STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RICARDO BONVICIN, Complainant, vs. NORTH LAS VEGAS POLICE OFFICERS ASSOCIATION, LOCAL 41, I.U.P.A.A.F.L.C.I.O., Respondent.	ITEM NO. 653B CASE NO. A1-045893 **ORDER**

For Complainant: Daniel Marks, Esq.
Adam Levine, Esq.
Law Offices of Daniel Marks

For Respondent: Walter R. Cannon, Esq.
Peter Angulo, Esq.
Christopher M. Cannon, Esq.
Olson, Cannon, Gormley & Desruisseaux

On October 26, 2006, Ricardo Bonvicin ("Bonvicin") filed a complaint with the Local Government Employee-Management Relations Board ("Board") against the North Las Vegas Police Officers Association ("Association"). Bonvicin's allegations against the Association were that it breached its duty to him of fair representation and as a result, Bonvicin has lost certain rights guaranteed to him under the parties' collective bargaining agreement ("CBA"), i.e., the right to an appeal of any arbitration decision rendered in the matter between Bonvicin and the City of North Las Vegas ("City").

An answer was filed by the Association as well as a motion to dismiss. The motion was denied, and the parties filed their respective prehearing statements. Thereafter, the matter was scheduled for hearing on November 2, 2007, and December 19, 2007. Formal "Findings of Fact, Conclusions of Law & Order" was finalized on April 2, 2008, and served on the parties. On April 16, 2008, the Association filed a "Petition for Rehearing." Pursuant to NAC 288.364, the Board has twenty days from the filing of such a petition to either grant or deny the same.

IT IS HEREBY ORDERED that the Petition is denied. Pursuant to NRS 288.110(2), the Board "may order any person to refrain from the actions complained of or to restore the party aggrieved any benefit of which he has been deprived by that action." The Board did not exceed its jurisdiction by ordering the Association to refrain from breaching its duty of fair representation. Posting notice of such a breach is typically ordered not only by this Board but by the National Labor Relations Board as well. Furthermore, Bonvicin was improperly denied representation by the Association, and the Board merely restored that benefit of representation to Bonvicin.

DATED this 30th day of April, 2008.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RICARDO BONVICIN, Complainant, vs. NORTH LAS VEGAS POLICE OFFICERS ASSOCIATION, LOCAL 41, I.U.P.A.A.F.L.C.I.O., Respondent.	ITEM NO. 653C CASE NO. A1-045893 **ORDER**

For Complainant: Daniel Marks, Esq.
Adam Levine, Esq.
Law Offices of Daniel Marks

For Respondent: Jeffrey Allen, Esq.
Olson, Cannon, Gormley & Desruisseaux

On the 23rd day of June, 2008, the Local Government Employee-Management Relations Board ("Board") deliberated on Complainant's request for attorneys' fees, costs, and an award of back pay as the prevailing party in this matter. This matter was duly noticed pursuant to the provisions of NRS and NAC Chapters 288, as well as NRS Chapter 233B and Nevada's Open Meeting laws.

This case arose on October 26, 2006, when Ricardo Bonvicin ("Bonvicin") filed a complaint with the Board against the North Las Vegas Police Officers Association ("Association"). Bonvicin's allegations against the Association were that it breached its duty to him of fair representation and as a result, Bonvicin has lost certain rights guaranteed to him under the parties' collective bargaining agreement ("CBA"), i.e., the right to an appeal of any arbitration decision rendered in the matter between Bonvicin and the City of North Las Vegas ("City").

An answer was filed by the Association as well as a motion to dismiss. The motion was denied, and the parties filed their respective prehearing statements. Thereafter, the matter was scheduled for hearing on November 2, 2007, and concluded on December 19, 2007. The Board

found in favor of Bonvicin and against the Association. The Board also awarded attorneys' fees and costs to Bonvicin as the prevailing party and ordered that the parties address that issue as well as whether Bonvicin is entitled to back pay. Bonvicin filed his petition for attorneys' fees, costs, and back pay on April 16, 2008; and thereafter, the Association opposed the requests.

BASED UPON the arguments raised by the parties, and good cause appearing therefore, IT IS HEREBY ORDERED that Bonvicin is awarded attorneys' fees in the amount of $22,611.25 and costs in the amount of $5,222.83 pursuant to NRS 288.110(6). The hourly rate of $325.00 is not unreasonable for the Las Vegas, Clark County, area, especially considering the firm's reputation in this community in the specialized area of labor law and the length of the hearing in this matter.

IT IS FURTHER ORDERED that Bonvicin is not entitled to back pay. NRS 288.110(2) allows the Board to order a party to "restore to the party aggrieved any benefit of which he has been deprived by that action." Based upon the Nevada Supreme Court decision in Nev. Serv. Empl. Union v. Orr, 121 Nev. 675, 119 P.3d 1259 (2005), the issue of back pay is best left for an arbitration of such an issue. Notice of the breach of the duty of fair representation shall be posted by the Association for a period of ninety (90) days, commencing within twenty (20) days of this order. Such posting shall be at a prominent place likely to be viewed by all bargaining unit members.

DATED this 24th day of June, 2008.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

JIM GIBBONS
Governor

MENDY K. ELLIOTT
Director

STATE OF NEVADA

Members of the Board
JAMES E. WILKERSON, SR., Chairman
JANET TROST, ESQ., Vice-Chairman
JOHN E. DICKS, ESQ., Board Member

JOYCE HOLTZ
Board Secretary

DEPARTMENT OF BUSINESS AND INDUSTRY

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

2501 E. Sahara Avenue, Suite 203, Las Vegas, Nevada 89104
(702) 486-4504 • Fax (702) 486-4355
www.emrb.state.nv.us

June 26, 2008

NOTICE TO EMPLOYEES AND ASSOCIATION MEMBERS

POSTED PURSUANT TO AN ADMINISTRATIVE DECISION RENDERED AFTER A CONTESTED HEARING BEFORE THE LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD
2501 E. Sahara Ave., # 203
Las Vegas, NV

NEVADA LAW PROHIBITS THE FOLLOWING ACTS BY EMPLOYEE ORGANIZATIONS:

A) Interference, restraint, or coercion of any employee in the exercise of any right guaranteed under NRS chapter 288.

B) Refuse to bargain collectively in good faith with the respective representative as required by NRS 288.150.

C) Discriminate because of race, color, religion, sex, age, physical or visual handicap, national origin or because of political or personal reasons or affiliations.

D) Fail to provide the information required by NRS 288.180.

WE WILL NOT do anything that interferes with these rights. More particularly,

WE WILL NOT arbitrarily, discriminatorily or in bad faith refuse, on request, to process grievances sought to be processed by **RICARDO BONVICIN** or any other employee towards whom we owe a duty of fair representation.

WE WILL NOT in any similar way frustrate your exercise of any of the rights stated above.

WE WILL promptly initiate and pursue in good faith and with due diligence any grievances filed on behalf of **RICARDO BONVICIN** concerning his discharge and any other terms or conditions of his employment with the City of North Las Vegas and the North Las Vegas Police Department, and will take whatever means are appropriate and necessary pursuant to our duty of fair representation up to, and including arbitration.

CHARGED PARTY: North Las Vegas Police Officers Association

Dated: _____ By _____
Association Representative
Title: _____

The Local Government Employee-Management Relations Board is a Nevada State Agency created to enforce the provisions of NRS chapter 288. To find out more about your rights under the Local Government Employee-Management Relations Act and how to file a complaint alleging prohibited labor practices, you may obtain information from the Board's website: http: emrb.state.nv.us

THIS IS AN OFFICIAL NOTICE AND MUST NOT BE DEFACED BY ANYONE. THIS NOTICE MUST REMAIN POSTED FOR 90 CONSECUTIVE DAYS FROM THE DATE OF POSTING AND MUST NOT BE ALTERED, DEFACED, OR COVERED BY ANY OTHER MATERIAL. ANY QUESTIONS CONCERNING THIS NOTICE OR COMPLIANCE WITH ITS PROVISIONS MAY BE DIRECTED TO THE BOARD'S OFFICES AT 702-486-4504.

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

MATHEW C. BURKE, Complainant, vs. CLARK COUNTY, Respondent.	ITEM NO. 654 CASE NO. A1-045900 **ORDER**

For Complainant: Frank J. Cremen, Esq.
John R. Martin, Esq.

For Respondent: Yolanda T. Givens, Esq.
Clark County District Attorney's Office

This matter came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on the 30th day of May, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws. The Board finds, concludes, and orders as follows:

A complaint was filed by Mathew C. Burke ("Burke") with the Board on January 26, 2007. On February 26, 2007, Clark County filed a Motion to Dismiss. On March 1, 2007, Burke filed a Motion to Associate Counsel and on March 7, 2007, filed his opposition to the Motion to Dismiss. Clark County filed its reply points and authorities in support of its motion on March 14, 2007.

Based upon a review of the documents filed to date, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Motion to Associate Counsel is hereby granted.

IT IS FURTHER ORDERED that the Motion to Dismiss is denied. Complaints are typically construed liberally, and the allegations in the complaint as well as the exhibits support

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the Board's decision to deny the Motion to Dismiss.

DATED this 31st day of May, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

MATHEW C. BURKE, Complainant, vs. CLARK COUNTY, Respondent.	ITEM NO. 654A CASE NO. A1-045900

For Complainant: Frank J. Cremen, Esq.
John R. Martin, Esq.

For Respondent: Yolanda T. Givens, Esq.
Clark County District Attorney's Office

FINDINGS OF FACT, CONCLUSIONS OF LAW & ORDER

On January 26, 2007, Mathew C. Burke ("Burke") filed a complaint with the Local Government Employee-Management Relations Board ("Board") against Clark County ("County"). Burke's allegations against the County were that he filed a grievance against the County, and it denied the grievance solely on the basis that the recognized employee organization did not present the grievance. The Service Employees International Union, Local 1107 ("SEIU") represents the bargaining unit applicable to Burke.

The County filed a motion to dismiss this matter, which was denied by the Board; thereafter, an answer was filed by the County. The hearing in this matter was conducted on December 17, 2007.

Discussion of Testimony & Evidence Presented

Burke was the first witness; and he testified he is a senior construction management inspector for the County Public Works Department. Transcript of Hearing ("Tr."), p. 27. Burke testified that he sent a grievance to Denis Cederburg (Hearing Exhibit ("Ex.") 1), indicating that he "felt that [he] was working out of [his] classification because of some duties that division

manager had assigned" to him. Tr. p. 28. Cederburg denied the grievance (Ex. 2) claiming that "[g]rievances can only be filed by the union when there is a dispute with the interpretation and/or application of the Collective Bargaining Agreement." Because of the late response by Cederburg, Burke had already filed his appeals (Ex. 3 and 4). Ray Visconti, Director of Human Resources for the County, denied the appeals (Ex. 5) claiming the "claim was not grievable," that the appeal was untimely, and that the Union must file any appeal. On December 25, 2006, Burke sent additional correspondence to the County (Ex. 8), in which he claims that his "grievance is NOT an issue of 'Contract Interpretation.' . . . My grievance has always been a simply matter of, 'the work I am being asked to perform is clearly outside the scope of my employment.'" (Emphasis in original.) He testified he is not an attorney and did not have the assistance of counsel in drafting this letter. Tr. p. 37.

Burke stated he is not a member of the incumbent Union, i.e., SEIU; and indicated from past experience that the "union is ineffective and would not properly represent" him. Tr. p. 55-6. In response to a question from the Board, he described his complaint as follows:

> The concern became whether they [the County] had the right at all to just arbitrarily place duties on me which were clearly outside of my scope of employment and what the extent of those were. . . . I felt they were exploiting me as an individual. Tr. p. 57-8.

He further indicated to the Board that his supervisor indicated he was being insubordinate and described the following about the impact on his job:

> I don't know the exact date, but last month they completely reassigned my duties, still quote/unquote within my current job title, senior construction management inspector, but now I'm to be an office engineer, and I had to pull tooth and nail to get a list of what was going to be required of me in that facet. (Tr. p. 59.) . . . but it seriously puts into question whether my position with the County is in jeopardy or not. (Tr. p. 60.)

Burke also indicated to the Board that he did not seek job reclassification as he felt he would be demoted, i.e., "I would have gone backwards in pay. I was more skilled as an inspector than as a computer programmer." Tr. p. 68.

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Upon cross-examination, Burke agreed that the Clark County Merit Personnel System has a resolution process should an employee believe he is working outside the scope of his employment. Tr. p. 47.

Ray Visconti was the second witness. He indicated he was the Deputy Director of Human Resources for the County. Tr. p. 76. He testified that an employee may file a grievance and not be a union member, but the grievance cannot pertain to an interpretation or application of the parties' Collective Bargaining Agreement ("CBA"). Tr. p. 77. He claimed that Burke's grievance "did not fall within the Collective Bargaining Agreement['s four corners]." Tr. p. 82. Visconti stated that the County is not concerned about employees not being union members. Tr. p. 86. Visconti stated, pursuant to the CBA, Burke "could have written a letter to Mr. Cederburg requesting a job audit if he thought he was working out of his current classification." Tr. p. 89. Classification audits are described in the parties' CBA. Tr. p. 91.

Upon cross-examination, Visconti stated that should an employee feel the CBA is being interpreted or applied incorrectly as to a specific employee, he would encourage that employee to contact Mr. Hatcher of the Union. Tr. p. 93-4. He admitted that he did not advise Burke in the December 13, 2006 correspondence to consider a classification audit pursuant to the Merit Personnel System. Tr. p. 97.

A discussion ensued between Mr. Visconti and the Board concerning Article 11, Sec. 2, of the parties' CBA, that the "Union, on behalf of an employee, who believes that the employee has a grievance relating to the **interpretation and application of the express terms of the Agreement, OR issuance of discipline**, shall reduce the grievance to writing and submit it to the employee's department head within ten (10) working days of the employee's knowledge of the contract violation." (Emphasis added.) Tr. p. 105-7. The Board also indicated that it was "curious" as to why the County would only accept grievances from non-Union employees pertaining to discipline, and discipline only, and whether that conflicted with NRS 288.140. Tr. p. 108-9. As a matter of fact, Chairman Wilkerson indicated: "Because that's not what the statute says. And the union cannot dictate to you or anyone else or to Mr. Burke . . . that unless it has to do with discipline, you have no right to file a grievance because that's not what the statute says."

Tr. p. 109. Visconti informed the Board that no formal document exists that an employee would not be demoted if a classification audit was performed. Tr. p. 112.

Denis Cederburg was the third witness. He is the Director of the County Public Works Department. Tr. p. 124. He testified that upon receipt of Burke's grievance, he contacted Les Henley and Richard Blut. Tr. p.126. As a matter of fact, Mr. Blut drafted the correspondence identified as Ex. 2 for Cederburg's signature. Tr. p. 127. He stated that Burke should have sought a classification audit (Tr. p. 128) and that Burke's job is not in jeopardy (Tr. p. 129). He does not know, however, if Mr. Henley or Mr. Blut met personally with Burke. Tr. p. 130.

Barbara King was the next witness; and she is the County's Employee Relations Manager. Tr. p. 131. Her duties include familiarity with the County's various CBAs and indicated that complainants "don't necessarily have to be a union member, but the union must represent them on a certain type of grievance." Tr. p. 132-33. Upon cross-examination, she indicated similarly that an "employee must be represented by the union to file a Step 1 contract interpretation grievance" but does not have to be so represented if the grievance pertains to discipline. Tr. p. 149. She further elaborated that the Union owns a contract interpretation grievance. Tr. p. 152.

The Board questioned Ms. King why did the County state the grievance was untimely if the deemed the matter ungrieveable. She believed it was merely to set forth all possible defenses for the County should the County need to defend its actions. Tr. p. 168-69. Upon direct questioning by Chairman Wilkerson whether the CBA takes precedence over statute, Ms. King could not provide a response. Tr. p. 173-75.

Marcus Hatcher was the last witness. He is SEIU's Director of Representation. Tr. p. 189. He testified that it is the Union's position that "individuals should not be able to pursue" grievances pertaining to CBA interpretation and application. Tr. p. 191. He also indicated that he had not heard of Burke until "today" (the day of the hearing). Tr. p. 199. He stated that he did not see a difference in NRS 288.140 between discipline or CBA interpretation grievances, but that the end result simply must not conflict with the terms of the CBA. Tr. p. 201.

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Upon cross-examination, Hatcher stated that an employee must go through the Union even in disciplinary matters. Tr. p. 205. He indicated that the Union does represent employees pertaining to "job classifications." Tr. p. 205-6. When questioned about whether the Union would file a grievance "about someone working outside- -someone being required by the County to do tasks that the individual employee and the union believe are not within his job title," he replied that it was "a possibility, but [he] would need to have more details." Tr. p.207.

Rather than provide closing arguments, the parties submitted post-hearing briefs for the Board to consider.

FINDINGS OF FACT

1. It is undisputed that Burke is a County employee and has been since 1994. As such, Burke is a government employee as defined in NRS 288.050.

2. It is undisputed that the County is a local governmental employer as defined in NRS 288.060.

3. It is undisputed that SEIU is the recognized bargaining agent for the unit in which Burke belongs and that a CBA exists between the parties (Ex. 10). Burke, however, is not a member of SEIU.

4. Burke filed a grievance with Denis Cederburg on October 26, 2006 (Ex. 1), indicating that the correspondence was "formal notice of a grievance" that he has been performing duties not within his job classification.

5. On October 31, 2006, Denis Cederburg responded to Burke that "[g]rievances can only be filed by the union when there is a dispute with the interpretation and/or application of the Collective Bargaining Agreement" and denied the grievance. Burke did not receive this correspondence until November 15, 2006. The County did not provide any proof to the contrary, i.e., the receipt of delivery for the certified letter.

6. On November 14, 2006, Burke provided the County with his request for a Step 2 meeting (Ex. 3); and on December 6, 2006, demanded Step 3 arbitration (Ex, 4).

7. On December 13, 2006, the County notified Burke that his grievances were untimely. (Ex. 5). However, the County provided no explanation whatsoever at the hearing when

questioned about why it did not respond to Burke's allegations that he had not timely received any responses to his grievance requests. Based upon the County's late response, the Board finds these requests to be timely.

8. The County's correspondence of December 13, 2006 (Ex. 5) also stated that Burke's "claim was not grievable" and that "an individual employee does not have independent grievance filing rights absent membership in, and representation by, the union."

9. In response to an email from Burke, the County claimed that it had previously allowed employees to pursue disciplinary actions without union assistance; however, the County claimed that Burke's issue is contact [sic] interpretation which we do not allow to proceed without the union as the outcome may effect many employees." Ex. 7.

10. Burke testified credibly that he was fearful of requesting an audit of his classification for fear that he would be demoted. The County claimed it had never demoted anyone after an audit; however, the Merit Personnel System (Ex. 9, Sec. IV, Bate Stamp p. 18) allows the County to demote an employee after an audit.

11. The parties' CBA (Ex. 10, Article 11) clearly and unambiguously states that a "grievance is defined as a filed dispute between the Union, on behalf of an employee(s), and the County **over the interpretation and/or application of the express terms of this Agreement OR a dispute over the issuance of discipline as defined herein.**" (Emphasis added.) Typically, by the use of the word "or," two separate phrases/instances are intended (e.g., (a) the interpretation and/or application of the CBA **OR** (b) concerning discipline). Testimony by the County concerning this Article appears contradictory to this Article's plain and unambiguous language.

12. It is undisputed that the parties' CBA refers to the County Merit Personnel System. See CBA (Ex. 10), Article 38(3). Similar to the Merit Personnel System, the CBA also includes procedures/information regarding a classification audit. See CBA (Ex. 10), Article 41. Thus, the Board finds the County's arguments that this matter is not within the "four corners" of the CBA less than credible.

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13. The Board finds the applicable statute to be NRS 288.140(2), namely:

> The recognition of an employee organization for negotiation, pursuant to this chapter, does not preclude any local government employee who is not a member of that employee organization **from acting for himself** with respect to **any condition of his employment**, but any action taken on a request or in adjustment of a grievance shall be consistent with the terms of an applicable negotiated agreement, if any. (Emphasis added.)

14. The requirement to perform tasks not assigned to, or beyond, the employee's specific classification is a "condition of [an employee's] employment." Pursuant to the parties' CBA, the Board finds that Burke attempted to comply with the terms of the parties' collective bargaining agreement and the Board further finds that the County refused the grievance in violation of NRS 288.140(2).

15. The Board further finds that this statute (NRS 288.140) has been in existence since 1969, without any changes thereto by the Legislature. Such silence by the Legislature indicates acquiescence by the Legislature of the Board's interpretation of the same.

16. Furthermore, this Board finds the ruling in the Nevada Supreme Court case of Cone v. Nev. Service Employees Union/SEIU Local 1107, 116 Nev. 473, 478, 998 P.2d 1178, 1181 (2000), as informative and controlling in this matter, when the Court indicated:

> Further, with regard to statutory language, there is another Nevada statute, NRS 288.140(2), that **explicitly authorizes a nonunion member to act on his own behalf** "with respect to any condition of his employment." This statute provides an individual with a right to forego union representation. (Emphasis added.)

17. Should any finding of fact be more properly construed as a conclusion of law, may it be so deemed.

CONCLUSIONS OF LAW

1. This Board has jurisdiction over the parties and the subject matters of the complaint on file herein pursuant to the provisions of NRS chapter 288.

2. The County is local government employer as defined in NRS 288.060.

3. The Union (SEIU) is an employee organization as defined by NRS 288.040.

4. Burke is an employee of a local governmental employer as defined by NRS 288.050.

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5. Prohibited labor practices are defined in NRS 288.270; and Section 1 thereof states that it is a prohibited labor practice for a local governmental employer to "interfere, restrain or coerce any employee in the exercise of any right guaranteed under this chapter" and to "discriminate against any employee" because of union involvement (or in this case, non-union involvement). NRS 288.140(2) provides Burke, as an employee, the right to act for himself with respect to any condition of his employment with the County.

6. Pursuant to NRS 288.110(2), the Board may hear and determine any complaint arising out of the interpretation of or the performance under the provisions of NRS chapter 288. Pursuant thereto, the Board noticed this matter for hearing.

7. The Board concludes that the County violated NRS 288.270(1) by interfering and restraining Burke from acting for himself (i.e., filing and pursuing a grievance) pursuant to NRS 288.140(2) concerning a condition of his employment.

8. Should any conclusion be more properly construed as a finding of fact, may it be so deemed.

DECISION AND ORDER

Based upon the above, the Board hereby orders as follows:

1. IT IS HEREBY ORDERED that the Board finds in favor of Burke and against Clark County.

2. IT IS FURTHER ORDERED that:

   a. That the County shall rescind its ruling/denial of Burke's grievance,

   b. That the County shall process Burke's grievance pursuant to the terms of the parties' CBA as if it had been timely pursued by Burke.

   c. That the County shall post a notice of its prohibited conduct in this matter on all bulletin boards for communications with all County Personnel. The notice to be posted shall be provided by this Board. The notice shall be posted for a period of 90 days and the Board's Commissioner may inspect the facility to determine whether the County is in compliance with this order.

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d. That the County shall pay all attorney's fees and costs incurred by Burke's private counsel in pursuing this matter. Burke is, therefore, ordered to submit relevant billing invoices and other supporting documentation for his counsel's fees, within twenty (20) days of the date of the instant order. The County has ten (10) days thereafter to oppose such billings and reply authorities in support of his request for fees and costs may be filed by Burke within ten (10) days thereafter.

DATED this 3rd day of April, 2008.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

MATHEW C. BURKE, Complainant, vs. CLARK COUNTY, Respondent.	ITEM NO. 654B CASE NO. A1-045900

For Complainant: Frank J. Cremen, Esq.
Glenn M. Taubman, Esq.

For Respondent: Yolanda T. Givens, Esq.
Clark County District Attorney's Office

On January 26, 2007, Mathew C. Burke ("Burke") filed a complaint with the Local Government Employee-Management Relations Board ("Board") against Clark County ("County"). Burke's allegations against the County were that he filed a grievance against the County, and it denied the grievance solely on the basis that the recognized employee organization did not present the grievance. The Service Employees International Union, Local 1107 ("SEIU") represents the bargaining unit applicable to Burke. Clark County filed an answer, and a hearing was ultimately held in this matter. The Board found in favor of Burke, and against Clark County. The Board also awarded fees and costs to Burke, and instructed Burke to file the appropriate motion with Clark County having the opportunity to oppose the same. Pursuant to that Order, Burke filed his motion for fees and costs. Clark County did not oppose the same.

This matter came on before the Board for further consideration on the 23rd day of June, 2008, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's Open Meeting Laws.

Pursuant to NRS 288.110(6), Burke is entitled to the recovery of attorneys' fees and costs as the prevailing party. Pursuant to NAC 288.240(6), should a party fail to oppose a motion,

such silence "may be construed as an admission that the motion is meritorious and [is a] consent to granting the motion." In light of the lack of involvement of local counsel, Burke is not entitled to recover any attorneys' fees incurred with Frank Cremen, Esq. Additionally, the Board does not traditionally award travel fees and costs, and such shall be denied as to Attorney John Martin.

BASED THEREUPON, IT IS HEREBY ORDERED that Burke is hereby awarded the sum of $25,760.00 as attorneys' fees and costs incurred in this matter of $1,225.00.

DATED this 23rd day of June, 2008.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

MESQUITE POLICE OFFICERS ASSOCIATION, Complainant, vs. CITY OF MESQUITE, Respondent.	ITEM NO. 655 CASE NO. A1-045901 **ORDER**

For Complainant: David R. Ford, Esq.

For Respondent: Jeffrey I. Pitegoff, Esq.

This matter came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on the 30th day of May, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws. The Board finds, concludes, and orders as follows:

A complaint was filed by the Mesquite Police Officers Association ("Association") with the Board on February 1, 2007. On March 13, 2007, the City of Mesquite filed its Answer which included a "Counterstatement" of the case. It also requested a dismissal of this matter as well as a request for deferral. On March 16, 2007, the Association filed its Motion to Dismiss the Counterstatement, or in the alternative, asserted a response thereto. On March 26, 2007, the City of Mesquite filed its "Opposition to the Motion to Strike Counterstatement of the Case and Motion to Strike Response to Counterstatement." On March 30, 2007, the Association filed its "Opposition to Countermotion to Strike Complainant's Response to Counterstatement."

Based upon a review of the documents filed to date, and good cause appearing therefor,

IT IS HEREBY ORDERED that the motion for deferral and/or dismissal found in the answer is hereby denied. An arbitration will not resolve issues pertaining to alleged violations of NRS chapter 288, as such is within the jurisdiction of this Board.

IT IS FURTHER ORDERED that the Motion to Strike Counterstatement is denied as the Board will not engage in the censorship of various pleadings and documents, such as the complaint, answer, and "counterstatements" filed in this matter.

IT IS FURTHER ORDERED that the Motion to Strike Response to Counterstatement is denied based on is decision not to engage in censorship of pleadings and documents.

DATED this 31th day of May, 2007.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

MESQUITE POLICE OFFICERS ASSOCIATION, Complainant, vs. CITY OF MESQUITE, Respondent.	ITEM NO. 655A CASE NO. A1-045901 **ORDER**

For Complainant: David R. Ford, Esq.

For Respondent: Jeffrey I. Pitegoff, Esq.

On the 12th day of February, 2008, this matter came on before the State of Nevada, Local Government Employee-Management Relations Board ("Board"), for consideration and decision pursuant to the provisions of NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws.

A complaint was filed in this matter by the Mesquite Police Officers Association ("Association") on February 1, 2007, alleging prohibited practices. The City of Mesquite ("City") filed an answer and counterclaim. Additionally, the City requested that this matter be deferred, and the Association filed its motion to dismiss the City's counterclaim. The Board entered its order on May 31, 2007, denying the request for deferral and denying the motion to dismiss. After prehearing statements were filed, this matter was scheduled for hearing for September 21, 2007, and a prehearing conference was also scheduled for September 7, 2007. At the prehearing conference, the parties indicated their desire to resolve this case and further indicated that it would advise the Board of any possible resolution. To date, the parties have not provided this Board with any documents evidencing a resolution although the Board has made various efforts to obtain any such documents evidencing a resolution.

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IT IS HEREBY ORDERED that based upon the parties' failure to prosecute this action in a timely manner, this matter is DISMISSED, with prejudice, with each party to bear their own attorney's fees and costs.

DATED this 12th day of February, 2008.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

LANCE GIBSON, Complainant, vs. CITY OF HENDERSON; HENDERSON POLICE DEPARTMENT, Respondents.	ITEM NO. 656 CASE NO. A1-045903 **ORDER**

For Complainant: Leonard H. Stone, Esq.
Shook & Stone, Chtd.

For Respondents: William E Cooper, Esq.
Cooper Law Offices

This matter came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on the 30th day of May, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws. The Board finds, concludes, and orders as follows:

On February 14, 2007, Lance Gibson ("Gibson") filed a complaint with this Board alleging prohibited labor practices by the City of Henderson and the Henderson Police Department. On March 8, 2007, the City of Henderson and its Police Department filed a joint Motion to Dismiss the complaint. An Opposition was filed by Gibson on March 21, 2007; and the City of Henderson and its Police Department filed their reply points and authorities on April 2, 2007.

Based upon a review of the documents filed to date, and good cause appearing therefor,

IT IS HEREBY ORDERED that the Motion to Dismiss is denied. Typically, complaints are liberally construed, and from the documents filed to date, it appears that the Police Department and the City of Henderson are proper Respondents. Representatives from both the

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Police Department and the City of Henderson are alleged to have taken action against, or participated in the action against Gibson, thus, they are both proper parties to this matter.

The Motion to Dismiss based on the statute of limitations is also denied, as the statute of limitation is triggered on the date that action was actually taken against the complainant not the date the City of Henderson and its Police Department claims Gibson was verbally notified.

Additionally, the Motion to Dismiss is denied on the grounds that should the parties participate in arbitration, such arbitration does not resolve issues and/or violations pertaining to NRS chapter 288, as such matters are within the jurisdiction of this Board.

Lastly, pertaining to allegations pertaining to NRS chapter 289, such allegations, if any, contained within the complaint are dismissed as this Board has no jurisdiction over NRS chapter 289.

DATED this 31th day of May, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

LANCE GIBSON, Complainant, vs. CITY OF HENDERSON; HENDERSON POLICE DEPARTMENT, Respondents.	ITEM NO. 656A CASE NO. A1-045903 **ORDER**

For Complainant: Leonard H. Stone, Esq.
Shook & Stone, Chtd.

For Respondents: William E. Cooper, Esq.
Cooper Law Offices

BASED UPON the stipulation of the parties that this matter be dismissed, with prejudice, with each party to bear their own fees and costs, and good cause appearing therefore,

IT IS THEREFORE ORDERED that this matter is dismissed, with prejudice, with each party to bear their own attorneys' fees and costs incurred.

DATED this 20th day of September, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA), CCEA REVIEW BOARD, AFRICA SANCHEZ, ESQ., VICKI COURTNEY, and KAREN ACKERMAN, Respondents.	ITEM NO. 657 CASE NO. A1-045904 **ORDER**

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

This matter came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on the 30th day of May, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws. The Board finds, concludes, and orders as follows:

On February 26, 2007, Ronald G. Taylor ("Taylor") filed a complaint with the Board against the Respondents above-named. On March 23, 2007, the Clark County Education Association, CCEA Review Board, Africa Sanchez, Esq., Vikki Cortney, and Karen Ackerson (collectively, the "Association") filed a Motion to Dismiss Complaint. In summary, the Association claims that the complaint pertains to procedural conduct at an expulsion hearing, "which is purely a matter of internal union concern" and not a prohibited labor practice arising to a violation of NRS chapter 288. An opposition was filed by Taylor on March 30, 2007, and reply points and authorities in support of the motion were filed by the Association on April 16, 2007. On April 20, 2007, Taylor filed a "Reply to Opposition to Motion to Dismiss Complaint." On May 9, 2007, the Association filed a Motion to Strike the last document filed by Taylor.

Based upon the documents filed to date, and good cause appearing therefor, IT IS HEREBY ORDERED that the Motion to Strike is granted as Taylor's document entitled "Reply to Opposition" is a fugitive document and is not allowed pursuant to this Board's statutes and regulations.

IT IS FURTHER ORDERED that the Motion to Dismiss is granted as to the allegations within the complaint pertaining to free speech violations (First Amendment) and the whistle-blowing allegations, because such violations are not contemplated by NRS chapter 288 and thus are outside the jurisdiction of this Board.

IT IS FURTHER ORDERED THAT the Motion to Dismiss is denied as to the remaining allegations of the complaint.

Lastly, IT IS ORDERED that an answer shall be filed by the Association within twenty (20) days from service of this order.

DATED this 31th day of May, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA), CCEA REVIEW BOARD, AFRICA SANCHEZ, ESQ., VICKI COURTNEY, and KAREN ACKERMAN, Respondents.	ITEM NO. 657A CASE NO. A1-045904
RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA) and MARY ELLA HOLLOWAY, Respondents.	CASE NO. A1-045906

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

These matters came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on September 20, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws.

On July 12, 2007, Complainant Ronald G. Taylor ("Taylor") filed a motion to consolidate Case No. A1-045906 with Case No. A1-045904. Case No. A1-045906 was filed with the Board on March 2, 2007, and pertains to Taylor being expelled from the Clark County Education Association ("Association") and its alleged breach of its duty of fairly representing Taylor. Case No. A1-045904 was filed with the Board on February 26, 2007, and pertains to the Association's

alleged discrimination against him because of his rival organization involvement and an alleged violation of the Whistle Blower Act (NRS 357.250).

On July 30, 3007, the Association filed its "Response" to the Motion to Consolidate and filed its "Counter-motion to Consolidate," seeking to consolidate Case No. A1-045906, Case No. A1-045904, Case No. A1-045908, and Case No. A1-045897. Case No. A1-045908 has been dismissed by this Board. Case No. A1-045897 pertains to allegations that the Association filed false information with the Board for the time period 2005/2006 and that the members did not ratify the memorandum of understanding entered into between the Clark County School District ("School District") and the Association.

Thereafter, Taylor filed his "Opposition" to the countermotion on August 15, 2007; and on August 30, 2007, the Association filed their "Reply" in support of its countermotion.

BASED upon the above mentioned pleadings and documents filed by the parties through their respective attorneys of record, and good cause appearing therefore,

IT IS HEREBY ORDERED that Case No. A1-045906 shall be consolidated with Case No. A1-045904. Different issues were raised in Case No. A1-045897 from those raised in the other two cases; therefore, Case No. A1-045897 shall remain unconsolidated.

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Therefore, the countermotion to consolidate is denied and the motion to consolidate Case No. A1-045906 with Case No. A1-045904 is granted. The above reflects the consolidated caption for these two cases.

DATED this 20th day of September, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET PROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA), CCEA REVIEW BOARD, AFRICA SANCHEZ, ESQ., VICKI COURTNEY, and KAREN ACKERMAN, Respondents.	ITEM NO. 657B CASE NO. A1-045904
RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA) and MARY ELLA HOLLOWAY, Respondents.	CASE NO. A1-045906

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

On the 12th day of February, 2008, the "Motion for Continuance" filed by Respondents came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board"), noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws. On February 6, 2008, Complainant Ronald G. Taylor ("Taylor") filed his response, noting that he would not object to the continuance if the matters could be continued to a mutually convenient date.

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BASED upon the mutual agreement of the parties to continue the hearing in this matter, IT IS HEREBY ORDERED that the hearing shall be continued to a date mutually acceptable to the Complainant and the Respondents.

The parties are also reminded that Case No. A1-045897 is not consolidated with these two consolidated matters; and any further pleadings or documents must be filed in the respective case, with the respective case number.

DATED this 12th day of February, 2008.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA), CCEA REVIEW BOARD, AFRICA SANCHEZ, ESQ., VICKI COURTNEY, and KAREN ACKERMAN, Respondents.	ITEM NO. 657C CASE NO. A1-045904
RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA) and MARY ELLA HOLLOWAY, Respondents.	CASE NO. A1-045906

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

FINDINGS OF FACT, CONCLUSIONS OF LAW & DECISION

This matter having come on for hearing before the State of Nevada Local Government Employee-Management Relations Board ("Board") for June 24-25, 2008, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, as well as Nevada's Open Meeting Laws, finds, concludes, and orders as follows:

I. History of Case.

The complaint in A1-045904 was filed by Ronald G. Taylor ("Taylor") with the Board on February 26, 2007, against the Clark County Education Association ("Association" or "CCEA").

the Association's Review Board, Africa Sanchez, Esq., Vicki Courtney, and Karen Ackerman. The allegations against the Respondents were that they discriminated against Taylor due to his involvement in a rival employee organization. An answer was filed in this matter, along with various motions to dismiss, to strike pleadings, and to consolidate this matter with A1-045906.

The complaint in A1-045906 was filed by Taylor with the Board on March 2, 2007, against the Association and Mary Ella Holloway. At issue in this matter was the Respondents' breach of its duty to represent Taylor and his expulsion from the Association. An answer and counterclaim were filed in this matter, along with motions to dismiss and to strike pleadings.

On September 20, 2007, Case Nos. A1-045904 and A1-045906 were consolidated for purposes of an administrative hearing. Taylor filed his pre-hearing statement on October 12, 2007 and the Respondents filed their pre-hearing statement on November 1, 2007. As indicated above, this consolidated case was scheduled for hearing before the Board. Several witnesses were called, and the following is a brief discussion of their testimony.

II. Testimony at Hearing.

Robyn Hultengren was the first witness. She was on the Association's Executive Board and heard Taylor's expulsion hearing. She indicated the Executive Board is the governing body for the Association, and it was upset that Taylor had contacted Teamsters. She resigned from the Executive Board because of differing opinions with John Jasonek. She indicated that a member on the Review Board can be impeached, although she has not researched how to impeach a member.

Bonnie Peck was the next witness. She is a Building Representative and was a complaining party against Taylor, although she did not know that it would result in Taylor's expulsion. She has seen his remarks on the Interact site, but Ackerman asked her and her husband to be complainants against Taylor. Fourteen individuals were contacted to be complainants; and had she the opportunity to do it again, she would not be a complainant against Taylor since it resulted in his expulsion. She does not believe that any dues-paying member should be expelled. Peck indicated that if members are dissatisfied with an Executive Board member, they should seek that Board member's impeachment.

Although her husband, Michael, indicated a desire to contact AFT, they were not disciplined or expelled from the Association for discussing another employee organization. They, however, never formed a competing organization or tried to decertify the Association. In response to a question from this Board, Peck indicated that if she was confronted with a dissenter, she would put that person to work for the Association in some capacity.

Michael Peck also testified. He does not recall talking with Taylor but he is listed as a charging party. Ackerman asked permission for the use of his name on the charge against Taylor; and he thought that Taylor would only be brought before the Review Board. He does not recall any specific charges against Taylor, but he personally thinks the action against Taylor was proper. He stated he was only "venting" when he talked about AFT, and he only vocalized such a feeling to his wife. Neither he nor his wife appeared at the Review Board hearing.

Michael Steinbrink was the next witness. Although he did not appear at the Review Board hearing, he is a charging party against Taylor. Vicki Courtney asked permission to use his name as a complainant. He stated he understood the charge to be forming a competing union and was aware that Taylor could be expelled. He indicated to this Board that he would still be a charging party today against Taylor knowing that the result would be expulsion.

Kenneth Zelasko was Taylor's witness at this Board's hearing as well as at the hearing before the Association's Review Board. Zelasko stated that he was a moderator for the Clark County School District's Interact website, Teacher's Lounge. He testified that Taylor is the only teacher to his knowledge without privileges to use the Interact website from home. He also testified that he and Taylor made suggestions to the Association, and the Association retaliated with their article "Setting It Straight" which he believes defames him.

Zelasko offered testimony concerning the possibility of altered emails and/or memoranda. He testified that Attorney Sanchez was at the Review Board hearing, but Taylor was not allowed an attorney to represent him at the hearing. A copy of the transcript of the Review Board hearing was presented as an exhibit and Sanchez is noted therein as being present at the Review Board hearing.

Zelasko also testified that Taylor was not allowed the opportunity to present an opening statement or a closing statement, and that the decision was rendered shortly after the meeting without Taylor being afforded the opportunity to submit a post-hearing brief. Zelasko also stated that Taylor was concerned with becoming an at-will employee should he be expelled from the Association. He also stated that Taylor should not have been expelled because a dissenting opinion, or a voice of opposition, assures proper representation by an employee organization.

According to Zelasko, Mary Ella Holloway informed him that as long as she was involved with the Association, he would not be "welcomed" within the Association.

The Association's first witness was Africa Sanchez. She is the Association's general counsel having been admitted to the Nevada bar in October, 2000; and she provides daily legal advice to the Association. Such advice included advice to the Review Board that Taylor could not have an attorney present at the Review Board hearing. She testified regarding hearing Exhibit B which is the Review Board's policies and procedures, and admits that Section I pertains to impeachment and Section II pertains to censure, suspension, or expulsion of a member. This document is silent as to whether attorneys can be present at the Review Board hearing. She also assisted in the drafting of the charges against Taylor and believes Taylor had an opportunity to make an opening statement when it became time to present his case to the Review Board. She claims that Taylor also did not ask to file any post-hearing documents. She also stated that she attended the Review Board hearing to assure that all parties' rights were protected.

She stated that because of Taylor's activities in forming a new rival organization, all correspondence or documents pertaining to Taylor came straight to her. She claims that Taylor campaigned for teachers to stop paying dues to the Association, and if that occurred, the Association could no longer exist. Sanchez stated that Taylor even picketed during the drop period for employees to drop their Association membership. Taylor also allegedly solicited teachers to contact him regarding the new organization and the possibility of better health insurance than that offered by the Association.

Sanchez testified that all of Taylor's activities indicated that he was a rival union organizer. She considered him a serious threat to the Association. She did state, however, that Association members will typically talk to disgruntled members, but she is not aware of anyone ever talking to Taylor. She also admits that rank and file members of the Association did not complain about Taylor to her knowledge.

As for damages suffered by Taylor due to his expulsion from Association membership, Taylor no longer can buy cheaper movie tickets; allegedly he has no right to Association representation in a grievance; Taylor cannot attend Association meetings or vote in elections for Association officers-directors; additional life insurance is no longer being provided to Taylor through the Association; and malpractice insurance is no longer being provided to Taylor through the Association.

The next witness was Karen Ackerman. She has been a Building Representative for the Association as well as on the Executive Board and has been Treasurer. She claims members and non-members approached her regarding Taylor's messages on the Interact website. She personally did not like Taylor's use of the website for his own purpose of forming a rival employee organization. His postings led her to believe that Taylor was seeking decertification of the Association and that led to her seeking the complaint and hearing before the Review Board. She stated that Taylor created "great tension" in her life. She stated she is not aware of any Association member approaching Taylor regarding his concerns.

Ms. Ackerman discussed the Association's goals and principles and how Taylor could have allegedly violated the same. She admits that principles are not set out in the bylaws, policies, and procedures offered as hearing exhibits. Goals are found in the preamble. She stated she contacted several members to be the complainants against Taylor, and Vicki Courtney contacted the other complainant members. She stated that she did not think that the Review Board would expel Taylor.

Testimony was also offered as to the timing of the complaint against Taylor versus the date Taylor actually filed his complaint with this Board. The complaint bringing Taylor before the Review Board was dated November 2006; however, the complaint was not filed with this

Board until January 2007. She stated that she did not think it was a personal attack against Taylor by her soliciting complaining members against him. She claims the only reason the charges were filed against Taylor was because he was organizing a competing employee organization. Ackerman further claims that by seeking decertification of the Association, you are not helping its members, and that filing a complaint with this Board is an extreme measure.

Testimony was also presented that Chet Miller was not disciplined or expelled from the Association for any dissenting remarks he made against the Association. During questioning of Ackerman by this Board, counsel for the Association stipulated that Taylor was expelled from the Association based upon his efforts to form a rival union and his attempt to decertify CCEA, which efforts culminated with him filing a petition with this Board seeking decertification. Taylor moved for summary judgment that, pursuant to NRS 288.270(2)(a), it is a prohibited labor practice to "interfere with, restrain or coerce any employee in the exercise of any right guaranteed" in NRS chapter 288; and pursuant to NRS 288.140(1), "[i]t is the right of every local governmental employee, . . . to join any employee organization of his choice or to refrain from joining any employee organization." The Board granted the summary judgment in favor of Taylor and against the Respondents; and based thereon, dismissed the Respondents' counterclaim.

FINDINGS OF FACT

1. That only two of the fourteen charging parties were present at the Review Board hearing, namely, Ackerman and Vicki Courtney; and those two (Ackerman and Courtney) were the individuals who solicited the complainants for the "Initiation of Proceedings" against Taylor.

2. Testimony was presented that no rank-and-file members of the Association complained of Taylor's conduct. Testimony was presented, however, that Sanchez believed Taylor was a serious threat to the Association and that Taylor caused great tension in the life of Ackerman.

3. Ackerman testified that the Review Board only deliberated for approximately ½ hour, and that the deliberations were immediately after the hearing, without Taylor being provided an opportunity to file any post-hearing briefs or documents. Pursuant to the Review Board's

policies and procedures, Taylor had the right to submit post-hearing briefs and/or documents. Sanchez indicated she attended the Review Board hearing to protect the rights of the parties; however, she failed to advise or remind Taylor of his rights to file any post-hearing documents and/or appeal. In fact, she was instrumental in denying Taylor legal representation before the Review Board. This is especially alarming considering the serious ramifications suffered by Taylor. In light of the short time in which the deliberations were conducted and the immediate commencement of the deliberations, a predetermined outcome was evident, especially in light of the apparent animosity towards Taylor, after a summary hearing.

4. Arguments were made by Taylor that he was fearful of becoming an at-will employee with no protection at all, even through such is a misunderstanding of the law.

5. Taylor lost certain rights-benefits by expulsion from the Association, namely, Taylor no longer can buy cheaper movie tickets; allegedly he has no right to Association representation in a grievance and representation by others would be at an increased hourly rate; Taylor cannot attend Association meetings or vote in elections for Association officers-directors; additional life insurance is no longer being provided to Taylor through the Association and Taylor testified he travels to a prison as his teaching assignment (i.e., a greater risk of exposure than traditional teachers); and malpractice insurance is no longer being provided to Taylor through the Association.

6. Based upon the demeanor of the witnesses, there is an appearance of personal animosity towards Taylor, e.g., Ackerman testified Taylor gives her "great stress" or "tension" in her life and all matters involving Taylor are immediately forwarded to the Association's general counsel.

7. No one from the Association ever contacted Taylor about his concerns or attempted to have him be more involved with the Association.

8. This Board finds that expulsion from the Association upon the filing of a complaint with this Board will have a chilling effect on members to complain about the Association and or may cause the members not to file prohibited labor practice complaints with this Board.

9. Substantial evidence exists in the record that Taylor wished to remain in the Association, such as appearing at the Review Board hearing concerning his expulsion.

10. Furthermore, animosity is evident in the comments made that if certain members dropped their membership in the Association, they would never be allowed back into Association, or "welcomed" into the Association.

11. Taylor's acts of allegedly posting improper messages on the Interact website may be a violation of a Clark County School District policy, but no evidence was submitted that such a mere act of posting was so egregious that he should be expelled from the Association along with the accompanying loss of benefits and rights. Testimony was provided that if there is a dissenter of the Association, that such a dissenter should be brought into a more active role or provided duties within the Association. Simply making comments against the Association, or creating a website, or even attempting to achieve the impeachment of an officer is not so egregious to warrant Taylor's expulsion from the Association with the associated loss of benefits and rights. Based upon a credibility determination of the witnesses' testimony, Taylor was simply unable to get the Association to respond to his concerns, and he merely took the next step he deemed necessary.

12. There were members who may have voiced a concern against the Association, namely, Chet Miller and Michael Peck, but they were not disciplined nor expelled from the Association, yet discriminatorily they did so with Taylor.

13. The applicable documents, bylaws and policies/procedures do not prevent attorneys appearing before the Review Board on behalf of a party, yet Taylor was precluded from having an attorney at the Review Board hearing.

14. The allegations concerning Taylor violating the Association's principles are groundless, as principles are not defined in the Bylaws. Although goals may be referenced in the Preamble to the Bylaws, insufficient evidence was presented at the hearing before this Board of Taylor's alleged violations of the same to warrant his expulsion.

15. Should any finding of fact be more properly construed as a conclusion of law, may it be so deemed.

CONCLUSIONS OF LAW

1. The Local Government Employee-Management Relations Board ("Board") has jurisdiction over the parties and the subject matters of the complaint on file herein pursuant to the provisions of NRS Chapter 288.

2. The Association is an employee organization serving as the exclusive bargaining agent for the teachers in the Clark County School District as defined in NRS 288.027 and NRS 288.040.

3. Taylor is a local governmental employee as defined in NRS 288.050.

4. Pursuant to NRS 288.270(2), the Board concludes that it is a prohibited labor practice to "interfere with, restrain or coerce any employee in the exercise of any right guaranteed" in NRS chapter 288 and/or discriminate against an employee for personal reasons.

5. Pursuant to NRS 288.140(1), this Board concludes that "[i]t is the right of every local governmental employee . . . to join any employee organization of his choice or to refrain from joining any employee organization."

6. This Board concludes that the Respondents and each of them discriminated against Taylor in that certain members were disciplined for dissenting with the Association and others were not. Taylor was the member who was disciplined by formal expulsion from the Association, although the acts and/or conducts of voicing a dissenting opinion of the Association were not so egregious warranting the severe sanction of expulsion.

7. This Board concludes that the Respondents and each of them committed a prohibited labor practice by interfering and restraining Taylor "in the exercise" of his right to join the employee organization representing the bargaining unit of which he is a member, i.e., the Association; and that Taylor has undisputedly lost certain rights, privileges, and/or benefits as identified herein.

8. Should any conclusion be more properly construed as a finding of fact, may it be so deemed.

DECISION AND ORDER

Based upon the above, the Board decides and orders as follows:

Pursuant to NRS 288.110(2), the Board may order that a party refrain from the action complained of and restore to the aggrieved petitioner any benefit of which he has been deprived of by the prohibited labor practice. BASED THEREON, IT IS ORDERED that the Association shall immediately reinstate Taylor into membership with the Association, with all benefits, and compensate Taylor for any benefit deprived by the prohibited expulsion from the Association.

FURTHERMORE, the Association is hereby ORDERED to cease and desist from any further prohibited practices against Taylor in the exercise of his guaranteed rights under NRS chapter 288.

Taylor is hereby awarded costs incurred in bringing these consolidated cases, and an itemization for the same shall be filed within twenty (20) days of the service of this order. Respondents shall have ten days thereafter to file an opposition to the itemization of costs incurred.

Lastly, relying on guidance by the National Labor Relations Act, a posting shall be made concerning the Association's prohibited labor practices as alleged herein. The Board staff shall draft a notice and present it to this Board for approval and decision regarding the length of time and other details pertaining to the posting.

DATED this 16th day of July, 2008.

LOCAL GOVERNMENT EMPLOYEE-
MANAGEMENT RELATIONS BOARD

BY: _____
JAMES E. WILKERSON, SR., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JOHN E. DICKS, ESQ., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA), CCEA REVIEW BOARD, AFRICA SANCHEZ, ESQ., VICKI COURTNEY, and KAREN ACKERMAN, Respondents.	ITEM NO. 657D CASE NO. A1-045904
RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA) and MARY ELLA HOLLOWAY, Respondents.	CASE NO. A1-045906

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

The petition for rehearing and/or reconsideration filed by the Respondents in this consolidated case came on for consideration by the Local Government Employee-Management Relations Board ("Board") on the 6th day of August, 2008, having been duly noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws.

The "Petition for Rehearing, or in the alternative, Petition for Reconsideration" was timely filed by the Respondents. No response or answer was ordered by the Board and no response is permitted pursuant to NAC 288.362 without an order from the Board.

Based upon the arguments raised in the petition, and good cause appearing therefore,

IT IS HEREBY ORDERED that the above-described petition is GRANTED and the hearing shall resume at a mutually convenient time for all parties at the point in testimony at which the motion for summary judgment was previously granted. IT IS FURTHER ORDERED that the "Findings of Fact, Conclusions of Law & Order," previously entered in this matter as Item No. 657C is set aside pending the conclusion of the hearing in this matter.

DATED this 6th day of August, 2008.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JANET TROST, ESQ., Chairman

BY: _____
JOHN E. DICKS, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA) and MARY ELLA HOLLOWAY, Respondents.	ITEM NO. 658 CASE NO. A1-045906 **ORDER**

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

This matter came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on the 30th day of May, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws. The Board finds, concludes, and orders as follows:

On March 2, 2007, a document entitled "Duty of Fair Representation" was filed by Ronald G. Taylor ("Taylor") with the Board. On March 28, 2007, the Clark County Education Association and Mary Ella Holloway (collectively, the "Association") filed an Answer and Counterclaim. On April 20, 2007, Taylor filed a Motion to Dismiss Counterclaim; and the Association filed a Motion to Strike on May 3, 2007. Taylor opposed the Motion to Strike on May 11, 2007; and the Association filed their reply points and authorities on May 29, 2007. The Motion to Strike was based on Taylor's signing the certificate of mailing on his Motion to Dismiss on April 18, 2007, indicating that the document was mailed on that date; however, the document was file-stamped on April 20, 2007, and the envelope is postmarked April 21 2007.

Based upon the documents filed to date, and good cause appearing therefor, IT IS HEREBY ORDERED that the Motion to Strike the Motion to Dismiss is denied as no prejudice

has resulted from the erroneous information contained within the certificate of mailing and the pro se complainant has now had a lesson on the procedures of filing and serving documents pursuant to NRS and NAC chapters 288.

IT IS FURTHER ORDERED that the Association shall file an opposition to the Motion to Dismiss Counterclaim within ten (10) days of service of the order.

DATED this 31st day of May, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY EDUCATION ASSOCIATION (CCEA) and MARY ELLA HOLLOWAY, Respondents.	ITEM NO. 658A CASE NO. A1-045906 **ORDER**

For Complainant: Ronald G. Taylor

For Respondents: Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

The matter came on for discussion and deliberations by the Local Government Employee-Management Relations Board ("Board") on July 12-13, 2007, noticed pursuant to NRS and NAC chapters 288, NRS chapter 233B, and Nevada's open meeting laws.

On March 28, 2007, the Clark County Education Association and Mary Ella Holloway (collectively, the "Association") filed their Answer and Counterclaim. On April 20, 2007, Ronald G. Taylor ("Taylor") filed his Motion to Dismiss Counterclaim. The Association filed its Opposition on June 18, 2007; and Taylor filed his "Response" to the Opposition on June 28, 2007.

Based thereon, IT IS HEREBY ORDERED that the Motion to Dismiss is DENIED and Taylor is ordered to file his Answer to the Counterclaim within twenty (20) days from the date of

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service of this Order. Thereafter, the parties are to file their pre-hearing statements pursuant to NRS and NAC chapters 288.

DATED this 13th day of July, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member

STATE OF NEVADA

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT

RELATIONS BOARD

RONALD G. TAYLOR, Complainant, vs. CLARK COUNTY SCHOOL DISTRICT and CLARK COUNTY EDUCATION ASSOCIATION, Respondents.	ITEM NO. 659 CASE NO. A1-045908 **ORDER**

For Complainant: Ronald G. Taylor, in proper person

For Respondents: C.W. Hoffman, Jr., Esq.
Clark County School District

Francis C. Flaherty, Esq.
Dyer, Lawrence, Penrose, Flaherty & Donaldson

On March 30, 2007, Ronald G. Taylor ("Taylor") filed a complaint with the Local Government Employee-Management Relations Board ("Board"). The Clark County School District ("School District") filed a Motion to dismiss, which was opposed by Taylor on April 20, 2007. On April 24, 2007, the Clark County Education Association ("Association") filed a Motion to Dismiss, which was opposed by Taylor on May 7, 2007. The School District filed its reply points and authorities in support of its motion on May 3, 2007; and the Association filed its reply points and authorities in support of its motion on May 23, 2007.

This matter was duly noticed for deliberation and decision on May 30 and 31, 2007; such having been noticed pursuant to NRS chapter 288, NAC chapter 288, NRS chapter 233B, and Nevada's Open Meeting Laws; and based upon the documents filed,

IT IS HEREBY ORDERED that both Motions to Dismiss are denied, without prejudice.

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Complaints are liberally construed by the Board; and sufficient facts exist to allow this matter to continue at this time.

DATED this 31st day of May, 2007.

LOCAL GOVERNMENT EMPLOYEE-MANAGEMENT RELATIONS BOARD

BY: _____
JOHN E. DICKS, ESQ., Chairman

BY: _____
JANET TROST, ESQ., Vice-Chairman

BY: _____
JAMES E. WILKERSON, SR., Board Member