPORTANT employee work/ ,		From 1500 S Rotating	and an and a second	To () ()()			(-2)	2-2012
	days off ✓ ✓ ✓ ✓	<u> </u>	er ng ny ar Jisabelay	Ala you p	aying injured or d		ployee s wi		uning a sability? & Yes No Humber of work days lost
í.	07-18-2006	•	•••••••••••••••••••••••••••••••••••••••	UNK		IV 1997A		UN	
	work 40 floors per week? A Yes (1 No. y		ny hours a week a lived?	Didtre en months?	np'oyee receive u D Yes 1.3	namp'ayni No			a nny timo during the last 12 o not know
	For the purpose of uniculation of the average remuneration, but we not we lade relationarsen to the date of injury of also day		· · · · · ·		Gross earon	as we inclu	de overtim	ie, bon	uses, and other
	Fuy period SON FUT FINR SAF	End year 's	NEEKLY (NONTHLY BYDREY - SOMBOR	OTHER				K pe	r √i Hr _ Day _ V/k _ Mo
41-0-0000-000	For assistance with Workers' (Assistance <u>Toll Free</u> : 1-888-3.	Compensati 13-1597 <u>11</u>	ion Issues you m	my com	act the Offic	ce of the	Gaver	nor	Consumer Health
*	E., Terris de la sub-enferencia se se cardon dispona langardan Una havas of ony kitadowanane. Envellion alfore de la cardo proceso recorres el una derpiñe, da el quaestion. En las el Marando Leg.	charpan 9 phraite	district and some it as take	આ દેલેલા ઘાસ્ટ	in Employer's		noil Title	0	are 4.2517
3	Claim 19: A Accessites, Danson Daterro	el 👌 3º Pacy	Deemen Wage		Account No 12D34C3	1	- Andrew States	10	ass Codd
Insurer Usa Only	Ciainis Examiner's Signature	993 (⁷⁾	0л'е		S'Atus Cie			0	uto 6-26-12
For as Col	B (7/29 / 1405)	$\left[\left[\left$. 	naria di Karana Karana	ascoulur				HES HERECOVER

DIR23

Martin Port	51145	Foria (-1 1 type on primi	00-9:20	(
	กลังที่สายสายการให้เราไว้ว่าเครื่อง	Z CHICLE CAN DRA	લ્યામાં છે. તેમ જ જ	ניקייון לאיידערי (יחינדיד דוויל לחיל
1. NR/TR		Contraction of the street of t	Nover 1	
*** **********************************	Ch		represe toward	LOCUL VARIAN, HANING
to Addition and an and an and and and and an and an and an		and a second s	- Logica II - I	a.
ILS VERRES		ECTI21_1	Statu Statu	Aline - prover and
GIA AMINE I	**************************************	ngh adhna na shi yai ya Tanadana wa Alifanna a w		PTVINK
Sol ist with the second s	TATE PARTY ACTIVITY	fator.	" " " " " " " " " " " " " " " " " " "	And in the state of the states and
4619	was sulface a second	e e éstétéren. A artesise	14.00	
LANGE AND STATE PROFESSION STATE STATE		• a = mp 20		د ۱۹۹۹ و ۱۹۹۹ و ۱۹۹۹ و ۱۹۹۹ و ۱۹۹۹
	n series and s		an a	
אין איז איבור ולטונומני אינויון איני איני איני איני איני איני איני אינ	AND Cose Englose Hor	tind the second	وهله، السلادا، عديه (ا مع برور م باله الملب	Will to a sum mount or served
modily 1012	X 101001		in a na sun a la sun a la sun a	gl
CTINE TO A CONTRACT	n (USTAX		and the second s	*d
ﺳﯩﻘﯩﺴﯩﺪﯨﺪﻩ ﺧﺎﺗﻐﺎﻧﺪﻩ، ﺩﻩ, ﺧﯩﺪﻩ ﺍ ﻣﺎﺭﻩ ﺧﺎﺭﻩ ﺭﻩ, ﺋﯩﺪﺩﻩﻩ ﺑﯩﺪﻩﻩ ﺑﯩﺪﻩ ﻣﯘﻣﯘﺭﻩ ﺑﯩﺪﻩﻩ ﺑﯩﺪﻩ ﺑﻪﺩﻩ, ﻣﯘ ﻣﯘ ﺑﻪﺭ ﺑﻪﺭﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩﻩ, ﺩ	STATE ALL ALL ALL ALL ALL ALL ALL ALL ALL AL		and a second	na n
ALL LALL	interest in the second second second second	and the second second	เสริญเติงเคร โรงาณคริ	
Y INCO Y RALLY JUN	at us the	U.TC-10	ele-parta	d cit
Citro	مربع پر محمد محمد محمد محمد محمد محمد محمد محم			The second
ት የተተረ ታሪያ ዓመታ የሥላት የመድረድ የስት ምንድ የማስተዋ የ - የተተረ ታሪያ ዓመታ የሥላት የመድረድ የስት ምንድ የማስተዋ የ	and a star of a star for the start for the	** 123 6 Un 2 1. 26(1.3 4	The former	any to water the
en en 91 'n vry 4e assassaste à siarass	100 1 10 1 10 10 10 10 10 10 10 10 10 10	~~ rasi mic("}2	- WAIN P	
		52	And States of Comments	۵. «۲۹ ۵۳۵۵۵۵۵» ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰ - ۲۰۰۰
	MET ANY THE DEAL OF A LA			A STATISTICS CONTRACTOR
				「「「「「「」」」」」」、「「」」」、「「」」、「」」、「」」、「」」、「」」
				CONCERNMENT OF THE PROPERTY OF
merabilder Tro	LI LIVILI RIMUSIAL SIMPLEIOAND	Crost 1.3 44 4		
THE TRAINCA CINES	"" > " young the history of the of And	tiante 17 anitas - \$	10-1	A LAME BIR (4205)
HIDE INC.	To Ward nuller		hard a parter a sure	And a service section and a section of the section
and the second	1 Coval Syndrome	{ 515 100 US NOT 69 3744 25 100 21 10 10 10 10 10 10 10 10	t eð na dí ar ar sen er en en en skala. O far Sink skorsen af T	\$2 to \$2.24
	e Viller, Letter	widan	a and an a service rates a service designed	annonseen were bestelling and a region such
مرجع بالمنظم الأول المرجع المرجع مرجع المرجع ا	and the state of the	יייייייייייייייייייייייייייייייייייייי	e entited the second Score	n nave and a second
1 + 1 + 1 + 1 + 1 + 1 + 1 + 1 + 1 + 1 +	5 ** 57 57 57 55 	్రాజుకర్మారి కి. 	seconder Sals STE	
alacter and the	and a second	1 '	ACTERNATION LEADER	No Calcert Marke
the information chartens of the entropy of the	1	energy and the		The bay The state
142 Solo various 14	4. · · · · ·	5 appleur 1 55.2.	a sey lines a	ang 15/ 266 - and a distance of the second
era increases an activity of a challer of a	Sale Mar The Mar	w.s	•	
en man farma në a të fiter meri a su të pundet. 1995 - Santa Bardari, Borna Maria Santa	and service as a strate and the			ANI DAVINI AND - O
COLDENSAN DERSY / PACE AND LA	Ē.	12000		
Street Global	Set .	(اعداد الدرا فاي المراجب المدر هاد	Contraction And Income
Torn Share Strate	CONTRACTOR CONTRACTOR		313115431335 282	and a state of the
ا و د.د.	utuuteen ja maa 1	21. Statistics		
12 ANA/ Marine and a second and second		117452795 Y. Strange		
	and the second	WATTY -	•	
and the state of the	The second of the second			
		and the second s	C11/C/h	••••••
and a start of the second s		and the second s	EIVED	•

DIR24

11/20/2012 20:00 17022402072

PAGE 03'07

ADVANCED CHIROPRACTIC ORTHOPEDICS

6837 W. Charleston Bird. Las Vegas, Nevada 89117 Telephone (702) 240-0520 Fax (702) 240-2072

Rod Perry, D.C. F.A.C.O, C.I.C.E Buard Certified Chiropractic Orthopedist

November 8, 2012

CCMSI P.O. Box 35350 Las Vegas, NV 89133-5350

IMPAIRMENT RATING EVALUATION

CLAIMANT: CLAIM #: 12D34C229979 DOI: 06/23/12 EMPLOYER: L.V.M.P.D. BODY PART TO BE EVALUATED: Cervice) spine, sumbar spine, right base

INTRODUCTION:

The above mentioned claimmit entered the office today for the purpose of obtaining an impairment rating of his cervical spine, lumbar spine and right knee. He was identified today by a Nevada driver's litense and a copy is maintained for the chart. Of note, I am familiar with this gendeman. I have done 5 prior PPD of the right knee on him on 11/24/09. He was awarded 7% whole person impairment secondary to his injury date of 01/06/08. Apportionment will be an issue in this case for his right knee.

HISTORY OF INJURY:

On 06/22/12 the claimant states that he was a passenger in the front seat of a minivan and was unbelted. They were northbound on Charleston at Buffalo when they were struck from the rear. He stated that his right foot was on the door and it appeared that he lift his right lower extremity as well as left shoulder into the door. He states that he did have loss of consciousness. He does have a prior history of a lumbar microdiscectamy at the L4-L5 level in 2007. He complains of significant cervical pain that radiates up the right portion of his neck into the right lower gluteal region as well as the lateral aspect of his lower leg.

CHRONOLOGY OF TREATMENT:

06/22/12: UMC: CT scan of right knee obtained, CV scan of chest obtained, CT scan of lumbusueral spine obtained. MRI of cervical spine shows a C4-C5

DIR25

ROA0032

(CONT.) PAGE 2

disc protrusion. MRI of the humbar spine shows a small paracentral disc protrusion indenting the anterior thecal sac causing no significant spinal stenosis. Also a small annulat tear noted along the posterior disc margin, L4-L5 central disc protrusion abutting the thecal sac causes no significant central narrowing. AP diameter 12 mm.

06/23/12: Admitted to HealthSouth Rehabilitation. Diagnosis: S/P understate rear end motor vehicle accident with loss of consciousness, bilatera' upper extremity weekness, lower extremity paresthesias, spinal cord injury without radiologic abnormality. Right lower extremity traumatic paralysis.

02/06/12: Seen by Dr. Tingey. Radiographs and MRI of the patient show the ACI graft appears to be intact at the subchondral bone. Assessment: right knee pain S4 moto: vehicle accident with a history of ACL reconstruction. Microfracture. Follow up in one month.

67/31/12: Seen by Dr. Gory Flangas for neurosurgical evaluation. Lvaluation: gatt normal. Range of motion found to be diminished in his neck as well as his lower back. DTRs 1/2 for biceps bilaterally, 2/2 for knees, 1/1 left ankle jerk, trace on the right. Sensory diminished S1 with some L5 involvement. 36 year old male involved in a motor vehicle accident has evidence of a central cord syndrome, which appears to be resolved. Currently he is experiencing signs and symptoms consistent with hambar radiculopathy, paresthesia involving the right S1 and L5 distribution. Plan to return to light duty.

- 08/28/12: Seen by Dr. Flangas for follow up. (In returns today complaining of right paraspinal corvicalgia as well as headaches. He usually uses Tyleno). He says stretching is helping bim. He still has a decrease in range of metion. Neurologically, biceps one, triceps 2, left know one. left anlile one, trace for right ankle.
- 09/05/32: Taken to surgery by Dr. Tingey where he underwent right knee artiroscopic chondroplasty, medial fentoral condyle with two compartment synovectomy.
- 09/11/12: Right lower extremity Doppler.
- 09/02/12: Physical therapy.
- 10/18/12: Seen by Dr. Tingey. Range of motion of right knee 0-135 degrees. Wellhealed. No effusion: S/P chondroplasty as well as synovertomy.

This is the extent of the medical records which have been provided.

PAST SURGERIES/MEDICAL INSTORY:

As indicated.

CURRENT MEDICATIONS:

Singulaic, Zyrtec

ALLERGIES:

DIR26

FACE MS OT

(CONT.) PAGE 5

NKDA.

PHYSICAL EXAMINATION:

This is a second male who is an L.V.M.P.D. officer

Height: 6'6". Weight: 270 lb. Right hand dominant male.

Inspection of the cervical spine shows no gross abnormalities. He measures 34 cm for his biceps and 53 cm for his forerrms. DTRs are found to be 1- for the upper extremities to include the biceps, triceps and brachioradialis. Muscle testing for the upper extremities is found to be -5/5, including the intrinsic muscles of the hand. On sensory component there is some decrease in sensory in the right upper extremity, which is nondermatornal in nature,

Range of motion of the cervical spine using dual inclinomater method was obtained. Flexion is 60/10, 60/10, 58/16, 50 degrees of flexion. Extension is 40/10, 40/10, 42/10, 50 degrees of extension. Left lateral flexion is 50/0, 50/0, 52/0 degrees. Right lateral is 40/0, 40/0, 38/0 degrees. Left rotation is 70/0, 76/0, 75/0 degrees. Right rotation is 50/0, 50/0, 48/0 degrees. Palpable spasm is noted in the carvical spine, predominantly on the right side. Axial compression increases pain into the interscapatar region as well as the suboccipital region on the right side of the cervical spine. No upper extremity abnormal neurological signs are present. Hoffmann's is found to be negative.

On evaluation of the lumbar spine a well heated midline incision is noted. He measures 47 cm for his quadriceps and 42 cm for his calves. DTRs are found to be 2+/4 for patella tendon and 1+/4 for the Achilles tendon bilaterally. He has a decrease in sensory along the LS-S1 distribution of the right lower extremity.

Dual inclinometer measurements of range of motion of the lumbar spine were obtained Flexion is 50/10, 50/10, 48/10, 40 degrees of flexion. Extension is 15/0, 15/0, 15/0, extension 15 degrees. Right lateral flexion is 15/0, 15/0, 18/0 degrees. Left lateral flexion is 30/0, 30/0, 30/0 degrees. Palpable spasm is noted in the further spine, predominantly worse on the right side. He has pain over the gluteal region on palpation. SLR is found to be positive at 42 degrees on the right. Muscle testing for the lower extremities is found to be $\pm 5/5$. Neurovascular response for the lower extremities is found to be within normal limits.

Inspection of the right knee shows normal portals of entry. Range of motion is 0-120, 0-120, 0-122 degrees. Autorior and posterior Drawer signs are negative. McMusray and Machitosh tests are found to be negative.

Left knew (uninjured knew) range of motion: 0-130, 0-130, 0-130 degrees. Orthopedic evaluation is found to be withen normal limits.

DIR27

PRACE 45 107

CONT.) PAGE 4

SUMMARY OF IMPAIRMENT:

This gentleman had a prior lumbar surgical intervention, which included a microdiscectomy. The apportionment of a microdiscectomy would fall under a DRE Lumbosacral Category III for 10% whole person impairment. As for today's evaluation he must be rated using the range of motion model. He has recurrent disc herniation with radiculopathy documented by Dr. Flangas. He also has sensory component loss consistent with radiculopathy at the L5-S1 level. When we refer to the range of motion method he would fall under Table 15-7 IID, surgically treated disc without residual signs and symptoms for 8% whole person impairment. His range of motion loss in the lumba spine is equivalent to 8% whole person impairment. He has loss of sensory component with loss of superficial tactile sensation in the I 5 and S1 distribution. On Table 15-18 the 1.5 nerve root sensory component is worth 5% maximum sensory, as well as the \$1, which is 5% maximum sensory. These are multiplied by 0.26, which is equivalent to 1.3% for lower extremity impairment -1.3 is multiplied by 0.04 to come up with a whole person impairment. This is equivalent to 0.52, which is rounded up to 136 whole personimpairment for the L5 nerve root as well as the S1 nerve root. We would combine 8% for the specific spine disorder with 8% for loss of range of motion, which is 15% whole person impairment. 15% would be combined with 1% whole person impairment for the right 1.5 nerve root sensory component, which is equivalent to 16% whole person impairment. We would combine 16% with the right 51 sensory impairment, which is 1%, for a total of 17% whole person impairment

17% whole person impairment is now apportioned by a DRE Category for the prior surgical intervention of 10% whole person impairment, which is equivalent to 7% whole person impairment for the humber spine. This is combined with 5% whole person impairment, as he fits into a DRE Cervical Category II for significant loss of range of motion that is nonuniform in nature as well as muscular spasm. He has no signs of radiculopathy. 7% for the lumbar spine would be combined with 5% for the cervical spine for a total of 12% whole person impairment.

The right knee has full range of motion. There is no ratable impairment on this and this is a 0% award.

The patient should be awarded 12% whole parson impairment and his claim should be closed and adjudicated.

Today's impairment rating was performed in accordance with the AMA Guides of Evaluation of Permanent Impairments, Fifth Edition, Third Printing. All measurements taken today were taken with a long arm goniometer for the right lower extremity and a dual inclinemeter for the cervical and lumbar spine as indicated in the Fifth Edition. Third Printing.

DIR28

11/20/2012 00:00 12052302022

FATE 07/07

(CONT.) PAGE 5

If you have sny flother questions or concerns, please feel free to contact my office,

Sincerely.

Rod Perry, D.C., F.A.C.O., C.A.C.F. Board Certified Chiropractic Onthopedist Follow American Board of Chiropractic Onthopedist Qualified Impairment Rater State of Nevada RP: pz. Encodemonstrated

DIR29

DESERT ORTHOPAEDIC CENTER

Patient Name : : 1509322 Medical Record Number Date of Birth

DOS: October 18, 2012

HISTORY OF PRESENT ILLNESS: is seen for followup on his right knee, status post arthroscopic chordroplasty and synovectomy. He reports his pain is well controlled except for intermittent occasional pain when he fully extends his knee. He has been rehabbing his knee on his own. He states he is ready to return to full duty.

PHYSICAL EXAMINATION: Range of motion of the knee is 135-0 degrees. His incisions are well healed. There is no effusion

ASSESSMENT: Right knee status post chondroplasty and synovectomy.

PLAN: The patient may return to full duty and may be considered maximally medically improved at this time. He may have a ratable impairment. He will follow up as needed.

Craig T. Tingey, M.D. m2/nbu (Dictated, but not edited) DD: 10/18/2012 DT: 10/19/2012 网络白泽银 Christina Cabrera CC. acristi na Fax: 477-7019 0.042 ALL APPOINTMENTS (737) 731-4048 MAIN OFFICE 2803 E DESERTINN RD , SUPE 163 LAS VEGAS.IV 89131 (702) 731-1616 FAX (102) 731-731 NOR THWEST OFFICE DID? W. CENTENNIAL PKWY. LAS VE345, NV 89149 (707) 849-3446 FAX (702) 859-3542 110R120N RIDGE OFFICE 2039 W. HORIZON RIDGE PXWY, SL4TE 100 HENDERSON, NY 24052 (102) 263-9087 FAX (702) 233 9393 **DIR30 ROA0037**

XX-

08:06 702-386-1219 21, 10/12

INSURER'S SUBSEQUENT INJURY CHECKLIST

Notice to Insurer: This form must be completed and provided with all supporting documentation for claims submitted for reimbursement from the Subsequent Injury Account.

PART ONE

INJURED EMPLOYEE	DATE OF INJURY 6/22/12
CLAIM NUMBER 12D34C229979	INSURER LVMPD
THIRD-PARTY ADMINISTRATOR LVMPD	EMPLOYER LVMPD
SUBMITTED BY Nancy Helmond, Esq. with LBBS	ASSOCIATION ADMINISTRATOR
INITIAL REQUEST Yes	SUPPLEMENTAL REQUEST

Please check and complete applicable blanks. All supporting documentation must be submitted in chronological order, oldest information on top. This information must be bound in a file folder and sectioned according to this form.

Check one: Private Insurer 🛄 Self-insured Employer 🗶 Self-insur	ed Association
<u>PART TWO</u>	DIR USE ONLY VERIFICATION
X Letter of application to the Subsequent Injury Account specifying the statute pertinent to this application.	
PART THREE	NRS 616B.557, 616B.578 OR 616B.587
a. X Medical documentation specifically showing that compensation for disability is substantially greater due to the combined effects of the preexisting impairment than that which would have resulted from the subsequent injury alone.	
Doctor(s) providing medical documentation. Rod Perry, DC	- Kalangan dan katalan (1 tata) aya sa katalan katalan katalan (1 tata) aya sa katalan katalan katalan (1 tata)
X Medical documentation of the preexisting permanent physical impairment of 6% or greater, including prior PPD evaluation, if available.	Protocol and the state of the s
Percentage 7% Body Part Right Knee	 pathodosom 21/2020/222-21-0-0-0-0000000000000000000
Percentage Body Part Percentage Body Part	
X Verification of the employer's knowledge of impairment at the time of hire or retention in employment after obtaining knowledge of impairment.	
Date of hire 7/18/06	909
Date of employer's knowledge of impairment1/11/10Date of retention in employment1/11/10	لو المراكب الم المراكب المراكب المراكب المراكب المراكب
<u>n/a</u> Notification of a possible claim against the Subsequent Injury Account, submitted within 100 weeks of the date of injury.	× ×
Time lag weeks.	Dagtime weeks.
APR 1 0 2013	
WCS	D-37(1) as 12 19

D-37(1) res 12 83

DIR31

00038

State of Nevada DEPARTMENT OF BUSINESS AND INDUSTRY Division of Industrial Relations Workers' Compensation Section

Explanation of Disallowance Subsequent Injury Account April 18, 2018

Claim Number: Date of Injury: Insurer: Employer: Third-Party Administrator: Submitted by: 12D34C229979 06-22-12 Las Vegas Metropolitan Police Department Las Vegas Metropolitan Police Department CCMSI Kim Price with Lewis Brisbois Bisgaard & Smith LLP

Total Reimbursement Requested: \$27,960.61

Item #	Amount Requested	Check Number	Date of Service	Type of Psyment or Provider	Amount Disallowed	Explanation of Disallowance**
1	\$236.27	120207401	06-22-12	Desert Radiologists	\$236.27	No bill, EOB or report
2	\$282,15	120207401	06-23-12	Desert Radiologists	\$282.15	No bill, EOB or report
3	\$4,287.16	767	06-23 to 07-30-12	TTD	\$4,287.16	Off work status not related to the right knee
4	\$63,057.91	120209957	12-07-12	PPD	\$63,057.91	Impairment not related to the right knee
5	\$932.58	120207648	06-28 to 07-02-12	Viren Patel DO	\$932.58	No bill, EOB or report
6	\$226.03	120207839	06-22-12	Desert Radiologists	\$226.03	No bill, EOB or report
7	\$685.00	120207839	06-22-12	Desert Radiologists	\$685.00	No bill, EOB or report
8	\$575.00	120207869	06-23-12	Desert Radiologists	\$575.00	No bill, EOB or report
9	\$186.62	120208265	06-22-12	Desert Radiologists	\$186.62	No bill, EOB or report

Page 2 Claim Number: Date of Injury: Insurer: Employer: Third-Party Administrator: Submitted By:

12D34C229979 06-22-12 Las Vegas Metropolitan Police Department Las Vegas Metropolitan Police Department CCMSI Kim Price with Lewis Brisbois Bisgaard & Smith LLP

Item #	Amount Requested	Check Number	Date of Service	Type of Payment or Provider	Amount Disallowed	Explanation of Disallowance**
10	\$1 49.73	120208271	07-23-12	SPORTS LLC	\$149.73	No bill, EOB or report
11	\$149.73	120208271	07-20-12	SPORTS LLC	\$149.73	No bill, EOB or report
12	\$250.57	120208273	07-31-12	Las Vegas Neurosurgery	\$250.57	No bill, EOB or report
13	\$120.81	120208678	08-28-12	Las Vegas Neurosurgery	\$120.81	No bill, EOB or report
14	\$93.16	120208680	08-03-12	Smart Comp	\$93.16	No bill, EOB or report
15	\$106.892	120208680	08-09-12	Smart Comp	\$106.82	No bill, EOB or report
16	\$106.82	120208680	08-16-12	Smart Comp	\$106.82	No bill, EOB or report
17	\$145.35	120208778	08-28-12	Desert Radiologists	\$145.35	No bill, EOB or report
18	\$159.60	120209076	08-28-12	Desert Radiologists	\$159.60	No bill, EOB or report
19	\$111.15	120209119	08-17-12	SPORTS LLC	\$111.15	No bill, EOB or report
20	\$133.00	120209119	08-24-12	SPORTS LLC	\$133.00	No bill, EOB or report
21	\$143.18	120209119	08-20-12	SPORTS LLC	\$143.18	No bill, EOB or report
22	\$111.15	120209119	08-31-12	SPORTS LLC	\$111.15	No bill, EOB or report
23	\$3,473.00	120209367	06-22 & 06-23-12	UMC	\$3,473.00	No bill, EOB or report

Page 3Claim Number:12D34Date of Injury:06-22--Insurer:Las VeEmployer:Las VeThird-Party Administrator:CCMSSubmitted By:Kim Part

ROA0041

12D34C229979 06-22-12 Las Vegas Metropolitan Police Department Las Vegas Metropolitan Police Department CCMSI Kim Price with Lewis Brisbois Bisgaard & Smith LLP

Item #	Amount Requested	Check Number	Date of Service	Type of Payment or Provider	Amount Disallowed	Explanation of Disallowance**
24	\$890.19	120210775	06-28 to 07-02-12	Farzan Farhangejad MD	\$890.19	No bill, EOB or report
25	\$143.18	120211484	08-30-12	SPORTS LLC	\$143.18	No bill, EOB or report
26	\$143.18	120211484	09-24-12	SPORTS LLC	\$143.18	No bill, EOB or report
27	\$1,858.08	120211559	06-22 & 06-23-12	UMC	\$1,858.08	No bill, EOB or report
28	\$3,488.23	120207647	06-22 & 06-23-12	UMC	\$3,488.23	Treatment not related to right knee per diagnosis codes
29	\$6,875.45	120207615	06-23-12	UMC	\$6,875.45	Treatment not related to right knee per diagnosis codes
30	\$37.44	120207646	06-24-12	Unsom-Dr. Browder	\$37.44	No reports for hospital visit
31	\$ 29.95	120207797	06-25-12	Unsom-Dr. Casey	\$29.95	No reports for hospital visit
32	\$29.95	120207646	06-26-12	Unsom-Dr. Casey	\$29.95	No reports for hospital visit
33	\$7,237.32	120207386	06-27-12	Rehab Hospital of Las Vegas	\$7,237.32	Treatment not related to right knee per diagnosis codes
34	\$44.86	120208272	06-27-12	Unsom-Dr. Casey	\$44.86	No report and treatment not related to right knee per diagnosis codes
35	\$195.00	120207792	07-09-12	SPORTS LLC	\$195.00	Treatment not related to right knee
36	\$149.58	120208271	07-13-12	SPORTS LLC	\$149.58	No report and treatment not related to right knee per diagnosis codes

Page 4 Claim Number: Date of Injury: Insurer: Employer: Third-Party Administrator: Submitted By:

ROA0042

12D34C229979 06-22-12 Las Vegas Metropolitan Police Department Las Vegas Metropolitan Police Department CCMSI Kim Price with Lewis Brisbois Bisgaard & Smith LLP

Item #	Amount Requested	Check Number	Date of Service	Type of Payment or Provider	Amount Disallowed	Explanation of Disallowance**
37	\$149.58	120207799	07-16-12	SPORTS LLC	\$149.58	No report and treatment not related to right knee per diagnosis codes
38	\$119.00	120208265	07-27-12	SPORTS LLC	\$119.00	No report and treatment not related to right knee per diagnosis codes
39	\$119.00	120208265	07-30-12	SPORTS LLC	\$119.00	No report and treatment not related to right knee per diagnosis codes
40	\$127.17	120211948	10-02-12	Las Vegas Neurosurgery	\$127.17	No EOB and treatment not related to right knee
41	\$693.90	120209891	11-08-12	Advanced Chiro Orthopedics- Dr. Perry	\$231.54	Additional body parts not related to right knee
				Total of Disallowance:	\$97,591.49	

en and energy and

** When re-submitting disallowed amounts for consideration of reimbursement, please re-send all documents including bill, report and EOB regardless of what information has been requested.

BRIAN SANDOVAL Governor

WCS Contact Information Main: 702-486-9080 Fax: 702-980-0364 http://wcs.nv.gov

STATE OF NEVADA



CJ MANTHE Director

JOSEPH "JD" DECKER Administrator

CHARLES J. VERRE Chief Administrative Officer

DEPARTMENT OF BUSINESS AND INDUSTRY DIVISION OF INDUSTRIAL RELATIONS WORKERS' COMPENSATION SECTION 1301 N. Green Valley Parkway, Suite 200 Henderson, Nevada 89074

MEMORANDUM

- TO: The Board for Administration of Subsequent Injury Account for Self-Insured Employers
- FROM: Charles J. Verre, Chief Administrative Officer, Workers' Compensation Section
- SUBJECT: Administrator's Recommendation on Request for Reimbursement from the Subsequent Injury Account Pursuant to NRS 616B.557

Date of Injury:06-22-12Insurer:Las Vegas Metropolitan Police Departr	
Insurer: Las Vegas Metropolitan Police Departr	
	ment
Employer: Las Vegas Metropolitan Police Departr	
Third-Party Administrator: CCMS18	
Submitted By: Kim Price with Lewis Brisbois Bisgaar	rd & Smith
LLP	

DATE: April 25, 2018 AMENDED

ADMINISTRATOR'S RECOMMENDATION:

It is the Administrator's recommendation to accept this request pursuant to NRS 616B.557 for the right KNEE only. The cervical and lumbar spine do not qualify for consideration and were not requested by the insurer.

AMOUNT OF REIMBURSEMENT:

The total amount requested for reimbursement is 14,008.47. This amount was under by 13,952.14 in medical expenses. There were amounts listed on the Paid Transaction sheets that were not included on the calculator tapes and some amounts that were, however, the amounts that were not requested were not crossed out so all amounts had to be considered. The amount that should have been requested for reimbursement is 27,960.61. This claim had subrogation recovery that was included in the request. The amount of verified costs is 69,630.88. Since there was subrogation recovery the amount to be considered is less than the actual amount spent on the claim. Disallowances under this claim are considered against all expenses prior to the reduction of the subrogation recovery, therefore, allowing no reimbursement at this time. An explanation of the disallowance is attached to this letter. SI-136

Page 2Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 25, 2018 Recommendation Memorandum

BACKGROUND:

This request was received from Kim Price with Lewis Brisbois Bisgaard & Smith LLP on April 10, 2018.

PRIOR HISTORY:

This employee was hired by the Las Vegas Metropolitan Police Department (LVMPD) on July 18, 2006.

On September 29, 2006, while he was in the academy, this gentleman injured his right knee. The C-3 Form listed a right knee strain. The C-4 Form, dated September 29, 2006, listed sprain/strain of the right knee (pp. 1-2).

The insurer submitted several documents to be considered for the requirement of employer knowledge of the pre-existing permanent physical impairment and they are as follows:

- Occupational Injury/Illness/Exposure Report from the LVMPD dated October 3, 2006 and signed by a supervisor. This report listed the right knee as the injured body part and was received by the employer on October 3, 2006 (pp.3);
- A LVMPD Officer's Report, dated September 29, 2006, that described the nature of the injury to the right knee. This form was received by the employer on October 3, 2006 (pp.4); and
- A LVMPD Medical Evaluation Form, dated October 3, 2006 and received by the employer on October 3, 2006 that noted a meniscal tear to the right knee (pp.5).

This is the extent of the employer's documents concerning this date of injury. The injured employee sought treatment at UMC and was diagnosed with sprain/strain of the right knee and x-rays were normal. He was taken off work through October 3, 2006 and then released to modified duty (pp.6-7).

The patient saw Dr. Higgins on October 3, 2006. His impression was a bucket handle tear, medial semilunar cartilage and he requested surgery. The patient had partial debridement of the anterior cruciate ligament (ACL) with partial synovectomy and medial meniscorrhesis on October 4, 2006 (pp.8-9).

In follow up reports, Dr. Higgins released the patient to full duty on October 23, 2006 and noted he was still working through the academy and an ACL repair after he was finished would be considered. The patient attended physical therapy and was given a knee brace. As of February 13, 2007, the patient had an ACL deficient knee. He was working in the field and could continue as long as he protected the knee. He was released from care (pp.10-11). This is the extent of the

ROA0044

00044

SI-136

Page 3Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 25, 2018 Recommendation Memorandum

medical records for this date of injury. It should be noted the injured employee was not rated.

On January 6, 2008, during a foot pursuit, this employee fell into a hole and twisted his right knee. The C-3 Form indicated right knee strain and the January 7, 2008 C-4 Form also noted right knee strain. The C-4 Form was received by the employer on January 14, 2008 (pp.12-13).

The insurer submitted several documents to be considered for the requirement of employer knowledge of the pre-existing permanent physical impairment and they are as follows:

- A LVMPD Occupational Injury/Illness/Exposure Report, dated January 6, 2008 and signed by a supervisor. The form noted right knee pain with meniscus tear in Oct 2006 and surgery. This form was received by the employer on January 7, 2008 (pp.14);
- A February 25, 2008 Application for Leave for the right knee and off work status from February 2, 2008 through February 25, 2008. This was sent to the payroll department from a senior LEST with the employer. The form was also copied to the Risk Management Section for the employee's file (pp.15). Please note this form coincides with a surgical procedure;
- A June 30, 2008 Application for Leave for the right knee and off work status from June 16, 2008 through June 25, 2008. This form was sent to the payroll department from a senior LEST with the employer and also copied to the employee's file. This time frame also coincides with a surgery date (pp.16);
- A November 24, 2008 PPD evaluation penned by Dr. Perry. The report does not show that it was received by the employer (pp.18-21); and
- A January 11, 2010 PPD offer letter for 7% WPI for the 2008 right knee injury. This letter was copied to the employer however, there is no indication it was received by the employer (pp. 17).

History for this injury was taken from the November 24, 2009 PPD evaluation penned by Dr. Perry. The injured employee had three additional surgeries under this claim and treated with Drs. Patti, Miao and Tingey. The last surgery was done in December 2008 with follow up under Dr. Tingey. Reporting under the PPD only goes through September 21, 2009 and the patient continued to follow up. He had been released to full duty and as of October 27, 2009, the patient had reached MMI and was stable and ratable (pp.22).

Dr. Perry evaluated this injured employee for permanent impairment and found 7% WPI and did not apportion for the prior injury or surgery. Please note that the rater was not furnished with any medical reporting prior to the 2008 date of injury and the patient denied any previous injuries to the right knee.

SI-136

Page 4Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 25, 2018 Recommendation Memorandum

PRESENT CLAIM:

This gentleman continued to work for the LVMPD and, on June 22, 2012, he was involved in a motor vehicle accident and injured his cervical and lumbar spine and right knee. The C-4 Form noted central cord syndrome (pp.23-24).

Medical reporting was taken from the November 8, 2012 PPD evaluation penned by Dr. Perry. The patient was taken to the hospital via ambulance, treated and released to follow up with Dr. Tingey for his knee and Dr. Flangas for the spine. MRI of the knee was done and the impression was sprain/strain with a history of ACL reconstruction and microfracture.

On September 5, 2012, the patient was taken to surgery for the right knee and underwent arthroscopic chondroplasty, medial femoral condyle with compartment synovectomy. He attended physical therapy and as of October 18, 2012, Dr. Tingey released him to full duty and he had reached MMI and was stable and ratable (pp.).

The injured employee was rated for the cervical and lumbar spine as well as the right knee. He was found to have 12% WPI, combined, for the cervical and lumbar spine and no additional impairment for the right knee (pp.25-29).

The claim was successfully subrogated and the insurer received reimbursement in the amount of \$83,325.00 to be applied to the claim.

FINDINGS:

A. NRS 616B.557 (1) states that if an employee of a self-insured employer has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his employment which entitles him to compensation for disability that is substantially greater by reason of the combined effects of the pre-existing impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for Self-Insured Employers in accordance with regulations adopted by the Board.

Medical reporting supports a substantial increase in the costs of this claim for the right knee due to testing, evaluations and additional surgery.

Therefore, NRS 616B.557 (1) has been satisfied.

SI-136

Page 5Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 25, 2018 Recommendation Memorandum

B. NRS 616B.557 (3) states that as used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole man if evaluated according to the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

This gentleman was rated at 7% WPI under his 2008 claim for the right knee.

Therefore, NRS 616B.557 (3) has been satisfied.

C. NRS 616B.557 (4) states that to qualify under this section for reimbursement from the Subsequent Injury Account for Self-Insured Employers, the self-insured employer must establish by written records that the self-insured employer had knowledge of the "permanent physical impairment" at the time the employee was hired or that the employee was retained in employment after the self-insured employer acquired such knowledge.

The file contained a LVMPD Medical Evaluation Form, dated October 3, 2006 and received by the employer on October 3, 2006 that noted a meniscal tear to the right knee.

Under the 2008 date of injury the employer submitted a LVMPD Occupational Injury/illness/Exposure Report, dated January 6, 2008 and signed by a supervisor. The form noted right knee pain with meniscus tear in Oct 2006 and surgery. This form was received by the employer on January 7, 2008.

There were also two applications for leave submitted by a senior LEST from the employer to the payroll department for leave time for the February and June 2008 surgery dates.

Therefore, NRS 616B.557(4) has been satisfied.

D. NRS 616B.557(5) states a self-insured employer shall notify the Board of any possible claim against the Subsequent Injury Account for Self-Insured Employers as soon as practicable, but not later than 100 weeks after the injury or death.

Subsection five does not need to be satisfied in order for this claim to be considered for reimbursement since the date of injury is after the October 1, 2007 change in the requirements of the statute.

SI-136

Page 6Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 25, 2018 Recommendation Memorandum

WITNESSES:

List of witnesses who may be called to testify on behalf of the DIR and a brief summary of the proposed testimony of each.

Jacque Everhart, Compliance/Audit Investigator, Workers' Compensation Section who may testify as to the basis of the Administrator's recommendation.

The Administrator reserves the right to call rebuttal and impeachment witnesses.

NOTIFICATION TO APPLICANT:

Applicants are advised that they should not take for granted a recommendation of the Administrator to the Board, whether positive or adverse to the self-insured employer. The Administrator's role is to make recommendations, only. The Board is the body which decides the application on the merits. Its authority is plenary. Consequently, the applicant should be fully advised that the Board is free to accept or reject in whole or in part, the recommendation of the Administrator. In addition, the Board may agree with the Administrator's recommendation to accept or reject the claim, but make its decision based upon grounds totally different than the basis for the Administrator's recommendation, provided the decision is supported by substantial evidence in the record before the Board and the Board is correct in its disposition as a matter of law. Applicants are advised, then, to appear and represent their position to the Board. Applicants are also further advised to review the pertinent statutes and regulations found at NAC 616B.770 *et. seq.*, and NRS 616B.545 *et. seq.*, and any other statutes, regulations and case law that might apply, to make their own assessment of what might be required of them.

SUBROGATION RECOVERY NOTICE:

Please note that pursuant to NRS 616C.215, if an insurer receives reimbursement from the Subsequent Injury Account, the Nevada Division of Industrial Relations (DIR) has a statutory lien upon the total amount paid by the employer or upon the total proceeds of any recovery from a third party. Additionally, NRS 616C.215(8) makes the injured worker, claimant's counsel and third-party insurer jointly and severally liable for any amount to which the Subsequent Injury Account is entitled if the party has knowledge of the lien and does not notify the Administrator, DIR, for the Subsequent Injury Account within 15 days after the date of recovery by way of actual receipt of the proceeds of the judgment or settlement.

ROA0048

00048

SI-136

Page 7Claim No:12D34C229979Insurer:Las Vegas Metropolitan Police DepartmentApril 25, 2018 Recommendation Memorandum

CERTIFICATE OF SERVICE

Kim Price Lewis Brisbois Bisgaard & Smith LLP 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 89102

I certify that I am an employee of the Division of Industrial Relations, Workers' Compensation Section, and on 4125, 20 1 served the attached Administrator's Recommendation Memorandum on the person(s) listed above:

V	By placing an original or true copy thereof in a sealed envelope, postage prepaid, placed for collection and mailing in the United States Mail, at Henderson, Nevada
N	By personal delivery
	By Federal Express or other overnight delivery
	By Certified Mail/Return Receipt Requested

Dated this 25 day of _____ 20 1 %

Division of Industrial Relations Workers' Compensation Section

SI-136

STATE OF NEVADA

Board for the Administration of the Subsequent Injury Account For Self-Insured Employers

NOTICE OF MEETING

The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers will hold a public meeting on June 27, 2018 at 10:00 a.m., at 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102, in the Executive Video Conference Room. The public is advised that some of the members of the Board may participate in the meeting *via* telephone.

AGENDA

- Notice: (1) Items on the Agenda may be taken out of order; (2) The Board may combine two or more Agenda items for consideration; and (3) The Board may remove an item from the Agenda or delay discussion relating to an item on the Agenda at any time.
 - 1. Roll Call.
- ** 2. Public Comment-The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
- * 3. Approval of Posting of Agenda. For Possible Action
- * 4. Approval of Agenda. For Possible Action
- * 5. Approval of the Minutes for April 25, 2018. For Possible Action
- Action on the recommendation of the Administrator of the Division of Industrial Relations, for <u>approval</u> of the following request(s)_for reimbursement from the Subsequent Injury Account for Self-Insured Employers in the amount verified by the Administrator:

a.	12D34C229979	Las Vegas Metropolitan Police Department For Possible Action
b.	13D34C985171	Las Vegas Metropolitan Police Department For Possible Action

7. Action on the recommendation of the Administrator of the Division of Industrial Relations, for <u>approval</u> of the following <u>supplemental</u> request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers in the amount verified by the Administrator:

a.	96853A375047	City of Reno
		For Possible Action
b.	07D34B894234	Las Vegas Metropolitan Police Department
		For Possible Action
c.	16C51G633168	City of North Las Vegas
		For Possible Action

- 8. Update on draft regulations: Review of draft regulations returned from the LCB. Consider whether to approve or return draft regulations to the LCB for further review based upon Board action or sign off on them as is or with minor corrections and proceed to the workshop phase of the regulation process. Direction to Board legal counsel. For Possible Action
- 9. Additional Items:
 - ** a. General matters of concern to Board members regarding matters not appearing on the agenda.
 - ** b. Old and new business.
 - c. Schedule of next meeting: July 18, 2018, August 15, 2018, September 19, 2018, October 17, 2018, November 14, 2018, December 12, 2018 For Possible Action
- ** 10. Public Comment-The opportunity for public comment is reserved for any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
- * 11. Adjournment. For Possible Action

2

Single-asterisked items are matters upon which the Board may take possible action.

Double-asterisked items are matters upon which the Board may take no action until the matter itself has been specifically included on an agenda as an item upon which action may be taken.

Any person with a disability as defined by the Americans with Disabilities Act who requires special assistance to participate in the meeting may contact, at least two days prior to the meeting, Jacque Everhart at the Division of Industrial Relations, 1301 North Green Valley Parkway, Suite 200, Henderson, Nevada, 89074, or by calling (702) 486-9089 to arrange for reasonable accommodations.

This Notice has been posted at the following locations:

Division of Industrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102.

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada, 89710.

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502.

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada, 89102

This notice has also been posted at the following web site addresses:

State of Nevada, Department of Business and Industry, Industrial Relations (DIR) website at <u>http://dir.nv.gov/WCS/Hearings/</u>

Nevada Public Notices at https://notice.nv.gov/.

According to the provision of NRS 241.020(5), a copy of supporting (not privileged and confidential) material provided to the Board Members may be obtained upon request made to: Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 575 Forest Street, Suite 200, Reno, Nevada, 89509, or by calling (775) 323-5700.

Copies of the supporting (not privileged and confidential) material may also be obtained upon request at the offices of the Division of Industrial Relations, Workers' Compensation Section located at 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada, 89074 or by calling (702) 486-9000.

Dated this 6th day of June, 2018

By: <u>s/ CHARLES R. ZEH. ESQ.</u> Charles R. Zeh, Esq. Counsel for the Board

STATE OF NEVADA

Board for the Administration of the Subsequent Injury Account For Self-Insured Employers

NOTICE OF MEETING

The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers will hold a public meeting on **June 27, 2018 at 10:00 a.m.**, at 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102, in the **Executive Video Conference Room**. The public is advised that some of the members of the Board may participate in the meeting *via* telephone.

AMENDED AGENDA

- Notice: (1) Items on the Agenda may be taken out of order; (2) The Board may combine two or more Agenda items for consideration; and (3) The Board may remove an item from the Agenda or delay discussion relating to an item on the Agenda at any time.
 - 1. Roll Call.
- ** 2. Public Comment-The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
- * 3. Approval of Posting of Agenda. For Possible Action
- * 4. Approval of Agenda. For Possible Action
- * 5. Approval of the Minutes for April 25, 2018. For Possible Action
- Action on the recommendation of the Administrator of the Division of Industrial Relations, for <u>approval</u> of the following request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers in the amount verified by the Administrator:

a.	12D34C229979	Las Vegas Metropolitan Police Department For Possible Action
b.	13D34C985171	Las Vegas Metropolitan Police Department For Possible Action

7. Action on the recommendation of the Administrator of the Division of Industrial Relations, for <u>approval</u> of the following <u>supplemental</u> request(s)_for reimbursement from the Subsequent Injury Account for Self-Insured Employers in the amount verified by the Administrator:

a.	96853A375047	City of Reno
		For Possible Action
Ь.	07D34B894234	Las Vegas Metropolitan Police Department
		For Possible Action
c.	16C51G633168	City of North Las Vegas
		For Possible Action

- 8. Update on draft regulations: Review of draft regulations returned from the LCB. Consider whether to approve or return draft regulations to the LCB for further review based upon Board action or sign off on them as is or with minor corrections and proceed to the workshop phase of the regulation process. Direction to Board legal counsel. For Possible Action
- 9. Consider and approve the Small Business Impact Statement required as a part of the regulation amendment process. For Possible Action
- 10. Additional Items:
 - ** a. General matters of concern to Board members regarding matters not appearing on the agenda.
 - ** b. Old and new business.
 - c. Schedule of next meeting: July 18, 2018 regulation workshop/meeting, August 20, 2018 please note change in date for meeting and regulation hearing, September 19, 2018, October 17, 2018, November 14, 2018, December 12, 2018 For Possible Action
- ** 11. Public Comment-The opportunity for public comment is reserved for any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
- * 12. Adjournment. For Possible Action

Single-asterisked items are matters upon which the Board may take possible action.

Double-asterisked items are matters upon which the Board may take no action until the matter itself has been specifically included on an agenda as an item upon which action may be taken.

Any person with a disability as defined by the Americans with Disabilities Act who requires special assistance to participate in the meeting may contact, at least two days prior to the meeting, Jacque Everhart at the Division of Industrial Relations, 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102, or by calling (702) 486-9089 to arrange for reasonable accommodations.

This Notice has been posted at the following locations:

Division of Industrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102.

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada, 89710.

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502.

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada, 89102

This notice has also been posted at the following web site addresses:

State of Nevada, Department of Business and Industry, Industrial Relations (DIR) website at <u>http://dir.nv.gov/WCS/Hearings/</u>

Nevada Public Notices at https://notice.nv.gov/.

According to the provision of NRS 241.020(5), a copy of supporting (not privileged and confidential) material provided to the Board Members may be obtained upon request made to: Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 575 Forest Street, Suite 200, Reno, Nevada, 89509, or by calling (775) 323-5700.

Copies of the supporting (not privileged and confidential) material may also be obtained upon request at the offices of the Division of Industrial Relations, Workers' Compensation Section located at 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada, 89074 or by calling (702) 486-9000.

Dated this 18th day of June, 2018

By: <u>s/ CHARLES R. ZEH. ESQ.</u> Charles R. Zeh, Esq. Counsel for the Board

WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF MEETING

I, <u>firm D. PRICE</u>, affirm under the penalty of perjury that on the <u>B</u> day of <u>June</u>, 2018 at <u>B:52</u>, <u>a.m.</u>, I personally received, the Notice of Meeting for the meeting to be held on June 27, 2018 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Las Vegas Metropolitan Police Department, 13D34C985171 at said hearing.

Kim Price Lewis Brisbois Bisgaard & Smith LLP Kim.Price@lewisbrisbois.com

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Jacque Everhart via facsimile at (702) 990-0364 or by mail at the following address:

Jacque Everhart Workers' Compensation Section 1301 North Green Valley Parkway, Suite 200 Henderson, Nevada 89074

Should the Waiver not be received by Jacque Everhart for inclusion in the record by the time of the scheduled hearing, the matter will not be heard and will be rescheduled for hearing at a later date.

CERTIFICATE OF PROVIDING E-MAIL OF SECOND AMENDED AGENDA TO WEB ADMINISTRATOR FOR POSTING ON THE DIVISION OF INDUSTRIAL REATIONS, WCS, NOTICE OF MEETING WEBSITE

Vienhart-

Signature

CERTIFICATE OF PROVIDING E-MAIL OF THE SECOND AMENDED AGENDA FOR POSTING ON THE STATE OF NEVADA PUBLIC NOTICES WEBSITE

ROA0058

Signature

Compliance Audit Investigator III Subsequent Injury Coordinator

I, Jacque Everhart, swear and affirm under the penalty of perjury that on the ______ day of _______, 2018 at _______ and pm, I personally posted the Agenda for the meeting to be held on June 27, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102

Stenature

I, <u>Sava</u> Gammy, swear and affirm under the penalty of perjury that on the <u>18th</u> day of <u>WML</u>, 2018 at <u>8.22</u>, <u>Emp</u>, I personally posted the Agenda for the meeting to be held on June 27, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada 89701

Signature

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Jacque Everhart, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>everhart@business.ny.gov</u>, by facsimile sent to 702-990-0364 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

1. .

I, __Michelle Metivier_____, swear and affirm under the penalty of perjury that on the __18___ day of __June_____, 2018 at ___8:20____, am, I personally posted the Amended Agenda for the meeting to be held on June 27, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102

etener, Signature

Admn Asst_____ Title

Note: After execution of this Certificate of Posting and posting of the Amended Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Jacque Everhart, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>everhart@husiness.nv.cov</u>, by facsimile sent to 702-990-0364 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

I, <u>Nathe</u> <u>May and</u>, swear and affirm under the penalty of perjury that on the <u>18th</u> day of <u>June</u>, 2018 at <u>8:50</u> and pm, I personally posted the Agenda for the meeting to be held on **June 27**, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502

Merit Playoler-May

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Jacque Everhart, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>everhart@business.nv.gov</u>, by facsimile sent to 702-990-0364 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

ROA0062

STATE OF NEVADA Board for the Administration of the Subsequent Injury Account for Self-Insured Employers

Meeting Minutes for June 27, 2018

On June 27, 2018, a meeting of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers was convened. The meeting was duly noticed in compliance with the Nevada Open Meeting Law to take place at 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, in the Executive Video Conference Room, at the offices of the Division of Industrial Relations ("DIR"). Participating by phone were Vice-Chairman Michele Berrington and members Amy Wong and Cecilia Meyer. Chairman RJ LaPuz was absent due to his critically ill mother in the Phillippines. There is one vacant position on the Board. In accordance with the Nevada Open Meeting Law, each Board member participating in the meeting either had before him or her all written materials to be considered during the deliberations or was obliged to refrain from voting if not in possession of the materials.

1. Roll Call.

As Chairman LaPuz was absent, Vice-Chairman, Michele Berrington called the meeting to order at 10:00 a.m. Participating by phone were Vice-Chairman Michele Berrington and members Amy Wong and Cecilia Meyer. Chairman RJ LaPuz was absent due to his critically ill mother in the Phillippines. A quorum was present.

Also, present in person for the meeting were Jacque Everhart, the Liaison to the Board for the Administrator of the DIR, Christopher Eccles, Esq., DIR, and Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., legal counsel to the Board. Participating for all or a portion of the meeting by phone was Kim Price, Esq., Lewis Brisbois Bisgaard & Smith LLP and Kasey McCourtney, of CCMSI.

2. Public Comment.

Public comment was invited. None was offered.

3. Approval of the Posting of the Agenda.

Acting Chairman Berrington called this matter to be heard. It was moved by Amy Wong, seconded by Cecilia Meyer, to approve the posting of the Agenda for the meeting. **Motion adopted.**

.

Vote: 3-0.

June 27, 2018

July 16, 2018

ROA0063

4. Approval of the Agenda.

Acting Chairman Berrington called this item to be considered. It was moved by Cecilia Meyer, seconded by Amy Wong, to approve the Agenda. Motion adopted.

Vote: 3-0

5. Approval of the Minutes for April 25, 2018.

Acting Chairman Berrington called this item to be heard. It was moved by Amy Wong, seconded by Cecilia Meyer, to approve the minutes as read. **Motion adopted.**

Vote: 3-0

6. Action on the Recommendation of the Administrator of the Division of Industrial Relations for <u>Approval</u> of the Following Request(s) for Reimbursement from the Subsequent Injury Account for Self-Insured Employers in the Amount Verified by the Administrator.

a. 12D34C229979 Las Vegas Metropolitan Police Department

Acting Chairman Berrington called this matter next for hearing. The insurer and employer for this matter is the Las Vegas Metropolitan Police Department. The thirdparty administrator for this matter is CCMSI. The matter was submitted by Kim Price with Lewis Brisbois Bisgaard & Smith LLP.

The Administrator recommended acceptance of this request pursuant to NRS 616B.557 for the right knee only. The amount of reimbursement requested was \$14,008.47. The amount of reimbursement after costs were verified was a negative \$69,630.88.

Kim Price, Esq., of Lewis Brisbois Bisgaard & Smith LLP, appeared on behalf of the applicant.

As CCMSI is the third-party administrator for the self-insured employer, Cecilia Meyer advised that CCMSI is the third-party administrator for her employer, Carson City. She did not believe that this circumstance constituted a conflict of interest and advised, she would participate in the disposition of this matter.

Similarly, Amy Wong advised that CCMSI is the third-party administrator for her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest, either, and therefore, advised that she would participate in the disposition of this matter.

Also, Amy Wong advised that the law firm of Lewis Brisbois Bisgaard & Smith LLP represents her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest and, therefore, advised that this would not prevent her from participating in the disposition of this matter.

2

June 27, 2018

July 16, 2018

After the Administrator's liaison, Jacque Everhart, presented the Administrator's recommendation, discussion arose about the recommendation of a negative \$69,630.88 reimbursement recommendation. It was established that because there was this negative reimbursement recommendation due to the subrogation recovery in the amount of \$83,325.00, there would be no affirmative reimbursement unless and until the self-insured had paid out an additional amount of \$69,630.88 on this claim. Board counsel wanted it make clear to Mr. Price, for the applicant, that the size of the reimbursement could be appealed, just as claim acceptance could be the subject of appeal to the Board at this first bite stage of the case.

Kim Price, Esq., was asked if he had anything to add or respond to the Administrator's recommendation. He eventually stated he had nothing more to add, after questioning why the amount of the subrogation award was not apportioned to this claim only in the amount of the award attributable to the injured body part? The Administrator's liaison explained that the reason, in part, it was not apportioned was because the applicant included in the claim, the injured body parts included in the subrogation claim even though they were not a part of the body parts injured the subject of the industrial injury.

After deliberations on the question of the amount of reimbursement and the meaning of a negative reimbursement recommendation due to the applicant's subrogation recovery of the sum of \$83,325,00, it was moved by Amy Wong, seconded by Cecilia Meyer to accept the recommendation of the Administrator and approve the claim with a negative reimbursement of \$69,630.88, attributable to a subrogation recovery in the amount of \$83,325,00. Motion adopted.

Vote: 3-0.

b. 13D34C985171 Las V

Las Vegas Metropolitan Police Department

Acting Chairman Berrington called this matter next for hearing. The insurer and employer for this matter is the Las Vegas Metropolitan Police Department. The thirdparty administrator for this matter is CCMSI. The matter was submitted by Kim Price, Esq., for Lewis Brisbois Bisgaard & Smith LLP.

The Administrator recommended acceptance of this request pursuant to NRS 616B.557 for the left shoulder. The amount of reimbursement requested was \$23,464.84. The amount of reimbursement after costs were verified was \$17,411.53.

Kim Price, Esq., of Lewis Brisbois Bisgaard & Smith LLP, appeared on behalf of the applicant.

As CCMSI is the third-party administrator for the self-insured employer, Cecilia Meyer advised that CCMSI is the third-party administrator for her employer, Carson City. She did not believe that this circumstance constituted a conflict of interest and advised, she would participate in the disposition of this matter.

3

June 27, 2018

July 16, 2018

Similarly, Amy Wong advised that CCMSI is the third-party administrator for her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest, either and, therefore, advised that she would participate in the disposition of this matter.

Also, Amy Wong advised that the law firm of Lewis Brisbois Bisgaard & Smith LLP represents her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest and, therefore, advised that this would not prevent her from participating in the disposition of this matter.

After the Administrator's liaison, Jacque Everhart, presented the Administrator's recommendation, Kim Price, Esq., was asked if he had anything further to add. His reply was he had no further comment.

Accordingly, based upon the Board's deliberations on the claim, the Administrator's recommendation and good cause was appearing, it was moved by Cecilia Meyer, seconded by Amy Wong, to accept the Administrator's recommendation and approve payment of the claim in the verified amount of \$17,411.53. Motion adopted.

Vote: 3-0.

7. Action on the Recommendation of the Administrator of the Division of Industrial Relations for <u>Approval</u> of the Following <u>Supplemental</u> Request(s) for Reimbursement from the Subsequent Injury Account for Self-Insured Employers in the Amount Verified by the Administrator from a Previous Meeting.

a. 96853A375047

City of Reno

Acting Chairman Berrington called this matter next for hearing. The insurer and employer for this matter is the City of Reno. The matter was submitted by the third-party administrator, CCMSI. Kasey McCourtney appeared on behalf of the applicant.

The Administrator recommended acceptance of this eighth supplemental request pursuant to NRS 616B.557 for the heart. The amount of reimbursement requested was \$24,719.40. The amount of reimbursement after costs were verified was \$24,719.40.

As CCMSI is the third-party administrator for the self-insured employer, Cecilia Meyer advised that CCMSI is the third-party administrator for her employer, Carson City. She did not believe that this would create a conflict of interest and, therefore, would participate in the disposition of this matter.

Similarly, Amy Wong advised that CCMSI is the third-party administrator for her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest, either and, therefore, advised that she would participate in the disposition of this matter.

4

June 27, 2018

July 16, 2018

After the Administrator's liaison, Jacque Everhart, presented the Administrator's recommendation, Kasey McCourtney, was asked if she had anything further to add. She stated she had no further comment.

Accordingly, based upon the Administrator's recommendation, the exhibits attached to the Staff Report, the discussion before the Board and other good cause appearing, it was moved by Cecilia Meyer, seconded by Amy Wong, to approve this claim and to authorize payment of the claim in the verified amount of \$24,719.40. Motion adopted.

Vote: 3-0.

b. 07D34B894234 Las Vegas Metropolitan Police Department

Acting Chairman Berrington called this matter next for hearing. The insurer and employer for this matter is the Las Vegas Metropolitan Police Department. The thirdparty administrator for this matter is CCMSI. The matter was submitted by Kim Price, Esq., with Lewis Brisbois Bisgaard & Smith LLP.

The Administrator recommended acceptance of this third supplemental request for previously disallowed amounts and payments not already considered pursuant to NRS 616B.557 for the lumbar spine. The amount of reimbursement requested was \$44,443.19. The amount of reimbursement after costs were verified was \$12,967.82.

Kim Price, Esq., of Lewis Brisbois Bisgaard & Smith LLP, appeared on behalf of the applicant.

As CCMSI is the third-party administrator for the self-insured employer, Cecilia Meyer advised that CCMSI is the third-party administrator for her employer, Carson City. She did not believe that this circumstance constituted a conflict of interest and advised, she would participate in the disposition of this matter.

Similarly, Amy Wong advised that CCMSI is the third-party administrator for her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest, either and, therefore, advised that she would participate in the disposition of this matter.

Also, Amy Wong advised that the law firm of Lewis Brisbois Bisgaard & Smith LLP represents her employer, the City of Henderson. She did not believe that this circumstance constituted a conflict of interest and, therefore, advised that this would not prevent her from participating in the disposition of this matter.

After the Administrator's liaison, Jacque Everhart, presented the Administrator's recommendation, Kim Price, Esq., was asked if he had anything further to add. His reply was he had no further comment.

Accordingly, based upon the Board's deliberations on the claim, the Administrator's recommendation and good cause was appearing, it was moved by Cecilia Meyer,

June 27, 2018

5

July 16, 2018

seconded by Amy Wong, to accept the Administrator's recommendation and approve payment of the claim in the verified amount of \$12,967.82. Motion adopted.

Vote: 3-0.

Mr. Price then excused himself from further participation in the meeting.

c. 16C51G633168

City of North Las Vegas

Acting Chairman Berrington called this matter next for hearing. The insurer and employer for this matter is the City of North Las Vegas. The matter was submitted by the third-party administrator, CCMSI. Kasey McCourtney appeared for CCMSI on behalf of the applicant.

The Administrator recommended acceptance of this first supplemental request for a previously disallowed amount pursuant to NRS 616B.557 for the right shoulder. The amount of reimbursement requested was \$1,767.10. The amount of reimbursement after costs were verified was \$1,767.10.

Amy Wong advised that CCMSI, the third-party administrator for this claim, is also the third-party administrator for her employer, the City of Henderson. She did not believe that this would create a conflict of interest and, therefore, would participate in the disposition of this matter.

Similarly, Cecilia Meyer advised that CCMSI is the third-party administrator for her employer, Carson City. She did not believe that this would create a conflict of interest and, therefore, would participate in the disposition of this matter.

After the Administrator's liaison, Jacque Everhart, presented the Administrator's recommendation, Kasey McCourtney was asked if she had anything further to add. She stated she had no further comment.

Accordingly, based upon the Board's deliberations on the claim, the Administrator's recommendation and good cause was appearing, it was moved by Amy Wong, seconded by Cecilia Meyer, to accept the Administrator's recommendation and approve payment of the claim in the verified amount of \$1,767.10. Motion adopted.

Vote: 3-0.

8. Update on Draft Regulations: Review of Draft Regulations Returned from the LCB. Consider Whether to Approve or Return Draft Regulations to the LCB for Further Review Based upon Board Action or Sign off on Them as Is or with Minor Corrections and Proceed to the Workshop Phase of the Regulation Process. Direction to Board Legal Counsel.

Acting Chairman Berrington then called this matter for hearing. She called upon Board legal counsel to address the issue of the Board Regulations. Board counsel explained that

6

June 27, 2018

July 16, 2018

draft Regulations were before the Board. They had been vetted, already, by Board legal counsel with Asher Killian of the Legislative Counsel Bureau. There were three minor changes that needed to be made, if the Board concurs for the Board to have a clean copy to be submitted to the LCB for approval and then, to proceed with a workshop on the Regulations. Hopefully, thereafter, the Board could move onward to a hearing to approve a final copy of the Regulations to submit to the LCB for transmittal to the Legislative Commission for final approval, enacting the Regulations into the Nevada Administrative Code. The changes are to strike "primarily" from page 5, Section 4, change NRS 616B.578 to NRS 616B.557 on page 9, and strike "and number each of the pages in the claim sequentially" from page 16. These were the only changes and with these changes, it was moved by Amy Wong, seconded by Cecilia Meyer, to direct the Board legal counsel to inform the LCB to proceed with a revised final draft of the Regulations for use at the workshop and the hearing upon whether to adopt the draft Regulations as the final Regulations of the Board for inclusion in Nevada's Administrative Code. **Motion adopted.**

Vote: 3-0.

Board counsel advised that at the meeting of July 18, 2018, the workshop on the draft Regulations will be held, and that on August 20, 2018, a hearing will be held after notice of the intent to adopt final Regulations is given.

9. Consider and Approve the Small Business Impact Statement Required as a Part of the Regulation Amendment Process.

Acting Chairman Berrington then called this item for hearing, consideration of the draft Small Business Impact statement (SBI). She asked Board counsel to explain. He informed the Board that the SBI was an integral part of the regulatory scheme for the amendment of the Board's Regulations. The workshop could not proceed without the approval of an SBI. The SBI before the Board concluded that the draft Regulations would have no adverse impact upon small employers, defined as employers who employ 150 or fewer employees. The SBI also concluded that the draft Regulations will actually have a positive impact on small businesses. Upon review of the SBI and discussion of its contents, it was moved by Cecilia Meyer, seconded by Amy Wong, to approve the SBI. **Motion adopted.**

Vote: 3-0.

10. Additional Items:

a. General Matters of Concern to Board Members Regarding Matters Not Appearing on the Agenda.

Board counsel once again pleaded with Board members to recruit someone to fill the vacant fifth slot on the Board, given that with only four Board members, a quorum was a very fragile proposition.

7

June 27, 2018

July 16, 2018

ROA0069

b. Old and New Business.

There was no old or new business discussed.

c. Schedule of Next Meeting.

There are no changes in the dates set for meetings. The Board has tentatively scheduled the following meetings: , July 18, 2018, August 20, 2018, September 19, 2018, October 17, 2018, November 14, 2018 and December 12, 2018.

11. Public Comment.

There was no public comment.

12. Adjournment.

It was then moved by Cecilia Meyer, seconded by Amy Wong, to adjourn the meeting. **Motion Adopted.**

Vote: 3-0.

S Clients SIE Minutes 2018 06.27.2018 R5 wpd

June 27, 2018

The Law Offices of Charles R. Zeh, Esq.

Attorneys and Counselors at Law

Charles R. Zeh, Esq. Robert G. Berry, Esq. Pete Cladianos III, Esq. James Barnes, Esq. 575 Forest Street, Suite 200 Reno, Nevada 89509 Phone (775) 323-5700 Fax (775) 786-8183 Office e-mail: Karen@crzehlaw.com Sender's e-mail address CRZeh@aol.com

July 11, 2018

Via U.S. Mail

Kim D. Price, Esq. Lewis Brisbois Bisgaard & Smith LLP 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, NV 89102

> Re: Subsequent Injury Request for Reimbursement Claim No.: 12D34C229979 Date of Injury: June 22, 2012 Insurer: Las Vegas Metropolitan Police Department Employer: Las Vegas Metropolitan Police Department Third-Party Administrator: CCMSI Submitted by: Kim Price, Esq., with Lewis Brisbois Bisgaard & Smith LLP

Dear Mr. Price:

The Board for Administration of the Subsequent Injury Account for Self-insured Employers hereby notifies you that at the meeting on June 27, 2018, the Board voted to approve the request for reimbursement related to the above-referenced claim pursuant to NRS 616B.557. The Board also affirmed the Administrator's recommendation of verified costs in the amount of a negative \$69,630.88. This means, as explained during the course of the hearing, that the employer, by reason of the subrogated amount in this case, must expend an additional verifiable sum of \$69,630.88 on this claim before the employer might successfully pursue reimbursement.

If you disagree with the Board's decision, you may request a hearing within thirty (30) days of receipt of this letter. Your request should be submitted in writing to:

Board for Administration of the Subsequent Injury Account For Self-insured Employers c/o Charles R. Zeh, Esq. The Law Offices of Charles R. Zeh, Esq. 575 Forest Street, Suite 200 Reno, NV 89509



Admitted in Minnesota and Nevada

00071

Kim D. Price, Esq. Lewis Brisbois Bisgaard & Smith LLP July 11, 2018 Page 2

()

Sincerely,

THE LAW OFFICES OF CHARLES R. ZEH, ESQ.

01 Charles R. Zeh, Esq.

CRZ/kdk

. .

cc: RJ LaPuz, Chairman, Via facsimile Jacque Everhart, DIR, Via facsimile

CERTIFICATE OF SERVICE

I certify that I am an employee of The Law Offices of Charles R. Zeh, Esq., and on this date I served this letter on the parties as indicated. Date: 7.11.2018 March March 2019

S. Chents/SIEVLetters/Notification/06 27 2018 Approvals R2 avad

Admitted in Minnesota and Nevada

The Law Offices of Charles R. Zeh, Esq.

Attorneys and Counselors at Law

Charles R. Zeh, Esq. Robert G. Berry, Esq. Pete Cladianos III, Esq. James Barnes, Esq.

50 West Liberty Street, Suite 950 Reno, Nevada 89501 Phone (775) 323-5700 Fax (775) 786-8183 Office e-mail: Karen@Crzehlaw.com Sender's c-mail address CRZeh@sol.com

October 8, 2018

Kim Price, Esq. Lewis Brisbois Bisgaard & Smith LLP 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 89102

> Re: Subsequent Injury Request for Reimbursement Claim No.: 12D34C229979 Date of Injury: June 22, 2012 Insurer: Las Vegas Metropolitan Police Department Employer: Las Vegas Metropolitan Police Department Third-Party Administrator: CCMSI Application Submitted by: Kim Price, Esq.

Dear Mr. Price:

This is to provide preliminary confirmation that at the meeting of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers, held on September 26, 2018, the Board voted to uphold the recommendation of the Administrator, DIR, thereby affirming the Administrator's recommendation to accept the claim of your client, the Las Vegas Police Department, but awarding a negative compensation in the amount of <\$69,630.88>P. Under the statutory and regulatory framework for the Board, legal counsel shall draft findings of fact, conclusions of law and a decision (decision) memorializing the action of the Board. I will be drafting the proposed decision for the Board's review and approval, as soon as time and circumstances reasonably permit. Completion of the final draft will turn upon the length of time it takes for the Court Reporter to provide me a copy of the transcript of the hearing on this matter.

As I understand it, your client has the option of appealing the decision of the Board to the District Court once a written decision has been signed and approved by the Board. Accordingly, the time to file your notice of appeal to the District Court does not begin to run until you are provided a copy of the written decision once approved by the Board. I admonish you, however, to review the Nevada Revised Statutes and Nevada Administrative Code, to make your own determination on these matters.

Admitted in Minnesota and Nevada

ROA0073

Kim Price, Esq. Lewis Brisbois Bisgaard & Smith LLP October 8, 2018 Page 2

Should you have any questions, please do not hesitate to inquire.

Sincerely,

THE-LAW OFFICES OF CHARLES R. ZEH, ESQ.

Charles R. Zeh, Esq.

CRZ/kdk

cc: Michele Berrington, Chairman, and Board members Donald C. Smith, Esq., Administrator's legal counsel Jacque Everhart, Administrator's liaison to the Board

CERTIFICATE OF SERVICE

I certify that I am an employee of The Law Offices of Charles R. Zeh, Esq., and on this date I served this letter on the parties as indicated. Date: 10-8-2018 Rank

S:\Clients\SIE\Letters\Denial Natification\9,26,2018 Denial R2.vpd

Admitted in Minnesota and Nevada

BRISBOIS BISGAARD & SMITH LLP

Kim D. Price 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 89102 Kim Price@lewisbrisbols.com Direct: 702 583,6005

August 10, 2018

33307-150

VIA E-MAIL

Charles R. Zeh, Esq. Board of Administration of the Subsequent Injury Account for Self-Insured Employers The Law Offices of Charles R. Zeh, Esq. 575 Forest Street Suite 200 Reno NV 89509 E-Mail: CRZeh@aol.com

> Re: Claim No. 12D34C229979 DOI: 06/22/2012 Insurer: LVMPD Employer: LVMPD TPA: CCMSI

AUG 1 0 2018 WCS

Dear Mr. Zeh:

We are in receipt of the July 11, 2018 correspondence notifying us that the Board voted to approve the request for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

Please be advised that we are appealing the Board's recommendation of verified costs in the amount of a negative \$69,630.88. We disagree with the amount of the subrogation that was applied to the expenditures submitted with the initial Subsequent Injury Application.

Sincerely . Colores kim D. Price for

LEWIS BRISBOIS BISGAARD & SMITH LLP

KDP:db

cc: RJ LaPuz

Jacque Everhart Lisa Koehler , Claim Representative CCMSI Jeff Roch, Risk Management LVMPD

ARIZONA · CALIFORNIA · COLORADO · CONNECTICUT · FLORIDA · GEORGIA · ILLINDIS · INDIANA · KANSAS · KENTUCKY LOUISIANA · MARYLAND · MASSACHUSETTS · MISSOURI · NEVADA · NEW JERSEY · NEW MEXICO · NEW YORK NORTH CAROLINA · OHIO · OREGON · PENNSYLVANIA · RHODE SLAND · TEXAS · WASHINGTON · WEST VIRGINIA 4837-5031-5632 1

STATE OF NEVADA

Board for the Administration of the Subsequent Injury Account For Self-Insured Employers

NOTICE OF MEETING

The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers will hold a public meeting on September 26, 2018 at 10:00 a.m., at 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102. The public is advised that some of the members of the Board may participate in the meeting *via* telephone.

AGENDA

- Notice: (1) Items on the Agenda may be taken out of order; (2) The Board may combine two or more Agenda items for consideration; and (3) The Board may remove an item from the Agenda or delay discussion relating to an item on the Agenda at any time.
 - 1. Roll Call.
- ** 2. Public Comment. The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
 - 3. Election of Officers. In light of the resignation of the Chairman, RJ LaPuz, from the Board, the Board is required by statute to conduct elections for a replacement to complete the resigning Chairman's term of office. The Board will, therefore, take nominations to fill the position of Chairman of the Board and to conduct an election for Chairman. Depending upon the outcome of the Chairman's election, the Board may also take nominations and hold an election for a position of Board Vice-Chairman. For Possible Action
- 4. Approval of Posting of Agenda. For Possible Action
- 5. Approval of Agenda. For Possible Action
- 6. Approval of the Minutes for August 20,2018. For Possible Action

ROA0076

 Action on the recommendation of the Administrator of the Division of Industrial Relations for denial of the following request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers. The following request(s) for reimbursement, which the Board will hear *de novo*, is a contested case which will be adjudicated pursuant to the Nevada Administrative Procedures Act, NRS 233B.010, *et seq.*:

a. 12D34C229979 Las Vegas Metropolitan Police Department

For Possible Action

8. Action on the recommendation of the Administrator of the Division of Industrial Relations, for <u>approval</u> of the following request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers in the amount verified by the Administrator:

a.	15F78G682594	Carlin Surface Operations
		For Possible Action

* 9. Action on the recommendation of the Administrator of the Division ofIndustrial Relations, for <u>approval</u> of the following supplemental request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers in the amount verified by the Administrator:

15F02G240097	City of Las Vegas
	For Possible Action

- 10. Reconsider Action Regarding Draft Regulations. The Board will discuss the amendment to the draft regulations adopted at the August 20, 2018, meeting, to consider whether to Agendize this item for further action at subsequent meetings of the Board, whether to leave the amendment as is, or take such other action and give such other direction to the Staff and Board Counsel in light of the discussion of this item, which relates to the Action taken regarding Section 16, paragraph 5, page 17, dealing with incomplete applications for reimbursement and the Administrator's control over such incomplete applications for reimbursement. For Possible Action
- 11. Additional Items:

a.

- ** a. General matters of concern to Board members regarding matters not appearing on the agenda.
- ** b. Old and new business.
- c. Schedule of next meeting: October 17, 2018, November 13, 2018 and December 10, 2018. For Possible Action

- Public Comment-The opportunity for public comment is reserved for any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.
- * 13. Adjournment. For Possible Action

Single-asterisked items are matters upon which the Board may take possible action.

Double-asterisked items are matters upon which the Board may take no action until the matter itself has been specifically included on an agenda as an item upon which action may be taken.

Any person with a disability as defined by the Americans with Disabilities Act who requires special assistance to participate in the meeting may contact, at least two days prior to the meeting, Jacque Everhart at the Division ofIndustrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, or by calling Jacque Everhart at (702) 486-9089 to arrange for reasonable accommodations.

This Notice has been posted at the following locations:

Division of industrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102

Division of industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada, 89710

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada, 89102

The Notice has also been posted at the following web site addresses:

State of Nevada, Department of Business and Industry, Industrial Relations · (DIR), Workers' Compensation Section website at http://dir.nv.gov/WCS/Hearings/

Nevada Public Notices at https://notice.nv.gov/.

According to the provision of NRS 241.020(5), a copy of suppmting (not privileged and confidential) material provided to the Board Members may be obtained upon request made to: Charles R. Zeh, Esq., The Law Offices of Charles R. Zeh, Esq., 50 West Libetty Street, Suite 950, Reno, Nevada, 89501, or by calling (775) 323-5700.

Copies of the supporting (not privileged and confidential) material may also be obtained upon request at the offices of the Division of Industrial Relations, Workers' Compensation Section located at 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102 or by calling (702) 486-9080.

By:

Dated this fJay of September, 2018.

Charles R. Zeh Arsq. Coursel fort Board

STATE OF NEVADA Board for the Administration of the Subsequent Injury Account For Self-Insured Employers

NOTICE OF HEARING

To: Kim D. Price, Esq. Lewis Brisbois Bisgaard & Smith LLP 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, NV 89102 Facsimile: 702.366.9563

The Board for the Administration of the Subsequent Injury Account for Self-insured Employers hereby gives notice that it will hold a public meeting on September 26, 2018, 10:00 a.m., at 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada, at which time the Board will consider on its stacked calendar the following claim(s):

Action on the recommendation of the Administrator of the Division of Industrial Relations for <u>denial</u> of the following request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers. The following request(s) for reimbursement, which the Board will hear *de novo*, is a contested case <u>which will be adjudicated pursuant to the Nevada</u> <u>Administrative Procedures Act. NRS 233B.010. et seq.</u>, in Claim No. 12D34C229979, Las Vegas Metropolitan Police Department.

Dated this 10th day of September, 2018.

By: <u>/s/ Charles R. Zeh. Esq.</u> Charles R. Zeh, Esq. Counsel for the Board

ROA0080

00080

RECEIVED

SEP 1 0 2018

WCS

Sep. 10. 2018 12:08PM

5

WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF HEARING

I, Kim Price, Eşq., Lewis Brisbols Bisgaard & Smith LLP, affirm under the penalty of perjury that on the $\cancel{0}$ day of September, 2018, at $\cancel{1} : \exists c \rightarrow a.m.(p.m.)$ personally received, the Notice of Hearing for the meeting to be held on September 26, 2018, at 10:00 a.m., of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice via fax in time to appear and make a presentation regarding SIF Claim No. 12D34C229979 at said hearing.

Kim D. Price, Esq. Lewis Brisbois Bisgaard & Smith LLP 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, NV 89102

Note: After execution of this Waiver of Hand Delivery and Certificate of Receipt of Notice of Hearing, please promptly return the original Certificate to Charles R. Zeh, Esq., via facsimile at (775) 786-8183 or by mail at the following address:

Signature of Receiver

Charles R. Zeh, Esq. The Law Offices of Charles R. Zeh, Esq. 50 West Liberty Street, Suite 950 Reno, NV 89501

Should the Waiver not be received by Charles R. Zeh, Esq., for inclusion in the record by the time of the scheduled hearing, the matter will not be heard and will be rescheduled for hearing at a later date.

CERTIFICATE OF SERVICE

Dato: 9-10:2018

I certify that I am an employee of The Law Offices of Charles R. Zeb, Esq., and on this date I served this document on the person as indicated.

ROA0081

00081

S:\CHants\STE\Waivers\9,26,201\$ Walver.wp8

I, Jacque Everhart, swear and affirm under the penalty of perjury that on the 12 day of Super Address and affirm under the penalty of perjury that on the 12 day of meeting to be held on September 26, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102

Signature Compliance Audit Investigator III Subsequent Injury Coordinator

ROA0082

CERTIFICATE OF VERIFICATION OF POSTING OF THE AGENDA ON THE DIVISION OF INDUSTRIAL REALTIONS WEBSITE

I, Jacque Everhart, affirm under the penalty of perjury that on the 18 day of SUXWWW, 2018 at 225 among I verified the posting of the Agenda for the

meeting of the Self-Insured Board for September 26, 2018 was posted to the Division of Industrial Relations website, http://dir.nv.gov/WCS/Hearings/.

Signature Compliance Audit Investigator III Subsequent Injury Coordinator

CERTIFICATE OF PROVIDING E-MAIL OF THE AGENDA FOR POSTING ON THE STATE OF NEVADA PUBLIC NOTICES WEBSITE

I Jacque Everhart, affirm under the penalty of perjury that on the day of Add on September 26, 2018 at 225 ampm. I posted a notice for the meeting to be held on September 26, 2018 of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers to the State of Nevada Public Notices Website, located at, https://notice.nv.gov/.

Signature Compliance Audit Investigator III Subsequent Injury Coordinator

1, $\frac{101 \text{ even}}{100 \text{ even}}$, swear and affirm under the penalty of perjury that on the 17^{th} day of 5 even, 2018 at 3° , 35° , am/pm I personally posted the Agenda for the meeting to be held on September 26, 2018 of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada 89701

Signature Title

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Jacque Everhart, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>everhart@business.nv.gov</u>, by facsimile sent to 702-990-0364 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

ROA0085

I, <u>Nettie</u> <u>Plazola-May</u>, swear and affirm under the penalty of perjury that on the <u>1744</u> day of <u>Sept-ember</u>, 2018 at <u>4:09</u>, am/om I personally posted the Agenda for the meeting to be held on September 26, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502

T. Out Man Signature

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Jacque Everhart, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>everhart@business.nv.gov</u>, by facsimile sent to 702-990-0364 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

I, Lola Egan, swear and affirm under the penalty of perjury that on the 17th day of September, 2018 at 4:00, pm, I personally posted the Agenda for the meeting to be held on September 26, 2018, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada

89102 Signature Administrative Assistant Title

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Jacque Everhart, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>everhart@business.nv.gov</u>, by facsimile sent to 702-990-0364 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 1301 N. Green Valley Parkway, Suite 200, Henderson, Nevada 89074.

ROA0087

WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF MEETING

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>17th</u> day of <u>September</u>, 2018 at <u>3:54</u> pm, I personally received, the Notice of Meeting for the meeting to be held on **September 26**, 2018 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for City of Las Vegas, 15F02G240097 at said hearing.

Kasey McCourtney CCMSI kmccourtney@ccmsi.com

A.S.

Signature of Receiver

Recovery Specialist

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Jacque Everhart via facsimile at (702) 990-0364 or by mail at the following address:

Jacque Everhart Workers' Compensation Section 1301 North Green Valley Parkway, Suite 200 Henderson, Nevada 89074

Should the Waiver not be received by Jacque Everhart for inclusion in the record by the time of the scheduled hearing, the matter will not be heard and will be rescheduled for hearing at a later date.

WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF MEETING

I, Kasey McCourtney, affirm under the penalty of perjury that on the <u>17th</u> day of <u>September</u>, 2018 at <u>3:54</u> pm, I personally received, the Notice of Meeting for the meeting to be held on September 26, 2018 at 10:00 am, I personally received, the Notice of Meeting for the meeting to be held on September 26, 2018 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Carlin Surface Operations, 15F78G682594 at said hearing.

Kasey McCourtney CCMSI kmccourtney@ccmsi.com

R.J.

Signature of Receiver

Recovery Specialist

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Jacque Everhart via facsimile at (702) 990-0364 or by mail at the following address:

Jacque Everhart Workers' Compensation Section 1301 North Green Valley Parkway, Suite 200 Henderson, Nevada 89074

ROA0089

00089

Should the Waiver not be received by Jacque Everhart for inclusion in the record by the time of the scheduled hearing, the matter will not be heard and will be rescheduled for hearing at a later date.

WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF MEETING

I. <u>Kim-D. FRICE</u>, affirm under the penalty of perjury that on the <u>17¹⁴day of SEPENBER</u>, 2018 at <u>5.97</u>, <u>P.</u>m, I personally received, the Notice of Meeting for the meeting to be held on September 26, 2018 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Las Vegas Metropolitan Police Department.

12D34C229979 at said hearing.

Kim Price, Esq. Lewis Brisbois Bisgaard & Smith LLP Kim.Price@lewisbrisbois.com MMA Signature of Receiver Associatiz Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Jacque Everhart via facsimile at (702) 990-0364 or by mail at the following address:

Jacque Everhart Workers' Compensation Section 1301 North Green Valley Parkway, Suite 200 Henderson, Nevada 89074

Should the Waiver not be received by Jacque Everhart for inclusion in the record by the time of the scheduled hearing, the matter will not be heard and will be rescheduled for hearing at a later date.

Karen Kennedy

From:	Bateman, Dawn <dawn.bateman@lewisbrisbois.com></dawn.bateman@lewisbrisbois.com>
Sent:	Monday, September 24, 2018 12:48 PM
To:	'Jacque Everhant'
Cc:	crzeh@aol.com; Karen Kennedy; dmarshall@ccmsi.com; Lisa Koehler (lkoehler@ccmsi.com); Price, Klm
Subject:	Hearing 09/26/2018 - Claim 12D34C229979
Attachments:	Ltr of Application - 1st Supp SIA - JE.pdf; Subrogation Offset Memo.pdf; PPD Evaluations.pdf

Hi Jacque,

Attached are the following documents for the September 26, 2018 hearing.

- 1. First Supplement to Letter of Application.
- 2. Subrogation Offset Memo.
- 3. PPD Evaluations dated November 24, 2009 and November 8, 2012.

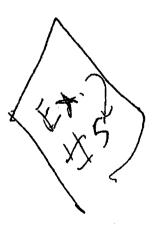
Thank you.



2300 West Sahara Avenue Suite 300, Box 28, Las Vegas, NV 89102 | LewisBrisbois.com

Representing clients from coast to coast. View our locations nationwide.

This e-mail may contain or attach privileged, confidential or protected information intended only for the use of the intended recipient. If you are not the intended recipient, any review or use of it is strictly prohibited. If you have received this e-mail in error, you are required to notify the sender, then delete this email and any attachment from your computer and any of your electronic devices where the message is stored.



ROA0091



Kim D. Price 2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 69102 Kim.Price@lewisbrisbols.com Direct: 702.583.6005

September 24, 2018

LEWIS BRISBOIS BISGAARD & SMITH LLI

33307-150

VIA E-MAIL

Jacque Everhart Division of Industrial Relations Workers' Compensation Section 3360 West Sahara Avenue, Suite 250 Las Vegas, NV 89102

> Re: Claim No. 12D34C229979 DOI: 06/22/2012 Insurer: LVMPD Employer: LVMPD TPA: CCMSI

First Supplement to Letter of Application for Reimbursement from the Subsequent Injury Account

Dear Ms. Everhart:

Pursuant to NRS 616B.557, and on behalf of the Self Insured Employers, please accept this first supplement of documents for consideration during the de novo hearing of Employers request for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

Attached is our Subrogation Offset Memorandum and the PPD Evaluations which we submit for consideration to recalculate the amount of verified costs and proper subrogation in this matter.

Sincerely,

LEWIS BRISBOIS BISGAARD & SMITH LLP

KDP:db

cc: Charles Zeh, Esq. – via email Lisa Koehler, Claim Representative CCMSI Jeff Roch, Risk Management LVMPD

ARIZONA · CALIFORNIA · COLORADO · CONNECTICUT · FLORIDA · GEORGIA · ILLINOIS · INDIANA · KANSAS · KENTUCKY LOUISIANA · MARYLAND · MASSACHUSETTS · MISSOURI · NEVADA · NEW JERSEY · NEW MEXICO · NEW YORK NORTH CAROLINA · OHIO · OREGON · PENNSYLVANIA · RHODE ISLAND · TEXAS · WASHINGTON · WEST VIRGINIA 4817-3852-3508.1

ROA0092

September 24, 2018

SIA

SUBROGATION OFFSET MEMORANDUM

Claim No. 12D34C229979 DOI 06/22/2012

At the June 27, 2018 Board meeting, the Board for Administration of the Subsequent Injury Account for self-insured Employers voted to approve the initial request for reimbursement. The Board also affirmed the Administrator's recommendation of verified costs in the amount of a negative \$69,630.88.

On July 11, 2018, Charles R. Zeh, Esq. submitted a letter confirming the above results of the Board meeting.

We are appealing the amount of verified costs based on the following:

November 24, 2009: Impairment Rating Evaluation by Rod Perry, DC. Body part to be evaluated: Right Knee.

Summary of Impairment:

Claimant underwent a partial medial and lateral meniscectomy which is equivalent to a 4% WPI. He also has 3.5mm of atrophy, which is considered severe atrophy, which is equivalent to 5% WPI. He has an ACL repair which he has a considered mild laxity for 3% WPI and range of motion from +5 degrees to 118 degrees which is equivalent to 4% and has a flexion contracture of 5 degrees.

The DRE's can be combined together, but they cannot be combined with atrophy and they cannot be combined with the range of motion. Therefore, the only two that can be combined is the partial medial and lateral meniscectomy for a 4% and the ACL repair for 3% which is equivalent to 7% WPI. The atrophy for 5% and range of motion for 4% cannot be combined. The claimant was awarded 7% WPI.

1

November 8, 2012: Impairment Rating Evaluation by Rod Perry, DC. Body part to be evaluated: Cervical Spine, Lumbar Spine and Right Knee.

~5

Summary of Impairment:

Claimant had a prior lumbar surgical intervention which included a microdiscectomy. The apportionment of a microdiscectomy would fall under a DRE Lumbosacral Category III for 10% WPI.

Today's evaluation must be rated using the range of motion model. Surgically treated disc w/o residual signs and symptoms for 8% WPI. His range of motion loss in the lumbar spine is equivalent to 8% WPI. He has loss of sensory component with loss of superficial tactile sensation in the L5 and S1 distribution. The L5 nerve root sensory component is worth 5% maximum sensory, as well as the S1 which is 5% maximum sensory. We would combine 8% for the specific spine disorder with 8% for loss of range of motion, which is 15% WPI. 15% would be combined with 1% WPI for the right L5 nerve root sensory component, which is equivalent to 16% WPI. We would combine 16% with the right S1 sensory impairment, which is 1% for a total of 17% WPI.

17% WPI for the lumbar spine. This combined with 5% WPI for the cervical spine for significant loss of range of motion that is non-uniform in nature as well as muscular spasm. He has no signs of radiculopathy. The right knee has full range of motion. There is no ratable impairment on this and this is 0% award.

Based on the two PPD Evaluations see below.

Right Knee	: 7% WPI for doi on 01/06/2008. <u>0% for doi on 06/22/2012.</u> Total 7% WPI	
Lumbar Spine	: 10% WPI for doi in 2007. <u>17% WPI for doi on 06/22/2012.</u> Total 27% WPI	
Cervical Spine	: <u>5% WPI for doi on 06/22/2012.</u> Total 5% WPI	

Combined total percentage for all injuries is 39% WPI

Subrogation:

CCMSI received the sum of \$83,325 to satisfy the worker's compensation lien for the medical and disability expenditures paid out.

Based on the whole person impairment percentages listed above we believe that only \$14,998.50 of the subrogation payment is attributed to the right knee injury. The remaining \$68,326.50 should be attributed to the lumbar and cervical spine injuries.

()

()

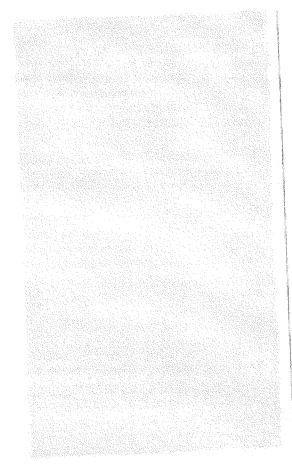
These amounts were determined by totaling the percentage for all pre-existing and subsequent injuries [39%WPI] then dividing 7% [right knee WPI] by 39% equaling 18% for the right knee and multiplying 18% times \$83,325.00 for a total of \$14,998.50.

The total percentage for the lumbar and cervical spine is 32% WPI. You then divide 32% by 39% equaling 82% for a total of \$68,326.50. This amount should be attributed to the lumbar and cervical spine injuries only.

Therefore, the SIA Application submitted should reflect this new subrogation amount for the right knee when determining the amount of verified costs. The lumbar and cervical spine are not qualifying body parts for purposes of the Subsequent Injury Claim and the amount of the subrogation payment attributed to those injuries should not be considered.

Therefore, based on the amount

Medical Expenses:	\$13	3,592.16
TTD Expenses:	\$	1,805.12
Subtotal:	\$1.	5,397.12
Subrogation - Right Knee:	-\$1	4,998.50
Grand Total Expenditures	\$	398.78



ADVANCED CHIROPRACTIC ORTHOPEDICS

6837 W. Charleston Blvd. Las Vegas, Nevada 89117 Telephone (703) 240-0520 Fax (702) 240-2072

Rod Perry, D.C. F.A.C.O, C.I.C.E Board Certified Chiropractic Orthopedist

November 24, 2009

TriStar Risk Management P.O. Box 19450 Las Vegas, NV 89132-0450 Attn: Dusty Marshall -- Scalor Claims Examiner

IMPAIRMENT RATING EVALUATION

CLAIMANT: CLAIM #: 05 DOI: 01/06/08 EMPL BODY PART TO BE HVALUATED: Right knee.

CLAIM #: 08209074 EMPLOYER: LVMPD

INTRODUCTION:

The above mentioned claimant entered the office today for the purpose of obtaining an impairment rating of his right kncc. He was identified today by a Novada driver's license and a copy is maintained for the chart.

HISTORY OF INJURY:

On 01/06/08 this gantleman was in a foot pursuit and stepped in a three foot hole and injured his right knee. He deples any other previous injuries to the right knee.

CHRONOLOGY OF TREATMENT:

01/06/08: Pecole Quick Care. Right knee strain. Antiinflammatory, Ultram and Morphine given to the patient.
01/10/08: Seen by Dr. Patti. Acute internal derangement of the knee, medial and lateral menisoal suspected tears, possible ligamentous problems, possible tibial plateau fracture and infarction.
01/17/08: MRI at Nevada Imaging. Proximal patella tendinosis suggestive of possible jumper's knee. The anterior and posterior cruciste, medial and collateral and quadriceps appear grossly intact. No discrete tears.
01/24/08: Seen by Dr. Patti. High grade partial tear of the patells tendon and patella associated edema. Therapy would be appropriate.

RECENTED.

Phan & Rish Start

DEC 2 9 2009

¢	· · · · · · · · · · · · · · · · · · ·
	(CONT.) PAGE 2
	•
01/31/08:	Follow-up with Dr. Patti. I have asked him if he has had previous trouble with his knee pain. Doing any athletic injuries. The injury is legitimate
02/06/08:	and is high grade. We have not improved him despite this therapy. Taken to the Parkway Surgical Center by Dr. Patti where he underwent a partial patellar tendon evuision central, ACL proximal incomplete anterior medial meniscal superior anterior lateral meniscal tear and underwent partial lateral meniscectomy, partial medial meniscectomy, chondroplasty, central patella, lateral patella with radial frequency, ahrinkage of the ACL,
	open repair of the patella tendon with patellar anohoring.
02/07/08:	Follow-up postoperatively. No signs of infection, doing better.
03/03/08:	Follow-up with Dr. Patti. Continued complaints. He has significant extensor lag, considerable pain from non-absorbable fibers in the sutures.
03/24/08:	Right now he is in better control. He is still on crutches. Seen by Dr. Patti. Postoperstively. Good progress, good strength.
03/24/08:	Follow-up postoperatively. Sensitivity over the patellar tendon.
~~~	Bxamination reveals 50 degrees of creatus tightness, 45 degrees of quadriceps. I believe that he is having issues with this.
05/20/08:	Seen by Dr. Miao. Continued complaints. Suggests further MRI to ascertain the prior repair.
06/06/08:	Follow-up. MRI was reviewed. Demonstrates some color changes on the chondral surface of the patella. This is intermediate and specific. ACL has altered signals, but demonstrates fibers intact. Right knee post- arthroscopic debridsment.
06/13/08:	Continued complaints. Preopetative appointments will be made.
06/16/08:	Underwent surgical intervention where he underwent an arthroscopic major synovectomy.
06/25/08;	Follow-up. Went over issues with respect to his synovectomy and ACL ropair. Basically his ACL is not functioning properly as well as signs of abnormalities in the chondral surfaces.
09/10/08:	Follow-up. Continued complaints. First of all injection anterior lateral without difficulty. Patient just had a big of pain with the last injection. Continue therapy.
09/17/08;	Had a second synovectomy anterior and lateral without difficulty. Range of motion still has extension lag.
09/24/08:	Examination- No efficient. Sensitivity 0-130 with no restrictions. At this point he hopefully continues to not have any problems.
10/09/08:	Seen by Dr. Tingy. Patient has complicated course of knee surgery. His ourrent issues are primarily instability and pain. ACL reconstruction may be considered to treat the instability, treatment of the chondral injuries as well as femoral chondral defects may be appropriate.
10/22/08;	Follow-up with Dr. Miao. He is functioning and doing better. At this time chondroplasty issues would probably get worse.
11/10/08:	Follow-up with Dr. Tingy. Discussed the issue of reconstruction with allograft with or without microfracture of the patella and possibly medial femoral condyle. The patient would like to schedule for this.

.

4

× .

RECEIVED DEC 2 9 2009

A Province Real and the second

:

i

----

#### (CONT.) PAGE 3

01/09/09;	Follow-up. Seen status post ACL reconstruction, microfracture. He reports that with physical therapy his primary complaints are the suprapatellar region with contracture of the quadriceps.
01/22/09:	Follow-up with Dr. Tingy. Examination- Large effusion of the joint knee, wounds are healed, negative anterior Drawer's sign, Lachman test, range
03/06/09:	of motion is 0-110 degrees. Follow-up, status post ACL. He is unable to olimb stairs. We had a conversation regarding his complex history and the prognosis. He may
	have some osteoneorosis. MRI would be appropriate.
03/13/09:	Underwont MRI which shows intact ACL, free truncation edges of the medial meniscus, marked chondromalacia.
03/26/09:	Follow-up with Dr. Tingy. At this time follow-up MRI is completed. No evidence of esteonecrosis of the patella.
04/20/09:	Follow-up. Examination- 0-120 degrees. He has mild effusion.
05/22/09:	Follow-up. Right ACL microfractures. Continued complaints. 0-125 degrees. No effusion.
06/19/09:	Continued complaints. Multiple procedures. He was doing much better. There is not significant effusion. 0-125 degrees. Tinel's is positive in the kncc.
09/21/09:	Follow-up for his knee. Notes some occasional weakness. Significant atrophy of his quadriceps.
This is the a	stant of the medical reports which have been appreciated

#### PAST SURGERIES/MEDICAL HISTORY:

As indicated.

#### CURRENT MEDICATIONS:

Nono.

#### PHYSICAL EXAMINATION:

This is a 33-year-old LVMPD police officer who has continued complaints of the rightknee with inability to jump, walk, go up and down stairs and fast twisting, jogging and kneeling all bother this gentleman. He has significant pain in the right knee.

Heights 6'6". Weight: 250 lb. Right hand dominant male.

Examination shows normal portals of entry with four portals and a 6 orh well healed midline incision. He measures 46.5 cm for his left quadriceps and 43 cm for his right. He measures 41 cm bilaterally for his calves. His range of motion of his right knee is +5-118. Left knee is 0-135. He is +4/5 for his quadriceps and has decrease in sensory in the lateral aspect of his leg. Anterior and posterior Drawer signs with a trace of an enterior Drawer sign as well as a trace of a pivot shift. McIntosh and McMurray were found to be negative. His neurovascular response of the lower extremities was found to be within normal limits.

DEC 2 9 2009 watan Page . na Veges - 1

----ROA0098

(CONT.) PAGE 4

#### SUMMARY OF IMPAIRMENT:

This gentleman underwent a partial medial and lateral meniscectomy which is equivalent to a 4% whole person impairment according to Table 17-33. He also has 3.5 mm of atrophy, which is considered severe atrophy according to Table 17-6, page 530, which is equivalent to 5% whole person impairment. He has an ACL repair which he has a considered a mild laxity for a 3% whole parson impairment according to Table 17-33 and he has range of motion from +5 degrees to 118 degrees which is equivalent to 4% according to Table 17-10. This gentleman has a flexion contracture of 5 degrees.

The DRE's can be combined together, but they cannot be combined with atrophy and they cannot be combined with the range of motion. The range of motion cannot be combined with the strophy. Therefore the only two that can be combined is the partial medial and lateral meniscectomy for a 4% and the ACL repair for 3%, which is equivalent to 7% whole person impairment. The strophy for 5% as well as the range of motion for 4% cannot be combined, although this is a higher impairment if these were able to be combined.

The patient should be swarded 7% whole person impairment and I ask that this claim be closed and adjudicated.

Today's impairment rating was performed in accordance with the AMA Guides of Evaluation of Permanent Impairments, Fifth Edition, Third Printing. All measurements word taken today were taken with a direct goniometer as indicated in the Fifth Edition, Third Printing.

If you have any further questions or concerns, please feel free to contact my office.

Sincerely,

Anto

Rod Penry, D.G., F.A.C.O., C.I.C.B. Board Cartified Chiropractic Orthopodist Certified Medical Impairment Rater Certified Independent Chiropractic Bvaluator American Board of Independent Medical Examiners RP: deg Distance buillot edited

RECEPTO

DEC 2 9 2009

PAGE 00/87

13/20/2012 00:00

17822402072

# ADVANCED CHIROPRACTIC ORTHOPEDICS

6837 W. Charlestou Divd. Las Vegas, Nevada 89117 Tolephone (702) 240-0520 Fax: (703) 340-2072

Rod Perry, D.C. F.A.C.O, C.I.C.E Board Certified Chiropractic Orthopodist

November 8, 2012

CCM81 P.O. Box 35350 Las Vegas, NV 89133-5350

#### IMPAIRMENT RATING EVALUATION

CLAIMANT: CLAIM #: 12D34C229979 DOI: 06/22/12 BODY PART TO BE EVALUATED: Cervicel spine, lumbar spine, right knee

#### INTRODUCTION:

The above mentioned claimant entrace the office today for the purpose of obtaining an impainment rating of his cervical spine, lumbar spins and right knee. He was identified today by a Nevada driver's license and a copy is multialized for the chart. Of note, I am familiar with this gentleman. I have done a prior PPD of the right knee on him on 11/24/09. He was awarded 7% whole person impairment secondary to his injury date of 01/06/08. Apportionment will be an issue in this case for his right knee.

#### HISTORY OF INJURY:

On 06/22/12 the claimant states that he was a passenger in the front seat of a minivan and was unbelted. They were northbound on Charleston at Buffelo when they were struck from the rear. He stated that his right foot was on the door and it appeared that he hit his right lower extremity as well as left shoulder into the door. He states that he did have loss of consciousness. He does have a prior history of a lumbar microdiscectomy at the L4-L5 level in 2007. He complains of significant cervical pain that radiates up the right portion of his neck into his head, causing athoecipital headaches. He complains of lower back pain that radiates into the right lower extra system of his head, chains at head region as well as the lateral aspect of his hip and the lateral aspect of his lower leg:

## CHRONOLOGY OF TREATMENT:

06/22/12: UMC. CP scan of right knee obtained, CF scan of chest obtained, CF scan of humboscerul spine obtained. MRI of cervical spine shows a C4-C5

ROA0100

PAGE 84/87

ROA0101

00101

60; 80 1702240207 2

11/20/2012

(CONT.) PAGE 2

disc protrusion. MRI of the lumbar spine shows a small paracentral disc protrusion indenting the unterior thecel sac causing no significant spinal stonosis. Also a small annular tear noted along the posterior disc margin. L4-L5 central disc pretrusion abunting the thread sac causes no significant central narrowing. AP diameter 12 mm. 06/27/12: Admitted to HealthSouth Rehabilitation. Diagnosts: S/P understate roar end motor vohicle accident with loss of consciousness, bilateral upper extremity weakness, lower extremity paresthesias, spinal cord injury without radiologic abnormality. Right lower extremity trauntatic paratysis. 07/06/12: Seen by Dr. Tingey. Radiographs and MRI of the patient show the ACL graft appears to be intact at the subchondral bone. Assessment: right knee pain S/P motor vehicle accident with a history of ACL reconstruction. Microfracture. Follow up in one month. 07/31/12: Seen by Dr. Gary Flangas for neurosurgical evaluation. Evaluation: gait normal. Range of motion found to be diminished in his neck as well as his lower back. DTRs 1/2 for biceps bilaterally, 2/2 for knees, 1/1 left ankle jerk, trace on the right. Sensory diminished S1 with some L5 involvement. 36 year old male involved in a motor vehicle accident has evidence of a central cord syndrome, which appears to be resolved. Cutrently he is experiencing signs and symptoms consistent with lumbar radiculopathy, puresthesia involving the right S1 and L5 distribution. Plan to return to light duty. 08/28/12: Secu by Dr. Flangas for follow up. He returns today complaining of right paraspinal cervicalgia as well as headaches. He usually uses Tylenol. He says stretching is helping him. He still has a decrease in range of motion. Nourologically, biceps one, triceps 2, left knee one, left.ankle one, trace for right ankle. 09/05/12: Taken to surgery by Dr. Tingey where he underwent right knee arthrescopic chondroplasty, medial femoral coudyle with two compariment synovectomy. 09/11/12: Right lower extremity Doppler. 09/02/12: Physical therapy, 10/18/12: Snen by Dr. Tingey. Range of motion of right knee 0-135 degrees. Well healed. No effusion. S/P chondroplasiy as well as synovectomy.

This is the extent of the medical records which have been provided.

PAST SURGERIES/MEDICAL HISTORY:

As indicated.

CURRENT MEDICATIONS

Singulair, Zyrtec,

ALLERGIES:

11/28/2012 08:00

17022402072

PAGC 05/07

(CONT.) PAGE 3

NKDA.

#### PHYSICAL EXAMINATION:

This is a 36-year-old male who is an L.V.M.P.D. officer.

Eleight: 6'6". Weight: 270 lb. Right hand dominant male.

Inspection of the cervical spine shows no gross abnormalities. He measures 34 cm for his biceps and 30 cm for his forearms. DTRs are found to be 1+ for the upper extremities to include the biceps, triceps and hrachioradialis. Muscle testing for the upper extremities is found to be +5/5, including the jurinsic muscles of the hand. On sensory component there is some decrease in sensory in the right upper extremity, which is nondermatomal in nature.

Range of motion of the cervical spine using dual inclingmeter method was obtained. Flexion is 60/10, 60/10, 58/10, 50 degrees of flexion. Extension is 40/10, 40/10, 42/10, 30 degrees of extension. Left lateral flexion is 50/0, 50/0, 52/0 degrees. Right lateral is 40/0, 40/0, 38/0 degrees. Left rotation is 70/0, 70/0, 75/0 degrees. Right rotation is 50/0, 50/0, 48/0 degrees. Palpable spasm is noted in the cervical spine, predominantly on the right side. Axial compression increases pain into the interscapillar rogion as well as the suboccipital region on the right side of the cervical spine. No upper extremity abnormal neurological signs are present. Hoffmann's is found to be negative.

On evaluation of the lumber spine a well healed midline incision is noted. He measures 47 cm for his quadriceps and 42 cm for his calves. DTRs are found to be 2+/4 for patella tendon and 1+/4 for the Achilles tendon bilaterally. He has a decrease in sensory along the L5-S1 distribution of the right lower extremity.

Dual inclinometer measurements of range of motion of the lumbar spine were obtained. Flexion is 50/10, 50/10, 43/10, 40 degrees of flexion. Extension is 15/0, 15/0, 15/0, extension 15 degrees. Right lateral flexion is 15/0, 15/0, 18/0 degrees. Left lateral flexion is 30/0, 30/0, 30/0 degrees. Palpuble spasm is noted in the lumbar spine, predominantly worse on the right side. He has pain over the glutest region on palpation. SLR is found to be positive at 42 degrees on the right. Muscle testing for the lower extremities is found to be +5/5. Neurovascular response for the lower extremities is found to be within normal limits.

Inspection of the right knee shows normal portels of entry. Range of motion is 0-120, 0-120, 0-122 degrees. Anterior and posterior Drawer signs are negative. McMuray and MacIntosh tests are found to be negative.

Left know (uninjured know) range of mation: 0-130, 0-130, 0-130 degrees. Orthopedic evaluation is found to be within normal limits.

PAGE 06/07

11/20/2012 00:00 10024020/2

(CONT.) PAGE 4

#### SUMMARY OF IMPAIRMENT:

This gentleman had a prior lumbar surgical intervention, which included a microdiscectomy. The apportionment of a microdiscectomy would fall under a DRE Lumbosacral Category III for 10% whole person impairment. As for today's evaluation he must be rated using the range of motion model. Ho has recurrent disc hernlation with radiculopathy documented by Dr. Flanges. He also has sensory component loss consistent with radiculopathy at the L5-S1 level. When we refer to the range of motion method he would fall under Table 15-7 11D, surgically treated disc without residual signs and symptoms for 8% whole person impairment. His range of motion loss in the lumbar spine is equivalent to 8% whole person impriment. He has loss of sensory component with loss of superlicial tactile sensation in the L5 and SI distribution. On Table 15-18 the L5 nerve root sensory component is worth 5% maximum sensory, as well as the \$1, which is 5% maximum sensory. These are multiplied by 0.26, which is equivalent to 1.3% for lower extremity impairment. 1.3 is multiplied by 0.04 to come up with a whole person impairment. This is equivalent to 0.52, which is rounded up to 1% whole person impairment for the L5 nerve root as well as the S1 nerve root. We would combine 8% for the specific spine disorder with 8% for Joss of range of motion, which is 15% whole person impairment, 15% would be combined with 1% whole person impairment for the right L5 nerve root sensory component, which is equivalent to 16% whole person impairment. We would combine 16% with the right S1 sensory impairment, which is 1%, for a total of 17% whole person impairment.

17% whole person impairment is now apportioned by a DRE Category for the prior surgical intervention of 10% whole person impairment, which is equivalent to 7% whole person impairment for the lumbar spine. This is combined with 5% whole person impairment, as he fits into a DRE Cervical Category II for significant toss of range of motion that is nonuniform in mature as well as muscular sparm. He has no signs of radioulopathy. 7% for the lumbar spine would be combined with 5% for the cervical andre for a total of 12% whole person integiment.

The right knee has full range of motion. There is no retable impairment on this and this.

The patient should be owarded 12% whole person linpairment and his claim should be closed and adjudiented.

Today's impairment rating was performed in accordance with the AMA Guides of Evaluation of Permanent Impairments, Pifth Edition, Third Printing. All measurements taken today were taken with a long arm goulometer for the eight lower extremity and a dual inclinometer for the cervical and humbar spine as indicated in the Pifth Edition, Third Printing:

11/20/2012 00:00

17022402872

PAGE 07/07

(CONT.) PAGE 5

If you have any further questions or concerns, please feel free to contact my office.

Sincerely,

Rod Perry, D.C., F.A.C.D., C.I.C.H. Board Certified Chiropractic Orthopedist Fellow American Board of Chiropractic Orthopedist Qualified Impairment Rater State of Nevada RP: pz Observed that actual

ંત્ર્લ



December 28, 2012

Pengilly, Robins, Slater Alth: Craig Slater; Esq 1755 Village Center Circla Les Vegas, NV 89134-0562

Re: Employee; Employer: Las Vegas Metro Police Department Claim#: 12D34C229979 Date of Injury: 6/22/12 Your Insurered: Michael Gross / File #441-001

Dear Mr. Slater:

I am writing you as the Workers' Compensation administrator for the above employer, and in reference to the injury outlined above. As of this date, we have not received any responses regarding the status of our final subrogation lient in the amount of \$108,165.31.

Please be advised that that Les Vegas Metropolitain Police Department is looking to you for full recovery of all medical and disability expenditures in accordance with the Workers' Companisation benefits.

At this time, **sectors** has concluded his medial treatment regarding his injuries. Attached is the print out of Pald Transactions for this claim at this time. The final lien amount is 108,165.81. When a reimbursement check is disbursed, please make the check payable to Las Vegas Metro Police Department and mail the check to this office at the P.O. Box below for processing.

I would like to thank you in advance for your full cooperation in this matter. If you require a copy of our medical file, please forward to us a signed authorization from the employee in order to complete your request.

if you have any questions, please contact me at (702) 477-7016.

Sincerely,

1 the sale Calmera

Christina Cabrora Claims Representativo

CC LVMPD

CANNON COCHRAN MANAGRMENT SERVICES, INC. - P.O. Box 35350 - Lue Vegas, NV 89133-5350 (866) 446-1424 Fax: (702) 933-4861 www.ccnist.com



PENGILLY ROBBINS SLATER

1755 Village (Jenter Offole Las Visgas, NV 89194-0562 (702) 889-6665 (702) 880-6664 Fax Janes W. Penotler, Erg. Hodert T. Nobelne, Egg. Chaio D. Slatvil, Esg. Blazasta B. Lowell, Esg. Jose N. Tanopp, Ieg. Anoria J. Jarada, Bro.

January 2, 2013

Sent via cmail CCMSI Attn: Christina Cabrera PO Box 35350 Las Vegas, NV 89133 ccabrera@ccmsi.com

RE: Our Client: Your Claim No.: 12D34C229979 Our File No.: 441-001

Dear Ms. Cabrera:

Please accept this as written request for a reduction of the final lien. A reduction in this matter is requested because the insurance limits available are insufficient to resolve this claim. Specifically, the responsible driver carried insurance with a limit of \$250,000. The carrier, Liberty Mutual, recognizing the injuries, has agreed to pay the policy limits. Attached hereto is correspondence from extent of Liberty Mutual wherein they offer to pay the policy limits in exchange for a release of liability. Given the injuries, this sum was insufficient to fully compensate extent of for his injuries. The medical bills incurred by for his injuries amount to approximately \$78,000. Additionally, he had approximately \$11,000 in lost income and was rated for permanent injuries. In light of the foregoing, we conservatively estimate that the value of claim exceeds \$325,000. Because the limits of insurance are insufficient I hereby request that CCMSI reduce their lien.

Specifically, I propose that the settlement funds be split into thirds. My firm, **Sectors**, and CCMSI each will receive a 33% split the settlement proceeds. As a result, each of us would receive the sum of \$83,325.00. If you are in agreement with this plan, I anticipate that payment from the carrier can be submitted within 15 days and that payment will be made directly to CCMSI.

Should you have any questions, please feel free to contact me.

PENGILLY ROBBINS SLATER

CRAIG SLATER, ESQ. cslaten@pengillylawfirm.com

CDS/sah

Enc.: Correspondence from Liberty Mutual.

ROA0106

#### STATE OF NEVADA

#### Board for the Administration of the Subsequent Injury Account For Self-Insured Employers

#### **NOTICE OF MEETING**

The Board for the Administration of the Subsequent Injury Account for Self-Insured Employers will hold a public meeting on August 19, 2020, 10:00 a.m., at 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada, 89102, in the Executive Video Conference Room. Due to concerns with COVID-19, the meeting will be conducted via telephone. The telephone number to participate is (702) 486-5260 or (775) 687-0999 depending on area code. The collaboration code for the meeting is: 69089#.

#### AGENDA

Notice: (1) Items on the Agenda may be taken out of order; (2) the Board may combine two or more Agenda items for consideration; and (3) the Board may remove an item on the Agenda at any time.

1. Roll Call.

** 2. Public Comment. The opportunity for public comment is reserved for any matter listed below on the Agenda as well as any matter within the jurisdiction of the Board. No action on such an item may be taken by the Board unless and until the matter has been noticed as an action item. Comment from the public is limited to three minutes per person.

* 3. Election of Chair and Vice-Chair of the Board. For Possible Action

- * 4. Approval of Agenda. For Possible Action
- * 5. Approval of Minutes for March 18, 2020. For Possible Action

* 6. Action on a Recommendation of the Administrator of the Division of Industrial Relations for <u>Approval</u> of the following request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

a. 19C52F913662	City of Henderson For Possible Action
b. 14G28Y02217	Nevada Energy Inc. For Possible Action
c. 1665253W001	Southwest Airlines Co. For Possible Action

#### Page 1 of 3

* 7. Action on a Recommendation of the Administrator of the Division of Industrial Relations for <u>Approval</u> of the following <u>supplemental</u> request(s) for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

a. 96853A375047	City of Reno For Possible Action
b. 4D656356313329	Caesar's Entertainment, Inc. For Possible Action
c. 00G28Y029597	Nevada Energy Inc. For Possible Action
d. 07475T976184	City of Sparks For Possible Action
e. 09515A588697	Nevada System for Higher Education For Possible Action

* 8. Approval and/or modification of Draft Decision of Findings of Fact, Conclusions of Law and Determination of Board, concerning Las Vegas Metropolitan Police Department, Claim No. 12D34C229979. For Possible Action

* 9. Additional Items:

** a. General Matters of Concern to Board Members Regarding Matters Not Appearing on the Agenda.

** b. Old and New business.

* c. Schedule of Next Meeting. The following dates have been scheduled in advance but are subject to change at any time: September 23, 2020, October 21, 2020, November 10, 2020 and December 9, 2020. For Possible Action

** 10. Public Comment. The opportunity for public comment is reserved for any matter within the jurisdiction of the Board. No action on such an item can be taken by the Board unless and until the matter has been agendized as an action item. Comment from the public is limited to three minutes per person.

* 11. Adjournment. For Possible Action

Single-asterisked items are matters upon which the Board may take possible action.

Double-asterisked items are matters upon which the Board take no action until the matter itself has been specifically included on an agenda as an item upon which action may be taken.

Page 2 of 3

Any person with a disability as defined by the Americans with Disabilities Act who requires special assistance to participate in the meeting may contact, at least two days prior to the meeting, Vanessa Skrinjaric at the Division of Industrial Relations, 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada 89102, or by calling (702) 486-9098 to arrange for reasonable accommodations.

This Notice has been posted at the following locations:

Division of Industrial Relations, 3360 West Sahara Avenue, Suite 250, Las Vegas Nevada 89102

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada 89710

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada 89502

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102

This Notice has also been posted at the following website addresses:

Division of Industrial Relations, Workers' Compensation Section, Notice of Meeting at <u>http://dir.nv.gov/wcs/hearings</u>

Nevada Public Notices at https://notice.nv.gov

Copies of the supporting (not privileged and confidential) material may be obtained upon request at the office of the Division of Industrial Relations, Workers' Compensation Section located at 3360 West Sahara Avenue, Suite 250, Las Vegas, Nevada 89102 or by calling (702) 486-9098.

#### CERTIFICATE OF VERIFICATION OF POSTING OF THE AGENDA ON THE DIVISION OF INDUSTRIAL REALTIONS WEBSITE

I, Vanessa Skrinjaric, affirm under the penalty of perjury that on the ______ day of ______, 2020 at ______, 2020 at _______, 1 verified the posting of the Agenda for the meeting of the Self-Insured Board for August 19, 2020, was posted to the Division of Industrial Relations website, http://dir.nv.gov/WCS/Hearings/.

Signature Compliance Audit Investigator III Subsequent Injury Coordinator

#### CERTIFICATE OF PROVIDING E-MAIL OF THE AGENDA FOR POSTING ON THE STATE OF NEVADA PUBLIC NOTICES WEBSITE

I, Vanessa Skrinjaric, affirm under the penalty of perjury that on the 28 day of 2020 at ..., 2020 at ..., 2020 am/om I posted a notice for the meeting to be held on August 19, 2020 of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers to the State of Nevada Public Notices Website, located at, https://notice.nv.gov/.

Signature Compliance Audit Investigator III Subsequent Injury Coordinator

ROA0112

#### **CERTIFICATE OF POSTING OF AGENDA**

I, <u>Layce Roberts</u>, swear and affirm under the penalty of perjury that on the <u>27</u>th day of <u>Syly</u>, 2020 at <u>4.27</u>, am/pm, 1 personally posted the Agenda for the meeting to be held on August 19, 2020 of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, 400 West King Street, Suite 400, Carson City, Nevada 89703

Koperte Signature

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Vanessa Skrinjaric, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>vskrinjaric@dir.nv.gov</u>, by facsimile sent to 702-486-8713 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102.

#### **CERTIFICATE OF POSTING OF AGENDA**

I, __Michelle Metivier_____, swear and affirm under the penalty of perjury that on the __28___day of ___July_____, 2020 at ___8:15_____, am, I personally posted the Agenda for the meeting to be held on August 19, 2020, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Nevada Business Center, 3300 W. Sahara Avenue, Suite 425, Las Vegas, Nevada 89102

______Michelle Metivier______ Signature

____AA2_____ _____Title

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Vanessa Skrinjaric, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to <u>vskrinjaric@dir.nv.go</u>, by facsimile sent to 702-486-8713 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102.

#### **CERTIFICATE OF POSTING OF AGENDA**

I, <u>NEHTE</u> P[q:20|a - May], swear and affirm under the penalty of perjury that on the <u>28th</u> day of <u>Twly</u>, 2020 at <u>12:51</u>, am/pm) I personally posted the Agenda for the meeting to be held on August 19, 2020, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers at the address listed below:

Division of Industrial Relations, Occupational Safety and Health Enforcement Section, 4600 Kietzke Lane, Building F, Suite 153, Reno, Nevada, 89502

<u>Nerit Plana</u> Signature AA IL______

Note: After execution of this Certificate of Posting and posting of the Agenda as shown in the Certificate of Posting, please promptly return the original Certificate to Vanessa Skrinjaric, Subsequent Injury Coordinator, Workers' Compensation Section either by e-mail directed to vskriniaric@dir.nv.gov, by facsimile sent to 702-486-8713 or via postal service to the Division of Industrial Relations, Workers' Compensation Section, 3360 W. Sahara Avenue, Suite 250, Las Vegas, Nevada 89102.

I, <u>Maxisa May field</u>, affirm under the penalty of perjury that on the <u>28th</u> day of <u>July</u>, 2020 at <u>8:53</u>, <u>A</u> m, I personally received, the Notice of Meeting for the meeting to be held on August 19, 2020 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Caesar's Entertainment, Inc., 4D656356313329, at said hearing.

Dalton L. Hooks, Jr., Esq. dalton@hmc.law

Merin C Mayfield Signature of Receiver Subsequent lingwry Specialist Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, Marisa Maurfield, affirm under the penalty of perjury that on the <u>38th</u> day of <u>JUy</u>, 2020 at <u>8:53</u>, <u>A</u>, m, I personally received, the Notice of Meeting for the meeting to be held on August 19, 2020 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Southwest Airlines Co., 1665253W001, at said hearing.

Dalton L. Hooks, Jr., Esq. dalton@hmc.law

Main C. Mayfied Signature diReceiver Subsequent Injury Specialist

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on August **19**, **2020** at **10:00** am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for City of Henderson, **19C52F913662**, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

R.J.

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on August **19**, **2020 at 10:00 am**, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for City of Reno, **96853A375047**, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

R.S.

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on August **19, 2020 at 10:00 am**, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Nevada Energy Inc., **14G28Y02217**, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

A.G.

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of July, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on August **19, 2020 at 10:00 am**, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for City of Reno, **96853A375047**, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

A.S.

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

Should the Waiver not be received by Vanessa Skrinjaric for inclusion in the record by the time of the scheduled hearing, the matter will not be heard and will be rescheduled for hearing at a later date.

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on August **19, 2020 at 10:00 am**, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Nevada Energy Inc., **14G28Y02217**, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

E Alf

Signature of Receiver

Recovery Specialist

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on **August 19, 2020 at 10:00 am**, of the Board for the Administration of the Subsequent Injury Account for **Self-Insured Employers**. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for **Nevada Energy Inc.**, **00G28Y029597**, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

A.S.

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on August **19, 2020 at 10:00 am**, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for City of Sparks, 07475T976184, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

A.G.

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

I, <u>Kasey McCourtney</u>, affirm under the penalty of perjury that on the <u>27th</u> day of <u>July</u>, 2020 at <u>4:30</u>, pm, I personally received, the Notice of Meeting for the meeting to be held on **August 19**, 2020 at 10:00 am, of the Board for the Administration of the Subsequent Injury Account for Self-Insured Employers. I further waive my right to hand delivery of said Agenda having received notice in time to appear and make a presentation for Nevada System of Higher Education, 09515A588697, at said hearing.

Kasey McCourtney KMcCourtney@ccmsi.com

1 st

Signature of Receiver

**Recovery Specialist** 

Title

Note: After execution of this Certificate of Delivery of Agenda, please promptly return the original Certificate to Vanessa Skrinjaric, via email at <u>vskrinjaric@dir.nv.gov</u>, via facsimile at (702) 486-8713 or by mail at the following address:

Vanessa Skrinjaric Workers' Compensation Section 3360 W. Sahara Avenue, Suite 250 Las Vegas, NV 89102

1	STATE OF NEVAL	DA
2	BOARD FOR ADMINISTRATION OF	THE SUBSEQUENT
3	INJURY ACCOUNT FOR SELF-INSU	JRED EMPLOYERS
4		
5	In re: Subsequent Injury Request for Reimbursement	
6	Claim No: 12D34C229979	
7	Insurer: Las Vegas Metropolitan Police Department	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DETERMINATION OF THE BOARD
8		DETERMINATION OF THE DUARD
9		
10		
11	This matter came before the State of Nevada, Board	for the Administration of the Subsequent
12	Injury Account for Self-Insured Employers ("Board") for cons	sideration and decision upon appeal by the
13	applicant from the Subsequent Injury Account ("Account")	. In its preliminary decision, the Board
14	upheld the recommendation of the Administrator, Division	of Industrial Relations, State of Nevada
15	("Administrator") to accept the claim pursuant to NRS 616.557 for the right knee. The cervical and	
16	lumbar spine do not qualify for consideration and were not requested by the insurer.	
17	This appeal was heard in a de novo hearing cond	lucted on September 28, 2018. At the
18	conclusion of the meeting, the Board voted to affirm the rec	commendation of the Administrator. The
19	total amount requested for reimbursement is \$14,008.47. T	This amount was under by \$13,952.14 in
20	medical expenses. The amount that should have been request	ed for reimbursement is \$27,960.61. This
21	claim had subrogation recovery that was included in the requ	uest. The amount of verified claim costs
22	subject to reimbursement pursuant to NAC 616B.7702(1)	(b) is \$<69,630.88>. Since there was
23	subrogation recovery the amount to be considered is less th	an the verified costs spent on the claim.
24	Disallowances under this claim are considered against all	expenses prior to the reduction of the
25	subrogation recovery, therefore, allowing no reimbursement.	
26	The employee was hired by the Las Vegas Metropoli	tan Police Department (LVMPD) on July
27	18, 2006. On September 29, 2006, he injured his right knee.	The C-3 Form listed a right knee strain.
28	The C-4 Form, dated September 29, 2006, listed sprain/strain	of the right knee. The injured employee
	·	DOA0194
	1 ×	ROA0124-

1 sought treatment at UMC and was diagnosed with sprain/strain of the right knee and x-rays were 2 normal. He was taken off work through October 3, 2006 and then released to modified duty. The 3 patient saw Dr. Higgins on October 3, 2006. His impression was a bucket handle tear, medial 4 semilunar cartilage and he requested surgery. The patient had partial debridement of the anterior 5 cruciate ligament (ACL) with partial synovectomy and medial meniscorrhesis on October 4, 2006. In 6 follow up reports, Dr. Higgins released the patient to full duty on October 23, 2006 and an ACL repair 7 after he was finished would be considered. The patient attended physical therapy and was given a knee brace. As of February 13, 2007, the patient had an ACL deficient knee. He was working in the field and could continue as long as he protected the knee. He was released from care.

8

9

10 On January 6, 2008, during a foot pursuit, this employee fell into a hole and twisted his right 11 knee. The C-3 Form indicated right knee strain, and the January 7, 2008 C-4 Form also noted right 12 knee strain. The C-4 Form was received by the employer on January 14, 2008. The injured employee 13 had three additional surgeries under this claim and treated with Drs. Patti, Miao and Tingey. The last 14 surgery was done in December 2008 with follow up under Dr. Tingey. Reporting under the PPD only 15 goes through September 21, 2009 and the patient continued to follow up. He had been released to full 16 duty and as of October 27, 2009, the patient had reached MMI and was stable and ratable. Dr. Perry 17 evaluated this injured employee for permanent impairment and found 7% WPI and did not apportion for 18 the prior injury or surgery. The rater was not furnished with any medical reporting prior to the 2008 19 date of injury and the patient denied any previous injuries to the right knee.

20 In regards to the present claim, on June 22, 2012, he was involved in a motor vehicle accident 21 and injured his cervical and lumbar spine and right knee. The C-4 Form noted central cord syndrome. 22 Medical reporting was taken from the November 8, 2012 PPD evaluation penned by Dr. Perry. The 23 patient was taken to the hospital via ambulance, treated and released to follow up with Dr. Tingey for 24 his knee and Dr. Flangas for the spine. MRI of the knee was done and the impression was sprain/strain 25 with a history of ACL reconstruction and microfracture. On September 5, 2012, the patient was taken 26 to surgery for the right knee and underwent arthroscopic chondroplasty, medial femoral condyle with 27 compartment synovectomy. He attended physical therapy and as of October 18, 2012, Dr. Tingey 28 released him to full duty and he had reached MMI and was stable and ratable.

-2-

The injured employee was rated for the cervical and lumbar spine as well as the right knee. He
 was found to have 12% WPI, combined, for the cervical and lumbar spine and no additional impairment
 for the right knee. The claim was successfully subrogated and the insurer received reimbursement in
 the amount of \$83,325.00 to be applied to the claim.

Based on NRS 616C.215(2) and (5), where, as here, the insurer or the Administrator is
subrogated to the proceeds from the recovery against a third party by the injured worker, the insurer is
entitled to lien the entire award, leaving no room for apportionment. In the alternative, if there were
apportionment, the figure offered by the applicant under its apportionment theory was not established.
The Board finds NRS 616C.215(2) and (5) applies in this matter and finds that based on the facts of this
case apportionment is not appropriate.

11 In the same vein as this case, if the injured employee receives compensation, the insurer, or in 12 case of claims involving a subsequent injury account the Administrator, has a right of action against the 13 person so liable to pay damages and is subrogated to the rights of the injured employee. 14 NRS 616C.215(2)(B). NRS 616C.215(5) further provides that in any case where the insurer or the 15 Administrator is subrogated to the rights of the injured employee, the insurer or the Administrator has a 16 lien upon the total proceeds of any recovery from some person other than the employer. The injured 17 employee is not entitled to double recovery for the same injury (NRS 616C.215(5)), nor can a self-18 insured employer recover more than the amount of its total claim expenditures (NRS 616C.215(4)). As 19 such, the self-insured employer is required to offset the total amounts received through subrogation. 20 The subrogation recovery by the self-insured employer exceeds the amount of reimbursement that was 21 approved in this case.

## FINDINGS OF FACT

1. The employee was hired by the Las Vegas Metropolitan Police Department (LVMPD)
on July 18, 2006.

- 2. On September 29, 2006, he injured his right knee.
- 3. The C-3 Form listed a right knee strain.

22

25

26

27

28

4. The C-4 Form, dated September 29, 2006, listed sprain/strain of the right knee.

	11	
1	23.	The rater was not furnished with any medical reporting prior to the 2008 date of injury
2	and the patie	nt denied any previous injuries to the right knee.
3	24.	On June 22, 2012, he was involved in a motor vehicle accident and injured his cervical
4	and lumbar s	pine and right knee.
5	25.	The C-4 Form noted central cord syndrome.
6	26.	Medical reporting was taken from the November 8, 2012 PPD evaluation penned by
7	Dr. Perry.	
8	27.	The patient was taken to the hospital via ambulance, treated and released to follow up
9	with Dr. Ting	ey for his knee and Dr. Flangas for the spine.
10	28.	MRI of the knee was done and the impression was sprain/strain with a history of ACL
11	reconstruction	n and microfracture.
12	29.	On September 5, 2012, the patient was taken to surgery for the right knee and underwent
13	arthroscopic o	chondroplasty, medial femoral condyle with compartment synovectomy.
14	30.	He attended physical therapy and as of October 18, 2012, Dr. Tingey released him to full
15	duty and he had reached MMI and was stable and ratable.	
16	31.	The injured employee was rated for the cervical and lumbar spine as well as the right
17	knee.	
18	32.	He was found to have 12% WPI, combined, for the cervical and lumbar spine and no
19	additional im	pairment for the right knee.
20	33.	The claim was successfully subrogated and the insurer received reimbursement in the
21	amount of \$8	3,325.00 to be applied to the claim.
22	34.	The total amount requested for reimbursement is \$14,008.47.
23	35.	This amount was under by \$13,952.14 in medical expenses.
24	36.	The amount that should have been requested for reimbursement is \$27,960.61.
25	37.	This claim had subrogation recovery that was included in the request.
26	38.	The amount of verified claim costs subject to reimbursement pursuant to
27	NAC 616B.77	702(1)(b) is \$<69,630.88>.
28		
		-5- DOA0190-
l		ROA00228

139. Since there was subrogation recovery the amount to be considered is less than the2verified costs spent on the claim.

3 40. If any of the foregoing findings is more appropriately construed as a conclusion of law,
4 it may be so construed.

#### **CONCLUSIONS OF LAW**

Based on NRS 616C.215(2) and (5), where, as here, the insurer or the Administrator is
subrogated to the proceeds from the recovery against a third party by the injured worker, the insurer is
entitled to lien the entire award, leaving no room for apportionment.

9 2. In the alternative, if there were apportionment, the figure offered by the applicant under
10 its apportionment theory was not established.

3. The Board finds NRS 616C.215(2) and (5) applies in this matter and finds that based on
the facts of this case apportionment is not appropriate.

4. Disallowances under this claim are considered against all expenses prior to the reduction
of the subrogation recovery, therefore, allowing no reimbursement.

15 5. If the injured employee receives compensation, the insurer, or in case of claims
16 involving a subsequent injury account the Administrator, has a right of action against the person so
17 liable to pay damages and is subrogated to the rights of the injured employee. NRS 616C.215(2)(B).

18 6. NRS 616C.215(5) further provides that in any case where the insurer or the
19 Administrator is subrogated to the rights of the injured employee, the insurer or the Administrator has a
20 lien upon the total proceeds of any recovery from some person other than the employer.

7. The injured employee is not entitled to double recovery for the same injury
(NRS 616C.215(5)), nor can a self-insured employer recover more than the amount of its total claim
expenditures (NRS 616C.215(4)).

8. As such, the self-insured employer is required to offset the total amounts received
through subrogation.

9. The subrogation recovery by the self-insured employer exceeds the amount of
reimbursement that was approved in this case.

-6-

28

1	10. If any of the foregoing conclusions is more appropriately construed as a finding of fact,
2	it may be so construed.
3	ORDER
4	IT IS, THEREFORE, ORDERED the application for reimbursement for the above-referenced
5	claim is APPROVED.
6	Dated this 19th day of August, 2020.
7	BOARD FOR ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT
8	THE SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS
9	
10	BY: <u>/s/ Cecilia Meyer</u> Cecilia Meyer, Chair
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	-7-
	ROA0030

1	STATE OF NEVADA		
2	BOARD FOR THE ADMINISTRATION OF THE SUBSEQUENT		
3			
4			
5	In re: Subsequent Injury Request for Reimbursement		
6	Claim No: 12D34C229979 Date of Injury: 06-22-12 FINDINGS OF FACT, CONCLUSIONS OF LAW, AND		
7	Insurer: Las Vegas Metropolitan Police DepartmentCONCLUSIONS OF LAW, ANDEmployer: Las Vegas Metropolitan Police DepartmentDETERMINATION OF THEThird-Party Administrator: CCMSIBOARD		
o 9	Submitted by: Kim Price with Lewis Brisbois Bisgaard & Smith LLP		
10			
11	PLEASE TAKE NOTICE that the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND		
12	DETERMINATION OF THE BOARD was entered on August 19, 2020 in the above-captioned matter,		
13	a copy of which is attached hereto.		
14	Dated: September 1, 2020.		
15			
16	AARON D. FORD Attorney General		
17	By: <u>/s/ Donald J. Bordelove</u>		
18	Donald J. Bordelove Deputy Attorney General		
19	Office of the Attorney General 555 E. Washington Ave., Suite 3900		
20	Las Vegas, NV 89101 dbordelove@ag.nv.gov		
21	Attorneys for the Board		
22			
23			
24			
25			
26			
27			
28			
	-1- ROA@@31		

1	CERTIFICATE OF SERVICE	
2	I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that	
3	on this 1st day of September, 2020, I served a copy of the NOTICE OF DECISION by mailing via US	~~~~~~
4	Certified Mail a true copy to the following:	
5	Via US Certified Mail No. 7014 2120 0003 0405 4432	
6	Kasey McCourtney P.O. Box 35350	
7	Las Vegas, NV 89133	10.04 11
8		
9		
10	/s/ Michele Caro	*****
11	Employee of the State of Nevada Office of the Attorney General	STRUCTURE CALLS
12		Sand State Street St
13 14		
14		
16		Contract of the local diversion of the local
17		
18		
19		
20		
21		
22		0000 (0.000 and 0.000 and 0.000
23		COOL FROM TON Service
24		A CONTRACTOR OF
25		
26		Constanting of the local division of the loc
27		
28		
	-2- ROAQ1322	

		Electronically Filed 9/24/2020 5:13 PM Steven D. Grierson CLERK OF THE COURT	Ŀ.
1	PTJR DANIEL L. SCHWARTZ	Aterno, astrum	**
2	Nevada Bar No. 005125 Daniel Schwartz@lewisbrisbois.com		
3. 4	JOEL P. REEVES Nevada Bar No. 13231 Joel.Reeves@lewisbrisbois.com	CASE NO: A-20-821892-J Department 14	
5	KIM D. PRIČE	Dopartment	
-	Kim.Price@lewisbrisbois.com LEWIS BRISBOIS BISGAARD & SMITH LLP		
7	2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 89102		
.8	Telephone: 702.893.3383 Facsimile: 702.366.9563		
.9.	Attorneys for LVMPD and CCMSI		
10	DISTRIC	UT COURT	
11		NTY, NEVADA	
12			
13:	LAS VEGAS METROPOLITAN POLICE	Case No.	
14	DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICES, INC,,	PETITION FOR JUDICIAL REVIEW	
15 16	Petitioners,	Arbitration Exemption Claimed: Review of Administrative Decision	
17	VS.	Review of Administrative Decision	
18	STATE OF NEVADA BOARD FOR THE ADMINISTRATION OF THE		
19	SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS,		
20	Respondent.		
21	COMES NOW, Petitioners, Las Vegas Metropolitan Police Department ("LVMPD") and		
22			
23			
24			
25			
26	pettioni, and could for famour if them of the fright both and contraction for barry and		
	Determination of the State of Nevada Board for t	he Administration of the Subsequent Injury	
28			
	4832-8281-3644.1		

LEWIS BRISBOIS BISGAARD & SMITH LIP ATOMIES AT LAW

1	Account for Self-Insured Employers ("BOARD"), mailed on August 27, 2020, <u>a copy of which is</u>		
2	attached hereto as Exhibit "1."		
3	The instant Petition for Judicial Review is filed pursuant to NRS 616C.370, NRS		
4	616B.557, and Chapter 233B of the Nevada Revised Statutes which mandates that judicial review		
5	shall be the sole and exclusive authorized judicial proceeding in contested industrial insurance		
7	claims for compensation for injury or death.		
8	The decision of the BOARD was in violation of constitutional or statutory provisions, was		
9	in excess of the authority of the BOARD, was based upon errors of law, is arbitrary or capricious		
10	in nature, and constitutes an abuse of discretion. The Petitioners, LVMPD and CCMSI,		
11	specifically request, pursuant to NRS 233B.133, that this Court receive written briefs and hear oral		
12	argument.		
13	DATED this $2 - \sqrt{4}$ day of September, 2020.		
14 15	Respectfully submitted		
16	LEWIS BRISBOIS BISGAARD & SMITH		
17			
18	By:		
19	DANIEL L. SCHWARTZ, ESQ. Nevada Bar No. 5125		
20	IOEL P. REEVES, ESQ. Nevada Bar No. 13231		
21	KIM D. PRICE, ESQ. Nevada Bar No. 7873		
22	2300 W. Sahara Avenue, Suite 300, Box 28 Las Vegas, Nevada 89102		
23	Telephone: 702.893.3383 Facsimile: 702.366.9563		
24	Attorneys for Petitioners LVMPD and CCMSI		
25			
26			
27 28			
40			
	4832-8281-3644.1 2		

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

1	CERTIFICATE OF SERVICE
2	The undersigned does hereby certify that on September 2020, a true and correct copy
3	of the foregoing PETITION FOR JUDICIAL REVIEW was duly mailed, postage prepaid and
4	addressed to the following:
5	LVMPD
6	Jeff Roch Director of Risk Management
7	400 South MLK Blvd. Las Vegas, Nevada 89106
8	Petitioner
9	CCMSI
10	Dusty Marshall Claims Supervisor
11	PO Box 35350 Las Vegas, Nevada 89133
12	Petitioner
13	Donald J. Bordelove
14	Deputy Attorney General Office of the Attorney General
15	555 East Washington Avenue, Suite 3900 Las Vegas, Nevada 89101
16	Attorneys for Respondent
17	State of Nevada Attorney General Aaron Ford
18	100 North Carson Street
19	Carson City, Nevada 89701 Attorneys for Respondent
20	Industrial Relations (DIR)
21	Christopher Eccles, Esq. 3360 West Sahara Avenue, Suite 250
22	Las Vegas, Nevada 89102
23	Industrial Relations (DIR)
24	Division Headquarters 400 West King Street, Suite 400
25	Carson City, Nevada 89703
26 27	
28	
	4832-8281-3644.1 3
	00135

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

Department of Business and Industry Director Terry Reynolds 1830 College Parkway, Suite 100 Carson City, Nevada 89706 Dawn Bateman Employee of Lewis Brisbois Bisgaard & Smith 4832-8281-3644.1

BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

# EXHIBIT 661"

## EXHIBIT 661 "

J	STATE OF NEVADA	
2	BOARD FOR THE ADMINISTRATION OF THE SUBSEQUENT	
3	INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS	
4		
5	In re: Subsequent Injury Request for Reimbursement	
6	Claim No: 12D34C229979 Date of Injury: 06-22-12 FINDINGS OF FACT,	
7	Insurer: Las Vegas Metropolitan Police Department Employer: Las Vegas Metropolitan Police Department DETERMINATION OF THE	
8	Third-Party Administrator: CCMSI8 Submitted by: Kim Price with Lewis Brisbois Bisgaard &	
9	Smith LLP	
10	PLEASE TAKE NOTICE that the FINDINGS OF FACT, CONCLUSIONS OF LAW, AND	
11	DETERMINATION OF THE BOARD was entered on August 19, 2020 in the above-captioned matter,	
12	a copy of which is attached hereto.	
13	Dated: August 27, 2020.	
.14		
15	AARON D. FORD	
16	AARON D. FORD Attorney General	
17	By: /s/ Donald J. Bordelove	
18	Donald J. Bordelove Deputy Attorney General	
ţ9	Office of the Attorney General 555 E. Washington Ave., Suite 3900	
20	Lás Végas, NV 89101 dbordelove@ag.nv.gov	
21	Attorneys for the Board	
22		
23		
24		
25		
26		
27		
28		
	-1-	

1	CERTIFICATE OF SERVICE	
2	I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that	
٦ ک	on this 27th day of August 2020, I served the NOTICE OF ENTRY OF EINDINGS OF FACT,	
4	CONCLUSIONS OF LAW, AND DETERMINATION OF THE BOARD by depositing for mailing	
5	at General Services, State of Nevada, in a sealed envelope, postage prepaid a true copy to the following:	
б	Certified Mail No. 7019 0160 0000 0498 4588	
7	Connie Ford Sierra Nevada Administrators	
<b>8</b> .	P.O. Box 15750 Las Vegas, NV 89114	
.9	Certified Mail No. 7019 0160 0000 0498 4571	
10	Christopher Eccles, Esg.	
11	Division of Industrial Relations 3360 W. Sahara Ave., Ste. 250	
12	Las Vegas, NV 89102	
13	Certified Mail No. 7019 0160 0000 0498 4564 Kim Price, Esg.	
14	Lewis Brisbois Bisgaard & Smith 2300 W. Sahara Ave., Ste. 300	
15	Las Vegas, NV 89102	
16		
17	/s/ Michele Caro	
18	Employee of the State of Nevada Office of the Attorney General	
19		
20		
21		
22		
23		
24	ι.	
25		
26		
27		
28		
	-2-	

STATE OF NEVADA
BOARD FOR ADMINISTRATION OF THE SUBSEQUENT
INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS
In re: Subsequent Injury Request for Reimbursement
Claim No: 12D34C229979
Date of Injury: 06-22-12 Insurer: Las Vegas Metropolitan Police Department CONCLUSIONS OF LAW, AND
Employer: Las Vegas Metropolitan Police Department Third-Party Administrator: CCMSI8
Submitted by: Kim Price with Lewis Brisbols Bisgaard & Smith LLP
This matter came before the State of Nevada, Board for the Administration of the Subsequent
Injury Account for Self-Insured Employers ("Board") for consideration and decision upon appeal by the
applicant from the Subsequent Injury Account ("Account"). In its preliminary decision, the Board
upheld the recommendation of the Administrator, Division of Industrial Relations, State of Nevada
("Administrator") to accept the claim pursuant to NRS 616.557 for the right knee. The cervical and
lumbar spine do not qualify for consideration and were not requested by the insurer.
This appeal was heard in a de novo hearing conducted on September 28, 2018. At the
conclusion of the meeting, the Board voted to affirm the recommendation of the Administrator. The
total amount requested for reimburgement is \$14,008.47. This amount was under by \$13,952.14 in
medical expenses. The amount that should have been requested for reimbursement is \$27,960.61. This
claim had subrogation recovery that was included in the request. The amount of verified claim costs
subject to reimbursement pursuant to NAC 616B 7702(1)(b) is \$<69,630.88>. Since there was
subrogation recovery the amount to be considered is less than the verified costs spent on the claim.
Disallowances under this claim are considered against all expenses prior to the reduction of the
subrogation recovery, therefore, allowing no reimbursement.
The employee was hired by the Las Vegas Metropolitan Police Department (LVMPD) on July
18, 2006. On September 29, 2006, he injured his right knee. The C-3 Form listed a right knee strain.
The C-4 Form, dated September 29, 2006, listed sprain/strain of the right knee. The injured employee
~ <u>]</u> -

sought treatment at UMC and was diagnosed with sprain/strain of the right knee and x-rays were 1  $\mathbf{\hat{2}}$ normal. He was taken off work through October 3, 2006 and then released to modified duty. The patient saw Dr. Higgins on October 3, 2006. His impression was a bucket handle tear, medial 3 4 semilunar cartilage and he requested surgery. The patient had partial debridement of the anterior 5 cruciate ligament (ACL) with partial synovectomy and medial meniscorrhesis on October 4, 2006. In 6 follow up reports, Dr. Higgins released the patient to full duty on October 23, 2006 and an ACL repair 7 after he was finished would be considered. The patient attended physical therapy and was given a knee 8 brace. As of February 13, 2007, the patient had an ACL deficient knee. He was working in the field 9 and could continue as long as he protected the knee. He was released from care.

10 On January 6, 2008, during a foot pursuit, this employee fell into a hole and twisted his right. 11 knee. The C-3 Form indicated right knee strain, and the January 7, 2008 C-4 Form also noted right. 12knee strain. The C-4 Form was received by the employer on January 14, 2008. The injured employee 13 had three additional surgeries under this claim and treated with Drs. Patti, Miao and Tingey. The last 14 surgery was done in December 2008 with follow up under Dr. Tingey. Reporting under the PPD only 15 goes through September 21, 2009 and the patient continued to follow up. He had been released to full 16 duty and as of October 27, 2009, the patient had reached MMI and was stable and ratable. Dr. Perry 17 evaluated this injured employee for permanent impairment and found 7% WPI and did not apportion for 18 the prior injury or surgery. The rater was not furnished with any medical reporting prior to the 2008 19 date of injury and the patient denied any previous injuries to the right knee.

20 In regards to the present claim, on June 22, 2012, he was involved in a motor vehicle accident 21 and injured his cervical and lumbar spine and right knee. The C-4 Form noted central cord syndrome. 22 Medical reporting was taken from the November 8, 2012 PPD evaluation penned by Dr. Perry. The 23 patient was taken to the hospital via ambulance, treated and released to follow up with Dr. Tingey for 24 his knee and Dr. Flangas for the spine. MRI of the knee was done and the impression was sprain/strain 25with a history of ACL reconstruction and microfracture. On September 5, 2012, the patient was taken 26 to surgery for the right knee and underwent arthroscopic chondroplasty, medial femoral condyle with 27 compartment synovectomy. He attended physical therapy and as of October 18, 2012, Dr. Tingey 28 released him to full duty and he had reached MMI and was stable and ratable.

-2-

1 The injured employee was rated for the cervical and lumbar spine as well as the right knee. He  $\mathbf{2}$ was found to have 12% WPI, combined, for the cervical and lumbar spine and no additional impairment. 3 for the right knee. The claim was successfully subrogated and the insurer received reimbursement in. 4 the amount of \$83,325.00 to be applied to the claim.

Ĵ Based on NRS 616C.215(2) and (5), where, as here, the insurer or the Administrator is б subrogated to the proceeds from the recovery against a third party by the injured worker, the insurer is 7 entitled to lien the entire award, leaving no room for apportionment. In the alternative, if there were 8 apportionment, the figure offered by the applicant under its apportionment theory was not established. <u>`9</u> The Board finds NRS 616C.215(2) and (5) applies in this matter and finds that based on the facts of this 10 case apportionment is not appropriate,

11. In the same vein as this case, if the injured employee receives compensation, the insurer, or in 12 case of claims involving a subsequent injury account the Administrator, has a right of action against the 13 person so liable to pay damages and is subrogated to the rights of the injured employee. 14 NRS 616C.215(2)(B). NRS 616C.215(5) further provides that in any case where the insurer or the 15 Administrator is subrogated to the rights of the injured employee, the insurer or the Administrator has a 16 lien upon the total proceeds of any recovery from some person other than the employer. The injured 17 employee is not entitled to double recovery for the same injury (NRS 616C.215(5)), nor can a self-18 insured employer recover more than the amount of its total claim expenditures (NRS 616C.215(4)). As 19 such, the self-insured employer is required to offset the total amounts received through subrogation. 20 The subrogation recovery by the self-insured employer exceeds the amount of reimbursement that was 21 approved in this case.

#### FINDINGS OF FACT

23 The employee was hired by the Las Vegas Metropolitan Police Department (LVMPD) 1, on July 18, 2006.

25

 $\mathbf{2}$ .

4.

22

24

The C-3 Form listed a right knee strain. 3.

On September 29, 2006, he injured his right knee:

27 28

26

-3-

The C-4 Form, dated September 29, 2006, listed sprain/strain of the right knee.

<b>"1</b>	5.	The injured employee sought treatment at UMC and was diagnosed with sprain/strain of	
2	the right knee and x-rays were normal.		
3	б.	He was taken off work through October 3, 2006 and then released to modified duty.	
4	7.	The patient saw Dr. Higgins on October 3, 2006.	
5	8.	His impression was a bucket handle tear, medial semilunar cartilage and he requested	
6	surgery.		
7	, ġ,	The patient had partial debridement of the anterior cruciate ligament (ACL) with partial	
8	synovectomy	and medial meniscorrhesis on October 4, 2006.	
:9	10.	In follow up reports, Dr. Higgins released the patient to full duty on October 23, 2006	
10	and an ACL i	repair after he was finished would be considered.	
ŀſ	11.	The patient attended physical therapy and was given a knee brace.	
12	12.	As of February 13, 2007, the patient had an ACL deficient knee.	
13	13.	He was working in the field and could continue as long as he protected the knee:	
14	14.	He was released from care.	
<u>1</u> 5	15,	On January 6, 2008, during a foot pursuit, this employee fell into a hole and twisted his	
16	right knee.		
17	16.	The C-3 Form indicated right knee strain, and the January 7, 2008 C-4 Form also noted	
18	right knee strain.		
19	17.	The C-4 Form was received by the employer on January 14, 2008.	
20	18	The injured employee had three additional surgeries under this claim and treated with	
21	Drs. Patti, Mi	ao and Tingey.	
22	19.	The last surgery was done in December 2008 with follow up under Dr. Tingey.	
23	20.	Reporting under the PPD only goes through September 21, 2009 and the patient	
24	continued to f	~	
25	21.	He had been released to full duty and as of October 27, 2009, the patient had reached	
26		stable and ratable.	
27	.22.	Dr. Perry evaluated this injured employee for permanent impairment and found 7% WPI	
28	and did not af	portion for the prior injury or surgery. -4-	
ļ	n.		

÷

Ĩ	23.	The rater was not furnished with any medical reporting prior to the 2008 date of injury	
2	and the patient denied any previous injuries to the right knee.		
3	24.	On June 22, 2012, he was involved in a motor vehicle accident and injured his cervical	
4	and lumbar s	pine and right knee.	
5	25.	The C-4 Form noted central cord syndrome.	
6	26.	Medical reporting was taken from the November 8, 2012 PPD evaluation penned by	
7	Dr. Perry.		
8	27.	The patient was taken to the hospital via ambulance, treated and released to follow up	
9	with Dr. Tin	zey for his knee and Dr. Flangas for the spine.	
10	28.	MRI of the knee was done and the impression was sprain/strain with a history of ACL	
11	reconstructio	n and microfracture.	
12	29.	On September 5, 2012, the patient was taken to surgery for the right knee and underwent	
13	arthroscopic	chondroplasty, medial femoral condyle with compartment synovectomy.	
14	30.	He attended physical therapy and as of October 18, 2012, Dr. Tingey released him to full	
15	duty and he had reached MMI and was stable and ratable.		
16	31.	The injured employee was rated for the cervical and lumbar spine as well as the right	
17	knee.		
i8	32.	He was found to have 12% WPI, combined, for the cervical and lumbar spine and no	
19	additional im	pairment for the right knee.	
20	334	The claim was successfully subrogated and the insurer received reimbursement in the	
21	amount of \$8	3,325.00 to be applied to the claim.	
22	34.	The total amount requested for reimbursement is \$14,008.47.	
23	35.	This amount was under by \$13,952.14 in medical expenses.	
24	.36.	The amount that should have been requested for reimbursement is \$27,960.61.	
25	` <b>3</b> 7.,	This claim had subrogation recovery that was included in the request.	
26	38.	The amount of verified claim costs subject to reimbursement pursuant to	
27	NAC 616B.7	702(1)(b) is \$<69,630.88>.	
28		,	
		-5-	

1.39. Since there was subrogation recovery the amount to be considered is less than the2verified costs spent on the claim.

40. If any of the foregoing findings is more appropriately construed as a conclusion of law;
4 it may be so construed.

#### CONCLUSIONS OF LAW

Based on NRS 616C.215(2) and (5), where, as here, the insurer or the Administrator is
subrogated to the proceeds from the recovery against a third party by the injured worker, the insurer is
entitled to lien the entire award, leaving no room for apportionment.

9 2. In the alternative, if there were apportionment, the figure offered by the applicant under
10 its apportionment theory was not established.

The Board finds NRS 616C.215(2) and (5) applies in this matter and finds that based on
the facts of this case apportionment is not appropriate.

13 4. Disallowances under this claim are considered against all expenses prior to the reduction
 14 of the subrogation recovery, therefore, allowing no reimbursement.

15 5. If the injured employee receives compensation, the insurer, or in case of claims
16 involving a subsequent injury account the Administrator, has a right of action against the person so
17 liable to pay damages and is subrogated to the rights of the injured employee. NRS 616C,215(2)(B).

6. NRS 616C.215(5) further provides that in any case where the insurer or the
Administrator is subrogated to the rights of the injured employee, the insurer or the Administrator has a
If any case where the insurer or the Administrator has a
If any case where the insurer or the Administrator has a

7. The injured employee is not entitled to double recovery for the same injury
(NRS 616C.215(5)), nor can a self-insured employer recover more than the amount of its total claim
expenditures (NRS 616C.215(4)).

8. As such, the self-insured employer is required to offset the total amounts received
through subrogation.

9. The subrogation recovery by the self-insured employer exceeds the amount of
reimbursement that was approved in this case.

28;

1 2 3 4 5 6 7 8 9 10 11 12	10. If any of the foregoing conclusions is more appropriately construed as a finding of fact, it may be so construed. <u>ORDER</u> IT IS, THEREFORE, ORDERED the application for reimbursement for the above-referenced claim is APPROVED.	
3 4 5 6 7 8 9 10 11	ORDER. IT IS, THEREFORE, ORDERED the application for reimbursement for the above-referenced	
4 5 6 7 8 9 10 11	IT IS, THEREFORE, ORDERED the application for reimbursement for the above-referenced	
5 6 7 8 9 10 11		
6 7 8 9 10 11	claim is APPROVED.	ļ.
7 8 9 10 11		ŀ
8 9 10 11	Dated this 19th day of August, 2020.	
9 10 11	BOARD FOR ADMINISTRATION OF	
10 11	BOARD FOR ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS	
11		•
	BY <u>/s/ Cecilia Meyer</u> Cecilia Meyer, Chair	
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		
26 27		
27 28		
20		
	-7-	

Electronically Filed 10/13/2020 3:19 PM Steven D. Grierson CLERK OF THE COURT

	1	NOIP		Atur	_P. /
	2	Donald C. Smith, Esq.			
		Nevada Bar No.: 000413			
	3	Jennifer J. Leonescu Nevada Bar No.: 006036			
	4	Christopher A. Eccles, Esq.			
	1	Nevada Bar No.: 009798			
	5	State of Nevada			
	6	Department of Business and Industry			
	U	Division of Industrial Relations			
	7	3360 W. Sahara Ave., Ste. 250			
	0	Las Vegas, NV 89102			
	8	Phone: (702) 486-9070 Fax: (702) 486-8717			
	9	donaldcsmith@dir.nv.gov			
		jleonescu@dir.nv.gov			
	10	ceccles@dir.nv.gov			
el ^s	11	Counsel for Division of Industrial Relations			
/ADA  - Division Counsel's		DISTRICT	COUPT		
U B	<mark>รุ</mark> ณ ¹²				
A	<b>1 1 1 3</b>	CLARK COUNT	Y, NEVADA		
STATE OF NEVADA tustrial Relations - Div	8 8 0 V	LAS VEGAS METROPOLITAN POLICE			
NA B	8 4 6 9 14	DEPARTMENT, and CANNON			
N BS	0 4 4 m 15	COCHRAN MANAGEMENT SERVICES,			
ATA		INC.			
Б.B		Petitioners,	Case No:	A-20-821892-J	
STATE OF NEV Division of Industrial Relations	<b>96</b> 17	i cuttoners,	Dept. No:	15	
sion		v.	Depution	••	
, Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Ministrational Mini	18				
	19	STATE OF NEVADA BOARD FOR THE			
		ADMINISTRATION OF THE SUBSEQUENT			
	20	INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS,			
	21	EMPLOTERS,			
		Respondent.			
	22	/			
	23				
	20				
	24	<b>RESPONDENT DIVISION OF INDU</b>	STRIAL REL	ATIONS' NOTIC	E
	25				
	2.5	AND			
	26	STATEMENT OF INTENT TO PAI	RTICIPATE -	NRS 233B.130(3)	
	27				
	21				
	28				
		Page 1 c	of 4		
					00147

By way of this document and service thereof to all other parties named above and in accordance with §233B.130(3) of the Nevada Revised Statutes, Respondent Division of Industrial Relations hereby gives notice of and proclaims its intent to participate in the Petition for Judicial Review filed by the above captioned Petitioner on September 24, 2020. 

Dated this ____13th ___ day of October, 2020 and respectfully submitted by:

Is Christopher A. Eccles

Christopher A. Eccles, Esq. **Division Counsel** 

# **CERTIFICATE OF SERVICE**

1

6

STATE OF NEVADA Division of Industrial Relations - Division Counsel's Office

SEE 250

3360 West Sahara Ave.,

Las Vezza, Nevada 89102

Pursuant to NRCP 5(b), I hereby certify that I am an employee of the State of Nevada,
Department of Business and Industry, Division of Industrial Relations (DIR), and that on this
date, I caused to be served a true and correct copy of the document described herein by the
method indicated below, and addressed to the following:

			Respondent Division of Industrial Relations' Notice and Statement of Intent to Participate – A-20-821892-J NRS 233B.130(3)
]	9 10 11 12 13 14	Person(s) Served: Daniel L. Schwartz, Esq. Joel P. Reeves, Esq. Kim D. Price, Esq. Lewis Brisbois Bisgaard & Smith 2300 W. Sahara Ave. Ste. 300, Box 28 Las Vegas, NV 89102 Counsel for Petitioners LVMPD and CCMSI	U.S. Mail via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service Overnight Mail Interdepartmental Mail Messenger Service Facsimile fax number: Electronic Service
ביים ביים ביים ביים ביים ביים ביים ביים	16 17 18 19	Person(s) Served: LVMPD c/o Jeff Roch Director of Risk Mgmt. 400 S. Martin Luther King Blvd. Las Vegas, NV 89106 Petitioner	U.S. Mail via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service Overnight Mail Interdepartmental Mail Messenger Service Facsimile fax number:
	20 21 22 23 24	Person(s) Served: CCMSI c/o Dusty Marshall Claims Supervisor P.O. Box 35350 Las Vegas, NV 89133 Petitioner	U.S. Mail via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service Overnight Mail Interdepartmental Mail Messenger Service Facsimile fax number:
2	25		
-	-		Page 3 of 4 00149

Person(s) Served: U.S. Mail 1 via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service Donald J. Bordelove, Esq. 2 Deputy Attorney General Overnight Mail **Unterdepartmental Mail** Office of the Attorney General 3 Messenger Service 555 E. Washington Ave. 4 Facsimile fax number: Ste. 3900 Las Vegas, NV 89101 **Electronic Service** 5 Counsel for Respondent Board for the Administration of the 6 Subsequent Injury Account for Self-Insured Employers 7 8 9 DATED this _____13th_ day of October, 2020. 10 Employee Division of Industrial Relations - Division Connael's 11 12 13 STATE OF NEVADA Offic Offic 16 3366 17 18 19 20 21 22 23 24 25 26 27 28 Page 4 of 4 00150

	Electronically Filed 10/14/2020 9:57 AM Steven D. Grierson
1	STAT CLERK OF THE COURT
2	AARON D. FORD Attorney General
3	Donald J. Bordelove (Bar No. 12561) Deputy Attorney General
4	State of Nevada
5	Office of the Attorney General 555 E. Washington Ave., #3900
6	Las Vegas, NV 89101 (702) 486-3094 (phone)
7	(775) 684-1108 (fax)
8	E-mail: dbordelove@ag.nv.gov
9	Attorneys for Respondent Board for the Administration of the Subsequent
10	Injury Account for Self-Insured Employers
11	DISTRICT COURT
12	CLARK COUNTY, NEVADA
13	
14	LAS VEGAS METROPOLITAN POLICE   Case No. A-20-821892-J
15	DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICE, INC., Dept. No. 15
16	Petitioners,
17	vs.
18	STATE OF NEVADA BOARD FOR THE
19	ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT FOR
20	SELF-INSURED EMPLOYERS,
21	Respondent.
22	STATEMENT OF INTENT TO PARTICIPATE
23	COMES NOW Respondent, the Board for Administration of the Subsequent Injury
24	Account for Self-Insured Employers, by and through its counsel, and hereby notifies this
25	Court of its intent to participate in this judicial review.
26	
27	•••
28	•••

1	This filing is made as required by NRS 233B.130 and without any waiver of the			
2	procedural, statutory, and jurisdictional defects in Petitioners' filings.			
3	Dated: October 14, 2020.			
4		ŀ		
5	AARON D. FORD Attorney General			
6	By: <u>/s/ Donald J. Bordelove</u>			
7 8	Donald J. Bordelove (Bar. No. 12561) Deputy Attorney General			
8 9	Attorneys for the Board			
10				
11				
12				
13				
14				
15				
16				
17				
18				
19				
20				
21				
22				
23				
24				
25		:		
26				
27				
28				
	Page 2 of 3			
	00152			

1	CERTIFICATE OF SERVICE
2	I certify that I am an employee of the Office of the Attorney General, State of Nevada,
3	and that on October 14, 2020 I filed the foregoing STATEMENT OF INTENT TO
4	PARTICIPATE via this Court's electronic filing system. EFS users will be served
5	electronically via email.
6	
7	/s/ Michele Caro
8	An employee of the Office of the Attorney General
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27 28	
20	
	Page <b>3</b> of <b>3</b> 00153

		Electronically Filed 11/9/2020 4:12 PM Steven D. Grierson CLERK OF THE COURT
. 1	TRANS	Atump. At
2	AARON D. FORD Attorney General	
3	Donald J. Bordelove (Bar No. 12561) Deputy Attorney General	
4	State of Nevada Office of the Attorney General	
5	555 E. Washington Ave., #3900	
6	Las Vegas, NV 89101 (702) 486-3094 (phone)	х.
7	(775) 684-1108 (fax) E-mail: dbordelove@ag.nv.gov	
8		
9	Attorneys for Respondent Board for the Administration of the Subsequent Injury Account for Self-Insured Employers	
10	DISTRICT	COURT
11	CLARK COUN	TY, NEVADA
12		
13	LAS VEGAS METROPOLITAN POLICE DEPARTMENT; and CANNON COCHRAN	)
14	MANAGEMENT SERVICES, INC.,	)
15	Petitioners,	
16	V.	) Case No.: A-20-821892-J )
17	STATE OF NEVADA BOARD FOR THE ADMINISTRATION OF THE	) Dept No.: XV
18	SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS,	)
19		)
20	Respondent.	)
21		
22	TRANSMITTAL OF RECORD ON APP	PEAL IN ACCORDANCE WITH THE
23	NEVADA ADMINISTRAT	IVE PROCEDURE ACT
24		
25	Pursuant to NRS 233B.131, the STAT	TE OF NEVADA BOARD FOR THE
26	ADMINISTRATION OF THE SUBSEQUEN	T INJURY ACCOUNT FOR SELF-
27	INSURED EMPLOYERS (SIA) now files the enti	
28	1	
• •	1	
		0.15
1	Case Number: A-20-821892	2-J 00154

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

3 MANAGEMENT SERVICES, INC., Respondents.

4	DESCRIPTION	BATES NO(S).
5 6	ADMINISTRATOR'S RECOMMENDATION DATED APRIL 18, 2018	ROA 0001-0042
7 8	ADMINISTRATOR'S AMENDED RECOMMENDATION DATED APRIL 25, 2018	ROA 0043-0049
9	NOTICE OF MEETING FOR JUNE 27, 2018	ROA0050-0052
10 11	NOTICE OF MEETING FOR JUNE 27, 2018 (AMENDED)	ROA0053-0055
12 13	WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF MEETING DATED JUNE 8, 2018	ROA0056
$14\\15$	WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF	ROA0057
16 17	MEETING DATED JUNE 18, 2018 WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF	ROA0058
18 19	MEETING DATED JUNE 8, 2018 WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF	ROA0059
20 21 22	MEETING DATED JUNE 18, 2018 WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF	ROA0060
22 23	MEETING DATED JUNE 18, 2018 WAIVER OF HAND DELIVERY AND	ROA0061
$\frac{24}{25}$	CERTIFICATE OF RECEIPT OF NOTICE OF MEETING DATED JUNE 18, 2018	Kondoor
26 $27$	WAIVER OF HAND DELIVERY AND CERTIFICATE OF RECEIPT OF NOTICE OF MEETING DATED JUNE 18, 2018	ROA0062
28	2	
	l	

1 2	MEETING MINUTES FOR JUNE 27, 2018	ROA0063-0070
3	BOARD COUNSEL LETTER TO KIM PRICE, ESQ. DATED JULY 11, 2018	ROA0071-0072
4 5	BOARD COUNSEL LETTER TO KIM PRICE, ESQ. DATED OCTOBER 8, 2018	ROA0073-0074
6 7	KIM PRICE, ESQ. LETTER TO BOARD COUNSEL DATED AUGUST 10, 2018	ROA0075
8 9	NOTICES, CERTIFICATIONS & WAIVERS FOR MEETING ON SEPTEMBER 26, 2018	ROA0076-0090
10 11	EXHIBIT #5 DATED SEPTEMBER 24, 2018	ROA0091-0106
12	CERTIFICATES OF POSTING OF AGENDA AND WAIVERS FOR AUGUST 2020	ROA0107-0123
13 14 15	FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DETERMINATION OF THE BOARD	ROA0124-0130
16	NOTICE OF DECISION DATED SEPTEMBER 1, 2020	ROA0130-0132
17 18 19		
20		
21	Submitted by:	
22 23	DONALD J. BORDELOVE Deputy Attorney General	
23 24	Nevada Bar No. 12561 555 E. Washington Ave., Ste. 3900	
25	Las Vegas, Nevada 89101 dbordelove@ag.nv.gov	
26	P: 702-486-3420   F: 702-486-3416	
27		
28	3	



STATE OF NEVADA - DEPT OF BUSINESS & INDUSTRY - DIVISION OF INDUSTRIAL RELATIONS

# Workers' Compensation Section

• 3360 West Sahara Ave Ste. 250, Las Vegas NV, 89102 • Phone: (702) 486-9080 • Fax: (702) 486-8712 • Email: wcshelp@dir.nv.gov

# **CERTIFICATION**

I, Vanessa Skrinjaric, an employee of the State of Nevada, Division of Industrial Relations, Workers' Compensation Section, hereby certify that the documents submitted herewith comprise the record of the administrative proceeding, which is the subject of Case No. Case No. A-20-821892-J in Department XV of the Eight Judicial District Court, in and for Clark County, Nevada, which are attached hereto as Bates ROA 0001-0132.

/s/ VANESSA SKRINJARIC Vanessa Skrinjaric Compliance Audit Investigator State of Nevada, Division of Industrial Relations, Workers' Compensation Section

Electronically Filed	
11/10/2020 1:58 PM	
Steven D. Grierson	
CLERK OF THE COURT	
Atump. Shin	- -

		Electronically Filed
		11/10/2020 1:58 PM Steven D. Grierson CLERK OF THE COURT
1	AARON D. FORD	Aline b, Aline
2	Attorney General	
3	Donald J. Bordelove (Bar No. 12561) Deputy Attorney General	
4	State of Nevada Office of the Attorney General	
5	555 E. Washington Ave., #3900	
6	Las Vegas, NV 89101 (702) 486-3094 (phone)	
7	(775) 684-1108 (fax)	
8	E-mail: dbordelove@ag.nv.gov	
9	Attorneys for Respondent Board for the Administration of the Subsequ	uent
10	Injury Account for Self-Insured Employers	1
11	DISTRI	CT COURT
12	CLARK COU	UNTY, NEVADA
13	LAS VEGAS METROPOLITAN POLICE	Case No. A-20-821892-J
14	DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICE, INC.,	Dept. No. 15
15	Petitioners,	
16	vs.	
17	STATE OF NEVADA BOARD FOR THE	
18	ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT FOR	
19	SELF-INSURED EMPLOYERS,	
20	Respondent.	
21	NOTICE OF TRANSMITTAL OF AD	MINISTRATIVE RECORD ON APPEAL
22	In accordance with NRS 233B.133	3(1)(b), the State of Nevada, Board of the
23	Administration of the Subsequent Injury	Account for Self-Insured Employers by and
24	through counsel, Attorney General Aaron J	D. Ford and Deputy Attorney General Donald
25	J. Bordelove, hereby provide Notice that	the Administrative Record on Appeal and
26	Certification of Official Records of the Nev	ada Division of Industrial Relations, Workers'
27	•••	
28		

1	Compensation Section was filed with the court on November 9, 2020 a copy of which is
2	attached hereto.
3	Dated this 10th day of November 2020.
4	AARON D. FORD Attorney General
5	By: /s/ Donald J. Bordelove
6 7	Donald J. Bordelove (Bar. No. 12561) Deputy Attorney General
8	Attorneys for the Board
9	
10	
11	
12	
13	
14	
15	
16	
17	
18 19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	2

1	CERTIFICATE OF SERVICE
2	I certify that I am an employee of the Office of the Attorney General, State of
3	Nevada, and that on November 10, 2020 I filed the foregoing NOTICE OF
4	TRANSMITTAL OF ADMINISTRATIVE RECORD ON APPEAL via this Court's
5	electronic filing system. EFS users will be served electronically via email.
6	
7	/s/ Michele Caro
8	An employee of the Office of the Attorney General
9	
10	
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26 27	
27	
20	
	3
	00160

Electronically Filed 4/5/2021 4:12 PM Steven D. Grierson CLERK OF THE COURT

1	BRF DANIEL L. SCHWARTZ, ESQ.	Atump. 5
2	Nevada Bar No. 005125	
3	Email: Daniel.Schwartz@lewisbrisbois.com KIM D. PRICE, ESQ.	
4	Nevada Bar No. 007873 Email: Kim.Price@lewisbrisbois.com	
5	LEWIS BRISBOIS BISGAARD & SMITH LLP 2300 W. Sahara Ave. Ste. 900	
6	Las Vegas, Nevada 89102	
7	Telephone:         702-893-3383           Facsimile:         702-366-9689	
8	Attorneys for Petitioners	
9	Las Vegas Metropolitan Police Department and Cannon Cochran	
10	Management Services, Inc.	
11	DISTRIC	T COURT
12	CLARK COUN	TY, NEVADA
13	LAS VEGAS METROPOLITAN POLICE	1
14	DEPARTMENT; and CANNON COCHRAN	CASE NO.: A-20-821892-J
15	MANAGEMENT SERVICES, INC,,	DEPT. NO.: 14
16	Petitioners,	
17	V.	
18	STATE OF NEVADA BOARD FOR THE ADMINISTRATION OF THE SUBSEQUENT	
10	INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS,	
20		
20 21	Respondents.	
21	PETITIONERS' (	OPENING BRIEF
.22	DANIEL L. SCHWARTZ, ESQ.	DONALD J. BORDELOVE, ESQ.
	KIM D. PRICE, ESQ.	OFFICE OF ATTORNEY GENERAL
24	LEWIS BRISBOIS BISGAARD & SMITH LLP 2300 W. Sahara Avenue, Suite 900, Box 28	555 EAST WASHINGTON AVENUE SUITE 3900
25	Las Vegas, Nevada 89102-4375 Attorneys for Petitioners	LAS VEGAS, NEVADA 89101 Attorney for Respondents
26	marrar 180 201 - 2 antigetar 11	
27		
28		
		00171

1

...,

LEWIS BIRISBOIS BISGAARD & SMITH LLP ATTORNE'S AY LAW

1			TABLE OF CONTENTS	
2				Page
3	TABL	E OF A	UTHORITIES	ii
4	1.	STAT	EMENT OF THE CASE	1
5	II.	STAT	EMENT OF THE ISSUES	3
6	1II.	STAT	EMENT OF THE FACTS	3
7	IV.	JURIS	SDICTION	6
8	A.	Standa	ard of Review	<b>6</b>
9	B.	The R	equirements for Second Injury Account Recovery	7
10 11	C.		Court Can Set Aside a Clearly Erroneous Decision That Constitutes an Of Law Or is Not Supported by Substantial Evidence	<i></i> 9
12 13		1.	This Court Can Set Aside a Decision That is Based on Incorrect Conclusions of Law and is Free to Address Purely Legal Questions Without Deference to the Appeals Officer's Decision	9
14 15		2.	This Court Can Set Aside a Decision That is Not Supported by Substan Evidence	
16	V.	LEGA	L ARGUMENT	.11
17 18	A.		oard's Clearly Erroneous Decision Does Not Further The Legislative Interpressed Purpose of Second Injury Account Legislation	
19 20		1.	The Board's Decision Does Not Further the Legislative Intent and Stat Purpose of the Second Injury Account Legislation	
21	VI.	CONC	LUSION	. 14
22	CERTI	FICAT	E OF COMPLIANCE	. 15
23	CERTI	FICAT	E OF MAILING	. 16
24			TABLE OF AUTHORITIES	
25	Cases		Pa	ge No(s).
26 27	Americ		<u>Vacations v. MacBride</u> v. 324, 326, 661 P.2d 1301, 1302 (1983)	9
28	Ardesta	<u>ani v. IN</u>	<u>NS</u> ,	

LEWIS BRISBOIS BISGAARD & SMITH LIP ATTORNEYS AT LAW л.

1	502 U.S. 129, 135-136, 112 S.Ct. 55, 116 L.Ed.2d 496 (1991)
2	Barrick Goldstrike Mines v. Peterson,
3	116 Nev. 541, 545 (2000)11
4	Brocas v. Mirage Hotel & Casino,
5	109 Nev. 579, 585, 854 P.2d 862, 867 (1993)7
.6	Chevron USA, Inc. v. Natural Resources Defense Council, Inc., 467 U.S. 837, 843-844 (1984)
7	
8	Container Stevedoring Co. v. Director, OWCP, 935 F.2d 1544, 1546 (9 th Cir, 1991)
9	
10	Demarest v. Manspeaker,           498 U.S. 184, 190, 111 S.Ct. 599, 112 L.Ed. 2d 608 (1991)
11	DIR. Workers Compensation v. Newport News,
12	134 F.3d 134, 143 (4 th Cir.1998)
.13	Griffin v. Oceanic Contractors, Ltd., 458 U.S. 564, 571, 102 S.Ct. 3245, 73 L.Ed.2d 973 (1982). Id at 1108
14	Hernandez v. Gerber Group,
15	608 A.2d 87, 89 (Conn., 1992)
16	Horne v. SIIS,
17	113 Nev. 532, 537, 936 P.2d 839 (1997)7
18	Jacques v. H.O. Penn Machinery Co., 166 Conn. 352, 356, 349 A.2d 847 (Conn., 1974)
19	Jessop v. State Indus. Ins. Sys.,
20	107 Nev. 888, 822 P.2d 116 (1991)
21	Jussila v. Department of Labor and Industries,
22	370 P.2d 582, 586 (Wash., 1962)
23	Maxwell v. SIIS, 109 Nev. 327, 849 P.2d 267 (1993)7
24	McCracken v. Fancy,
25	98 Nev. 30, 639 P.2d 552 (1982)
26	Mirage v. State, Dept of Administration,
27	110 Nev. 257, 871 P.2d 317 (1994)9
28	
	ii

LEWIS BRISBOIS BISGAARD & SMITH LLP ATOMIES ALLOW

1	Nevada Dep't. of Bus. And Industry v. Granite Co., 118 Nev. 83, 40 P.3d 423, 426 (2002)
2 3	<u>Nevada Indus. Comm'n. v. Hildebrand.</u> 100 Nev. 47, 51, 675 P.2d 401 (1984)
4 5	Nevada Industrial Comm'n. v. Reese, 93 Nev. 115, 560 P.2d 1352 (1977)
· 6 7	North Las Vegas v. Public Service Comm., 83 Nev. 278, 291, 429 P.2d 66 (1967)
8 9	Robinson v. Shell Oil Co., 519 U.S. 337, 340, 117 S.Ct. 843, 136 L.Ed.2d 808 (1997)
10	Royal Foods Co., Inc. v. RJR Holdings, Inc., TGI Fridays, etc., 252 F.3d 1102, 1107 (9 th Cir.,2001)
11 12	State Dept of Motor Vehicles v. Torres, 105 Nev. 558, 560, 799 P.2d 959, 960-961 (1989)9
13 14	<u>State Emp't Sec. Dep't v. Hilton Hotels Corp.</u> , 102 Nev. 606, 608 at n.1, 729 P.2d 497 (1986)
15	State Industrial Insurance System. v. Giles, 110 Nev. 216, 871 P.2d 920 (1994)9
16 17	<u>Titanium Metals Corp. v. Clark County.</u> 99 Nev. 397, 399, 663 P.2d 355, 357 (1983)10
18 19	<u>Universal Camera Corp. v. NLRB,</u> 340 U.S. 474, 477, 488 (1951)
20 21	United States v. Jersey Shore State Bank, 781 F.2d. 974 977 (3d Cir., 986), aff'd, 479 U.S. 442, 107 S.Ct. 782, 93 L.Ed.2d 800 (1987),
22 23	<u>United States v. Ron Pair Enters., Inc.,</u> 489 U.S. 235, 242, 109 S.Ct. 1026, 103 L.Ed.2d 290 (1989)
23 24	<u>STATUTES</u>
25	NRS 233B.125
26	1477
27	1711
28	
	iii
,	



1	NRS 233B.135
2	NRS 616A.010
3	NRS 616B.557 1, 5, 7, 12, 13
4	COME NOW, Petitioners, LAS VEGAS METROPOLITAN POLICE
5	DEPARTMENT and CANNON COCHRAN MANAGEMENT SERVICES, INC. (hereinafter
6	collectively referred to as "Petitioners"), by and through their attorneys, DANIEL L.
7	SCHWARTZ, ESQ., and LEWIS BRISBOIS BISGAARD & SMITH LLP, and, and files their
8	Opening Brief in the above-referenced matter.
9	DATED this _5 day of April, 2021.
10	Respectfully submitted.
11	LEWIS BRISBOIS BISGAARD & SMITH LLP
12	16 01-
13	By: DANIEL L. SCHWARTZ, ESQ.
14	KIM D. PRICE, ESQ. LEWIS BRISBOIS BISGAARD & SMITH, LLP
15	2300 West Sahara Avenue, Suite 900, Box 28 Las Vegas, Nevada 89102
16	Attorneys for Petitioners, Las Vegas Metropolitan Police Department and Cannon Cochran
17	Management Services, Inc.
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	iv
1	

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTOINEYS AT LAW

1

# STATEMENT OF THE CASE

I.

The present appeal results from the Board for Administration of the Subsequent Injury Account for Self-Insured Employers" (hereinafter referred to as "Board") August 19, 2020, Findings of Fact, Conclusions of Law, and Determination for Claim Number 12D34C229979, for consideration and decision upon appeal by the Petitioners from the Subsequent Injury Account (hereinafter referred to as "SIA"). (ROA0124-ROA0130).

After an employer/insurer submits its application to the Respondent Division of Industrial Relations, (hereinafter referred to as "DIR"), the DIR's Administrator issues a recommendation to the Board regarding whether the application fulfills the statutory requirements and qualifies for second injury account reimbursement. The DIR's recommendation makes specific findings regarding whether the applicant met the requirements for each individual subsection of NRS 616B.557.

In addition, the DIR's Administrator determines which expenses can be "verified,"
which means that the appropriate documentation has been submitted to substantiate the allowed
expenses. The Administrator's Recommendation attaches an Explanation of Disallowance which
lists the expenses that could not be verified or did not qualify for second injury account
reimbursement. (ROA0039-ROA0042).

On April 10, 2018, Petitioner, the self-insured Employer, submitted a request for
second injury account reimbursement in the amount of Fourteen Thousand Eight Dollars and
Forty-Seven Cents (\$14,008.47). The only body part eligible for second injury account recovery
was the right knee. Petitioners intentionally omitted all other medical expenses associated with
treatment of the non-qualifying cervical and lumbar spine from the second injury account recovery
request.

The DIR concluded that Petitioners <u>had</u> satisfied all of the requirements of NRS
616B.557 and were therefore entitled to second injury account recovery. (ROA0001-ROA0007).
In its analysis, the DIR indicated that the application amount was under by \$13,952.14 in medical
expenses and that the amount that should have been requested for reimbursement was \$27,960.61.

İ

LEWIS BRISBOIS BISGAARD & SMITHUP ATTORNEYS AT LAW Notably, this amount reflects those expenses Petitioners intentionally omitted from the
 reimbursement request because the cervical and lumbar spine do not qualify for second account
 recovery; only those expenses associated with the right knee injury are subject to second injury
 account reimbursement and were the only expenses requested.

The Board voted to accept the recommendation that Petitioners had satisfied the 5 statutory requirements for, and were entitled to, second injury account recovery. However, the 6 7 Board then indulged in error that resulted in a significantly prejudicial finding that it would allow 8 no reimbursement because the entire subrogation amount, \$83,325.00, was to be offset against the 9 requested amount of recovery for the right knee only. Rather than apportioning the share of 10subrogation that reimbursed for treatment of the lumbar and cervical spine, expenses that 11 Petitioners – properly - did not include in the recovery application, the Board charged the 12 Petitioners with expending at least the entire subrogation amount towards treatment of the right 13 knee before it would permit monetary reimbursement. Notably, no Nevada law or regulation 14 empowers or supports the DIR's or the Board's requirement of full expenditure of all subrogation 15 received prior to second injury account reimbursement for the right knee only. Because claimant 16 was discharged from treatment years ago, Petitioners will never expend any additional monies towards right knee treatment. In light of the DIR's and Board's error, although Petitioners are 17 18 unquestionably entitled to second injury account recovery, actual monetary reimbursement can not 19 and will never occur. In other words, the Board ruled that unless and until Petitioners had paid at 20least the total cost of the subrogation on treatment of the right knee, it would not approve any 21 reimbursement. This is clear prejudicial error in that Petitioners are restricted to requesting 22 reimbursement for only the right knee - and properly excluded cervical and lumbar spine expenses 23 from the request - but the Board required that the entire subrogation amount, received for all body 24 parts, be offset against the right knee expenses alone. Of course, the subrogation paid 25 contemplated all injured body parts - not just injuries to the right knee. Petitioners allowed for this 26 distinction and properly prepared the recovery application. To adopt the Board's erroneous 27 position unnecessarily and unfairly penalizes and punishes Petitioners who are barred from recovery of expenditures that rightfully qualify for second injury account recovery. 28



Ì	All parties agree that Petitioners have satisfactorily complied with the statutory
2	requirements for second injury account recovery and are unquestionably entitled to such recovery.
.3	Petitioners aver that the Board should have apportioned the subrogated amount relative to the
4	qualified second injury recovery against only that portion of the subrogation amount that
5	corresponds directly to the right knee - and not demand Petitioners offset the entire subrogated
6	amount against the right knee recovery alone. Adopting the Board's position ensures that despite
7	satisfying all of the statutory requirements for reimbursement, Petitioners will never see a dime.
8.	II.
9	STATEMENT OF THE ISSUES
.10	1. Whether substantial rights of Petitioners have been prejudiced as set forth in
11	NRS 233B.135(3) because the Findings of Fact, Conclusions of Law, and Determination of the
12	Board, filed on August 19, 2020, was:
13	(a) in violation of constitutional or statutory provisions;
14	(b) in excess of statutory authority of the agency;
15	(c) made upon unlawful procedure;
16	(d) affected by other error of law;
17	(e) clearly erroneous in view of the reliable, probative and substantial evidence
18	on the whole record; or
19	(f) arbitrary or capricious or characterized by abuse of discretion; and
20	2. Whether the Findings of Fact, Conclusions of Law, and Determination of the Board
21	was based upon substantial evidence as required by NRS 233B.125.
22	III.
23	STATEMENT OF FACTS
24	On April 10, 2018, Petitioners, Las Vegas Metropolitan Police Department and
25	Cannon Cochran Management Services, Inc. (hereinafter collectively referred to as "Petitioners"),
26	submitted a request for second injury account reimbursement in the amount of Fourteen Thousand,
27	Eight Dollars and Forty-Seven Cents (\$14,008.47) to Respondent DIR. This requested amount.
28	
	.3
	×

e

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

represents the expenses Petitioners expended in treatment of claimant's second right knee injury,
 only.

3 Claimant incurred the first right knee industrial injury on September 29, 2006.
4 Claimant underwent partial debridement of the anterior cruciate ligament with partial synovectomy and medial meniscorrhesis. Claimant was released to full duty work on October 23.
6 to continue at the Academy. Claimant was discharged from care in February 2007 with an ACL
7 deficient knee, and did not undergo a disability evaluation.

8 On January 6, 2008, during a foot pursuit, claimant fell into a hole and twisted his
9 right knee, resulting in a meniscal tear and three surgeries. After being discharged from care to
10 full duty work, claimant was determined to carry a seven percent (7%) right knee disability, with
11 no apportionment for the prior knee injury.

12 On June 22, 2012, claimant was involved in a motor vehicle accident, injuring his
13 cervical and lumbar spine, and right knee.

On September 5, 2012, claimant underwent right knee arthroscopic chondroplasty,
medial femoral condyle with compartment synovectomy.

16 On October 18, 2020, claimant was discharged from care at maximum medical
17 improvement.

18 As a result of his discharge, claimant underwent a disability evaluation and was
19 found to carry a combined twelve percent (12%) whole person impairment for cervical and lumbar
20 spine, and zero percent (0%) additional disability for right knee.

Petitioners successfully subrogated the motor vehicle accident claim and received
reimbursement of \$83,325.00 for treatment of claimant's cervical spine, lumbar spine, and right
knée.

Given that the claimant carried a preexisting seven percent (7%) right knee
impairment and had again injured his right knee, Petitioners determined potential for second injury
account recovery. In preparing the application, Petitioners intentionally omitted medical costs for
treatment of cervical and lumbar spine, with recovery for no other body part sought aside from
those expenses associated with the one qualifying component, the right knee.

LEWIS BRISBOIS BISGAARD & SMITH LLP

On April 18, 2018, Petitioners, through counsel, were provided with the 1 Administrator's Recommendation to accept the SIA Application. (ROA0001-ROA0042). 2 Administrator recommended acceptance of the application and of second injury account recovery. 3 The Recommendation also carries a disallowance listing of those line items for which insufficient 4 5 supporting documentation or ineligibility was alleged. Pertinent to the instant matter, Administrator concluded that because the subrogation recovery (for all injuries) was considerably 6 7 more than the treatment costs for the right knee alone, Petitioners were not entitled to any actual 8 monetary recovery.

9

On June 27, 2018 the case was first heard before the Board. (ROA0063-ROA0070).

10 In its preliminary decision, the Board upheld the recommendation of the
11 Administrator to accept the claim pursuant to NRS 616B.557 for the right knee and adopted the
12 Administrator's disallowances and application of subrogation against requested recovery without
13 any apportionment for treatment of non-qualifying body parts. (ROA0001-ROA0042).

On July 11, 2018, Petitioners received the Board's letter notifying Petitioners of the
Board's June 27, 2018, vote to approve the request for reimbursement, while also affirming the
Administrator's recommendation of verified costs in the amount of <u>negative \$69,630.88.00</u>.
(ROA0071-ROA0072). This negative number reflects both the entire subrogation amount
received for cervical, lumbar, and right knee injuries from claimant's motor vehicle accident, as
well as those expenses for which the DIR alleged inadequate supporting documentation.

20 On August 10, 2018 Petitioners tendered correspondence to the Board's counsel
 21 advising that Petitioners were appealing the holding of verified costs in the amount of a negative
 22 \$69,630.88. (ROA0075).

23 On September 24, 2018 Petitioners provided supplemental documents for the
24 September 26, 2018, *de novo* hearing. (ROA0091-ROA0106).

On September 26, 2018 the Board conducted the de novo hearing.

26 On August 19, 2020 the Board held a meeting to approve and/or modify the draft
27 Decision of Findings of Fact, Conclusions of Law and Determination of the Board. (ROA010728 ROA0109).

LEWIS BRISBOIS BISGAARD & SMITHILP ATORNES AT LAW

1	On September 2, 2020, Petitioners received the Determination of the Board.
1	On September 2, 2020, Petitioners received the Determination of the Board.
	011 000 0000000000000000000000000000000
2	On September 24, 2020 Petitioners filed the Petition for Judicial Review.
3	JURISDICTION
4	Petitioners have timely petitioned for Judicial Review of the Board for
5	Administration of the Subsequent Injury Account for Self-Insured Employer's August 19, 2020,
6	Findings of Fact, Conclusions of Law, and Determination.
7	A. STANDARD OF REVIEW
8	Judicial review of a final decision of an agency is governed by NRS 233B.135.
9	NRS 233B.135 Judicial review: Manner of conducting; burden
10	of; standard for review. 1. Judicial review of a final decision of an agency must be: (a) Constructed the sourt without a jury and
11	<ul> <li>(a) Conducted by the court without a jury; and</li> <li>(b) Confined to the record.</li> <li>In cases concerning alleged irregularities in procedure before an</li> </ul>
12	agency that are not shown in the record, the court may receive evidence concerning the irregularities.
13	2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part
14	by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid
15	pursuant to subsection 3. 3. The court shall not substitute its judgment for that of the
16	agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in
17	part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:
18	<ul> <li>(a) In violation of constitutional or statutory provisions;</li> <li>(b) In excess of the statutory authority of the agency;</li> </ul>
19	(c) Made upon unlawful procedure; (d) Affected by other error of law;
20	(e) Clearly erroneous in view of the reliable, probative and substantial evidence on the whole record; or
21	(f) Arbitrary or capricious or characterized by abuse of discretion.
22	
23	The well-recognized standard of review is whether there is substantial evidence to
	support the underlying decision. The reviewing court should limit its review of administrative
	decisions to determine if they are based upon substantial evidence. North Las Vegas v. Public
	Service Common., 83 Nev. 278, 291, 429 P.2d 66 (1967); McCracken v. Fancy, 98 Nev. 30, 639
	P.2d 552 (1982). Substantial evidence is that quantity and quality of evidence which a reasonable
28 1	man would accept as adequate to support a conclusion. See, Maxwell v. SIIS, 109 Nev. 327, 331,
	6 [:]

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT ANY

.

1 849 P.2d 267, 270 (1993); and Horne v. SIIS, 113 Nev. 532, 537, 936 P.2d 839 (1997).

When reviewing administrative decisions, the Court has held that on factual 2 3 determinations, the findings and ultimate decisions of an administrative officer are not to be disturbed unless they are clearly erroneous of otherwise amount to an abuse of discretion. Nevada 4 5 Industrial Comm'n. v. Reese, 93 Nev. 115, 560 P.2d 1352 (1977). An administrative determination regarding a question of fact will not be set aside unless it is against the manifest 6 weight of the evidence. Nevada Indus. Comm'n. v. Hildebrand, 100 Nev. 47, 51, 675 P.2d 401 7 (1984). A decision by an appeals officer that is based upon the credibility of Respondent and 8 other witnesses is "not open to appellate review." Brocas v. Mirage Hotel & Casino, 109 Nev. 9 579, 585, 854 P.2d 862, 867 (1993). Here, there is no dispute that Petitioners have satisfied the 10 statutory requirements for second injury account recovery. The issue is the Board's clear error in 11 12 application of Nevada law.

13

### A. THE REQUIREMENTS FOR SECOND INJURY ACCOUNT RECOVERY

14

Pursuant to Nevada law, a second injury account reimbursement request will be

15 approved if a self-insured employer fulfills the statutory requirements of NRS 616B.557, which
16 inandate:

17 ||

18

19

20

21

22

23

24

25

26

27

28

#### NRS 616B.557 Payment of cost of additional compensation resulting from subsequent injury of employee of self-insured employer. Except as otherwise provided in NRS 616B.560:

1. If an employee of a self-insured employer has a permanent physical impairment from any cause or origin and incurs a subsequent disability by injury arising out of and in the course of his or her employment which entitles the employee to compensation for disability that is substantially greater by reason of the combined effects of the preexisting impairment and the subsequent injury than that which would have resulted from the subsequent injury alone, the compensation due must be charged to the Subsequent Injury Account for Self-Insured Employers in accordance with regulations adopted by the Board.

2. If the subsequent injury of such an employee results in his or her death and it is determined that the death would not have occurred except for the preexisting permanent physical impairment, the compensation due must be charged to the Subsequent Injury. Account for Self-Insured Employers in accordance with regulations adopted by the Board.

3. As used in this section, "permanent physical impairment" means any permanent condition, whether congenital or caused by injury or disease, of such seriousness as to constitute a hindrance or obstacle to obtaining employment or to obtaining reemployment if the employee is unemployed. For the purposes of this section, a condition is not a "permanent physical impairment" unless it would support a rating of permanent impairment of 6 percent or more of the whole person if evaluated according to the American Medical Association's Guides to the Evaluation of Permanent Impairment as adopted and supplemented by the Division pursuant to NRS 616C.110.

4. To qualify under this section for reimbursement from the Subsequent Injury Account for Self-Insured Employers, the selfinsured employer must establish by written records that the selfinsured employer had knowledge of the "permanent physical impairment" at the time the employee was hired or that the employee was retained in employment after the self-insured employer acquired such knowledge.

5. A self-insured employer must submit to the Board a claim for reimbursement from the Subsequent Injury Account for Self-Insured Employers.

6. The Board shall adopt regulations establishing procedures for submitting claims against the Subsequent Injury Account for Self-Insured Employers. The Board shall notify the self-insured employer of its decision on such a claim within 120 days after the claim is received.

7. An appeal of any decision made concerning a claim against the Subsequent Injury Account for Self-Insured Employers must be submitted directly to the district court. (Emphases added.)

14 Notably, to date, no research has identified any Nevada law or regulation that 15 addresses the apportionment of subrogation for second injury account purposes. Research appears 16 to confirm that the DIR and Board simply and improperly formulated new and additional account 17 recovery requirements and imposed the same to justify denying reimbursement to the Petitioners. 18 Yet, if Petitioners are limited by statute to reimbursement of costs incurred in treatment of the 19 right knee only, it must necessarily follow that the Board is similarly constrained to consideration 20 of only the apportioned subrogation calculated to address right knee treatment costs. The 21 Administrator issued a recommendation of approval of the right knee second injury account. 22 recovery application. The Board did, in fact, rule that Petitioners had amply satisfied the statutory 23 requirements and were entitled to reimbursement. Consequently, the underlying facts of the case 24 are not at issue. Controversial is the Board's clear error in the application of, and/or improper  $\mathbf{25}$ promulgation of, Nevada law by offsetting the entirety of subrogation received for cervical spine, 26 lumbar spine, and right knee injuries rather than delegating that portion of right knee subrogation. 27 against the requested amount for recovery that specifically excluded cervical and lumbar treatment 28 costs. The Board improperly refused to allocate that portion of the subrogation received to address



1

 $\mathbf{2}$ 

3

4

5

6

7

8

9

10

11

12

13

right knee injuries and to charge only that amount against the right knee reimbursement requested. 1 Such a fundamental error requires this Tribunal's intervention. 2

3 4

#### B. THIS COURT CAN SET ASIDE A CLEARLY ERRONEOUS DECISION THAT CONSTITUTES ERROR OF LAW OR IS NOT SUPPORTED AN SUBSTANTIAL EVIDENCE.

5

A court may set aside, in whole or in part, a final decision of an administrative agency where substantial rights of the Petitioners have been prejudiced because the final decision 6 is in violation of statutory provisions, affected by other error of law, clearly erroneous in view of 7 the reliable, probative and substantial evidence on the whole record, or arbitrary, capricious or 8 9 characterized by abuse of discretion. NRS 233B.135(3).

10

11

#### This Court Can Set Aside a Decision That is Based on Incorrect Conclusions 1. of Law and is Free to Address Purely Legal Questions Without Deference to the Appeals Officer's Decision.

The Nevada Supreme Court has acknowledged and applied these statutory 12 principles holding, for example, that a reviewing court may set aside an agency decision if the 13 decision was based upon an incorrect conclusion of law or otherwise affected by an error of law. 14 State Indus. Ins. Sys. v. Giles, 110 Nev. 216, 871 P.2d 920 (1994); Jessop v. State Indus. Ins. Sys., 15 107 Nev. 888, 822 P.2d 116 (1991); see, also, NRS 233B.135(3)(d). Further, the Nevada Supreme 16 17 Court stated that appellate review on questions of law is *de novo*, and that the reviewing court is free to address purely legal questions without deference to the agency's decision. Giles, supra; 18 19 Mirage v. State, Dep't of Admin., 110 Nev. 257, 871 P.2d 317 (1994); American Int'l Vacations 20 v. MacBride, 99 Nev. 324, 326, 661 P.2d 1301, 1302 (1983); see, also, State Dep't of Motor 21 Vehicles v. Torres, 105 Nev. 558, 560, 799 P.2d 959, 960-961 (1989).

22

23

24

25

26

27

28

2.

# This Court Can Set Aside a Decision That is Not Supported by Substantial Evidence.

In determining whether an administrative decision is supported by substantial evidence, the methodology of the District Court is also well-defined. First, for each issue appealed, the pertinent rule of law is identified. Thereafter, the Record on Appeal is reviewed to determine whether the agency's decision on each issue is supported by substantial factual evidence. State Dep't of Motor Vehicles v. Torres, supra. If the decision of the administrative



agency on the appealed issue is supported by substantial factual evidence, the District Court must
 affirm the decision of the agency as to that issue. On the other hand, a decision by an
 administrative agency that lacks support in the form of substantial evidence is deemed arbitrary or
 capricious and, thus, an abuse of discretion that warrants reversal. NRS 233B.135(3); <u>Titanium</u>
 <u>Metals Corp. v. Clark County</u>, 99 Nev. 397, 399, 663 P.2d 355, 357 (1983).

6 Substantial evidence has been defined as that quantity and quality of evidence 7 which a reasonable man could accept as adequate to support a conclusion. State Emp't Sec. Dep't v. Hilton Hotels Corp., 102 Nev. 606, 608 at n.1, 729 P.2d 497 (1986). Additionally, substantial 8 9 evidence is not to be considered in isolation from opposing evidence, but evidence that survives 10 whatever in the record fairly detracts from its weight. Universal Camera Corp. v. NLRB, 340 U.S. 474, 477, 488 (1951); Container Stevedoring Co. v. Director, OWCP, 935 F.2d 1544, 1546 (9th 11 12 Cir. 1991). This latter point is clearly the significance of the requirement in NRS 233B.135(3)(e) 13 which directs the reviewing court to consider the whole record.

A decision that is affected by error of law cannot be found to be supported by
substantial evidence. A decision that lacks support in the form of substantial evidence is arbitrary
or capricious and, thus, an abuse of discretion that warrants reversal. <u>Titanium Metals</u>, *supra*. In
this case, the Board's decision is based on errors of law and not supported by substantial evidence.
The Board's Decision was clearly erroneous in view of the reliable, probative and substantial
evidence in the record.

20 NRS 616A.010(2) and (4) are clear that Nevada no longer has liberal construction.
21 Issues must be decided on their merits, and not according to the common law principle that
22 requires statutes governing workers' compensation to be liberally construed. That means workers'
23 compensation statutes must not be interpreted or construed broadly or liberally in favor of any
24 party.

- 25 1/1
- 26 111
- 27 111
- 28 ////

IV. 1 Ź LEGAL ARGUMENT A. THE BOARD'S CLEARLY ERRONEOUS DECISION DOES NOT FURTHER 3 LEGISLATIVE INTENT AND EXPRESSED PURPOSE SECOND OF THE **INJURY ACCOUNT LEGISLATION** 4 1. The Board's Decision Does Not Further the Legislative Intent and Stated Purpose 5 of the Second Injury Accounts and is Properly Overturned 6 Due to the absence of case law in Nevada addressing the State's various subsequent 7 injury accounts, the Court must look to other jurisdictions for guidance. There it is revealed that 8 the rationale for creating such funds is three-fold. First, subsequent injury funds were created to 9 help prevent discrimination against disabled persons by easing the impact which the threat of a 10 subsequent injury holds to an employer by providing a pooled source of funds to underwrite the 11 cost of a subsequent injury which might occur. Secure in the knowledge that a pooled subsequent 12 injury fund exists, employers are encouraged to employ or retain in its employ the already 13 disabled/injured worker. Subsequent injury accounts were created to relieve employers from the 14 hardship of liability for those consequences of compensable injury not attributable to the injured 15 worker's current employment. Finally, it is the intent of the subsequent injury account that 16 "[e]ach employer's premium should reflect his own cost experience in order to reward, and 17 thereby encourage, safety as well as to avoid an unfair burden on other employers." Jussila v. 18 Department of Labor and Industries, 370 P.2d 582, 586 (Wash., 1962). See also Hernandez v. 19 Gerber Group 608 A.2d 87, 89 (Conn., 1992), Jacques v. H.O. Penn Machinery Co., 166 Conn. 20 352, 356, 349 A.2d 847 (Conn., 1974). 21 It is well settled that the interpretation of a statute begins with the wording of the 22 statute itself, as the place of origin for its meaning. Nevada Dep't. of Bus. And Industry v. Granite

23

LEWIS BRISBOIS BISGAARD & SMITHUP

11

Co., 118 Nev. 83, 40 P.3d 423, 426 (2002). The words used are assigned their plain and ordinary

meaning. Barrick Goldstrike Mines v. Peterson, 116 Nev. 541, 545 (2000). In interpreting a

statute, where the legislature's intent is clear, "that is the end of the matter; for the court as well as

the agency [or in this case, the Board] must give effect to the unambiguously expressed intent of

Congress [or the Legislature]." Chevron USA, Inc. v. Natural Resources Defense Council, Inc.,

## 1 467 U.S. 837, 843-844 (1984),

2 Couched in other terms, the first and most important step in construing a statute is the statutory language itself. Chevron USA v. Natural Res. Def. Council, 467 U.S. 837, 843-844, 3 4 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). The Supreme Court instructs to look to the text of the 5 statute to 'determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case,' Robinson v. Shell Oil Co., 519 U.S. 337, 340, 117 6 S.Ct. 843, 136 L.Ed.2d 808 (1997). If from the plain meaning of the statute congressional [and 7 therefore also legislative] intent is clear, that is the end of the matter. <u>Chevron</u>, 467 U.S. at 843, 8 9 104 S.Ct.2778. Royal Foods Co., Inc. v. RJR Holdings, Inc., TGI Fridays, etc., 252 F.3d 1102, 1107 (9th Cir., 2001). Royal also advises that there is a strong presumption that the plain language 10 11 of the statute expresses congressional [and therefore legislative] intent, which is 'rebutted only in 12 rare and exceptional circumstances, when a contrary legislative intent is clearly expressed." Ardestani v. INS, 502 U.S. 129, 135-136, 112 S.Ct. 55, 116 L.Ed.2d 496 (1991)(citations 13 14 omitted); see also United States v. Ron Pair Enters., Inc., 489 U.S. 235, 242, 109 S.Ct. 1026, 103 15 L.Ed.2d 290 (1989).

16 Royal concludes that even where the express language of a statute appears 17 unambiguous, a court must look beyond that plain language where a literal interpretation of this 18 language would thwart the purpose of the overall statutory scheme. United States v. Jersey Shore 19 State Bank, 781 F.2d. 974 977 (3d Cir., 986), aff'd, 479 U.S. 442, 107 S.Ct. 782, 93 L.Ed.2d 800 20 (1987), would lead to an absurd result, Id., or would otherwise produce a result 'demonstrably at 21 odds with the intentions of the drafters,' Demarest v. Manspeaker, 498 U.S. 184, 190, 111 S.Ct. 22 599, 112 L.Ed. 2d 608 (1991) (quoting Griffin v. Oceanic Contractors, Ltd., 458 U.S. 564, 571, 23 102 S.Ct. 3245, 73 L.Ed.2d 973 (1982). Id at 1108.

While perhaps it is the Board's prerogative to select inferences from the evidence
which are most reasonable, <u>DIR. Workers Compensation v. Newport News</u>, 134 F.3d 134, 143 (4th
Cir.1998), where those selected inferences lead to a breach of the legislative intent underlying
second injury recovery accounts and to an absurd result, the determination is, perforce, clearly
erroneous.



1 In the matter at hand, the DIR found that Petitioners had satisfied all of the 2 requirements of NRS 616B.557 and were entitled to second injury account reimbursement. 3 (ROA0001-ROA0042). In its analysis, the DIR indicated that the application amount was under 4 by \$13,952.14 in medical expenses and that the amount that should have been requested for 5 reimbursement was \$27,960.61. This amount, of course, consists of those expenses Petitioner 6 intentionally omitted from the reimbursement request as they reflect costs incurred in treatment of the cervical and lumbar spine. Despite satisfying all of the statutory requirements for recovery, 7 the Board allowed no reimbursement of expenses because the entire subrogation amount of 8 9 \$83,325.00 was deducted against the amount requested in recovery, leaving Petitioners in a 10 negative balance for second injury account reimbursement purposes. Clearly such an erroneous decision cannot accomplish the intent underlying second injury account recoveries. Petitioner 11 12 acknowledge that expenses paid for treatment of lumbar and cervical spine do not qualify for SIA reimbursement, excluded those costs from the application, and sought recovery for only those 13 expenses associated with the right knee. Yet, despite undisputed entitlement to recovery, because 14 of the impossible prerequisite for reimbursement arbitrarily imposed by the DIR and the Board, 15 Petitioners are denied recovery of costs to which they are statutorily entitled. 16

17 This untenable position appears to be clear error in that, while Petitioners are restricted to reimbursement for right knee expenses only, the entire subrogation amount was offset 18 19 against the expenses incurred for the right knee alone. Of course, the subrogation was calculated 20 to recompense for <u>all</u> body parts injured in the motor vehicle accident – not just for treatment of 21 the right knee. Just as obvious is that the cost of treatment of a single body part will never exceed 22 the combined costs of treatment of three discreet body parts. As such, the DIR and Board have 23 imposed a precondition on recovery that is sanctioned by no law, regulation, statute, or guideline. 24 Petitioner accounted for those other expenses and specifically did not seek recovery for treatment 25 of those non-qualifying body parts. Nevertheless, the Board elected to offset the entire 26 subrogation amount against the amount requested, and ruled that while Petitioners were, in fact, 27 absolutely entitled to second injury account recovery, it would not confirm any fund payments 28 until Petitioners had expended at least the entire subrogation amount in treatment of the right



knee. Notably, the claimant was discharged from care to full duty work at maximum medical
 improvement with zero percent (0%) additional disability from this second right knee injury.
 Consequently, Petitioners will <u>never</u> expend at least the amount of the subrogation on right knee
 treatment and, under the DIR's and Board's erroneous interpretation of Nevada law and sua
 sponte creation and imposition of new recovery requirements, will never recover the costs paid to
 treat claimant's second industrial accident right knee accident.

This absurd situation is a direct product of the Board's failure to abide by the above-stated three-fold legislative intent underlying of second injury accounts and improper promulgation of new and additional recovery regulations. Such accounts are intended to incentivize continued employment of disabled workers by providing a means to recover costs. associated with treatment of a second injury from a common pool of funds. By formulating and imposing new recovery requirements and unrealistically demanding that the subrogation received for all body parts be offset against treatment costs for the right knee only, the Board fails to fulfill the underlying legislative intent. As such, the Board's determination must fail. 

# CONCLUSION

VI.

Based upon the foregoing, Petitioners, respectfully asks this Honorable Court to grant

||||

1.17

*			
	Detition and Detition for India	ial Davian	
1		day of April, 2021.	
2			
3		Respectfully submitted,	
4		LEWIS, BRISBOIS, BISGAA	RD & SMITH,
5		lan VIV	I.
6		By: DANIEL L. SCHWARTZ, ESC	
7		Nevada Bar No. 5125 KIM D. PRICE, ESQ.	
8		Nevada Bar No. 7873	
9		2300 W. Sahara Ave. Ste. 900 Las Vegas, Nevada 89102	
10		Phone: 702-893-3383 Fax: 702-366-9689	
11		Attorneys for Petitioners, Las V	egas Metropolitan
12		Police Department and Cannon Management Services, Inc.	Cochran
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
		15	
ļ	1		00100

LEWIS BRISBOIS BISGAARD & SMITH LLP ATORNEYS AT LAW

1	<b>CERTIFICATE OF COMPLIANCE</b>		
2	I hereby certify that I have read this appellate brief and, to the best of my		
3	knowledge, information, and belief, it is not frivolous or interposed for any improper purpose. I		
4	further certify that this brief complies with all applicable Nevada Rules of Appellate Procedure, in		
5	particular NRAP 28(e), which requires every assertion in the brief regarding matters in the record		
6	to be supported by appropriate references to the record on appeal. I understand that I may be		
7	subject to sanctions in the event that the accompanying brief is not in conformity with the		
8	requirements of the Nevada Rules of Appellate Procedure.		
91	DATED this day of April, 2021.		
10			
11			
12	Respectfully submitted,		
13	LEWIS BRISBOIS BISGAARD & SMITH LLP		
14	Anon to the -		
15	By DANIEL L. SCHWARTZ, ESQ. (#5125)		
16	KIM D. PRICE, ESQ. (#7873) 2300 W. Sahara Ave. Ste. 900		
17	Las Vegas, Nevada 89102		
18	Attorneys for Petitioners, Las Vegas Metropolitan Police Department and Cannon Cochran		
19	Management Services, Inc.		
20			
21			
22			
23			
24			
25			
26			
27			
28			
1	16		

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

1	CERTIFICATE OF MAILING		
2	Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the day of		
3	April, 2021, service of the attached PETITIONERS' OPENING BRIEF was made this date by		
4	depositing a true copy of the same for mailing, first class mail, and/or via electronic service as		
5	follows:		
6	LVMPD		
7	Jeff Roch Director of Risk Management		
8	400 South MLK Blvd. Las Vegas, Nevada 89106		
9	Petitioner		
	CCMSI Ductu Maraball		
10	Dusty Marshall Claims Supervisor		
11	PO Box 35350 Las Vegas, Nevada 89133		
12	Petitioner		
13	Donald J. Bordelove Deputy Attorney General		
14	Office of the Attorney General 555 East Washington Avenue, Suite 3900		
15	Las Vegas, Nevada 89101 Attorneys for Respondent		
16	State of Nevada		
1.7	Attorney General Aaron Ford		
18	100 North Carson Street Carson City, Nevada 89701		
19	Attorneys for Respondent		
20	Industrial Relations (DIR) Christopher Eccles, Esq.		
21	3360 West Sahara Avenue, Suite 250 Las Vegas, Nevada 89102		
22	Industrial Relations (DIR)		
23	Division Headquarters 400 West King Street, Suite 400		
24	Carson City, Nevada 89703		
25	Department of Business and Industry Director Terry Reynolds		
26	1830 College Parkway, Suite 100 Carson City, Nevada 89706		
	Ist Vawrathos		
27	An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP		
28			
	17		
	00182		

, yada

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AS LAW

	1	Confermine Filtre CONTENT	Electronically Filed 5/5/2021 10:56 AM Steven D. Grierson CLERK OF THE COURT	
		<b>Conforming Filing - CONFILE</b> Donald C. Smith, Esq.	Ottemp, some	
	2	Nevada Bar No.: 000413		
	3	Jennifer J. Leonescu Nevada Bar No.: 006036		
	4	Christopher A. Eccles, Esq.		
	5	Nevada Bar No.: 009798 State of Nevada		
	6	Department of Business and Industry		
		Division of Industrial Relations		
	7	3360 W. Sahara Ave., Ste. 250 Las Vegas, NV 89102		
	8	Phone: (702) 486-9070		
	9	9 Fax: (702) 486-8717 donaldcsmith@dir.nv.gov		
	10	jleonescu@dir.nv.gov		
atudi		ceccles@dir.nv.gov		
DA Division Counsed Suite 250 9102	11			
୦ ଞ୍ଜୁ	12	DISTRICT COURT		
N N N N N N N N N N N N N N N N N N N	13	CLARK COUNTY, NEVADA		
STATE OF NEVADA énstrial Relations - Di West Saltara Ave., Sui as Vegas, Nevada 891 (702) 486-9080	14	LAS VEGAS METROPOLITAN POLICE		
Nop	15	DEPARTMENT, and CANNON	)	
A I I I I I I I I I I I I I I I I I I I		COCHRAN MANAGEMENT SERVICES,		
r B	16	INC.		
3%	17	Petitioners,		
Division of I 3360 1	18	VS.	) Case No.: A-20-821892-J ) Dept No.: 15	
ima	19	STATE OF NEVADA BOARD FOR THE		
	20	ADMINISTRATION OF THE SUBSEQUENT () INJURY ACCOUNT FOR SELF-INSURED ()	) Hearing Requested	
	21	EMPLOYERS,		
		Respondents.		
	22	<b>RESPONDENT DIVISION OF INI</b>	DUSTRIAL RELATIONS'	
	23	MOTION TO DISMISS PETITIONERS' PETI	TION FOR JUDICIAL REVIEW, OR	
	24	IN THE ALTERNATIVE MOTION TO STRIK AND MOTION TO EXTEND TIME TO FILE I		
	25	AND AUTHOR		
	26	COMES NOW Respondent, Division of Indu	ustrial Relations ("Division" or "DIR") by	
	27	and through its undersigned counsel and hereby r	noves this Honorable Court for an order	
	28	1		
	~ ~		00183	

dismissing Petitioners' Petition for Judicial Review ("PJR") filed on September 24, 2020 on two bases: (1) Petitioners never filed the transcript of the underlying administrative proceeding as required by Nevada Revised Statute ("NRS") 233B.131(1)(a), and (2) Petitioners failed to file their Memorandum of Points and Authorities within 40 days following the Board's Notice of Transmittal of the Record pursuant to NRS 233B.133(1).

In the alternative, Respondent moves for an order striking "Petitioners' Opening Brief" because Petitioner failed to file a copy of the transcript as required by NRS 233B.131(1)(a), and therefore the record of the underlying administrative proceeding is incomplete; and for an order granting its Motion to Extend Time to File Its Reply Memorandum of Points and Authorities.

This Motion is made and based upon the Points and Authorities attached hereto, NRS 233B.131 through NRS 233B.135, the exhibits attached hereto, the records and pleadings on file in this matter, and such oral argument as may be adduced at the hearing of this Motion.

#### I. **MOTION TO DISMISS PETITIONERS' PETITION FOR JUDICIAL REVIEW**

#### A. PRELIMINARY STATEMENT

Petitioners never filed the transcript of the underlying administrative proceeding. They 16 are about 175 days late and counting. Making matters worse, they late-filed their Opening Brief—it is 105 days late—but, without any citations to the transcript, it is so deficient that it is useless for purposes of judicial review. Petitioners never filed the transcript, and essentially it is as if they never filed an Opening Brief. Without excuse, Petitioners blew both mandatory statutory deadlines in NRS 233B and their PJR should be dismissed. Exhibit "1" attached hereto (Affidavit of Division Counsel).

22

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

17

18

19

20

21

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250

STATE OF NEVADA

Nevada 8910

Las Voras

702) 486-9080

#### B. **STATEMENT OF FACTS**

Petitioners seek judicial review of the "Findings of Fact, Conclusions of Law, and 23 Determination of the Board" dated August 19, 2020 by the Board for the Administration of the 24 Subsequent Injury Account for Self-Insured Employers (the "Board") in Claim No. 25 12D34C229979. Administrative Record on Appeal ("ROA") 0124-0132. 26

- 111 27
- 28

2

3

4

5

6

7

8

9

10

18

19

20

21

22

The Board administers the Subsequent Injury Account, which is a workers' compensation program created to encourage self-insured employers to hire and retain workers with certain qualifying preexisting permanent physical impairments. NRS 616B.557(1)-(4); N. Lake Tahoe Fire Prot. Dist. V. Bd. of Admin., 431 P.3d 39, 43, 2018 Nev. LEXIS 107, at **8 (2018) (analyzing the requirements for reimbursement under NRS 616B.578, which applies to the Board for the Administration of the Subsequent Injury Account for Associations of Self-Insured Public or Private Employers, but is otherwise analogous to NRS 616B.557).

Statutes and regulations regarding the Board are located at NRS 616B.545 through 616B.560, and Nevada Administrative Code ("NAC") 616B.770 through 616B.7714.

The Board's process when administratively deciding claims for reimbursement is not adversarial in the first place. The applicant submits a claim to the Division for review and analysis. NAC 616B.7702. Upon review and analysis of the applicant's claim, the Division produces a written recommendation to the Board concerning acceptance or denial of the claim. NAC 616B.7704(1)(a). Simultaneously, the Division serves the applicant with its written recommendation, including the documents which the Division believes supports its recommendation. NAC 616B.7704(1)(b).

Next, the Board schedules and notices a public meeting. ROA 0053-0056. The agenda includes the Division's recommendation concerning acceptance or denial of the claim as an action item. ROA 53 (agenda item * 6.a. on the Board's June 27, 2018 agenda is the action on the Division's recommendation). If the Division's recommendation is adverse to the applicant, then the applicant may request a contested hearing before the Board by filing a written request with the Board's legal counsel within 30 days. NAC 616B.7706(1).

If the applicant timely requests a contested hearing, the Board then schedules and notices 23 24 another public meeting. ROA 0075-0081. The agenda includes the Division's recommendation 25 concerning acceptance or denial of the claim as an action item, but this time the agenda item is expressly noticed as a *de novo* hearing in a contested case. ROA 0077 (agenda item * 7.a. on 26 27 the Board's September 26, 2018 agenda is the action in the *de novo* contested case).

3

Specifically, agenda item * 7 states in pertinent part:

The following request(s) for reimbursement, which the Board will hear de novo, is a contested case which will be adjudicated pursuant to the Nevada Administrative Procedures Act, NRS 233B.010, et seq.:

12D34C229979 Las Vegas Metropolitan Police Department a.

For Possible Action

ROA 0077 (emphasis in original).

NRS 233B.121 through NRS 122B.150 provide the statutory framework for the adjudication of contested cases. NRS 233B.121(8) states that: Oral proceedings, or any part thereof, must be transcribed on the request of any party..." Here, the de novo contested hearing on Petitioners' claim was an oral proceeding under NRS 233B.121. The proceeding was transcribed by a court reporter pursuant to the request of the Board's former counsel, Charles R. Zeh, Esq. Under NRS 233B.131(1)(a), "Within 45 days after the service of the petition for judicial review or such time as is allowed by the court: The party who filed the petition for judicial review shall submit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency."

Here, Petitioners filed the PJR on September 24, 2020. Thus, pursuant to NRS 18 233B.131(1)(a), Petitioners had a statutory duty to file the original or certified copy of the transcript with the court by November 9, 2020. Without excuse, Petitioners have not filed the transcript—they are about 175 days late and counting. The record is incomplete because Petitioners failed to file the transcript. Also, Petitioners' deficient Opening Brief is late-filed.

22 One might argue that the Board's September 26, 2018 hearing and deliberation of this 23 de novo contested case, as memorialized in the court reporter's certified transcript, is the most 24 important part of this administrative record. Without the "whole record" how is this Court able 25 to determine whether the Board's final decision was lawful? NRS 233B.135(3)(e) (describing 26 that the court may remand, affirm, or set aside in whole or in part the agency's final decision if 27 the final decision is "clearly erroneous in view of the reliable, probative and substantial evidence

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 12 Nevada 89102 13 STATE OF NEVADA 702) 486-9080 14 15 Las Ve 16 17

1

2

3

4

5

6

7

8

9

10

11

19

20

21

on the whole record..." (emphasis added.)). 1

Additionally, under NRS 233B.133(1), a petitioner who is seeking judicial review must 2 3 serve and file a memorandum of points and authorities within 40 days after the agency gives 4 written notice to the parties that the record of the proceeding under review has been filed. The 5 Board filed the ROA on November 9, 2020. The Board filed its Notice of Transmittal of the 6 ROA the next day, November 10, 2020. The Petitioners did not file a Motion to Extend Time 7 showing an excusable neglect for extending the time to file their Memorandum of Points and Authorities. Toman v. Nev. Transp. Auth., Case No.: CV18-00461, 2018 Nev. Dist. LEXIS 974, at *3 (Second Judicial Dist. Ct. of Nev. Sept. 17, 2018). Rather, Petitioners late-filed a deficient Opening Brief on April 5, 2021. The Petitioners Opening Brief is 105 days late and their PJR should be dismissed.¹

#### С. **PROCEDURAL HISTORY**

On April 10, 2018, Petitioners filed a claim for reimbursement with the Division. ROA 0044.

On April 25, 2018, the Division issued its amended recommendation regarding the claim. ROA 0043-0049.

On June 27, 2018, the Board held a public meeting and acted on the Division's amended 17 recommendation to approve the claim. ROA 0053 (action item * 6.a.). 18

19 On July 11, 2018, Mr. Zeh, the Board's former counsel, notified Petitioners regarding the Board's action at its June 27, 2018 agenda. ROA 0071-0072. 20

On August 10, 2018, Mr. Price, Petitioners' counsel, notified Mr. Zeh regarding his 21 22 clients' appeal of the Board's action at its June 27, 2018 agenda. ROA 0075.

On September 10, 2018 (ROA 0081) and again on September 17, 2018 (ROA 0090) Mr. 23 24 Price waived his right to hand delivery of the Board's agenda set for September 26, 2018 and 25 acknowledged that he had time to appear and make a presentation regarding this claim at said

26

8

9

10

11

12

13

14

15

¹ It is 146 days from November 10, 2020 (the date the Board gave notice of filing the ROA) to April 5, 2020 (the 27 date Petitioners filed their Opening Brief). Under NRS 233B.133(1), the Petitioners had 40 days from November 10, 2020 to file their memorandum of points and authorities; thus, the deadline to file was December 21, 2020. 28

1 agenda.

6

7

8

9

10

11

28

2 On September 24, 2018, Mr. Price submitted to the Division the Petitioners' "First 3 Supplement to Letter of Application for Reimbursement from the Subsequent Injury Account." ROA 0092-0106. 4

5 On September 26, 2018, the Board held an agenda which included as an action item the de novo hearing pursuant to NRS 233B regarding the Division's recommendation for the claim. ROA 0076-0079 (action item * 7.a.). A court reported was present and transcribed the oral proceedings regarding action item * 7.a. Counsel for Petitioners, Mr. Kim Price, attended and represented Petitioners at the Board's meeting.

On August 19, 2020, the Board held an agenda at which the Draft Findings of Fact, Conclusions of Law and Determination of the Board was included as an action item. ROA 0107-0109 (action item * 8 at ROA 0108).

The Board's Chair, Cecilia Meyer, signed the Findings of Fact, Conclusions of Law and Determination of the Board on August 19, 2020. ROA 0124-0132 (signed at ROA 0130).

During the pendency of this case, the Board's contract with Mr. Zeh ended and the Board retained new legal counsel, Mr. Donald Bordelove, Deputy Attorney General.

On September 1, 2020, Mr. Bordelove signed the Notice of Entry of the Board's Findings of Fact, Conclusions of Law and Determination of the Board. ROA 0131.

19 On September 24, 2020, Petitioners, through counsel, filed their PJR, designated Case No. A-20-821892-J. 20

21 On October 13, 2021, the Division filed its Notice of Intent to Participate pursuant to NRS 233B.130(3). 22

23 On November 10, 2020, the Board filed its Notice of Transmittal of Administrative 24 Record on Appeal.

25 Petitioners, as the party who filed the PJR, "shall transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the 26 27 agency." NRS 233B.131(1)(a). To date, Petitioners have failed to file the transcript. Thereby,

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 12 13 STATE OF NEVADA 486-9080 14 15 8 16 17 18

the record is incomplete.

1

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

The Division has not stipulated, and is not aware of any stipulation, by which the parties agreed to shorten the administrative record. NRS 233B.131(1) (stating that "the record may be shortened by stipulation of the parties to the proceedings").

Instead, Petitioners late-filed an Opening Brief—it is 105 days late—which lacks any citations to the transcript of the Board's September 26, 2018 *de novo* hearing in this administrative contested case.

#### **D.** APPLICABLE STATUTES

NRS 233B.131 Transmittal of record of proceedings to reviewing court by party and agency; shortening of or corrections or additions to record; additional evidence; modification of findings and decision by agency based on additional evidence.

1. <u>Within 45 days</u> 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 <u>shall</u> transmit to the reviewing court an original or certified copy of the transcript of the evidence resulting in the final decision of the agency.

(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.

 $\neg$  The record may be shortened by stipulation of the parties to the proceedings. A party unreasonably refusing to stipulate to limit the record, as determined by the court, may be assessed by the court any additional costs. The court may require or permit subsequent corrections or additions to the record.

2. If, before submission to the court, an application is made to the court for leave to present additional evidence, and it is shown to the satisfaction of the court that the additional evidence is material and that there were good reasons for failure to present it in the proceeding before the agency, the court may order that the additional evidence and any rebuttal evidence be taken before the agency upon such conditions as the court determines.

3. After receipt of any additional evidence, the agency:

(a) May modify its findings and decision; and

(b) Shall file the evidence and any modifications, new findings or decisions with the reviewing court.

7

(Added to NRS by <u>1989</u>, <u>1649</u>; A <u>2015</u>, <u>710</u>)

(Emphasis added.)

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

NRS 233B.133 Form and deadlines for serving and filing memorandum of points and authorities and replies; extensions; request for hearing or matter deemed submitted.

1. A petitioner or cross-petitioner who is seeking judicial review <u>must serve and file a memorandum of points and</u> <u>authorities within 40 days after the agency gives written notice</u> to the parties that the record of the proceeding under review has <u>been filed</u> with the court.

2. The respondent or cross-petitioner shall serve and file a reply memorandum of points and authorities within 30 days after service of the memorandum of points and authorities.

3. The petitioner or cross-petitioner may serve and file reply memoranda of points and authorities within 30 days after service of the reply memorandum.

4. Within 7 days after the expiration of the time within which the petitioner is required to reply, any party may request a hearing. Unless a request for hearing has been filed, the matter shall be deemed submitted.

5. All memoranda of points and authorities filed in proceedings involving petitions for judicial review must be in the form provided for appellate briefs in <u>Rule 28</u> of the Nevada Rules of Appellate Procedure.

6. The court, for good cause, may extend the times allowed in this section for filing memoranda.

(Added to NRS by 1989, 1649)

(Emphasis added.)

NRS 233B.135 Judicial review: Manner of conducting; burden of proof; standard for review.

- 1. Judicial review of a final decision of an agency must be:
- (a) Conducted by the court without a jury; and

(b) Confined to the record.

 $\neg$  In cases concerning alleged irregularities in procedure before an agency that are not shown in the record, the court may receive evidence concerning the irregularities.

2. The final decision of the agency shall be deemed reasonable and lawful until reversed or set aside in whole or in part by the court. The burden of proof is on the party attacking or resisting the decision to show that the final decision is invalid pursuant to subsection 3.

3. The court shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact. The court may remand or affirm the final decision or set it aside in whole or in part if substantial rights of the petitioner have been prejudiced because the final decision of the agency is:

(a) In violation of constitutional or statutory provisions;

8

(b) In excess of the statutory authority of the agency;

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

Division of Industrial Relations - Division Counsel 12 3360 West Sahara Ave., Suite 250 Vegas, Nevada 89100 13 STATE OF NEVADA 702) 486-9080 14 15 16 17

Deadline for serving and filing memorandum of points and authorities Pursuant to NRS 233B.133(1): A petitioner who is seeking judicial review must serve and file a memorandum of points and authorities within 40 days after the agency gives written notice to the parties that the record of the proceeding under review has been filed with the court. Pursuant to NRS 233B.133(6): The court, for good cause, may extend the times allowed in this section for filing memoranda.

27

28

Here, without excuse, Petitioners did not serve or file a memorandum of points and

9

(d) Affected by other error of law: (e) Clearly erroneous in view of the reliable, probative and

(c) Made upon unlawful procedure;

substantial evidence on the whole record; or (f) Arbitrary or capricious or characterized by abuse of discretion.

As used in this section, "substantial evidence" means 4. evidence which a reasonable mind might accept as adequate to support a conclusion.

(Added to NRS by 1989, 1650; A 2015, 710)

(Emphasis added.)

2.

1

2

3

4

5

6

7

8

9

10

11

#### E. **STANDARDS OF REVIEW**

1. Transmittal of record of proceedings to reviewing court by party and agency

Pursuant to NRS 233B.131(1)(a): Within 45 days after the service of the petition for judicial review or such time as is allowed by the court, 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.

Here, without excuse Petitioners never filed the transcript. Petitioners filed their PJR on September 24, 2020. The Petitioners statutory deadline to file the transcript was Monday, November 9, 2020. At the date of this writing, Petitioners are about 175 days late and counting. Nor have Petitioners filed a motion demonstrating good cause or stipulation with this Court for additional time to file the transcript.

# 22 23

24

25

26

18

19

20

authorities withing 40 days after the agency gave written notice that the record of the proceeding 1 2 under review had been filed with this Court. The Board filed the Notice of Transmittal on 3 November 10, 2020. The Petitioners' statutory deadline to file the memorandum was Monday, December 21, 2020. They filed their "Opening Brief" on April 5, 2021-about 105 days late. 4

Petitioners did not file a motion to extend the time for filing their memorandum or show good cause why this Court should do so. Moreover, as detailed below, without citations to the underlying administrative transcript, Petitioners' Opening Brief is useless for purposes of judicial review. Given these facts, it is as if no memorandum has been filed.

F. ARGUMENT

## 1. Without excuse, Petitioners have not filed the transcript of the Board's September 26, 2018 de novo hearing. This Court should dismiss Petitioners' PJR.

On September 24, 2020, Petitioners filed the instant PJR before this Court. Without excuse, Petitioners have not filed the transcript of the Board's September 26, 2018 hearing, which is required by NRS 233B.131(1). The Petitioners had a statutory duty to file the transcript by November 9, 2020. Petitioners are about 175 days late and counting...

NRS 233B.131(1)(a) unambiguously mandates that the Petitioner "shall transmit" to the court an original or certified copy of the transcript of the evidence resulting in the final agency 18 decision. The Nevada Supreme Court has determined that ""[t]he word "shall" is a term of command; it is imperative or mandatory, not permissive or directory." Great Basin Water Network v. Taylor, 234 P.3d 912, 2010 Nev. LEXIS 21, at **12 (2010) (citing Blaine Equip. Co. v. State, Purchasing Div., 122 Nev. 860, 867, 138 P.3d 820, 824 (2006) (alternation in original) (quoting Adkins v. Oppio, 105 Nev. 34, 37, 769 P.2d 62, 64 (1989)).

Petitioners' failure to file the transcript with the court, as mandated by statute, is grounds 24 25 for dismissal. Kame v. Employment Sec. Dep't, 105 Nev. 22, 25, 769 P.2d 66, 68 (1989) 26 (holding that strict compliance with statutory requirements is a precondition to jurisdiction for 27 judicial review). The Division did not stipulate to shorten the record in any manner, let alone

5

6

7

8

9

10

11

12

13

14

15

16

19

20

21

22

23

28

2.

stipulate to omit perhaps the most important part of the whole record—the transcript of the Board's *de novo* hearing and deliberation in the underlying administrative proceeding.

## Without excuse, Petitioners late-filed their deficient Opening Brief. This Court should dismiss Petitioners' PJR.

On November 10, 2020, Board counsel filed the Notice of Transmittal of Administrative Record on Appeal. Pursuant to NRS 233B.133(1), the Petitioners had a statutory duty to file and serve a memorandum of points and authorities within 40 days of November 10, 2020. NRS 233B.133(1) plainly and unambiguously states that a petitioner "**must** serve and file" the memorandum within 40 days. Here, Petitioners' deadline to file and serve the memorandum was Monday, December 21, 2020. Failure to timely file the memorandum is grounds for dismissal.

Matters of statutory interpretation are reviewed *do novo*. Nev. State Bd. of Architecture v. Eighth Judicial Dist. Court, 449 P.3d 1262, 1264, 2019 Nev LEXIS 59, at **5-6 (2019). A premature petition for judicial review does not vest the court with jurisdiction. Id. at 1263, 2019 Nev. LEXIS at **1-2. In the instant case, the Petitioners' failure to file the transcript—and their failure to file a memorandum with citations to the transcript—does not vest this Court with jurisdiction. Indeed, this Court lacks jurisdiction to conduct judicial review and should dismiss this PJR.

Strict compliance with the procedures of NRS 233B, the Administrative Procedures Act, is a prerequisite for this Court's jurisdiction to attach. "...[n]ot every administrative decision is reviewable." Private Investigator's Licensing Bd. v. Atherley, 98 Nev. 514, 515, 654 P.2d 1019 (1982). Only those decisions that are challenged according to NRS 233B's procedures invoke the district court's jurisdiction. Id. "When a party seeks judicial review of an administrative decision, strict compliance with the statutory requirements for such review is a precondition to jurisdiction by the court of judicial review," and "[n]oncompliance with the requirements is grounds for dismissal." Kame, 105 Nev. at 25, 769 P.2d at 68 (emphasis added) (quoting Teepe v. Review Bd. of Indiana Emp. Sec. Div., 200 N.E.2d 538, 539

(Ind. Ct. App. 1964); see also Ultsch v. Ill. Mun. Ret. Fund, 226 Ill.2d 169, 178, 874 N.E.2d 1, at **7 (Ill. 2007) (stating that "Because review of a final administrative decision may be 3 obtained only as provided by statute, a court exercises 'special statutory jurisdiction' when it reviews an administrative decision. Special statutory jurisdiction is limited to the language of the statute conferring it and the court has no powers from any other source. A party seeking to invoke a court's special statutory jurisdiction must strictly comply with the procedures prescribed by the statute.") (internal citation omitted).

Without excuse for good cause shown, Petitioners late-filed their Opening Brief on April 5, 2021. Worse, Petitioner's late-filed Opening Brief is useless because it lacks citations to the transcript of the Board's September 26, 2018 de novo hearing. Indeed, the record before the Court is not the "whole record" as required by NRS 233B.135(3)(e) because Petitioner never filed the transcript.

Over 220 days have passed since Petitioners filed their PJR. Because Petitioners failed to file the transcript and instead late-filed a deficient Opening Brief without citations to the transcript, this Court is in no position to conduct judicial review based upon the whole record. NRS 233B.135.

#### 3. The Court should dismiss Petitioners' PJR.

#### Analysis of the District Court's Order in the Toman case а.

19 Petitioners late-filed a deficient Opening Brief. The Opening Brief is deficient because 20 it lacks citations to the transcript of the Boards September 26, 2018 de novo hearing. Petitioners have not alleged any excusable neglect for their failure to file the transcript, which is about 175 21 days late and counting. NRS 233B.131(1)(a). Petitioners have not alleged any excusable 22 neglect for late-filing their deficient Opening Brief, which was filed 105 days after the deadline. 23 NRS 233B.133(1). 24

25 In Toman, Mr. Toman filed his Petition for Judicial Review on March 6, 2018. Toman v. Nev. Transp. Auth., Case No.: CV18-00461, 2018 Nev. Dist. LEXIS 974, at *2 (Second 26 Judicial Dist. Ct. of Nev. Sept. 17, 2018). On April 4, 2018, the Court granted the parties' 27

12

Division of Industrial Relations - Division Connsel 12 1360 West Sahara Ave., Suite 250 13 STATE OF NEVADA 486-9080 14 15 16 17 18

1

2

4

5

6

7

8

9

10

11

stipulation to stay the proceedings pending the outcome of Toman's Petition for 1 2 Reconsideration filed with the Nevada Transportation Authority ("NTA"). Id. On April 12, 3 2018, the NTA denied Toman's Motion for Reconsideration. Id. On May 17, 2018, Toman filed the Transcript of the Hearing pursuant to NRS 233B.131(1)(a). Id. On May 22, 2018 the 4 NTA gave notice that it filed the Record of the Proceeding with the Court as required by NRS 233B.131(1)(b). Id. On July 25, 2018 the NTS moved to dismiss Toman's PJR because Toman had not filed his Memorandum of Points and Authorities within forty days following the NTA's Notice of Transmittal of the Record. Id.

9 The District Court granted the NTA's Motion to Dismiss. Id. at *4-5. Toman appealed. The Nevada Supreme Court denied Toman's Petition for Judicial Review.² 10

In granting the NTA's Motion to Dismiss, the District Court analyzed applicable provisions of NRS 233B. Id. at *3-4. Mr. Toman argued that he believed the Court would lift the stay and then set forth a briefing schedule, and therefore, good cause existed for his not filing the Memorandum of Points and Authorities timely. Id. at *4. The Court found this argument unpersuasive because Mr. Toman timely filed the Record of the Proceedings as required by NRS 233B.131 and timely received the required notice of transmittal of the record from the NTA, yet he did not think the Memorandum of Points and Authorities would need to be filed within the statutorily required timeframes. Id. Furthermore, the Court found that there was no good cause to enlarge time to file the Memorandum of Points and Authorities as required pursuant to NRS 233B.133(6). Id.

21 The Court reasoned: "Strict compliance with statutory requirements is required for this Court to have jurisdiction over the appeal of an administrative decision and noncompliance with 22 statutory requirements is grounds for dismissal." Id. 23

In the case at bar, the fact remains that Petitioners did not comply with NRS 24 25 233B.131(1)(a)—the Petitioners never filed the transcript. The fact remains that Petitioners did 26 not comply with NRS 233B.133(1)—the Petitioners filed a deficient Opening Brief 105 days

27

5

6

7

8

11

12

13

14

15

16

17

18

19

20

STATE OF NEVADA Division of Industrial Relations - Division Connsel 3360 West Sahara Ave., Suite 250

Las Vegas, Nevada 8910;

(702) 486-9080

28

late. The fact remains that the Petitioners' late-filed Opening Brief is useless because without citations to the Board's *de novo* proceeding, the Court cannot perform its role of judicial review based upon the whole record. There can be no doubt that the transcript of the Board's de novo hearing is a material part of the whole record in the underlying administrative proceeding.

Essentially, the Petitioners' Opening Brief is so deficient that it's as if no Opening Brief 5 has been filed. Petitioners never moved to extend time or demonstrated excusable neglect. NRS 233B.133(6). The fact remains that Petitioners have not complied with statutory requirements at all for filing the transcript or their memorandum, let alone strictly complied with NRS 233B's procedural requirements, which is required to invoke this Court's jurisdiction. Toman, 2018 Nev. Dist. LEXIS 974, at *4.

Analysis of the District Court's Order in the In re DOT case b. In In re DOT, the Plaintiffs (unsuccessful applicants for retail recreational cannabis establishment licenses) filed a complaint and a petition for judicial review against the Department of Taxation ("DOT") and sought an order requiring the DOT to supplement the administrative record and for other relief. In re DOT, Case No. A-19-787004-B et seq., 2020 Nev. Dist. LEXIS 1221, at *1 (Eighth Judicial Dist. Ct. of Nev. Aug. 28, 2020). The Court denied Plaintiffs' motion. Id. at *5-6.

The Court's analysis began by citing the legal standard that "A petition for judicial 18 review is ordinarily 'confined to the record' before the agency when it made its decision. NRS 19 233B.135(1)(b)." Id. at *3. Regarding the Plaintiffs' request to supplement the record, the 20 Court stated: "NRS 233B.131(1) requires the submission of two categories of documents: (1) 21 the 'transcript of the evidence resulting in the final [agency] decision'; and (2) the 'record of 22 23 the proceeding under review." Id. at *4. The Court noted that "Here, there is no applicable 'transcript,' so NRS 233B.131(1) requires only the 'record of the proceeding under review." 24 There was no "transcript" because "The 'proceeding under review' is the [DOT's] 25 Id. determination on the [Plaintiffs'] license applications, and the record is therefore the documents 2627 that the Department considered in grading the applications." Id.

1

2

3

4

6

7

8

9

10

11

12

13

14

15

16

17

28

In the case at bar, in contrast to *In re DOT* case, there <u>is</u> a "transcript of the evidence resulting in the final decision of the agency." NRS 233B.131(1)(a). The Board's September 26, 2018 meeting regarding the *de novo* hearing on Petitioners' claim for reimbursement was recorded and transcribed by a certified court reporter. There was no transcript in the *In re DOT* case because the proceeding under review was limited to the evaluation of the Plaintiffs' applications and all documents pertaining to that evaluation were included in the record. *In re DOT*, 2020 Nev. Dist. LEXIS 1221, at *3. In short, Petitioners failed without excuse to file the transcript with this Court within 45 days of serving their PJR as required by NRS 233B.131(1)(a).

Here, one category of documents—the transcript of the Board's *de novo* contested hearing—that comprises the whole record for purposes of judicial review has not been timely submitted. Again, Petitioners are about 175 days late in filing the transcript and have not complied (strictly or substantially) with NRS 233B's procedural requirements. This Court lacks jurisdiction over Petitioners' PJR. Thus, this Court should grant the Division's Motion to Dismiss Petitioners' PJR.

#### c. Analysis of the Schulz Partners case

17 In Schulz Partners, appellant Schulz Partners appealed from a district court order denying and dismissing a combined petition for judicial review and complaint. *Schulz Partners*. 18 LLC v. State ex re. Bd. of Equalization, Case No. 53128, 2011 Nev. Unpub. LEXIS 500, at *1 19 20 (July 28, 2011) (unpublished disposition). The State respondents filed a motion to dismiss on November 5, 2008 and filed a second motion to dismiss on December 1, 2008. Id. at *2. In 21 22 between the filing of those motions to dismiss, on November 6, 2008, Schulz and the State 23 stipulated to extend the time for filing the administrative record pertaining to the petition for judicial review until 30 days after notice of entry of the order resolving the motion to dismiss. 24 25 Id. at *2-3. "The district court denied Schulz's petition [for judicial review] and dismissed the 26 complaint before the filing of the administrative record." Id. at *3. The Nevada Supreme Court reversed the district court "to the extent it denies Schulz's petition for judicial review without 27

STATE OF NEVADA Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 Las Vegas, Nevrada 89102 (702) 486-9080 1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

28

benefit of the complete administrative record." Id. at *6 (internal footnote omitted).

Here, as in Schulz, the Court lacks the benefit of the complete administrative record because Petitioners never filed the transcript of the underlying administrative proceeding under review. It is the Division's position that it would be error for this Court to deny the Division's Motion to Dismiss and to rule on the merits of the Petitioners' PJR without the transcript. But in contrast to the Schulz case, the Division never stipulated (or was asked to stipulate) to extend the time for filing the transcript of the administrative record. Petitioners simply never filed the transcript as required by NRS 233B.131(1)(a). As such, Petitioners' Opening Brief is useless for purposes of judicial review which must be based upon the whole record. NRS 233B.135(1)(b) and (3)(e). Accordingly, this Court lacks jurisdiction and should grant the Division's Motion to Dismiss Petitioners' PJR.

## 4. Statutes that provide a time limit for filing, such as NRS 233B.131(1)(a) and NRS 233B.133(1)-are jurisdictional, not procedural-and require strict compliance.

The Nevada Supreme Court has held that a rule providing a time limit for filing an 15 administrative appeal is not procedural, but jurisdictional. K-Kel, Inc. v. State, Dep't of 16 Taxation, 134 Nev. 78, 80-81, 412 P.3d 15, 17 (2018) (recognizing that the statutory time period 17 for filing a petition for judicial review under NRS Chapter 233B as jurisdictional). Moreover, 18 19 the Court has consistently treated time limitations set forth in workers' compensation statutes as "establishing a jurisdictional bar to further review when the required action is not taken 20 21 within the time period delineated by those statutes." Williams v. United Parcel Servs., 129 Nev 22 386, 390, 302 P.3d 1144, 1146 (2013) (quoting Seino v. Employers Ins. Co. of Nev., 121 Nev. 23 146, 150, 111 P.3d 1107, 1110 (2005) ("Statutory periods for requesting administrative review 24 of workers' compensation determinations are mandatory and jurisdictional."); Reno Sparks 25 Convention Visitors Auth. v. Jackson, 112 Nev. 62, 66-7, 910 P.2d 267, 270 (1996) (recognizing 26that the failure to appeal administrative determination within prescribed time period precluded consideration of the appeal)). 27

16

1

2

3

4

5

6

7

8

9

10

11

12

13

14

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250

STATE OF NEVADA

Verse, Nevada 89102

486-9080

Additionally, the Nevada Supreme Court has held that it will look to the rule's language, 1 2 and consider policy and equity principles, in order to determine if a rule's provisions require 3 strict or substantial compliance. Markowitz v. Saxon Special Servicing, 129 Nev. 660, 664, 310 4 P.3d 569, 571-72 (2013) (citing Leyva v. Nat'l Default Servicing Corp., 127 Nev. 470, 475-76, 255 P.3d 1275, 1278 (2011)). "Generally, a rule is mandatory and requires strict compliance 5 when its language states a specific 'time and manner' for performance." Id. (citing Leven v. 6 7 Frey, 123 Nev. 399, 408 n.31, 168 P.3d 712, 718 n.31 (2007)). "Time and manner refers to 8 when performance must take place and the way in which the deadline must be met." Id. (citing 9 Village League to Save Incline Assets, Inc. v. State Bd. of Equalization, 124 Nev. 1079, 1088, 194 P.3d 1254, 1260 (2008)). In contrast to time and manner provisions, form and content 10 provisions "dictate who must take action and what information that party is required to 11 provide." Id. (citing Einhorn v. BAC Home Loans Servicing, LP, 128 Nev. 689, 696, 290 P.3d 12 249, 254 (2012) (stating that "who brings which documents ... is a matter of 'form"")). 13 14 "Because they do not implicate notice, form and content-based rules are typically directory and may be satisfied by substantial compliance..." Id. at 664-65. 15

Here, Petitioners filed their PJR on September 24, 2020. The Certificate of Service on 16 Petitioners' PJR states that the PJR was mailed on September 25, 2020. Thus, pursuant to NRS 233B.131(1), the clock started ticking for Petitioners to transmit a copy of the transcript to the reviewing court within 45 days. Petitioners never filed the transcript. Petitioners are about 175 days beyond the statutory time limit for filing the transcript. Petitioners never moved to extend the time to file the transcript, nor did they seek a stipulation to extend the time. The Court should dismiss their PJR.

23 Moreover, the Board filed its Notice of Transmittal of Administrative Record on Appeal on November 10, 2020. The Petitioners were served with the Notice of Transmittal of the ROA 24 via the Court's electronic filing system ("EFS"). The Certificate of Service on the Notice of 25 26 Transmittal of the ROA states, "EFS users will be served electronically via email." Thus, 27 pursuant to NRS 233B.133(1), the clock started ticking for Petitioners to serve and file a

17

18

19

20

21

22

28

6

7

8

9

10

11

12

13

14

15

16

17

18

21

28

memorandum of points and authorities within 40 days from November 10, 2020. Petitioners,
 without excuse, late-filed a deficient Opening Brief (i.e., a brief devoid of citations to the
 transcript) on April 5, 2021. The Petitioners' Opening Brief was filed 105 days late. Again,
 the Court should dismiss their PJR for non-compliance with strict statutory time limits.

NRS 233B.131(1)(a) and NRS 233B.133(1) are "time and manner" rules. They state deadlines for performance. Petitioners were subject to those deadlines of 45 days and 40 days, respectively. It cannot reasonably be argued that these rules are not mandatory "time and manner" rules that require strict performance under *Markowitz* and other cases cited herein.

## G. CONCLUSION

That Petitioners never filed the transcript and late-filed a deficient Opening Brief cannot be disputed. The applicable statutes in NRS 233B require strict compliance with jurisdictional statutory deadlines. This Court should dismiss Petitioners' PJR.

## II. MOTION TO STRIKE "PETITIONERS' OPENING BRIEF"

## A. STATEMENT OF FACTS AND PROCEDURAL HISTORY

A full recitation of the facts and procedural history is provided in section I. B. and C. hereinabove. For brevity, the Division incorporates the facts and procedural history herein by reference.

### **B.** APPLICABLE STATUTES

The applicable statutes are provided in section I. D. hereinabove. For brevity, the
Division incorporates the statutes herein by reference.

## C. ARGUMENT

Petitioners filed the PJR on September 24, 2020. Pursuant to NRS 233B.131(1)(a), Petitioners had a duty to file the original or certified copy of the transcript with the court by November 9, 2020. Without excuse, Petitioners have not filed the transcript—they are about 175 days late and counting. The record is incomplete because Petitioners failed to file the transcript. Similarly, Petitioners' Opening Brief is late-filed—it is 105 days late. NRS 23B.133(1).

Making matters worse, the Petitioners' Opening Brief is useless for purposes of judicial review because it lacks citations to the transcript of the Board's underlying administrative proceeding.

Judicial review is confined to the record. NRS 233B.135(1)(b). Here, the record is incomplete because Petitioners never filed the transcript. NRS 233B.131(1)(a). The Court's manner of conducting judicial review involves determining whether the agency's decision is "clearly erroneous in view of the reliable, probative and substantial evidence **on the whole** record..." NRS 233B. 135(3)(e) (emphasis added). The Court cannot reasonably conduct judicial review without the transcript of the Board's meeting that is the subject of this PJR. Nor can the Court reasonably conduct judicial review given that the Petitioners' Opening Brief is devoid of citations to the transcript.

## **D.** CONCLUSION

Petitioners, without excuse, blew both mandatory statutory deadlines in NRS 233B.131(1)(a) and 233B.133(1) and this Court lacks jurisdiction over this PJR. The Court should thus dismiss the PJR. Petitioners have not alleged, let alone demonstrated, good cause for their noncompliance with mandatory statutory deadlines.

17 If, however, the Court finds good cause and does not grant the Division's Motion to
18 Dismiss, the Division respectfully requests that the Court strike Petitioners' Opening Brief from
19 the record and order Petitioners to file an original or certified copy of the transcript forthwith.

# III. <u>MOTION TO EXTEND TIME FOR THE DIVISION TO FILE ITS REPLY</u> <u>MEMORANDUM OF POINTS AND AUTHORITIES</u>

#### 

Division of Industrial Relations - Division Connsel

STATE OF NEVADA

3360 West Salara Ave., Suite 250

486-9080

### A. STATEMENT OF FACTS AND PROCEDURAL HISTORY

A full recitation of the facts and procedural history is provided in section I. B. and C.
hereinabove. For brevity, the Division incorporates the facts and procedural history herein by
reference.

26 ///

#### В. **APPLICABLE STATUTES**

The applicable statutes are provided in section I. D. hereinabove. For brevity, the Division incorporates the statutes herein by reference.

#### C. ARGUMENT

Petitioners never filed the transcript of the Board's September 26, 2018 *de novo* hearing, They are about 175 days late and counting. NRS 233B.131(1)(a). Petitioners late-filed-by 105 days-a deficient Opening Brief. NRS 233B.133(1). Because Petitioners failed to file the transcript and instead filed a deficient Opening Brief devoid of citations to the transcript, the Division, as the Respondent, should not be bound to file its Reply Memorandum of Points and Authorities within 30 days after Petitioners' served their deficient Opening Brief. NRS 233B.133(2).

#### D. **CONCLUSION**

The Division requests that the Court grant its Motion to Dismiss Petitioners' PJR. If, however, the Court does not grant the Division's Motion to Dismiss Petitioners' PJR, the Division respectfully requests that the Court strike Petitioners' Opening Brief from the record, order Petitioners to file an original or certified transcript of the Board's September 26, 2018 de novo hearing, and further order that the Division has 30 days to file its Reply Memorandum of Points and Authorities form the date Petitioners file their Memorandum.

Division of Industrial Relations - Division Counsel

STATE OF NEVADA

#### IV. **RELIEF REQUESTED**

1

2

3

4

5

6

7

8

9

10

11

18

19

20

21

22

23

24

25

26

27

28

The Division respectfully requests as follows:

- (1) That this Court grant its Motion to Dismiss Petitioners' Petition for Judicial Review; or if the Court denies said Motion,
- (2) That this Court grant its Motion to Strike Petitioners' Opening Brief from the record; and
  - a. That this Court order Petitioners' to file the transcript forthwith, and
  - b. That this Court order that the Division has 30 days to file its Reply Memorandum of Points and Authorities form the date Petitioners file their Memorandum pursuant to NRS 233B.133(2).

DATED this  $\frac{1}{2}$  day of  $\frac{1}{2}$ ,  $\frac{1}{2}$ .

DIVISION OF INDUSTRIAL RELATIONS

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

21

#### 00203

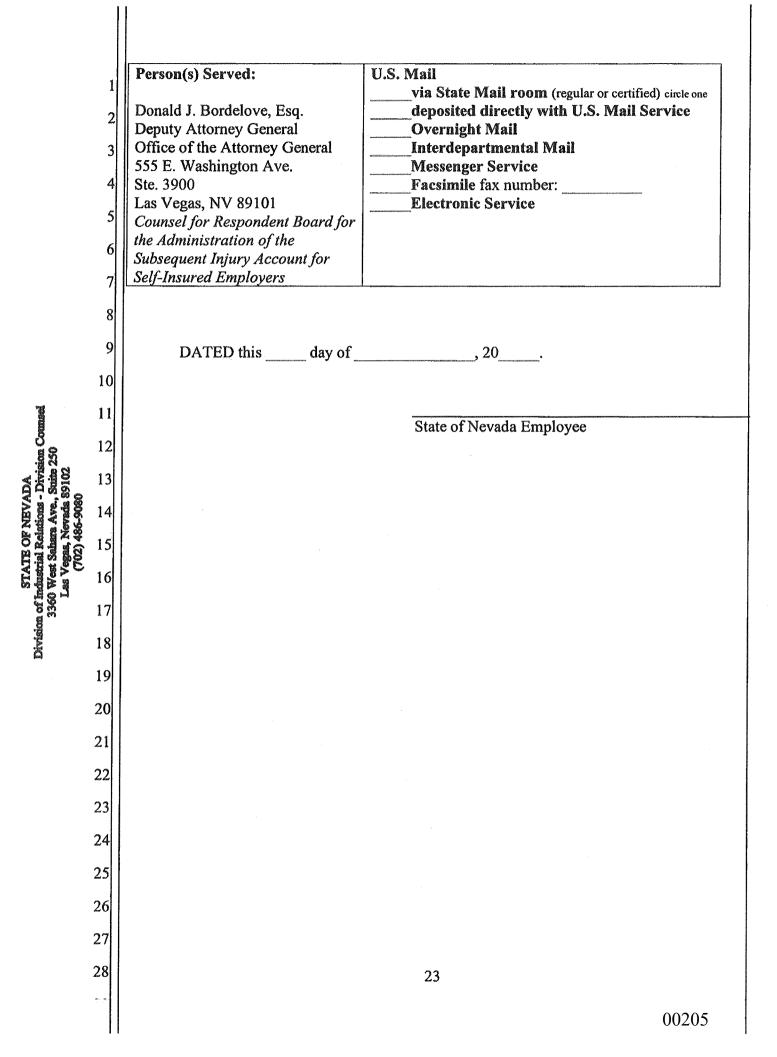
Division of Industrial Relations - Division Counsel 12 13 STATE OF NEVADA 14 15 3360 West Sah 16 1999 17

#### 1 2 Pursuant to NRCP 5(b), I hereby certify that I am an employee of the State of Nevada, 3 Department of Business and Industry, Division of Industrial Relations (DIR), and that on this date, I caused to be served a true and correct copy of the document described herein by the 4 5 method indicated below, and addressed to the following: 6 Document Served: Respondent Division of Industrial Relations' Motion Dismiss Petitioners' Petition for Judicial Review, or in the alternative Motion to Strike 7 "Petitioners' Opening Brief" and Motion to Extend Time to File Reply Memorandum of 8 9 **Points and Authorities** 10 **Person(s)** Served: **U.S. Mail** via State Mail room (regular or certified) circle one 11 Daniel L. Schwartz, Esq. deposited directly with U.S. Mail Service Joel P. Reeves, Esq. **Overnight Mail** 12 Kim D. Price, Esq. **Interdepartmental Mail** 13 Lewis Brisbois Bisgaard & Smith **Messenger Service** 2300 W. Sahara Ave. Facsimile fax number: 14 Ste. 300, Box 28 **Electronic Service**

15	Las Vegas, NV 89102	
1.7	Counsel for Petitioners LVMPD	
16	and CCMSI	
• •	Person(s) Served:	U.S. Mail
17		via State Mail room (regular or certified) circle one
	LVMPD	deposited directly with U.S. Mail Service
18	c/o Jeff Roch	Overnight Mail
19	Director of Risk Mgmt.	Interdepartmental Mail
19	400 S. Martin Luther King Blvd.	Messenger Service
20	Las Vegas, NV 89106	Facsimile fax number:
	Petitioner	
21	Person(s) Served:	U.S. Mail
		via State Mail room (regular or certified) circle one
22	CCMSI	deposited directly with U.S. Mail Service
23	c/o Dusty Marshall	Overnight Mail
25	Claims Supervisor	Interdepartmental Mail
24	P.O. Box 35350	Messenger Service
	Las Vegas, NV 89133	Facsimile fax number:
25	Petitioner	
26		
27		
~		
28		22
1		

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suita 250 Nevrada 89102 STATE OF NEVADA 486-9080

#### **CERTIFICATE OF SERVICE**



# EXHIBIT 661 ??

## AFFIDAVIT OF CHRISTOPHER ECCLES, ESO. IN SUPPORT OF 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

STATE OF NEVADA 5 ) ss 6 COUNTY OF CLARK )

1

2

3

4

7

8

13

14

15

16

I, Christopher Eccles, being first duly sworn hereby depose and state as follows:

9 1. I am over eighteen years of age and competent to testify to matters stated herein. 10 The statements herein are based on my personal knowledge, except as to any matters stated on 11 information and belief.

12 2. I am an attorney employed as Division Counsel by the State of Nevada, Department of Business and Industry, Division of Industrial Relations, duly licensed to practice before all courts in the State of Nevada, and I am the attorney of record for Respondent Division of Industrial Relations ("Division"), in Case No. A-20-821892-J, Department No. 15, Eighth Judicial District Court, Clark County, Nevada.

17 3. I make this affidavit in support of the Division's Motion to Dismiss Petitioners' 18 Petition for Judicial Review ("PJR"), or in the alternative, Motion to Strike "Petitioners' Opening 19 Brief" and Motion to Extend Time to File Reply Memorandum of Points and Authorities.

20 4. Petitioners never filed the transcript of the underlying administrative hearing 21 conducted by the Board for the Administration of the Subsequent Injury Account for Self-Insured 22 Employers (the "Board") heard by the Board as a *de novo* contested case on September 26, 2018.

23 5. Pursuant to Nevada Revised Statute ("NRS") 233B.131(1)(a), Petitioners had a 24 mandatory statutory deadline to file an original or certified copy of the transcript to the court 25 within 45 days after they filed their PJR. On information and belief, the transcript is about 175 26 days late and counting.

27 6. I attended said Board hearing as did counsel for Petitioners, Mr. Kim Price, and 28 on information and belief the hearing was transcribed by a certified court reporter.

7. On April 5, 2021, Petitioner's late-filed an Opening Brief that is devoid of citations
 to the transcript. On information and belief, Petitioners' Opening Brief was filed about 106 days
 after the deadline in NRS 233B.133(1).

8. On information and belief, said Opening Brief is deficient for purposes of judicial
review because it lacks any citations to the transcript, and because judicial review must be based
on the whole record as referenced in NRS 233B.135(3)(e).

7 9. Counsel for Petitioners did not request that the Division stipulate to shorten the
8 record of these proceedings. NRS 233B.131(1)(b).

9 10. Counsel for Petitioners did not file a motion with this Court to extend the
10 mandatory statutory deadlines in NRS 233B.131(1)(a) and NRS 233B.133(1). Nor did counsel
11 for Petitioners request that the undersigned agree to extend said statutory deadlines.

FURTHER AFFIANT SAYETH NAUGHT.

Executed this  $\frac{4^{th}}{2}$  day of May,  $20^{21}$ .

CHRISTOPHER ECCLES, ESQ. Division Counsel Division of Industrial Relations

STATE OF NEVADA of Industrial Relations - Connseits 3560 W. Salarne Ave., Sta. 250 Las Vegna, NV 29102 (702) 486-9080 12

13

14

15

16

17 18 19 Subscribed and Sworn to before me 20 this 4th day of May .2021 21 22 23 Notary Public in and for Said State and County 24 (SEAL) 25 26 ANNIE WONG lotary Public, State of Nevada 27 Appointment No. 16-2846-1 ly Appt. Expires Sep 23, 2023 28

1 2	JOIN AARON D. FORD Attorney General Donald J. Bordelove (Bar No. 12561)
3	Deputy Attorney General
4	State of Nevada Office of the Attorney General
5	555 E. Washington Ave., #3900 Las Vegas, NV 89101
6	(702) 486-3094 (phone) (775) 684-1108 (fax)
7	E-mail: dbordelove@ag.nv.gov
8 9	Attorneys for Respondent Board for the Administration of the Subsequent
10	Injury Account for Self-Insured Employers
11	DISTRICT COURT
12	CLARK COUNTY, NEVADA
13	
14	LAS VEGAS METROPOLITAN POLICE   Case No. A-20-821892-J
15 16	DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICE, INC.,
17	Petitioners,
18	vs.
19	STATE OF NEVADA BOARD FOR THE
20	ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT FOR SELF-INSURED EMPLOYERS,
21	Respondent.
22	
23	JOINDER TO MOTIONS TO DISMISS AND STRIKE
24	COMES NOW Respondent, the Board for Administration of the Subsequent Injury
25	Account for Self-Insured Employers, by and through its counsel, and hereby joins
26	Respondent's, Division of Industrial Relations, Motion to Dismiss Petitioners' Petition for
27	
28	

1			
1 2	Judicial Review, or in the Alternative, Motion to Strike "Petitioners Opening Brief" and		
2	Motion to Extend Time to File Reply Memorandum of Points and Authorities.		
	Dated: May 11, 2021.		
4			
5 6	AARON D. FORD Attorney General		
7	By: /s/ Donald J. Bordelove		
8	Donald J. Bordelove (Bar. No. 12561) Deputy Attorney General		
9	Attorneys for the Board		
10			
11			
12			
13			
14			
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
	Page 2 of 3 00210		

## CERTIFICATE OF SERVICE

I certify that I am an employee of the Office of the Attorney General, State of Nevada, and that on May 11, 2021 I filed the foregoing JOINDER TO MOTIONS TO DISMISS AND STRIKE via this Court's electronic filing system. EFS users will be served electronically via email.

> <u>/s/ Michele Caro</u> An employee of the Office of the Attorney General

Electronically Filed 5/19/2021 3:20 PM Steven D. Grierson CLERK OF THE COURT

1	BRF	Atump, Atum		
	DANIEL L. SCHWARTZ, ESQ.			
2	Nevada Bar No. 005125			
3	Email: Daniel.Schwartz@lewisbrisbois.com KIM D. PRICE, ESQ.			
	Nevada Bar No. 007873			
4	Email: Kim.Price@lewisbrisbois.com			
5	LEWIS BRISBOIS BISGAARD & SMITH LLP			
	2300 W. Sahara Ave. Ste. 900			
6	Las Vegas, Nevada 89102 Telephone: 702-893-3383			
7	Facsimile: 702-366-9689			
8				
0	Attorneys for Petitioners Las Vegas Metropolitan Police			
9	Department and Cannon Cochran			
10	Management Services, Inc.			
	DIGTRIC			
11	DISTRIC	T COURT		
12	CLARK COUN	NTY, NEVADA		
13				
13	LAS VEGAS METROPOLITAN POLICE	CASE NO. A 20 921992 J		
14	DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICES, INC,	CASE NO.: A-20-821892-J		
15		DEPT. NO.: 14		
	Petitioners,			
16	v.			
17	STATE OF NEVADA BOARD FOR THE			
10	ADMINISTRATION OF THE SUBSEQUENT			
18	INJURY ACCOUNT FOR SELF-INSURED			
19	EMPLOYERS,			
20	Designation			
20	Respondents.			
21	PETITIONERS' OPPOSITION TO MOTION TO DISMISS PETITIONERS' PETITION			
22	FOR JUDICIAL REVIEW, OR IN THE A			
22	<u>"PETITIONER'S OPENING BRIEF" ANI</u>			
23	REPLY MEMORANDUM OF	POINTS AND AUTHORITIES		
24	DANIEL L. SCHWARTZ, ESQ.	DONALD J. BORDELOVE, ESQ.		
25	KIM D. PRICE, ESQ.	OFFICE OF ATTORNEY GENERAL		
	LEWIS BRISBOIS BISGAARD & SMITH LLP 2300 W. Sahara Avenue, Suite 900, Box 28	555 EAST WASHINGTON AVENUE SUITE 3900		
26	Las Vegas, Nevada 89102-4375	LAS VEGAS, NEVADA 89101		
27	Attorneys for Petitioners	Attorney for Respondents		
<b>,</b>	· ·			
28				

	11					
1	COME NOW the Petitioners, LAS VEGAS METROPOLITAN POLICE					
2	DEPARTMENT and CANNON COCHRAN MANAGEMENT SERVICES, INC., (hereinafter					
3	referred to as the "Petitioners"), by and through their attorneys, DANIEL L. SCHWARTZ, ESQ.,					
4	and KIM D. PRICE, ESQ. and LEWIS, BRISBOIS, BISGAARD & SMITH, LLP, and files this					
5	Opposition to Respondents' Motion to Dismiss Petitioners' Petition for Judicial Review, or in the					
6	Alternative, Motion to Strike "Petitioners' Opening Brief" and Motion to Extend Time to File					
7	Reply Memorandum of Points and Authorities." This Opposition is made and based upon the					
8	papers and pleading on file herein, the attached Points and Authorities, and any argument of					
9	counsel at any hearing on this matter.					
10	DATED this day of May, 2021.					
11	Respectfully submitted,					
12	LEWIS BRISBOIS BISGAARD & SMITH LLP					
13	1/ 1/1-					
14	By: MM Man					
15	DANIEL L. SCHWARTZ, ESQ.					
16	Nevada Bar No. 005125 KIM D. PRICE, ESQ. Nevada Bar No. 007873					
17	2300 W. Sahara Ave. Ste. 900					
18	Las Vegas, Nevada 89102 Phone: 702-893-3383 Fax: 702-366-9689					
19	Attorneys for Petitioners					
20						
21						
22						
23						
24						
25						
26						
27						
28						
	2					

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

1	OPPOSITION TO MOTION TO DISMISS PETITIONERS' PETITION FOR JUDICIAL REVIEW, OR IN THE ALTERNATIVE , MOTION TO STRIKE "PETITIONER'S				
2					
3					
4	I.				
5	STATEMENT OF FACTS				
6	The present appeal results from the Board for Administration of the Subsequent				
7	Injury Account for Self-Insured Employers' (hereinafter referred to as "the Board") August 19,				
8	2020, Findings of Fact, Conclusions of Law, and Determination for Claim Number				
9	12D34C229979. (ROA0124-ROA0130).				
10	On September 21, 2020, Petitioner's counsel underwent radical prostatectomy and				
11	is currently under treatment for that medical condition.				
12	On September 24, 2020, Petitioners submitted the subject Petition for Judicial				
13	Review and attendant Initial Appearance Fee Disclosure to the Eighth Judicial District Court.				
14	On May 5, 2021, Respondent Division of Industrial Relations filed the instant				
15	Motion to Dismiss and Strike.				
16	On May 11, 2021, Respondent Board of Administration of the Subsequent Injury				
17	Account for Self-Insurer Employers filed a Joinder to the Motion to Dismiss and Strike.				
18	The subject Motion to Dismiss is scheduled to be heard on June 7, 2021.				
19	II.				
20	LEGAL ARGUMENT				
21	1. The Record on Appeal Has Been Filed – No Further Action Is Required				
22	The Motion to Dismiss Petitioners' Petition for Judicial Review, or in the				
23	Alternative, Motion to Strike "Petitioners' Opening Brief" and Motion to Extend Time to File				
24	Reply Memorandum of Points and Authorities" (hereinafter collectively referred to as "the				
25	Motion") seeks to strike Petitioners' Petition based on the "failure to comply with NRS				
26	233B.131's mandate to submit 'an original or certified copy of the transcript of the evidence				
27	resulting in the final decision of the agency." This matter should not be dismissed. Respondents'				
28	Motion hinges on its reliance on NRS 233B.131(1)(a). However, NRS 233B.131(1)(b) is what				
- 1					

1 || controls the record in workers' compensation Petitions for Judicial Review. The law provides in

2 || pertinent part:

3

4

5

6

7

8

9

10

11

12

13

NRS 233B.131 Transmittal of record of proceedings to reviewing court by party and agency; shortening of or corrections or additions to record; additional evidence; modification of findings and decision by agency based on additional evidence.

1. 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.

(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.

The record may be shortened by stipulation of the parties to the proceedings. A party unreasonably refusing to stipulate to limit the record, as determined by the court, may be assessed by the court any additional costs. The court may require or permit subsequent corrections or additions to the record.

The issue before the Court is a review of the SIA Board's denial of reimbursement 14 15 for repayment from the second injury account fund for treatment and benefits extended by 16 Petitioner to claimant under workers compensation. The undersigned recognizes that NRS 17 233B.131(a) purports to put the onus on petitioners to file "an original or certified copy of the 18 transcript of the evidence resulting in the final decision of the agency." However, as noted above, 19 section (b) requires the agency to file the *complete* record on appeal which includes everything 20 filed below. It is this record on appeal that is the basis for this Court's review. (See NRS 21 233B.135(1)(b) "Judicial review of a final decision of an agency must be....Confined to the 22 record.") Although NRS 233B.131(a) does indeed have language referencing petitioners 23 submitting a transcript of evidence to this Court, it is the *complete* Record on Appeal filed by the 24 agency that rendered the decision which that is the basis for deciding this Petition.

Thus, if it is Respondents' position that the *complete* Record on Appeal has not
been filed, Appellants would submit that it is actually Respondents as the rendering agency that
have shirked their duty under NRS 233B.131(b).



28

| | |

1 2. The Timely Filing of the Opening Brief is Not Jurisdictional 2 Respondents argue that the timely filing of briefing is a jurisdictional issue such 3 that dismissal is required. Or at the very least that the Opening Brief be struck. This position misapprehends the statutory guidance. 4 5 NRS 233B.133 provides: 6 NRS 233B.133 Form and deadlines for serving and filing memorandum of points and authorities and replies; extensions; 7 request for hearing or matter deemed submitted. 1. A petitioner or cross-petitioner who is seeking judicial 8 review must serve and file a memorandum of points and authorities within 40 days after the agency gives written notice to the parties 9 that the record of the proceeding under review has been filed with the court. 10 2. The respondent or cross-petitioner shall serve and file a reply memorandum of points and authorities within 30 days after 11 service of the memorandum of points and authorities. The petitioner or cross-petitioner may serve and file reply 3. memoranda of points and authorities within 30 days after service of 12 the reply memorandum. 4. Within 7 days after the expiration of the time within which 13 the petitioner is required to reply, any party may request a hearing. Unless a request for hearing has been filed, the matter shall be 14 deemed submitted. 15 All memoranda of points and authorities filed in 5. proceedings involving petitions for judicial review must be in the form provided for appellate briefs in Rule 28 of the Nevada Rules of 16 Appellate Procedure. 17 6. The court, for good cause, may extend the times allowed in this section for filing memoranda. 18 19 It must also be noted that the Nevada Supreme Court has many times over held that 20 the courts of this state should decide cases on the merits "whenever possible." Kahn v. Orme, 108 21 Nev. 510, 835 P.2d 790, 793 (1992). Here, Petitioners were delayed in filing the Opening Brief 22 due to circumstances beyond the undersigned's control and the undersigned respectfully requests 23 that the Court excuse the same in good faith and allow this case to be decided upon the merits. This Petition for Judicial Review was filed within the same time frame during which the 24 25 undersigned was advised of his diagnosis of prostate cancer and undertook treatment for that condition. The recovery from the same was not nearly as prompt as the undersigned would have 26 27 desired or as initially projected by his healthcare providers. This protracted treatment caused the 28 subject delay in filing the brief. It was absolutely not the intention of the undersigned to insult the



1	Court, these proceedings, nor Respondents. Nor did the undersigned believe that Respondents			
2	would take such offense at the untimely submission of the Petitioners' Opening Brief as no party			
3	has incurred any injury, harm, prejudice, or grievance from the brief delay. However, since			
4	offense has been taken, Petitioner would humbly request that this Court excuse the late filing of			
5	the brief and retro-actively extend the time to file the same. There is no harm to any party flowing			
6	from the timing of the filing of the Opening Brief and Petitioner respectfully request that the same			
7	be excused.			
8	Finally, Petitioners present no Opposition to Respondents' Motion to Extend Time			
9	to File Reply Memorandum of Points and Authorities.			
10	III.			
11	CONCLUSION			
11	WHEREFORE, LAS VEGAS METROPOLITAN POLICE DEPARTMENT and			
13	CANNON COCHRAN MANAGEMENT SERVICES, INC., respectfully asks this Honorable			
14	Court to deny Respondents' Motion To Dismiss Petitioners' Petition For Judicial Review, Or In			
15	The Alternative, Motion To Strike "Petitioner's Opening Brief". There is no Opposition to the			
16	Motion To Extend Time To File Reply Memorandum Of Points And Authorities.			
17	Dated this day of May, 2021.			
18	Respectfully submitted,			
19	LEWIS, BRISBOIS, BISGAARD & SMITH,			
20	LLP			
21	By: More ESO			
22	BANIEL L. SCHWARTZ, ESQ. Nevada Bar No. 5125			
23	KIM D. PRICE, ESQ.			
	Nevada Bar No. 7873 2300 W. Sahara Ave. Ste. 900			
24	Las Vegas, Nevada 89102			
25	Phone: 702-893-3383 Fax: 702-366-9689			
26	Attorneys for Petitioners, Las Vegas Metropolitan			
27	Police Department and Cannon Cochran Management Services, Inc.			
[]	wunagemen Services, Inc.			
28				

2

11

.

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

1	CERTIFICATE OF MAILING
2	Pursuant to Nevada Rules of Civil Procedure 5(b), I hereby certify that, on the day of
3	May, 2021, service of the attached PETITIONERS' OPPOSITION TO MOTION TO
4	DISMISS PETITIONERS' PETITION FOR JUDICIAL REVIEW, OR IN THE
5	ALTERNATIVE, MOTION TO STRIKE "PETITIONER'S OPENING BRIEF" AND
6	MOTION TO EXTEND TIME TO FILE REPLY MEMORANDUM OF POINTS AND
7	AUTHORITIES, was made this date by depositing a true copy of the same for mailing, first class
8	mail, and/or via electronic service as follows:
9	LVMPD
10	Jeff Roch Director of Risk Management
11	400 South MLK Blvd. Las Vegas, Nevada 89106
12	Petitioner
13	CCMSI Dusty Marshall
14	Claims Supervisor PO Box 35350
15	Las Vegas, Nevada 89133 Petitioner
16	Donald J. Bordelove
17	Deputy Attorney General Office of the Attorney General
18	555 East Washington Avenue, Suite 3900 Las Vegas, Nevada 89101
19	Attorneys for Respondent
20	State of Nevada Attorney General Aaron Ford
20	100 North Carson Street Carson City, Nevada 89701
21	Attorneys for Respondent
23	Industrial Relations (DIR) Christopher Faclos, Fac
	Christopher Eccles, Esq. 3360 West Sahara Avenue, Suite 250
24	Las Vegas, Nevada 89102
25 26	Industrial Relations (DIR) Division Headquarters
26	400 West King Street, Suite 400 Carson City, Nevada 89703
27	
28	(CONTINUED)
	7

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW Department of Business and Industry Director Terry Reynolds 1830 College Parkway, Suite 100 Carson City, Nevada 89706 An employee of LEWIS BRISBOIS BISGAARD & SMITH LLP 

BOIS

& SMITH LLP

ATTORNEYS AT LAW

BR BISGAARD

<u>AFFIRMATION</u> Pursuant to NRS 239B.030						
Pursuant to NRS 239B.030						
The undersigned does hereby affirm that the preceding 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:						
Does not contain the Social Security number of any person.						
- OR -						
Contains the Social Security number of a person as required by:						
A. A specific state or federal law, to wit:						
(State specific law.)						
- or -						
B. For the administration of a public program or for an application for a federal or state grant.						
m for the inter in 2021						
KimD. Price, Esq. Date						
Attorneys for Respondents						
821-9380-7082 /33307-775 00220						

LEWIS BRISBOIS BISGAARD & SMITH LLP ATTORNEYS AT LAW

STATE OF NEVADA Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 Las Vegas, Nevada 89102 (702) 486-9080	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	RPLY         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         Fax: (702) 486-8717         donaldcsmith@dir.nv.gov         ileonescu@dir.nv.gov         leccles@dir.nv.gov         Attorneys for Respondent Division of Industrial Relation         DISTRICT COUR         CLARK COUNTY, NE         LAS VEGAS METROPOLITAN POLICE         DEPARTMENT, and CANNON         COCHRAN MANAGEMENT SERVICES,         INC.         Petitioners,         YS.	RT.	Electronically Filed 5/25/2021 3:19 PM Steven D. Grierson CLERK OF THE COURT Auto Antional States of the States of
Divisi	18	VS. )	Case No.: Dept. No.:	A-20-821892-J 15
-	19	STATE OF NEVADA BOARD FOR THE)ADMINISTRATION OF THE SUBSEQUENT)	•	
	20	INJURY ACCOUNT FOR SELF-INSURED	Hearing:	June 7, 2021 9:00 AM
	21	EMPLOYERS, )		RJC, Ct. Rm. 11D
	22	Respondents.		
	23	RESPONDENT DIVISION OF INDUS REPLY MEMORANDUM OF POINTS AND AUT	<b>HORITIES I</b>	N SUPPORT OF ITS
	24	MOTION TO DISMISS PETITIONERS' PETITIO IN THE ALTERNATIVE, MOTION TO STRIKE "		
	25	AND MOTION TO EXTEND TIME TO FILE REP AND AUTHORITI	LY MEMOR	
	26			
	27	COMES NOW Respondent, Division of Industria	al Relations ("	Division" or "DIR") by
	28	1		
				00221

1. 10 March 
and through its undersigned counsel and pursuant to the Eighth Judicial District Court Rules ("EDCR") 2.20(g) hereby files this above-captioned Reply Memorandum.

3

4

5

6

7

8

9

10

11

18

20

21

22

27

28

1

2

#### **REPLY MEMORANDUM OF POINTS AND AUTHORITIES**

#### I. PRELIMINARY STATEMENT

To concisely frame the two issues for the motion hearing, the Division files this Reply. First, there is no "good cause" language in Nevada Revised Statute ("NRS") 233B.131—therefore, this Court has no statutory authority to extend the 45-day deadline for Petitioner to file the original or certified transcript of the underlying administrative hearing. This Court lacks jurisdiction and should dismiss Petitioners' Petition for Judicial Review ("PJR").

Second, there is a "good cause" provision in NRS 233B.133(6) whereby the Court may extend the times allowed by this section for filing memoranda. The burden is on Petitioner to show good cause. Petitioner, however, failed to properly analyze whether good cause existed.

The Division contends that this Court lacks jurisdiction to hear this PJR because Petitioner failed to file the transcript. Should the Court somehow determine that it has jurisdiction to hear this PJR without the transcript, the Division contends that Petitioner has not shown good cause for the Court to excuse their late-filed memorandum of points and authorities ("Opening Brief").

#### 19 II. ARGUMENT

A. The record is incomplete due to Petitioners' failure to file the transcript. This Court has no statutory authority in NRS 233B.131 to extend the 45day deadline for Petitioners' to file the transcript. This Court lacks iurisdiction over Petitioners' PJR.

23 NRS Chapter 233B is titled the Nevada Administrative Procedure Act. Sections 24 233B.121 through 233B.150 is titled Adjudication of Contested Cases. Within said sections, 25 the term "good cause" is used only twice. The term is first used in NRS 233B.130(5): 26

NRS 233B.130 Judicial review; requirements for petition and cross-petition; statement of intent to participate; petition for rehearing or reconsideration; service; dismissal of certain

2

Division of Industrial Relations - Division Counsel 3360 West Sahara Avo., Suite 250 12 Vegas, Nevada 89102 13 STATE OF NEVADA (702) 486-9080 14 15 16 3 17

agencies and persons from proceedings concerning final decision of State Contractors' Board; exclusive means.

5. The petition for judicial review and any cross-petitions for judicial review must be <u>served</u> upon the agency and every party <u>within 45 days</u> after the filing of the petition, unless, upon a showing of <u>good cause</u>, the district court extends the time for such service. If the proceeding involves a petition for judicial review or cross-petition for judicial review of a final decision of the State Contractors' Board, the district court may, on its own motion or the motion of a party, dismiss from the proceeding any agency or person who:

(a) Is named as a party in the petition for judicial review or cross-petition for judicial review; and

(b) Was not a party to the administrative proceeding for which the petition for judicial review or cross-petition for judicial review was filed.

6. The provisions of this chapter are the exclusive means of judicial review of, or judicial action concerning, a final decision in a contested case involving an agency to which this chapter applies.

NRS 233B.130(5)-(6) (emphasis added).

The term "good cause" is used a second time in NRS 233B.133(6):

NRS 233B.133 Form and deadlines for serving and filing memorandum of points and authorities and replies; extensions; request for hearing or matter deemed submitted.

6. The court, for <u>good cause</u>, may extend the times allowed <u>in</u> <u>this section</u> for filing memoranda.

NRS 233B.133(6) (emphasis added).

. . .

In *Spar*, Michael DeBoard filed a claim for unemployment insurance benefits with respondent State of Nevada, Employment Security Division ("ESD"), and named appellant Spar Business Services, Inc. ("Spar") as his employer. *Spar Bus. Servs. v. Olson*, 448 P.3d 539, 541, 2019 Nev. LEXIS 49, **2 (2019). Appellant Spar timely filed a petition for judicial review of an administrative decision, and pursuant to NRS 233B.130(5), appellant then had 45 days to serve its petition. *Id.* at 541, 2019 Nev. LEXIS at **1. Appellant neglected to do so, and the trial court dismissed its petition. *Id.* As a matter of first impression, the Nevada Supreme Court

STATE OF NEVADA Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 Las Vegas, Nevada 89102 (702) 486-9080 1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 11 12 13 STATE OF NEVADA 702) 486-908( Las Versa, Nevada 14 15 16 17

1

2

3

4

5

6

7

8

9

10

18

held that "the 45-day service requirement in NRS 233B.130(5) is not a jurisdictional requirement because the statute affords the district court discretion to extend the time frame upon a showing of good cause." Id. at 541, 2019 Nev. LEXIS at **1-2.

In contrast to NRS 233B.130(5), which expressly affords the district court discretion to extend time upon a showing of good cause, NRS 233B.131 does not afford the district court any discretion to alter the 45-day time frame for the party who filed the PJR to transmit to the reviewing court an original or certified copy of the transcript. NRS 233B.131(1)(a).

Absent express statutory authority to alter the 45-day time frame to file the transcript, the Petitioners' must strictly comply with the Nevada Administrative Procedure Act's jurisdictional requirements. Spar, 448 P.3d at 542, 2019 LEXIS at **4-5 (citing Kame v. Employment Sec. Dep't, 105 Nev. 22, 25 769 P.2d 66, 68 (1989)); see also Rural Tel. Co. v. PUC, 133 Nev. 387, 390, 398 P.3d 909, 912 (2017) (noting that no statutory authority to adjust timelines for filing a memorandum of points and authorities exists in NRS 703.373).

The Spar Court noted that the authorization to alter a time frame is notably absent in NRS 233B.130(2), and thereby reasoned that "NRS 233B.130(5)'s plain language illustrates that the time for serving a petition for judicial review, unlike the requirements listed under NRS 233B.130(2), is not a jurisdictional requirement." Id. at 542, 2019 LEXIS at **5 (see Cromer v. Wilson, 126 Nev. 106, 109, 225 P.3d 788, 790 (2010)).

19 Applying the holding and reasoning in *Spar* to the instant matter, the plain language of 20 NRS 233B.131 is a jurisdictional requirement because it does not allow for a district to alter the 21 45-day time frame by which Petitioners "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." 22 23 NRS 233B.131(1)(a) (emphasis added). Put differently, the authorization to alter a time frame 24 is notably absent in NRS 233B.130(2) and NRS 233B.131.

Petitioners had a statutory duty to strictly comply with NRS 233B.131 and failed to do 25 so. Thus, this Court lacks jurisdiction to exercise judicial review. 26

4

27

. . .

# B. Petitioners have not met their burden to show "good cause" why this Court should extend their deadline to file their Opening Brief under NRS 233B.133(6).

Pursuant to the plain language of NRS 233B.133(6) and the Nevada Supreme Court's reasoning in *Spar*, the district court, for good cause, may extend the times allowed for filing memoranda. NRS 233B.133(6) expressly grants the district court authority to consider whether good cause exists to extend the time for Petitioners to file their Opening Brief. Assuming that in the instant matter, the district court determines that it has jurisdiction, the Division will analyze whether Petitioners have shown good cause to excuse the fact that their Opening Brief was filed 105 days late.

In Spar, the Nevada Supreme Court affirmed the district court's order dismissing petitioner's petition for judicial review because appellant petitioner did not demonstrate good cause for the late service of its petition for judicial review. Spar, 448 P.3d at 541, 2019 LEXIS at **2. A district court's good cause determination is reviewed by an appellate court for an abuse of discretion. Id. at 541, 2019 LEXIS at **3-4 (see Heat & Frost Insulators & Allied Workers Local 16 v. Labor Comm'r, 134 Nev. Adv. Rep. 1, 5, 408 P.3d 156, 160 (2018)).

Spar argued that it demonstrated good cause for its late service because it mistakenly 17 18 relied on the 120-day service of process period in NRCP 4(i). Id. at 542-43, 2019 LEXIS at **7. Spar also argued that it was waiting for pro hac vice status for its out-of-state counsel 19 20 before serving the ESD, and that the district court should have found good cause because Spar's mistake did not prejudice the ESD. Id. at 543, 2019 LEXIS at **7-8. The Nevada Supreme 21 Court has held that in evaluating a motion to dismiss a timely filed petition for judicial review 22 23 for failure to timely serve the petition, the district court must consider whether there is good 24 cause to extend the service deadline if the petitioner asserts such good cause exists. Id. (see 25 Heat & Frost, 134 Nev. Adv. Rep. at 5, 408 P.3d at 160 (concluding that the district court had 26 jurisdiction to determine whether good cause warranted extending time to serve a petition for judicial review); Fitzpatrick v. State ex rel. Dep't of Commerce, Ins. Div., 107 Nev. 486, 489, 27

5

28

.

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250

STATE OF NEVADA

Las Vegas, Nevada 89102 (702) 486-9080

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

813 P.2d 1004, 1006 (1991) (holding the district court erred in concluding that it lacked jurisdiction to consider a petition without considering "the merits of [the petitioner's] claim that he had good cause for filing a tardy memorandum of points and authorities in support of the timely filed petition for judicial review")).

In affirming the district court's dismissal, the Nevada Supreme Court noted that Spar's attorneys, the out-of-state and local counsel, previously complied with the service requirements for a petition for judicial review and that the motion to associate Spar's out-of-state counsel was filed after this service, thereby undermining its argument that it was waiting for pro hac vice status for its out-of-state counsel prior to serving ESD. Id. at 543, 2019 LEXIS at **8.

Here, counsel for Petitioners ostensibly argues that his September 21, 2020 surgery and 10 treatment demonstrates good cause. Petitioners' Opposition, 3:10-11; 5:24-28. The Division's position is that Petitioners have asserted good cause exists to excuse their late-filed Opening Brief and that pursuant to Nevada Supreme Court case law, if the district court reaches this issue, it must make a good cause determination. Heat & Frost, 408 P.3d at 160, 2018 Nev. LEXIS 1 at **7 (see Scrimer v. Eighth Judicial Dist. Court, 116 Nev. 507, 513, 998 P.2d 1190, 1193-94 (2000) (explaining that in the context of untimely NRCP 4 service, "[t]he determination of good cause is within the district court's discretion"); Zugel v. Miller, 99 Nev. 100, 101, 659 P.2d 296, 297 (1983) (stating, when addressing an untimely filing, that "[t]his court is not a fact-finding tribunal" and "that function is best performed by the district court")).

The term "good cause" is not defined in NRS 233B.133(6). The NRCP govern 20 21 proceedings under NRS Chapter 233B when not in conflict with the statutes. Prevost v. State Dep't of Admin., 134 Nev. 326, 328 n.3, 418 P.3d 675, 676 n.3 (2018). Thus, the Division's 22 23 analysis of good cause is largely based upon the considerations listed in the *Scrimer* case.

In Scrimer, the Nevada Supreme Court concluded that several considerations may 24 25 govern a district court's analysis of good cause under NRCP 4(i). Scrimer, 116 Nev. at 516-17, 26 998 P.2d at 1195-96. Service of a summons and complaint under NRCP 4(e) (formerly NRCP 4(i); amended; effective March 1, 2019) is not the same as *filing* memoranda under NRS 27

6

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 STATE OF NEVADA 702) 486-908( 17 18

1

2

3

4

5

6

7

8

9

11

12

13

14

15

16

19

28

assistance with meeting pending deadlines; counsel has not claimed that he was the only person at his firm who could have drafted the Opening Brief.

- d. Further, it appears from a search of the Eighth Judicial District Court Portal that counsel is listed as counsel of record for other petitions for judicial review. Spar, 448 P.3d at 543, 2019 LEXIS at **8 (noting that counsel had previously complied with the service requirements for a petition for judicial review).
- In conclusion regarding this consideration, the Petitioner filed their Opening e. Brief 105 days late, and based on the above facts, it seems that counsel has not shown diligence in timely filing it.
- (4) Difficulties encountered by counsel This consideration applies in that counsel stated that he had a serious medical issue.
- (5) The running of the applicable statute of limitations This consideration likely does not apply because Petitioners filed their PJR within 30 days after the final decision of the agency pursuant to NRS 233B.130(2)(d).
- (6) The parties' good faith attempts to settle the litigation during the 120-day period -This consideration does not apply because Petitioners filed their PJR within 30 days after the final decision of the agency pursuant to NRS 233B.130(2)(d).
- (7) The lapse of time between the end of the 120-day period and the actual service of process on the defendant – This consideration applies in that a long period of time passed—105 days—between Petitioners' 40-day deadline the file the Opening Brief under NRS 233B.133(1) and the date they filed the Opening Brief.
- (8) The prejudice to the defendant caused by the plaintiff's delay in serving process This consideration may apply to the extent that the membership of the Board has changed since the Board issued is Order; moreover, the Administrator's designee who drafted the recommendation to the Board for the underlying administrative hearing is now retired.

8

1

2

3

4

5

6

7

8

9

10

11

18

19

20

21

22

23

24

25

26

27

- (9) The defendant's knowledge of the existence of the lawsuit This consideration does not apply because the Respondent Division filed its Notice and Statement of Intent to Participate on October 13, 2020.
- (10) Any extensions of time for service granted by the district court This consideration does not apply because the court has not granted any extensions; counsel for Petitioners has instead requested a retroactive extension of time. Petitioners' Opposition, 6:3-5.

In sum, it appears that only considerations 3, 4, 7, and 8 from *Scrimer* apply to the instant matter. Factors 3, 7, and 8 favor the Division while factor 4 favors Mr. Price. On balance, Petitioners have not shown good cause for late-filing their Opening Brief.

#### **C**. Petitioners attempt to mislead this Court by deleting the word "remainder" from the phrase "remainder of the record" in NRS 233B.131(1)(b). Worse, Petitioners have falsely claimed that the statute contains the word "complete" instead of the word "remainder."

15 Petitioners' arguments are beyond the pale. They argue that their non-compliance with 16 a rather simple statutory duty is the Respondents' fault. Petitioners' Opposition, 4:25-27. 17 Oddly, they also argue that their non-compliance with NRS 233B.131(1)(a) does not matter because "NRS 233B.131(1)(b) is what controls the record in workers' compensation Petitions 18 for Judicial Review." Petitioners' Opposition, 3:27-4:1. Such a conclusion is contrary to the 19 20 plain language of the statute. In fact, Petitioners cite no legal authority for this conclusion. "It is appellant's responsibility to present relevant authority and cogent argument; issues not so present need not be addressed by this court." Maresca v. State, 103 Nev. 669, 673, 748 P.2d 3, 22 23 6, (1987).

24 Worse, Petitioners falsely claim that "section (b) [of NRS 233B.131] requires the 25 agency to file the *complete* record on appeal which includes everything filed below." 26 Petitioners' Opposition, 4:18-20 (emphasis in original). The word "complete" is nowhere to be 27 found in NRS 233B.131. Petitioners just made it up. Indeed, the plain language states that:

9

- 28

1

2

3

4

5

6

7

8

9

10

11

12

13

14

21

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250

STATE OF NEVADA

Las Vegas, Nevada 89102

702) 486-9080

"The agency that rendered the decision which is the subject of the petition shall transmit to the 1 reviewing court the original or a certified copy of the remainder of the record of the proceeding 2 3 under review." NRS 233B.131(1)(b) (emphasis added). Given that the agency's duty under 4 NRS 233B.131(1)(b) is to transmit to the reviewing court the remainder of the record, and that 5 Petitioners have a separate duty under a separate subparagraph of NRS 233B,131(1) to transmit 6 to the reviewing court an original or certified copy of the transcript, it seems obvious that each party has a separate statutory duty when it comes to transmitting parts of the record to the 8 reviewing court. In re DOT, Case No. A-19-787004-B et seq., 2020 Nev. Dist. LEXIS 1221, at *4 (Eighth Judicial Dist. Ct. of Nev. Aug. 28, 2020) (recognizing that NRS 233B.131(1) requires the submission of two categories of documents).

The Division's position is that it would be reversible error for this Court to do as Petitioners request—engage in judicial review without the certified transcript of the underlying administrative proceeding in the record. NRS 233B.135(3)(e)-(f); Nassiri v. Chiropractic *Physicians' Bd. of Nev.*, 130 Nev. 245, 248, 327 P.3d 487, 489 (2014) (noting that the Nevada Supreme Court reviews the factual determinations of administrative agencies for clear error in view of the reliable, probative, and substantial evidence on the whole record for an abuse of discretion). The transcript of the arguments presented by counsel to the Board, and the Board's deliberations related thereto, may be the most important part of the whole underlying administrative record. Moreover, NRS 233B.135(3) states that a court, when exercising its judicial review function, "shall not substitute its judgment for that of the agency as to the weight of evidence on a question of fact." Without the certified transcript of the underlying administrative proceeding in the record, this court has no ability to determine whether it is substituting its judgment for that of the agency regarding the agency's Findings of Fact located at ROA 0126-0129.

25 One may wonder why the legislature amended NRS 233B.131 in 2015 such that the party who filed the PJR shall transmit to the reviewing court the copy of the transcript. A 26 colloquy between Senator Joe P. Hardy, Vice Chair of the Senate Committee on Government 27

Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suite 250 Nevada 89102 STATE OF NEVADA 702) 486-9080 3

7

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

28

Affairs, and those supporting Assembly Bill 53 sheds some light on the topic:

#### Senator Hardy:

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

Division of Industrial Relations - Division Counsel

STATE OF NEVADA

3360 West Saharra Ave., Suite 250

Las Vezas, Nevada

Preponderance of the evidence is the lowest standard of proof in administrative hearings, and substantial evidence is a lower standard in the court.

### Mr. Kandt (Special Assistant Attorney General, Office of the Attorney General):

Yes. The standard in the court is the standard of review. The court employs that to review the agency's determination, and the court gives deference to the agency's findings.

Section 5 of the bill revises NRS 233B.121 [sic] to provide that a party who files a petition for judicial review of a contested case is responsible for paying the transcription fee for the underlying hearing which is at issue in the petition. The costs associated with the transcription of a hearing are expensive, and since the agency is not the party bringing forth the permissive petition, the costs associated with the transcription should be borne by the party filing the action. This change makes the Administrative Procedure Act consistent with NRS 622A...

## Tom Conner (Chief Administrative Law Judge, Office of Administrative Services, Department of Motor Vehicles):

The Department of Motor Vehicles supports A.B. 53. I submitted written testimony (Exhibit D). Section 5 of the bill is important. Statute requires the agency to produce the transcript on appeal. The bill would transfer the cost to the petitioner where it should be. We should not require the agency to spend tax money to produce the transcript on appeal.

#### Senator Hardy:

. . .

Are you in favor of the bill as it stands?

#### Mr. Conner: Yes.

Hearing on AB 53 Before the Senate Committee on Government Affairs, 78th Sess. (Nev., April 24, 2015, at 5-6).

Finally, should this Court determine that it has subject matter jurisdiction, and that it may perform judicial review despite the record being incomplete, the Court should presume that the missing portion of the record, i.e, the transcript, supports the Board's decision. *Cuzze v. Univ. & Cmty. Coll. Sys.*, 123 Nev. 598, 172 P.3d 131 (2007) ("In this appeal, involving a

28

deficient record, we reiterate our oft-stated rule that appellant bears the responsibility of 1 2 ensuring an accurate and complete record on appeal and that missing portions of the record are presumed to support the district court's decision."). 3

#### III. **CONCLUSION** 4

5

6

7

8

9

10

18

19

20

21

22

23

24

25

26

27

28

The Division requests that the Court grant its Motion to Dismiss Petitioners' PJR. Petitioners had a duty to strictly comply with NRS 233B.131(1)(a), but they have not complied with their duty; and, no language in said statute permits this Court to extend the time for Petitioners to file the transcript.

DATED this  $25^{\text{th}}$  day of May,  $20^2/$ .

#### DIVISION OF INDUSTRIAL RELATIONS

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

	1	CER	RTIFICATE OF SERVICE					
	2	Pursuant to NRCP 5(b), I he	reby certify that I am an employee of the State of Nevada,					
	3	Department of Business and Indust	ry, Division of Industrial Relations (DIR), and that on this					
	4	_	and correct copy of the document described herein by the					
	5	method indicated below, and addres						
	6	Document Served: Respondent I	Division of Industrial Relations' Reply Memorandum of					
	7	Points and Authorities in Support of its Motion 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						
	8							
	9							
	10	Person(s) Served:	U.S. Mail					
	11	Daniel L. Schwartz, Esq.	via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service					
	12	Joel P. Reeves, Esq. Kim D. Price, Esq.	Overnight Mail Interdepartmental Mail					
9102	13	Lewis Brisbois Bisgaard & Smith	Messenger Service					
9080 9080	14	2300 W. Sahara Ave. Ste. 300, Box 28	Facsimile fax number: Electronic Service					
Vegas, Nevada 89102 (702) 486-9080	15	Las Vegas, NV 89102 Counsel for Petitioners LVMPD						
ŠE.	16	and CCMSI						
Las	17	Person(s) Served:	U.S. Mail					
		LVMPD	via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service					
	18	c/o Jeff Roch	Overnight Mail					
	19	Director of Risk Mgmt. 400 S. Martin Luther King Blvd.	Interdepartmental Mail Messenger Service					
	20	Las Vegas, NV 89106	<b>Facsimile</b> fax number:					
	20	Petitioner	· · · · · · · · · · · · · · · · · · ·					
	21	Person(s) Served:	U.S. Mail					
	22	CCMSI	via State Mail room (regular or certified) circle one deposited directly with U.S. Mail Service					
	23	c/o Dusty Marshall	Overnight Mail					
	23	Claims Supervisor	Interdepartmental Mail					
	24	P.O. Box 35350 Las Vegas, NV 89133	Messenger Service Facsimile fax number:					
	25	Petitioner						
	26							
	27							
	28		13					
			00232					

# STATE OF NEVADA Division of Industrial Relations - Division Counsel 3360 West Salarra Ave., Suite 250 Las Veesa Navada 40107

Person(s) Served: U.S. Mail 1 via State Mail room (regular or certified) circle one Donald J. Bordelove, Esq. deposited directly with U.S. Mail Service 2 Deputy Attorney General **Overnight Mail** Office of the Attorney General **Interdepartmental Mail** 3 555 E. Washington Ave. **Messenger Service** 4 Ste. 3900 Facsimile fax number: Las Vegas, NV 89101 **Electronic Service** 5 Counsel for Respondent Board for the Administration of the 6 Subsequent Injury Account for Self-Insured Employers 7 8 DATED this  $25^{th}$  day of  $M_{av}$ ,2021. 9 10 11 sion Counse State of Nevada Employee 12 13 Division of Industrial Relations - Divi 14 15 3360 West Sala 16 17 18 19 20 21 22 23 24 25 26 27 28 14

STATE OF NEVADA

			Electronically Filed 5/1/2021 7:26 AM Steven D. Grierson		
1	JOIN AARON D. FORD		CLERK OF THE COURT		
2	Attorney General		Dan		
3	Donald J. Bordelove (Bar No. 12561) Deputy Attorney General				
4	State of Nevada Office of the Attorney General				
5	555 E. Washington Ave., #3900				
6	Las Vegas, NV 89101				
-	(702) 486-3094 (phone) (775) 684-1108 (fax)				
7	E-mail: dbordelove@ag.nv.gov				
8	Attom our for Boon on don't				
9	Attorneys for Respondent Board for the Administration of the Subseque Injury Account for Self-Insured Employers	ent			
10					
11	DISTRIC	T COURT			
12	CLARK COUN	NTY, NEVADA			
13					
14	LAS VEGAS METROPOLITAN POLICE	Case No. A-20-821892-	J		
14	DEPARTMENT; and CANNON COCHRAN MANAGEMENT SERVICE, INC.,	Dept. No. 15			
16					
17	Petitioners,				
	vs.				
18	STATE OF NEVADA BOARD FOR THE				
19	ADMINISTRATION OF THE SUBSEQUENT INJURY ACCOUNT FOR				
20	SELF-INSURED EMPLOYERS,				
21	Respondent.				
22					
23					
	JOINDER TO REPLY IN SUPPORT OF MOTIONS TO DISMISS AND				
24	STRIK				
25	COMES NOW Respondent, the Board	for Administration of th	ne Subsequent Injury		
26	Account for Self-Insured Employers, by a	nd through its counse	el, and hereby joins		
27	Respondent's, Division of Industrial Relation	is, Reply in Support of i	ts Motion to Dismiss		

Petitioners' Petition for Judicial Review, or in the Alternative, Motion to Strike "Petitioners

28

1	O ' D' C' LM I' I F I LM' I F'L D. L Mensee her of Deinte end							
1 2	Opening Brief" and Motion to Extend Time to File Reply Memorandum of Points and Authorities.							
2	Dated: June 1, 2021.							
4								
5	AARON D. FORD							
6	AARON D. FORD Attorney General							
7	By: <u>/s/ Donald J. Bordelove</u> Donald J. Bordelove (Bar. No. 12561)							
8	Deputy Attorney General							
9	Attorneys for the Board							
10								
11								
12								
13								
14								
15								
16								
17 18								
19								
20								
21								
22								
23								
24								
25								
26								
27								
28								
	Page 2 of 3 00235							

1	CERTIFICATE OF SERVICE					
2	I certify that I am an employee of the Office of the Attorney General, State of Nevada,					
3	and that on June 1, 2021 I filed the foregoing JOINDER TO REPLY IN SUPPORT OF					
4	MOTIONS TO DISMISS AND STRIKE via this Court's electronic filing system. EFS					
5	users will be served electronically via email.					
6						
7	/s/ Michele Caro					
8	An employee of the Office of the Attorney General					
9						
10						
11						
12						
13						
14						
15						
16						
17						
18						
19						
20						
21						
22						
23						
24						
25						
26						
27						
28						
	Page <b>3</b> of <b>3</b> 00236					

#### DISTRICT COURT CLARK COUNTY, NEVADA

Worker's Comper	nsation 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	09:00 AM	All Pending Motions	
HEARD BY:	Hardy, Joe	COURTROOM: RJC Courtroom 11D	
COURT CLERK:	Hansen-McDowell,	Kathryn	
RECORDER:	Yarbrough, Matt		
REPORTER:			
PARTIES PRES	ENT:		
Christopher Eccle	es	Attorney for Respondent	
Kim D. Price		Attorney for Petitioner	
		JOURNAL ENTRIES	
RESPONDENT D	VISION OF INDUS	TRIAL RELATIONS' MOTION TO DISMISS	

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.

Electronically Filed 06/21/2021 4:00 PM X 9 HE COURT

	1	OPPC			CLERK OF THE COURT
	1	ORDG			
	2	Donald C. Smith, Esq. Nevada Bar No.: 000413			
	3	Jennifer J. Leonescu			
	3	Nevada Bar No.: 006036			
	4	Christopher A. Eccles, Esq.			
		Nevada Bar No.: 009798			
	5	State of Nevada, Department of Business and Ind	lustry		
	6	Division of Industrial Relations			
	ľ	3360 W. Sahara Ave., Ste. 250			
	7	Las Vegas, NV 89102			
	0	Phone: (702) 486-9070			
	8	donaldcsmith@dir.nv.gov jleonescu@dir.nv.gov			
	9	<u>ceccles@dir.nv.gov</u>			
		Attorneys for Respondent Division of Industrial K	Relations		
	10		Ciutions		
75	11	DISTRICT	COURT	ı	
Bauno	11	CLARK COUNT	Y, NEV	ADA	
0 8 8	12				
いためな	1.7		$\overline{}$		
	13	LAS VEGAS METROPOLITAN POLICE	)	Case No.:	A-20-821892-J
	14	DEPARTMENT, and CANNON	)	Dept. No.:	15
OF NEVAD, Relations - D hara Ave., Su 4, Nevada 891 4, Nevada 891		COCHRAN MANAGEMENT SERVICES, INC.	)	ODDED CI	ANTINIC
R J S KS	15	INC.	)	ORDER GF	ENT DIVISION OF
STATE fustrial West Sa voga s Voga	16	Petitioners,	)		AL RELATIONS'
N H A A		VS.	)		O DISMISS
336 336	17		ý		ERS' PETITION
.8		STATE OF NEVADA BOARD FOR THE	)	FOR JUDIC	CIAL REVIEW
Divisi	18	ADMINISTRATION OF THE SUBSEQUENT	)		
	19	INJURY ACCOUNT FOR SELF-INSURED	)		
		EMPLOYERS,	) )		
	20	<b>—</b>	)		
	21	Respondents.	_)		
	21				
	22	The matters before the Court are	Respond	lent Nevada	Division of Industrial
	23	Relations' ("Division") Motion to Dismiss Pet	itioners'	Petition for	Judicial Review, and
	24	Respondent State of Nevada Board for the Admi	inistratio	n of the Subs	equent Injury Account
		for Salf Insured Employment ("Decard") Isin day the	aroto TL	a Conset Land	and many trians a she was and
	25	for Self-Insured Employers' ("Board") Joinder the		ie Court, navii	ig reviewed the papers
	26	and pleadings on file in this matter and having he	ard the o	oral arguments	s of counsel on June 7,

- 27 2021, and good cause appearing, hereby rules as follows:
- 28

#### I. **FINDINGS**

1

6

11

12

13

27

28

. . .

2 1. Respondent Division moved to dismiss Petitioners' Petition for Judicial Review 3 on two bases: first, Petitioners failed to transmit to the reviewing court an original or certified 4 copy of the transcript of the evidence resulting in the final decision of the agency as required 5 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).

7 2. NRS 233B.131(1)(a) provides that "Within 45 days after the service of the 8 petition for judicial review or such time as is allowed by the court: (a) The party who filed the 9 petition for judicial review shall transmit to the reviewing court an original or certified copy of 10 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. 20 It is undisputed that the Petitioners filed their Opening Brief 105 days late and 21 that said Brief lacks citations to the transcript of the administrative proceeding under review.

7. 22 The record of the underlying administrative proceeding is incomplete due to Petitioners' failure to transmit the transcript to the Court. 23

8. 24 As a result of the incomplete record, and of Petitioners' failure to cite to the 25 transcript in their late-filed Opening Brief, this Court cannot conduct a judicial review based 26 upon the whole record as required by NRS 233B.135.

2

Division of Industrial Relations - Division Connael 3360 West Sahara Ave., Suite 250 89102 STATE OF NEVADA 702) 486-9080 14 15 16 17 18 19

9. On November 9, 2020, the Respondents timely transmitted to the court the remainder of the record pursuant to NRS 233B.131(1)(b).

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.

NRS 233B.131(1)(a) is plain and unambiguous, yet Petitioners failed to comply 11. 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.

16 Petitioners' argument that Respondents were statutorily required to file the 13. 17 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' 18 19 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. 22 Petitioners have not met their burden to show good cause for their ongoing delay 23 to transmit the transcript to the Court.

24 15. Mr. Price did not provide the Court with an affidavit or declaration specifying 25 how his medical condition affected his ability to comply with statutory requirements during the 26 intervening 211 days. The Court assumes that he had a serious medical condition but finds the effects of the condition vague. 27

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

20

21

28

3

	1	16. Moreover, two other attorneys from Mr. Price's law firm are listed on the Court's				
	2	electronic service list for this case.				
	3	17. Petitioners bear the burden to show good cause, but they have not met thei				
	4	burden under the Scrimer factors. Scrimer v. Eighth Judicial Dist. Court, 116 Nev. 507, 516				
	5	17, 998 P.2d 1190, 1195-96 (2000).				
	6	18. Furthermore, Petitioners' extensive unexcused delay is mooted by their position				
	7	that they are not statutorily required to transmit the transcript to the Court.				
	8	II. ORDER				
	9	IT IS HEREBY ORDERED AND ADJUDGED THAT:				
	10	1. The Respondent Division's Motion to Dismiss Petitioners' Petition for Judicia				
	11	Review and the Board's Joinder thereto are GRANTED.				
	12	DATED this day of, 20, 20 Dated this 21st day of June, 2021				
	13	Cool 1				
	14	HON. JUDGE JOE HARDY, JR.				
1806-084 (Zh.)	15	HON. JUDGE JOE HARDY, JR.				
Ĕ	16	Respectfully submitted by: DIVISION OF INDUSTRIAL RELATIONS F18 060 65D6 31EC Joe Hardy				
	17	DIVISION OF INDUSTRIAL RELATIONS District Court Judge				
	18	Donald C. Smith, Esq.				
	19	Jennifer J. Leonescu, Esq.				
	20	Christopher A. Eccles, Esq. Division of Industrial Relations				
	21	3360 W. Sahara Ave., Ste. 250 Las Vegas, NV 89102				
	22	Attorneys for Respondent Division of Industrial Relations				
	23	Approved as to form and content by:				
	24	LEWIS BRISBOIS BISCARD & SMITH				
	25	By: Mim D. Price, Esg.				
	26	/Nevada Bar No. 7873 2300 W. Sahara Ave., Ste. 300, Box 28				
	27	Las Vegas, NV 89102				
	28	Attorneys for Petitioners LVMPD and CCMSI 4				
	• .8					

## STATE OF NEVADA Division of Industrial Relations - Division Counsel 3360 West Sahara Ave., Suita 250 Las Vegna, Noveda 89102 (702) 486-9080

1	COEDV				
2	CSERV				
3	CLA	DISTRICT COURT IRK COUNTY, NEVADA			
4					
5					
6	Las Vegas Metropolitan Police	CASE NO: A-20-821892-J			
7	Department, Petitioner(s)	DEPT. NO. Department 15			
8	VS.				
9	State of Nevada Department of Business & Industry,				
10	Respondent(s)				
11					
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 recipients registered for e-Service on the above entitled case as listed below:				
15 16	Service Date: 6/21/2021				
17	Michele Caro m	ncaro@ag.nv.gov			
18	Donald Bordelove d	bordelove@ag.nv.gov			
19	Daniel Schwartz da	aniel.schwartz@lewisbrisbois.com			
20	Donald Smith de	onaldcsmith@dir.nv.gov			
21	Christopher Eccles co	eccles@dir.nv.gov			
22	Joel Reeves jo	el.reeves@lewisbrisbois.com			
23 24	Donald Bordelove d	oordelove@ag.nv.gov			
25	Dawn Bateman da	awn.bateman@lewisbrisbois.com			
26	Hilton Platt hi	lton.platt@lewisbrisbois.com			
27	Kim Price ki	m.price@lewisbrisbois.com			
28					

1	
2	
3	
4	
5	
6	
7	
8	
9	
10	
11 12	
12	
13	
14	
16	
17	
18	
19	
20	
21	
22	
23	
24	
25	
26	
27	
28	
	00243