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**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

THOMAS W. MCNAMARA,  
Plaintiff(s),

v.

CHARLES M. HALLINAN, et al.,  
Defendant(s).

Case No.: 2:17-cv-02966-GMN-NJK

**Order**

[Docket No. 65]

On December 17, 2018, the Court granted in part and denied in part Plaintiff's motion to compel discovery. Docket No. 61. Now pending before the Court is Plaintiff's motion for an award of expenses. Docket No. 65. Defendants filed a response in opposition, and Plaintiff filed a reply. Docket Nos. 66, 71. The motion is properly decided without a hearing. See Local Rule 78-1.

A court has discretion to award reasonable expenses when it grants in part and denies in part a motion to compel discovery. See Fed. R. Civ. P. 37(a)(5)(C). In exercising that discretion, the Court may consider the exceptions outlined in Rule 37(a)(5)(A) of the Federal Rules of Civil Procedure. See *Wilson v. Greater Las Vegas Assoc. of Realtors*, 2016 WL 4087272, at \*1 (D. Nev. July 28, 2016). Under these exceptions, an award of expenses is not appropriate if (1) the movant filed the motion before conducting a meet-and-confer, (2) the losing party was substantially justified in the position taken, or (3) other circumstances make an award of expenses unjust. *Id.*

1 With respect to the second exception, a position is “substantially justified” if there was a genuine  
2 dispute on matters on which reasonable people could differ as to the outcome. Id.

3 In the circumstances of this case, the Court finds Defendants to have been substantially  
4 justified in opposing the motion to compel.<sup>1</sup>

5 Accordingly, the motion for an award of expenses is **DENIED**.

6 IT IS SO ORDERED.

7 Dated: February 25, 2019

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Nancy J. Koppe  
United States Magistrate Judge

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28 <sup>1</sup> The Court opines herein only as to Defendants’ positions regarding the discovery that  
was compelled, and the Court expresses no opinion on the other issues for which the motion to  
compel was denied without prejudice.