



COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

NOVEMBER 2020

Administrative Law



Appearing Before a
Zoning, Planning and
Land Use Board—
A Perspective by
Las Vegas City Attorney
Bryan K. Scott
Page 23

In this Issue

Diversity, Equality and Inclusion
Committee?
Page 4

2021 CCBA Executive Board of
Directors Election Information
Page 5

COVID-19 Questions With Admin-
istrative Law Answers That Will
Impact How Las Vegas Recovers
Page 18

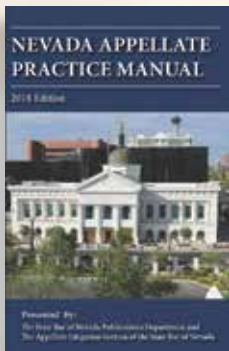
You May Need a License—
Navigating the Requirements of
Business Licensing
Page 20

COVID-19 Impact on Nevada
Open Meeting Law
Page 26

What does "Arbitrary or
Capricious" Mean?
Page 28

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.



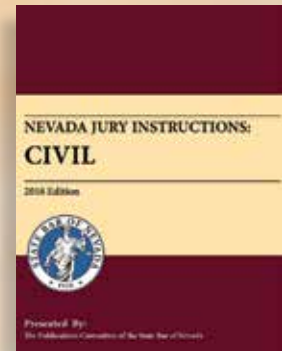
Nevada Gaming Law Practice and Procedure Manual

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





COMMUNIQUÉ

Table of contents

Articles

Three COVID-19 Questions With Administrative Law Answers That Will Impact How Las Vegas Recovers

By Maren Parry, Esq. 18

You May Need a License—Navigating the Requirements of Business Licensing

By Elizabeth M. Sorokac, Esq., and Jacqueline N. Walton, Esq. 20

Appearing Before a Zoning, Planning and Land Use Board: the Do's and Don'ts—My Perspective

By Las Vegas City Attorney Bryan K. Scott 23

COVID-19 Impact on Nevada Open Meeting Law

By Caleb L. Green, Esq. 26

What does “Arbitrary or Capricious” Mean?

By Marla J. Hudgens, Esq. 28

Columns

Clark County Bar President's Message

Diversity, Equality, and Inclusion Committee?

By Mariteresa Rivera-Rogers, Esq. 4

Highlights

2021 CCBA Executive Board of Directors Election Information 5

In Memoriam: Senior U.S. District Court Judge Lloyd D. George 13

Pro Bono Corner

Pro Bono From Home

By Azra Ozdemir 30

Departments

Bar Activities 6

Member Moves 7

Errata 7

Continuing Legal Education 9

Court News 16

The Marketplace 30

On the Cover

Photo of Las Vegas City Attorney Bryan K. Scott courtesy of Stephanie Abbott.

Diversity, Equality, and Inclusion Committee?

By Mariteresa Rivera-Rogers, Esq.

This is a current theme that permeates society at this time—diversity, equality, and inclusion. What does it mean? At this time, we probably could agree that we all have one thing in common, no matter what side of the fight we are on. We want and fight for justice, and to uphold the Constitution, no matter what your or your client's color or ethnicity. However, we need to dig deeper into the subject.

Back on April of 2017, Bryan K. Scott, as president of the State Bar of Nevada at the time, wrote an article for the *Communiqué* (diversity issue), analyzing the composition of the Nevada bar as it pertains to its members demographics, minority bars, race, ethnicity etc. The statistics may have changed a smidgeon since then but it suffices to say, not much has changed since then. Bryan's comments are on point "Lawyers from different backgrounds from various cultures and practitioners from multiple legal fields bring different skill-sets, concerns and priorities to an ever-growing diverse clientele." We are proud to count Bryan as the CCBA president for 2005. Nowadays, Bryan is the Las Vegas City Attorney.

It occurred to me that many of the lawyers of minority ethnicities do form their own bars and work together as a group without integrating within other specialty bars. Some Black attorneys join the Las Vegas National Bar Association (LVNBA), some Latinx attorneys join the Las Vegas Latino Bar Association (LVLBA), and some Asian lawyers join the Las Vegas South Asian Bar (LVSABA). Their commitment is unparalleled. They all do great work and along with UNLV's

William S. Boyd School of Law, encourage and support minority



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.

Can I count on you?

students to take the LSAT, enroll in law school, and complete their studies. They mentor students to become warriors for the law. In case you want to join them, all these bars welcome everyone to their membership. We also encourage you to join us at the Clark County Bar Association, we value diversity and the different perspectives that diversity brings. We hope to have meaningful conversations to share experiences and work together for a more unified legal community.

In addition to the aforementioned specialty bars, the Southern Nevada Association of Women Attorneys (SNAWA) is a great organization and welcomes all to their membership as well. SNAWA works tirelessly to offer opportunities for women to advance in the profession. Women, as a group, have made great strides in integrating the profession.

I would like CCBA to form a Committee on Diversity, Equality, and Inclusion and invite our members at large or new members to volunteer and offer their wisdom and talents in this area, so we can all be educated on the different meanings of these words and embrace the knowledge for our future. Can I count on you? **■**

2021 CCBA Executive Board of Directors Election Information

On Thursday, December 17, 2020, the Clark County Bar Association (CCBA) will hold the election for the 2021 CCBA Executive Board of Directors on the same day of the Clark County Bar Association Luncheon & Annual Meeting. This year's ballot includes two uncontested races. The uncontested races feature three incumbents running to retain their seat on the board and one nominee vying for one open position on the board. The open position was created from the appointment of a current director to serve as secretary/treasurer for the organization next year. Attorney members are invited to cast their vote electronically by visiting www.ClarkCountyBar.org on the day of the event or by absentee ballot before December 17, 2020. See below for more information about the candidates, polling information, absentee ballots, and additional members of the CCBA Executive Board of Directors.

Candidates (terms to expire 12/31/2022):

Vote for **any (one or more)** to retain their current seat:

- **Heather Anderson-Fintak*** of Southern Nevada Health District
- **Joel Henriod*** of Lewis Roca Rothgerber Christie LLP
- **Paul C. Ray*** of Paul C. Ray, Chtd.

Candidate (term to expire 12/31/2022):

Vote for **only one** to fill one vacant seat:

- **Paul Lal** of Boies Schiller Flexner LLP

Polling information for CCBA's election day:

Attorney members may cast their ballot electronically by visiting www.ClarkCountyBar.org on December 17, 2020.

Absentee ballot information:

Attorney members who cannot submit a ballot on December 17, 2020 (as outlined above), may mail, fax, or email a completed absentee ballot declaration and a ballot during a period of five (5) business days preceding the date of the Clark County Bar Luncheon and Annual Meeting to Clark County Bar Association, 717 S. 8th Street, Las Vegas, Nevada, 89101, Fax (702) 387-7867, or Email Executive Director Donna Wiessner at DonnaW@ClarkCountyBar.org.

Declarations and ballots will be available from the CCBA's website as an electronic file to download from www.ClarkCountyBar.org, and upon request from the CCBA.

Additional members of the 2021 CCBA Executive Board of Directors:

- **Officers (terms to expire 12/31/2021):**
 - President 2021: **James E. Harper*** of Harper Selim
 - President-Elect 2021: **Nedda Ghandi*** of Ghandi Deeter Blackham Law Offices
 - Secretary/Treasurer 2021: **Brandon Kemble*** of City of Henderson

Judicial Appointee (term to expire 2021): The Honorable Jerry A. Wiese, II* of Eighth Judicial District Court, Dept. 30

- **Directors (terms to expire 12/31/2021):**
 - **Mark Blackman*** of Barrett Daffin Frappier Treder & Weiss
 - **Jacquelyn Franco*** of Backus Carranza & Burden
 - **James T. Leavitt*** of Leavitt Legal Services, PC
 - **Alayne Opie*** of Greenberg Traurig, LLP
 - **Amanda Stevens*** of Battle Born Capital

- **Ex Officio (term to expire 12/31/2021):** President 2020 **Mariteresa Rivera-Rogers*** of Wright Marsh & Levy

**Denotes person currently serving on the board.*



Bar Activities

Bar Committees

Bar members are invited to attend meetings of CCBA's planning committees:

- **CLE:** Wed., Nov. 4 (12 to 1 p.m.)—RSVP to Donna
- **Publications:** Tues., Nov. 3 (12 to 1 p.m.)—RSVP to Steph
- **Community Service:** Fri., Nov. 6 (12 to 1 p.m.)—RSVP to Steph
- **New Lawyers:** Thur., Nov. 12 (12 to 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. For more information about each committee, see <https://clarkcountybar.org/about/committees/>.

Bar Luncheons

On Thursday, October 15, 2020, CCBA President **Mariteresa Rivera-Rogers** hosted the Clark County Bar Luncheon, sponsored by Bank of Nevada, Dillon Health, First Legal, and Prominence Health Plan. This event featured presentations by City of Las Vegas Mayor Carolyn Goodman and City Attorney Bryan Scott. See above for photos.

On Thursday, December 17, 2020, CCBA President **Mariteresa Rivera-Rogers** will host the Clark County Bar Luncheon & Annual Meeting sponsored by Bank of Nevada, Dillon Health, and Prominence Health Plan. This event will be held online via Zoom and feature a presentation by Jeremy Aguero of Applied Anaysis on the topic of southern Nevada's evolving economic landscape and how COVID has effected Las Vegas. This event will also feature the election of the 2021 CCBA Executive Board. To participate in this FREE event, RSVP to Donnaw@clarkcountybar.org by December 14, 2020. For more information about the election of the 2021 CCBA Executive Board, see page 5.

Continuing Legal Education

The CCBA offers programming for the continuing legal education (CLE) of Nevada lawyers. CCBA's CLE programming is produced by the CCBA's CLE committee and sponsored by Bank of Nevada and Las Vegas Legal Video. For more information, see pages 9-11.

Election of 2021 CCBA Executive Board of Directors

On Thursday, December 17, 2020, the Clark County Bar Association (CCBA) will hold the election for the 2021 CCBA Executive Board of Directors on the same day of the Clark County Bar Association Luncheon & Annual Meeting. This year's ballot includes two uncontested races. The uncontested races feature three incumbents running to retain their seat on the board and one nominee vying for one open position on the board. The open position was created from the appointment of a current director to serve as secretary/treasurer for the organization next year. Attorney members are invited to cast their vote electronically by visiting www.ClarkCountyBar.org on the day of the event or by absentee ballot before December 17, 2020. See below for more information about the candidates, polling information, absentee ballots, and additional members of the CCBA Executive Board of Directors. For more information, see page 5.

CCBA to Explore Option for Lawyer Referral Service

The CCBA is interested in forming an exploratory committee to help determine whether the CCBA should develop a lawyer referral service to benefit the organization and the community at large. Interested CCBA members are invited to contact Stephanie Abbott at the CCBA, 702-387-6011.

Walk to End Alzheimer's®

On Saturday, November 7, 2020, the CCBA Community Service Committee will participate in the Alzheimer's Association Walk to End Alzheimer's®, the world's largest event to raise awareness and funds for Alzheimer's care, support and research. All CCBA members are invited to walk and/or support the cause. For more information see our team page at https://act.alz.org/site/TR?fr_id=13268&pg=team&team_id=629482.

Contact: Community Service Committee member Stu Rich, (702) 878-0959, stuartr@richwrightman.com.

Member Moves

Thanks to the following members who submitted updated profile information with the Clark County Bar Association (CCBA). For the attorneys, we have included their listings for areas of practice (AOP) on record at CCBA.

Tracy Hibbetts (formerly Tracy Ip) has changed her last name. Tracy is Chief Deputy Public Defender at Law Office of the Clark County Public Defender in Las Vegas, Nevada. Phone: (702) 455-3760.

John Tyler Mowbray may be reached at J Tyler Mowbray Law PC. Phone: (702) 900-6529. AOP: Corporation & Business Law.

Carli L. Sansone has opened her own firm, Sansone Law, 2580 St. Rose Parkway #125, Henderson, Nevada, 89074. Phone: (702) 577-6090. Web: www.sansonelegal.com. AOP: Wills, Estates, Estate Planning & Probate, Corporation & Business Law.

Member updates requested. Please submit updates regarding member information to CCBA, 717 S. 8th Street, Las Vegas, Nevada, 89101 or Donnaw@clarkcountybar.org.

*Areas of Practice (AOP) listings do not reflect a certified legal specialization in the area listed and are subject to change at any time without notice.

Errata

We regret to report an error was made on the cover of last month's issue (*Communiqué*, October 2020). The caption for Las Vegas Justice Court Chief Judge referred to the wrong court. It should have read as "LVJC Chief Judge Melissa Saragosa." The typo is limited to the printed edition only. The error was fixed before the electronic edition (PDF) or her article were posted to the bar's website. The *Communiqué* staff truly regrets the error.

CLARK COUNTY BAR VOLUNTEER APPRECIATION LUNCHEON & ANNUAL MEETING

Online via Zoom

**Thursday, December 17, 2020
12:00-1:00 PM**

Introductions: 12:00 to 12:15 PM

Speaker: 12:15 to 12:45 PM

Price: FREE

RSVP to Donnaw@clarkcountybar.org
by December 14, 2020.

Sponsors



Prominence[®]
Health Plan

Featuring

Jeremy Aguero
Applied Analysis

**Volunteer
Appreciation
Awards**

**Election of the
2021 CCBA Executive Board**



Advertiser index

Advanced Resolution Management	19
Ara Shirinian Mediation	22
Bank of Nevada	7, 9, 15, 32
Dillon Health	7, 32
Jason D. Mills & Associates, Ltd.	17
Las Vegas Legal Video	9, 27
Portraits to You	14, 24
Prominence Health Plan	7, 12, 32
Reisman Sorokac	21
Rich Wightman & Co CPAs LLC	25
State Bar of Nevada	2
Welt Law	22

CCBA activities and services

Bar Luncheons	7, 32
CLE Passport	10
CLE Program Opportunities	27
Mask Drive	29
Lawyers Pledge of Professionalism	31
Nevada Appellate Summaries	16

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

Sponsorship Opportunities

Opportunities are available to select businesses to sponsor bar activities, including:

- 40 Year Club Luncheon
- Bar Luncheons
- CLE Programming
- Meet Your Judges Mixer

Contact: Donna (702) 387-6011, donnaw@clarkcountybar.org.



COMMUNIQUE

About Communiqué

Editorial Board

Mariteresa Rivera-Rogers, *Publisher*
Jacquelyn M. Franco, *Editor-in-Chief*
Tami D. Cowden, *Editor*
Alia Najjar, M.D., *Editor*
Alayne Opie, *Editor*
Carli Sansone, *Editor*
Brittnie T. Watkins, LL.M., Ph.D., *Editor*
Heather Anderson-Fintak
Jennifer Hostetler

CCBA Board Of Directors

Mariteresa Rivera-Rogers, *President*
James E. Harper, *President-Elect*
Nedda Ghandi, *Secretary/Treasurer*
Heather Anderson-Fintak
Mark S. Blackman
Jacquelyn M. Franco
Joel D. Henriod
Brandon P. Kemble
James T. Leavitt
Alayne Opie
Paul C. Ray
Amanda L. Stevens
The Honorable Jerry Wiese, II, *Judicial Appointee*
Jason Stoffel, *Immediate Past President*

CCBA Staff

Donna S. Wiessner, *Executive Director*
Stephanie Abbott, *Communications Manager*

Communiqué Production

Stephanie Abbott

Communiqué is published eleven times per year with an issue published monthly except for July by the Clark County Bar Association, P.O. Box 657, Las Vegas, NV 89125-0657. Phone: (702) 387-6011. *Communiqué* is mailed to all paid members of CCBA, with subscriptions available to non-members for \$75.00 per year.

© 2020 Clark County Bar Association (CCBA). All rights reserved. No reproduction of any portion of this issue is allowed without written permission from the publisher. Editorial policy available upon request.

Communiqué accepts advertisements from numerous sources and makes no independent investigation or verification of any claim or statement made in the advertisement. All articles, letters, and advertisements contained in this publication represent the views of the authors and do not necessarily reflect the opinions of the Clark County Bar Association. All legal and other issues discussed are not for the purpose of answering specific legal questions. Attorneys and others are strongly advised to independently research all issues.

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.



Continuing Legal Education

Now available to stream from your desktop or mobile device

Bar Services

Continuing Legal Education Programs

The Clark County Bar Association (CCBA) is an Accredited Provider with the Nevada Board of Continuing Legal Education (CLE).

CCBA offers recorded CLE seminars for Nevada lawyers to stream from the Internet browser on their desktop or mobile device.

Orders for recorded CLE seminars can be made online at ClarkCountyBar.org (see "CCBA Shop") or via e-mail to CCBA Executive Director Donna Wiessner via Donnaw@clarkcountybar.org.

Special thanks to the following businesses for their support of the CCBA's CLE programming services:



CLE Program

Streamlined Bankruptcy Option for Small Business

Speakers:

Candace Carlyon, Esq.
Dawn Cica, Esq.
Carlyon Cica Chtd.



This program addresses the recent changes in law and procedure for small business bankruptcies. Includes discussion of the SMALL BUSINESS REORGANIZATION ACT OF 2019, CARES Act, eligibility, filing requirements, and more.

Take this course to learn about:

- Small business challenges
- Eligibility
- Business debt
- Filing requirements
- Plan remedies

Offers:

1.0 General CLE Credit

CLE Program

Ethics in Review: From the Desk of Bar Counsel

Speaker:

Bar Counsel Dan Hooge

Attorneys assist others in legal matters, but how do they get themselves into legal trouble with the State Bar?



Many knowingly—and some unknowingly—engage in professional misconduct or illegal actions relating to confidentiality, client property, and diligence. Bar Counsel Dan Hooge will present actual client complaints and the discipline imposed. He will discuss ways to plan for, prevent, and correct problems in your practice.

Take this course to learn about:

- Lack of Communication
- Client Privilege
- Malpractice
- Trust Accounts
- Conflicts of Interest
- Social Media

Offers:

2.0 Ethics CLE Credits



Special Offer*

CCBA CLE Passport

This CCBA CLE Passport offers

13 CLE Credits

for Nevada lawyers. CCBA is an Accredited Provider with the Nevada Board of Continuing Legal Education.

***Restrictions apply to this offer.** The 2020 CLE Passport is valid from January 1, 2020 to March 1, 2021, and is available only to members of the Clark County Bar Association (CCBA). CCBA membership must be renewed for the CLE Passport to remain valid from January through March during the upcoming membership years. This offer is non-transferable and limited to CCBA members for admittance to CCBA-sponsored CLE seminars during the current calendar year. This offer does not include CLE seminars not solely sponsored by the CCBA (e.g., co-sponsored by the State Bar of Nevada). The CLE Passport must be presented upon attendance of live seminar or upon ordering of audio/visual materials. Note: Use of the CLE Passport is subject to restrictions listed in CCBA's policy for rental and/or purchase of recorded CLE seminars.

CLE Program

Fraud Prevention, Detection, and Investigation

Speakers:

Mark Rich, CPA, CFF

Joseph Garrett, CPA, CVA, CFE

Rich, Wightman & Company, CPAs, LLC



This presentation will discuss the tools and techniques that forensic accountants and fraud examiners utilize to recognize and investigate occupational fraud (while resisting a needle-in-the haystack approach).

Take this course to learn about:

- Fraud Statistics
- Fraud Detection, Prevention and Investigation
- Court cases involving Fraud Investigation
- What Actions Employers May Take if They Suspect Fraud
- Tax Related Identity Theft (that may result in fraud)

Offers:

1.0 General CLE Credit

CLE Program

Federal Faux Pas: The "Do's and Don'ts" of Federal Practice

Speakers:

U.S. Magistrate Judge Brenda

Weksler, Judicial Term Clerk David Chavez, and Judicial Career Clerk Emi-

ly Gesmundo



This program highlights several important considerations for attorneys tasked with presenting matters before the court.

Take this course to learn about:

- Motions
- Accepting concessions
- Explaining objections
- Articulating rule statements
- Preparing Early Neutral Evaluation ("ENE")/settlement conference ("SC") briefs
- Video hearings

Offers:

1.0 General CLE Credit

Now available to stream from your desktop or mobile device

For more info, see www.clarkcountybar.org or call (702) 387-6011.

CLE Program

Practical Pre-Trial and Trial Tips

Speaker:

Phillip S. Aurbach, Esq.
Marquis Aurbach Coffing

Transitioning from law student to lawyer is no easy task. This presentation focuses on practical issues unique to

civil trial attorneys including when to stand up, when to sit down, when to shut up, how to argue without notes, putting pictures in pleadings, how to deal with opposing counsel and many more.

Take this course to learn about:

- Taking new client calls
- Effective ways to listen
- What to do with the facts
- Drafting the complaint/lawsuit
- Legal writing, e.g., motions and briefs
- Courtroom trial tips



Offers:

1.0 General CLE Credit

CLE Program

Preparing a Better Deposition: Don't Let a Deposition Sink Your Case

Speakers:

Mike Carman, Esq.
Corinne Price, Esq.

Fine Carman Price

Take this course to learn about:

- Preliminary considerations
- Planning to take a deposition
- Taking depositions
- Preparing your client for deposition
- Defending depositions
- Expert depositions



Offers:

1.5 General CLE Credits

CLE Program

Lost in the Desert: Addiction & Recovery for Legal Professionals

Speaker:

Douglas C. Crawford, Esq.

Douglas Crawford Law

Take this course to learn about:

- Ethical Consideration of Pathological Gambling
- Vegas Flameout – A First Person Account of Addiction & Reception By Douglas C. Crawford
- Gambling Addiction: Increasing the Effectiveness and Popularity of Problem Gambling Diversion in Nevada Courts
- Civil Commitment of Problem Gamblers Convicted of Crime
- Rule 1.15 – Safekeeping Property



Offers:

1.0 Substance Abuse/ Addiction/Mental Health (AAMH) CLE credit

Now available to stream from your desktop or mobile device

For more information, see www.clarkcountybar.org or call CCBA at (702) 387-6011.

2020 Association Health Plans for Clark County Bar Association

Don't Wait for Your Renewal to Get a Quote!

Rolling enrollment effective now, plans renew October 2021

Clark County Bar Association members with 2 (unrelated) to 50 full-time employees can now offer insurance coverage for their employees and their families with a high-quality, affordable Association Health Plan medical plan from Prominence.

Not an Association member? Enroll at www.clarkcountybar.org

Large Group Benefits for Small Employer Groups

- A range of coinsurance options
- Copays for widely used benefits like PCP visits, specialists and lab services
- Statewide HMO open access
- National Cigna PPO network access

Employers Have Options... and Flexibility

- Choose from six health plan options, including HSA-qualified – see reverse
- Affordable monthly premiums

PARTICIPATING AREAS INCLUDE:

Clark County Nye County

PROMINENCE ASSOCIATION HEALTH PLANS

Our Association Health Plans allow small employers to join as one entity to purchase the type of coverage that is traditionally available to large group employers. This results in less expensive and richer health plan options that can then be passed along to the employee.

PLAN HIGHLIGHTS YOU DON'T WANT TO MISS!

- **Cigna National Network** - Prominence has partnered with Cigna to create a national network for use outside of Nevada for those members enrolled in either a POS or PPO health plan.
- **Teladoc** - 24/7 member care via telephone or video from licensed physicians, psychiatrists, clinical social workers and counselors for a \$0 cost share. Note, High Deductible Health Plans are subject to deductible first and benefits will be rendered at the contractual rate based upon type of service.
- **Comprehensive Provider Network** - Includes many notable and board certified physicians throughout the state, offering members excellent access to quality medical services.

Contact your broker or
PHP-GroupQuotes@uhsinc.com
for more information



Prominence[®]
Health Plan

In Memoriam: Senior U.S. District Court Judge Lloyd D. George

It is with great sadness that we share with you that the Honorable Judge Lloyd D. George passed away this morning [10/7/2020]. Judge George was ninety years old.

Judge George devoted his life to his family and to serving his country and the rule of law. Born in Montpelier, Idaho, he was raised in Las Vegas. His passion for this city was readily apparent from his stories of his youth, which he was always willing to share. He graduated from Las Vegas High School and Brigham Young University, serving both institutions as a student body president. After earning his wings as a jet fighter pilot in the Air Force, he earned his law degree in 1961 from the University of California at Berkeley (Berkeley Law).

After law school, he returned to Las Vegas and he built a successful private law practice. His career as a federal jurist began in 1974 with his appointment to the United States Bankruptcy Court for the District of Nevada. In 1984, President Ronald Reagan appointed Judge George as a U.S. District Judge for the District of Nevada. He served as the District Court's chief judge from 1992 to 1997, and assumed senior status in 1997.

In 1996, Judge George was selected to represent the Court of Appeals for the Ninth Circuit as a member of the Judicial Conference of the United States, and was also appointed by Chief Justice Rehnquist to the Conference's Executive Committee. Prior to his appointment to the Judicial Conference, he held membership for a number of years on three Judicial Conference committees and was the chair of two.

Judge George became a distinguished expert in the organization of the judiciary, and was eager to share his knowledge worldwide. While serving on the International Judicial Relations Committee from 1993-1997, Judge George and other judicial colleagues from various countries participated in numerous seminars in Eastern Europe and the nations of the former Soviet Union, lecturing on constitutional issues, court structure, and the critical importance of the rule of law. He continued this international service through 2015, annually hosting the educational visits to Washington, D.C., and Las Vegas of judicial

colleagues from numerous countries.

Judge George authored articles on the administration of the federal judiciary, ethics and insolvency. For his public service, he won many awards, including the Brigham Young University Alumni Distinguished Service Award, the Notre Dame Club's John C. Mowbray Humanitarian of the Year Award, the Judge D. Lowell & Barbara Jensen Public Service Award from his alma mater, the School of Law at the University of California at Berkeley, and the Boy Scouts of America Silver Beaver Award.

The extent of Judge George's public service is, perhaps, best reflected in an honor bestowed upon the en-

In Memoriam *continued on page 14*



In Memoriam continued from
page 13

tire District of Nevada; the naming of the federal courthouse, situated between the Fifth Street Elementary School and Las Vegas High School Judge George attended as a youth, as the Lloyd D. George Federal Courthouse.

Judge George will be remembered as a judges' judge and a mentor to all of us on the federal bench. In honor of Judge George, the flags at the federal courthouses in Nevada will be flown at half-staff today and tomorrow [10/7/2020 and 10/8/2020].

[**Editor's note:** This piece was republished with permission from the Clerk of the Court for the U.S. District Court - District of Nevada.]



Communiqué Features on Judge George: The CCBA published two issues of *Communiqué* dedicated to the federal court and both featured articles about Judge Lloyd George. "The Man Behind the Building Lloyd D. George" written by Larry Mittin was published in 2000. "The Honored and Historical Career of Judge Lloyd D. George" written by Eric Abbott was published in 1997.

PORTRAITS TO YOU

is happy to be partnering with CCBA to provide all of your photography needs. We offer special package pricing for professional portraits. We also have very affordable prices on a variety of family portraiture including newborns, children, and high school seniors.



www.PORTRAITSTOYOU.net
702-499-9930



Your business doesn't stop
working at night.



At Bank of Nevada, we don't clock
out until you do.

We do what it takes to give our clients peace of mind, and that
includes making ourselves available when it's convenient for you.

Bank on Accountability®



Meet Your Local Banking Expert:
Jeffrey Miracle
Vice President, Commercial Banking
jmiracle@bankofnevada.com
(702) 252-6127

bankofnevada.com

WAL Top 10 – Forbes Best Banks



Bank of Nevada, a division of Western Alliance Bank, Member FDIC. Western Alliance
ranks top ten on Forbes' Best Banks in America list, five years in a row, 2016-2020.

Court News

Eighth Judicial District Court

Civil Bench Bar Meeting

Members of the bar are invited to attend the Eighth Judicial District Court Civil Bench Bar meetings. See below for information about the next planned meeting.

- **When:** Tuesday, December 9, 2020, Noon to 1:00 PM
- **Where:** Online via video conference
- **What:** Opportunity for members of the bar who practice before the EJDC to get latest information on what's happening at the court and to discuss issues.

For more information, contact Linda Denman in Department XXVI of the Eighth Judicial District Court.

Clark County Court Order in re Election-Related Actions

On October 13, 2020, Eighth Judicial District Court Chief Judge Linda Marie Bell filed an order in the administrative matter of election-related actions filed on November 3, 2020. See Administrative Order 20-21.

In the order, the court expresses its intention “to prepare for the possibility that actions pertaining to the election process may be filed during or after regular business hours and further intends to implement a fair and expeditious process by which election-related actions can be heard and adjudicated through the end of Election Day.”

The court encourages litigants to include the terms “Election-Related Action” in the caption of the pleading “to help assure the proper designation of their actions as election-related actions.” The court encourages litigants to file election-related actions electronically. The order lists extended hours at the Clerk’s Office to process the filing of election-related actions. For more information, see Court Rules and Administrative Orders at <http://www.clarkcountycourts.us/general/court-rules-and-administrative-orders/>.

Las Vegas Justice Court

Court Order Rescinds Administrative Order #20-03

On September 28, 2020, the Las Vegas Justice Court filed an order in the administrative matter of rescinding Administrative Order #20-03. See Administrative Order #20-18.

In Administrative Order #20-18, the Court cites their determination that the remaining provisions of Administrative Order #20-03 have been superseded entirely by subsequent Administrative Orders from the Las Vegas Justice Court, such that Administrative Order #20-03 is no longer needed.

Additionally, in Administrative Order #20-18, the court ordered “that the Las Vegas Justice Court still will not issue, or enforce, any Traffic bench warrants until further order of the Court.”

The order became effective immediately.

For more info about the LVJC administrative orders, see http://www.lasvegasjusticecourt.us/faq/laws_and_rules.php.

Nevada Appellate Court Summaries

Available online!

Readers may find installments of the recurring feature, “Nevada Appellate Court Summaries” by Joe Tommasino, Esq., posted on the Clark County Bar’s website at www.clarkcountybar.org.

Look for the popular, long format piece to be posted regularly on the site. Search category: Court News, Nevada Appellate Court Summaries.

For more information, call CCBA at (702) 387-6011.



Workers' Comp is *not* Personal Injury.

Send me your workers'
comp cases.
It's a win-win.

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?



Workers' Comp Benefits Include:

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



(702) 822-4444
2200 S Rancho Dr #140
Las Vegas, NV 89102

Three COVID-19 Questions With Administrative Law Answers That Will Impact How Las Vegas Recovers

By Maren Parry, Esq.

Administrative law has implications on everyday life that are not often found in the court setting and that many do not envision when they think of the traditional practice of law. The answers to three questions that have surfaced for residents and businesses in Las Vegas during the COVID-19 pandemic have administrative law implications that provide important context when watching the news and contributing to the conversation about how Las Vegas and Nevada can recover from the economic and social devastation felt as a result of COVID-19.

1-The “Strip” is Not in Las Vegas? / Jurisdictional Boundaries are Complicated

Few will fault the efforts of the current and former Mayors Goodman as enthusiastic supporters of Southern Nevada, but Mayor Carolyn Goodman’s April 23rd CNN interview with Anderson Cooper drew the national spotlight as business leaders and politicians weighed how to safely reopen tourist destinations. “*The public skewering of Las Vegas Mayor Carolyn Goodman, champion of reopening casinos,*” <https://www.washingtonpost.com/nation/2020/04/23/las-vegas-mayor-coronavirus/> (Last accessed Oct 5, 2020). With it also came an opportunity for local and state leaders to advertise that

the Las Vegas Strip is outside the municipal boundaries of the City of Las Vegas and actually under the jurisdiction of unincorporated Clark County where Mayor Goodman’s policies would not apply. Although cities and counties work together, they also compete for resources and revenue, and their elected officials are not always coordinated with respect to the implementation of procedures and policies.

2-Why Can’t Our Bars Open? / Nevada’s Laws are Not the Same in Every County

Nevada is home to 17 counties (including Carson City) with populations ranging between Clark at over two million residents and Esmerelda at under 1,000. “*Annual Estimates of the Resident Population for Counties in Nevada: April 1, 2010 to July 1, 2019 (CO-EST2019-ANNRES-32),*” <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-total.html> (last accessed Oct. 5, 2020). Counties with such vastly different populations have vastly different needs, and many laws in Nevada apply only if a county reaches a certain population threshold. Businesses and residents questioned the precedent for different treatment in different counties as they worked to comply with Governor Sisolak’s emergency directives. This type of differentiation at the state level is well established, and local governments regularly enact reg-



Maren Parry is a 2005 graduate of the William S. Boyd School of Law and practices land use and gaming law in the Las Vegas office of Ballard Spahr LLP.

ulations in addition to those found in state law. What qualifies as a bar or a restaurant in Ely may not be the same as what is required for an outwardly identical business in North Las Vegas, and this impacts how the emergency directives are ultimately enforced, and how recovery policies may need to be put into place.

3-Why Not Raise Taxes on Mining? / Nevada's Constitution is Uniquely Specific

Nevada's Legislature was tasked with filling the hole left by the complete cessation of gaming activity in the entire state for over two months. <https://thenevadaindependent.com/article/sisolak-targeting-june-4-re-opening-date-for-casinos> (Las accessed Oct. 5, 2020). The Nevada Constitution required members of the Legislature to report personally to Carson City (Nev. Const. Art. 15, § 1 and Art. 4, § 1) at a time when travel was curtailed in order cut spending when spending was desperately needed, and find revenue from a dwindling list of options. With a state income tax constitutionally off limits (Art. 10 § 1(9)) and most big businesses at a standstill, eyes naturally turned to mining, an industry that appeared to have room to contribute after a major-

ity of the Nevada economy was dormant. <https://www.rgj.com/story/news/politics/2020/07/16/nevada-assembly-debuts-bill-raise-mining-taxes/5456657002/> (Last accessed Oct. 4, 2020). Legislators faced the same roadblock to this possibility that they have faced in regular sessions—the Nevada Constitution specifically caps taxes on mining at five percent of net proceeds. Nev. Const. Art. 10, §5(1).

Understanding Administrative Law Will Help Create Better Solutions

Las Vegas has a long road to recovery. As Las Vegans (lawyers and non-lawyers alike) seek to contribute to the solution, we have to consider the administrative law nuances of jurisdictional boundaries, various layers of regulation, and sometimes the functional legal barriers that confound what appear to be swift and simple solutions. With this base administrative knowledge, we can better understand the political and economic considerations that must be addressed in order to have a productive conversation and reach an ultimate solution. **C**



EXPERIENCE THE ARM VIRTUAL ADVANTAGE

PROVEN | RELIABLE | EFFECTIVE



BECKER

GLASS

HAIRE

SAITTA

TOGLIATTI

YOUNG



ALSO OFFERING IN-PERSON CASES

ARMADR.COM  855.777.4ARM

You May Need a License— Navigating the Requirements of Business Licensing

By Elizabeth M. Sorokac, Esq., and Jacqueline N. Walton, Esq.

In talking with clients about their businesses, one thing we repeatedly say is, “you may need a business license for that.” The general state business license obtained when an initial or annual filing is submitted to the Nevada Secretary of State does not mean that a business is in compliance with state and local business license requirements. And not only may an additional business license be needed, but multiple business licenses may be needed. Included herein are practice tips on how to determine business licensing requirements, how to prepare a business license application, and how to maintain the business licenses held by clients.

Business licensing requirements

The first step in assisting a client with business licensing matters is to really understand the client’s business. With a detailed understanding of a client’s business, you will be able to determine what state or local business laws apply to the client’s business. The applicable business licensing laws are generally based on the physical location of the business as well as where and how the business conducts its operations. The cat-

With a detailed understanding of a client’s business, you will be able to determine what state or local business laws apply to the client’s business.

egory of a business can be determined by review of the applicable laws and consulting with the appropriate government agency. It should also be noted that a business may need multiple business licenses from both the state and local jurisdiction to cover all its business operations.



Elizabeth M. Sorokac – Managing Attorney and Member of Reisman Sorokac. Ms. Sorokac has been a business attorney for the last 16 years of her practice. She has assisted clients with licensing matters ranging from general licenses to privilege licenses and everything in between. She can be reached at 702-245-5075 or esorokac@rsnvlaw.com.



Jacqueline N. Walton – Attorney and Member of Reisman Sorokac. Ms. Walton practices business and real estate law, including business licensing. She assists with all steps of the licensing process, from applications to compliance matters. She can be reached at 702-445-2305 or jwalton@rsnvlaw.com.

Once the licensing category is determined, the necessary application materials should be gathered and provided to the client. The business license requirements vary widely among industries. Some business license applications are uncomplicated, requiring a single-page application form and payment of a fee. Other applications are very detailed and involve providing more information than would be required for a secured loan. In the event it is unclear what category a business falls into, a phone call or email to confirm the category(ies) will ensure that time and effort are not wasted—something that a client should appreciate.

Preparing and processing the application

Now that you know what business license to apply for, the next step is preparing and submitting the application. How an application is prepared and submitted and the attorney's continued involvement during the processing of the application will affect its handling and processing time. For the best result, an attorney should do the following for every business license application:

1. identify all the information required for the application;
2. review all the application materials prior to submission of the application in order to identify and address any concerns in the application materials;
3. prepare an organized and complete application packet, including a cover letter outlining the materials being submitted;
4. stay involved in the processing of the application by regularly following up with the staff person processing the application;
5. treat the staff with respect at all times; and
6. promptly provide any additional information requested.

Ensuring that an application is processed quickly and efficiently justifies having an attorney assist in the first place. Based on prior experience, the more thorough you are with respect to the matters outlined above, the better the outcome will be for your client. And when the client receives their business license, the

Licensing *continued on page 22*

HEALTH CARE LAW

Reisman Sorokac Announces a New Practice Area

Reisman Sorokac is launching its health care law practice with Elizabeth M. Sorokac, Esq., and Jacqueline N. Walton, Esq., leading this area. The firm's health care law practice will focus on the structure, management and day-to-day needs of health care businesses.

Our expertise includes:

- Management services organizations
- Purchases and sales of commercial real estate, company assets or company ownership interests
- Commercial real estate leases
- Corporate structuring or restructuring
- Professional licensure
- Independent contractor and employment agreements (including confidentiality and non-competition)
- Zoning/land use and government relations
- Business licensure and compliance



Sophisticated Business Lawyers

www.rsnvlaw.com • 702.727.6258



Licensing *continued from page 21*

client should be thankful that the attorney handled the bulk of the application processing and that the client's portion of the process was straightforward.

Compliance

Once your client has a business license, your job is not finished yet. Business license holders have an obligation to notify the state or local licensure department of any changes. A change in business operations, ownership, and/or location may require an update of such information, or it may trigger a new business license application. Further, business licenses are generally renewed on a semiannual or annual basis, which requires the payment of a fee. If licensee information is not kept current or fees are not paid, a license will expire, and a new application will need to be filed.

Real world examples

To illustrate the overlay between state and local business licensing requirements, I have included a couple of examples of proposed businesses and their

licensing requirements. The first example is a client who wants to open a restaurant with a bar and bar top gaming machines. This business owner would need the following licenses: (1) a general state business license; (2) a state gaming license; (3) a local restaurant license; (4) a local liquor license; and (5) a local gaming license. In the event the restaurant also had a mobile food truck or catering business that serves food in another local jurisdiction, a mobile food truck license or catering license for the other local jurisdiction may also be needed.

The second example is a client who wants to operate a professional business with on-site childcare provided to its employees. The business owner would need the following licenses: (1) a general state business license for a professional entity; (2) a state license for on-site child care; (3) a state professional license for the owners of the professional entity; and (4) a local office license. Please note that the licensing requirements outlined here may vary based upon additional detail regarding the structure and operations of the business. **C**

WELT LAW

ATTORNEYS AT LAW



GERALD M. WELT, ESQ.
TIFFANY WELT DOCTORS ESQ.

LET US HELP YOUR CLIENTS WITH THEIR
SOCIAL SECURITY DISABILITY AND
GUARDIANSHIP NEEDS

QUESTIONS ON THEIR BEHALF? CALL US TODAY!

gmwesq@weltlaw.com
tgd@weltlaw.com

702.382.2030 | WWW.WELTLAW.COM



ARA SHIRINIAN
MEDIATION



**Helping Nevada
lawyers to settle
disputes and avoid
litigation for
over 20 years.**

Member, National Academy
of Distinguished Neutrals
Practice limited to ADR

Tel: (702) 496-4985

Fax: (702) 434-3650

E-mail: arashirinian@cox.net

www.arashirinianmediation.com

www.nadn.org/ara-shirinian

On-line Calendar Available

Appearing Before a Zoning, Planning and Land Use Board: the Do's and Don'ts—My Perspective

By Las Vegas City Attorney Bryan K. Scott

For more than 24 years, I have worked for the Las Vegas City Attorney's Office. Twenty of those years have been spent primarily advising the Las Vegas City Council, the City of Las Vegas Planning Commission, and dozens of other boards, commissions and committees at duly-noticed public meetings. During these meetings, I have witnessed thousands of individuals appear before these administrative bodies as presenters of proposed projects from accessory structures to porte-cocheres and from major housing developments to casinos and liquor and gaming licenses. I have seen citizens advocating in favor of, or in opposition to, a myriad of projects. I have also seen lawyers, laypeople, architects and contractors make presentations before the administrative bodies I counsel. In short, I have seen the good, the bad, and the ugly when it comes to presentations and preparedness. With this article, I hope to present my top tips for appearing before an administrative body regarding a land use matter.

... I have seen the good, the bad, and the ugly when it comes to presentations and preparedness.

the same. It's important to remember that your client always bears the burden to prove that the particular zoning action they are requesting is warranted, meets the code criteria, and is harmonious and compatible with the surrounding development.

1. Be prepared and know the land use laws for the jurisdiction in which your client's project is proposed to be located—the laws of the various jurisdictions are not

2. Although not legally required, prior to submitting your application, make an appointment to speak with the elected representative for the area in which your project is proposed to be lo-

Appearing continued on page 24



Bryan K. Scott has resided in Las Vegas since 1970. A 29-year Attorney, he is currently the City Attorney for the City of Las Vegas. He served as President of the State Bar of Nevada in 2016-2017, Clark County Law Foundation in 2006, Clark County Bar Association in 2005 and President of the Las Vegas Chapter of the National Bar Association 1996-1999.

Appearing *continued from page 23*

- cated. They are intimately familiar with their wards/districts and can readily identify problem areas and neighborhood concerns. In my experience, elected officials like the courtesy of knowing what may be coming into their area.
3. Get the neighbors to buy into the proposed project early in the process. Although not the only factor the elected officials will consider, it's a crucial one. Happy neighbors equals a happy elected official. Go to those neighbors who will be most affected by your project first. Host a neighborhood meeting at which the stakeholders in a particular project attempt to resolve conflicts and map solutions with the neighbors' assistance.
 4. Pictures, maps, drawings, videos and renderings are vitally important. The more detailed the better. The old adage of "a picture speaks a thousand words" cannot be truer than in a land use presentation.
 5. Before your presentation, go to the public meetings and observe a few of the hearings or watch them on the internet or television. In person, you can get a lay of the land, see the room in which you'll be making your presentation, how the operation works, and the procedures of the meeting.
 6. Don't make promises you or your client can't deliver. Council members and neighbors NEVER forget.
 7. Be flexible. The Chair of the public body controls the flow of the meeting and given the number of items on the agenda, the time to make your presentation could be limited. Be succinct and to the point. Don't be surprised if your twenty-minute written presentation is cut to five or ten minutes. Hit the highlights and be sure to tell the governing body how your client's project improves their area and brings value to the community.

PORTRAITS TO YOU

is happy to be partnering with CCBA to provide all of your photography needs. We offer special package pricing for professional portraits. We also have very affordable prices on a variety of family portraiture including newborns, children, and high school seniors.



www.PORTRAITSTOYOU.net
702-499-9930

8. Ask for permission and not forgiveness. There have been many times where I have seen people complete accessory structures and major exterior improvements to their homes (casitas, raising wall heights, sheds, carports) well in advance of seeking the necessary setback or height variances, special use permits or building permits, only to be denied. Administrative bodies are not swayed by the "I didn't know" defense and will require that an objectionable, unpermitted structure be removed.
9. Do your due diligence. Research the history of the property where the proposed project will be located. Some properties have long, troubled histories that the neighbors know about. Neighbors may not be as welcoming to a project which further disrupts their quiet enjoyment.
10. Be creative. Just like judges who have heard hundreds of motions for summary judgment, the government officials have heard about similar projects over and over. Be unique in your

approach, be innovative, and strategic. Given technology these days, being creative can take on many forms. It will make the process more fun for you and the elected officials may be more receptive to your new ideas.

11. Don't engage in arguments with those in opposition to your client's proposal. They have a right to be heard and are voicing their opinions as they are allowed to under the Nevada Open Meeting Law.
12. As long as the governing entity doesn't act arbitrarily or capriciously when considering your client's land use matter, its decision will survive judicial scrutiny. Judicial review is not de novo, but is limited to the record made and established at the time of the hearing before the governing entity.

Good luck! ●

RICH WIGHTMAN & COMPANY, CPAs

Business Valuations
Licensed and credentialed CPAs and Business Valuers

We Prepare Valuations for:

- Selling/Buying a Business
- Estate & Gift Planning
- Financial & Tax Reasons
- Divorce

Professional Staff Providing:

- Experience
- Timeliness
- Litigation Consulting

1301 S. Jones Blvd.
Las Vegas, NV 89146
(702) 878-0959
Litigation@richwightman.com

Since 1982

RICH WIGHTMAN & COMPANY
Certified Public Accountants
(A Limited Liability Company)

COVID-19 Impact on Nevada Open Meeting Law

By Caleb L. Green, Esq.

Governor Sisolak previously issued Nevada Emergency Directive 006, which suspended several of Nevada's Open Meeting Law requirements to permit public bodies to meet and conduct essential business by remote or virtual means throughout the COVID-19 pandemic. As Nevada begins to relax social distancing guidelines, many public bodies may be curious about how they can maintain compliance with Nevada's Open Meeting Law while still conducting essential business through remote mechanisms. This article summarizes Nevada Open Meeting Law and the impact of Directive 006 as public bodies explore how to govern remotely in light of the COVID-19 outbreak.

What is Open Meeting Law?

Nevada Open Meetings Law was enacted to ensure that governmental deliberations are conducted openly. The Nevada Legislature's intent behind the law is found in the statute itself and provides that "[t]he law intends that their actions be taken openly and that their deliberations be conducted openly." NRS § 241.010. In short, Nevada's Open Meeting Law promotes transparency by requiring that "all meetings of public bodies must be open and public." NRS § 241.020.

Nevada Open Meeting Law applies to all public bodies. A public body is defined as "any administrative, advisory, executive or legislative body of the State or a local government which expends or disburses or is supported in whole or in part by tax revenue..." NRS § 241.015(4). The 2011 Nevada Legislature clarified and expanded the scope of the definition of "public body" to include certain multimember groups appointed by a public officer or pub-

lic entity under his/her direction and control. Attorney General of Nevada, Nevada Open Meeting Law Manual § 2.10 (20th Ed. 2016). Some examples of public bodies include the Nevada Interscholastic Association, Nevada Board of Agriculture, and the Nevada Board of Dental Examiners. *Id.* § 2.08.

However, not all entities or groups are subject to the Nevada Open Meeting Law. For example, a solitary person, such as the Governor, acting in his/her official executive capacity, cannot be a "public body." *Id.* § 2.02. Any commission, committee, or board appointed by the Governor with at least two members who are not employees of the State Executive Department are not defined as a public body and subject to the Open Meeting Law. *Id.* It should also be noted that, along with the legislature's proceedings, judicial proceedings are also exempt from the Open Meeting Law requirements. NRS § 241.016(2)(b).

Summary of Changes to Nevada Open Meeting Law

Given the general requirement for public body meetings to be open and accessible to the public, Governor Sisolak relaxed some of Nevada's Open Meeting Law requirements through Nevada Emergency Directive 006. Namely, directive 006 suspends several Open Meeting Law requirements relating to physical locations, including the following:

- Designate a physical location for the meeting where members of the public may attend and participate. *See* Nevada Emergency Directive 006.



Caleb L. Green is a William S. Boyd School of Law graduate, an intellectual property attorney at Dickinson Wright PLLC, and the Racial Justice Chair of the Las Vegas Chapter of the National Bar Association.

- Post public notice agendas at physical locations within the State of Nevada as required by NRS § 241.020(4). *Id.*
- Make physical locations available for the public to receive supporting material for the public meeting as required by NRS § 241.020(3)(c). *Id.*

However, when a public body holds a meeting virtually or telephonically, the public body must ensure that any party required to appear before it shall be able to do so through remote means. *Id.* Additionally, the public body must provide a means for the public to comment through telephone or email. *Id.*

Although the public notice agenda for a meeting need not be posted at a physical location within the State of Nevada, public bodies are still required to post the public notice agenda on Nevada's notice website and the public bodies website as required by NRS § 241.020(4)(b)-(c).

Conclusion

Considering the multitude of challenges facing communities by the spread of COVID-19 in Nevada, many governing bodies will find the need to meet electronically to conduct business, implement policies, and provide relief to citizens. Public bodies should be aware of how the requirements of Nevada Open Meeting Laws and Nevada's Emergency Directives apply to remote meetings and be prepared to adapt their procedures accordingly, as summarized in this article. **G**

Bar Services

CLE Program Opportunities

We invite CCBA members to:

- Develop and/or speak at a CLE program produced by the CCBA;
- Write a CLE article for publication in the *Communiqué*;
- Order recorded and alternative format programs offering continuing legal education (CLE) provided by the CCBA

For more info about these opportunities, contact CCBA Executive Director Donna Wiessner at Donnaw@clarkcountybar.org.

Las Vegas Legal Video

LVLV

Presentation o
Graphics o
PowerPoint o
Equipment o
Exhibits o
Animations o

TRIAL

VIDEO

Depositions
Editing
Inspections
Enhancement
Surveillance
Documentaries

702.655.5858
www.lasvegaslegalvideo.com
729 South Seventh Street, Las Vegas, Nevada 89101

What does “Arbitrary or Capricious” Mean?

By Marla J. Hudgens, Esq.

Unless exempted, government agencies in Nevada are bound by the Nevada Administrative Procedures Act (“NAPA”), NRS Chapter 233B, and federal agencies are bound by the federal Administrative Procedures Act (“APA”). 5 U.S.C. 500 *et seq.* Among other things, the NAPA and APA establish uniform standards for formal rulemaking and adjudication, and define the scope of judicial review.

NAPA instructs courts to invalidate any agency action that is “[a]rbitrary or capricious or characterized by abuse of discretion,” NRS 233B.135(3)(f). The APA instructs courts to overturn an agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2) (A). Unless judicial review is further limited by legislation, this arbitrary-or-capricious test is one basis to challenge a final administrative decision.

What makes a decision arbitrary or capricious? These concepts are nuanced and hard to grasp.

The Supreme Court of Nevada has announced that “[w]here an agency’s decision is challenged as arbitrary and capricious, this court will uphold the decision if it is supported by evidence that a reasonable mind might accept as adequate.” *Desert Palace, Inc. v. Nevada Gaming Comm’n*, 130 Nev. 1170 (2014) (citing *United Exposition Serv. Co. v. State Indus. Ins. Sys.*, 109 Nev. 421, 423–24, 851 P.2d 423, 424–25 (1993)). Conversely, an agency action is arbitrary or capricious if the decision is “‘baseless’ or ‘despotic’ and ‘a sudden turn of mind without ap-

parent motive; a freak, whim, mere fancy.” *City of Reno v. Estate of Wells*, 110 Nev. 1218, 1222, 885 P.2d 545, 548 (1994) (internal citations and quotations omitted). Thus, in Nevada, the substantial evidence test is intrinsically a part of the arbitrary-or-capricious standard.

Federal courts have enumerated that, under the APA,

“‘[a] decision is arbitrary and capricious if the agency [1] has relied on factors which Congress has not intended it to consider, [2] entirely failed to consider an important aspect of the problem, [3] offered an explanation for its decision that runs counter to the evidence before the agency, or [4] [has offered an explanation] so implausible that it could not be ascribed to a difference in view or product of agency expertise.’”

George v. Bay Area Rapid Transit, 577 F.3d 1005, 1010 (9th Cir. 2009) (internal quotation and citations omitted).

Why does the arbitrary-or-capricious standard matter? Because the standard can shape government law and policy. Recent decisions include:

Endangered species

In 2018, a federal district court ruled that the United States Fish and Wildlife Service violated the APA by “delisting” grizzly bears from a threatened species list: “all available evidence demonstrates that the Service made its decision not on the basis of science or the law but solely in reaction to the states’ hardline position on



Marla J. Hudgens is a partner at Lewis Roca in the Regulatory and Government Affairs practice group. Marla is a litigator and administrative law attorney who actively practices in both Nevada and Arizona. She specializes in administrative litigation and appeals.

recalibration. The Service cannot negotiate away its obligation to make decisions ‘solely on the basis of the best available science.’” *Crow Indian Tribe v. United States*, 343 F. Supp. 3d 999, 1018 (D. Mont. 2018) (remanded on other grounds) (quoting 16 U.S.C. § 1533(b)(1)(A)).

Contraception and religious exemptions

In July 2020, the Supreme Court upheld regulations enacted by the Department of Health and Human Services (“HHS”) that allowed for-profit groups exemptions from the Affordable Care Act’s contraceptive mandate. The Court held that HHS’s new rules were implemented lawfully and all pertinent legal authority was considered. *Little Sisters of the Poor Saints Peter & Paul Home v. Pennsylvania*, 140 S. Ct. 2367, 2384 (2020) (“If the Departments did not look to RFRA’s requirements or discuss RFRA at all when formulating their solution, they would certainly be susceptible to claims that the rules were arbitrary and capricious . . .”).

Immigration

In 2020, the Supreme Court overturned a September 2017 Department of Homeland Security (“DHS”) decision that would terminate the Deferred Action for Childhood Arrivals (“DACA”) program:

“We do not decide whether DACA or its rescission are sound policies. ‘The wisdom’ of those decisions ‘is none of our concern.’ We address only whether the agency complied with the procedural requirement that it provide a reasoned explanation for its action. Here the agency failed to consider the conspicuous issues of whether to retain forbearance and what if anything to do about the hardship to DACA recipients. That dual failure raises doubts about whether the agency appreciated the scope of its discretion or exercised that discretion in a reasonable manner.”

Dep’t of Homeland Sec. v. Regents of the Univ. of California, 140 S. Ct. 1891, 1913 (2020).

Accordingly, although the standard can be “squishy” and highly-fact based, it can be both a powerful tool for both litigants and government agencies implementing policy. 🍌



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
Family Law Self-Help Center**

Masks will help the Legal Aid Center of Southern Nevada to assist vulnerable members of our community who are feeling the repercussions of the COVID-19 crisis. So many of their clients do not have masks or leave them behind as they race to court.

Your gift can protect them.

Please send new masks for delivery to:
Legal Aid Center of Southern Nevada,
725 E Charleston Blvd
Las Vegas, NV 89104

Thank you!



Learn more/Donate: <https://www.lacsn.org/>


Pro Bono From Home

By Azra Ozdemir

I think it is safe to say that no one was fully prepared for the adversities that arose this year. This was especially true for me. When I found out that I was selected to be the 2020 Melanie Kushnir Access to Justice Fellow at Legal Aid Center of Southern Nevada, I was excited because this would be my first opportunity to see what a legal office was really like. I was in awe of the work that the Pro Bono Project team did, and I could not wait to work closely with everyone and contribute my ideas. Unfortunately, my office dreams quickly ended once the shutdowns began. Like so many others, I was uncertain about what the future held.

To my surprise, the Pro Bono Project team was functioning like a well-oiled machine by the time I started my fellowship. Everyone had adapted to the challenges of recruiting pro bono attorneys from home and was eager to implement new ideas to help pair attorneys with cases. Though in-person lunchtime firm visits were replaced with video calls and team meetings all happened via phone conference, all the passion for service remained.

This is not to say there were not any difficulties. Pro bono volunteers had become harder to find while the Children's Attorney Project waitlist grew. Traditionally effective methods of in-person recruiting had been abandoned while the amount of email blasts and phone calls multiplied. However, the Pro Bono Project team worked harder. Together, we brainstormed new ways to reach out to new attorneys. We used our connections and shared our personal stories to help pair clients with pro bono attorneys.

It was then that I realized that being physically present in an office is not necessarily the best way to learn about how a functioning legal office works. The best way is to work on a team that has a common goal, open communication, free-flowing ideas, and works hard. I spent my summer working closely with the Pro Bono Project via zoom and I learned that any goal can be accomplished with teamwork. 

Azra Ozdemir is the 2020 Melanie Kushnir Access to Justice Fellow at Legal Aid Center of Southern Nevada. She spent her summer working with the Pro Bono Project to further her goal of providing quality legal services to those in need. She is currently a second-year student at the William S. Boyd School of Law.



To volunteer with the Pro Bono Project, contact Pro Bono Director Noah Malgeri at (702) 386-1429 or nmalgeri@lacsnsn.org.

The Marketplace

Office Space

Executive offices available for lease, located at 7995 W. Sahara Ave. 2 spaces available from 138 sq. ft. to 158 sq. ft. partially furnished. 24-hour access. Guest reception service and internet access provided at no additional cost. \$650 to \$700 a month. Month to month or 6-month terms available. Please call or email for additional details. admin@mcnerylaw.com. 702-831-6603.

Advertising Opportunity

Do you have an opportunity for employment, office space, or professional services? Place a classified ad in The Marketplace. Submit the text of your ad to StephanieAbbott@clarkcountybar.org for a quote.

Lawyer's Pledge of Professionalism

Adopted by the Clark County Bar Association



In my role as a counselor, advocate, and officer of the court, I aspire to a standard of conduct that warrants the term “professional.” I seek to earn a reputation for honor, trustworthiness, and professionalism among my clients, the legal community, and the community at large. As a lawyer dedicated to the professional and ethical practice of law, I will conduct myself in accordance with the following Pledge of Professionalism:

I. To a Client, a lawyer owes undivided allegiance, the full application of the lawyer's abilities, and the employment of all appropriate legal means to protect the client's legitimate rights.

1. I will achieve my client's lawful objectives as expeditiously and economically as possible, and I will advise my client against pursuing any matter that is without merit;
2. I will counsel my client with respect to mediation, arbitration, and other alternative methods of resolving disputes;
3. I will counsel my client that a willingness to engage in settlement discussions is consistent with effective representation;
4. I will advise my client that civility and courtesy are expected of all participants in the legal system, and that such qualities are not a sign of weakness; and
5. I will not permit my commitment to my client's cause to interfere with my ability to provide my client with objective advice.

II. To other Counsel, their Clients, and Office Staff, a lawyer owes courtesy, candor, and cooperation in all respects not inconsistent with his or her client's interest, and scrupulous observance of all mutual agreements and understandings.

1. I will be courteous and civil to other counsel, their clients and office staff, and my word is my bond;
2. I will agree to reasonable requests for extensions of time and for waiver of procedural formalities when the legitimate substantive interests of my client will not be adversely affected;
3. I will cooperate with other counsel when scheduling depositions and meetings;
4. I will refrain from using litigation, delaying tactics, abusive discovery, or any other conduct to harass another party;
5. I will serve motions and pleadings in a timely manner to allow the other party a fair opportunity to respond;
6. I will concentrate on matters of substance and content, and not quarrel over matters of form; and
7. I will identify for other counsel or parties all changes I make in documents submitted to me.

III. To the Court and Other Tribunals, a lawyer owes respect, diligence, candor, and punctuality.

1. I will conduct myself in a professional manner and demonstrate respect for the court, other tribunals, and the law;
2. I will always be candid with the court and other tribunals;
3. I will be punctual in attending all matters before the court and other tribunals;
4. I will communicate with other counsel in an effort to resolve disputes;
5. I will refrain from filing frivolous pleadings, papers, or motions, and will voluntarily withdraw claims or defenses when it becomes apparent they do not have merit;
6. I will make every effort to agree with other counsel as early as possible on the voluntary exchange of information and a plan for discovery; and
7. I will advise my clients of the behavior expected of them before the court and other tribunals.

IV. To the Public, a lawyer owes the highest degree of professionalism.

1. I will conduct myself in a manner that will encourage trust of the legal profession by members of the public;
2. I recognize and will abide by the principle that the legal profession is devoted to public service, improvement of the administration of justice, and the uncompensated assistance to persons who cannot afford representation;
3. I will treat my office staff with courtesy and respect, and will encourage them to treat others in the same manner; and
4. I recognize my conduct is governed by standards of fundamental decency and courtesy, in addition to the Nevada Rules of Professional Conduct.

Clark County Bar Association, 717 S. 8th Street, Las Vegas, NV 89101. Phone: (702) 387-6011. www.clarkcountybar.org.

Please join us at this special event

CLARK COUNTY BAR LUNCHEON & ANNUAL MEETING

Online via Zoom

Thursday, December 17, 2020

12:00-1:00 PM

Introductions: 12:00 to 12:15 PM

Speaker: 12:15 to 12:45 PM

Price: FREE

RSVP to Donnaw@clarkcountybar.org
by December 14, 2020.

Sponsors

Featuring

Jeremy Aguero

of Applied Analysis
on Southern Nevada's
evolving economic
landscape and how
COVID has effected Las
Vegas



Also featuring

**Election of the
2021 CCBA Executive Board**



Follow CCBA: @clarkcountybar @ccbanv @ccbanv 702-387-6011