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Angela Walter, and Christopher Worley*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

ANTHONY MITCHELL, LINDA
MITCHELL, and MICHAEL MITCHELL

Plaintiffs,

v.

CITY OF HENDERSON, NEVADA; JUTTA
CHAMBERS, individually and in her official
capacity as Chief of the Henderson Police
Department, GARRETT POINIER, RONALD
FEOLA, RAMONA WALLS, ANGELA
WALKER, and CHRISTOPHER WORLEY,
individually and in their official capacities as
Henderson police officers; CITY OF NORTH
LAS VEGAS, NEVADA; JOSEPH
CHRONISTER, individually and in his official
capacity as Chief of the North Las Vegas
Police Department; MICHAEL WALLER,
DREW ALBERS, DAVID CAWTHORN,
ERIC ROCKWELL, AND /F/N/U SNYDER,
individually and in their official capacities as
North Las Vegas police officers; JANETTE R.
REYES-SPEER; DOE individuals 1-40, jointly
and severally; and ROE CORPORATIONS 1-
40 jointly and severally,

Defendants.

Case No.: 2:13-cv-01154-APG-CWH

**JOINT MOTION FOR DISMISSAL
WITH PREJUDICE AS TO ALL
CLAIMS AGAINST HENDERSON
DEFENDANTS**

COMES NOW Defendants CITY OF HENDERSON, NEVADA, ANGELA WALTER, and CHRISTOPHER WORLEY ("Henderson Defendants"), by and through their attorneys of record, the law firms of BROWNSTEIN HYATT FARBER SCHRECK, LLP and PETERSON HOPE, PLLC, and Plaintiffs ANTHONY MITCHELL, LINDA MITCHELL, and MICHAEL MITCHELL ("Plaintiffs"), and hereby brings this Joint Motion for Dismissal with Prejudice as to All Claims Against Henderson Defendants. This Motion is made pursuant to LR 7-1(c), the documents and pleadings on file herein, and the following Points and Authorities.

MEMORANDUM OF POINTS AND AUTHORITIES

I. Procedural History

Plaintiffs initiated this case by filing their Complaint [ECF No. 1] on July 1, 2013. Subsequent to the filing of the Complaint, Plaintiffs filed their First Amended Complaint [ECF No. 3] on October 14, 2013.

Henderson Defendants, along with other named officers and employees of the City of Henderson, filed a Motion to Dismiss First Amended Complaint [ECF No. 17] on November 12, 2013, seeking to dismiss certain defendants employed by the City of Henderson, and certain claims alleged by Plaintiffs. Plaintiffs subsequently filed their Opposition to the Motion to Dismiss First Amended Complaint [ECF No. 31] on February 6, 2014, and Henderson Defendants filed their Reply in Support of the Motion to Dismiss First Amended Complaint [ECF No. 35] on March 7, 2014, along with a Supplemental Memorandum of Points and Authorities in Support of the Motion to Dismiss First Amended Complaint [ECF No. 44] on July 31, 2014. An Order Granting in Part and Denying in Part Defendants' Motion to Dismiss [ECF No. 48] was entered on February 2, 2015. Henderson Defendants filed their Answer to the Plaintiffs' First Amended Complaint [ECF No. 56] on March 19, 2015.

Following discovery and motion practice, Plaintiffs filed their refiled Motion for Leave to File Second Amended Complaint [ECF No. 80] on April 1, 2016 ("Motion to Amend"). Henderson Defendants filed their Response to Motion for Leave to File Second Amended Complaint [ECF No. 83] on April 15, 2016, and Plaintiffs filed their Reply to the Henderson Defendants' Response to Motion for Leave to File Second Amended Complaint [ECF No. 85] on

April 25, 2016. The proposed Second Amended Complaint [ECF No. 80] proposed naming to this action additional Defendants employed by the City of Henderson, including, but not limited to, JUTTA CHAMBERS, RONALD AVERETT, FRED THOMPSON, MARC CASSELL, THOMAS SPATH, RICHARD MELCHERT, JON MORROW, JEFFREY WEINER, T. HASTIE, M. CONRAD, JULIO DELGADO, WAVIE REED, JEB BOZARTH, P. REIMANN, D. BASKOVIC, J. NILSON, RAMONA WALLS, RONALD FEOLA, S. YOUNG, and H. VILLA (collectively, "Additional Henderson Defendants"). The Motion to Amend is fully briefed and stands submitted with the Court.

II. The Court Should Dismiss with Prejudice All Claims Against the Henderson Defendants and Should Deny the Pending Motion to Amend as to Henderson Defendants Because the Parties Have Settled This Case

Henderson Defendants and Plaintiffs have been able to reach a mutually acceptable resolution between and amongst themselves as to all claims pending between them. As part of their resolution, Pursuant to said resolution the Henderson Defendants and Plaintiffs have agreed to dismissal with prejudice of all of the Plaintiffs claims against all Henderson Defendants, in Case No. 2:13-cv-01154-APG-CWH, and have agreed that the pending Motion for Leave to File Second Amended Complaint [ECF No. 71] should be denied with prejudice as to all Henderson Defendants and all Additional Henderson Defendants.

For the above-outlined reasons, pursuant to LR 7-1(c), and subject to this Court's approval, the Plaintiffs and the Henderson Defendants jointly request that the Court dismiss with prejudice all claims against the Henderson Defendants, and any of them, and further jointly request that the Court deny with prejudice the pending Motion for Leave to File Second Amended Complaint [ECF No. 71] as to the Henderson Defendants and as to the Additional Henderson Defendants. Finally, as Henderson Defendants and Plaintiffs have agreed to bear their own attorneys' fees and costs related to this litigation, Plaintiffs and Henderson Defendants jointly request that the Court order that Plaintiffs and Henderson Defendants shall bear their own fees and costs.

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1 **III. Conclusion**

2 For the foregoing reasons, Henderson Defendants and Plaintiffs respectfully request that
3 the Court grant this Joint Motion for Dismissal with Prejudice as to All Claims Against
4 Henderson Defendants.

5 DATED this 31st day of August, 2016.

DATED this 25 day of August, 2016.

6 BY: /s/ Tamara Beatty Peterson

BY: 

7 KIRK B. LENHARD, ESQ.

ANTHONY MITCHELL

8 Nevada Bar No. 1437

1124 Plantation Court, Unit B

9 BROWNSTEIN HYATT FARBER

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10 SCHRECK, LLP

100 North City Parkway, Suite 1600

Plaintiff

Las Vegas, Nevada 89106

DATED this 25th day of August, 2016.

11 TAMARA BEATTY PETERSON, ESQ.

12 Nevada Bar No. 5218

PETERSON HOPE, PLLC

10001 Park Run Drive

Las Vegas, NV 89145

BY: 

LINDA MITCHELL

907 Swift Bear St.

Henderson, NV 89002

13 *Attorneys for Defendants City of*

14 *Henderson, Nevada, Angela Walter, and*

15 *Christopher Worley*

Plaintiff

DATED this 25th day of August, 2016.

BY: 

MICHAEL MITCHELL

907 Swift Bear St.

Henderson, NV 89002

Plaintiff

CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P.5(b), and Section IV of District of Nevada Electronic Filing Procedures, I certify that I am an employee of Peterson Hope, PLLC and that a true and correct copy of the JOINT MOTION FOR DISMISSAL WITH PREJUDICE AS TO ALL CLAIMS AGAINST HENDERSON DEFENDANTS was served via electronic service, via CM/ECF, on this 31st day of August, 2016, and to the following:

ROBERT W. FREEMAN, JR.
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Las Vegas, NV 89118
Attorneys for Defendants City of North Las Vegas, Joseph Chronister, Sergeant Michael Waller, Drew Albers, David Cawthorn, Eric Rockwell and Travis Snyder

I further certify that I am familiar with the firm's practice of collection and processing documents for mailing; that in accordance therewith, I caused the above-named document to be deposited with the U.S. Postal Service at Las Vegas, Nevada, in a sealed envelope, with first-class postage prepaid, and via electronic mail on this 31st day of August, 2016, and to the addresses shown below:

Anthony Mitchell
1124 Plantation Court, Unit B
Las Vegas, NV 89117
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Linda and Michael Mitchell
907 Swift Bear St.
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/s/ Erin Parcels
An employee of Peterson Hope, PLLC