ORIGINAL

LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
office@danielmarks.net
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536: FAX (702) 386-6812
Attorneys for Intervenor Fraternal Order Of Police Nevada C.O. Lodge 21

IN THE FIRST DISTRICT COURT OF

THE STATE OF NEVADA, IN AND FOR CARSON CITY

AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES, LOCAL 4041, not-for-profit voluntary membership association and labor organization,

Plaintiff,

v.

JOSEPH M. LOMBARDO, in his official capacity as Governor of the State of Nevada; NEVADA DEPARTMENT OF ADMINISTRATION, a political subdivision of the State of Nevada; JACK ROBB, Director of the Nevada Department of Administration in his official capacity; NEVADA DIVISION OF HUMAN RESOURCE MANAGEMENT, a political subdivision of the State of Nevada; MANDEE BOWSMITY, Administrator of the Nevada Division of Human Resource Management in her official capacity,

Defendants.

FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21

Intervenor.

Case No.: 23 EW 00016 1D
Dept.: I

NOTICE OF APPEAL BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21

Notice is hereby given that Intervenor FOP Nevada C.O. Lodge 21, by and through its counsel of record, hereby appeals to the Supreme Court of Nevada the First District Court's Order Denying Writ of Mandamus and Confirmation of Arbitration Award entered in this action for the case no. 23 EW 0016 1B on December 12, 2023.

A true and correct copy of the District Court's Order is attached hereto as Exhibit "A".

AFFIRMATION

The undersigned hereby affirms that this document does not contain the social security number of any person.

DATED this 12th day of January 2024.

LAW OFFICE OF DANIEL MARKS

DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
office@danielmarks.net
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Intervenor/Appellant

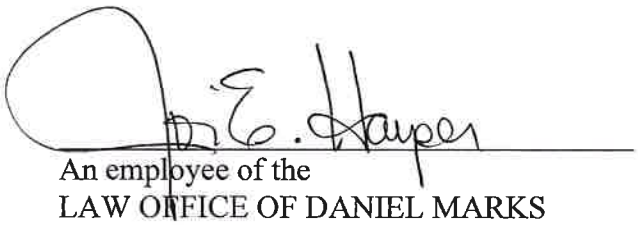
CERTIFICATE OF MAILING

I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS and that on the 19th day of January 2024, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with first class postage fully prepaid thereon, a true and correct copy of the above and foregoing NOTICE OF APPEAL BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21, to the address as follows:

Nathan R. Ring, Esq.
STRANCH, JENNINGS & GARVEY, PLLC
3100 W. Charleston Blvd., Suite 208
Las Vegas, Nevada 89102
nring@stranchlaw.com
Counsel for Plaintiff

Fernando Colon, Esq.
Matthew Blumin, Esq.
AMERICAN FEDERATION OF STATE, COUNTY and MUNICIPAL EMPLOYEES, AFL-CIO (AFSCME)
1625 l Street, N.W.
Washington, DC 20036
(202) 775-5900
Fcolon@afscme.org
MBlumin@afscme.org

Nathan C. Holland, Esq.
Deputy Attorney General
Kiel B. Ireland, Esq.
Deputy Solicitor General
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
nholland@ag.nv.gov
KIreland@ag.nv.gov
Counsel for Defendants



An employee of the
LAW OFFICE OF DANIEL MARKS

EXHIBIT 1

EXHIBIT 1

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, LOCAL 4041, a not-for-profit voluntary membership association and labor organization,

Plaintiff,

vs.

JOSEPH M. LOMBARDO, in his official capacity as Governor of the State of Nevada; NEVADA DEPARTMENT OF ADMINISTRATION, a political subdivision of the State of Nevada; JACK ROBB, Director of the Nevada Department of Administration in his official capacity; NEVADA DIVISION OF HUMAN RESOURCE MANAGEMENT, a political subdivision of the State of Nevada; MANDEE BOWSMITH, Administrator of the Nevada Division of Human Resource Management in her official capacity,

Defendants.

Case No. 23 EW 00016 1B

Dept. No. I

ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD

This matter came before this Court on November 30, 2023. Nathan R. Ring appeared on behalf of Plaintiffs, and Nathan C. Holland appeared on behalf of Defendants.

The Court, having heard the argument of counsel and reviewed the pleadings on file, finds and concludes that Plaintiffs have not shown their entitlement to writ relief, nor have

they shown that confirmation of the arbitration award is proper. As a result, the Court denies Plaintiff's writ petition and motion for confirmation.

I. Legal Standards

A writ of mandamus is an "extraordinary remedy," and the "burden is on the petitioner to demonstrate that extraordinary relief is warranted." *Valley Health Sys., LLC v. Eighth Jud. Dist. Ct.*, 127 Nev. 167, 170–71, 252 P.3d 676, 678 (2011). It may be issued to compel the performance of an act "already required by law." *Mineral Cty. v. State*, 117 Nev. 235, 242–43, 20 P.3d 800, 805 (2001).

When interpretating a statute, Nevada courts "look to its plain language." *Smith v. Zilverberg*, 137 Nev. 65, 72, 481 P.3d 1222, 1230 (2021). If the plain language is unambiguous, it must be enforced as written. *Id.* If it is ambiguous, courts "examine the provision's legislative history and the scheme as a whole to ascertain the Legislature's intent." *Id.*

II. Writ of Mandamus

A. NRS 288.505(5)

Plaintiffs seek a writ of mandamus commanding Defendants to "provide compensation in the form of the [cost of living adjustment] awarded in Arbitrator Belkin's decision." Pet. ¶ 91. NRS 288.505 bars Plaintiff's requested writ of mandamus. That section provides in relevant part that "[i]f there is a conflict between any provision of [a collective-bargaining agreement] and . . . NRS 288.580, the provision of the agreement prevails *unless the Legislature is required to appropriate money to implement the provision.*" NRS 288.505(5)(c) (emphasis added). In other words, if an interest-arbitration award requires an appropriation, an appropriation, by law, is required.

The 3% cost of living adjustment ("COLA") ordered by the arbitrator exceeded the amount previously appropriated, so a new appropriation was necessary. Because that money was never appropriated, there was no duty, or ability, for Defendants to pay the 3% COLA. *See* NRS 288.505(5)(c).

///

The arbitrator himself recognized that he could not award unappropriated compensation. His decision explained that funding the collective-bargaining agreement ("CBA") "is the sole function of the State Legislature" and that he lacked "the authority to order the expenditure of the funds." Pet. Ex. 2, at 13. He selected Plaintiff's proposal, but he never purported to order its funding. *Id.* Ex. 2, at 15–16. Plaintiff thus seeks relief that is contrary to both the statute and to the arbitration award itself.

Plaintiff's international affiliate testified to the same effect during the Nevada Legislature's drafting of NRS chapter 288. Its director of research and collective bargaining services testified that the "Legislature retains its discretion to disapprove of an arbitrator's award involving the appropriation of money." Minutes of Senate Committee on Government Affairs at 10–11, 80th Leg. (Nev. Apr. 4, 2019).

Plaintiff's reading of NRS 288.505 is unreasonable. It contends that NRS 288.505(5)(c)'s phrase "[e]xcept as otherwise provided in NRS 284.4086, a provision of chapter 284 or 287 of NRS or NRS 288.570, 288.575 or 288.580" means that NRS 288.580 arbitrations are excluded from NRS 288.505's rule that a CBA provision that requires an appropriation cannot be enforced without legislation. That would make the text nonsensical. Excepting everything up to "NRS 288.580" would make the statute read "[i]f there is a conflict between any provision of [a CBA] and: the provision prevails unless the Legislature is required to appropriate money to implement the provision." *See* NRS 288.505(5).

Plaintiff's reading would also violate the canon against superfluity. *See S. Nev. Homebuilders Ass'n v. Clark Cty.*, 121 Nev. 446, 449, 117 P.3d 171, 173 (2005). That is because the whole phrase is: "Except as otherwise provided in NRS 284.4086, *a provision of chapter 284* or 287 of NRS or NRS 288.570, 288.575 or 288.580." NRS 288.505(5)(c) (emphasis added). NRS 284.4086 is already a "provision of chapter 284," so the Legislature would not have specifically identified it unless it was separate from "a provision of chapter 284 or 287 of NRS or NRS 288.570, 288.575 or 288.580." It is: "a provision of chapter 284

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or 287 of NRS, or NRS 288.570, 288.575 or 288.580" is the rule while "NRS 284.4086" is the exception.

Defendants were not contractually bound to pay the compensation in the arbitration award. The collective-bargaining agreement provided only that the parties would use the NRS 288.575 arbitration procedure, not that that arbitration would supersede NRS 288.505's appropriation requirement. Pet. ¶ 31. Even if Defendants were contractually bound to follow the arbitrator's decision, that decision itself disclaimed any ability to "order the expenditure of funds." *Id.* Ex. 2, at 13.

The Board of Examiners' approval did not satisfy NRS 288.505(5)'s requirements. The Board of Examiners approved the compensation subject to the required appropriation, as it does whenever it approves a CBA. *See* NRS 288.505(5)(c). It did not and could not appropriate the funds itself.

Vetoed legislation did not satisfy NRS 288.505(5)'s appropriation requirement. An appropriation must be "made by law." Nev. Const. art. 4, § 19. A bill does not "become[ ] a law" until the Governor signs it or the Legislature overrides his veto with a two-thirds vote. *Id.* art. 4, § 35. The Governor's approval is as integral to the legislative process as the Assembly and Senate's votes. *Cf. Risser v. Thompson*, 930 F.2d 549, 554 (7th Cir. 1991) (Posner, J.) ("That governors have some legislative power is the premise of any gubernatorial veto power."). The Court rejects Plaintiff's theory that the Legislature can pass an appropriation immune from the veto power if it is funding an arbitration award.

B. The Appropriations Clause and the State Budget Act

In the alternative, the Appropriations Clause and the State Budget Act bar the writ that Plaintiff seeks. The Appropriations Clause provides that "[n]o money shall be drawn from the treasury but in consequence of appropriations made by law." Nev. Const. art. 4, § 19. Plaintiff would read NRS 288.505(5) as permitting unelected arbitrators to draw money from the treasury without an appropriation in order to pay compensation. The Court declines to read the statute in a way that would violate the Nevada Constitution. *See Degraw v. The Eighth Jud. Dist. Ct.*, 134 Nev. 330, 333, 419 P.3d 136, 139 (2018).

Plaintiff's reading conflicts with the State Budget Act as well. That statute makes it unlawful to "to bind, or attempt to bind," the State "in any amount in excess of the specific amount provided by law." NRS 353.260. If an arbitrator can bind the State to pay unappropriated compensation, then any CBA with an arbitration agreement arguably violates the State Budget Act. The better reading is that an arbitration award still requires legislative action if it exceeds existing appropriations.

III. Confirmation of Arbitration Award

A. NRS Chapter 288

The Court cannot confirm the arbitration award because NRS chapter 288 does not provide authority for judicial enforcement of an interest-arbitration award. As part of its comprehensive system for collective bargaining, NRS chapter 288 details the arbitration procedure to be used when the parties bargain to impasse. NRS 288.570 to 288.580. Nothing in that procedure permits a motion to confirm an interest-arbitration award. *See* NRS 288.580. Instead, the statute provides that an arbitrator's decision is "final and binding" (though it may still be subject to appropriation requirements). NRS 288.580(4); *see* NRS 288.505(5)(c).[1]

Plaintiff contends that the Uniform Arbitration Act of 2000, NRS 38.206 to 38.259, permits confirmation of the award. Pet. ¶¶ 101–03. The problem is that that statute is inapplicable to interest arbitration. The Legislature expressly chose a different set of rules—the Government Employee Management Relations Board's regulations—to govern this type of arbitration. NRS 288.575(4). Because NRS chapter 288 is the more specific statute, it prevails over any contradictory provision in the Uniform Arbitration Act. *See State Dep't of Taxation v. Masco Builder Cabinet Grp.*, 129 Nev. 775, 778, 312 P.3d 475, 478 (2013).

The Legislature's decision to not provide a mechanism for judicial enforcement of interest arbitration decisions was of a piece with NRS chapter 288's overall design. As the

[1] NRS 288.570 to NRS 288.580 speaks only to arbitration decisions after impasse. Nothing in this Order is intended to reach other forms of labor arbitration.

Court has explained, only a legislative appropriation can draw money from the treasury to compensate public employees. The Legislature vindicated that rule by enacting NRS 288.505, which makes an interest-arbitration award that requires funding subject to appropriation. NRS 288.505(5)(c). It would not have made sense for the Legislature to carefully preserve the appropriation requirement, but then allow a party to try to circumvent it through judicial enforcement of an arbitration award.[2]

ORDER

For the reasons stated above, the Court DENIES Plaintiff's petition for a writ of mandamus and confirmation of arbitration award. Nathan C. Holland, counsel for Defendants, will serve notice of entry of this Order on all other parties and file proof of such service within seven days after the date the Court sent this order to him.

IT IS SO ORDERED this 12th of December, 2023.

DISTRICT JUDGE

Submitted by:

NATHAN C. HOLLAND (Bar No. 15247)
Deputy Attorney General
KIEL B. IRELAND (Bar No. 15368)
Deputy Solicitor General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
T: (775) 684-1254
E: nholland@ag.nv.gov
Attorneys for Defendants

[2] The Court's confirmation of a different arbitration award in a different case does not control this case. The applicability of NRS chapter 38 was not at issue in that order.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on December 12th, 2023, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Nathan R. Ring, Esq.
Stranch, Jennings & Garvey, PLLC
3100 W Charleston Blvd., Suite 208
Las Vegas, NV 891012

Nathan C. Holland, Deputy Attorney General
Kiel B. Ireland, Esq Deputy Solicitor General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

Daniel Marks, Esq.
Adam Levine, Esq.
Law Office of Daniel Marks
610 South Ninth Street
Las Vegas, NV 89101

Julie Harkleroad
Judicial Assistant, Dept. 1

ORIGINAL

LAW OFFICE OF DANIEL MARKS
DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
office@danielmarks.net
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
(702) 386-0536: FAX (702) 386-6812
Attorneys for Intervenor Fraternal Order Of Police Nevada C.O. Lodge 21

IN THE FIRST DISTRICT COURT OF

THE STATE OF NEVADA, IN AND FOR CARSON CITY

AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES, LOCAL 4041, not-for-profit voluntary membership association and labor organization,

Plaintiff,

v.

JOSEPH M. LOMBARDO, in his official capacity as Governor of the State of Nevada; NEVADA DEPARTMENT OF ADMINISTRATION, a political subdivision of the State of Nevada; JACK ROBB, Director of the Nevada Department of Administration in his official capacity; NEVADA DIVISION OF HUMAN RESOURCE MANAGEMENT, a political subdivision of the State of Nevada; MANDEE BOWSMITY, Administrator of the Nevada Division of Human Resource Management in her official capacity,

Defendants.

FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21

Intervenor.

Case No.: 23 EW 00016 1D
Dept.: I

CASE APPEAL STATEMENT BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21

CASE APPEAL STATEMENT

Intervenor, Fraternal Order of Police Nevada C.O. Lodge 21, by and through its counsel of record, hereby appeals to the Supreme Court of the State of Nevada the District Court's Order Denying Petition for Writ of Mandamus and Confirmation of Arbitration Award entered on December 12, 2023.

1. **Name of appellant filing this case appeal statement:**

Fraternal Order of Police Nevada C.O. Lodge 21.

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

Judge James T. Russell

3. **Identify each appellant and the name and address of counsel for each appellant:**

Appellant is: Intervenor Fraternal Order of Police Nevada C.O. Lodge 21

Appellant is represented by Adam Levine, Esq. of the Law Office of Daniel Marks, 610 S. Ninth Street, Las Vegas, Nevada 89101.

4. **Identify each respondent and the names and address of appellant counsel, if known, for each respondent (if the names of a respondent's appellant counsel is unknown, indicate as much and provide the name and address of that respondent's trial counsel):**

COUNSEL FOR PLAINTIFF, American Federation of State County & Municipal Employees, Local 4041 ("AFSCME")

Nathan R. Ring, Esq.
STRANCH, JENNINGS & GARVEY, PLLC
3100 W. Charleston Blvd., Suite 208
Las Vegas, Nevada 89102
nring@stranchlaw.com

Fernando Colon, Esq., , Supreme Court Rule 42 application forthcoming
Matthew Blumin, Esq., Supreme Court Rule 42 application forthcoming
AMERICAN FEDERATION OF STATE, COUNTY and
MUNICIPAL EMPLOYEES, AFL-CIO
1625 "L" Street, N.W.
Washington, DC 20036
(202) 775-5900
Fcolon@afscme.org
MBlumin@afscme.org

COUNSEL FOR DEFENDANTS, Joseph M. Lombardo, Nevada Department of Administration, Jack Robb, Nevada Division of Human Resource Management, and Mandee Bowsmity

Nathan C. Holland, Esq.
Deputy Attorney General
Kiel B. Ireland, Esq.
Deputy Solicitor General
Office of the Attorney General
100 North Carson Street
Carson City, Nevada 89701-4717
nholland@ag.nv.gov
KIreland@ag.nv.gov

5. Indicate whether any attorney identified above in response to question 3 or 4 is not licensed to practice law in Nevada and, if so, whether the district court granted that attorney permission to appear under SCR 42 (attach a copy of any district court order granting such permission):

See Case Appeal Statement filed by AFSCME Local 4041.

6. Indicate whether appellant was represented by appointed or retained counsel in district court:

Appellant was represented by retained counsel.

7. Indicate whether appellant is represented by appointed or retained counsel on appeal:

Appellant is being represented by retained counsel.

8. Indicate whether appellant is granted leave to proceed in forma pauperis, and the date of entry of the district court order granting such leave:

N/A

9. Indicate the date the proceedings commenced in the district court:

September 5, 2023.

10. A brief description of the nature of the action and result in the district court:

Appellant joins in the Case Appeal Statement filed by AFSCME Local 4041.

11. Indicate whether this case has previously been the subject on appeal:

No

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

N/A

13. **Indicate whether this appeal involves the possibility of settlement:**

Yes.

AFFIRMATION

The undersigned hereby affirms that this document does not contain the social security number of any person.

DATED this 18th day of January 2024.

LAW OFFICE OF DANIEL MARKS

DANIEL MARKS, ESQ.
Nevada State Bar No. 002003
office@danielmarks.net
ADAM LEVINE, ESQ.
Nevada State Bar No. 004673
alevine@danielmarks.net
610 South Ninth Street
Las Vegas, Nevada 89101
Attorneys for Intervenor/Appellant

CERTIFICATE OF MAILING

I hereby certify that I am an employee of the LAW OFFICE OF DANIEL MARKS and that on the 19th day of January 2024, I did deposit in the United States Post Office, at Las Vegas, Nevada, in a sealed envelope with first class postage fully prepaid thereon, a true and correct copy of the above and foregoing CASE APPEAL STATEMENT BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21, to the address as follows:

Nathan R. Ring, Esq.
STRANCH, JENNINGS & GARVEY, PLLC
3100 W. Charleston Blvd., Suite 208
Las Vegas, Nevada 89102
nring@stranchlaw.com
Counsel for Plaintiff

Fernando Colon, Esq.
Matthew Blumin, Esq.
AMERICAN FEDERATION OF STATE, COUNTY and MUNICIPAL EMPLOYEES, AFL-CIO (AFSCME)
1625 l Street, N.W.
Washington, DC 20036
(202) 775-5900
Fcolon@afscme.org
MBlumin@afscme.org

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100 North Carson Street
Carson City, Nevada 89701-4717
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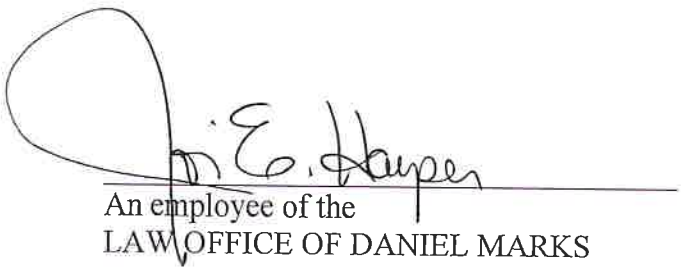
KIreland@ag.nv.gov
Counsel for Defendants



An employee of the
LAW OFFICE OF DANIEL MARKS

Judge: RUSSELL, JUDGE JAMES TODD

Case No. 23 EW 00016 1B

Ticket No.
CTN:

AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL — By:

-vs-

BOWSMITH, MANDEE DRSPND — By:

Dob: Sex:
Lic: Sid:

LOMBARDO, JOSEPH M DRSPND — By:

Dob: Sex:
Lic: Sid:

NEVADA DEPARTMENT OF ADMINISTRATION DRSPND — By:

Dob: Sex:
Lic: Sid:

NEVADA DIVISION OF HUMAN RESOURCE MANAGEMENT DRSPND — By:

Dob: Sex:
Lic: Sid:

ROBB, JACKS DRSPND — By:

Dob: Sex:
Lic: Sid:

Plate#:
Make:
Year: Accident:
Type:
Venue:
Location:

Bond: Set:

AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL PLNTPET — Type: Posted:

FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21 RSPND

Charges:

Ct.
Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct.
Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct.
Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct.
Offense Dt: Cvr:
Arrest Dt:
Comments:

Ct.
Offense Dt: Cvr:
Arrest Dt:
Comments:

Sentencing:

No.	Filed	Action	Operator	Fine/Cost	Due
1	01/22/24	CASE APPEAL STATEMENT BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21 STATEMENT	1BDORTIZ	0.00	0.00
2	01/22/24	APPEAL BOND DEPOSIT Receipt: 83242 Date: 01/24/2024	1BDORTIZ	500.00	0.00
3	01/22/24	NOTICE OF APPEAL BY FRATERNAL ORDER OF POLICE NEVADA C.O LODGE 21 Receipt: 83264 Date: 01/25/2024	1BDORTIZ	24.00	0.00
4	01/12/24	CASE APPEAL STATEMENT	1BPETERSON	0.00	0.00
5	01/12/24	NOTICE OF APPEAL FILED Receipt: 83062 Date: 01/12/2024	1BPETERSON	24.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
6	12/15/23	NOTICE OF ENTRY OF ORDER DENYING PETITON FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD	1BPETERSON	0.00	0.00
7	12/12/23	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BCCOOPER	0.00	0.00
8	12/12/23	ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD	1BCCOOPER	0.00	0.00
9	11/30/23	HEARING HELD: The following event: WRIT HEARING scheduled for 11/30/2023 at 1:30 pm has been resulted as follows: Result: HEARING HELD Judge: RUSSELL, JUDGE JAMES TODD Location: DEPT I	1BCFRANZ	0.00	0.00
10	11/30/23	ORDER GRANTING MOTION TO INTERVENE BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21	1BCFRANZ	0.00	0.00
11	11/02/23	REQUEST FOR SUBMISSION	1BDORTIZ	0.00	0.00
12	11/02/23	REPLY IN SUPPORT OF MOTION TO CONFIRM ARBITRATION AWARD	1BDORTIZ	0.00	0.00
13	11/01/23	HEARING DATE MEMO	1BJULIEH	0.00	0.00
14	10/31/23	ORDER GRANTING MOTION REQUESTING LEAVE TO EXTEND PAGE LIMITS PURSUANT TO FIRST JUDICIAL dISTRICT COURT RULE 3.23	1BJULIEH	0.00	0.00
15	10/30/23	REPLY BRIEF IN SUPPORT OF PETITON FOR WRIT MANDAMUS	1BDORTIZ	0.00	0.00
16	10/30/23	MOTION REQUESTING LEAVE TO EXTEND PAGE LIMITS PURSUANT TO FIRST JUDICIAL DISTRICT COURT	1BDORTIZ	0.00	0.00
17	10/24/23	NOTICE OF NON-OPPOSITION TO PLAINTIFF'S EMERGENCY MOTION FOR LEAVE TO FILE REPLY TO DEFENDANTS' OPPOSITION TO PETTOIN FOR WRIT OF MANDAMUS	1BJULIEH	0.00	0.00
18	10/23/23	OPPOSITION TO CONFIRMATION OF ARBITRATION AWARD	1BPETERSON	0.00	0.00
19	10/18/23	FILE RETURNED AFTER SUBMISSION - ORDER ENTERED	1BJULIEH	0.00	0.00
20	10/18/23	ORDER GRANTING PLAITNIFF'S EMERGENCY MOTION FOR LEAVE TO FILE REPLY TO DEFENDANTS' OPPOSITION TO PETITION FOR WRIT OF MANDAMUS	1BJULIEH	0.00	0.00
21	10/17/23	PLAINTIFF'S EMERGENCY MOTION FOR LEAVE TO FILE REPLY TO DEFENDANTS' OPPOSITION TO PETITION FOR WRIT OF MANDAMUS	1BJULIEH	0.00	0.00
22	10/10/23	REQUEST FOR SUBMISSION	1BCCOOPER	0.00	0.00
23	10/06/23	OPPOSITION TO PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD	1BDORTIZ	0.00	0.00
24	10/06/23	PLAINTIFF'S MOTION TO CONFIRM ARBITRATION AWARD	1BDORTIZ	0.00	0.00
25	10/03/23	PROOF OF SERVICE (6)	1BPETERSON	0.00	0.00
26	09/20/23	AFFIRMATION PURSUANT TO NRS 239.030	1BPETERSON	0.00	0.00
27	09/20/23	MOTION TO INTERVENE BY FRATERNAL ORDER OF POLICE NEVADA C.O. LODGE 21 Receipt: 81436 Date: 09/20/2023	1BPETERSON	218.00	0.00
28	09/12/23	AFFIDAVIT OF SERVICE	1BCCOOPER	0.00	0.00
29	09/12/23	SUMMONS & ADD'L SUMMONS (4)	1BCCOOPER	0.00	0.00
30	09/06/23	ORDER TO RESPOND	1BDORTIZ	0.00	0.00
31	09/06/23	ISSUING SUMMONS & ADD'L SUMMONS (4)	1BCCOOPER	0.00	0.00

No.	Filed	Action	Operator	Fine/Cost	Due
32	09/05/23	WRIT OF MANDAMUS - CRIMINAL	1BCCOOPER	0.00	0.00
33	09/05/23	PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD Receipt: 81174 Date: 09/05/2023	1BCCOOPER	265.00	0.00
			Total:	1,031.00	0.00

Totals By:	COST	531.00	0.00
	HOLDING	500.00	0.00
	INFORMATION	0.00	0.00

*** End of Report ***

ORIGINAL

REC'D & FILED
2023 DEC 12 AM 11:43
WILLIAM SCOTT HOEN
CLERK
BY [signature]
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

AMERICAN FEDERATION OF STATE, COUNTY & MUNICIPAL EMPLOYEES, LOCAL 4041, a not-for-profit voluntary membership association and labor organization,

Plaintiff,

vs.

JOSEPH M. LOMBARDO, in his official capacity as Governor of the State of Nevada; NEVADA DEPARTMENT OF ADMINISTRATION, a political subdivision of the State of Nevada; JACK ROBB, Director of the Nevada Department of Administration in his official capacity; NEVADA DIVISION OF HUMAN RESOURCE MANAGEMENT, a political subdivision of the State of Nevada; MANDEE BOWSMITH, Administrator of the Nevada Division of Human Resource Management in her official capacity,

Defendants.

Case No. 23 EW 00016 1B

Dept. No. I

ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD

This matter came before this Court on November 30, 2023. Nathan R. Ring appeared on behalf of Plaintiffs, and Nathan C. Holland appeared on behalf of Defendants.

The Court, having heard the argument of counsel and reviewed the pleadings on file, finds and concludes that Plaintiffs have not shown their entitlement to writ relief, nor have

they shown that confirmation of the arbitration award is proper. As a result, the Court denies Plaintiff's writ petition and motion for confirmation.

I. Legal Standards

A writ of mandamus is an "extraordinary remedy," and the "burden is on the petitioner to demonstrate that extraordinary relief is warranted." *Valley Health Sys., LLC v. Eighth Jud. Dist. Ct.*, 127 Nev. 167, 170–71, 252 P.3d 676, 678 (2011). It may be issued to compel the performance of an act "already required by law." *Mineral Cty. v. State,* 117 Nev. 235, 242–43, 20 P.3d 800, 805 (2001).

When interpretating a statute, Nevada courts "look to its plain language." *Smith v. Zilverberg*, 137 Nev. 65, 72, 481 P.3d 1222, 1230 (2021). If the plain language is unambiguous, it must be enforced as written. *Id.* If it is ambiguous, courts "examine the provision's legislative history and the scheme as a whole to ascertain the Legislature's intent." *Id.*

II. Writ of Mandamus

A. NRS 288.505(5)

Plaintiffs seek a writ of mandamus commanding Defendants to "provide compensation in the form of the [cost of living adjustment] awarded in Arbitrator Belkin's decision." Pet. ¶ 91. NRS 288.505 bars Plaintiff's requested writ of mandamus. That section provides in relevant part that "[i]f there is a conflict between any provision of [a collective-bargaining agreement] and . . . NRS 288.580, the provision of the agreement prevails *unless the Legislature is required to appropriate money to implement the provision.*" NRS 288.505(5)(c) (emphasis added). In other words, if an interest-arbitration award requires an appropriation, an appropriation, by law, is required.

The 3% cost of living adjustment ("COLA") ordered by the arbitrator exceeded the amount previously appropriated, so a new appropriation was necessary. Because that money was never appropriated, there was no duty, or ability, for Defendants to pay the 3% COLA. *See* NRS 288.505(5)(c).

///

The arbitrator himself recognized that he could not award unappropriated compensation. His decision explained that funding the collective-bargaining agreement ("CBA") "is the sole function of the State Legislature" and that he lacked "the authority to order the expenditure of the funds." Pet. Ex. 2, at 13. He selected Plaintiff's proposal, but he never purported to order its funding. *Id.* Ex. 2, at 15–16. Plaintiff thus seeks relief that is contrary to both the statute and to the arbitration award itself.

Plaintiff's international affiliate testified to the same effect during the Nevada Legislature's drafting of NRS chapter 288. Its director of research and collective bargaining services testified that the "Legislature retains its discretion to disapprove of an arbitrator's award involving the appropriation of money." Minutes of Senate Committee on Government Affairs at 10–11, 80th Leg. (Nev. Apr. 4, 2019).

Plaintiff's reading of NRS 288.505 is unreasonable. It contends that NRS 288.505(5)(c)'s phrase "[e]xcept as otherwise provided in NRS 284.4086, a provision of chapter 284 or 287 of NRS or NRS 288.570, 288.575 or 288.580" means that NRS 288.580 arbitrations are excluded from NRS 288.505's rule that a CBA provision that requires an appropriation cannot be enforced without legislation. That would make the text nonsensical. Excepting everything up to "NRS 288.580" would make the statute read "[i]f there is a conflict between any provision of [a CBA] and: the provision prevails unless the Legislature is required to appropriate money to implement the provision." *See* NRS 288.505(5).

Plaintiff's reading would also violate the canon against superfluity. *See S. Nev. Homebuilders Ass'n v. Clark Cty.*, 121 Nev. 446, 449, 117 P.3d 171, 173 (2005). That is because the whole phrase is: "Except as otherwise provided in NRS 284.4086, *a provision of chapter 284* or 287 of NRS or NRS 288.570, 288.575 or 288.580." NRS 288.505(5)(c) (emphasis added). NRS 284.4086 is already a "provision of chapter 284," so the Legislature would not have specifically identified it unless it was separate from "a provision of chapter 284 or 287 of NRS or NRS 288.570, 288.575 or 288.580." It is: "a provision of chapter 284

///

or 287 of NRS, or NRS 288.570, 288.575 or 288.580" is the rule while "NRS 284.4086" is the exception.

Defendants were not contractually bound to pay the compensation in the arbitration award. The collective-bargaining agreement provided only that the parties would use the NRS 288.575 arbitration procedure, not that that arbitration would supersede NRS 288.505's appropriation requirement. Pet. ¶ 31. Even if Defendants were contractually bound to follow the arbitrator's decision, that decision itself disclaimed any ability to "order the expenditure of funds." *Id.* Ex. 2, at 13.

The Board of Examiners' approval did not satisfy NRS 288.505(5)'s requirements. The Board of Examiners approved the compensation subject to the required appropriation, as it does whenever it approves a CBA. *See* NRS 288.505(5)(c). It did not and could not appropriate the funds itself.

Vetoed legislation did not satisfy NRS 288.505(5)'s appropriation requirement. An appropriation must be "made by law." Nev. Const. art. 4, § 19. A bill does not "become[ ] a law" until the Governor signs it or the Legislature overrides his veto with a two-thirds vote. *Id.* art. 4, § 35. The Governor's approval is as integral to the legislative process as the Assembly and Senate's votes. *Cf. Risser v. Thompson*, 930 F.2d 549, 554 (7th Cir. 1991) (Posner, J.) ("That governors have some legislative power is the premise of any gubernatorial veto power."). The Court rejects Plaintiff's theory that the Legislature can pass an appropriation immune from the veto power if it is funding an arbitration award.

B. The Appropriations Clause and the State Budget Act

In the alternative, the Appropriations Clause and the State Budget Act bar the writ that Plaintiff seeks. The Appropriations Clause provides that "[n]o money shall be drawn from the treasury but in consequence of appropriations made by law." Nev. Const. art. 4, § 19. Plaintiff would read NRS 288.505(5) as permitting unelected arbitrators to draw money from the treasury without an appropriation in order to pay compensation. The Court declines to read the statute in a way that would violate the Nevada Constitution. *See Degraw v. The Eighth Jud. Dist. Ct.*, 134 Nev. 330, 333, 419 P.3d 136, 139 (2018).

Plaintiff's reading conflicts with the State Budget Act as well. That statute makes it unlawful to "to bind, or attempt to bind," the State "in any amount in excess of the specific amount provided by law." NRS 353.260. If an arbitrator can bind the State to pay unappropriated compensation, then any CBA with an arbitration agreement arguably violates the State Budget Act. The better reading is that an arbitration award still requires legislative action if it exceeds existing appropriations.

III. Confirmation of Arbitration Award

A. NRS Chapter 288

The Court cannot confirm the arbitration award because NRS chapter 288 does not provide authority for judicial enforcement of an interest-arbitration award. As part of its comprehensive system for collective bargaining, NRS chapter 288 details the arbitration procedure to be used when the parties bargain to impasse. NRS 288.570 to 288.580. Nothing in that procedure permits a motion to confirm an interest-arbitration award. *See* NRS 288.580. Instead, the statute provides that an arbitrator's decision is "final and binding" (though it may still be subject to appropriation requirements). NRS 288.580(4); *see* NRS 288.505(5)(c).[1]

Plaintiff contends that the Uniform Arbitration Act of 2000, NRS 38.206 to 38.259, permits confirmation of the award. Pet. ¶¶ 101–03. The problem is that that statute is inapplicable to interest arbitration. The Legislature expressly chose a different set of rules—the Government Employee Management Relations Board's regulations—to govern this type of arbitration. NRS 288.575(4). Because NRS chapter 288 is the more specific statute, it prevails over any contradictory provision in the Uniform Arbitration Act. *See State Dep't of Taxation v. Masco Builder Cabinet Grp.*, 129 Nev. 775, 778, 312 P.3d 475, 478 (2013).

The Legislature's decision to not provide a mechanism for judicial enforcement of interest arbitration decisions was of a piece with NRS chapter 288's overall design. As the

[1] NRS 288.570 to NRS 288.580 speaks only to arbitration decisions after impasse. Nothing in this Order is intended to reach other forms of labor arbitration.

Court has explained, only a legislative appropriation can draw money from the treasury to compensate public employees. The Legislature vindicated that rule by enacting NRS 288.505, which makes an interest-arbitration award that requires funding subject to appropriation. NRS 288.505(5)(c). It would not have made sense for the Legislature to carefully preserve the appropriation requirement, but then allow a party to try to circumvent it through judicial enforcement of an arbitration award.[2]

ORDER

For the reasons stated above, the Court DENIES Plaintiff's petition for a writ of mandamus and confirmation of arbitration award. Nathan C. Holland, counsel for Defendants, will serve notice of entry of this Order on all other parties and file proof of such service within seven days after the date the Court sent this order to him.

IT IS SO ORDERED this 12th of December, 2023.

DISTRICT JUDGE

Submitted by:

NATHAN C. HOLLAND (Bar No. 15247)
Deputy Attorney General
KIEL B. IRELAND (Bar No. 15368)
Deputy Solicitor General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
T: (775) 684-1254
E: nholland@ag.nv.gov
Attorneys for Defendants

[2] The Court's confirmation of a different arbitration award in a different case does not control this case. The applicability of NRS chapter 38 was not at issue in that order.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on December 12th, 2023, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Nathan R. Ring, Esq.
Stranch, Jennings & Garvey, PLLC
3100 W Charleston Blvd., Suite 208
Las Vegas, NV 891012

Nathan C. Holland, Deputy Attorney General
Kiel B. Ireland, Esq Deputy Solicitor General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

Daniel Marks, Esq.
Adam Levine, Esq.
Law Office of Daniel Marks
610 South Ninth Street
Las Vegas, NV 89101

Julie Harkleroad
Judicial Assistant, Dept. 1

AARON D. FORD
Attorney General
GREGORY OTT (Bar No. 10950)
Chief Deputy Attorney General
KIEL B. IRELAND (Bar No. 15368)
Deputy Solicitor General
NATHAN C. HOLLAND (Bar No. 15247)
Deputy Attorney General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
T: (775) 684-1254
E: nholland@ag.nv.gov
Attorneys for Defendant, State

ORIGINAL

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

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Plaintiff,

vs.

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Defendants.

Case No. 23 EW 00016 1B

Dept. No. I

NOTICE OF ENTRY OF ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD

TO: ALL INTERESTED PARTIES AND THEIR ATTORNEYS OF RECORD:

YOU, AND EACH OF YOU, please take notice that an Order Denying Petition for Writ of Mandamus and Confirmation of Arbitration Award was entered in the above-entitled matter on the 12th day of December, 2023. A copy of said Order is attached hereto as Exhibit 1.

DATED this 14th day of December, 2023.

AARON D. FORD
Attorney General

By: _____
KIEL B. IRELAND (Bar No. 15368)
Deputy Solicitor General

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on this 14th day of December, 2023, I served a true and correct copy of the foregoing NOTICE OF ENTRY OF ORDER DENYING PETITION FOR WRIT OF MANDAMUS AND CONFIRMATION OF ARBITRATION AWARD, by placing said document in the U.S. Mail, postage prepaid, addressed to:

Nathan R. Ring, Esq.
STRANCH, JENNINGS & GARVEY, PLLC
3100 W. Charleston Blvd., Ste. 208
Las Vegas, NV 89102
nring@stranchlaw.com

Fernando Colon, Esq.
Matthew Blumin, Esq.
AFSCME
1625 L St., N.W.
Washington, DC 20036
fcolon@afscme.org
mblumin@afscme.org

_____
An employee of the Office of the
Attorney General

INDEX OF EXHIBITS

EXHIBIT NO.	EXHIBIT DESCRIPTION	NUMBER OF PAGES
1.	Order Denying Petition for Writ of Mandamus and Confirmation of Arbitration Award filed December 12, 2023	6

EXHIBIT 1

EXHIBIT 1

ORIGINAL

REC'D & FILED
2023 DEC 12 AM 11:43
WILLIAM SCOTT HOEN
CLERK
BY J. HARKLEROAD
DEPUTY

IN THE FIRST JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA

IN AND FOR CARSON CITY

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Plaintiff,

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they shown that confirmation of the arbitration award is proper. As a result, the Court denies Plaintiff's writ petition and motion for confirmation.

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II. Writ of Mandamus

A. NRS 288.505(5)

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The 3% cost of living adjustment ("COLA") ordered by the arbitrator exceeded the amount previously appropriated, so a new appropriation was necessary. Because that money was never appropriated, there was no duty, or ability, for Defendants to pay the 3% COLA. *See* NRS 288.505(5)(c).

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The arbitrator himself recognized that he could not award unappropriated compensation. His decision explained that funding the collective-bargaining agreement ("CBA") "is the sole function of the State Legislature" and that he lacked "the authority to order the expenditure of the funds." Pet. Ex. 2, at 13. He selected Plaintiff's proposal, but he never purported to order its funding. *Id.* Ex. 2, at 15–16. Plaintiff thus seeks relief that is contrary to both the statute and to the arbitration award itself.

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Plaintiff's reading of NRS 288.505 is unreasonable. It contends that NRS 288.505(5)(c)'s phrase "[e]xcept as otherwise provided in NRS 284.4086, a provision of chapter 284 or 287 of NRS or NRS 288.570, 288.575 or 288.580" means that NRS 288.580 arbitrations are excluded from NRS 288.505's rule that a CBA provision that requires an appropriation cannot be enforced without legislation. That would make the text nonsensical. Excepting everything up to "NRS 288.580" would make the statute read "[i]f there is a conflict between any provision of [a CBA] and: the provision prevails unless the Legislature is required to appropriate money to implement the provision." *See* NRS 288.505(5).

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In the alternative, the Appropriations Clause and the State Budget Act bar the writ that Plaintiff seeks. The Appropriations Clause provides that "[n]o money shall be drawn from the treasury but in consequence of appropriations made by law." Nev. Const. art. 4, § 19. Plaintiff would read NRS 288.505(5) as permitting unelected arbitrators to draw money from the treasury without an appropriation in order to pay compensation. The Court declines to read the statute in a way that would violate the Nevada Constitution. *See Degraw v. The Eighth Jud. Dist. Ct.*, 134 Nev. 330, 333, 419 P.3d 136, 139 (2018).

Plaintiff's reading conflicts with the State Budget Act as well. That statute makes it unlawful to "to bind, or attempt to bind," the State "in any amount in excess of the specific amount provided by law." NRS 353.260. If an arbitrator can bind the State to pay unappropriated compensation, then any CBA with an arbitration agreement arguably violates the State Budget Act. The better reading is that an arbitration award still requires legislative action if it exceeds existing appropriations.

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Plaintiff contends that the Uniform Arbitration Act of 2000, NRS 38.206 to 38.259, permits confirmation of the award. Pet. ¶¶ 101–03. The problem is that that statute is inapplicable to interest arbitration. The Legislature expressly chose a different set of rules—the Government Employee Management Relations Board's regulations—to govern this type of arbitration. NRS 288.575(4). Because NRS chapter 288 is the more specific statute, it prevails over any contradictory provision in the Uniform Arbitration Act. *See State Dep't of Taxation v. Masco Builder Cabinet Grp.*, 129 Nev. 775, 778, 312 P.3d 475, 478 (2013).

The Legislature's decision to not provide a mechanism for judicial enforcement of interest arbitration decisions was of a piece with NRS chapter 288's overall design. As the

[1] NRS 288.570 to NRS 288.580 speaks only to arbitration decisions after impasse. Nothing in this Order is intended to reach other forms of labor arbitration.

Court has explained, only a legislative appropriation can draw money from the treasury to compensate public employees. The Legislature vindicated that rule by enacting NRS 288.505, which makes an interest-arbitration award that requires funding subject to appropriation. NRS 288.505(5)(c). It would not have made sense for the Legislature to carefully preserve the appropriation requirement, but then allow a party to try to circumvent it through judicial enforcement of an arbitration award.[2]

ORDER

For the reasons stated above, the Court DENIES Plaintiff's petition for a writ of mandamus and confirmation of arbitration award. Nathan C. Holland, counsel for Defendants, will serve notice of entry of this Order on all other parties and file proof of such service within seven days after the date the Court sent this order to him.

IT IS SO ORDERED this 12th of December, 2023.

DISTRICT JUDGE

Submitted by:

NATHAN C. HOLLAND (Bar No. 15247)
Deputy Attorney General
KIEL B. IRELAND (Bar No. 15368)
Deputy Solicitor General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717
T: (775) 684-1254
E: nholland@ag.nv.gov
Attorneys for Defendants

[2] The Court's confirmation of a different arbitration award in a different case does not control this case. The applicability of NRS chapter 38 was not at issue in that order.

CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of the First Judicial District Court, and that on December 12th, 2023, I deposited for mailing, postage paid, at Carson City, Nevada, a true and correct copy of the foregoing Order addressed as follows:

Nathan R. Ring, Esq.
Stranch, Jennings & Garvey, PLLC
3100 W Charleston Blvd., Suite 208
Las Vegas, NV 891012

Nathan C. Holland, Deputy Attorney General
Kiel B. Ireland, Esq Deputy Solicitor General
State of Nevada
Office of the Attorney General
100 North Carson Street
Carson City, NV 89701-4717

Daniel Marks, Esq.
Adam Levine, Esq.
Law Office of Daniel Marks
610 South Ninth Street
Las Vegas, NV 89101

Julie Harkleroad
Judicial Assistant, Dept. 1

FIRST JUDICIAL DISTRICT COURT MINUTES

CASE NO. 23 EW 00016 1B

TITLE: AMERICAN FEDERATION OF STATE COUNTY & MUNICIPAL EMPLOYEES, LOCAL 4041 VS JOSEPH M. LOMBARDO; NEVADA DEPARTMENT OF ADMINISTRATION; JACK ROBB AND NEVADA DIVISION OF HUMAN RESORCE MANAGEMENT

11/30/23 – DEPT. I – HONORABLE JAMES T. RUSSELL
C. Franz, Clerk – Not Reported

PETITION FOR WRIT OF MANDAMUS
Present: Nathan Ring, counsel for Plaintiff; Adam Levine, counsel for Intervenor; Nathan Holland, Deputy Attorney General.

Statements were made by Court and Levine regarding Levine appearing as intervenor.
COURT ORDERED: It allows Levine to be present.
Ring and Holland argued the matter.
Court stated findings;
COURT ORDERED: It the Petition for Writ of Mandamus and Confirmation of Arbitration of Arbitration Award. Holland to submit order.
Levine requested that the order for intervenor be filed.
COURT ORDERED: It is granting Levines motion to intervene.

The Court minutes as stated above are a summary of the proceeding and are not a verbatim record. The hearing held on the above date was recorded on the Court's recording system.

DISTRICT COURT CIVIL COVER SHEET

Carson City County, Nevada

Case No. 23 ECG PA 116 (Assigned by Clerk's Office)

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

Plaintiff(s) (name/address/phone):	Defendant(s) (name/address/phone):
American Federation of State, County & Municipal Employees, Local 4041 (a non-for-profit voluntary membership assoc. & labor org.	Joseph Lombardo; Nevada Dept. of Admin.; Jack Robb; Nevada Division of Human Resources Management; Mandee Brownsmith.
E-mail address:	E-mail address:
Attorney (name/address/phone): Nathan R. Ring, Esq. Stranch, Jennings & Garvey 300 S. Charleston Blvd. #203 Las Vegas, NV 89102	Attorney (name/address/phone):
Law Firm/Bar # 12078	Law Firm/Bar #
E-mail address: nring@stranchlaw.com.	E-mail address:

II. Nature of Controversy *(Please Select the Primary Complaint or the One Most Applicable Case Type Below)*

Civil Case Filing Types

Real Property

Landlord/Tenant
- ☐ Unlawful Detainer
- ☐ Other Landlord/Tenant

Title to Property
- ☐ Judicial Foreclosure
- ☐ Foreclosure Mediation Assistance
- ☐ Other Title to Property (e.g., Quiet Title)

Other Real Property
- ☐ Condemnation/Eminent Domain
- ☐ Other Real Property

Torts

Negligence
- ☐ Auto
- ☐ Premises Liability
- ☐ Other Negligence

Malpractice
- ☐ Medical/Dental
- ☐ Legal
- ☐ Accounting
- ☐ Other Malpractice

Other Torts
- ☐ Product Liability
- ☐ Intentional Misconduct
- ☐ Employment Tort
- ☐ Insurance Tort
- ☐ Other Tort

Probate

Probate *(select case type and estate value)*
- ☐ Summary Administration
- ☐ General Administration
- ☐ Special Administration
- ☐ Set Aside ( ) Surviving Spouse
- ☐ Trust/Conservatorship
- ☐ Other Probate

Estate Value
- ☐ $300,000 or Greater
- ☐ $200,000-$299,999
- ☐ $100,001-$199,999
- ☐ $25,001-$100,000
- ☐ $20,001-$25,000
- ☐ $2,501-20,000
- ☐ $2,500 or less

Construction Defect & Contract

Construction Defect
- ☐ Chapter 40
- ☐ Other Construction Defect

Contract Case
- ☐ Uniform Commercial Code
- ☐ Building and Construction
- ☐ Insurance Carrier
- ☐ Commercial Instrument
- ☐ Collection of Accounts
- ☐ Employment Contract
- ☐ Other Contract

Judicial Review/Appeal

Judicial Review
- ☐ Petition to Seal Records
- ☐ Mental Competency (in Lower Court Proceedings)

Nevada State Agency Appeal
- ☐ Department of Motor Vehicle
- ☐ Worker's Compensation
- ☐ Other Nevada State Agency

Appeal Other
- ☐ Appeal from Justice/Municipal Court
- ☐ Other Judicial Review/Appeal

Civil Writ

Civil Writ
- ☐ Writ of Habeas Corpus
- ☐ Writ of Mandamus
- ☐ Writ of Quo Warrant
- ☐ Writ of Prohibition
- ☐ Other Civil Writ

Other Civil Filing

Other Civil Filing
- ☐ Compromise of Minor's Claim
- ☐ Foreign Judgment
- ☐ Other Civil Matters

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

9/05/23
Date

/s/ David Calhoun
Signature of initiating party or representative

See other side for family/juvenile-related case filings.