

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 **Marquis Aurbach**
2 Craig R. Anderson, Esq.
3 Nevada Bar No. 6882
4 Nicholas M. Adams, Esq.
5 Nevada Bar No. 15859
6 10001 Park Run Drive
7 Las Vegas, Nevada 89145
8 Telephone: (702) 382-0711
9 Facsimile: (702) 382-5816
10 canderson@maclaw.com
11 nadams@maclaw.com

12 Attorneys for Defendants LVMPD, Sgt. Torrey, Ofc. Bourque, Ofc. Dingle, Ofc.
13 Sorenson, Ofc. Sandoval and Ofc. Doolittle

14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 JOSE DECASTRO,

17 Plaintiff,

18 vs.

19 LAS VEGAS METROPOLITAN POLICE
20 DEPARTMENT; STATE OF NEVADA;
21 BRANDEN BOURQUE; JASON TORREY;
22 C. DINGLE; B. SORENSON; JESSE
23 SANDOVAL; OFFICER DOOLITTLE and
24 DOES 1 to 50, inclusive,

25 Defendants.

Case Number:
2:23-cv-00580-APG-EJY

**DEFENDANTS LVMPD, SGT.
TORREY, OFC. BOURQUE, OFC.
DINGLE, OFC. SORENSON, OFC.
SANDOVAL AND OFC. DOOLITTLE'S
REPLY BRIEF IN SUPPORT OF
SECOND MOTION FOR SUMMARY
JUDGMENT**

26 Defendants Las Vegas Metropolitan Police Department, Ofc. Torrey, Ofc. Bourque,
27 Ofc. Dingle, Ofc. Sorenson, Ofc. Sandoval and Ofc. Doolittle (“LVMPD Defendants”), by
28 and through their attorneys of record, Marquis Aurbach, hereby file their Reply Brief in
Support of their Second Motion for Summary Judgment. (ECF No. 102) This Reply is made
and based upon the Memorandum of Points & Authorities, the pleadings and papers on file
herein and any oral argument allowed by counsel at the time of hearing.

MEMORANDUM OF POINTS & AUTHORITIES

I. INTRODUCTION

The Court should grant the LVMPD Defendants’ Second Motion for Summary
Judgment (ECF No. 102) (the “Motion”) in its entirety because the claims at issue in the

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 Motion fail as a matter of law. The LVMPD Defendants are immune from the state law
2 claims of Plaintiff Jose DeCastro (“DeCastro”) pursuant to NRS 41.032(2) as the Defendant
3 Officers’ arrest and related search of DeCastro was discretionary and DeCastro cannot point
4 the Court to facts which could create a genuine dispute of material fact as to DeCastro’s
5 assertion the Defendant Officers arrested him in “bad faith.” In addition to discretionary
6 immunity foreclosing DeCastro’s invasion of privacy claim, the claim additionally fails
7 because no reasonable factfinder could conclude DeCastro had an objectively reasonable
8 expectation of privacy in his personal effects given his intentional instigation of the subject
9 incident and purposeful noncompliance with the commands of the Defendant Officers. In
10 sum, the LVMPD Defendants have met their summary judgment burden and DeCastro has
11 failed to point the Court to facts which would create genuine issues of material fact as to
12 these claims. Resultantly, the LVMPD Defendants respectfully request the Court grant the
13 Motion in its entirety.

14 **II. LEGAL ARGUMENT**

15 **A. SUMMARY JUDGMENT IS WARRANTED ON DECASTRO’S**
16 **STATE LAW FALSE ARREST AND UNLAWFUL SEARCH AND**
17 **SEIZURE CLAIMS.**

18 In the Motion, the LVMPD Defendants explained DeCastro’s state law claims
19 premised upon allegations of false arrest and unlawful search incident to arrest fail as a
20 matter of law on account of Nevada’s discretionary immunity statute, NRS 41.032. These
21 claims are based on DeCastro’s assertion he should not have been arrested, however, it is
22 well-established in Nevada the decision of a police officer to effectuate an arrest is a
23 discretionary decision entitled to immunity under NRS 41.032(2). As explained herein,
24 DeCastro’s arguments in opposition to the Motion are unpersuasive, and the Court should
25 grant summary judgment as to DeCastro’s state law Constitutional claims based upon the
26 arrest and search.

27 In the Opposition, DeCastro argues: (1) discretionary immunity does not apply
28 because Ofc. Bourque’s decision to arrest was not based on considerations of social,

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 economic, or political policy; and (2) discretionary immunity does not apply because Ofc.
2 Bourque’s decision to arrest DeCastro was made in bad faith. (ECF No. 105). DeCastro’s
3 arguments are unavailing. The evidence shows Ofc. Bourque’s decision to arrest was based
4 on policy considerations, and DeCastro has failed to submit evidence establishing a genuine
5 dispute as to that fact. Although the Court has determined a genuine dispute exists as to the
6 existence of probable cause to arrest DeCastro during the subject incident, no reasonable
7 factfinder could determine Ofc. Bourque’s decision to arrest DeCastro was made in bad
8 faith. Accordingly, there is no reason for this Court to deny the LVMPD Defendants the
9 discretionary immunity that NRS 41.032(2) affords.

10 **1. Ofc. Bourque’s Decision to Arrest and Search DeCastro was a**
11 **Discretionary Function Under NRS 41.032(2)**

12 DeCastro first argues the LVMPD Defendants are not entitled to discretionary
13 immunity as to the arrest and related search because Ofc. Bourque’s arrest of DeCastro does
14 not meet the second prong of *Martinez*. DeCastro’s argument is in direct contravention of
15 Nevada law – it is well-established a police officer’s decision to effectuate an arrest is a
16 discretionary function to which NRS 41.032(2) applies. Moreover, the undisputed evidence
17 in this case shows this particular arrest was absolutely based on considerations of public
18 policy.

19 A person cannot maintain an action against an officer or employee of Nevada
20 “[b]ased upon the exercise or performance or the failure to exercise or perform a
21 discretionary function or duty on the part of the State or any of its agencies . . . or of any
22 officer . . . *whether or not the discretion involved is abused.*” NRS 41.032(2) (emphasis
23 added). In Nevada, an act is entitled to discretionary immunity if: (1) the act involves
24 elements of judgment or choice; and (2) the act was based on considerations of public
25 policy. *Martinez v. Maruszczak*, 123 Nev. 433, 445, 168 P.3d 720, 728-29 (2007). The focus
26 of the second criterion’s inquiry is not on the employee’s “subjective intent in exercising the
27 discretion conferred by statute or regulation, but on the nature of the actions taken and on
28 whether they are susceptible to policy analysis.” *Id.* Thus, the court need not determine that

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 a government employee made a conscious decision regarding policy considerations in order
2 to satisfy the test’s second criterion. *Id.*

3 Since *Martinez*, the Nevada Supreme Court has held the decision of whether to
4 detain or arrest a suspect – a police function plainly within the purview of the Fourth
5 Amendment, *see, e.g., Terry v. Ohio*, 392 U.S. 1 (1968); *Michigan v. Summers*, 452 U.S.
6 692 (1981); *Muehler v. Mena*, 544 U.S. 93 (2005) – is a discretionary function covered by
7 Nev. Rev. Stat. §41.032. Nevada courts interpreting §41.032 agree. *Gonzalez v. Las Vegas*
8 *Metro Police Dep’t.*, Docket No. 61120, 2013 WL 7158415, *3 (Order of affirmance, Nov.
9 21, 2013) (“decision to arrest or detain [suspect on a warrant] was part of a policy
10 consideration” that invoked Nev. Rev. Stat. §41.032); *See Napouk v. Las Vegas Metro.*
11 *Police Dep’t.*, 669 F.Supp.3d 1031, 1046-47 (D. Nev. 2023) (“how to conduct a seizure as it
12 pertains to the Fourth Amendment is also within the discretion of the officer performing the
13 seizure”).

14 Other jurisdictions, also applying the same *Berkovitz-Gaubert* test to their own
15 state’s discretionary immunity statute, have reasoned a police officer’s discretionary
16 decision to arrest or to take some other course of action instead is entitled to discretionary
17 immunity. *Michenfelder v. City of Torrance* 28 Cal.App.3d 202, 206 [104 Cal.Rptr. 501]
18 (1972) (officer’s decision whether to effectuate warrantless arrest is discretionary); *Everton*
19 *v. Willard*, 468 So. 2d 936 (Fla. 1985) (“[T]here is no distinction between the immunity
20 afforded the police officer in making a determination of whether to arrest an individual for
21 an offense and the discretionary decision of the prosecutor of whether to prosecute an
22 individual or the judge’s decision of whether to release an individual on bail or to place him
23 on probation. All of these decisions are basic discretionary, judgmental decisions that are
24 inherent in enforcing the laws of the state.”)

25 Here, the evidence clearly establishes the Defendant Officers made the decision to
26 arrest DeCastro based on considerations of public policy. While DeCastro argues that not
27 every arrest is a discretionary function, this Court need not reach that issue because the

28

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada, 89145
(702) 382-0711 FAX: (702) 382-5816

1 specific facts of this case demonstrate the specific actions taken by Ofc. Bourque and Sgt.
2 Torrey are susceptible to a policy analysis. Ofc. Bourque made a judgment call to arrest
3 DeCastro because of his willful noncompliance with direct and lawful orders. (*See* Exhibits
4 A, J to ECF No. 86). Ofc. Bourque affirmed in his report he arrested DeCastro rather than
5 citing and releasing him because DeCastro admitted to being in trouble numerous times in
6 the past for similar reasons and would not even allow officers to explain to him why he was
7 detained or placed in handcuffs. (Exhibit J to ECF No. 86). As a result of DeCastro's
8 actions, Ofc. Bourque made a considered judgment DeCastro's criminal behavior would
9 continue in the area if DeCastro was not arrested. (*Id.*). After Sgt. Torrey arrived on scene,
10 he expressed his concern absent an arrest for the obstruction, DeCastro would be back on the
11 street and engaged in the same obstructive conduct which prevented Ofc. Bourque from
12 doing his job during the original traffic stop. (Exhibit F to ECF No. 86, 00:24:12-00:24:31).
13 These undisputed facts are sufficient for the LVMPD Defendants to meet their burden of
14 establishing no genuine dispute of material fact exists as to this issue – all evidence indicates
15 the LVMPD Defendants made a decision to arrest and search DeCastro utilizing their
16 judgment and choice and based upon public policy considerations.

17 DeCastro has not met his burden of going beyond the pleadings and setting forth
18 specific facts demonstrating a genuine issue. Instead, DeCastro points to a red herring lethal
19 force case wherein this Court determined an officer's on-the-spot decision to use lethal force
20 is not susceptible to policy analysis for purposes of the *Berkovitz-Gaubert* analysis. (ECF
21 No. 105, p.9). Clearly, the well-reasoned decision of the officers in this case to arrest
22 DeCastro, and not to cite and release him, is not comparable to an officer's on-the-spot
23 decision to use lethal force. A split-second decision to use lethal force typically does not
24 allow policy considerations to enter the picture. However, the LVMPD Defendants' decision
25 to arrest DeCastro was made over a time period that allowed for the officers to consider
26 policy and included the input of a supervising officer explicitly regarding policy.

27 Ultimately, DeCastro's argument the LVMPD Defendants' arrest of DeCastro does
28

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 not meet the second prong of the *Berkovitz-Gaubert* test adopted by Nevada in *Martinez* is
2 unavailing. The decision of a police officer to effectuate an arrest is a discretionary function.
3 Regardless of whether some arrests may be ministerial, or based on split-second decisions,
4 the LVMPD Defendants in this case arrested DeCastro expressly because of public policy
5 considerations, namely DeCastro’s instigations and intentional obstruction of police officers
6 carrying out their official duties would continue in the area absent arrest. DeCastro has
7 failed to meet his burden of going beyond the pleadings and pointing the Court to any facts
8 which would create a genuine dispute as to that issue.

9 2. **Ofc. Bourque’s Decision to Arrest DeCastro was not Made in Bad**
10 **Faith.**

11 DeCastro also argues discretionary immunity does not apply here because a genuine
12 dispute of material fact exists as to whether the LVMPD Defendants’ arrest of DeCastro is
13 attributable to bad faith. DeCastro cites to the Court’s prior order and inaccurately asserts
14 the Court has already determined a genuine dispute of material fact exists as to the existence
15 of bad faith in this case. As set forth herein, bad faith pursuant to a discretionary immunity
16 analysis involves a wholly different standard than any issue the Court has previously ruled
17 on, and DeCastro is unable to set forth any facts which would create a genuine dispute as to
18 his allegation of bad faith. The LVMPD Defendants are entitled as a matter of law to a
19 determination there was no bad faith on the part of the LVMPD Defendants in arresting and
20 searching DeCastro. As a result, discretionary immunity attaches to the Defendant Officers’
21 decision to arrest and search DeCastro in connection with the subject incident.

22 As a general matter, under Nevada Revised Statute (NRS) 41.032 “no action may be
23 brought’ against any public officer based upon ‘the failure to exercise or perform a
24 discretionary function ... *whether or not the discretion involved is abused.*” See *Martinez*,
25 123 Nev. at 445, 168 P.3d at 728-29. However, where an officer’s actions are “attributable
26 to bad faith, immunity does not apply whether an act is discretionary or not.” *Falline v.*
27 *GNLV Corp.*, 107 Nev. 1004, 1009, 823 P.2d 888 (Nev. 1991).

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 NRS 41.032(2) provides immunity to contractors, officers, employees, agents and
2 political subdivisions of the State for the performance or non-performance of discretionary
3 acts “whether or not the discretion involved is abused.” *Davis v. City of Las Vegas*, 478 F.3d
4 1048, 1059-60 (9th Cir. 2007) (citing *Falline v. GNLV Corp.*, 107 Nev. 1004, 1009, 823
5 P.2d 888 (Nev.1991)). However, an abuse of discretion necessarily involves at least two
6 factors: (1) the authority to exercise judgment or discretion in acting or refusing to act on a
7 given matter; and (2) a lack of justification for the act or inaction decided upon. *Id.* at 1060.
8 Bad faith, on the other hand, involves an implemented attitude that completely transcends
9 the circumference of authority granted the individual or entity. *Id.* In other words, an abuse
10 of discretion occurs within the circumference of authority, and an act or omission of bad
11 faith occurs outside the circumference of authority. *Id.* Stated otherwise, an abuse of
12 discretion is characterized by an application of unreasonable judgment to a decision that is
13 within the actor’s rightful prerogatives, whereas ***an act of bad faith has no relationship to a***
14 ***rightful prerogative*** even if the result is ostensibly within the actor’s ambit of authority. *Id.*
15 (emphasis added).

16 Thus, where an officer arrests a citizen in an abusive manner not as the result of the
17 exercise of poor judgment as to the force required to make an arrest, but instead because of
18 hostility toward a suspect or a particular class of suspects (such as members of racial
19 minority groups) or because of a willful or deliberate disregard for the rights of a particular
20 citizen or citizens, the officer’s actions are the result of bad faith and he is not immune from
21 suit. *Id.* No officer has the “rightful prerogative” to engage in a malicious battery of a
22 handcuffed citizen who is neither actively resisting arrest nor seeking to flee. Such an action,
23 motivated by hostility or willful disregard for the law, is without the officer’s
24 “circumference of authority,” even if “ostensibly within [his] ambit of authority.” *Id.*

25 DeCastro contends his arrest and search was motivated by bad faith and therefore the
26 Defendant Officers are not entitled to discretionary immunity. In support of that argument,
27 DeCastro claims the Court has already found a genuine dispute of material fact as to this
28

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada, 89145
(702) 382-0711 FAX: (702) 382-5816

1 issue (it has not), and points to no portion of the record that could establish a genuine
2 dispute of material fact as to bad faith. This Court determined a genuine dispute of material
3 fact exists as to whether the Defendant Officers had probable cause to arrest DeCastro, and
4 whether he was “treated differently than similar situated individuals because he spewed
5 venom at Bourque and filmed the traffic stop.” (ECF No. 100). Although the Court
6 reconsidered its prior determination the Defendant Officers had probable cause to arrest
7 DeCastro as a matter of law based upon these facts (ECF No. 44 at p.7; ECF No. 100 at
8 p.16), none of the facts in this case could allow a reasonable fact-finder to determine the
9 Defendant Officers arrested or searched DeCastro based upon hostility towards a protected
10 class or willful or deliberate disregard for the rights of DeCastro. The Defendant Officers
11 had a rightful prerogative to arrest DeCastro for what they reasonably understood to be
12 obstruction and resisting under Nevada law.

13 DeCastro asserts Ofc. Bourque lied about his stated reasons for arresting DeCastro
14 but does not identify any evidence which supports that contention. (ECF No. 105, 12:24-
15 13:7). Specifically, DeCastro makes the preposterous argument that because Ofc. Bourque
16 told DeCastro the driver was entitled to privacy during the subject incident, and Ofc.
17 Bourque did not decide to arrest DeCastro until later on during the subject incident (after
18 DeCastro had refused to comply with multiple lawful orders), Ofc. Bourque was somehow
19 motivated by a willful or deliberate disregard of DeCastro’s rights. Contrary to DeCastro’s
20 theory, the actual facts in this case - body worn camera footage of multiple officers, the
21 citation, and Ofc. Bourque’s report - all demonstrate the Defendant Officers had a good faith
22 belief they had probable cause to arrest DeCastro for the subject offenses and they had no
23 intention of inhibiting DeCastro’s civil rights. (See Exhibits A-K to ECF No. 86).
24 DeCastro’s own self-serving narrative of the subject events, without more, is not sufficient
25 to meet his burden of going beyond the pleadings and pointing the Court to facts in the
26 record which would create a genuine dispute as to his contention the Defendant Officers
27 were motivated by bad faith.

28

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada, 89145
(702) 382-0711 FAX: (702) 382-5816

1 In sum, DeCastro is wholly incorrect in asserting the Court’s prior ruling genuine
2 issues of material fact preclude summary judgment as to some of DeCastro’s federal claims
3 necessitates a finding a genuine issue of material fact exists as to DeCastro’s bad faith
4 argument. The Defendant Officers arrested DeCastro pursuant to a genuine law enforcement
5 prerogative, and no reasonable factfinder could determine based on these facts the
6 Defendant Officers’ conduct amounted to bad faith.

7 **3. LVMPD Defendants Met Their Summary Judgment Burden.**

8 In the Opposition, DeCastro argues the LVMPD Defendants have not met their
9 burden at summary judgment because the LVMPD Defendants have not shown the absence
10 of a genuine dispute of material fact. (ECF No. 105, 5:26-6:12). On the contrary, the
11 LVMPD Defendants have shown as a matter of law, NRS 41.032(2) confers discretionary
12 immunity on the Defendant Officers for the arrest and search. As a result, the LVMPD
13 Defendants are immune from DeCastro’s state law claims based upon the allegedly false
14 arrest and unlawful search incident to arrest.

15 Under Rule 56 of the Rules of Federal Procedure, “[a] party may move for summary
16 judgment, identifying each claim or defense - - or the part of each claim or defense - - on
17 which summary judgment is sought [and] [t]he court shall grant summary judgment if the
18 movant shows that there is no genuine dispute as to any material fact and the movant is
19 entitled to judgment as a matter of law.” Fed.R.Civ.P. 56(a).

20 When video evidence exists, courts should rely on the video evidence if it “blatantly
21 contradicts” the non-moving party’s version of events. *Hughes v. Rodriguez*, 31 4th 1211,
22 1218-19 (9th Cir. 2022) (citing *Scott v. Harris*, 550 U.S. 372, 378 (2007)). And, although a
23 court must “view the facts and draw reasonable inferences ‘in the light most favorable to the
24 party opposing the [summary judgment] motion,’” the court need not credit facts
25 “unsupported by the record such that no reasonably jury could believe them, [and] need not
26 rely on those facts for purposes of ruling on the summary judgment motion.” *Wilkinson v.*
27 *Torres*, 610 F.3d 546, 550 (9th Cir. 2010) (quoting *Scott*, 550 U.S. at 378-80).

28

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 In this case, DeCastro has presented no evidence whatsoever to the Court to rebut the
2 version of events clearly captured on body worn camera and by DeCastro’s own cell phone.
3 (See Exhibits A-H to ECF No. 86). Although the Court has determined that reasonable
4 minds could differ as to how some of the relevant facts could be interpreted by a reasonable
5 fact-finder (ECF No. 100), DeCastro is entirely incorrect in his assertion the LVMPD
6 Defendants have failed to demonstrate the lack of a genuine dispute of material fact with
7 respect to the discretionary immunity analysis. The facts in this case are well-established
8 and DeCastro has not submitted evidence to suggest to the Court that any genuine dispute of
9 material fact exists.

10 Accordingly, the LVMPD Defendants met their summary judgment burden as to
11 DeCastro’s state law claims premised upon allegations of false arrest and unlawful search
12 incident to arrest. DeCastro has failed to meet his burden of going beyond the pleadings and
13 pointing the Court to facts which would establish a genuine dispute of material fact as to the
14 Defendant Officers’ discretionary immunity in connection with the arrest and search.
15 Therefore, the LVMPD Defendants are entitled to summary judgment on these claims.

16 **B. SUMMARY JUDGMENT IS WARRANTED ON DECASTRO’S**
17 **INVASION OF PRIVACY CLAIM.**

18 The LVMPD Defendants are also entitled to summary judgment as to DeCastro’s
19 invasion of privacy claim. As explained in the Motion, this claim is premised upon the
20 Defendant Officers’ search of DeCastro incident to his arrest, and the claim fails because the
21 search was a discretionary act pursuant to which the LVMPD Defendants are immune under
22 NRS 41.032, and because Nevada does not recognize an invasion of privacy claim where the
23 person’s expectation of privacy is objectively unreasonable.

24 In the Opposition, DeCastro contends discretionary immunity does not apply and
25 DeCastro did have an objectively reasonable expectation of privacy because DeCastro’s
26 intentionally provocative conduct towards police officers is constitutionally protected.

27 DeCastro’s arguments miss the mark. No reasonable jury could determine DeCastro
28 had an objectively reasonable expectation of privacy in his personal effects where the

MARQUIS AURBACH

10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816

1 undisputed video evidence demonstrates DeCastro intentionally created a confrontation with
2 Ofc. Bourque and subsequently refused to comply with Ofc. Bourque’s orders, before
3 ultimately resisting Ofc. Bourque’s efforts to detain him. DeCastro’s Opposition fails to
4 explain why this Court should distinguish this case from the case cited by the LVMPD
5 Defendants in the Motion, *M & R Investment Co. v. Mandarino*, wherein the Nevada
6 Supreme Court found a conspicuously dressed card-counter did not have a *reasonable*
7 expectation that casino personnel would turn a blind eye to his presence. *See* 103 Nev. 711,
8 719, 748 P.2d 488, 493 (Nev. 1987). Similarly here, no reasonable jury could find DeCastro
9 had a *reasonable* expectation of privacy when he intentionally confronted police officers in
10 the course and scope of their jobs, interrupted a traffic stop, attempted to antagonize the
11 police officers, refused to obey police orders, and then posted videos of the encounter on
12 YouTube. The notion DeCastro even has a subjective expectation of privacy when he enters
13 into these confrontations with an intent to post video of them online is a patent absurdity.

14 For the reasons addressed in the Motion and herein, the LVMPD Defendants are
15 entitled to summary judgment as to DeCastro’s invasion of privacy claim.

16 **III. CONCLUSION**

17 Based on the foregoing, the LVMPD Defendants respectfully request this Court
18 grant their Second Motion for Summary Judgment in its entirety.

19 Dated this 16th day of December, 2024.

MARQUIS AURBACH

By /s/ Craig R. Anderson
Craig R. Anderson, Esq.
Nevada Bar No. 6882
Nicholas M. Adams, Esq.
Nevada Bar No. 15859
10001 Park Run Drive
Las Vegas, Nevada 89145
Attorneys for Defendants

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I hereby certify that I electronically filed the foregoing **DEFENDANTS LVMPD, OFC. TORREY, OFC. BOURQUE, OFC. DINGLE, OFC. SORENSON, OFC. SANDOVAL AND OFC. DOOLITTLE’S REPLY BRIEF IN SUPPORT OF SECOND MOTION FOR SUMMARY JUDGMENT** with the Clerk of the Court for the United States District Court by using the court’s CM/ECF system on the 16th day of December, 2024.

I further certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

I further certify that some of the participants in the case are not registered CM/ECF users. I have mailed the foregoing document by First-Class Mail, postage prepaid, or have dispatched it to a third-party commercial carrier for delivery within 3 calendar days to the following non-CM/ECF participants: n/a

/s/ Sherri Mong
an employee of Marquis Aurbach

MARQUIS AURBACH
10001 Park Run Drive
Las Vegas, Nevada 89145
(702) 382-0711 FAX: (702) 382-5816