



Real Estate Finance CLE Webcast
Free for CCBA Members on September 23! See page 10

COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

The Real Estate Law Issue

SEPTEMBER 2021



Read

2021 Nevada Legislative Update: What Real Estate Practitioners Should Know

*By Angela Turriciano Otto, Esq.
and Brooke Holmes, Esq.*

See page 22

Featured inside

CCBA President's Message
See page 4

"Discovery & ADR CLE with The
Commissioners" - a Three Part
CLE Series Starts September 28
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Strategically Planning for the
Judiciary's Future
See page 20

The Rents are Now Due (Maybe):
A Recap of the 2021 Nevada
Legislature's Session Regarding
Evictions and Foreclosures
See page 24

A Long and Winding Road to
Emergency Housing Security
See page 26

Pro Bono Corner
See 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.



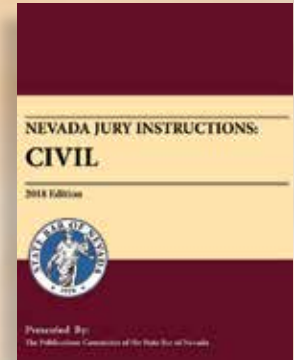
Nevada Gaming Law Practice and Procedure Manual

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





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*Angela Turriciano Otto, Esq.
and Brooke Holmes, Esq.
of Brownstein Hyatt Farber
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The Real Estate Law Issue

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Back to Normal . . . Almost?

By James E. Harper, Esq.

Here we go again. Just when we thought the return to normalcy was on the horizon, COVID-19 cases are on the rise and Governor Sisolak has reinstated the mask mandate in Clark County and other “hot spot” counties. For me, this go-around feels different than the first mandate issued in 2020. We have navigated the new norm. We have adjusted our personal and professional lives. We have risen to the challenge. Now, as the stronger Delta Variant threatens our complete return to normalcy, our positivity must be stronger so we can continue to persevere. As stated before: This too shall pass . . . again.

After eighteen months of social distancing and virtual events, the CCBA is doing all that it can to get back to hosting live events.

On May 20, our New Lawyers Committee hosted the first in-person event in 2021. The CCBA Spring Pub Crawl was a well-attended moving social mixer for members to network and visit local bars in the historical neighborhood, the Las Vegas Arts District. Special thanks to event sponsors Litigation Services, Las Vegas Legal Video, and Leavitt Legal Services, PC.

On August 5, the New Lawyers Committee hosted the Summer Mixer & After Bar Exam Chill at Nevada Brew Works. Several future attorneys attended the mixer.



James E. Harper, Esq. is the founding member of Harper Selim, PLLC, a civil and commercial litigation firm. James's practice is focused on insurance matters, including coverage and bad faith, and appellate matters. James is president of the CCBA through December 2021.

After eighteen months of social distancing and virtual events, the CCBA is doing all that it can to get back to hosting live events.

The event was a success. James L. Leavitt said, “This mixer had a great turnout! It gave recent takers of the Nevada bar the opportunity to meet established practitioners and at least one legislator in an informal setting. It was a great success and I look forward to this mixer being a lasting tradition carried on by the Clark County Bar Association.”

Special thanks to event sponsors Hamilton Law and WestPac Wealth Partners. With their sponsorship we were able to offer attendees one complimentary beverage and a variety of food. Ryan Hamilton commented, “The pizza had a tangy zing.”

The CCBA hosted its first in-person lunch on August 12, at MacKenzie River Pizza inside City National Arena. Chip Seigel, III, Chief Legal Officer of the Vegas Golden Knights, presented a one-hour CLE on Tips for Confronting and Playing Through Risk. It was wonderful



Mark Rouse, Thomas Beckom, Shane Godfrey



Diane Fearon, Candace Carlyon, Dawn Cica



Jacquelyn Franco, Heather Anderson-Fintak, Catherine Galvez, Cecilia Diaz, Paulina Andrade



Damon Dias, Laura Gaudet



Teddy Medlyn, Amanda Steven's, Madeline Arcellana, Marcus Phillips



Alison Dunn, Lin Soriano, Augusta Massey

Highlights from the CCBA's Spring Pub Crawl and Summer Mixer

to see so many CCBA members and it was fun to hear some stories of our Vegas Golden Knights. Go Knights Go! For highlights from that event, see page six.

Coming up, the CCBA will host more live events before the year's end. Mark your calendars now for these in-person events:

- October 21, 2021 – Bar Luncheon at Golden Nugget
- November 4, 2021 – 30th Annual Meet Your Judges Mixer at The Smith Center for the Performing Arts
- December 2, 2021 - 40 Year Club at the at The Smith Center for the Performing Arts
- December 2, 2021 - Holiday Mixer at Nevada Brew Works

It is no secret that the CCBA thrives on providing networking and educational opportunities to its members. Although social distancing has not permitted us to assemble as frequently as we used to, please accept my invitation to attend the live events the CCBA has planned for its members. Your participation is vital to us. Of course, virtual CLE luncheons and programs will continue to keep us connected. You can check out all upcoming events on pages 9, 10, 12, 14, and 15, of this publication.

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. 🍷



Lewis Sutton, Teresa Maria, Nicole DeRosier, and Neisha Esene



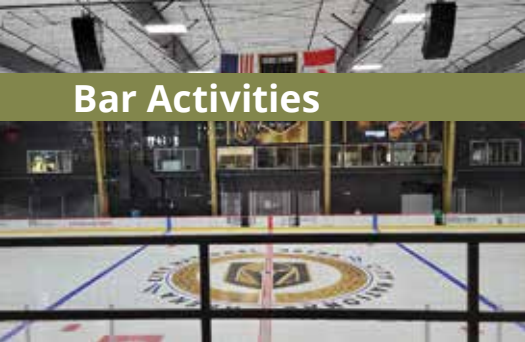
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Patrick and Kathy Clifford



James Leavitt and Ryan Hamilton



Bar Activities



James Harper



Chip Seigel

August 2021 Bar Luncheon Marks First In-Person Bar Luncheon Since Early 2020

By Stephanie Abbott

On August 12, 2021, the Clark County Bar Luncheon sponsored by Bank of Nevada, Dillon Health, and Prominence Health Plan was hosted at MacKenzie River Pizza located inside the City National Arena. This was the first in-person luncheon event since the 40 Year Club Luncheon held in early 2020. While attendance was lower than before, the CCBA staff was able to ask the restaurant to set the table for attendees with greater distance between each place setting. Highlights of the event follow.


CCBA President **James Harper** welcomed guests, presented information about upcoming bar activities, and thanked the event’s sponsors.

Sarah Guindy, Senior Director of Commercial Banking at Bank of Nevada, greeted the audience and made an announcement regarding Juris banking services available for individual attorneys and law firms.

Michael Dillon, CEO/Employee Benefits Advisor at Dillon Health, presented information about the Association Health Plans available from Prominence.

Brian Kunzi, Director of Admissions for the State Bar of Nevada, made an announcement regarding concerns for the format for future bar exams. He asked for bar members to look for more information about a study and survey to be announced by the Nevada Board of Bar Examiners.

Charles A. “Chip” Seigel III, Chief Legal Officer of Vegas Golden Knights, presented “Tips for Confronting and Playing Through Risk” for the continuing legal education (CLE) of Nevada’s lawyers. During his thoughtful presentation, Mr. Siegel reminded us that, “Risk can be managed but not eliminated.” Special thanks to Mr. Seigel for sharing his insights and time.

The next bar luncheon will be held in-person on Thursday, October 21, 2021. For more information and to RSVP for that event, see page 13 and contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011. 



Sarah Guindy



Mike Dillon

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Stephanie Abbott is the communications manager for the Clark County Bar Association.



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For more information about our publication's editorial calendar, deadlines, editorial policy, author guidelines, ad rates, ad specifications, and deadlines, contact the publisher at Clark County Bar Association, 717 S. 8th Street, Las Vegas, Nevada, 89101. Phone: (702) 387-6011.

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Cover Date	Topic of Articles	Closing Date
January 2021	Five Things	11/29/2020
February 2021	Racial Justice	1/2/2021
March 2021	Health Care Law	2/3/2021
April 2021	Bankruptcy Law	3/2/2021
May 2021	Law Practice Management	4/1/2021
June/July* 2021	Ethics	5/1/2021
August 2021	Torts	7/1/2021
September 2021	Real Estate Law	8/3/2021
October 2021	Family Law	9/1/2021
November 2021	Estate Planning Law	10/1/2021
December 2021	Pro Bono	11/2/2021

*The combined June/July issue will be released in June. The editorial calendars, schedules, editorial policies, and writer's guidelines for the *Communiqué* are subject to change without notice.

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Attorney Memorial Service Scheduled for November 5

Bar members are invited to attend the Annual Attorney Memorial Service, a special event to honor Nevada attorneys who have passed on during the last year. This year’s event will be held in-person. See below for details.

- Date: Friday, November 5, 2021
- Time: 3:00 p.m. to 5:00 p.m.
- Note: Service to begin promptly at 3:00 p.m. with a reception to follow immediately.
- Location: Lloyd D. George U.S. Courthouse, Courtroom 6C, 333 Las Vegas Boulevard South, Las Vegas

The annual attorney memorial services is produced by the Clark County Law Foundation in conjunction with the Clark County Bar Association, State Bar of Nevada, Eighth Judicial District Court, U.S. District Court, and the Federal Bar Association-Las Vegas Chapter. To learn more, contact Patrick at CCLF, (702) 333-8877. 



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Real Estate Finance CLE Webcast Free for CCBA Members on September 23

By Stephanie Abbott


On September 23, 2021, a special presentation will be made for the continuing legal education (CLE) of Nevada lawyers by a distinguished panel of speakers:



- Phil Aurbach, Marquis Aurbach Coffing
- Eleissa Lavelle, JAMS
- Melanie Morgan, Akerman LLP
- Bob Olson, Snell & Wilmer LLP

The panelists will discuss residential and commercial considerations in deed of trust litigation, in “Real Estate Finance 101: Deed of Trust Litigation.” Topics will include:

- Deeds of Trust: Overview of how they work
- Priority issues and enforcement
- Dealing with Defaulted Loans
 - Loan Workouts
 - Bankruptcies
- Recent legal developments
 - Litigation affecting foreclosures and new developments under NRS 106.240
 - Quiet title actions and statutes of limitation
- ADR considerations in resolving real estate disputes

This CLE program will be held online via Zoom, from 12:00 to 1:15 p.m., Thursday, September 23, 2021. The presentation will offer 1.0 CLE credit to CCBA members only. Pricing of the live event and CLE is included with the 2021 CCBA membership. The live event is for CCBA members only. CCBA membership will be verified upon RSVP. During the event, attendance will be taken and only those members in attendance will have their attendance reported to the NV CLE Board. For more information and to RSVP for this event, contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011. 

*This event offers 1.0
CLE credit!*

*RSVP to the CCBA by
September 21, 2021.*

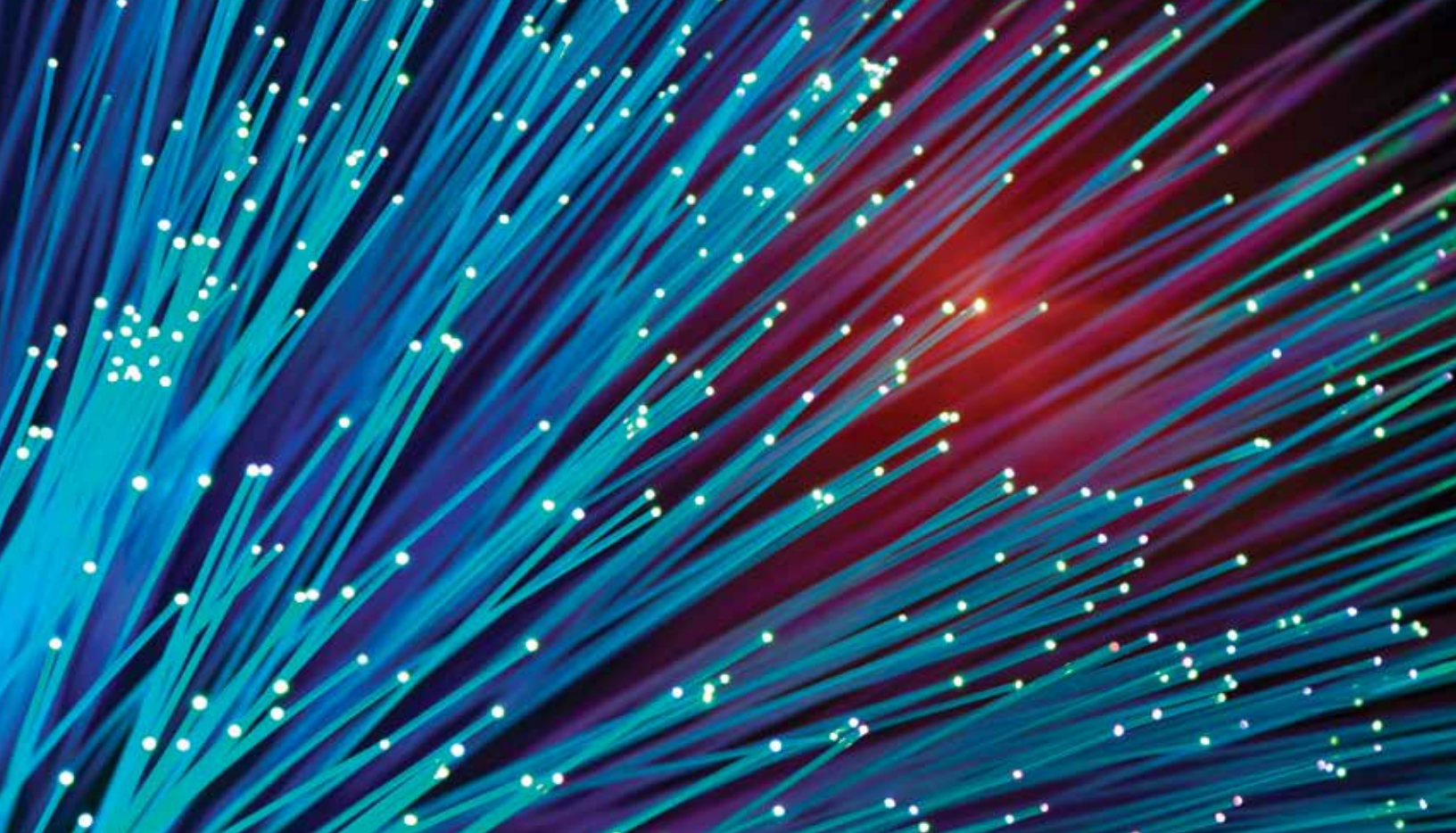
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“Discovery & ADR CLE with The Commissioners” - a Three Part CLE Series Starts September 28

By Stephanie Abbott

Discovery and ADR Commissioners Erin Lee Truman and Jay Young will be the featured speakers in a series of CLE programs produced by the Clark County Bar Association’s CLE Committee that are scheduled to run from late September to mid-October.

The Eighth Judicial District Court Discovery and ADR Commissioners hear pre-trial discovery disputes and oversee cases assigned to the Court Annexed Arbitration Program, Court Annexed Mediation Program, Nevada Short Trial Program, and Nevada Foreclosure Mediation Program for the EJDC in Clark County.




The CLE series “Discovery & ADR CLE with The Commissioners” will be held online via Zoom, from 12:30 to 1:30 PM, on Tuesday for three occurrences:

- Part 1: Hot Topics in Civil Discovery – Tuesday, September 28, 2021
- Part 2: ADR: What do you Need to Know? – Tuesday, October 5, 2021
- Part 3: Hot Topics in Family Court Discovery – Tuesday, October 12, 2021

Each part of the series will offer 1.0 hour of continuing legal education for members of the Nevada bench and bar. During each part, attendance will be taken and reported to the NV CLE Board by the CCBA. All three parts are available at \$75 per CCBA member and \$150 per non-member.

For more information and to register to attend this series, contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011.

CCBA’s CLE programming is sponsored by Bank of Nevada and Las Vegas Legal Video. 

Stephanie Abbott is the communications manager for the Clark County Bar Association.

Part 1

Hot Topics in Civil Discovery

1. Conducting a Meaningful Meet & Confer
2. Rule 2.40 Requirement
3. Moving for Fees and Costs
4. Limits on Discovery Commissioner Authority
5. Boilerplate Objections
6. Rule 26(g)
7. Q&A

Part 2

ADR: What do you Need to Know?

1. Arbitration
2. Short Trial
3. Mediation
4. What is New on the Horizon for ADR?

Part 3

Hot Topics in Family Court Discovery

1. Conducting a Meaningful Meet & Confer
2. Rule 2.40 Requirement
3. Moving for Fees and Costs
4. Limits on Discovery Commissioner Authority
5. Boilerplate Objections
6. Rule 26(g)
7. Q&A

CCBA’s CLE programming sponsors



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Save the date!

Diversity In the Legal Profession

Thursday, October 21, 2021 • 12:00 PM – 1:15 PM



A special luncheon event featuring a panel discussion about diversity, inclusion, and equity in the legal profession with notable members of Nevada's legal community.

Special guest panelists:

Judge Tierra D. Jones, Eighth Judicial District Court

Bryan K. Scott, Las Vegas City Attorney

Lora Picini, Senior VP, Inclusion and Talent Management, Everi Holdings

Nedda Ghandi, Partner, Gandhi Deeter Blackham

With more panelists to be announced!

Moderator: **Annette Bradley**, Chair, CCBA's Diversity and Inclusion Committee for Equity

Event sponsors



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For more info and to RSVP, visit www.clarkcountybar.org or 702-387-6011.



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30th Annual MEET YOUR JUDGES MIXER

SPECIAL EVENT

When & where

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NOVEMBER 4, 2021
5:30-8:30 PM**

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This event is open to attendance by Nevada's judges, attorneys, paralegals, legal secretaries, law students, merchants, and candidates.

This is a private cocktail reception; no minors allowed. Business casual attire acceptable.

MASKS & VACCINATION POLICY

Masks will be required regardless of vaccination status. Additionally, The Smith Center has instituted a vaccination policy. Please take note of and respect their policy as you make plans to attend our event. Please visit our website at <https://the-smithcenter.com/visit/safety-and-security/keeping-each-other-safe/> to stay up to date on their health and safety policies.

**RSVP TO THE CCBA
BY OCT. 26, 2021.** For more info, call 702-387-6011 or see ClarkCountyBar.org.



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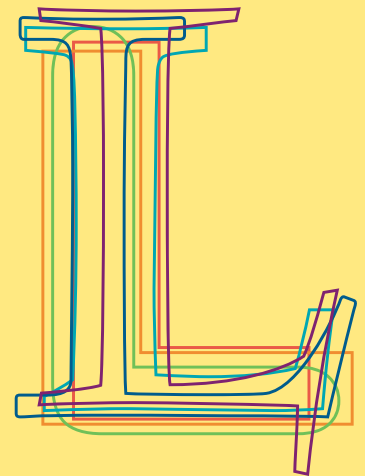
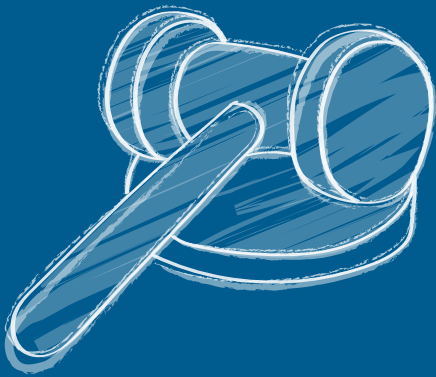
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Henderson Muni Court Orders Masks Mandatory Effective July 30, 2021

On July 29, 2021, the Henderson Municipal Court filed an order in the administrative matter regarding procedures in response to COVID-19. See Administrative Order 21-01. For more information about the Henderson Municipal Court visit <https://www.cityof-henderson.com/>.

Amended New Rules of Practice Las Vegas Justice Court

On July 22, 2021, the Supreme Court of Nevada signed an order in the matter of the amendment, repeal, and enactment of certain rules for the Las Vegas Justice Court. See ADKT 0583. The rule changes will become effective in 60 days from the date of the order. To view the administrative case for ADKT 0583, visit the Appellate Case Management System at <http://caseinfo.nv-supremecourt.us/public/caseView.do?csIID=61634>.

For more information about the Las Vegas Justice Court's rules and administrative orders, visit <http://www.lasvegasjusticecourt.us/>.

Las Vegas Justice Court Order Affects Customer Service Hours, Deadlines

On July 21, 2021, the Las Vegas Justice Court filed an order in the administrative matter regarding

Thanks to the following CCBA members who submitted updates to their areas of practice (AOP)* listings.

Kimberly Stein, NV Bar #8675. Phone: (702) 971-2258. AOP: Business Litigation; Corporation & Business Law; Sports & Entertainment Law.

*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. For a list of AOP used by the CCBA, see <https://clarkcountybar.org/about/member-benefits/areas-of-practice-listings/>. **C**

Court News cont.

customer-service hours of the Las Vegas Justice Court. See Administrative Order 21-08. The customer service hours of the Las Vegas Justice Court will be from 7:30 AM to 5:30 PM, Monday through Thursday and Friday 8:00 AM to 4:00 PM, with the exception of holidays declared by state law. Additionally, the court orders that Friday is deemed a judicial day for the purposes of the computation of time in accordance with JCRCP 6 or any other deadlines to take action as set forth in any Nevada Revised Statute. The order became effective immediately.

Las Vegas Muni Court Orders Mandatory Face Coverings

On July 21, 2021, the Las Vegas Municipal Court filed an order in

Thanks to the following CCBA members who submitted updates to their profile information.

Shirley Derke has retired. She can be reached at 14725 Nichols Rd., Bath, Michigan, 48808. Phone: (702) 218-4070.

Ian McGinn is now a partner at Sandoval James & Walkenshaw, 7570 Norman Rockwell Lane, Suite 210, Las Vegas, Nevada, 89143. Phone: (702) 291-8007. AOP: Personal Injury and Wrongful Death Claims.

Member updates requested. Please submit updates regarding member information to CCBA, 717 S. 8th Street, Las Vegas, Nevada, 89101, Stephanie-Abbott@clarkcountybar.org, or by completing the web form at <https://clarkcountybar.org/about/ccba-member-info-update-form/>. **C**

the continuing matter of the Las Vegas Municipal Court procedures regarding coronavirus disease (COVID-19). See Judicial Administrative Order 2.58.

Effective July 21, 2021, Judicial Administrative Order 2.58 addresses matters related to mandatory face coverings. A synopsis of the contents follows:

Mandatory Face Coverings

– Municipal Court employees, attorneys and members of the public must wear face coverings that cover their noses and mouths. Face coverings must be worn at all times while in the Las Vegas Municipal Court and while in any security screening line to enter the City of Las Vegas Municipal Courthouse.

Court continued on page 18

Workers' Comp is *not* Personal Injury.

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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 diseases. Let us help your client file a claim or appeal an adverse decision. We don't interfere with your personal injury cases; you keep those unless you would like us to handle them. Your client receives excellent workers' compensation representation, and you receive a generous referral fee under NRPC 1.5 (e).

Any questions?



Workers' Comp Benefits Include:

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

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All Court employees must cover their noses and mouths with face coverings while at work unless they are alone in their unshared work space. This includes all common areas of the facility, back hallways, elevators, shared restrooms and break rooms unless they are dining.

If the Judge expressly allows, an exception may be had if necessary for communication during a court proceeding as long as the participant or attorney is speaking at the courtroom podium, a witness seat or the Judge at his or her bench, and as long as appropriate distance of at least six feet or greater can be maintained.

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 directives. Individuals who are unable to wear a face covering should make arrangements to appear by alternative means.

Face coverings must cover the nose and mouth at all times. Face coverings with vents, bandanas, or face coverings made out of mesh are not permitted. Face shields may be worn with a mask as added protection, but may not be worn alone. Face coverings must be worn regardless of vaccination status.

All other Judicial Administrative Orders relative to Coronavirus Disease (COVID-19) have

been rescinded including:

JO 2.55

JO 2.56.”

For more information, visit the court’s website, <https://www.lasvegasnevada.gov/Government/Municipal-Court>. **●**

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Strategically Planning for the Judiciary's Future

By Chief Justice James W. Hardesty

As I discussed in this space in March, the Supreme Court of Nevada has a sizable agenda this year. I would like to provide an update on three areas of interest.

First, the Court moved closer to developing and adopting a strategic plan to advance the Court's mission and to sustain innovations implemented during the pandemic. The State Justice Institute awarded the Nevada Judiciary a \$55,000 grant to partner with the National Center for State Courts (NCSC) in the development of a Plan for Nevada. The process will take nine months, with the final product being the focus of the Judiciary's 2022 Leadership Summit to be held next May.

What does that mean for you? Over the next few months, an online user survey will be widely disseminated seeking input on the future of the Nevada Judiciary. Individual and group interviews will take place to better understand how we can further accomplish our core values. The NCSC will collect and analyze user responses to provide the Court with recommendations that anticipate the future for the judiciary's accessibility, timeliness, and efficiency, and set the agenda and action steps to achieve adopted goals and objectives.

The success of this process is dependent on participation from all

of us that work with and within the Nevada Judiciary. This fall, be on the lookout for an invitation to provide your perspective through our survey.

Second, we remain focused on reducing the backlog of cases in our courts created by the pandemic. This problem is a clear and present danger to fair and equal justice in Nevada. The numbers in the Eighth Judicial District Court speak volumes about the seriousness of this situation. For example, as of July 15, 2021, there are 386 open murder cases, 1,898 criminal cases, and 6,696 civil cases pending in the district. While improvement has been made in the status of domestic, delinquency, dependency, and probate, there is much to do to bring the docket under control and provide timely disposition for many cases. I want to thank Chief Judge Bell, her colleagues, and the Senior Judge Program for all their work to improve the situation. Moving jury trials forward, expanding courtroom capacity, assigning cases to overflow, providing coverage for judges in criminal trials, and increasing settlement conferences in criminal cases are critical to this effort. The cooperation and input from the bar is essential to this process and we welcome all suggestions to help the judicial system provide timely, efficient adjudication of the pending and forthcoming cases.



Chief Justice James W. Hardesty has been a Justice on the Nevada Supreme Court since 2005. He previously served as Chief Justice in 2009 and 2015.

Third, the Supreme Court has initiated three commissions that will be critical to the future of the judicial system. Justices Pickering and Silver have been appointed to co-chair the Court's commission studying revisions to the Nevada Rules of Appellate Procedure. Associate Chief Justice Parraguirre has been appointed to chair the newly formed commission to study the rules and statutes on the Judicial Discipline Commission and the Judicial Code of Conduct. And Justice Herndon and I will co-chair the commission to study statewide rules for the use of virtual hearings in a post pandemic environment. Please let me know if you have an interest in serving on any of these commissions. In addition, I am pleased to announce the resumption of the Statewide Judicial Summit in May 2022. Justices Stiglich and Cadish have agreed to co-chair this important conference for the state's judiciary.

Lastly, I would like to acknowledge the recent retirement of district court Judge Betsy Gonzalez and thank her for all her hard work, dedication, and leadership on the district court and to the citizens of Nevada.

Respectfully, Chief Justice James W. Hardesty

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2021 Nevada Legislative Update: What Real Estate Practitioners Should Know

By Angela Turriciano Otto, Esq. and Brooke Holmes, Esq.

In 2021, the Nevada Legislature passed several bills affecting real property. We briefly summarize below some of these bills that may impact your real estate clients.

Vacation Rentals

Assembly Bill 363 requires each of Clark County, Las Vegas, Henderson, and North Las Vegas to adopt an ordinance to regulate “the rental of a residential unit or room within a residential unit for the purposes of transient lodging” (“Vacation Rental”) and the person, other than an owner, occupant, or manager, who arranges for such Vacation Rental for a fee. *See* A.B. 363, 81st Sess. (Nev. 2021), Sec. 7. This bill refers to such person as an “accommodations facilitator,” and clarifies that it includes a hosting platform such as Airbnb or Vrbo. *See id.* at Sec. 3. This ordinance must provide, among other things, (i) that a Vacation Rental be subject to transient lodging taxes, (ii) that each person offering for rent a Vacation Rental, whether or not using an accommodations facilitator, must hold an authorization and a State business license, (iii) the requirements for an applica-

tion for such authorization, and (iv) the amount of the annual fee for such authorization and the minimum liability coverage that must be maintained for the unit. This ordinance must also require that accommodations facilitators collect and pay the applicable transient lodging taxes and provide certain quarterly reports to the appropriate governmental agencies. These provisions do not apply to residential units located in a project owned or operated by a nonrestricted gaming licensee or its affiliate, which is not entirely zoned residential.

Tiny Houses

Pursuant to Senate Bill 150, no later than January 1, 2024, local governments must adopt an ordinance establishing a zoning district that permits a tiny house as an accessory dwelling unit and as a single-family residential unit, and that permits a tiny house to be located in a tiny house park; provided, however, that a county with a population of less than 100,000 and a city with a population of less than 150,000 only has to establish one of these zoning districts. *See* S.B. 150, 81st



Angela Turriciano Otto, Esq. is a shareholder at Brownstein Hyatt Farber Schreck, LLP. Few lawyers in Nevada, or across the country, have more experience managing the real estate components of large-scale hospitality and gaming transactions.

Brooke Holmes, Esq., an associate with Brownstein Hyatt Farber Schreck, LLP, brings experience in practice areas spanning from real estate transactions, trusts and estates, estate planning, probate, guardianship, business formation and bankruptcy.

Sess. (Nev. 2021), Sec. 1. Ordinances establishing tiny house parks must also set forth certain requirements related to utilities, lot sizes, spacing between houses, open space, and parking.

PACE Financing

For those of you not familiar with property assessed clean energy (“PACE”) financing, it is an attractive low-cost financing mechanism that provides for private funding of energy efficiency, renewable energy and similar improvement projects that is repaid through an assessment on the real property (like a special improvement district). Senate Bill 283 adds “resiliency projects” and “water efficiency improvement projects” to the list of projects that qualify for PACE financing in Nevada. See S.B. 283, 81st Sess. (Nev. 2021), Sec. 6, 8 and 9. This bill also modifies the PACE program to make it easier for local governments to implement and for capital providers to enforce their liens. Local governments that have already adopted ordinances with respect to PACE financing should be updating them to align with the provisions of SB 283.

Miscellaneous

Assembly Bill 211 amends Nevada Revised Statutes 278.335 to require that a tentative map be reviewed by the Department of Wildlife, except if the governing body has adopted a “habitat conservation plan” approved by the U.S. Fish and Wildlife Service or the tentative map is for the subdivision of a “vacant or substantially vacant tract of land that is surrounded by land that is already developed.” See A.B. 211, 81st Sess. (Nev. 2021), Sec. 1.5.

Senate Bill 276 imposes a \$15 technology fee on persons who are obtaining or renewing certain licenses, permits, and other items issued by the Real Estate Division, including, without limitation, a real estate broker’s license, which fees will be used to acquire or improve the division’s technology.

Please note that we did not summarize Assembly Bills 141, 308, or 486 regarding landlord-tenant matters because they are being covered by a separate article.

Please remember to review the applicable local ordinances required or contemplated by these vacation rental, tiny house, and PACE financing bills before advising your clients on these matters. **G**

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The Rents are Now Due (Maybe): A Recap of the 2021 Nevada Legislature's Session Regarding Evictions and Foreclosures

By *Ramir M. Hernandez, Esq.*

The Nevada Legislature just completed its bi-annual legislative session. In the past, stakeholders in the real property field (whether lenders, loan servicers, landlords, or trustees) have braced themselves for new surprises the Legislature decides to throw their way. From 2009-2017, the focus was on lenders and loan servicers, who had to manage their way through two incarnations of the foreclosure mediation program, the Homeowner's Bill of Rights ("HOBR"), and changes to HOA lien foreclosures. Now that the dust has settled, Nevada's housing market appears to be strong and has returned to levels close to those prior to the economic meltdown of 2008.

Because of COVID, there was an expectation that the Nevada Legislature might try to revisit or add new foreclosure laws. It did not do so. Instead, the focus was primarily on the rental crisis COVID created, which have been mostly on hold since the state of emergency began. The Legislature began addressing this issue in a special session last August when it passed SB 1—a bill to create an eviction mediation program similar to Nevada's Foreclosure Mediation Program. The bill authorized the district or justice court to assign mediators who would attempt to resolve rental disputes between landlords and tenants. The bill became law on August 7, 2020. The mediation program is in full swing, and the courts have created a board of mediators.



Ramir M. Hernandez, Esq. is an attorney at Wright, Finlay & Zak. He primarily focuses on real property, federal consumer law, bankruptcy, collections, and evictions. He is also a member of the board of the local Federalist Society Chapter.

By the time the Legislature came back to its regular session in February of this year, most evictions were still on hold. This gave the Legislature the opportunity to add new laws to complement the Eviction Mediation Program it created last summer. Ultimately, three major bills passed:

AB 141: This bill requires courts to automatically seal all records of summary evictions granted during the COVID emergency. This bill became law on May 27, 2021.

AB 308: This bill prohibits landlords from charging late fees for leases longer than a week until three days have passed since the rent became due. The bill also requires that landlords provide a 60-day notice of a rent increase for tenancies that are a month or longer and 30 days for a tenancy that is less than one month. The current requirements are 45- and 15- days, respectively. This bill became law on July 1, 2021.

AB 486: This bill makes several changes to the eviction process for a default in payment. Primarily, it allows tenants to claim as an affirmative defense to an eviction that they have a pending application for rental assistance or that the landlord refused to accept rental assistance provided by the tenant. The court is required to stay all proceedings if the tenant asserts these defenses to allow the landlord to rebut them. If the court finds that the landlord failed to accept rental assistance, the eviction would be terminated, and the tenant may be awarded damages. Moreover, landlords

are also now required to include with the eviction notices rental assistance options as well as information regarding the tenant's rights to claim these affirmative defenses. The Legislature added a sunset date of June 5, 2023, to most provisions of the bill. This bill became law on June 4, 2021.

Some bills that failed, but may turn up in a future session include AB 152 (a bill that would have changed Nevada's law for debt collectors); AB 161 (a bill that would have eliminated summary evictions); SB 144 (a bill that, as originally drafted, would have eliminated non-judicial HOA foreclosures); and SB 159 (a bill similar to one in California that would have allowed tenants or non-profits to bid on properties after foreclosure sales had taken place). Notably, no changes were made to HOBR or the Foreclosure Mediation Program.

In many ways it is not surprising that the Legislature did not make any major changes to foreclosure laws considering the CFPB's new Covid-related rules and the current procedures in place to provide foreclosure alternatives, such as HOBR and mediations, to homeowners. The Nevada Legislature's next regular session is not scheduled to begin until February 2023.



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A Long and Winding Road to Emergency Housing Security

By Bailey Bortolin, Esq.

Second to the virus itself, evictions and the looming housing security crisis may be the most talked about category of the pandemic. Desperate Nevadans have been panicked and confused, navigating a complex and ever changing legal process with no time to spare due to the unrelenting timeline of our eviction laws.

So, what happened in the state where workers were hit the hardest? Our leaders stepped up to the plate. Governor Steve Sisolak declared a State of Emergency on March 12, 2020. Within days, Nevada's individual justice courts entered administrative orders closing the courts, deeming evictions non-essential and unnecessary to the administration of justice or order of our society. On March 29th, Governor Sisolak entered Declaration of Emergency Directive 008, halting all evictions and foreclosures in the State of Nevada. Notably, the federal government had already passed the CARES Act on March 25th, appropriating the first portion of what would ultimately total \$365 million in federal dollars provided to Nevada for direct rental assistance.

Navigating the urgent need to keep people in their homes, the State went to work. Brand new rental as-

sistance programs were stood up virtually overnight, utilizing whatever existing infrastructure they could to expedite services to people in need, providing rental assistance directly to landlords. On June 25th, Governor Sisolak entered Directive 025, a phased lifting of the eviction moratorium, set to expire September 1, 2020.

On July 31, 2020, the Nevada Legislature convened the 32nd Special Session. For the first time since the emergency began, our part-time state lawmakers were formally at the table, in the unenviable position of having to decide on budget cuts to slow the economic bleed. But they were also able to enact legislation to meet the State's moment of need with policy. Senate Bill 1 authorized a 30-day stay in Nevada's eviction timeline to facilitate mediation. The Supreme Court of Nevada then set to work crafting court rules (ADKT 0567, In the Supreme Court of the State of Nevada, October 6, 2020), partnering with Home Means Nevada, Inc. to train mediators and standing up a robust program to resolve cases to the benefit of all parties whenever possible.

What we know now is that Covid-19 was not letting up anytime soon. So, on August 31st, Governor Sisolak extended the eviction moratorium again, this time for 45 days in Directive 031. What we did not see coming,



Bailey Bortolin, Esq. is the Policy Director for the Nevada Coalition of Legal Service Providers. She received her bachelor's degree from American University and her juris doctor from UNLV Boyd School of Law.

was an eviction moratorium from the Centers for Disease Control and Protection, taking effect on September 4, 2020. The CDC essentially paused nonpayment of rent evictions for those financially harmed by the crisis. Because there are many roads to an eviction in Nevada, loopholes in the CDC moratorium ultimately did not prove effective enough to protect everyone that it was intended to. On December 14, 2020, Governor Sisolak entered Directive 036, applying the intent of the CDC moratorium more directly and effectively to Nevada law.

On February 1, 2021, the Nevada Legislature convened the 81st Session. The moratoriums were imperative and saved countless lives, but they couldn't last forever. *See Housing Precarity & the COVID-19 Pandemic: Impacts of Utility Disconnection and Eviction Moratoria on Infections and Deaths Across US Counties*, (NBER Working Paper No. 28394), Kay Jowers, Christopher Timmins, Nrupen Bhavsar, Qihui Hu, and Julia Marshall, National Bureau of Economic Research, January 2021. With the State moratorium expiring on June 1st, the Legislature created a path forward for landlords and tenants. On June 4, 2021, AB486 was enacted.

Weeks before the DOJ issued guidance urging states to do so, Nevada integrated the programs distributing \$365 million in rental assistance into our eviction legal processes to ensure landlords and tenants are connected with rental assistance, preventing evictions whenever possible. *See Letter from Associate Attorney General, June 24, 2021.* By staying cases where tenants have alerted the courts of a pending rental assistance application, families will be able to stay housed, landlords will be made whole, and the potential overwhelming of, and burden on, our courts and community social safety nets will be reduced. This is key, because the federal treasury guidelines do not allow for the dollars to be used to pay arrears where there is no longer a landlord tenant relationship, meaning hasty evictions would have hurt both parties for years to come.

The CDC Eviction Moratorium expired on July 31, 2021, but a new one with limited applicability was issued shortly thereafter on August 3, 2021. The hope is we avoid the housing crisis that has been looming as long as the virus. And when we are on the other side of this, perhaps we can enact meaningful change from the lessons we have learned. **G**

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SUN	MON	TUE	WED	THU	FRI	SAT
		1 SAC 7:05pm	2	3 ABQ 5:35pm	4 ABQ 5:35pm	5 ABQ 5:35pm
6 ABQ 5:05pm	7 ABQ 5:35pm	8 ABQ 11:05am	9	10 RNO 7:05pm	11 RNO 7:05pm	12 RNO 7:05pm
13 RNO 12:05pm	14 RNO 7:05pm	15 RNO 7:05pm	16	17 TAC 7:05pm	18 TAC 7:05pm	19 TAC 7:05pm
20 TAC 11:05pm	21 TAC 7:05pm	22 TAC 7:05pm	23	24 SL 5:35pm	25 SL 5:35pm	26 SL 5:35pm
27 SL 12:05pm	28 SL 5:35pm	29 SL 5:35pm	30			

JULY

SUN	MON	TUE	WED	THU	FRI	SAT
				1 SAC 7:05pm	2 SAC 7:05pm	3 SAC 7:05pm
4 SAC 7:05pm	5 SAC 7:05pm	6 SAC 7:05pm	7	8 RNO 8:35pm	9 RNO 8:35pm	10 RNO 8:35pm
11 RNO 1:05pm	12 RNO 8:35pm	13 RNO 8:35pm	14	15 ELP 7:05pm	16 ELP 7:05pm	17 ELP 7:05pm
18 ELP 5:05pm	19 ELP 7:05pm	20 ELP 7:05pm	21	22 SL 5:35pm	23 SL 5:35pm	24 SL 5:35pm
25 SL 7:05pm	26 SL 5:35pm	27 SL 5:35pm	28	29 TAC 7:05pm	30 TAC 7:05pm	31 TAC 7:05pm

AUGUST

SUN	MON	TUE	WED	THU	FRI	SAT
1 TAC 7:05pm	2 TAC 7:05pm	3 TAC 7:05pm	4	5 SL 1:05pm	6 SL 1:05pm	7 SL 1:05pm
8 SL 1:05pm	9 SL 1:05pm	10 SL 7:05pm	11	12 TAC 7:05pm	13 TAC 7:05pm	14 TAC 7:05pm
15 TAC 1:25pm	16 TAC 11:25pm	17 TAC 7:05pm	18	19 ABQ 7:05pm	20 ABQ 7:05pm	21 ABQ 7:05pm
22 ABQ 7:05pm	23 ABQ 7:05pm	24 ABQ 7:05pm	25	26 OKC 3:05pm	27 OKC 5:05pm	28 OKC 5:05pm
29 OKC 4:05pm	30 OKC 5:05pm	31 OKC 5:05pm				

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Thank You, Pro Bono Attorneys

By Michael Wendlberger, Esq.

I am the new Pro Bono Director at Legal Aid Center of Southern Nevada. I want to take this opportunity to thank every pro bono attorney in our community. I started working at Legal Aid in 2016, representing adults under guardianship. It was in this role that I first realized the impact of pro bono work.

In 2018, I consulted with a retired veteran, Jimmy.* Jimmy purchased a house with his life savings and soon after found severe undisclosed defects. Jimmy could not afford an attorney and attempted to resolve the issues himself. Jimmy was unable to obtain relief and faced the possibility of losing his home. Legal Aid's Pro Bono Project found Jimmy a fantastic pro bono attorney who ultimately saved Jimmy's home. This case inspired me in 2018 to become more involved in pro bono and illustrates that volunteering as a pro bono attorney not

only helps the client but benefits others in our community.

Jimmy's story is not unique. We have hundreds of pro bono heroes in our community. Pro bono attorneys represent people from all walks of life. From minors placed in foster care to seniors scammed out of their nest eggs, pro bono attorneys provide a voice to their clients when no one else can—providing access to justice to those who cannot afford an attorney.

Thank you to every pro bono attorney taking cases and our Ask A Lawyer volunteers. You make the community a better place. I look forward to working with you.

If you would like to become a pro bono hero, please call me. Legal Aid offers free CLE classes, mentors, training materials, translators, and many additional resources to help make volunteering as a pro bono attorney a rewarding experience.

* Name changed for privacy. ©



Michael Wendlberger, Esq. is the Director of the Pro Bono Project at Legal Aid Center of Southern Nevada. The Pro Bono Project pairs volunteer attorneys with screened clients in the areas of family, consumer, landlord-tenant, civil rights, immigration, bankruptcy, and other areas of law. Interested attorneys should contact Mike at (702) 386-1429 or mwendlberger@lacs.nv.gov.

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