



Ethics, Experts, and Cannabis Law CLE webcasts
Free for CCBA members on June 30, July 20, and August 25, 2022
See pages 8, 10, and 12

COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

clarkcountybar.org [@clarkcountybar](https://twitter.com/clarkcountybar) [@ccbanv](https://www.instagram.com/ccbanv) [@ccbanv](https://www.facebook.com/ccbanv) 702-387-6011

The Ethics Issue

JUNE/JULY 2022



CLE Article #12

You Receive a Subpoena For a Client's File – What Do You Do?

By John Naylor
See page 20

Special feature

Cyber Fraud Prevention Tips for Law Firms

By Mark Rich
See page 18

Featured inside

CCBA President's Message:
Wear the White Hat
See page 6

New Benefit for CCBA Members
See page 6

View from the Bench:
Summary Eviction Diversion
See page 16

Pro Bono Corner:
Kids and Conflicts of Interests
See page 29

Special event

AFTER BAR CHILL

August 4, 2022
See page 9



HANDLE BAR

PRACTICE MANAGEMENT RESOURCES

YOUR STATE BAR OF NEVADA MEMBER BENEFIT

START ● TRANSITION
MANAGE ● PROTECT
YOUR PRACTICE

- ▶ **PRACTICE ADVISOR**
Consult with an advisor about starting a law firm and general business advice. Brief consultations offered at no charge. **Call 702.745.1300**
- ▶ **PRACTICE RESOURCES**
Access forms, checklists, products and services geared toward your practice needs.
- ▶ **LEARNING RESOURCES**
Online learning modules with tips and best practices for meeting your ethical obligations. **Plus!** Free CLE credits!



COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

TABLE OF CONTENTS

Highlights

Join a Bar Committee 5

John Naylor Presents Ethics Program for Nevada Lawyers on June 30, 2022 8

Working with Your Experts CLE Program Set for July 20, 2022. 10

Cannabis Law CLE Program Set for August 25, 2022 12

JUNE/JULY 2022

Columns

CCBA President's Message

Wear the White Hat
By Nedda Ghandi, Esq...... 6

View from the Bench

Summary Eviction Diversion
By Judge Melissa Saragosa 16

Pro Bono Corner

Kids and Conflicts of Interests
By Marcus Brouwers, Esq. 29

Features

Cyber Fraud Prevention Tips for Law Firms
By Mark D. Rich, CPA, CFF..... 18

You Receive a Subpoena For a Client's File – What Do You Do?
By John M. Naylor, Esq. 20

On the cover



John Naylor of Naylor & Braster Attorneys at Law PLLC and Mark D. Rich, CPA, CFF of Rich Wightman & Company. Photo courtesy of Stephanie Abbott.

Advertising opportunities

Place an ad in the *Communiqué*

Discounts & ad design services available for CCBA members!

Space is available for select businesses to showcase their professional services and products in upcoming issues of the *Communiqué*.

Place a display ad to showcase:

- Awards, achievements
- Law firm announcements
- Events
- Office, retail space
- Luxury and office products for legal professionals, law firms
- Professional services

To request a quote or get more information, contact Stephanie at the CCBA office, (702) 387-6011, StephanieAbbott@clarkcountybar.org.



Departments

About *Communiqué*..... 4

Editorial Calendar..... 4

Advertiser Index..... 5

Bar Committees 5

CLE Programs 8, 10, 12, 13

Court News 14

Diversity & Inclusion Activities..... 13

Meet Your Judges Mixer 14, 32

The Marketplace..... 30

COMMUNIQUE

THE OFFICIAL PUBLICATION OF THE CLARK COUNTY BAR ASSOCIATION

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.

©2022 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 advertise-

ments 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.

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.

Editorial Board

Publisher

Nedda Ghandi

Editor-in-Chief

Alia Najjar, M.D.

Editors

Tami D. Cowden

Jacquelyn M. Franco

Robin Gonzales

Heather Anderson-Fintak

Jennifer Hostetler

Jennifer Roberts

Tara Teegarden

CCBA Board Of Directors

President

Nedda Ghandi

President-Elect

Brandon P. Kemble

Secretary/Treasurer

Paul C. Ray

Heather Anderson-Fintak

Annette Bradley

Mark S. Blackman

Jacquelyn M. Franco

Joel D. Henriod

Paul J. Lal

James T. Leavitt

Alia Najjar, M.D.

William Sykes

Judicial Appointee

The Honorable Jerry Wiese, II

Immediate Past President

James E. Harper

CCBA Staff

Executive Director

Donna S. Wiessner

Communications Manager

Communiqué production

Stephanie Abbott

Editorial Calendar

Cover Date	Topic of Articles	Closing Date
January 2022	Five Things	12/1/2021
February 2022	Employment Law	1/7/2022
March 2022	Educational Law	2/1/2022
April 2022	Environmental Health	3/1/2022
May 2022	Discovery	4/1/2022
June/July 2022	Ethics	5/3/2022
August 2022	Litigation	7/1/2022
September 2022	Election Law	8/1/2022
October 2022	Cyber Law	9/1/2022
November 2022	Family Law	9/23/2022
December 2022	Pro Bono	11/1/2022

*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.

Advertisers, sponsors

Advanced Resolution Management 25
 Ara Shirinian Mediation 22
 Bank of Nevada 8, 10, 11, 12
 JAMS 17
 GGRM Law Firm 21
 Las Vegas Aviators 31
 Las Vegas Legal Video 8, 10, 12, 29
 Law Pay 19
 Legal Wings 22
 Las Vegas Chapter of the National Bar Association 13
 Marquis Aurbach 9, 32
 Nevada Latino Bar Association 13
 Nevada Legal Services, Inc. 15
 Portraits to You 5, 30
 Prominence Health Plan 23
 Red Panda Systems 19
 State Bar of Nevada 2
 Teichner Accounting Forensics & Valuations, PLLC 24
 UNLV William S. Boyd School of Law 13
 Welt Law 23
 WestPac Wealth Partners 6, 7, 9, 32
 Wright Marsh & Levy 9, 32

Bar services

About Communiqué 4
 Advertising Opportunities 3
 After Bar Chill 9, 32
 Bar Benefit Provider 7, 21
 Bar Committees 5
 Volunteers Needed 14

Advertising info

Space is available for select businesses to showcase their professional services and products in an advertisement in upcoming issues of *Communiqué*. For more information, contact: StephanieAbbott@clarkcountybar.org, 702-387-6011.

Join a Bar Committee

CCBA members are invited to join one or more committee and help the CCBA to enrich the lives and careers of our members and community.

- **Community Service Committee** – Meets: First Friday of the month. Chair: Alicia May, Esq. of Pecos Law Group.
- **Continuing Legal Education (CLE) Committee** – Meets: Second Wednesday of the month. Chair: Robert Telles, Esq. of Clark County Nevada Public Administrator.
- **Diversity and Inclusion Committee on Equity (DICE)** – Meets: Last Friday of the month. Chair: Annette Bradley, Esq.
- **New Lawyers Committee** – Meets: Second Thursday of the month. Co-Chairs: Josh Dresslove of Joshua S. Dresslove Attorney at Law and Christena Georgas-Burns of Legal Aid Center of Southern Nevada.
- **Publications Committee** – Meets: Second Friday of the month. Chair: Alia Najjar, M.D., Esq. of Ladah Law Firm, PLLC.

For more information about a committee, reach out to the committee chair or contact the CCBA office at 702-387-6011. **☎**

Clark County Bar Association presents

Picture Day at CCBA

**Wed., August 24, 2022
9:30 AM - 2:00 PM**

Sit for a professional portrait at this special portrait session.

Special offer available to CCBA Members!

Drop-ins are welcome; Appointments are preferred.

See Clarkcountybar.org or call 702-387-6011.

Sponsors





**CCBA Past President ('15)
Damon K. Dias, Esq.
of Dias Law Group Ltd**

Wear the White Hat

By *Nedda Ghandi, Esq.*

When I was in law school, I had a professor who encouraged his students to “always wear the white hat” whether in front of the bench or the jury or when dealing with opposing parties. The phrase has stuck with me over the years. Essentially, his point was that while advocating there is an importance to being the hero or the “good guy.” While the verbiage is somewhat dated, the symbolism of the phrase has been used often in modern times. The hero in westerns is often the one who wore the white hat. Olivia Pope in the television series “Scandal” was initially shown as the character who wore the white hat as she was the initial reflection of good conscience in the show. Hackers who are hired to breach security by companies to find weaknesses and develop fixes are called “white hats.”

Throughout my time in the bar, I have kept this phrase in the back of my head when navigating through difficult cases and I often encourage my clients to do the same. The idea is to always remember that as you move through handling matters for your clients that there is something to be said for knowing when to let small slights slide, when to extend yet another professional courtesy, and when to bite your tongue on a responsive insult to opposing counsel even though they are insulting you. When you “wear the white hat,” you remind yourself of the great responsibilities that come with this job and with being in the courtroom. You put the practice of law and the reputation of the profession before yourself and your ego.

There is a reason that CLEs in ethics are required each year in our profession. Beyond the basic tenets to protect confidential information, secure client funds, and to avoid

When you “wear the white hat,” you remind yourself of the great responsibilities that come with this job and with being in the courtroom.

conflicts of interest, there is a compelling need to remind each other that even as we engage in “zealous advocacy,” we must continue to play the part of the good guy. In a society where division and vitriol run rampant, there is no greater skill than navigating through advocacy while wearing the white hat. I encourage all of us to pick up our hats, scrub off any dingy spots, and put on our white hats as we move forward. Move through your career trying to maintain the gleam.

New Benefit for CCBA Members

I’m pleased to announce that WestPac Wealth Partners, a holistic wealth management firm located in Las Vegas, has made a strong commitment to serve CCBA members. They are offering CCBA members an exclusive 10 percent discount on disability insurance through the Guardian-Berkshire Life Insurance Company of America. For more information, contact Joshua Brown CFP, MBA or Bryan Martinka at WestPac. See page 7 for their contact information. **G**



Nedda Ghandi, Esq. is a partner with Ghandi Deeter Blackham Law Office. Nedda's primary practice area involves bankruptcy for both individual and business debtors. She also litigates complex family law cases that often involve family-owned businesses or complicated financial battles. Nedda serves as the president of the Clark County Bar Association through December 2022.



WESTPAC®
WEALTH PARTNERS



You specialize in the art
and science of law...

**We specialize in the
art and science of
finance.**

AREAS OF SPECIALTY INCLUDE:

ORGANIZATION

of your finances

GUIDANCE

on efficient tax strategies

PROVIDING OPTIONS

for investment and retirement choices

MANAGEMENT

of debt with organization and control

PROTECTION & PRESERVATION

of income and assets via risk management

EDUCATION

around business strategies for your practice

STRUCTURE & ACCOUNTABILITY

around savings strategies

PREPARATION

for financial events in life

**Contact our team to take advantage of an exclusive
offer for CCBA members**



Joshua Brown, CFP®, MBA

Financial Advisor

520.591.5729

joshua.d.brown@westpacwealth.com

Bryan Martinka

Financial Representative

623.210.2314

bryan.x.martinka@westpacwealth.com



Joshua Brown is a Registered Representative and Financial Advisor of Park Avenue Securities LLC (PAS). OS: 5280 CARROLL CANYON ROAD, SUITE 300, SAN DIEGO CA, 92121, 619-6846400. Securities products and advisory services offered through PAS, member FINRA, SIPC. Joshua Brown & Bryan Martinka are Financial Representatives of The Guardian Life Insurance Company of America® (Guardian), New York, NY. PAS is a wholly owned subsidiary of Guardian. WESTPAC WEALTH PARTNERS LLC is not an affiliate or subsidiary of PAS or Guardian. Insurance products offered through WestPac Wealth Partners and Insurance Services, LLC, a DBA of WestPat Wealth Partners, LLC. Brown CA Insurance License #4087485 | Martinka CA Insurance License #0L80243, AR Insurance License #17484996 | Guardian, its subsidiaries, agents, and employees do not provide tax, legal, or accounting advice. Consult your tax, legal, or accounting professional regarding your individual situation. | 2022-136871 Exp. 04/24

John Naylor Presents Ethics Program for Nevada Lawyers on June 30, 2022

On Thursday, June 30, 2022, commercial litigator John M. Naylor will make a special presentation for the continuing legal education of Nevada lawyers in a program produced by the Clark County Bar Association (CCBA) and sponsored by Bank of Nevada and Las Vegas Legal Video.


A former judge advocate for the United States Air Force, John M. Naylor has been licensed for nearly 35 years and is a cofounder of Naylor & Braster, a Las Vegas law firm specializing in business litigation. He practices in the areas of commercial litigation, appellate work, and construction law.

Naylor will present “Someone Subpoenas Your Client Files – What Do You Do Next?” and address topics relative to the Nevada rules of professional conduct. Planned topics include:

- Those files belong me, don’t they?
- Why would anyone ever subpoena those files?
- I probably should tell the client . . .
- But I have no idea where the client is . . .
- How to object to the subpoena or court order
- But what if I never got paid?
- Losing the first round – do you appeal?
- Do I even have to turn over my notes?
- Special circumstances

The presentation will offer 1.0 ethics CLE credit (NV) to CCBA members only online via Zoom, from 12:00 to 1:15 p.m., Thursday, June 30, 2022. Pricing of the live webcast event is included with the 2022 CCBA membership. 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.

The event will be recorded for use in the CCBA’s audio/visual library. The recorded versions of the program will be offered for rental use at a small fee (to cover administrative costs).

For more information and to RSVP for this event, contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011. 



The presentation will offer 1.0 ethics CLE credit to CCBA members only. Pricing of the live event is included with the 2022 CCBA membership.

CCBA’s CLE programming sponsors



A division of Western Alliance Bank. Member FDIC.



Special event hosted by
CCBA's New Lawyers
Committee and
sponsored by






AFTER BAR CHILL

AUG 4, 2022
5 to 7 p.m.

Horse Trailer Hideout
1506 S. Main St., Las Vegas

This is a private social mixer featuring complimentary drink tickets and food (while supplies last) for CCBA members and July SBN bar exam takers. No minors allowed. Mix and mingle responsibly.
RSVP to Donnaw@clarkcountybar.org required before Tuesday, August 2, 2022.

CCBA Members Visit to U.S. Vets May 14, 2022



Visiting U.S. Vets Facility: Stuart Rich, Paul Ray, Michael Wendlberger, Jessica Goodey, Lin Soriano, Paul Lal and Shaundra Higgins, Development and Communications Manager, U.S. VETS - Las Vegas. The CCBA's Community Service planned the tour to learn more about their programs and services. The committee hopes to announce activities for members to help U.S. Vets. Photo by Steph Abbott.

Working with Your Experts CLE Program Set for July 20, 2022

On Wednesday, July 20, 2022, forensic accountant Mark D. Rich will make a special presentation for the continuing legal education of Nevada lawyers in a program produced by the Clark County Bar Association (CCBA) and sponsored by Bank of Nevada and Las Vegas Legal Video.


Mark is the founding partner of Rich, Wightman & Company. He graduated from the University of Nevada, Las Vegas with a Bachelor of Science/Arts degree in accounting in May 1979 and earned his Certified Public Accountant license in July 1981. He is also Certified in Financial Forensics, CFF (AICPA designation).

Mark will present “Working with Your Experts” and address the following topics:

- Evaluating your potential expert
- Establishing a scope of service and budget with your expert
- Engaging your expert
- Consideration of using your expert as a consultant verses for a report and testimony
- Efficiencies in using your expert for discovery and investigation
- Expert assistance in third-party interviews and depositions
- Expert reports and rebuttals
- Expert declarations
- Preparing your expert for depositions
- Expert testimony in court

The presentation will offer 1.0 general CLE credit (NV) to CCBA members only online via Zoom, from 12:00 to 1:15 p.m., Wednesday, July 20, 2022. Pricing of the live webcast event is included with the 2022 CCBA membership. 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.

The event will be recorded for use in the CCBA’s audio/visual library. The recorded versions of the program will be offered for rental use at a small fee (to cover administrative costs).

For more information and to RSVP for this event, contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011. 



The presentation will offer 1.0 CLE credit to CCBA members only. Pricing of the live event is included with the 2022 CCBA membership.

CCBA’s CLE programming sponsors



A division of Western Alliance Bank. Member FDIC.





We don't stop when we get
your business.



We keep earning it every day.

Bank on Accountability®

Meet Your Local Banking Experts:



Jeffrey Miracle
Senior Vice President, Commercial Banking
jmiracle@bankofnevada.com
(702) 252-6127



Sarah Guindy
Senior Director, Commercial Banking
sguindy@bankofnevada.com
(702) 252-6452

bankofnevada.com



One of Forbes' Best Banks
in America Year After Year



Bank of Nevada, a division of Western Alliance Bank. Member FDIC. Western Alliance Bank ranks high on the Forbes "Best Banks in America" list year after year.

Cannabis Law CLE Program Set for August 25, 2022

On Thursday, August 25, 2022, business law attorneys Shamus Flynn, Daniel Giudici, and A. William “Bill” Maupin will make a special presentation for the continuing legal education of Nevada lawyers in a program produced by the Clark County Bar Association (CCBA) and sponsored by Bank of Nevada and Las Vegas Legal Video.

A former Marine and Ninth Circuit clerk, Shamus Flynn helps clients grapple with sophisticated and vexing issues, especially those touching on the emerging cannabis industry.

A third generation Nevadan and an accomplished business attorney, Daniel Giudici is a thought leader in the cannabis industry and routinely publishes articles analyzing important cannabis-related issues, especially those that touch on tax concerns such as section 280E.

Elected to two terms to the Supreme Court of Nevada from 1997 to 2009, Chief Justice Maupin’s 50-year legal career includes significant public and private sector experience.

The speakers will present “State of Play Cannabis Law 2022” and address the following topics:


- Cannabis legislative and regulatory updates
- Short overview of proposed federal legislation involving cannabis legalization and banking
- Nevada cannabis legislative and regulatory updates
- Consumption lounge licenses
- New cannabis DUI law
- Nevada CCB Update
- Updates on active NV cannabis litigation cases
- Bill Maupin’s Department of Taxation litigation overview
- Section 280E
- Quick overview of Section 280E
- Section 280E’s status with Congress and courts
- Salient 2021 cases involving Section 280E

The presentation will offer 1.0 general CLE credit (NV) to CCBA members only online via Zoom, from 12:00 to 1:15 p.m., Thursday, August 25, 2022. Pricing of the live webcast event is included with the 2022 CCBA membership.



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.

The event will be recorded for use in the CCBA’s audio/visual library. The recorded versions of the program will be offered for rental use at a small fee (to cover administrative costs).

For more information and to RSVP for this event, contact Donna Wiessner at Donnaw@clarkcountybar.org, (702) 387-6011. 

CCBA’s CLE programming sponsors



A division of Western Alliance Bank. Member FDIC.



Save the dates!

CCBA's Diversity and Inclusion Committee for Equity (DICE) Presents

DICE CLE Series



A special bar luncheon:

Hispanic Heritage CLE Luncheon September 15, 2022 • 12-1:15 PM

Offers 1.0 Ethics CLE (NV) • Plated luncheon service included!

Speakers: TBA

Location: TBA

Sponsor: Nevada Latino Bar Association



A special discussion presented in two parts:

An Introduction to Critical Race Theory October 14, 2022 • 12-1:30 PM

Offers 1.0 Ethics CLE (NV) • Light refreshments included!

Critical Race Theory on Civil Rights and Criminalization November 4, 2022 • 12-1:30 PM

Offers 1.0 Ethics CLE (NV) • Light refreshments included!

Speakers:

- **Professor Roy L. Brooks**, University San Diego School of Law
- **Professor Frank Rudy Cooper**, Director, UNLV Program on Race Gender & Policing
- **Professor Addie Rolnick**, UNLV William S. Boyd School of Law
- **Professor Stewart Chang**, UNLV William S. Boyd School of Law

Sponsors:

- Las Vegas Chapter of the National Bar Association
- UNLV Race, Gender & Policing Program



UNLV

WILLIAM S. BOYD
SCHOOL OF LAW

UNLV Program on Race Gender & Policing

RSVP to
clarkcountybar.org
702-387-6011

Sponsor opportunities
available

Business Bench Bar Meeting

- **When:** Tuesday, June 16, 2022, noon to 1:00 p.m.
- **Where:** Courtroom 16A at the Regional Justice Center and streamed on the Clark County Court's website <http://www.clarkcountycourts.us/>.
- **What:** Presentation on "How Business Court Judges Process Orders" will offer 0.5 hour of CLE (NV). Moderator will be Ismail Amin and the panel will be made up of EJDC Business Court judges. Lunch will be provided for the first 25 attendees by the TALK law firm.

Civil Bench Bar Meeting

- **When:** Tuesday, June 14, 2022, noon to 1:00 p.m.
- **Where:** Online via Zoom
- **What:** Learn what's happening at the court and discuss any modifications of processes in the civil department. For more info, send inquiries to EJDCBenchBar@gmail.com.
- **Note:** No meetings of the Civil Bench Bar will be held during July or August.

Deposition Behavior Addressed in Administrative Order 22-08

On May 9, 2022, the Eighth Judicial District Court filed an order in the administrative matter regarding deposition behavior. *See* Administrative Order 22-08.

Administrative order 22-08 applies to all civil and family division actions filed in the Eighth Judicial District Court for which discovery disputes are heard by a discovery commissioner or discovery hearing master. The 23-page PDF, includes instructions on several aspects of deposition behavior:

- Scheduling
- Examination of the witness by counsel
- Witness conduct during depositions
- Lodging objections
- Rule 30(B)(6) depositions
- Seeking court intervention



Congratulations to Eighth Judicial District Court Judge Jerry Wiese who was elected by the EJDC bench to serve as the new chief judge. His 2-year term will begin in July. Pictured with outgoing EJDC Chief Judge Linda Bell.

Volunteers Needed


Become A Truancy Diversion Judge

The Eighth Judicial District Court is seeking volunteer Truancy Diversion Program (TDP) judges to work with the Clark County School District and the Clark County Charter Schools to reduce absenteeism in school to reduce the number of youths entering the formal juvenile justice system.

For more information, contact Michelle Young at TDP@clarkcountycourts.us or 702-455-1755.

Notably, the court order emphasizes professionalism for members of the bar:

"All counsel intending to participate in depositions, and witnesses expecting to testify at trial, must comply with this Order. Counsel must behave professionally at all times during depositions; they must treat parties, other counsel, court reporters, videographers, interpreters, and other involved in any aspect of the deposition with civility and respect."

For more information, read the 23-page order. See <http://www.clarkcountycourts.us/general/court-rules-and-administrative-orders/>. 



CHAMPIONS OF JUSTICE

Save the Date

Northern Nevada (Reno)

Wednesday, September 28th, 2022

The Nevada Museum of Art

Southern Nevada (Las Vegas)

Thursday, October 13, 2022

Morton's the Steakhouse

SPONSORSHIP OPPORTUNITIES AVAILABLE. CONTACT US:

KATHLEEN FRANTZ
DIRECTOR OF DEVELOPMENT

☎ 702-386-0404 EXT. 117
✉ kfrantz@nevadalegalservices.org

Summary Eviction Diversion

By Judge Melissa Saragosa

It is no surprise to most that the worldwide pandemic wreaked havoc upon the summary eviction process as we knew it. The Las Vegas Justice Court is the jurisdiction for nearly 75 percent of the entire state's summary eviction case filings. Historically, the court has hovered around 30,000 summary eviction cases per fiscal year, increasing to 32,810 eviction cases in fiscal year 2019 (July 1, 2018 – June 30, 2019). Though filings decreased in fiscal year 2020 to 21,260 and increased only slightly to 24,288 in fiscal year 2021, we are on pace to close out fiscal year 2022 with approximately 45,000 summary eviction cases.

Over the past two years, all branches of government have had a hand in attempting to solve what some may deem an eviction crisis. At the state level, ever-changing Governor's directives, a judicially-created mandatory mediation program, and a legislative bill regarding affirmative defenses to summary eviction actions have all altered the processing of a summary eviction action. At the federal level, CDC orders, Supreme Court opinions regarding the constitutionality of the CDC orders, and Congressional acts that provided rental assistance funding have also changed the summary eviction landscape. The end result has proven confusing to landlords, tenants, and lawyers alike and has had a significant impact on the administration of the Court Clerk's Office.

While Nevada has been nationally recognized for its streamlined approach to processing rental assistance applications and has put millions of dollars into the hands of landlords curing defaulted rent and stabilizing housing

The end result has proven confusing to landlords, tenants, and lawyers alike and has had a significant impact on the administration of the Court Clerk's Office.

for thousands of tenants, the reality is those dollars are dwindling and may be exhausted in the near future. In the meantime, availability of rental housing has become scarce and supply chain issues and labor shortages have delayed or prevented construction. The Las Vegas Justice Court is committed to tackling these issues for fiscal year 2023 and beyond.

In an effort to address this dynamic problem, the Las Vegas Justice Court has embarked upon a collaboration with community stakeholders to develop an eviction diversion program that would bring together landlords, tenants, and services in a single coordinated effort. This partnership includes representatives from Home Means Nevada mediation, Las Vegas Metropolitan Police Department, Legal Aid of Southern Nevada, Nevada REALTORS®, Nevada Apartment Association, Clark County Social Services, Supreme Court of Nevada, nonprofit organizations, and the Governor's office. More to come as this new program develops! **e**



Judge Melissa Saragosa was appointed to Las Vegas Justice Court Department 4 in 2006.

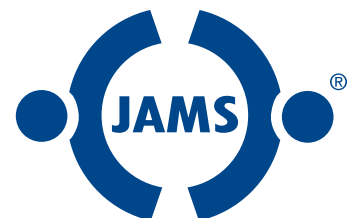


HYBRID ADR AT JAMS

The Best of Both Worlds

Mediation, arbitration and custom resolution processes tailored to meet your needs. Hundreds of skilled neutrals available virtually anywhere. Versatile remote technology. Concierge-level client service and support. State-of-the-art facilities for cases of all sizes. Integrating in-person and virtual proceedings provides the optimum in flexibility, efficiency and convenience. Learn more at jamsadr.com/virtual.

Local Solutions. Global Reach.[®]



Cyber Fraud Prevention Tips for Law Firms

By Mark D. Rich, CPA, CFF

As a part of our fraud, forensics, and litigation support engagements, we work with many IT and cyber fraud specialists. Generally, our clients have an IT department, a recognized outside IT contractor, or a full-time IT staff person with credentials that focus on protecting the law firm's electronic data from theft. Unfortunately, we have occasions where the answers to our IT questions go something like this, "One of our partner's brother-in-law's former roommate's kid handles our IT system. He works for some big company and does our IT work on the side, he's really a smart kid". The reality is, if the Colonial Pipeline can be successfully attacked with ransomware that disrupted the supply of fuel to the entire southeastern United States, your firm is a much easier target, even with the best of IT departments. You may not be aware that your firm's website provides plenty of information necessary to attempt penetration by cyber-attackers and that the vast majority of cyber-attacks are initiated by email. Remember, the weakest link in your IT system is an employee or partner sitting behind a computer just one key stroke away from a costly disaster. Cyber-attacks are on the rise and be assured that attempts are directed at your firm every minute of every day. While you sleep, cyber-attackers are awake!



Mark D. Rich, CPA, CFF has been licensed for 40 years and is Founding Partner of Rich Wightman & Company. Contact Mark at mark@richwightman.com.

The following are common cyber-attack methods that your firm should be aware of, and all employees trained to recognize:

Phishing – most common attempt using a fraudulent email to give up specific credentials, entice clicking a malicious link, or downloading a malicious file.

Spear phishing – researching and targeting with a tailored phish to gain access to specific firm accounts.

Whaling – spear phishing the top by researching and targeting leaders within a firm.

Smishing – phishing via text includes providing malicious links, impersonating a contact, impersonating a business, or trying to scam a legitimate authentication from the firm.

Vishing – phishing using a phone call.

Angler phishing – leveraging employees' social media accounts with fraudulent notifications and messages to gain access.

Watering Hole – infecting or hijacking sites that a cyber-attacker knows the firm frequents to steal credentials or propagate malware.

Pharming – hijacking DNS (Domain Name System) to redirect users to URLs and IPs they did not intend to access. The browser displays the correct URL, but it is actually a malicious site.

Evil twin – copying or imitating a legitimate wi-fi access point to entice employees/firms to expose their internet traffic to cyber-attacker. A common tactic with public Wi-Fi, i.e., airports, food providers, and hotels.

SIM swapping – a cyber-attacker will take over a cell phone account by vishing a cell company and getting them to transfer a number to a new SIM card, taking over the accounts of the employees/firm.

Spoofing – making a call or email that looks as if it came from a legitimate source.

Credential stuffing – using data from past breaches

to try known, exposed email/password combinations previously used by employees/firm on other sites.

USB attack –malicious utilization of a USB device. This can include providing infected drives or chargers to an employee/firm as a freebie, or intentionally infecting a USB device at one location to infect a Firm location.

Supply chain attack – hacking a third-party service provider to use its platform to attack its customers. This method was used in the recent SolarWinds cyber-attack.

RDP attack –using remote desktop protocol access abilities to gain access into the firm’s system. This method was used in the notorious Colonial Pipeline cyber-attack.

If you have not engaged a reputable IT specialist, your firm is especially vulnerable to a computer breach. Basic IT controls help your firm prevent cyber fraud. Important controls include, intrusion prevention (firewall), up to date anti-virus software (endpoint protection), strong password standards and multi-factor authentication, securing wi-fi access, prohibiting employee personal computer usage, prohibiting computer devices brought from the outside without oversight, constant training on suspicious emails and websites, and periodic penetration testing by a cyber fraud specialist.

Here is a quick cyber fraud self-assessment: If some or all of these concepts sound unfamiliar, start today by hiring the right IT professional(s). **©**



RedPanda

SYSTEMS

Contact us for:

- Managed services
- Help desk support
- Cyber security
- Virtual CIO services
- Backups
- Cloud servers
- VOIP
- Fiber internet

For a full list of services available to CCBA members, visit <https://www.redpandasystems.com/business/>.

Red Panda Systems

David Shultis, Partner

702-553-2500

dave@redpandasystems.com

Special offer for CCBA Members

Red Panda Systems can offer a 50% discount on the price of the first month or a 10% discount on monthly pricing for the first 6 months with a signed 1 year or longer contract for managed IT support services to current CCBA members.



LAWPAY[®]

AN AFFINIPAY SOLUTION

Paper checks are notoriously unreliable. They get lost in the mail, they get tossed in the laundry, and they carry a lot of sensitive information around with them wherever they go.

LawPay changes all of that. Give your clients the flexibility to pay you from anywhere, anytime. Most importantly, we ensure you stay in compliance with ABA and IOLTA guidelines.



Proud Member
Benefit Provider

It's easy to get started

866-587-9087 or visit **lawpay.com/ccba**

You Receive a Subpoena For a Client's File – What Do You Do?

By John M. Naylor, Esq.

**About the CCBA's Article #12: "You Receive a Subpoena For a Client's File – What Do You Do?" offers 1.0 Ethics Continuing Legal Education (CLE) Credit to Nevada lawyers who complete the test and order form per the offer described in the June/July 2022 issue of Communiqué. See pp. 20 and 22-28. The CCBA is an Accredited Provider with the NV CLE Board.*

Introduction

Every attorney accumulates old client files--you store them in the very back of the file room or as an archived file on the cloud, and they may or may not be able to easily find. You forget about them until it comes time to clean up the file room, make more space on the cloud, or someone serves a subpoena for them. What do you do when someone subpoenas the files of an existing or long-forgotten client? Basically, you should fight it. This article aims to give an attorney guidance on how to meet their ethical obligations.

Whose files are they anyway?

The State Bar of Nevada considers the files in your possession to be the property of the client. *See* State Bar of Nev., Standing Comm. on Ethics & Professional Responsibility, Formal Op. No. 28 (Sept. 24, 2007) (Answer to Question No. 1). You have an ethical duty under NRPC 1.15(a) to keep those files for seven years, after which point, you may dispose of them. Attorneys should remember that files need to be destroyed in such a way as to protect client confidences. *See, e.g.*, State Bar of Texas, Professional

Ethics Comm., Op. No. 627 (Aug. 2013). That means that throwing them in the dumpster behind your office is insufficient, but the finer points of document destruction are a topic for another day. You and your client can shorten the seven years by agreement so long as the period is reasonable and does not otherwise violate the client's rights. *See* Nev. Formal Op. No. 28, (Answer to Question 4). The State Bar of Nevada suggests that two years is the minimum, but that may be longer for certain types of files. How long to keep files is beyond the scope of this article, but a useful publication that covers this topic is the State Bar of Nevada's "Succession Planning in Nevada," published in 2017 and available for free on the state bar's website under the *News and Publications* tab). What this all means is that a subpoena for a client's file is essentially a subpoena for a client's property.

NRCP 1.6 imposes duties on you

Nevada Rules of Professional Conduct 1.6(a), which is based on ABA Model Rule 1.6 is the primary rule at play here. Rule 1.6 generally prohibits an attorney from disclosing any information regarding the representation of a client unless one of several exceptions apply. The State Bar of Nevada has wholeheartedly embraced this prohibition by broadly stating that an attorney cannot disclose anything regarding a client or the representation. *See* State Bar of Nev., Standing Comm. on Ethics & Professional Responsibility, Formal Op. No. 41 (June 24, 2009). Here, anything means everything. A literal reading of Formal Opinion No. 41 prohibits an attorney from confirming the identity of a

CLE continued on page 22



John M. Naylor, Esq. has been licensed for nearly 35 years and is a cofounder of Naylor & Braster, a Las Vegas law firm specializing in business litigation. He practices in the areas of commercial litigation, appellate work, and construction law.

Workers' Comp is *not* Personal Injury.

Send us 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 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



NEVADA'S PREMIER INJURY
LAW FIRM

(702) 384-1616
2770 S Maryland Pkw, #100
Las Vegas, NV 89109

Instructions for CCBA's CLE Article #12

How Nevada lawyers may earn 1.0 Ethics CLE credit in three easy steps:

1. Read the article, "You Receive a Subpoena For a Client's File – What Do You Do?" (CCBA CLE Article #12). See pages 20-25;
2. Complete the quiz. See pages 26-27; and
3. Complete the order form. See page 28.

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

CLE continued from page 20

client, even if that information is a matter of public record (*i.e.*, even if you have just made an appearance in court).

The applicable exemption here is NRPC 1.6(b)(6), which allows a lawyer to disclose information when necessary to comply with a law or a court order. An argument can be made that a validly issued subpoena is a court order for purposes of NRPC 1.6(b)(6) since it is technically issued by a court and the served party is subject to possible contempt for noncompliance. *See* NRCP 45(a)(2), 45(e). No Nevada cases or other authority discuss the implications of a subpoena for client files, and Formal Opinion 41, while broad in scope, does not really discuss the exceptions.

Do the comments to the ABA Model Rules offer any help? While the Supreme Court of Nevada did not adopt the comments, they may be used as guidance. NRPC 1.0A. The ABA commentary, though, expressly states that whether a particular order fits within the exception of NRCP 1.6(b)(6) is beyond the scope of the rules. *See* ABA Model Rule 1.6(B)(6) (2015) (Comment 12). So, what do you do?



SOARING TO MEET YOUR EXPECTATIONS!
*Built on integrity, honesty, and hard work.
We are here to serve.*

Filing/Messenger Service: Option #2
Dispatcher: Tina (702) 384-0015 ext 109

- ◆ Court Filing
- ◆ Court Research
- ◆ ROC's
- ◆ Attorney Signature
- ◆ Deliveries

Process Service: Option #3
PILB License #389

- ◆ One Step: Issue/Serve/File AOS
- ◆ Las Vegas
- ◆ Henderson
- ◆ Clark County
- ◆ Nevada
- ◆ Nationwide
- ◆ Skip Tracing
- ◆ Subpoena/Eviction Preparation

Investigations: Option #5
Cathy (702) 384-0015 ext 113

President
Edward Kiely
(702) 491-5578
Ed@LegalWings.com

Document Services: Option #4
Production: Adriana (702) 384-0015

- ◆ Legal & Corporate Copying
- ◆ Trial Support
- ◆ Trial Exhibits
- ◆ Exhibit Boards
- ◆ High-Volume Copying
- ◆ Color Laser Copies
- ◆ Oversized Copies
- ◆ Audio & Video Tapes
- ◆ X-Rays
- ◆ Standard & Custom Tabs
- ◆ Binding
- ◆ Drilling
- ◆ Document Scanning
- ◆ Archiving to CD
- ◆ Digital Printing
- ◆ Bates Labeling
- ◆ Onsite Copying
- ◆ Quality Control
- ◆ 24/7 Service

General Manager
Rena Brown
(702) 591-8002
Rena@LegalWings.com

Office Location:
1118 Fremont Street
Las Vegas, NV 89101
(702) 384-0015

"Your one stop for all your legal needs."



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

ABA Formal Opinion 473 provides guidance

Nevada has no specific authority regarding the subpoenaing of client files. As a general principle, the Supreme Court of Nevada and the State Bar of Nevada will at least consider the ethic opinions of other jurisdictions and the American Bar Association. *See, e.g., Merits Incentives, LLC v. Eight Judicial District Court*, 127 Nev. 689, 262 P.3d 720 (2011); Nev. State Bar Formal Op. No. 18 (Apr. 29, 1994).

The ABA looked at this issue in 1994 and again in 2016. *See* ABA Formal Op. 94-385 (June 5, 1994), ABA Formal Op. 473 (Feb. 17, 2016). The reason for the fresh look in 2016 was the adoption of ABA Model Rule 1.6(b) (6) in 2002. Prior to the amendment, Model Rule 1.6 was interpreted to allow disclosure of client files to comply with a *final* order of a court. ABA Model Rule 1.6 (1994) (Comment 20). The ABA eliminated any reference to *final* orders by amending Model Rule 1.6(b) to allow disclosure in response to simply just orders. Nevada adopted the amended Rule 1.6 in 2006. The amendment raised questions about court orders that the ABA formal opinion attempts to address. A more detailed discussion of this amendment and its reasoning appear in ABA Formal Opinion 473. Unless

another source is cited, the following approach to a subpoena is described in ABA Formal Opinion 473.

Can you find the client?

The initial question a lawyer faces is whether they can find the client because the first duty upon receiving a subpoena is notification. For an existing client, notification should be easy.

After notification, you must consult the client and that consultation must include, at a minimum, (i) a description of the protections afforded by NRPC 1.6(a) and (b); (ii) to what extent the attorney-client privilege or work product doctrines apply to the subpoenaed material; and (iii) any other relevant matters. *See* ABA Formal Op. 473, NRPC 1.4. Other relevant matters could include whether disclosure of the material may raise concerns of criminal liability or whether the subpoena is valid in the first place. *Id.*

If after consultation the client makes a fully informed decision to not fight the subpoena, the lawyer may proceed with disclosure. If the client wants to fight the subpoena, the lawyer must use all reasonable means to do so. The starting point for that is NRCP 45, which governs the is-

CLE *continued on page 25*

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

Does Your Practice Have Health Insurance?

With a CCBA Association Health Plan...

- Large group benefits are offered on a small group platform
- Quoting and enrollment are simple
- Rates are affordable
- Enroll at any time - no need to wait for your renewal period

Great Coverage From People Who Care



Prominence[®]
Health Plan

For more information,
call Prominence at **855-400-3686**
or visit www.clarkcountybar.org

CLE continued from page 23

suance of subpoenas and lays out a procedure for objecting to them. Most objections will be grounded in the attorney-client privilege and work product doctrines. The nuances of the objections will most likely be fact specific and are beyond the scope of this article.

If the client and attorney agree on objections, they will typically be asserted by a Rule 45 Letter that identifies the reasons for withholding documents. See NRCP 45(c)(2)(B). The subpoenaing party will then bring a motion to compel. See NRCP 45(c)(2)(B)(ii). At that point, the court will rule. If the ruling is not to the client's liking, NRCP 1.4 requires the attorney to discuss the possibility of appeal with the client.

Two issues may come up after consultation. The first is when the lawyer and client do not agree on what objections to make or whether to proceed with the appeal of an adverse ruling. The second issue is more likely to come up and that is when the attorney and client cannot agree on the cost of opposing the subpoena. The latter is especially true if defending against a subpoena falls outside the original scope of the engagement.

If there is a disagreement over the scope of the objections or the fees, the lawyer may have to withdraw from

representing the current client or decline to renew the engagement with a former client. In either event, the lawyer must give the client a reasonable time to find counsel.

What happens if the client or former client cannot or will not find new counsel? ABA Formal Opinion 473 is not clear on this situation. It does suggest, however, that the attorney must still have to take reasonable steps to oppose the subpoena. See ABA Formal Op. 473 fn. 21, citing D.C. Bar Op. 288 fn. 4 (1999). As described below, in the situation where a lawyer cannot find a former client, this will most likely include objecting to a subpoena and responding to a motion to compel, but does not require the pursuit of an appeal.

And if you can't find the former client

In the case of a former client that cannot be located, the attorney must take reasonable steps to locate them. NRCP 1.0(h) defines reasonable as the actions that a prudent and competent lawyer would take. ABA Opinion 473 advises that these steps include internet searches, faxes, calls, e-mails, and a letter to the former client's last known address. The lawyer should keep a record of all attempts to



TEICHNER ACCOUNTING FORENSICS & VALUATIONS, PLLC

RICHARD M. TEICHNER

CPA, ABV, CVA®, MAFF®, CFF, CRFAC®, CRFAU, DABFA®, FCPA™, CGMA®, CDFA®

With offices in Las Vegas and Reno, we provide expert witness testimony and consulting services in business litigation matters involving forensic accounting, economic damages analysis, partner/shareholder disputes, white collar crime, breaches of fiduciary duty, and other financially related matters.

For family law matters, we provide business valuations, tracing, assistance with property division, establishing alimony, and tax related issues.

Also, we provide business valuation services for buy/sell situations, and for estate tax and gifting purposes.

LAS VEGAS OFFICE:

8275 S. Eastern Ave., Suite 200, Las Vegas, NV 89123
(702) 724-2645 Fax:(702) 441-4007 Cell:(702) 467-8335

RENO OFFICE:

3500 Lakeside Ct., Suite 210, Reno, NV 89509
(775) 828-7474 Fax:(775) 201-2110 Cell:(775) 530-5106



Email: accountingforensics@gmail.com
Website: accounting-forensics.com

reach the former client.

If you cannot find your client, ABA Formal Opinion 473 requires the attorney to still make all reasonable objections to protect privileged material. The opinion advises that the lawyer, when making the objections (and presumably in response to a motion to compel), candidly explain to the court all the steps taken to locate the former client. If the court orders disclosure, the attorney may do so pursuant to NRPC 1.6(b)(6).

Importantly, ABA Formal Opinion 473 does not require the lawyer to pursue an appeal on behalf of an unavailable or unlocatable client. The opinion employs a balancing of hardships analysis to determine that the interests in protecting the unavailable client's interests outweigh the burden on the lawyer to object to the subpoena and respond to a motion to compel. Once a court has ruled in favor of disclosure though, the balance shifts in favor of the lawyer due to the burden of pursuing an appeal. Therefore, under ABA Formal Opinion 473, the lawyer is not ethically bound to pursue an appeal on behalf of an unavailable client and may safely produce the file under NRPC 1.6(b)(6).

What if my client has died?

ABA Formal Opinion 473 does not address what happens when a client has passed away. In Nevada, the attorney-client privilege survives death and is held by the personal representative of the deceased client. NRS 49.105(1). A good approach is to treat a deceased client in the same manner as a former or missing client. The lawyer should first take reasonable steps to locate the personal representative for consultation and direction. If the personal representative cannot be found, then the attorney should still take reasonable steps to protect the files. This will include a Rule 45 Letter and responding to a motion to compel. The attorney need not, however, shoulder the burden of an appeal.

Conclusion

What the ethical opinions and the rules make clear is that a subpoena alone is insufficient to require you to turn over a client's file, regardless of whether it is considered a court order. Unless the client gives informed consent to release the file, the attorney is duty bound to fight it, at least up until the point a court or other tribunal enters an order specifically requiring its production. **■**

**EXPERIENCE YOU NEED
RESULTS YOU WANT**



ARM 

OFFERING IN-PERSON & VIRTUAL ADR
WWW.ARMADR.COM  855.777.4ARM

CCBA CLE Article #12

Quiz

You Receive a Subpoena For a Client's File – What Do You Do?

Offers 1 Ethics CLE Credit (NV)

Complete the quiz. Each question has only one correct answer.

1. The Nevada State Bar has issued several formal opinions outlining what an attorney should do upon receipt of a subpoena for a former client's file.
 - A. True
 - B. False
2. An attorney's client files:
 - A. Belong only to the attorney
 - B. Belong to the client
 - C. Don't really belong to anyone because they can be destroyed
 - D. Belong to the State Bar of Nevada
3. Client files should be:
 - A. Kept until the attorney runs out of space
 - B. Kept no more than a year
 - C. Kept seven years unless another period has been agreed to with the client
 - D. Kept until a third party subpoenas them
4. Nevada State Bar Formal Opinion No. 41:
 - A. Governs the disposition of funds for contingent fee cases.
 - B. Allows an attorney to openly discuss details of a client with strangers
 - C. Trick question – there is no Formal Opinion No. 41
 - D. States that NRPC 1.6 strictly prohibits an attorney from disclosing any information about a client unless an exception applies
5. NRPC 1.6(b)(6) only applies to final orders.
 - A. True
 - B. False
6. Subpoenas are court orders under NRPC 45(a)(2) and NRPC 45(e).
 - A. True
 - B. False
7. With respect to the ABA comments to the model rules:
 - A. The Supreme Court of Nevada has not adopted them but allows them to be used as guidance
 - B. Another trick question – the ABA has no comments to its model rules
 - C. The Supreme Court of Nevada strictly forbids anyone from reading the comments
 - D. The Supreme Court of Nevada requires courts to strictly adhere to the ABA comments to the model rules
8. Attorneys have an ethical duty to maintain contact information for all former clients.
 - A. True
 - B. False
9. Upon receipt of a subpoena for the file of a current client, the attorney must immediately contact that client.
 - A. True
 - B. False
10. If the current client directs an attorney to make a frivolous objection to a subpoena for a client file:
 - A. The attorney must do so and explain to the court that "I know it is frivolous, but my client made me do it" to avoid sanctions
 - B. Try to persuade the client to not make the objection but if the client persists, consider withdrawing understanding that the attorney will most likely still have to take reasonable steps to oppose the subpoena
 - C. Continue representing the client but completely ignore the client's instructions

D. All of the above

11. ABA Formal Opinion 473:

- A. Has been completely adopted by the Supreme Court of Nevada
- B. Does not address the issues raised when an attorney receives a subpoena for a client file
- C. May be considered as guidance because the Supreme Court of Nevada and the State Bar of Nevada have at times considered ABA formal opinions when deciding an issue
- D. Only applies to people who are members of the ABA

12. NRCPC 45 describes the procedure that third parties use to object to subpoenas.

- A. True
- B. False

13. Under NRCPC 45, the only way the recipient of subpoena can object to it is to bring a motion for a protective order.

- A. True
- B. False

14. If you receive a subpoena for client files that are more than seven years old:

- A. You can turn them over without trying to consult with the client or former client
- B. You still have to immediately inform the client or take reasonable steps to locate the former client to consult with them about the subpoena
- C. Ignore the subpoena
- D. All of the above

15. Upon receipt of a subpoena for a former client's files, the attorney must:

- A. Take reasonable steps to locate that client
- B. Turn over the files without trying to locate the former client because it's their problem if they have not taken the trouble to keep the attorney informed of their current contact information
- C. Immediately destroy the client file and say they no longer have them
- D. Hide the files

16. Reasonable and prudent steps to locate a former client include:

- A. Internet searches

- B. Letters to the client's last known address
- C. Emails to the client's last known email address
- D. Calls to the client's last known telephone number
- E. All of the above

17. If a client wants to appeal an order concerning the production of client files, and the attorney believes the appeal is frivolous:

- A. The attorney should proceed with the appeal because Nevada's appellate courts do not mind frivolous appeals
- B. The attorney can resolve the dispute with the client by waiting too long to file an appeal or writ thereby mooting the issue
- C. The attorney must consider withdrawing from the representation
- D. All of the above

18. If an attorney cannot locate a former client, the best practice would be for the attorney to oppose the subpoena on all reasonable grounds, which may include opposing a motion to compel but not necessarily an appeal.

- A. True
- B. False

19. ABA Formal Opinion 473 states that if a client cannot be found, the attorney must use all means to oppose a subpoena at their own cost, including pursuing an appeal if necessary.

- A. True
- B. False

20. If an attorney receives a subpoena for a deceased client's file, the attorney should:

- A. Ignore it
- B. Consult a professional psychic medium or use a Ouija Board to try to contact the deceased client
- C. Attempt to locate the deceased client's personal representative
- D. Tell the subpoenaing party they have never heard of the client

21. Bonus question – under NRAP 3A(b) are orders concerning disputes over subpoenas directly appealable?

- A. True
- B. False

CLE continued on page 28

CCBA CLE Article #12 Order Form

You Receive a Subpoena For a Client's File – What Do You Do?

Offers 1 Ethics CLE Credit (NV)

Complete the order form and submit with the completed quiz pages to receive CLE Credit from the CCBA.

Participant information:

- Name: _____ Bar#: _____
- Firm/Co.: _____
- Date CLE Completed: _____
- E-mail address for the CCBA to send verification of transmission of attorney's participation to NV CLE Board:

Fee: \$25/CCBA member or \$50/Non-member

Total amount enclosed: \$ _____

Type of payment:

- Check or money order is enclosed
- I will call CCBA with my credit card information
- I authorize CCBA to charge my credit card* (MC • VISA • AMEX)

Name of card holder: _____

Credit Card #: _____

Expiration date: _____ Phone #: _____

Authorized Signature: _____

Email address for payment receipt: _____

Submit order form with the completed quiz pages and payment to:

Clark County Bar Association

717 S. 8th Street, Las Vegas, Nevada, 89101

Phone: 702-387-6011, Fax: 702-387-7867, or Email: Donnaw@clarkcountybar.org

Note: Do NOT email credit card info. Call it in to 702-387-6011.

Upon receipt of the completed order, the CCBA's staff will record the attorney's participation directly with the Nevada Board of Continuing Legal Education and provide verification of that transmission to the e-mail address provided in the completed order form.

Kids and Conflicts of Interests

By Marcus Brouwers, Esq.

Representing children is great. They are genuine and interesting because the world seems new through their eyes. They want to tell their story and usually make you feel taller by comparison.

Minor guardianship cases occasionally have complicated issues. But part of the fun of being a lawyer is problem-solving with negotiations, writing, or dazzling the judge with oral arguments practiced in the mirror and refined in the shower.

Occasionally, children in a family have different goals, resulting in a conflict of interest. When a conflict exists, the attorney cannot ethically stay on the case representing sibling groups. Under NRCPC Rule 1.7, I can't argue out of both sides of my mouth; I can't say that safety concerns exist for one kid but not another. Unlike adults, children cannot waive conflicts of interest, *Matter of H. Children*, 608 N.Y.S.2d 784 (N.Y. Fam. Ct. 1994). So when a conflict arises, I have to withdraw, no matter how much work I put in or how badly these kids need their voices heard. And there is nothing I can do. But wait! What we need is a hero. These kids need a hero. But where?

I know! The incredibly talented and intelligent attorney reading this article right now. Yes! You!

You can save the day. By taking a Pro Bono minor guardianship case, you can represent a child who deserves their day in court. Legal Aid Center works to find a pro bono attorney for each sibling, so the court can see the case from all sides and families can have a better outcome. The Legal Aid Center pairs pro bono attorneys with mentors, so there is no need to feel intimidated trying something new. So, take a case, do something good, and possibly feel a bit taller and happier representing a child in need. **E**



Marcus Brouwers, Esq. is a Las Vegas native, he graduated from the Alexander Blewett III School of Law at the University of Montana. He is currently a minor guardianship attorney with the Legal Aid Center of Southern Nevada.

Las Vegas Legal Video
LVLV

- Presentation
- Graphics
- PowerPoint
- Equipment
- Exhibits
- Animations

TRIAL

VIDEO

- Depositions
- Editing
- Inspections
- Enhancement
- Surveillance
- Documentaries

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

The advertisement features a dark blue background with a futuristic, digital aesthetic. At the top, the text "Las Vegas Legal Video" is in a light blue font, with "LVLV" in large, bold, white letters below it. A list of services is on the left, and a list of services is on the right. In the center, there is a large, detailed image of a human eye with various digital overlays and icons. The word "TRIAL" is written in a green, blocky font, and "VIDEO" is written in a similar green font below it. At the bottom, the phone number "702.655.5858" and the website "www.lasvegaslegalvideo.com" are prominently displayed, along with the physical address.

Employment

The Elko County District Attorney's Office is accepting applications for a Deputy District Attorney. This position will receive extensive courtroom experience in Justice & District Courts & possibly Family Court. Nevada Bar Membership is required or eligibility to practice under the rural practice provision of the Nevada Supreme Court Rules. Annual salary range up to \$79,155. To review the full job announcement & benefit package please visit www.elkocounty.nv.net.

Southern Nevada Senior Law Program is seeking a staff attorney with 3+ years of experience, estate planning and consumer matters preferred, who is sensitive to the needs of seniors and has a passion for helping others. SNSLP provides quality legal assistance to seniors with the greatest economic or social need. Hours of operation are Monday-Thursday, 7am - 5pm. We offer a competitive salary, generous PTO, company paid medical/dental/

vision, and a retirement plan. Further details at: <https://snslp.org/about-snslp/southern-nevada-senior-law-program-snslp-employment-opportunities/>.

Office Space

Attorney Office & Secretarial space for lease in Downtown Las Vegas. Overflow case work possible. Call Lane at 702-303-6933 or email lskesq21@aol.com.

Services

JUDGMENTS & DEBTS COLLECTED: Experienced Collection Attorney-Nevada & California. Referral Fees Paid per NRPC 1.5. Joel Selik, NV Bar #402, 702-243-1930, Joel@SelikLaw.com.

LEGAL MALPRACTICE & ETHICS referrals of legal malpractice cases. Co-counsel California and Nevada. Joel Selik, NV Bar #402, 702-243-1930, Joel@SelikLaw.com.

Portraits to You

is happy to be partnering with CCBA to provide all of your photography needs. We offer special pricing for professional portraits both at our home studio or your office.

We also offer studio and location sessions in a variety of portraiture including family, children, and high school seniors.



www.PortraitstoYou.net 702-499-9930
debra.portraitstoyou@cox.net



SPEND YOUR SUMMER AT LAS VEGAS BALLPARK



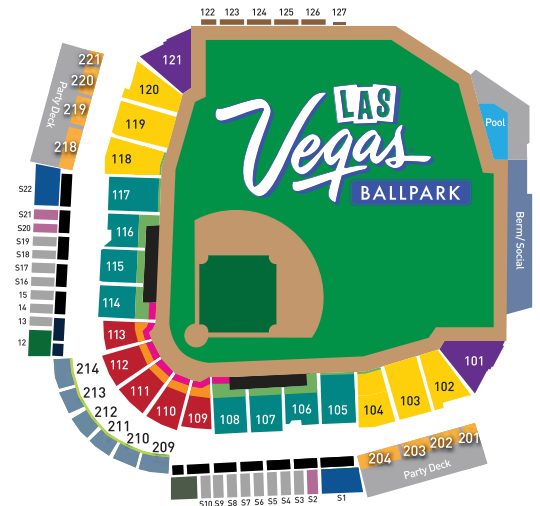
#10 NATE MONDOU

POST-GAME FIREWORKS

APR	MAY	JUNE	JULY	JULY	AUG
8	13	3	2	3	5

REYES DE PLATA EVERY TUESDAY
\$2 BEER NIGHT EVERY THURSDAY

SEASON TICKETS AND GROUP OUTINGS
AVAILABLE NOW
SINGLE-GAME TICKETS
ON SALE NOW



Howard Hughes



FOR FULL SCHEDULE, VISIT AVIATORSLV.COM

Clark County Bar Association
717 S Eighth St
Las Vegas NV 89101

PRSR STD
U.S. POSTAGE
PAID
Las Vegas, NV
PERMIT NO. 734

Please join us for this special event!

Special event hosted by
CCBA's New Lawyers
Committee and
sponsored by



WRIGHT MARSH & LEVY

AFTER BAR CHILL

AUG 4, 2022
5 to 7 p.m.

Horse Trailer Hideout
1506 S. Main St., Las Vegas

This is a private social mixer featuring complimentary drink tickets and food (while supplies last) for CCBA members and July SBN bar exam takers. No minors allowed. Mix and mingle responsibly. RSVP to Donnaw@clarkcountybar.org required before Tuesday, August 2, 2022.