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### Las Vegas Police Protective Association, Inc. v. The Eighth Judicial District Court, 138 Nev. Adv. Op. 59 (Aug. 18, 2022)

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*Las Vegas Police Protective Association, Inc. v. The Eighth Judicial District Court, 138 Nev. Adv. Op. 59 (Aug. 18, 2022)*<sup>1</sup>

CIVIL PROCEDURE: A MOTION TO INTERVENE MUST BE FILED BEFORE A FINAL JUDGMENT IS ENTERED ON THE CASE

**Summary**

In order to intervene as a necessary third party, the motion to intervene must be filed before a final judgement has been entered that resolves the case. Additionally, even though the Las Vegas Police Protective Association attempted to intervene too late, the Court considered whether they were a necessary party at all. The Court concluded that they were not a necessary party because their absence would not impair or impede any of their interests.

**Background**

This case involves Jordan Travers, an officer for the Las Vegas Metropolitan Police Department (“Metro”). Travers witnessed an officer-involved shooting and was statutorily required to participate in investigatory interviews. Travis exercised his statutory right to choose an attorney to represent him in the investigation. He selected an attorney covered by a separate plan and did not elect to use a representative from the Las Vegas Police Protective Association (“LVPPA”) who was the exclusive bargaining agent for Metro officers. Metro denied Travers’ representation, so he sought injunctive relief. The district court issued a permanent injunction in Travers’ favor, and LVPPA moved to intervene in the action.

The district court rejected the intervention because it had already entered final judgment in the matter. LVPPA filed a petition for a writ of mandamus or prohibition requesting the Supreme Court of Nevada to either compel the district court to terminate the injunction or prohibit its enforcement and allow LVPPA to participate in further proceedings.

**Discussion**

***A writ petition is the appropriate method for a nonparty to challenge a district court order***

The initial issue for LVPPA was what method was appropriate in order to challenge the district court’s order, because they were not a party to the underlying action. NRAP 3A(a) states that only *a party* has standing to appeal a district court order.<sup>2</sup> Therefore, LVPPA could only seek relief via a petition for extraordinary relief. The decision of whether to entertain a writ petition is within the court’s sole discretion.<sup>3</sup> The Court exercised that discretion to review the merits of LVPPA’s petition.

***LVPPA’s motion to intervene was untimely***

Must a motion to intervene be made before a final judgement is entered in order to be considered timely under NRCP 24(a)? LVPPA argued that the timing of its motion to intervene was irrelevant, and the district court should have substantively considered its motion. The Court disagreed and discussed that under NRCP 24(a), it specifically says that a court may permit someone to intervene on a *timely motion*. Referencing NRS 12.130(1)(a), the Court explained that intervention is permissible before the trial, but it is not permissible subsequent to the entry of

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<sup>1</sup> By Ben Reber.

<sup>2</sup> See Gladys Baker Olsen Family Tr. v. Olsen, 109 Nev. 838, 839-40, 858 P.2d 385, 385-86 (1993).

<sup>3</sup> Smith v. Eighth Judicial Dist. Court, 107 Nev. 674, 677, 818 P.2d 849,851 (1991).

a final judgment. Based on this reasoning, the Court held that timeliness under NRC 24 must, at least, mean before the entry of final judgment.

***LVPPA was not a necessary party to the action***

The Court then considered whether LVPPA was a necessary party to the underlying action. LVPPA argued that their contract with Metro gave it the right to represent peace officers in disciplinary matters, including internal investigations, and that their interests would be harmed if they were not joined. However, the cause of action that Travers brought was that Metro had violated his rights under NRS 289.080(2), which gives him the right, in an investigation, to request that two representatives of the officer's choosing be present during the investigation. In a previous decision, the Court held that the statute did not expressly impose any affirmative duties on entities to provide representation and instead only gave the employee a right to choose two representatives.<sup>4</sup> In that case, the Court held that nothing in NRS 289.080 governs LVPPA's responsibility towards its members.<sup>5</sup> Specifically because this action was brought under NRS Chapter 289, which affords rights to peace officers, and because Chapter 289 provides no rights or obligations to LVPPA, the Court held that LVPPA did not have a valid interest that made it a necessary party to the underlying litigation between Travers and Metro.

**Conclusion**

Because LVPPA attempted to intervene in the case between Travers and Metro after the district court had entered a final judgment, their motion was not timely, and the district court properly denied the motion. The district court's ruling was affirmed. Furthermore, because the cause of action was brought under NRS Chapter 289, LVPPA had no interests that would be injured if they were not joined, and the Court held that they were not a necessary party to the action. The Court therefore denied LVPPA's petition for writ relief.

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<sup>4</sup> *Bisch v. Las Vegas Metropolitan Police Department*, 129 Nev. 328, 302 P.3d 1108 (2013).

<sup>5</sup> *Id.*