



COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

AUGUST 2020

Family Law

Trekking the Rocky Terrain of Marital Settlement Agreements, Marriage, Trusts, Divorce, and Community Property



In this Issue

CCBA President's Message
Page 4

Bar Activities
Page 6

View from the Bench
Page 18

Marriage and Trust: A Primer
on Trusts, Divorce, and
Community Property
Page 23

Community Property
for Cohabitants
Page 26

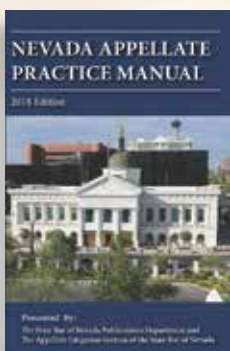
Marital Settlement Agreements
Page 20

Covid-19: Lockdowns, Facemasks,
and Bankruptcy
Page 28

Pro Bono Corner
Page 30

BOOKS FROM THE BAR

The State Bar of Nevada has several reference publications available to meet the needs of Nevada attorneys, from comprehensive guides to compilations of templates in a variety of practice areas.



Nevada Appellate Practice Manual – 2018 EDITION

The 2018 edition has been painstakingly edited by experts in appellate practice and reflects all recent changes in the law as well as the most up-to-date procedures for practicing in Nevada's appellate courts. Some topics covered include: initiating an appeal, jurisdiction, settlement, criminal appeals, fast-track child custody, oral arguments and record preparation...in addition to many others.



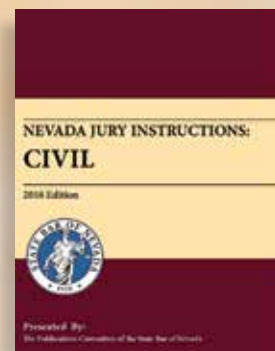
Nevada Gaming Law Practice and Procedure Manual

Written by attorneys with decades of experience in the practice of gaming law, this reference manual includes 18 chapters covering topics such as licensing, financing, gaming devices, race and sports books, compliance reporting requirements, interactive gaming and much more.



Contract Templates for Nevada Attorneys

This publication provides lawyers with a large selection of form contracts drafted for a wide variety of transactions, with specific regard to the laws of Nevada. The customizable forms are designed as a starting point for practitioners to craft custom agreements for use in commercial and residential purchases and leases, employment, intellectual property, deeds and cyber law...to name a few.



Nevada Jury Instructions: Civil - 2018 EDITION

Nevada Jury Instructions: Civil provides attorneys participating in civil jury trials in Nevada with downloadable sample jury instructions in an easy-to-use format. The language in each template has been adapted from documents actually used in trial with an eye to being as party-neutral as possible. The book includes subjects such as: contractual relationships, employment law, evidence, experts, intentional torts, fiduciary relationships, personal injury damages, eminent domain and more!

We've Got More!

The state bar's online store includes additional titles of interest to attorneys practicing in Nevada, such as Nevada Business Entities, Succession Planning in Nevada and the Guide to the Tribal Courts of the Inter-Tribal Council of Nevada.

To see all of the current titles available, visit:
www.nvbar.org > Publications > State Bar Publications





COMMUNIQUE

Table of contents

Articles

Marital Settlement Agreements Beware: Signatures Not Required!
By Hon. Mathew Harter..... 20

Marriage and Trust: A Primer on Trusts, Divorce, and Community Property
By Var Lordahl, Esq. and Melissa R. Douglas, Esq.... 23

Community Property for Cohabitants
By Rock Rocheleau, Esq. 26

Covid-19: Lockdowns, Facemasks, and Bankruptcy
By Zachariah Larson, Esq. 28

Highlights

Nevada Appellate Summaries
Advance Opinion Summary (7-1-20)
By Joe Tommasino, Esq..... 16

Pro Bono Corner
Giving in the Face of COVID-19
By Augusta Massey, Esq. 30

Columns

Clark County Bar President's Message
Are we getting COVID fatigue?
By Mariteresa Rivera-Rogers, Esq. 4

View from the Bench
Forever in Blue Jeans
By Presiding Judge Bryce Duckworth 18



On the Cover

Photo courtesy of Jacquelyn Franco.

Departments

Bar Activities 6
Court News 10
The Marketplace 30

Are we getting COVID fatigue?

By Mariteresa Rivera-Rogers, Esq.

As I write this column for our August edition dedicated to family law, it does not escape me how in a few months, drastic changes have occurred in the homes of many families. Parents' duties have increased and they are facing new challenges. Now, they are not only the breadwinners, but sitters, teachers, counselors and in charge of all household activities. During the last four months, many parents remained working as essential workers, some working from home, and others unemployed. It is a daunting proposition no matter your status. Vulnerable individuals are still advised to stay home and now Governor Sisolak mandated we wear masks in public. Most of us thought that we would see some semblance of clarity at this point, but to the contrary, the only thing that is clear is that we are in for a long haul.

Despite our desire to be set free from quarantine, the pandemic has renewed its fury. And in our haste, many have let their guard down, others defy the health-care directives. Civil unrest and economic downturn abound and affect us all. The call for social justice is loud and clear. While attorneys acting as legal observers were arrested along with protesters in Las Vegas, symbols of past eras are in question countrywide. The dialog needed is long overdue. It is overwhelming dealing with so much tragedy; however, the families of the deceased suffer much more.

Don't let COVID-19 fatigue get the best of you. Follow directives for your health and those around you. Scientists are hard at work to develop a vaccine. Let's hope their efforts are rewarded soon. Until then, stay flexible and nimble to ride the tide. Please keep a positive outlook for our future and the future of the generations to come. If nothing else, keep hope in what



Mariteresa Rivera-Rogers, Esq. is an associate at the Las Vegas criminal defense firm Wright Marsh & Levy, practicing in criminal defense. Her spirit of community and professional service has also led to involvement with the Latino Bar Association, Southern Nevada Association of Women Attorneys, and Clark County Law Foundation. Mariteresa serves as president of the Clark County Bar Association through December of 2020.

Please keep a positive outlook for our future and the future of the generations to come. If nothing else, keep hope in what history taught us—this too shall pass.

history taught us—this too shall pass.

CCBA thrives by providing networking and educational opportunities to its members. Social distancing has not permitted that we assemble as we were used to. However, it is our hope that you take advantage of audiovisual events that may help keep us connected. We are learning of new ways to communicate. Check out our upcoming events listed in this publication. Your participation is vital to us. If you need CLEs, make sure you check our list of those you can do online and the ones provided via Zoom.

Thanks to our CCBA Board for working tirelessly to continue our mission; to our members for their continued support; and, to Donna and Stephanie for being the glue that keeps us together. **G**

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The workers' compensation system is a patchwork of statutes, regulations, and case law that has nothing in common with a personal injury case. We've helped thousands of people obtain medical benefits and award payments associated with their workers' compensation injuries and illnesses. Let us help your client file a claim or appeal an adverse decision. We know how to maximize the best outcome for each situation. We don't interfere with your personal injury cases, you keep those. We are a workers' compensation firm, only. Your client receives excellent workers' compensation representation and you receive a generous referral fee under NRC 1.5(e). Any questions?



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- Medical Benefits
- Vocational Rehabilitation Benefits
- Death Benefits
- Police/Firefighter Benefits



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Bar Activities

Continuing Legal Education

Order these upcoming CLE programs:

“Preparing a Better Deposition: Don’t Let a Deposition Sink Your Case”

Produced by CCBA’s CLE Committee

Sponsored by Bank of Nevada and Las Vegas Legal Video

- **Speakers:** Mike Carman, Esq. and Corinne Price, Esq. of Fine Carman Price
- **CLE:** 2 General CLE Credits for Nevada lawyers
- **Format:** Audio or video recording
- **Fee:** \$70

“Federal Faux Pas: The “Do’s and “Don’ts” of Federal Practice”

Produced by CCBA’s CLE Committee

Sponsored by Bank of Nevada and Las Vegas Legal Video

- **Speakers:** U.S. Magistrate Judge Brenda Weksler, David Chavez, Judicial Term Clerk, and Emily Gesmundo, Judicial Career Clerk
- **CLE:** 1 General CLE Credit for Nevada lawyers
- **Format:** Audio or video recording
- **Fee:** \$35

“Streamlined Bankruptcy Option for Small Business”

Produced by CCBA’s CLE Committee

Sponsored by Bank of Nevada and Las Vegas Legal Video

- **Speakers:** Candace Carlyon, Esq. and Dawn Cica, Esq. of Carlyon Cica Chtd.
- **CLE:** 1 General CLE Credit for Nevada lawyers
- **Format:** Audio or video recording
- **Fee:** \$35

To order these CLE programs, complete the online order form available at clarkcountybar.org. The CCBA is an Accredited Provider with the Nevada Board of Continuing Legal Education. The CCBA reports attendance by Nevada lawyers who have registered for and completed CCBA’s CLE seminars to the Nevada Board of Continuing Legal Education automatically and at no extra charge.

Mask Drive

We are seeking donations of new cloth face coverings for use by clients served by Legal Aid Center of Southern Nevada, Civil Law Self-Help Center, and Family Law Self-Help Center. For more information, see page 31.

Special event

Trial By Peers Trivia Bash

A charity fundraiser hosted by Clark County Bar Association to benefit the Clark County Law Foundation’s teen court program Trial By Peers

Sponsor: Litigation Services

Date: Thur., August 27, 2020

Location: Online via Zoom

Featuring: Trivia contest, prizes, special guests, and more!

Registration: Sign up via link listed in event calendar at clarkcountybar.org.

Bar Services

CLE Programming Opportunities Available

The Clark County Bar’s CLE Committee seeks Nevada lawyers to volunteer to develop and/or present CLE programming for the benefit of Nevada lawyers at live events to be produced and marketed by the CCBA.

Interested members should may submit their proposals for a for a CLE program to Donna at donnaw@clarkcountybar.org, (702) 387-6011.

Meet Your Judges Mixer Rescheduled

Due to concerns for hosting large gatherings, the CCBA has canceled this year's Meet Your Judges Mixer event that was scheduled for July 23, 2020. The CCBA plans to hold the next event on Wednesday, May 12, 2021. For more information, see page 17.

Picture Day Rescheduled

We have rescheduled the next CCBA Picture Day event:

- **When:** Tuesday, October 27, 2020- 9:30 a.m. to 2 p.m. (New date)
- **Where:** Clark County Bar Association, 717 S. 8th Street, Las Vegas, NV 89101
- **What:** Sit for a portrait made by a professional photographer. Dress for success. Drop-ins are welcome.
- **Special offers:**
 - No sitting fee!
 - Choose your background setting! (Tip: don't wear green or parts of your image may disappear with the green screen!)
 - CCBA members will get a discount on the price to purchase their portrait for personal or business use! Purchase of portraits is available directly from Portraits to You.
 - CCBA will get a copy of the portraits to publish in the bar journal *Communiqué*, on the bar's official website, online via social media accounts, and as needed by the association.

If you are a CCBA member who needs a professional portrait done BEFORE October 27, 2020, you can reach out to Portraits to You to schedule a sitting at their studio and still get the CCBA member discount.

Bar Committee Meetings

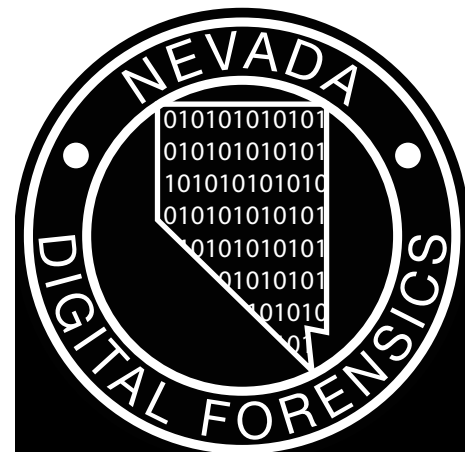
CCBA members are invited to volunteer to help plan activities and services for CCBA members. Bar members are invited to attend an upcoming meeting of a CCBA committee:

- **Publications:** Tuesday, August 4 (12-1 p.m.)—RSVP to Steph
- **Community Service:** Friday, August 7 (12-1 p.m.)—RSVP to Steph
- **New Lawyers:** Thursday, August 13 (12-1 p.m.)—RSVP to Donna
- **CLE:** Friday, August 14 (12-1 p.m.)—RSVP to Donna

To participate in an upcoming meeting, CCBA members will need to RSVP to Steph (StephanieAbbott@clarkcountybar.org) or Donna (Donnaw@clarkcountybar.org) in order to receive details for participation in the meeting via Zoom.

Virtual ¡Andale! 5K Run/Walk!

CCBA members are invited to participate in the Las Vegas Latino Bar Association's second annual scholarship fundraising event "Virtual ¡Andale! 5K Run/Walk." Sign up at <https://www.andale5k.com/>. Please be sure to join our team "CCBA Courthouse Tour".



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Communiqué Advertiser index

Advanced Resolution Management	21
Ara Shirinian Mediation	22
Bank of Nevada	9
JAMS	11
Jason D. Mills & Associates, Ltd.	5
Julia Feng / EverNest Realty Las Vegas..	15
Las Vegas Legal Video	19
Legal Wings.....	29
Nevada Digital Forensics.....	7
Portraits to You	25
State Bar of Nevada	2
Welt Law	19

Bar Services

Advertising Opportunities	8, 15, 24, 30, 32
CLE Programming Opportunities	6
Credit Card Processing Discounts from Law Pay	29
Mask Drive.....	31
Meet Your Judges Mixer	17
Nevada Appellate Summaries	16
Trial By Peers Trivia Bash	6

Advertising space available

For more information and to confirm space reservations, proposals of content, artwork specifications, rates, discounts, and deadlines, contact the Clark County Bar Association, (702) 387-6011, StephanieAbbott@clarkcountybar.org.

Bar Services

Got office space to rent or lease?

Place an ad in the Communiqué!

For more information, contact
StephanieAbbott@clarkcountybar.org



COMMUNIQUÉ

About Communiqué

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Editorial Calendar

Cover date	Issue topic
January 2020	Five Things
February 2020	Labor & Employment
March 2020	Technology in Law Practice
April 2020	Cannabis Law
May 2020	Sports & Entertainment Law
June/July 2020*	Mental Health
August 2020	Family Law
September 2020	Appellate Practice
October 2020	Local Courts
November 2020	Administrative Law
December 2020	Pro Bono

*The June/July issue is published in June. There is no publication released in July. The editorial calendar may change without notice at any time.

Space reservations are encouraged at least two months in advance. Space is limited with placement only guaranteed to paid advertisements. The deadline for submission of all content is 30 days prior the first day of the desired month of publication.

Communiqué will not publish self-serving articles promoting a specific named product or services of an individual or firm.

Article Opportunities

To write an article for publication, send a proposal to the Clark County Bar Association, Attn: Editor-in-Chief, via e-mail to StephanieAbbott@clarkcountybar.org. Proposals should include the following information:

- Author(s) name(s) and Nevada bar #(s)
- Summary paragraph providing the focus and scope for the article (include relevant rules/statutes/procedures, etc.)
- Proposed issue for placement (see editorial calendar above)

All proposals and articles submitted will be considered for publication. However, *Communiqué* will not publish self-serving articles promoting a specific named product or services of an individual or firm. Articles must be on topic and original, unpublished works. Preference will be given to articles written by attorney members of the CCBA.

Advertising Opportunities

Space is available for paid announcements of professional achievements, goods, and services. Rates, policies, and specifications are available upon request. Contact the Clark County Bar Association to confirm availability of placement, graphic design services, and discounts.



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Court News

Eighth Judicial District Court Administrative Order 20-17 Updates Procedures for Phase of Covid-19 Recovery

On June 1, 2020, an administrative order in regards to all court operations in response to COVID-19 was filed at the Eight Judicial District Court. See Administrative Order 20-17. The order is over 30 pages in length and addresses a variety of issues related to the following topics:

- **Safety and precautions:** operations and screening protocols, appearances by alternate means, mandatory face coverings, meetings, policies, and social distancing;
- **General provisions:** attorney obligations, the clerk's office remains closed to in-person filing, continuances, courtesy copies, depositions, discovery (civil and domestic), electronic service, hearings, original signature requirements, proposed orders, Rule 16.1 (civil), 16.2 (domestic), and 16.205 (custody) early case conferences, settlement conferences (civil, criminal, and family divisions), specialty courts (all divisions), sealed documents, service of process, summonses and certified copies, trials, and writs of execution and writs of garnishment;

Special Announcement

Federal CJA Panel Applications Due September 21, 2020

The District Court for the federal district of Nevada is **now accepting** applications for a **limited** number of new Federal Criminal Justice Act (CJA) Panel attorneys (appointment of counsel for indigent defendants) for the District of Nevada for both trial and appellate/habeas cases.

Attorneys interested in appointment to the CJA panel must submit an application by electronic mail to cja_applications@nvd.uscourts.gov by **September 21, 2020**. Attorneys applying for the Appeals/Habeas panel(s) **must** also submit a writing sample. Applications are available on the Court's website at www.nvd.uscourts.gov. Appointments for the new panel will be effective **November 1, 2020**. Any questions regarding applications should be directed to CJA Resource Counsel, Kim Driggers, at the Federal Public Defenders Office at (702) 388-6577.

Applicants must be members in good standing of the bar of the Federal Court and have demonstrated experience in, and knowledge of, the Federal Rules of Criminal Procedure, the Federal Rules of Evidence, and the Federal Sentencing Guidelines. Attorneys on the CJA Panel also must have demonstrated an interest in providing criminal defense services and a reputation for competent and vigorous representation. Members of the panel are required to participate in six (6) hours of training in federal criminal practice, with at least three (3) of the six (6) hours on the Federal Sentencing Guidelines, per year which shall be provided by the Federal Public Defender's Office or another court-approved provider of Continuing Legal Education. Appeal/Habeas panel attorneys are required to participate in a separate training in appellate and/or habeas practice prior to receiving cases. They may also have additional requirements consistent with the standards and legal knowledge necessary for practice before the Ninth Circuit Court of Appeals.

- **Civil matters:** alternative dispute resolution, extension of time deadlines, evictions and foreclosures, response time for offers of judgment, Rule 16 conferences, statutes of limitation, medical malpractice cases, stay of cases, subpoenas, and short trial program;
 - **Criminal matters:** certified copies, grand jury, guilty pleas, in-custody appearances, and out-of-custody appearances;
 - **Domestic matters:** confidential reports, motions;
 - **Guardianship;**
- News continued on page 12**

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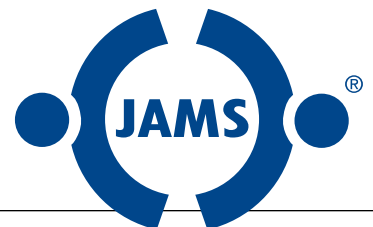
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Special Announcement

Las Vegas Township Justice Court Seeks Pro-Tempore Judges

Pursuant to NRS 4.032, the Las Vegas Township Justice Court is seeking attorneys in good standing to apply for the following positions:

1. Justice of the Peace Pro Tempore
2. Small-Claims Justice of the Peace Pro Tempore
3. Traffic Justice of the Peace Pro Tempore

A Justice of the Peace Pro Tempore will preside over various types of criminal and civil matters when a Justice of the Peace or Hearing Master is unavailable.

A Small-Claims Justice of the Peace Pro Tempore will preside over Small-Claims matters.

A Traffic Justice of the Peace Pro Tempore will preside over daily court hearings for the general

public, “walk-in” attorney sessions that are held on various days each week, and “bulk” attorney sessions where attorneys can resolve large amounts of traffic tickets at one time.

All Pro Tempore Justices of the Peace serve on an as-needed basis.

An applicant may apply and be selected for any combination of the above categories. However, the following rules apply:

(A) A **Justice of the Peace Pro Tempore** who is designated to hear all case types may not be named as attorney of record or make any appearance in any case pending in the Las Vegas Justice Court during his or her term of service. This is a personal restriction that does not affect other attorneys in the law firm of a Justice

of the Peace Pro Tempore.

(B) A **Small-Claims Justice of the Peace Pro Tempore** may not be named as attorney of record or make any appearance in a Small-Claims case pending in the Las Vegas Justice Court during his or her term of service. This is a personal restriction that does not affect other attorneys in the law firm of the Small-Claims Justice of the Peace Pro Tempore.

(C) A **Traffic Justice of the Peace Pro Tempore** may not be named as attorney of record or make any appearance in any traffic matter pending in the Las Vegas Justice Court during his or her term or service. This restriction applies to walk-in attorney sessions, bulk attorney sessions, pre-trial negotiations, and trials.

News continued from page 10

- **Juvenile dependency cases:** adjudicatory hearings, termination of parental rights proceedings, adoptions, court-ordered admissions to mental health facilities, Child Have and parent visitation, and timely filing of orders;
- **Juvenile delinquency cases:** signatures on juvenile written admissions;
- **Probate;**
- **Court facilities:** Family Law Self-Help Center, Family

Mediation Center, Donna’s House Central, Court-Appointed Special Advocate Program, Regional Justice Center Civil Self-Help Center, Traffic

For more information, visit the court’s blog at <https://eighthjd-court.wordpress.com/2020/06/02/district-court-issues-30-page-admin-order-20-17-updating-procedures-for-phase-2-of-covid-19-recovery/> and court’s website at <http://www.clarkcountycourts.us/general/court-rules-and-administrative-orders/>.

Las Vegas Justice Court Order in re Typographical Signatures Rescinds Earlier Court Order

On July 8, 2020, Las Vegas Justice Court Chief Judge Suzan Baucum filed an administrative order in regards to typographical signatures for electronic filing in civil cases. See Administrative Order #20-16.

In Administrative Order #20-16, the court cites guidelines for typographical signatures and notes

Special Announcement Continued

This is a personal restriction that does not affect other attorneys in the law firm of the Traffic Justice of the Peace Pro Tempore.

An attorney interested in any of these positions must submit a letter of interest which identifies the position(s) sought, along with a resumé, on or after **Monday, June 15, 2020**, and no later than 5:00 PM on **Saturday, August 15, 2020**, via e-mail to Joe. Tommasino@clarkcountynv.gov.

(These specific deadline dates were established by LVJC Administrative Order #16-04: <http://lasvegasjusticecourt.us/Admin%20Order%2016-04.pdf>.)

Submissions may also be sent by regular mail to:

Staff Attorney Joe Tommasino
C/O Justice Court Administration

Justice Court, Las Vegas Township
200 Lewis Ave., 2nd Floor
Post Office Box 552511
Las Vegas, NV 89155-2511

By submitting an application, the applicant agrees that the court may conduct a criminal background check as well as a bar-status check with the State Bar of Nevada.

Moreover, a Justice of the Peace Pro Tempore must meet the qualifications set forth in NRS 4.010, including prior licensure and admission to practice law in the courts of Nevada, another state, or the District of Columbia, for at least five years. All individuals selected for any of above positions must also be approved by the Justices of the Peace and the Clark County Board of County Commissioners.

Any Justice of Peace Pro Tempore who is a candidate for a contested judicial office may not serve

as a Pro Tem in the Las Vegas Justice Court until (1) he or she withdraws from the race; (2) he or she is defeated in the primary election; or (3) the November general election has passed.

Before the next ensuing term of service begins, individuals who have been selected as a Justice of the Peace Pro Tempore, Small Claims Justice of the Peace Pro Tempore, and Traffic Justice of the Peace Pro Tempore for the 2021-2022 panel must attend a mandatory orientation in November or December of 2020 (with a specific date still to be determined). This requirement may only be waived by the Chief Judge upon written request and for a good cause shown.

If you have any questions or if you need more information, please contact Staff Attorney Joe Tommasino at (702) 671-3424.

the implantation of the “Nevada Electronic Filing and Conversion Rules” governing all courts in Nevada. As such, the court determined that Administrative Order #15-06 is no longer necessary and rescinded Administrative Order #15-06 effective immediately.

Las Vegas Justice Court Order in re Guidelines for Own Recognizance Releases

On June 30, 2020, Las Vegas Justice Court Chief Judge Suzan Baucum filed an administrative order in regards to guidelines for administrative own recognizance releases for the Las Vegas Justice Court. See Sixth Amended Administrative Order #18-04.

In Sixth Amended Administrative Order #18-04, the court sets guidelines for how Pre-Trial Services staff (including Justice Court Intake Specialists, Court Compliance Officers, Office Services Supervisors, and/or the Court Division Administrator) shall effectuate a release when the person meets

certain criteria. Additionally, the order sets guidelines for how a person shall not be released by Pre-Trial Services.

Las Vegas Township Justice Court Changes Customer Service Hours

On June 26, 2020, Las Vegas Justice Court Chief Judge Suzan Baucum filed an administrative order in regards to the customer-ser-

News continued on page 14

News continued from page 13

vice hours of the Las Vegas Justice Court. See Administrative Order 20-15.

In Administrative Order 20-15, the court ordered that

“[E]ffective on **July 25, 2020**, the customer-service hours of the Las Vegas Justice Court will be from **7:30 AM to 5:30 PM, Monday through Thursday**, excluding nonjudicial days; and IT IS FURTHER ORDERED that every Friday will be deemed to be a non-judicial day for the purposes of JCRCP61, JCRCP 77, NRS 1.130, NRS 178.472, and any other statute or rule relating to the calculation of time in a proceeding within the jurisdiction of the Las Vegas Justice Court; and IT IS FURTHER ORDERED that this Order shall expire on **July 23, 2021**, unless this Order is subsequently modified or rescinded by a subsequent order.”

Las Vegas Township Justice Court Orders Face Coverings, Social Distancing

On June 12, 2020, Las Vegas Justice Court Chief Judge Suzan Baucum filed an administrative order in regards to the use of face coverings and social distancing in response to COVID-19. See Administrative Order 20-14.

In Administrative Order 20-14, the court cited concerns for public health and determined it necessary to supplement Administrative Order 20-13, the order that man-

dated face coverings for all court employees, with additional orders regarding the use of face coverings by **anyone** who enters a public area of the Las Vegas Justice Court. Most notably, the order states:

“IT IS HEREBY ORDERED that anyone who enters a public area of the Las Vegas Justice Court must wear a face covering; and IT IS FURTHER ORDERED that this Order expressly applies to, but is not limited to, private attorneys, contract counsel, employees or attorneys of the Clark County District Attorney’s Office, employees or attorneys of the Clark County Public Defender’s Office, court reporters, and all members of the public; and

IT IS FURTHER ORDERED that children under the age of two and individuals who are unable to remove the face covering without assistance do not have to comply with the above-referenced face-covering directive; and IT IS FURTHER ORDERED that individuals who are unable to wear a face covering for a Court proceeding should make arrangements to appear by alternative means; and IT IS FURTHER ORDERED that, as used in this Order, “public area of the Las Vegas Justice Court” includes the following locations:

- The Traffic Division located on the 1st Floor of the Regional Justice Center (once that area is re-opened to the public);

- The Customer Lobby for PreTrial Services located on the 1st Floor of the Regional Justice Center;
- The Customer-Service Counter located on the 2nd Floor of the Regional Justice Center;
- The Court-Education Division located on the 4th floor of the Regional Justice Center;
- The Neighborhood Justice Center located at 330 South Third Street, Suite 600 Las Vegas, NV 89101 (once that area is re-opened to the public);
- The Community Impact Center located at 3740 Royal Crest Street, Las Vegas, NV 89119 (once that area is re-opened to the public); and
- All courtrooms utilized by the Las Vegas Justice Court, including, but not limited to,
 - *Courtroom used for Initial-Appearance Court in the lower level of the Regional Justice Center;
 - *Courtrooms used for Traffic Court in the lower level and 1st floor of the Regional Justice Center;
 - *Courtrooms throughout the Regional Justice Center that are used for Small- Claims proceedings on an as-needed basis;
 - *Courtrooms used

for Eviction Proceedings; and

- *Courtrooms used by the justices of the peace for Criminal, Civil, Protection Order, and all other types of proceedings.

IT IS FURTHER ORDERED that this Order shall be reviewed no later than every 30 days and shall remain in effect until modified or rescinded by a subsequent order.”

Order in re Changes to Temporary Procedures in Civil Cases

On May 28, 2020, Las Vegas Justice Court Chief Judge Suzan Baucum filed an administrative order regarding changes to temporary procedures in civil cases. See Administrative Order 20-11 (AO #20-11). The order address procedures at the court citing modifications to procedure resulting from Amended Administrative Order 20-03 and Administrative Order 20-09.

Administrative Order 20-11 addresses several court procedures for handling matters related to: small claims trials and motion hearings, civil jury trials, defaults under Justice Court Rule of Civil Procedure 55, orders for the examination of judgment debtor, and essential and non-essential hearings and bench trials of cases.

Also, Administrative Order 20-11 includes a sample form for Notice of Intent to Take Default. As a courtesy to users, the court released

a version of the sample form as a fillable Word doc. See: LVJC-Form-Notice-of-Intent-Fillable.

For more information, read AO #20-21 (PDF) and get Notice of Intent to Take Default (Word). To find more administrative orders, visit the court’s website at http://www.lasvegasjusticecourt.us/faq/laws_and_rules.php.

Order in re Temporary Procedures in Criminal Cases

On May 26, 2020, Las Vegas Justice Court Chief Judge Suzan Baucum filed an administrative order regarding changes to temporary procedures in criminal cases. See Administrative Order 20-10 (AO #20-10).

The order addresses chang-

es to be implemented at the court, including the order to rescind Administrative Orders #20-02 in its entirety and sets the date of expiration for Administrative Orders #20-04 and #20-05 to June 1, 2020.

Additionally, AO #20-10 amends Administrative Order #20-08 in regards to the hours of operation for the Criminal Customer Service Window on the second floor of the Regional Justice Center.

Additionally, AO #20-10 amends Administrative Order #20-09 in regards to the Right to Speedy Trial.

Additionally, AO #20-10 orders “that out-of-custody arraignments, preliminary hearings, and trials shall be scheduled for dates on or after June 1, 2020.”

For more information, read AO #20-20 available at <http://www.lasvegasjusticecourt.us>.

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Advance Opinion Summary (7-1-20)

By Joe Tommasino, Esq.

Supreme Court of Nevada

Attorney-client privilege: (1) Here, the Supreme Court of Nevada addressed the possible existence of a fiduciary exception to the attorney-client privilege in NRS 49.095, whereby a fiduciary such as a trustee is prohibited from asserting the attorney-client privilege against a beneficiary on matters of trust administration; and (2) because the Nevada Legislature created five exceptions to the attorney-client privilege, none of which are the fiduciary exception, the Court expressly declined to recognize the fiduciary exception in Nevada. Petitioners are former trustees challenging a district-court order compelling the production of allegedly privileged documents in a trust dispute with a beneficiary. The first group of documents at issue contains a former trustee's notes related to a phone call with counsel, and the second group of documents contains the former trustee's notes taken during a meeting with other trustees, counsel, the opposing party, and an independent appraiser. Because the former trustee communicated the content of the first

group of documents to counsel, these documents are protected by the attorney-client privilege and are undiscoverable. Because the former trustee created the second group of documents in anticipation of litigation and the substantial-need exception to the work-product doctrine is inapplicable, these documents are protected by the work-product doctrine and are undiscoverable. Under NRS 49.095, the physical delivery of notes is not required because the statute clearly protects "communications." *Canarelli v. Eighth Jud. Dist. Ct.*, 136 Nev. Adv. Op. No. 29, ___ P.3d ___ (May 28, 2020).

Attorney discipline: (1) Effective January 2018, the Supreme Court of Nevada amended SCR 116, the rule governing reinstatement of suspended attorneys to the practice of law; (2) the amended rule applies to any petition filed after the amendment's effective date, regardless of when the suspension was imposed; and (3) a suspended attorney may apply for reinstatement under the amended rule even if she has not yet satisfied requirements that the Court imposed in the disciplinary order as conditions precedent to applying for reinstatement, but she will

have to present "good and sufficient reason" under SCR 116(2) to be reinstated despite that failure. Attorney Lynn Shoen did not seek reinstatement until after SCR 116(2) was amended. While she was disciplined before the amendments to SCR 116, the disciplinary action and the reinstatement action are different proceedings. Because SCR 116 is specific to reinstatement proceedings and Shoen filed her reinstatement petition after the amendments to SCR 116 took effect, the amended rule applies to her reinstatement petition without implicating the general rule against retroactivity. *Shoen v. State Bar of Nev.*, 136 Nev. Adv. Op. No. 30, ___ P.3d ___ (May 28, 2020).

[EDITOR'S NOTE: The remaining summaries content from this installment of Nevada Appellate Summaries can be read online at www.clarkcountybar.org.]

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Joe Tommasino has served as Staff Attorney for the Las Vegas Justice Court since 1996. Joe is the President of the Nevada Association for Court Career Advancement (NACCA).

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Forever in Blue Jeans

By Presiding Judge Bryce Duckworth

(For a bit of nostalgia, listening to “Forever in Blue Jeans” by Neil Diamond is recommended while reading.)

In November 2019, the National Council of Juvenile and Family Court Judges released an independent and comprehensive assessment of the Family Division of the Eighth Judicial District. The assessment found that the Eighth Judicial District Court is operating a coordinated Family Division Model that places it “in a league of its own,” and documented “a parade of strengths that other jurisdictions could benefit from emulating.” Nevertheless, a number of challenges exist and we recognize that improvements to the Family Division are ongoing and necessary. Little did we know, 2020 would accelerate a number of those changes and improvements to our efficiencies—*albeit by necessity*.

On March 13, 2020, Administrative Order 20-01 was issued, directing that “all currently scheduled non-essential District Court hearings are ordered to be conducted by video or telephonic means; decided on the papers; or rescheduled unless otherwise directed by a District Court Judge.” Since March 13, 16 Administrative Orders have followed, providing additional guidance and direction. A library of these Administrative Orders can be found at <http://www.clarkcountycourts.us/general/court-rules-and-administrative-orders/>.

The COVID-19 pandemic has caused necessary changes to court operations and protocols. These changes have included a paperless model that has been advertised for more than a decade and has finally come to nearly complete fruition. (For some time, we have labeled ourselves as a “paperless” court. “Papers” nevertheless made their way to the court by way of courtesy copies, orders/decrees to sign and a seem-



Judge Duckworth was elected to the bench in 2008. He currently serves as the Presiding Judge in the Family Division of the Eighth Judicial District Court.

Videoconferencing is here to stay and, notwithstanding occasional “technical” challenges along the way, I’ve determined that “I’d much rather be forever in blue jeans.”

ingly endless mountain of exhibits.) Today, pleadings, papers, exhibits, orders, and decrees are transmitted, signed, and filed electronically—truly not just “talking the talk,” but “walking the walk.” Each department now has an email inbox dedicated to receive all proposed orders/decrees. A listing of each department’s inbox address is attached to Administrative Order 20-17. The efficiencies of the Eighth Judicial District Court have increased dramatically thanks in large part to the vision and guidance of Chief Judge Linda Bell and an amazing court administration (with a well-deserved “shout-out” to Assistant Court Administrator/IT Director, Mike Doan).

During this time of stress and turmoil, the adjudication of cases has continued. *In lieu of* personal appearances in court, however, appearances through “BlueJeans” have become both routine and commonplace (*and much preferred over telephonic appearances*). BlueJeans is a videoconferencing platform that offers tools that can be utilized in law and motion calendars, trials/evidentiary hearings, and mediation. These tools

include “side-bar” and whiteboard functions. This videoconference platform has been around for some time and has been utilized by several Family Division departments prior to March 2020. For assistance in navigating BlueJeans, I recommend <http://www.clarkcountycourts.us/virtual/>.

Courts throughout the country have grappled with how to conduct virtual hearings effectively and efficiently. Some jurisdictions have utilized Zoom, while others have relied on YouTube and even Facebook as videoconferencing platforms. In the Eighth Judicial District, we have embraced the BlueJeans platform (*okay, we have dragged some along kicking and screaming*) and continue to explore and implement its features. Videoconferencing is here to stay and, notwithstanding occasional “technical” challenges along the way, I’ve determined that *“I’d much rather be forever in blue jeans.”* ☐

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Marital Settlement Agreements Beware: Signatures Not Required!

By Hon. Mathew Harter

Abraham Lincoln, a lawyer by trade, said: Discourage litigation. Persuade your neighbors to compromise whenever you can. As a peacemaker, the lawyer has superior opportunity of being a good man. There will still be business enough.

NRS 3.225(1) states:

The family court *shall*, wherever practicable and appropriate, encourage the resolution of disputes before the court through non-adversarial methods or other alternatives to traditional methods of resolution of disputes.

Here is an all too common scenario in family law. Whether it be by regular negotiations, a settlement conference, or a private mediation, the terms of a marital settlement agreement (MSA) are finally reached. Family law, by its nature, is an emotionally charged area of the law, which is ripe with fluidity. For *some* reason, one of the parties subsequently reneges and now “wants to go to trial,” many times seemingly just to punish the non-breaching party for actual or perceived marital wrongdoings. The non-breaching party’s counsel far too oft simply writes it off as routine practice. The breaching party’s counsel sometimes will file a

motion to withdraw because they *know* that an agreement was reached and that their client has flip-flopped after months, or in extreme cases, years of negotiation. Some non-breaching party’s counsel (and many times inadequate/unethical counsel for the breaching party who decide they cannot afford to discontinue their stream of fees) unfortunately believe that the agreement reached is null and void since it was not yet reduced to writing and/or signed by the parties. *Wrong!*

NRS 123.270 states:

All marriage contracts or settlements must be in writing, and executed and acknowledged or proved in like manner as a conveyance of land is required to be executed and acknowledged or proved.

As this statute’s footnote confirms, it was enacted in 1873. This is less than a decade after Nevada received its statehood from “Honest Abe” (*supra*) in 1864, and more than a century before all of the modern caselaw citations (cited below) which have effectively invalidated the mandates of NRS 123.270. Since its inception some 147 years ago, a *Westlaw* search reveals that NRS 123.270 has only been cited in Nevada published opinions once in *dicta* and once in an obscure footnote. What then is a non-breaching party’s counsel to do? *Immediately* file a motion to enforce using the fol-



Judge Mathew Harter is a Nevada native (Bonanza H.S./UNLV). He received his J.D. cum laude in 1994 from W. Michigan University where he served on Law Review, on the National Moot Court Team and at 2 law clinics for indigents. He was a Law Clerk for Judge G. Hardcastle and then chose to start a solo law practice in 1995 primarily in Family Law. He was elected to Dept. N in 2008, re-elected in 2014 and was unopposed in 2020.

lowing caselaw as the legal foundation. Immediacy is necessary as some evidence may be verbal or undocumented.

Parties are free to contract, and the courts will enforce their contracts if they are not unconscionable, illegal, or in violation of public policy.

Rivero v. Rivero, 216 P.3d 213, 226 (2009).

An agreement to settle pending divorce litigation constitutes a contract and is governed by the general principles of contract law.

Anderson v. Sanchez, 373 P.3d 860, 862 (2016).

Common examples of contract principles used in an effort to get out of an MSA are *mistake* and/or *duress* (e.g., “My client made a mistake. He/She was also under duress as they were too emotionally unstable due to the current divorce proceedings.”).

[U]nilateral mistake is *not* a ground for rescission unless the other party knows or has reason to know of the mistake.

Gen. Motors v. Jackson, 900 P.2d 345, 349 (1995).

It is well settled that a contract may be set aside for duress *only* if it was obtained by so oppressing a person by threats regarding the safety or liberty of himself, or of his property, or of a member of his family, as to deprive him of the free exercise of his will.

In re Marriage of Broderick, 209 Cal.App.3d 489, 499 (1989).

Both of these legal grounds are routinely alleged, but neither are usually successfully substantiated.

In *May v. Anderson*, 119 P.3d 1254 (2005), the Court held:

Basic contract principles require, for an enforceable contract, an offer and acceptance, meeting of the minds, and consideration. With respect to contract formation, *preliminary negotiations do not constitute a binding contract unless the parties have agreed to all material terms*. A valid contract cannot exist when material terms are lacking or are insufficiently certain and definite. A contract can be formed, however, when the parties have agreed to the

MSA Beware continued on page 22



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MSA Beware continued from page 21

material terms, even though the contract's exact language is not finalized until later.

Id. at 1257.

A promise or agreement with reference to a pending judicial proceeding, *made by a party to the proceeding or his attorney, is binding without consideration.*"

Grisham v. Grisham, 289 P.3d 230, 234 n.3 (2012).

[Refusal] to sign the proposed draft . . . is inconsequential to the enforcement of the documented settlement agreement.

May, 119 P.3d at 1259.

In *Harmon v. Tanner Motor Tours*, 377 P.2d 622 (1963), the Court upheld an agreement not yet reduced to writing. "To hold otherwise would render *the proceedings* . . . meaningless and a sham." *Id.* at 627. No party to a divorce should be subject to unnecessary exercises in futility, especially amidst emotionally taxing legal proceedings.

Circling back to where we began, "[T]he prevention of future litigation is one of the primary goals of a settlement." *May*, 119 P.3d at 1258.

[W]hat are considered [to be *material terms*] varies with the nature and complexity of the case and must, therefore, be determined on a case-by-case basis.

Id.

"Whether a contract exists is a question of fact." *Anderson*, 373 P.3d at 863. However, the burden of proof is far from unattainable.

[A]bsent a clear legislative intent to the contrary, we conclude that the standard of proof in a [civil/domestic matter] must be by a *preponderance of the evidence*.

Mack v. Ashlock, 921 P.2d 1258, 1261 (1996); Black's Law Dictionary, 1201 (7th ed.1999) ("The greater weight of evidence." (*i.e.*, 50.0001%)).

What does a *May* type evidentiary hearing entail? This court has conducted several of these types of evidentiary hearings. Some have consisted of the mediator testifying whether they believed there was a *meeting of the minds* and the *material terms* were *accepted*. Other hearings have consisted of the breaching party's prior

counsel [post withdrawal] being subpoenaed to testify as an officer of the court as to whether the *material terms* were *accepted*. The easier cases include tangible correspondence documenting *acceptance* of the *material terms*. Counsel opposing this form of evidence that is clearly unfavorable to their defense routinely attempt to claim it must be barred because it was part of settlement negotiations. NRS 48.105(1). *Ridiculous!* A valid *acceptance* to an *offer* does *not* constitute negotiation; it is a "binding obligation . . . notwithstanding the subsequent failure to prepare and sign the contemplated formal agreement." *Harmon*, 377 P.2d at 727 (citing to *Garfield v. United States*, 93 U.S. 242 (1876)).

In closing, you have a duty to zealously represent your client. Do not just roll over when the other side unexpectedly reneges on an agreement. Also, do not be one of *those* attorneys who acts merely as a puppet for their client. Do what is right; reputations in our legal community are remembered and karma is real. To keep the agreement alive, immediately file a *May* motion to enforce. *Time is of the essence* for evidentiary purposes as memories can fade fast if terms were not reduced to writing. Remember, in the end, you also have Abe on your side. 🍀



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Marriage and Trust: A Primer on Trusts, Divorce, and Community Property

By Var Lordahl, Esq. and Melissa R. Douglas, Esq.

Marriages and trusts are generally created with a lifelong intent – but life, as we know, is intrinsically impermanent. As a result, family law practitioners and trust and estate attorneys are frequently called upon prior to, during, and after a marriage to arrange, and then re-arrange, personal and property interests. This article will summarize the intersection between marriage and divorce; trusts; and Nevada community property rights. The first portion of this article will review trust and community property concepts, and the latter portion will address how these concepts are impacted before, during, and after a marriage has ended.

Trusts

There exist countless permutations of trusts under Nevada common law and statutory law, but this article

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Melissa R. Douglas, Esq. is of counsel to Dawson & Lordahl, PLLC. Her practice areas include family law, guardianship, probate, and estate planning -- including the preparation of prenuptial and postnuptial agreements. Ms. Douglas obtained her J.D. from the William S. Boyd School of Law.

focuses on two broad categories: revocable and irrevocable trusts. Revocable trusts are generally created by a single person, or jointly by a married couple. They can be revoked or amended at any time prior to the grantor's death or incapacity. For revocable joint trusts, either grantor can remove that grantor's half of the community property and that grantor's separate property contributed. With respect to irrevocable trusts, and subject to innumerable exceptions, the contribution is a permanent gift to the trust (for state law purposes), and the trust may not be revoked or amended. Revocable trusts are generally created as a lifetime probate avoidance and estate planning vehicle, and irrevocable trusts are generally created for tax, asset protection, and/or charitable purposes.

Community property

Nevada community property rights are created by marriage. NRS 123.010(1). Property earned prior to marriage is generally separate property, and property earned after marriage is generally community property. NRS 123.130. Inheritances, to the extent not commingled with community property, are generally separate property (as are gains thereon). *Id.* Businesses operated during the marriage may be some part, or entirely, community property. *See Devries v. Gallio*, 128 Nev. 706 (2012) (citations omitted). Community property rights are statutory and mandatory in nature,

Marriage continued on page 24

Marriage continued from page 23

unless altered by a valid antenuptial, postnuptial, or transmutation agreement. NRS 123.010.

Community property transferred to a revocable trust during marriage retains its status as community property unless duly transmuted. And under recent Nevada law, community property transferred to an irrevocable trust during marriage also retains its status as community property unless altered by a valid transmutation agreement. *See* NRS 123.125; *see also* *Klabacka v. Nelson*, 133 Nev. 164 (2017).

Prior to marriage

When contemplating marriage, each future spouse owns their own respective separate property. Though separate property generally retains its character as separate property after marriage, great care must be taken to avoid comingling the property with community. As a result, a basic revocable separate property trust created prior to marriage that is kept separate after marriage is a powerful, if simple, tool to avoid comingling issues. A more aggressive strategy is for a future spouse to create a self-settled Nevada irrevocable asset protection trust under NRS Chapter 166 (a “NAPT”). Such trusts, if properly created and administered, are generally exempt from claims for support or maintenance from a future divorcing spouse, but may still distribute funds to the grantor spouse. *See* NRS 166.090(1); *see also* *Klabacka*, 133 Nev. at 176. The “gold standard,” however, is a valid prenuptial agreement (“Prenup”) that is executed with requisite formalities. For a client with financial means, the Prenup can and should list all trusts created by the client, the treatment of various types and classes of property in the trusts, the future treatment of gains from those properties, current and future income, and the effect of a divorce upon those interests.

During marriage

Most people first create a revocable trust during marriage, often after having children. In Nevada, these trusts are generally structured as joint trusts, with each spouse contributing their half of the community property, and sometimes their separate property as well. Because of the inherent nature of a joint trust, it is imperative that a joint revocable trust contain a schedule delineating community property and each spouse’s separate property to ward off future claims of comingling. As stated, however, the best practice for a grantor

with significant separate property is simply to create a separate property trust apart from the joint revocable trust. NAPTs may also be created with separate property during marriage, but they may be harder to defend upon divorce, and family court judges may look very skeptically at a NAPT created by a spouse on the eve of divorce. Moreover, NAPTs created in anticipation of marital claims may run afoul of NRS 166.170.

Clients who are worried about impending divorce often worry that the other spouse, who is often in control of the marital finances, may secretly transfer community property to a NAPT. Critically, however, Nevada law requires that a spouse consent to any gratuitous transfers of community property. NRS 123.230(2). NRS 123.125 also provides that community property transferred to an irrevocable trust still constitutes community property of the couple. That said, it is imperative to impress upon clients to seek legal review of any consents that the other spouse requests that they sign, particularly with respect to the creation of trusts and transfers of community property.

At divorce

At dissolution of marriage, assets in any revocable trust are divided up just like any other property of the spouses: the community is generally split, and the

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separate property is generally retained by the owner. However, a former spouse who has sloppily commingled separate and community trust assets may risk having formerly separate property treated as community property.

Irrevocable trusts are far less straightforward. In the simplest scenario, where the property in the irrevocable trust was and is still deemed community property, the divorce decree may simply split the trust along property ownership lines (which can lead to adverse tax consequences in certain scenarios, but that is outside the scope of this article). Alternatively, a non-pro-rata property arrangement may be obtained offsetting the community property in the trust against non-trust community property outside the trust.

NAPTs that are created with one spouse's separate property may be impenetrable by a divorcing spouse, particularly if they are created long before the divorce. As stated, Nevada law even exempts these trusts from support and maintenance claims. *See* NRS 123.125; *see also* *Klabacka v. Nelson*, 133 Nev. 164 (2017). In between these two extremes, however, lies a vast gray area of property rights and claims that are often settled via expensive litigation.

Some spouses, not content with Nevada's NAPT

laws, will unilaterally (in violation of Nevada law) transfer community assets to an offshore irrevocable trust in a locale such as the Cook Islands that does not generally respect orders from a Nevada court. Though a Nevada court may not be able to directly compel a Cook Islands Trustee to comply with a divorce decree, the Nevada court may be able to exercise *in rem* jurisdiction over the Trust assets, and the judge may elect (in certain circumstances) to throw the grantor of such a trust in jail for contempt of court until such time as the assets can be repatriated. *See, e.g., FTC v. Affordable Media, LLC*, 179 F.3d 1228 (9th Cir. 1999).

Ultimately, a properly drafted and executed Prenup or postnuptial agreement can side-step most or all of these issues. Despite the reams of paper and mountains of digital copy devoted to marketing asset protection and separate property trusts, oftentimes the best protection against marital claims is a good Prenup. Just be absolutely sure, however, that if a future spouse has significant separate property and/or significant trust arrangements, that the attorney drafting the Prenup has the knowledge to understand and properly incorporate them into the Prenup. As in all aspects of life, even the most well-intentioned lifelong plans should always incorporate contingency arrangements. **©**

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Community Property for Cohabitants

By Rock Rocheleau, Esq.

We had a client who purchased a home with his fiancé. Technically, the fiancé purchased the home with our client's mother. The fiancé provided the down payment and our client's mother provided her credit for the mortgage. The couple married eight years later, and eight years thereafter, they filed for a divorce. Our client wanted half the equity in the home. Will the court give it to him?

How Nevada law divides a home owned by a husband and wife is fairly clear. Under Nevada law, a home purchased by a husband and wife during the marriage is presumed to be community property. In a divorce, community property is divided evenly, absent a compelling reason. *See* NRS 125.150(b).

But what happens when an unmarried couple purchases a home? This is where the laws are a little murky. When unmarried couples, or cohabitants, purchase a home and later separate, the court must decide what to do with the home.

There are several ways a court can divide a home owned by unmarried cohabitants: (1) based on the way the deed is written, (2) based on finding an express or implied partnership, or (3) based on community property by analogy.

Joint Tenants and Tenants in Common

Two cohabitants may own a home as joint tenants or tenants in common. Joint tenancy gives each cohabitant an undivided equal interest in the property. This implies equal ownership. Tenants in common does



Rock Rocheleau, Esq. is the managing attorney at Right Lawyers. He manages the firm with his wife of 27 years, attorney Stacy Rocheleau. Rock graduated from UNLV Boyd School of Law in 2019. Prior to being an attorney Rock was the office manager of the firm.

Even without their name on the deed, a cohabitant may have ownership in a home based on an implied partnership or community property by analogy.

not imply equal ownership. One tenant may own 80 percent and the other tenant may own 20 percent. In a perfect world, there is a document stating the percentages each tenant owns. If there is no such document, then the court will look to the amount of contributions each tenant made to determine the share of ownership. *See Sack v. Tomlin*, 110 Nev. 204, 871 P. 2d 298 (1994).

Even without their name on the deed, a cohabitant may have ownership in a home based on an implied partnership or community property by analogy.

Implied Partnership

A partnership is an association of two or more per-

sons to carry on as co-owners of a business for profit. See NRS 87.060(1). There may be a document to confirm the partnership. However, as we all learned in law school, paperwork is not required to form a partnership. A partnership can be shown through words and actions.

Two unmarried people coming together to purchase a home is potentially a partnership. To form a partnership, there must be an express or implied contract.

If an express or implied agreement is not found, then the court will revert to partnership rules of law. Under Nevada law, a partner interest is determined by agreement or by their share of the profits. See NRS 87.260.

Community Property by Analogy

Community property is a label reserved for couples who are married. However, our court has found cases where the couples were not married but treated the property as if they were married. The court calls this “community property by analogy.” See *Hay v. Hay*, 100 Nev. 196, 678 P.2d 672 (1984).

The court will look for an express or implied agreement between the parties to acquire and hold property as if they were married. If an agreement is found, the property will be divided as any community property would be divided.

Couples can have a written agreement as to how the house should be held, or their actions can show their intentions. Holding themselves out as husband and wife, or a pooling of funds is key in evaluating what the couple intended.

Pooling of funds, or treating each other’s income as a married couple would, is evidence of an implied contract to hold the home as community property.

No Interest

What if a cohabitant does not have their name on the title, there is no proof of an implied partnership, no proof of holding themselves out as married, no pooling of money, and no proof of intent to treat the home as community property?

In this scenario, the cohabitant likely has no interest. The cohabitant is nothing more than a mere roommate and best suited to pursue an unjust enrichment claim.

In our case, our client was able to show communi-

ty property by analogy through the pooling of money. They had no formal agreement, which meant the court would divide the home based on contribution. The fiancé supplied the entire down payment. This was not a favorable fact for our client. Luckily, over the eight years of cohabitating, they pooled their incomes together by depositing wages into a joint account that was used to pay the mortgage, taxes, and homeowner’s insurance. It also helped that our client had proposed to the fiancé before the house was purchased, and later they had indeed married. This, along with the pooling of funds, was enough to show the court they intended to treat the home like a marital home. **E**

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Covid-19: Lockdowns, Facemasks, and Bankruptcy

By Zachariah Larson, Esq.

It is June 30, 2020. I have just poured my first cup of steaming joe and am scrolling through the Las Vegas Review Journal. Unfortunately, several headlines all relate to the title of this article.

- Cirque du Soleil: Files for bankruptcy and terminates 3,500 employees;
- Laughlin Casino closes again after employee tests positive;
- Allegiant Air lays off 87 employees, eliminates another 220 positions.

I am sure before this article goes to print, many more articles like this will appear. In these unprecedented times, Las Vegas, the city built on a river of tourism and cash, and its people are struggling to find its way out of dealing with COVID-19 and all of the resultant ramifications. Struggling to find another job to replace the one lost, trying to manage a completely new business model, or learning to work remotely at home with children and other distractions, none of what COVID-19 has brought to us in Las Vegas has been easy. For the first time in my career, I had a client commit suicide. Needless to say, it has been a very difficult and draining first half of the year.



My advice, as an experienced practitioner of bankruptcy, is that it is crucial to stay positive, keep a level head, and seek counseling if

you are unsure of what the tea leaves are trying to tell you. As I often tell my clients, “focus on your mental and physical health, because while I can fix your bad debt numbers (or at least make them better), I am not a doctor or yogi, so let me worry about your debt.”

If you or someone you know is in a difficult financial position, do not panic. Just like gambling in our great city, everyone and everything has its ups and downs. This applies not only to the most successful people I have ever met who have lost tens of millions of dollars, but also to the people who sit in my office, broken, crying and often destitute, unsure of how to move forward.

If you are one of the unfortunate individuals that has been hit hard this year, and if you have any resources, conserve them. Do not sell or refinance your house, do not liquidate or take a loan out on your retirement or life insurance, and do not fall into the abyss of negativity. Stop, think, make a plan, and a budget. Did I say make a budget? Yes, twice now.

I cannot tell you how many clients save hundreds of dollars a month just from looking closely at their bank and credit card statements and figuring out how many \$5.00 and \$10.00 transactions they have per month that they do not use, or do not need. I always ask my clients, “how many times to you get coffee from Starbucks in a week?” You would be surprised at the number of people who say five times per week, “Everyday on the way to

Zachariah Larson, Esq. is a partner at Larson & Zirzow and practices in all areas of consumer and business bankruptcy, representing both debtors and creditors. Mr. Larson splits his time between his Las Vegas law office and his home in Colorado where he resides with his better two thirds, his three awesome boys, and his two Entlebucher’s.

work.” So, simple math. \$5.00 per day (excluding tip), five days a week, 52 weeks per year, equals \$1,300.00 per year on coffee for one person in a household. Ten years of getting that coffee = \$13,000.00! You get the point, that is a lot of money for coffee (steaming cup of joe mentioned above, brewed at home. Average cost, approximately thirty cents per cup). Keep in mind I am not saying cut out coffee at the shop altogether, just keep it as a reward once or twice a week, for those tough Monday mornings, or the day before a big trial, hearing, mediation. . .whatever. If you go only twice a week to get coffee, then one person can save \$780.00 per year just by lowering their weekly caffeine splurges.

What are some other great places to see savings? Reducing the use of entertainment services (cable/Hulu/Netflix/etc.); uninstalling the Amazon prime application on your smart phone to stop the impulse buy; and cancelling membership services that are unused (gym/magazines/app purchases). A thorough review of your monthly expenses can be eye opening in how much money you and your family can save...and those savings start adding up almost immediately.

In a nutshell, if you are reading this article, focus on the fact that you are most likely in a better position than 95 percent of my clients dealing with the ramifications of COVID-19. You are likely educated, motivated, and have options that most other workers in Las Vegas simply do not have. So, pour yourself a home brewed cup of joe and let’s focus on turning things around emotionally and financially for the rest of 2020. 🍷



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Giving in the Face of COVID-19

By Augusta Massey, Esq.

My first pro bono case involved a lady from Pakistan, who could barely communicate in English. She wanted a divorce from her estranged husband, who she had not seen in years. I had never practiced family law before, but she had come to me for help and I did not want to turn her away. I took the case, attended a family law CLE, and started researching “how to serve an incognito husband.” I was excited and petrified, but with the help and guidance of Legal Aid Center of Southern Nevada, I was able to assist my client in getting a divorce. I congratulated myself for winning my first solo case and concluded the matter. However, what my client did next surprised me.

She stopped by my office a couple weeks after we received the divorce decree with a can of candied nuts that she had made herself. She explained that it was a special delicacy in Pakistan and the only way she could thank me was with this can full of love. I was speechless. I thought I was helping her reset her life and I expected nothing in return. But taking her case gave me much more: I learned a new area of law, managed a case solo as a relatively new attorney, and profoundly connected with a woman across a language barrier.

In these unprecedented times, where we face uncertainty and distancing as a planet, there is an even greater need to feel connected. We can do that by giving our time and expertise. The need for competent lawyers to assist indigent clients has only become more acute during this crisis. We can come out of quarantine with a greater sense of purpose, meaning, and connection if we give our time and expertise to those experiencing this crisis on top of unmet legal needs. We are all in this together.

To learn more about volunteer opportunities, contact Pro Bono Director Noah Malgeri at (702) 386-1429 or nmalgeri@lacs.org. 



Augusta Massey, Esq. is the Managing Attorney at Massey & Associates Law Firm, PLLC, practicing in the areas of business law and bankruptcy. She also serves on the State Bar’s Fee Dispute Committee and is the President of the Las Vegas Chapter of the National Bar Association.

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- Cover date(s): (e.g., June/July (combined issue), August, September..)
- Submit requests to the CCBA via StephanieAbbott@clarkcountybar.org.

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